Disagreement Among Judges on Whether AMMA Covers Hashish

In 2010, Arizona voters used the initiative process to adopt the Arizona Medical Marijuana Act (the AMMA), which generally grants immunity from prosecution for marijuana possession to persons who are qualified to use it for medical treatment. A recent opinion from Division One of the Arizona Court of Appeals reveals disagreement among the judges over the extent of that protection. In the Jones case, the court held that the AMMA applies only to one form of marijuana—hashish. Judge Jon W. Thompson applied further analysis.

Disagreement Among Judges on whether AMMA Covers Hashish

In his opinion for the court, Judge Jon W. Thompson recognized the standard rule of statutory construction that the court simply applies the law, without further analysis, “if the statute is subject to only one reasonable interpretation.” Without explicitly finding the AMMA subject to only one reasonable interpretation, Thompson applied further analysis. To determine whether the AMMA covers hashish, one must obviously define hashish. Thompson noted the parties’ agreement that “hashish is a form of cannabis distinguishable from the green leafy substance commonly referred to as marijuana.” Its possession is generally illegal under Arizona law. He added that hashish is “widespread in usage” and is “an intermediate stage in the production of medicinal marijuana.”

Jones appealed, arguing that he was immune from prosecution under the AMMA because he was a registered patient using marijuana for medicinal purposes. The superior court below, the court of appeals rejected his argument; it held that the AMMA does not cover hashish. The court held that hashish “is the resin extracted’ from the marijuana plant.”

2018 Hall of Fame Winners

Each year, the Maricopa County Bar Association honors those in the legal community who demonstrate outstanding commitment to public service and significant contributions to the legal profession and community at large.

The MCBA Hall of Fame Committee is pleased to announce this year’s Hall of Fame winners:

- ASU Law Professor Charles Calleros;
- Hon. David Campbell, US District Court;
- Barbara Dawson, Snell & Wilmer;
- Sal Rivera, Rivera Law Group; and
- Jay Zweig, Bryan Cave Leighton Paisner

The MCBA Awards Committee has named Hon. Pamela Gates, Maricopa County Superior Court, as the Judicial Officer of the Year; Robert Kethcart, Community Legal Services, as the Public Lawyer of the Year; and Patricia Gerrich, Community Legal Services, as the MCBA Member of the Year. For more information, see the ad on the back page of this issue.
Why I’m a Member

A question I often get is “why be a member of the MCBA?” And while there is a long list of reasons in answering that question, it really boils down to one simple thing: I believe in the MCBA and the contributions it makes to our professional and community.

I joined the MCBA in the summer of 2001, having just opened a new law firm with a friend and fellow Depuy County Attorney. We had both decided to leave the County Attorney’s Office and start our own law practice. We had no book of business, no contract work, and only a handful of referrals. To me, it was a no-brainer to join the MCBA. I had previously practiced in Las Vegas, Nevada, and had been a member of their Lawyer Referral Service. Through the Nevada LRS, I was able to sustain a solo-practice taking criminal, civil, family, and bankruptcy cases. While many consultations did not result in actual cases, the practice of marketing with potential clients helped my development as a young lawyer. Discovering that the MCBA had its own Lawyer Referral Service was reason enough to join. At only $50 for the year (plus the cost of our regular membership), I knew this was an unbelievable opportunity.

Just a couple of hours of work in one case would pay for membership. As with the Nevada LRS, not all the consultations resulted in retainers. I certainly received my share of “crack-pots” and non-actionable cases. (I’m pretty sure I can write an entire book on crazy consultations I’ve had over the years). However, I strongly believe, that engaging with someone who is not difficult individuals only enhances your own character and ability to handle volatile situations that inevitably arise in practice. In time, I became the chair of the LRS Committee, attempting to grow the service to better serve our members and the public that uses it.

As I got more involved in the MCBA, I found that with greater interaction and legal professionals that practiced in other areas of the law and with whom I would likely not encounter without being a member. While being a partner in a two-man firm has many advantages, it can also be a little isolating. (This is certainly not a dig at my former partners with whom I enjoyed many lunches early on using Entertainment Book coupons to help us keep costs low – the Croque Monstre from the non-descript deli in the office building at 40th Street and Camelback was a surprising find). I missed the social aspect of working in the County Attorney’s Office where there were over several hundred attorneys, and the MCBA provided these networking chances. In addition to meeting other legal professionals, I was able to interact directly with the judges that I often appeared in front of at CLE presentations or other social functions. The MCBA organized such opportunities. Such opportunities are invaluable to anyone that regularly appears in court, and the Association does a great job in making them available.

Speaking of CLEs, I quickly recognized the quality of the programming the MCBA offered. The MCBA is able to draw on its large and diverse membership in order to conduct cutting-edge CLEs on topics and issues in need of only days or weeks old. I found the family law programs especially helpful in providing up-to-date information and practice tips that I was able to put in use in my office. While I no longer need CLE credits in my current position, the MCBA still offers speaking and teaching opportunities that allow presenters to impart some knowledge and experience as well as give the speakers the chance to hone their own presentation skills.

In addition to the practical benefits of joining the MCBA, I also recognized the community outreach and giving the Association that uses it.

See Why I’m a Member page 3
Register for Race Judicata TODAY!

The Young Lawyers’ Division (“YLD”) is already hard at work planning the 14th Annual Race Judicata. For those of you who have not attended in past years, Race Judicata is a 5k run/1-mile walk that is geared toward bringing together Maricopa County’s legal community; however, we also welcome participation from the general public. This year’s Race Judicata will be held on October 20, 2018 at the Sister Cities Garden at Kiwanis Park in Tempe. Check-in for the race opens at 6:30 a.m. and the race will start at 7:15 a.m.

This year’s theme for Race Judicata is FAMILY. We have seen great participation from families at past races; however, this year we are placing a special emphasis on family and invite you to bring your friends and family to participate as a group in the event. We will have several great prizes, including a raffle for participants.

As in past years, a portion of the proceeds from Race Judicata will go to support the YLD’s Necessities Drive. Through the Necessities Drive, the YLD collects necessities, including dia-

pers, shampoo and conditioner, soap, and tooth brushes and toothpaste for victims of domestic violence who are receiving assistance at one of Phoenix’s domestic violence shelters. The funds raised through Race Judicata will go toward purchasing additional necessities, which the YLD will deliver to local domestic violence shelters shortly after the race.

Registration for the event is $25 for adults, $15 for children aged 5-17, and children under the age of 5 participate for free. If getting up early on a Saturday morning is not your speed or you are otherwise unavailable that day and still want to support this event, we will also be offering a “sleep in” donation of $25. All those who register for Race Judicata (including those who choose to sleep in) will get a t-shirt if they register by September 30, 2018.

Whether you are a seasoned runner or prefer a more leisurely stroll, we encourage you to gather your crew and strive to achieve your own personal best at Race Judicata this year. Hope to see you all there!

Enhance Your Membership

As President of the Solo Practice/Small Firm Division I write to you, our members for your input, as to what would be most helpful and beneficial to you and your practice. Our Division is one of the largest, if not the largest, in the MCBA. We would like your input and your participation in the Division’s Executive Committee. There are a few positions to be filled.

We would like to know what we can do to enhance your membership in our Division. What would you like us to run? CLEs? Networking events? Joint sessions with other divisions? Your input would help us plan the remainder of this year and the first part of next year. Our next event will be a joint event with the National Bank of Arizona in October. We will present such topics as how to plan for succession, and how to plan for coverage if you are a solo practitioner and become unavailable.

There will also be ethics discussions, advice on how to handle trust accounts, and much more.

As President, we currently have an “Advisory Program” (formerly called our “Mentor Program”). You can ask any one of our Advisors questions in confidence. I hope you will take advantage of this Program.

We expect to follow our first event with a joint networking event with the Young Lawyers Division. What other Divisions are of interest to you, our members? More generally, what else would you like us to do for you, our members? We value your participation and want to build for the future. We will expand the Executive Board. We will need officers for future terms. With hundreds of members we want your participation, but in a meaningful way.

Our Executive Committee looks forward to your response.

I can be reached at 480-502-5454 or ajacobsz@gmail.com. Warm regards and have a happy summer.

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Percentage vs Percent

LEGAL WRITING
Tamara Herrera

Occasionally I type out a sentence that does not look right and does not sound right. Here is the latest sentence that caused me to pause:

The percentage of members attending is low. or The percent of members attending is low.

Specifically, I pondered whether the correct word was “percentage” or “percent.” I also contemplated whether I needed a singular or plural verb. Following is a summary of what I learned after consulting various legal writing style guides.

1. “Percent” and “percentage” are not synonyms, which means they are not interchangeable. A percent refers to a specific number (a specific part of one hundred). A percentage refers to a generalization (any part of a whole).

2. As for whether either word takes a singular or plural verb, the answer is “it depends.” If the sentence is about a “percent of” something, then the number of that something determines the verb. Only twenty percent of the food is ready. (singular)

   We need to find out if more than fifty percent of the guests have registered. (plural)

   But for sentences with no “of” phrase, you will have to do some detective work to find what an implied “of” phrase refers to. In other words, you may need to look to a previous sentence to find out the object of the percentage. Most members are here. Only ten percent are missing. (plural)

   As for “a percentage of” phrases, they follow the same rules above for “percent of.” However, the phrase “the percentage of” is always taken as singular verb.

   With these guidelines in mind, I can confidently say that my first sentence above was the correct version. Although now I have raised a batch of new questions: Do I need to spell out the word “percent”? Or, is the symbol fine to use? Does the Bluebook have a rule about this? Does anyone really care about these questions as long as I am consistent in my document?

Charles Wirken Appointed to City of Mesa Judicial Advisory Board

Gust Rosenfeld is pleased to announce that Charles (Chas) Wirken has been appointed to the City of Mesa’s Judicial Advisory Board for a three-year term beginning July 2, 2018. Mesa Mayor John Giles recommended Chas, and the City Council unanimously approved the appointment.

The Judicial Advisory Board is a seven-member board that recommends to the City Council the best-qualified persons to become City magistrates, evaluates the performance of appointed magistrates, and advises the City Council about retaining them. The board consists of the Presiding Judge of the Arizona Superior Court for Maricopa County; one Arizona Appellate Court Judge; one active member of the State Bar of Arizona who resides in Mesa; one member of the Maricopa County Bar Association who resides in Mesa; and three Mesa electors who are not City employees, judges, retired judges nor members of the State Bar.

Chas’s extensive appellate experience coupled with his expertise has earned the respect of his peers and appellate judges, as indicated by his election as a Fellow in the American Academy of Appellate Lawyers, inclusion in Best Lawyers in America® in the Appellate Law category, and listings in the Appellate practice category of Southwest Super Lawyers®. Chas was named one of the Top 100 Lawyers in Arizona in 2018 and a Best Lawyers® Lawyer of the Year in 2016 and 2018.

The other focus of Chas’s practice is the resolution of business disputes. He has tried a wide variety of commercial disputes to judges and juries in state and federal courts. His national reputation for litigating cases involving franchises, dealers, distributors, and licensors is reinforced by his listing in The Best Lawyers of America® Franchising Law category. Since 1980, Chas has represented both franchisors and franchisees from various franchise systems, in contract, business tort, intellectual property and government regulation disputes typically encountered by such clients.

MEMBER SPOTLIGHT
MEET JESSICA SANCHEZ
UDALL | SHUMWAY
MCBA MEMBER SINCE 2015

How long have you been a member of the MCBA?
I became a member of the MCBA around 2015. I had just been elected to be the Los Abogados Hispanic Bar Association President for 2016. The President at the time, Kyle Hirsch, reached out to me to offer his support and so that we could discuss the continued collaboration of our organizations. In 2016, I also joined the MCBA Hall of Fame Committee. I have met so many wonderful people in the MCBA and so it is important to me to continue to maintain my membership and involvement.

If you hadn’t been a lawyer, what else would you be?
I am not sure. In college, I considered becoming a doctor, a psychologist, a high school Government teacher, and number of other possibilities. I think that I have always wanted to do something where I could help people. I kind of fell into law school after being encouraged by several friends and mentors to apply.

I am extremely fortunate to have a profession that I love as an education law attorney. I do feel that my work has a positive impact on our public education system and that feeling keeps me very happy in my job.

On the stressful days, I dream about running a bed and breakfast somewhere in the forest or on a beach, or working in a winery.

If you could be any fictional character, on TV/in books/in a movie, who would it be, and why?
It will sound cliché, but I have to go with Wonder Woman. She is just amazing, smart, and fierce without ever compromising her morals or who she is. Everything she does is about helping people.

What’s the strangest job you’ve ever held?
Training the Bolivian Army and Police. In my pre-law life, I was very involved in aquatics and water safety (lifeguard, management, etc.). I was an instructor trainer for the Red Cross and had the good fortune to join three other instructor trainers to Tarija, Bolivia. The city had unfortunately suffered a number of drowning casualties, so we trained and certified members of the police and army to become lifeguards and lifeguard instructors. That was certainly one of the most memorable jobs that I have had.
Wide Range of Public Sector Positions Available

Public sector career opportunities are not always easy for law students to find. When I was in law school, I was generally aware of the availability of positions with federal and state prosecutors’ offices, public defenders’ offices, and judicial clerkships. I was not aware of all of the opportunities available in federal, tribal, state, and county agencies, municipalities, and public interest organizations. Today, law students at Arizona’s public law schools have an invaluable resource to learn about and seek out public sector positions, i.e., the Sonoran Desert Public Sector Career Fair. The Sonoran Desert Public Sector Career Fair is also an excellent opportunity for public sector employers to meet and recruit future attorneys.

This month, Public Lawyers Division Board Member Candice F. Boyd graciously wrote a column about the Sonoran Desert Public Sector Career Fair. Candice is the Director of Judicial Clerkships and Government and Public Interest Programs at the Sandra Day O’Connor College of Law. She is a graduate of the George Washington University Law School. Thank you Candice for your contribution!

Sonoran Desert Public Sector Career Fair

What do you get when the two public law schools in the state of Arizona join forces to plan and execute a career fair focused on government and public interest legal opportunities? Answer: the Sonoran Desert Public Sector Career Fair. For the last two years, the career services offices at the Sandra Day O’Connor College of Law (ASU) and the James E. Rogers College of Law (U of A) have hosted the Sonoran Desert Public Sector Career Fair (Career Fair). The event spans two days in February – one day in Phoenix (ASU downtown campus) and one day in Tucson (U of A campus).

The Career Fair brings together 50+ government and public interest employers and hundreds of ASU and U of A law students to fill internship, externship and post-graduate positions. The list of employers at previous events includes the FBI, U.S. Department of Justice, Pima County Attorney’s Office, Coconino County Public Defender, Town of Marana, Tucson Family Advocacy Program, Maricopa County Attorney’s Office, Tucson City Court, ACLU of Arizona, Cochise County Attorney, Governor’s Regulatory Review Council, Arizona Attorney General’s Office, City of Prescott, and Yuma County Legal Defender. Some out-of-state participants included the Colorado Public Defender and Riverside County District Attorney’s Office.

Employers have the option of conducting on-campus interviews (at either school or at both schools), participating in resume collects (resume collects allow employers to receive applications from the schools, and provide employers with the freedom to schedule interviews on their own), and/or networking with students through table talks. One of the best features of the Career Fair is that employers can interview students from both schools in one location. This is because students will travel to the campus of the employers’ choice. That said, employers are welcome to interview at both campuses, if they would like.

The Career Fair also allows employers to leave all of the administrative work to the schools, which means more time for fun stuff, like meeting talented law students. The schools post the positions on their internal job posting sites, reserve interview space on the campuses, collect and send application packets to employers, and confirm interview schedules. The event has been well-received by our employer participants and we plan to make it an even bigger success in February 2019! Thank you to our past employer participants – we look forward to seeing you next year.

To those who have not yet joined us, please check us out by contacting me via telephone or email (see contact information below)! We always welcome new additions to the program. If you need additional information, please call me at 480.965.0319 or send me an email at Candice.Boyd@asu.edu.
A Step Toward Accepting Millennials

I cannot recall the specifics of the first time I heard someone use the term “Millennial,” but I can safely assume that the Millennial in question was not being praised for being one. This is because I am fairly certain that I have never heard anyone use “Millennial” in a positive way. I immediately began to wonder what made someone a “Millennial” and whether I might be afflicted, so I opened my browser and asked Google, “What is a Millennial?”

According to the Pew Research Center, the simple answer is that a Millennial is any person who was born between 1981 and 1996. With my affliction confirmed, I quickly entered into an abbreviated version of the stages of grief. First was denial. I must be different somehow from these poorly-viewed Millennials—so different, in fact, I probably did not even really qualify. Then came the anger. It wasn’t fair for people to generalize about an entire group of people based solely on the year in which they were born. To do so is to ignore our unique attributes and experiences. I still think this is true to a point, however, the fact is that Millennials have been lumped together in a single generation because of—not in spite of—our shared experiences. Acceptance is a work in progress, but quite frankly it is rapidly fueled by all of the negative comments about Millennials that I continue to hear.

Regardless of whether you like Millennials, dislike Millennials, or lack an opinion regarding Millennials, here is the reality: Millennials are expected to make up approximately half of the workforce by 2020. Given this, it seems high time for people to set aside their biases against Millennials in favor of working toward understanding Millennials and what they want from their workplace. Based on my review of several articles (a list of which is provided at the end of this article), Millennials commonly seek the following from their workplace:

1. Work that is engaging, fulfilling, and meaningful today—not the promise of such work in the future. Millennials’ satisfaction in the workplace depends in large part on whether they have ample opportunity to do engaging, fulfilling, and meaningful work today. This observation is particularly important in hierarchical workplaces where younger attorneys are often asked to do the “grunt work.” Although it may not always be possible to offer such opportunities to younger attorneys due to client preferences, employers may still be able to involve younger attorneys in fulfilling and meaningful work by allowing them to shadow more experienced attorneys or by encouraging them to work on pro bono matters where they can have more autonomy.

2. Work-life blend, as opposed to work-life balance. Those who focus on obtaining an optimal work-life blend, as opposed to work-life balance, seek to integrate their work and life together on a continuous flexible spectrum, rather than viewing work as a weight that must be balanced against life. In order to achieve an optimal work-life blend, Millennials seek a flexible workplace. This flexibility allows a person to harmoniously fulfill their responsibilities at work and in life in a way that also allows the person to optimize their productivity by working when and where they will be the most productive.

3. Peer-like relationships, rather than a focus on vertical hierarchy. For better or for worse, Millennials often enter the workplace without a strong understanding or respect for vertical hierarchies. This arises in large part from the fact that many Millennials were raised to have peer-like relationships with their superiors, including their parents, teachers, and coaches. The result of this upbringing is that Millennials prefer to focus on actual contributions and less on titles.

4. Meaningful mentorship. Although Millennials are generally viewed to be more confident and willing to speak out than their older counterparts were when they first entered the workforce, that does not mean that Millennials do not want, or think that they do not need, mentorship. On the contrary, Millennials often actively want mentorship because that is what they are used to. Most Millennials have grown up regularly receiving feedback regarding their performance and adjusting their performance accordingly. Although this list is not exhaustive and likely does apply to every Millennial you may encounter in the workplace, my hope is that this article will encourage you not to assume that Millennials are simply lazy or entitled and instead to consider whether Millennials might have a good reason for doing things differently. In addition to promoting acceptance, this thought exercise may be useful given that the practice of law is far from perfect, as is evidenced by the fact that attorneys have high rates of suicide and alcohol and drug abuse. It is time our profession starts to examine what aspects of the practice of law work and what needs to be changed to make the practice less stressful and more workable to those engaged in it. I do not claim to know if the Millennials have the answers, but I think it is at least worth considering whether Millennials might be on to something.

The articles I reviewed and relied upon in writing this article are: JP Box, Unlocking the Talents of the Millennial Lawyer, Law Practice Today (Apr. 13, 2018); The Millennial Lawyer: A Roadmap to Inspiring the Next Generation of Attorneys, Law Technology Today (Jan. 16, 2018); Kate Rockwood, Millennial Lawyers Are Forging Their Own Paths — And It’s Wrong to Call Them Lazy, ABA Journal (Jan. 2018); 4 Musts for Retaining Millennial Attorneys, Around the ABA (Dec. 2017); Jordan Furlong, Lawyerist.com (Oct. 24, 2017).
By Amanda A. Reeve & Paul Senseman

Q: When should references initiate contact to maximize their impacts/impressions on the JNC?
A: While the answer to that question certainly may vary between each JNC Commissioner, remember that references are critical in the process of the JNC familiarization with the applicant. Consider having at least one reference per week contacting the JNC until the week before the Screening Meeting, followed by multiple remaining references contacting the JNC the week of the Screening Meeting.

Q: Is it better to have references send their letters directly to the jnc@azcourts.az.gov, the Arizona State Courts Building address, or to individual JNC Commissioners directly?
A: Any of those options work well. References should absolutely feel comfortable reaching out directly to each of the JNC Commissioners. Consider asking those references that have a close or even peripheral relationship with the applicant to contact that Commissioner directly. References can send general comments to the entire JNC and separately contact familiar JNC Commissioners to provide additional comments.

Q: What is the JNC’s preferred form of communication from references?
A: While the preference for each JNC Commissioner may vary, the simple answer is that whether we receive a phone call, e-mail, a letter or even a text, all forms of communication are acceptable. However, given the volume of contacts in the merit selection process, written communications are highly desirable. Contact information for the JNC Commissioners is available to the public via: https://www.azcourts.az.gov/About-the-Commission-Members.

Q: How many references should contact the JNC for an applicant during the Screening Phase?
A: This is obviously a personal preference that can vary by each JNC Commissioner. Many of us appreciate hearing from more and not less when it comes to original references. References are a pivotal factor in the familiarization process. Distinctive, individual references with their own specific justifications for the recommendation can be highly valued validators. However, it is wise to remember that references should also consider contacting the JNC Commissioners during the Interview Phase should the applicant be selected for a full, in-person interview by the JNC. Thus, consider having a list of references to provide comments during the Screening Phase and another separate list of original references for the Interview Phase.

Q: What sorts of references should the applicant encourage for communications?
A: The best advice we can give to this question is to keep in mind the constitutional make-up of the JNCs in Arizona. Obviously, the JNC will strongly consider references that have a legal, judicial, or technical skills exhibited in the formal application – the merit of the applicant. As mentioned in last month’s column, it is wise to keep in mind that in Arizona the JNCs are comprised of public member representatives, and as such, strong consideration will additionally be given to the applicant’s societal engagement and broader connection to all citizens throughout our community. Thus, it is highly advisable that applicants provide a diversity of references. Consider colleagues, opposing counsel, staff, clients, judges, fellow members of professional/community/scholarly/charitable associations/organizations, neighbors, friends, members/leaders from your place of worship, parents/teachers from your children’s school/activities, etc. Most importantly, request that references provide specific, original comments about the nature of the reference’s relationship to the applicant, and why the reference supports the applicant. Specific examples/stories that reflect the applicant’s qualities, not just generic labels of the qualities, are much more useful and may have a greater impact and impression on the JNC.

As we often remind potential applicants, there are just a few primary methods a JNC Commissioner can become familiar with judicial applicants: (1) meeting with them before the application submittal deadline closes, (2) reading through their application, (3) hearing from their references, (4) performing the investigatory due diligence; and, (5) formal interviewing of the applicant if the individual is selected for an interview. It is important to carefully contemplate those who will best serve as references. Additionally, it is helpful to consider one to two references, perhaps one professional and one community-oriented, that may be willing to appear and speak in front of the JNC. Commission at the Screening Meeting during its call for public comment.

The merit selection process is not designed to be mysterious. The Maricopa County Bar Association’s Bench-Bar Conference and this column series will hopefully provide additional insight into Arizona’s judicial nominating process and encourage highly qualified and merit-worthy applicants to apply. Join us next month as we discuss the preparations for the interviews and the interview process itself.

Amanda A. Reeve & Paul Senseman are Public Members, Superior Court Judicial Nominating Commission-Maricopa County

Deadline to Declare Candidacy in Board of Directors Election is Sept. 15

The Maricopa County Bar Association (MCBA) is currently inviting members to declare their candidacy for one of five available seats on the board of directors. Each of the five positions consists of a two-year term beginning in 2019.

The terms of Hon. Julie LaFave, Amanda Reeve, Joy Isaacs, Ben Taylor and Tina Ziegler expire on December 31, 2018. An election will be held to fill their seats. A few of this group will likely run for re-election.

Board Members attend monthly meetings, liaise with one or more MCBA sections, divisions, or committees, and support the work of the association. They are expected to make every effort to attend the Annual Meeting/Hall of Fame/Bench-Bar Conference on September 13 and 14, and other membership events, as well as assist with fundraising and member recruitment. Candidates must be active members in good standing with the MCBA.

Candidates are asked to: (1) Submit a formal letter of candidacy to the Board of Directors, with the candidate’s signature, addressed to MCBA Interim Executive Director, Elizabeth Sheehan, either by email (PDF or MS Word document) to bsheehan@maricopabar.org or postal mail to MCBA, 530 E. McDowell Road, Suite 107 Box 415, Phoenix, AZ 85004 no later than 5 p.m., Sept. 15, 2018.

(2) Provide additional required election materials. A 200-word bio and a color jpeg photograph must be submitted to maricopawlawyer@maricopabar.org no later than 5 p.m., Sept. 15, 2018. Submitted biographies that exceed 200 words may be edited by staff. Please note that a standard-form resume or curriculum vitae are not acceptable. This bio may include an optional position statement of the candidate’s vision and priorities for the MCBA. Position statements and any other campaign or election materials may not refer to other candidates or include defamatory or inappropriate language, as determined by an ad hoc Election Review Committee appointed by the President of the Association.

For complete election information, go to www.maricopabar.org for a copy of our Bylaws on the Board of Directors webpage.
Potential clients can be yours with the MCBA Lawyer Referral Service. The LRS receives more than 10,000 calls per year from people seeking legal assistance as well as attorneys referring clients outside their practice area.

**AMONG THE AREAS NEEDING COVERAGE ARE:**
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Full payment must be received in advance of the program before you are considered registered.

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Early Bird registration ends five days prior to the program date. Late registration is an additional $15. For example, registrations for a Sept. 17 program must be paid by Sept. 12 in order to receive early bird pricing.

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

CANCELLATIONS/REFUNDS
Refunds, less a $25 fee, will be issued only if the MCBA receives your cancellation, in writing by mail, fax at (602) 257-4200, or email cle@maricopabar.org at least two business days prior to the program.

NO SHOWS
If you registered and paid, but could not attend, you may request that materials be sent to you, free of charge (allow 3-4 weeks). If audio media is available, registrations may be converted to a self-study package for an additional $15 charge.

WAYS TO REGISTER

To register, go to www.maricopabar.org/events and select your CLE from the calendar. Follow the link to the registration page. If you need assistance, please email: cle@maricopabar.org

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Should Arizona Adopt ABA Rule 8.4(g)

Joseph Brophy

May 21, 2018 marked the deadline for public comments to the Arizona Supreme Court on whether Arizona should incorporate the ABA’s model rule 8.4(g) of professional conduct. The rule, adopted by the ABA in 2016, considers it “professional misconduct for a lawyer to … engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status or socioeconomic status in conduct related to the practice of law.” Currently, Arizona’s ER 8.4 prohibits only bias or prejudice that is “prejudicial to the administration of justice.” See ER 8.4(d) and comment.

On the surface, the proposed rule sounds appealing – harassment and discrimination are not desirable practices. And, according to the ABA’s report in support of the passage of Rule 8.4(g), the legal profession has problems with sexual harassment and gender discrimination, although there is no claim that Arizona has a particular problem in those areas. However, there is a great deal of debate over whether this seemingly good idea has a place in Arizona’s Rules of Professional Conduct.

Criticism of ABA Rule 8.4(g) centers on the fact that it applies to any conduct, including verbal conduct, also known as “speech,” that is “related to the practice of law.” That would include speech or conduct at law firm dinners, while participating in a CLE, while speaking to a legal organization, while teaching a law school class, or writing a law review article. While the Arizona Supreme Court’s authority to regulate the practice of law is not in dispute – that is why it can regulate speech that is prejudicial to the administration of justice – it is far from clear that it has the authority to regulate lawyer activities that are merely “related to” the practice of law.

ABA Rule 8.4(g)’s critics also argue that the rule creates a speech code for lawyers that would violate the First Amendment and encourage, rather than prevent, discrimination by suppressing particular viewpoints on controversial issues. Any speech/conduct that could be considered “harmful,” “derogatory,” or “demeaning” (those are the words used in the comments to Model Rule 8.4(g)) would constitute professional misconduct within the meaning of the rule. It is well settled that the government, including the Arizona Supreme Court, may not prohibit an expression of an idea simply because society finds the idea itself offensive or disagreeable. The ABA’s report in support of the rule does not mention the First Amendment. To the extent there is discrimination or sexual harassment in the law firm workplace, existing federal and state discrimination laws already provide recourse for the victims.

There is also no way to tell from the rule’s text whether certain speech or conduct will be deemed harassing or discriminatory, or what the standard is for deeming an activity sufficiently “related to the practice of law” to fall within the scope of the rule. Would a lawyer participating in a debate on economic inequality at the local law school be subject to discipline for making negative remarks about the “one percent” because he made derogatory comments based on socioeconomic status? Would a lawyer who speaks at a CLE on immigration law be subject to discipline for making demeaning comments based on national origin for saying that illegal immigration drains public resources? Would a family law lawyer writing an article in a legal publication be subject to discipline for harmful comments regarding marital status for writing that children of same sex couples are harmed much less by divorce than children of heterosexual couples? There is no way to tell from the text of the rule or its comments.

Rule 8.4(g) is a well-intentioned attempt to address the real problems of discrimination and sexual harassment, but it is also very broad in its scope, vague in its drafting and constitutionally dubious. For now, when lawyers speak in the workplace or elsewhere, they would be well advised to follow the admonition of the great Dan Baird, lead singer of the Georgia Satellites: “Don’t tell me no lines and keep your hands to yourself.”

Joseph Brophy is a partner at Jennings Haug Cunningham. For more information about this issue, please contact Joseph Brophy at JAB@JHC.Law or 602.234.7849.
Osborn Maledon attorney Mark Harrison named to Equal Justice Works Board

Mark Harrison, a partner in the Phoenix law firm of Osborn Maledon, recently was elected to the Board of Counselors of Equal Justice Works, a national nonprofit that is dedicated to “help safeguard the rights of vulnerable individuals and fight for change.”

Since 1986, Equal Justice Works has worked with attorneys from both the public and private sector who are committed to building a more just society, ensuring equal access to the legal system for all.

Harrison’s practice focuses on legal and judicial ethics and professional liability and he frequently serves as an expert witness in these areas of the law. He has a distinguished history of involvement in diverse social and legal issues and has received numerous state and national awards for his professional and public service.

Osborn Maledon is a 51-attorney leading Arizona law firm that provides litigation, business and general counsel solutions for its clients.

Polsinelli Attorney Melissa Ho Named to Benchmark Litigation’s 2018 ‘Under 40 Hot List’

Am Law 100 firm Polsinelli congratulates Melissa S. Ho of the firm’s Phoenix office for being included in Benchmark Litigation’s Under 40 Hot List for 2018. She has received this distinction for the third year in a row.

The Under 40 Hot List is billed as an “exclusive ranking of the most talented U.S. litigators” 40 years of age or younger. Benchmark uses a process of peer review and case examination compiled over many months to recognize this new generation of up-and-coming attorneys.

Ho is a trial attorney with a detailed understanding of government regulations, intellectual property, and international business. As a former prosecutor, she is sympathetic to the disruption and chaos a government inquiry and criminal investigation can cause, allowing her to successfully defend matters at both state and federal levels. She is a shareholder in the firm’s national Government Investigations practice.

Marc Maher joins Radix Law

Radix Law is excited to announce Marc Maher as the latest addition to the firm. Born and raised in New Jersey, Maher joins the practice as an associate attorney and brings with him years of experience in the real estate law. Maher has extensive experience in transactional business and real estate law and represents clients in cases involving commercial and residential acquisition, disposition and leasing matters.

Maher has a Bachelor of Science from Arizona State University, an MBA from University of Phoenix and received his Doctorate of Jurisprudence from the University of Houston Law Center in Texas.

He is licensed to practice in all state courts in Arizona, New York and New Jersey.

“Marc’s comprehensive understanding of real estate transaction law will be very valuable to our clients, we are thrilled to bring him on as our new associate,” said Jonathan Frutkin, Principal Attorney at Radix Law.

Maher is an active member of the State Bar of Arizona, where he serves as an editor for the Arizona Real Estate Forms Manual for the Real Property section. He is also a licensed real estate broker in Arizona.

Maher frequently teaches real estate CE seminars such as, 10 Ways to Lose Your License in a Short-Sale Transaction, Risk Management for Clients and Brokers, Short-Sales and Anti-Deficiency Judgments.

Currently, Maher resides in Scottsdale with his wife and six-year-old daughter.

Dillon Steadman Joins Sanders & Parks PC

Sanders & Parks PC is pleased to announce that Dillon Steadman has joined the Firm as an associate. Steadman will focus his practice on products liability, professional liability, aviation liability and insurance defense. Steadman earned his Juris Doctor from the University of Arizona, where he tried DUI cases through the prosecution clinic, provided volunteer legal services through Southern Arizona Legal Aid’s domestic relations clinic, and helped startup businesses with their intellectual property needs. Steadman also served as the Senior Articles Editor for the Arizona Journal of Environmental Law and Policy. He was on the Dean’s List numerous times and received the award for Outstanding Performance in Legal Writing. Mr. Steadman is fluent in Spanish and conversant in Portuguese and French.

Stepnot Adds Monica Thompson to Phoenix Office

Stepnot & Johnson LLP is pleased to announce the arrival of Monica Thompson in the firm’s Phoenix office. Thompson joins Stepnot as an associate in the Insurance & Reinsurance and Professional Liability Groups. Thompson represents clients in insurance coverage and contract disputes. Named to Southwest Super Lawyers’ 2018 list of “Rising Stars” in insurance, Thompson works with clients to strategize defenses against product liability claims, including vicarious liability, failure to warn or maintain, and design and manufacturing defect claims, in order to secure case dismissals, settlements and summary judgment.

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. Notices are not accepted if they are not MCBA members in good standing will not be printed.

August Calendar

Check out maricopabar.org/events and watch your inbox for the latest updates on dates, times, and locations for events and meetings.
INSIDE THE COURTS

Glendale Judge Takes Top Honors at State and County

Judge Elizabeth R. Finn Receives Prestigious Awards from Arizona Supreme Court and Maricopa Association of Governments

Glendale Presiding Judge Elizabeth R. Finn has received the Arizona Supreme Court’s 2018 Judicial Branch Distinguished Service Award in the Chief Justice’s Outstanding Contribution to the Courts category, for outstanding service and contribution to the Arizona Judicial Branch. She was given this distinguished honor during the 2018 Arizona Judicial Conference on June 20.

“Judge Finn was selected based on her leadership and innovation on many initiatives that are important to the courts statewide that involve domestic violence, DUI, and mental health issues,” said Arizona Supreme Court Chief Justice Scott Bales. “This award reflects not only what she’s done recently but what she’s done over her remarkable career as a judge.”

Judge Finn is also being recognized by the Maricopa Association of Governments (MAG) as the recipient of this year’s Desert Peaks Award for Professional Service. The Desert Peaks Award recognizes people, projects and partnerships that have demonstrated a commitment to regionalism. The Professional Services Award is presented to an individual from any organization who has significantly contributed to regionalism through sustained or outstanding professional efforts.

The award was presented at the Desert Peaks Award event on June 27. “Many people spend their careers searching for a special meaning in their lives,” said Judge Finn. “Fortunately, being a judge has allowed me to fulfill my passions of improving the legal system for all, including domestic violence survivors and the mentally ill.”

Judge Finn is Arizona’s longest-serving judge. Throughout her 39 years of service, she has been at the forefront of issues that affect the citizens of her court. She is among the state’s leading experts on domestic violence law and practices. She has also been a leader at finding ways to improve the handling of DUI cases. “Few people have done more than Judge Finn to advance justice for two special populations: victims of domestic violence and those suffering from mental health conditions,” said Court Administrator Chris Phelps. “Judge Finn has never met a leadership role she didn’t fully embrace with passion.”

Judge Finn is responsible for the launch of Arizona’s first city Domestic Violence Treatment Court program without probation resources and the management of over $1.5 million in domestic violence grant awards.

In 2013, she implemented a Mental Health Court at Glendale City Court. Her Court was one of two Supreme Court designated city courts to conduct their own mental competency hearings. This pilot program resulted in legislation for all limited jurisdiction courts to preside over these proceedings. Judge Finn has been an active member of the American Bar Association National Conference of Specialized Court Judges, previously serving as its Chair, House of Delegate member and currently a member of the executive committee, as well as many otherABA Committees.

Judge Finn chaired the Governor’s Office of Community and Highway Safety DUI Conference for Judges for twenty years. Among many other awards, Judge Finn was given an award of Merit with a Proclamation from Governor Jane Hull in 2005 honoring her work with the Governor’s Office of Highway Safety for her leadership on DUI and highway safety.

Her father, Herbert B. Finn, a Yale Law School graduate, is known for his civil rights work in a case that was a predecessor to the landmark Brown vs. Board of Education case.

Her mother, Ruth G. Finn, graduated summa cum laude in 1970 from the founding class of the Sandra Day O’Connor School of Law at Arizona State University. Continuing the Sandra Day O’Connor School of Law tradition are Judge Finn (1972), Judge Finn’s sister, Alice Finn Gartell (summa cum laude 1989) and her son, Jesse Finn Turner (2005), making the family the first third-generation family in the school’s history.

Both Judge Finn and her father are Maricopa County Bar Association Hall of Fame recipients.

Four Commissioners Sworn-In

Superior Court of Arizona Commissioners Michelle Carson, Lindsey Coates, Max-Henri Covil, and Joshua Yost were sworn in at an investiture ceremony held in the Board of Supervisors Auditorium on June 30. Carson and Covil preside in the Criminal Department; and Coates and Yost preside in the Juvenile Department. Each are shown here receiving gavels from MCBA President Hon. Geoff Fish.

CONVENIENT ONLINE VOLUNTEERING

Arizona Free Legal Answers is a confidential question answering system that allows attorneys to give free legal advice online at a time and location convenient for you. Once you are registered as a volunteer, you can log on, decide whether you would like to answer any question and send your response via the website. As the volunteer attorney, you decide when to answer a question and when to end an exchange.

REGISTER AT: https://onlineazjustice.org/Account/UseAgreement or contact Kim.Bernhart@azflse.org for info.
Arizona Supreme Court
CourtWatch, continued from page 1
distinct from marijuana.” That same opinion concluded that “the Legislature has recognized hashish and marijuana as two distinct forms of cannabis ... but marijuana alone has been singled out for separate treatment under our statutes.” And a 1978 court of appeals opinion held “that our legis-
lation’s differentiating treatment of hashish and marijuana is to be attributed to the great po-
tency of the former, rendering it ‘susceptible to serious and extensive abuse.’”

The AMMA, Thompson noted, “is sil-
ient as to hashish.” And “[p]rior understand-
ing of the pertinent words strongly indicates that AMMA in no way immunizes the possession or use of hashish.” He con-
cluded, “There is, in AMMA, no clear and unequivocal language immunizing hashish. If the drafters wanted to immunize the pos-
session of hashish they should have said so. We cannot conclude that Arizona voters in-
tended to do so.”

“We cannot speculate that the voters, in allowing the limited use of marijuana to ameliorate patients’ suffering and distress, would, if they also intended to similarly im-
munize the use of hashish, have allowed the same quantity of narcotics as of the relatively benign flowers of the marijuana plant,” Thompson concluded. Joining him was retired Division One Judge Thomas C. Kleinschmidt, who was called back into ser-
vice to hear the case.

In dissent, Judge Kenton D. Jones assert-
ed that the majority had ignored clear lan-
guage in the AMMA unambiguously dem-
onstrating the intent to cover hashish. And he believed that the majority had simply failed to recognize that hashish is marijuana.

“The specific definition of marijuana, found within the AMMA,” Jones wrote, “clearly encompasses all forms of the mari-
juana plant, including its resin.” He ac-
knowledged that in some contexts, “mari-
juana” may “refer only to the leaves of the cannabis sativa plant.” But “the majority’s reliance upon a common understanding of the term is misplaced because the AMMA specifically defines ‘marijuana.’”

“A statutory definition trumps any meaning ‘generally and ordinarily given to such words,’” Jones wrote, so the Act’s defi-

Volunteer Lawyers Program Thanks Attorneys
The Volunteer Lawyers Program thanks the following 15 attorneys and firms for agreeing to provide pro bono representation on cases referred by VLP to help people with low incomes in June. VLP supports pro bono service of attorneys by screening for financial need and legal merit and provides primary malpractice coverage, domain 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.

ADOPTION:
Tawnia Wienke
Law Office of Tawnia R. Wienke

BANKRUPTCY:
Thomas H. Allen (2 cases)
Allen Barnes & Jones

Michael Thralli
Catalyst Legal Group

CONSUMER:
Nancy Anger
Law Office of Nancy Anger

Andrew Jacobs
Snell & Wilmer

COURT ADVISORS FOR CHILDREN IN FAMILY COURT:
Florence M. Brunner
Law Office of Florence M. Brunner

Annette T. Burns
Law Office of Annette T

Christina S. Hamilton
The Cavanaugh Law Firm

Karen L. Nagle
Nagle Law Group

GUARDIANSHIP OF INCAPACITATED ADULTS:
Troy McNemar
McNemar Law Office

Howard Sobelman
Snell & Wilmer

GUARDIANSHIP OF MINOR CHILDREN:
Wesley Robinson
Bullard Spahr

PRIVATE LANDLORD/LEASE:
John Gordon
Law Office of John F. Gordon

REAL ESTATE:
Douglas Allsworth
Kunk Rock

Mark Nethers
Kunk Rock

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The Volunteer Lawyers Program provided $3,285,147 in economic benefit to families through cases completed during 2016. Thanks to all who participated and supported VLP!

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

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LAW OFFICE FOR LEASE (Near 101 and Guadalupe). One or two office offices for rent, each with adjoining secretarial area with built-in desks/work area. Each office is available for rent, separately or together. Office
PRO BONO PROFILES

Spotlight on Volunteers

By Peggi Cornelius
VLP Programs Coordinator

October 2018 will mark the 20th anniversary of the founding of the Children’s Law Center (CLC). Focused on providing pro bono legal services involving the best interests of children, the Center was established by the Volunteer Lawyers Program, which is co-sponsored by Community Legal Services and the Maricopa County Bar Association (MCBA).

Attorney Roni Tropper, the CLC’s Coordinator, reflects on the first and continuous project undertaken by the Center. “It was an ambitious collaboration with the MCBA’s Young Lawyers Division Committee on Children and a Guardian Ad Litem Committee appointed by Judge Mark Armstrong and chaired by Judge Barbara Mundell. We were seeking to meet a need for volunteer attorneys who would serve as advisors at the discretion of family court judges and commissioners in Maricopa County Superiors Court. In that first year, we recruited more than 70 volunteer attorneys, provided them training by the court, and referred cases involving more than 160 children. Over time, the title has changed from ‘Guardian Ad Litem’ to ‘Best Interest Attorney’ to ‘Court Appointed Advisor,’ but the volunteers remain committed to one purpose. They serve as the eyes and ears of the court in providing an objective perspective on the best interests of the children in high-conflict custody matters.”

One testimony to the effectiveness of the CLC’s work is the long term commitment many attorneys make to participation in its projects. Stasy Click, Jessica Cotter, Elizabeth Feldman, and Gregg Woodnick are among those who have served as Court Appointed Advisors (CAA) for more than a decade. They express a variety of thoughts about why they find pro bono work gratifying, why they think serving as court appointed advisors is beneficial to the court, how it can be helpful to the litigants, and how it serves the best interests of the children.

When Click learned of the CAA project, she was employed in a position devoid of trial work. Seeking that opportunity in pro bono work, she joined the CLC. She comments, “Little did I know it would lead to a career and practice area change. Now I’m a family law litigator, but I also enjoy a break from litigating, by serving as an advisor in custody matters. I approach the responsibility by imagining what I would want to know about the parties if I were the judge.”

Knowing she’s been asked to serve because the parties do not have the resources or the ability to provide some of the information needed by the court, Click wants to identify custody issues for the judge to consider. She observes that attorneys who serve as CAA’s have a large range of family law experience and can make recommendations based on that experience.

The positive impact a CAA report can have on the lives of children in custody disputes is a motivating force for Cotter. She notes that volunteer advisors typically accept only one such case at a time, giving their undivided attention to the research and investigation impacting the children in that matter alone. She also points out that most of the litigants in family court are unrepresented, so her involvement provides the court information from a neutral third party who is trained in the related law.

With regard to the effect of her pro bono work as a CAA, Cotter says, “The outcomes I most remember are ones where children have been reunified with an estranged parent, who may have had personal issues that prevented them from being involved with their children. The parents put in a lot of work in order to be back in their children’s lives.”

For more than 15 years, Woodnick has accepted CAA case referrals and helps to train new CAA volunteers. He describes court advisors as “a combination of advocate and social worker looking to ensure that kids are not overlooked and their needs are met.” He encourages colleagues to volunteer and says serving as a CAA is an excellent way to get to know judges and other professionals involved in the community.

Woodnick’s concern for the well-being of the families is evident in his remarks about his experience as a CAA, “I have represented the interests of children ranging from infancy to adolescence. Some cases have involved children with special medical needs, mental health diagnoses, complex educational issues, etc. Often, those cases would benefit from extensive professional involvement the parties either don’t know about or can’t afford; and having a CAA opens doors for them that may otherwise remain closed.”

The Volunteer Lawyers Program Children’s Law Center thanks the following attorneys for their generous and invaluable service as Court Appointed Advisors, January 2017 through June 2018:

- Florence M. Brunner
- Annette T. Burns
- Tabitha A. Cabrera
- Jason B. Castle
- Bernita D. Clark
- Stasy D. Click
- Jessica M. Cotter
- Annette M. Cox Sandolvay
- Helen R. Davis
- Joshua P. De La Ossa
- Elizabeth Feldman
- Jennifer G. Gadow
- Jeremy M. Goodman
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- Clarissa B. Reiman
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- Alicia M. Wolston
- Gregg R. Woodnick
- Claudia D. Work
- Scott H. Zwilling

Come walk, run, or stroll your way through our 5K race/1-mile walk to benefit the Necessities Drive for Phoenix’s Domestic Violence Shelters. We are excited to offer the Race Judicata 5K/1-mile walk for the fourteenth time for our legal community, families, and friends.

Go to maricopabar.org for information and to register.

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ANNUAL MEETING & HALL OF FAME DINNER Thursday, September 13
BENCH BAR CONFERENCE Friday, September 14

ANNUAL MEETING & HALL OF FAME DINNER
Thursday, September 13
3:30 p.m. Meeting of the MCBA Board of Directors—Members Welcome
4:30 p.m. Past Presidents Hosted Reception—MCBA Members Only
5:30 p.m. Check In for Awards Dinner
6 p.m. Annual Meeting & Awards Dinner, honoring:

   Hall of Fame Winners:
   - ASU Law Professor Charles Calleros,
   - Hon. David Campbell, US District Court
   - Barbara Dawson, Snell & Wilmer
   - Sal Rivera, Rivera Law Group
   - Jay Zweig, Bryan Cave Leighton Paisner
   - Judicial Officer of the Year, Hon. Pamela Gates, Maricopa County Superior Court
   - Member of the Year Bobby Kethcart, Snell & Wilmer
   - Public Lawyer of the Year, Patricia Gerrich, Community Legal Services

BENCH-BAR CONFERENCE
Friday, September 14
8:30 a.m. Check In – Continental Breakfast
9-11 a.m. Courtroom Advocacy
9-11 a.m. Pro Tem Training
11:30 a.m. Check In and Networking
12 p.m. Lunch – Presiding Judge Janet Barton State-of-the-Court
1:30 p.m. Break-Out Sessions with Division Presiding Judges
3 p.m. Plenary Session with Appellate Judges
4:30 p.m. Cocktail Hour

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Friday Afternoon Only, 11:30 a.m.-5:30 p.m. – Members $125 • Public Lawyers and Paralegals $65 • Non member $200
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