**Young Lawyers Take Law Week to the Public**

By Jennifer Ratcliff

The MCBA’s popular annual event for summer associates has been scheduled for Thursday, June 21, from 5:30 to 7:30 p.m. Fennemore Craig is providing space for the social at 3003 N. Central, 26th floor, rooms E1-E2, Phoenix.

Sponsored by the MCBA’s Task Force on Recruitment and Retention of Minority and Women Attorneys, the social is especially designed to welcome minority students into the legal community, though all summer associates are welcome. Also invited are law firm recruiters, judges, and MCBA sister bar leaders.

The goal of this event is to help all summer associates connect with each other and with leaders in the local legal community. Complimentary drinks and hors d’oeuvres will be served.

RSVP to Cynthia or Karla by phone: (602) 257-4200, E-mail: quinonez@mcbabar.org

*Helping callers with their legal questions at the May 1 Phone-A-Lawyer Fair are Kevin Breger, Law Offices of Kevin Breger, Scottsdale, and Doug Lusson of Kasdan Simonds Riley & Vaughan LLP, Phoenix.*

**Special Thanks to Law Week Sponsors and Volunteers**

The MCBA, Young Lawyers Division, and the Law Week Committee would like to thank the Maricopa County Bar Foundation and Snell & Wilmer for sponsoring the 2007 Law Week. We are also pleased to acknowledge the time and effort of the following volunteers:

Adel Allister, Maricopa County Attorney’s Office
Sarah Anchors, ASU law student
David Banton, Fennemore Craig
Cynthia Betts, Fennemore Craig
Whitney Birk, Fennemore Craig
Kevin Breger, The Law Offices of Kevin Breger
Kenneth Burford, Hastings & Hastings
Stacy Clicke, Burch & Cracchiolo
Jessica Cotter, Law Offices of Bruce D. Brown
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Jennifer Ratcliff, Gallagher & Kennedy
Rachel Reames, ASU law student
Wendy Roberts, Caremark
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Sandy Shapiro
Monique Simpson, Thomas Thomas & Markson
Lisa Strand, Robinson & Associates
Tom Swift, sole practitioner
Jonathan Wallack, Bennett, Fairbourn, Friedman & Balint
Jay Zweig, Gallagher & Kennedy
Kudos to the MCBA Staff and Board

A favorite aspect of the ball is the silent auction. Past silent auctions have supported ex-grams. Proceeds and additional refinancing to go towards electrical fire and damage suffered earlier. The building continues. Just as important, the rebuilding of our exterior and interior continues. Despite the lack of our regular building and space for divisions and sections to meet, staff members continue to work to provide service to members from our temporary office at 3003 North Central. Executive Director Allen Kimbrough has rolled up his sleeves in leading and working with staff and the board. Beyond his management and administrative duties, Allen is not too proud to help stuff envelopes, staff various meetings, and do what needs to be done. I formally welcome Isolde Davidson as our new membership and marketing director. Isolde will work to increase our numbers and promote the benefits of membership to our members and to the legal community.

Few if any of the plans and goals of the board, the executive director, and divisions and sections would come to fruition, without the work of staff. They are rarely mentioned, so I mention them here. In addition to Allen and Isolde, they are AnGelica Garcia, Linda Pena, Michelle Heavlow, Karla Durazo, Jennifer Deckert, Cynthia Quinonez, Dawn Shaver, Sonia Contreras, and Anthony Olivarez. Thank you, staff.

Board member efforts

Of the 14 current MCBA Board members, half are new. There are William A. Kassin, David Funkhauser III, Brian M. Bergin, Keelan S. Bodow, Jenny Pelton, and T.J. Ryan. They bring new energy and ideas. The Young Lawyers Division (YLD), through the leadership of T.J. Ryan, Jennifer Ratcliff, and past board member Jeff Kuykendal, and with its members, raised approximately $13,000 for this year’s Barrister’s Ball beneficiary. (I insert a reminder that YLD’s Race Judicata is coming up on September 16.)

Monica Rapps, Paralegal Division president, and division members continue to provide timely and relevant CLE seminars and certification conferences for the paralegals in our community. Joel Sinclair, Corporate Counsel Division president, and division members continue to provide monthly educational and social networking meetings for members and nonmembers. Other board members also serve as liaisons to divisions and sections. To those unnamed, thank you. I also thank the Executive Committee members, President Elect Judge Glenn Davis, Treasurer Kevin Quigley, and Secretary Jennifer Green, who regularly meet and work so professionally with the executive director and me.

The staff and we, the board members, continue our process of rebuilding to have MCBA serve members, the legal profession, the judicial system, and the public. I commend staff and my fellow board members for their dedication, time and effort. With you, I look forward to more good things in our second half of the year.

2008 Barristers Ball Seeks Beneficiary

As I may have mentioned (repeatedly) in past columns, the Barristers Ball is one of the MCBA Young Lawyers Division’s premier events. Each year it offers attorneys the opportunity to socialize and enjoy a fantastic evening of dinner and dancing in elegant surroundings.

A favorite aspect of the ball is the silent auction. Guests are drawn to the wonderful items and enjoy the “competition” of securing the winning bid. But perhaps the best thing about the silent auction is that the net proceeds are donated to a charitable beneficiary to help further its community service programs.

Past silent auctions have supported extremely worthy causes, such as helping the homeless, teaching children about the Arizona justice system, and providing counseling to troubled families.

The 2008 Barristers Ball Committee is now seeking a beneficiary for next year. To be eligible for selection, the program or project must:

- Qualify as a charitable organization as described in Section 501(c)(3) of the Internal Revenue Code, or any successor provision.
- Perform a public service for the community-at-large.
- Not have received any proceeds from the 2007 Barristers Ball Silent Auction.
- Submit a plan to the MCBA YLD Board of Directors for the use of all net proceeds from the silent auction.
- Provide up to five volunteers to assist YLD in recruiting silent auction donations.
- Organizations meeting these requirements are encouraged to submit an application.

Don’t Miss MCBA’s Film Festival June 4-8

It’s not Cannes, but it is just-in-time CLE. Check movie listings and times on page 14 and make plans now to attend. MCBA supplies free snacks and beverages.

MCBA is also offering five live CLE programs during the month of June, so you have plenty of opportunities to earn the required credit hours before the end of the month.
Judicial Retirements, New Appointments, and Reassignments Change the Faces of Superior Court

By J.W. Brown
Maricopa Lawyer

T he unprecedented number of judicial retirements and new judges continues to imbue Superior Court hallways with an air of constant change.

During the month of June, the lure of retirement will claim several judges, newly appointed judges will arrive to fill vacancies, and retirements will be underway. Lawyers and other court customers may find the changes a bit unsettling while adjusting to the changes.

Retirements

Many familiar faces are disappearing from courtrooms as senior members of the bench continue to leave. Judges who have retired or announced their retirements include Dave Cole, Dennis Dairman, Kenneth Fields, Jeffrey Hotham, Ron Feinstein, Jonathan Schwartz and Steven Sheldon. Some are moving to a new phase of their legal careers.

Judge Cole is taking off a few weeks, and on August 1 will begin teaching full time at the Phoenix College of Law. Judge Fields will return to the bench as a pro tem judge, initially presiding over a Family Court calendar. He joins retired judges Bernard Dougherty, Robert Gottsfeld, and Norman Hall, who have regularly served as pro tem judges.

Retired Superior Court Judge Barbara Jarett and retired Court of Appeals Judge Sarah Grant are also preparing to preside over Superior Court calendars on temporary assignments.

New judges

Changes are also underway as newly appointed judges fill the vacancies created by retirements. The newest members of the bench include William “Bill” Brotherton, Samuel Thumma, and Joseph Welty. Each brings unique qualifications to the bench.

Brotherton is a former state legislator. He served two terms in the Arizona House of Representatives and two terms in the Arizona Senate.

The native Arizonan received his law degree from University of Arizona College of Law in 1987. He launched his legal career as a Maricopa County deputy public defender, where he worked three years before going into private practice.

Since 1992, Brotherton was a partner at O’Steen & Harrison law firm, concentrating in the areas of personal injury and defective products. He served on the Governor’s Juvenile Corrections Task Force and Governor’s Council on Faith and Community Initiatives. His first assignment with Superior Court is in Family Court at the Northwest Regional Court Center in Surprise.

Immediately before his appointment to the Superior Court bench, Thumma was a director at Perkins Coie Brown & Bain in Phoenix. His practice focused primarily on commercial litigation, professional and business torts, and contract disputes. He also served as a judge pro tempore for Superior Court and taught as an adjunct professor at Arizona State University’s College of Law.

Judge Thumma received his law degree, with high distinction and Order of the Coif, from the University of Iowa College of Law. Before joining the law firm of Brown and Bain, he clerked for Arizona Supreme Court Chief Justice Stanley Feldman and U.S. District Court Judge David Hansen, Northern District of Iowa. He also was an associate at Arnold & Porter in Washington D.C. His first judicial assignment is in Juvenile Court, at the Durango Court Center.

Joseph Welty is the newest member of the bench, appointed by the governor on May 1. Immediately prior to his appointment, he served as the chief of the National Security Section of the United States Attorney’s Office.

He previously worked in the Arizona Attorney General’s office and then in the office of the United States Attorney for the District of Arizona. He received his law degree from Georgetown University Law School and his Bachelor of Arts degree in Political Science from Loyola Marymount University. He is assigned to a Family Court calendar in the downtown Phoenix court complex.

Reassignments in progress

While the new judges are settling in, more than 20 judges and 18 commissioners are being reassigned. The moves—which involve relocating to different courtrooms—take place during this year’s judicial conference, set for June 20, 21 and 22. On Monday, June 25, the rotations will be complete.

Attorneys are invited to visit the court’s Web site for additional information at: www.superiorcourt.maricopa.gov.
Joe arrives early to the firm as he always does, orange juice in hand, newspaper under his arm, and lets himself in the front door. Joe likes the quiet of the office before others arrive and uses the time to scan his newspaper and catch up on his e-mails before jumping into the matters of the day.

Little does he know, today will not be one of those days. As he starts up his e-mail, a message appears that says, “Your server is unavailable, continue to work offline?” Joe knows quite a bit about computers—a fact that makes him the de facto overseer of all things computer related—so he quickly checks on the server in a nearby closet.

Unfortunately the server is not on and even more unfortunately, the server will not start—the only clue to be found concerning this mysterious behavior is the message on the screen, “No disk available.”

Joe and his entire firm have just suffered a server crash of the worst kind—complete hardware failure. It happens more often than you think and its effects can be disastrous to your firm and your clients.

Think for a moment about how much information is stored within those compact, little hard drives—information that used to occupy multiple file cabinets in multiple rooms now fits in one convenient little space. On the other hand, now all of your information is at the mercy of an entirely unforgiving piece of computer hardware.

Google maintains the largest database in the world and it spans thousands of servers. It is at the mercy of an entirely unforgiving piece of computer hardware. The problem with automated technology is that nobody knows what to do when it stops working. But with foresight and planning, you’ll be able to avoid much confusion and frustration.

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The solution is at the mercy of an entirely unforgiving piece of computer hardware.

Google maintains the largest database in the world and it spans thousands of servers. It is at the mercy of an entirely unforgiving piece of computer hardware. The problem with automated technology is that nobody knows what to do when it stops working. But with foresight and planning, you’ll be able to avoid much confusion and frustration.

Make sure your staff know who needs to be contacted and in what order. If you have one, it’s important to discuss with your system administrator the solution that will make the most sense for your firm. Once your backups are in place, make sure you are prepared to handle a server failure and get your system up and running quickly. Make sure your staff know who needs to be contacted and in what order.

You need to take into account such things as notifying your clients, getting replacement hardware quickly, and having extra staff on hand to help run the firm manually until your server is restored.

There are a wide range of backup solutions available, each with its own advantages and disadvantages. The traditional backup solution is to use backup software, which copies your data to high density tapes or portable hard drives. Another solution gaining popularity is to use an online service which logs into your server each night and copies your information to a remote location.

Have you changed employment? Has your law firm named new partners? Send information for the Bulletin Board column to: Unlimited Resolutions Mediation, Inc.

Special to Maricopa Lawyer

Backup Plan for Server Failure Saves the Day and Your Work Product

By Wade Tracy
Special to Maricopa Lawyer

I solde Davidson has joined the MCBA staff as its director of membership and marketing. Davidson, who came on board April 23, was previously in a similar position at the Illinois State Bar Association (ISBA).

Davidson was employed at ISBA for almost 25 years, beginning as director of publications and managing editor of the Illinois Bar Journal. In 2001 she was appointed director of marketing and membership.

Born in Germany but raised in Phoenix, Davidson attended Arizona State University, where she received a B. A. in journalism (1969). After meeting husband Ron, a Phoenix native, at ASU, she was an editor at Arizona Farmer-Ranchman magazine and Sperry Flight Systems before both decamped for graduate educations in Chicago and then Springfield, Illinois.

Before joining ISBA in Springfield, Davidson was employed in editorial and P.R. capacities at Prairie Farmer magazine in Chicago and at Lincoln Land Community College in Springfield and the University of Illinois-Springfield.

She and husband Ron, who is assistant director of the Clark County Department of Family Services in Las Vegas, have one daughter, Alexandra, of Mesa.
2007 ASU Law Graduation Featured “Firsts”

It’s been a year of firsts for the 189 members of the ASU Class of 2007, whose commencement occurred May 11.

Graduate Cesely Hopper, the first in her family to finish college, was chosen by her classmates as the student convocation speaker. Her talk was about the need for Arizona’s legal profession to become more diverse, in race, gender, sexual orientation and socioeconomic background.

“It was a culture shock for me, moving from California to Arizona, and growing up where I did,” said Hopper, 27, an African American from Inglewood, Calif.

So much so that Hopper, who has an undergraduate degree in psychology from the University of California at Berkeley and a master’s degree in psychology from Pepperdine University, considered leaving law school after her first semester.

“Getting through those first courses was very difficult because it’s a different style of learning,” she said.

Hopper eventually ended up immersing herself in law-school activities, serving as vice president of the John P. Morris Black Law Students Association, the 3L representative to the College’s Student Bar Association, and the College’s ABA Student Representative. Her devotion to the law was solidified this semester when she enrolled in the Public Defender Clinic and worked with clients of the Maricopa County Public Defender’s Office.

“You get to see how the law works beyond the books and get experience from seasoned attorneys,” said Hopper, who has accepted a job in the Clark County Public Defender’s Office in Las Vegas, Nev.

Notable firsts

Among the class’s 178 candidates for Juris Doctor degrees was the College’s first M.D.-J.D. student, Brian Wilhelmi. He’s completed the law school requirements of a unique collaboration between the Sandra Day O’Connor College of Law and Mayo Medical School. Wilhelmi, who previously finished two years of medical school, now will return there, and after two more years of study, he’ll be able to practice both law and medicine.

“Being the first M.D.-J.D. candidate means that people are constantly wondering why one person would pursue so much education,” he said. “After pursuing both degrees I can answer them confidently that the effect it has had on my own life has been vibrant.

“The complex world existing at the intersection of law, medicine, and business is driven by forces such as empathy and justice just as much as it is by the bottom line. However, without a clear understanding of all three of these forces, health care bears little chance of aligning them all for true solutions for society.”

Wilhelmi’s goal is to become a leader in fields involving emerging health care technology in medicine, law and business.

The Class of 2007 is the first to graduate after spending a full year under the school’s new name. It was renamed for retired U.S. Supreme Court Justice Sandra Day O’Connor in April 2006, and an official ceremony was held last November. The renaming was a first in and of itself.

Tribal Law major

Steven W. Bott is the first candidate in the College’s LL.M. in Tribal Policy, Law, and Government. This Master of Laws program gives students who already have their law degrees insight into the exploding field of Indian law through the College’s renowned Indian Legal Program.

Bott, who is the director of university real estate development for ASU, said he had always been interested in Indian law, but it wasn’t widely taught when he went to law school. He came to work for the university just as the law school started the LL.M. program.

“It was a case when desire meets timing and opportunity,” he said.

Bott said he also was motivated by interactions the university has with Native nations where land uses intersect. “As a government entity, we have interaction with tribes, particularly at the Polytechnic campus.”

Bott said he expects to stay with ASU, and also use his new knowledge in pro bono and consulting work with tribes.

Legal Studies class

The College also is graduating its first group of candidates for the Master of Legal Studies: Tony Barrasso, Paul Burch, Edward Kargbo, Ramon Muro and Cristina Wong. The M.L.S., is a graduate degree for individuals who don’t want to practice law, but desire a basic familiarity with law, legal thought and the legal process.

Barrasso has an undergraduate degree in philosophy and psychology and a master’s degree in public administration. He believes the M.L.S. will help him land a job with the FBI or other federal law enforcement agency.

“I didn’t have to go through the entire three years (of law school) to get the required knowledge that agencies are looking for,” said Barrasso, noting he was able to take criminal and international law courses, but avoid the non-applicable lessons in tax and property law.

“If you haven’t already, please renew your membership now. MCBA is gearing for a great fall line-up of CLE courses—all at a discount to members. If you take your 15 hours of required CLE credit with MCBA, your savings will easily cover your dues. Renew today! Contact Cynthia at cq vineson@mcbar.org or (602) 257-4200.

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Now from Perkins Coie

A publication that helps members of the media understand Arizona law and its legal system has been updated by Perkins Coie Brown & Bain lawyers. The sixth (2007) edition of Arizona Reporter’s Handbook on Media Law is now available for purchase from the firm.

Firms and judges will find it useful to provide the handbook to their media contacts—or in the case of firms, even some of their clients. Perkins Coie attorney Dan Barr led a team of 10 Perkins Coie attorneys in Phoenix and Seattle in revising the Handbook, which was last released in 2002.

Topics covered include access to court proceedings, public records, open meetings, and public and private places.

The new Handbook also addresses subpoenas issued against the news media, search warrants, gag orders, prior restraints, libel, invasion of privacy, promises of confidentiality to sources, copyright and trademark issues, and Section 230 immunity for online content.

The Arizona Reporter’s Handbook on Media Law is being sold for $5 a copy. To order a copy, please contact Sharon Nelson at 602-351-8014 or SNelson@perkinseco.com.

A “Single” Suggestion That Will Help You Meet Two Drafting Goals

Drafting contracts, legislation, and rules can be complicated. One reason for this complication is the drafter’s need to be both consistent and clear throughout the document. Making the subject of a sentence singular is one of the easiest ways for a drafter to achieve both goals.

The singular keeps drafters from making inadvertent mistakes in verb tense and in later pronoun use, as it narrows the choices available for the drafter. In addition, the singular makes it clear that the document applies to, and affects, individuals (“an employee”) and not a group (“employees”).

Despite the fact that many legal writing manuals advocate the use of the singular, many drafters still use the plural without a compelling reason to do so. Consider the following common example given in Robert J. Martineau and Michael B. Salerno’s book, Legal, Legislative, and Rule Drafting in Plain English:

Rewritten in the singular, it would read as follows:

A special session of the district court may be held at a place in the district as the nature of the business may require, and upon such notice as the court orders.

There is no fear that this provision as written in the singular would be limited in scope to a single session, as some critics would argue. The articles “a” or “an” are not limiting in that manner. The adjective “one” in place of the “a” or “an,” however, would limit the scope of the provision to a single session.

Interestingly, the drafter could further edit this provision for clarity by using the active voice (“Upon notice, the district court may sit at a place in the district”), but this is a column for another month.

New Court Tech Developments

The Clerk’s Office is involved in numerous projects that will facilitate new or improved processes for practicing law in the Superior Court in Maricopa County. Technology continues to be the source of innovations in improving service to the bar and the public. The following initiatives provide a look ahead to the developments you will see in 2007.

Electronic warrants

Electronic criminal bench warrants and civil arrest warrants were implemented at the end of April. When a judicial division orders a criminal bench warrant or civil arrest warrant, the order is created and sealed by the courtroom clerk and subsequently transmitted electronically to the Sheriff’s Office. Warrants can be quashed electronically upon notice from the division. When an electronically transmitted warrant is quashed, the quashed warrant is electronically filed and docketed in the clerk’s system. The electronic issuance and quashing of warrants has an advantage over paper processes in both speed and accuracy.

Electronic warrants use a verification technology that imprints an electronic seal that includes a unique number. Tracking the information on the electronic seal can identify who ordered the warrant quashed and other administrative information. The technology involved in bringing electronic warrants to reality in criminal and civil case types may translate to other electronic services in the future.

eFiling coming to family court

Plans are being reviewed to begin expanding eFiling capabilities to subsequent documents filed in family court case types. If the pilot is approved in its proposed format, eFiling in family court could begin by the end of summer.

Similar to the pilot program that was launched in general civil cases in 2005, the eFiling pilot in family cases will start with a limited number of cases in two or three judicial divisions. It is anticipated that participation in the eFiling pilot in family court will be permissive; if a judicial officer appears on the list of participating divisions, attorneys may eFile in that division.

As in other case types, the initial documents to begin a family court case will be filed in paper. After the initial filings, subsequent documents may be filed electronically. Participating divisions will be listed on the Clerk’s Web site when the pilot launches in family court. https://efiling.clerkofcourt.maricopa.gov/help/edivisions.asp

This year began with historic changes in the practice of law in Maricopa County. The electronic court record, the expansion of minute entries by email and eFiling have all changed the way we interact with the courts. Many improvements have been accomplished and many more are on the way.
Despair v. Hope

The end of a young life can be particularly tragic. Born in Phoenix, David was four years-old and bounced around from extended family to shelters to foster homes. He was in complete academic failure and even forced to repeat kindergarten. Private testing revealed severe dyslexia, ADHD and several learning and coordination disabilities. His school disagreed, even saying there was no such thing as dyslexia, calling it a “dated” term. This is where hope could have been lost and a brighter future extinguished. Instead, there is a happy ending to this true story. David was given a brighter future when his foster parents -- and now adopted parents -- exercised school choice. Despite the substantial financial hardship, David’s adopted parents moved him from a public school to a non-religious private school for special needs to have the best possible future. David finally got the education he desperately needed. Last Christmas, he couldn’t read. This Christmas he is still behind, but is reading for the first time. And now more foster children, disabled children and economically disadvantaged kids have the chance to be just like David. This is due to the foresight of former U.S. Supreme Court Justice Sandra Day O’Connor and her colleagues who lifted the constitutional cloud over school choice. And it is due to the progressive school choice legislation signed into law by Governor Napolitano and the Arizona State Legislature in 2006. They provided more hope. They provided more opportunity for brighter futures.

For more information about school choices available to disadvantaged Arizona schoolchildren, please visit www.azschoolchoice.com.

Hispanic Council for Reform and Educational Options
www.hcreo.org

Alliance for School Choice
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MCBA Calendar

This calendar includes CLE seminars presented by MCBA as well as MCBA meetings, luncheons and events and those of other voluntary bar associations and law-related organizations. The divisions, sections and committees listed here are those of the MCBA, unless noted otherwise. Everything takes place at the MCBA office, 3003 N. Central Ave. Suite 1850, Phoenix 85012, unless noted otherwise. For more information about MCBA events or to register for any of the MCBA seminars, contact the MCBA at (602) 257-4200 or visit www.maricopabar.org.

JUNE 2007

4-8 MCBA CLE Film Festival, Phoenix Corporate Center Auditorium, 3003 S. Central
6 Family Law Section, 5:00 p.m., Fresh Start
7 CLE: Ethics for Estate Planners, Before and After a Client’s Death, 1:30 p.m., ASU Downtown Center
8 Construction Law Section, noon, MCBA-A
11 Young Lawyers Division, noon, MCBA-B
12 Paralegal Division, 5:30 p.m., MCBA-B
13 Executive Committee, 7:30 a.m., MCBA-A
19 Volunteer Lawyers Program, noon, MCBA-B
20 CLE: Crisis Management, 9:00 a.m., ASU Downtown Center
21 MCBA Board of Directors, 4:30 p.m., MCBA-A
25 Task Force on Recruitment & Retention of Minority and Women Lawyers, noon, Location TBA
30 Criminal Law Section, noon, Old Courthouse

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EVENTS…

Gov. Janet Napolitano delivered the convocation address at the ASU Sandra Day O’Connor College of Law commencement May 11 to a class that included some interesting “firsts.” The Class of 2007 has 189 members, including 178 candidates for Juris Doctor degrees, five students earning their Masters of Laws in Biotechnology and Genomics, the first student to receive his Masters of Laws in Tribal Policy, Law, and Government and the first class of graduates in the Masters of Legal Studies program (see article page 3).

HONORS & ACHIEVEMENTS…

Xavier College Preparatory has honored Michael R. King, an attorney with Gammage and Burnham, with its 2007 Spirit of Service Award for his inspired leadership of The Xavier Foundation. King is president of The Xavier Foundation, which was established in 1996 to provide for the long-term prosperity and fiscal health of Xavier College Preparatory.

MOVES & NEWS HIRES…

The law firm of Quarles & Brady announces that Jeffrey L. Gage has joined the firm as a senior real estate partner. Most recently, Gage established The Gage Law Firm and devoted most of his practice to representing SunCor Development Company on such projects as Hayden Ferry Lakeside, a multi-use development project on Tempe Town Lake, and Rio West Business Park in Tempe. Gage received his law degree, cum laude, from Indiana University (1977) and was admitted to the Arizona State Bar the same year.

OTHER NEWS…

Founding partners of Engelmer Berger, P.C., David Wm. Engelmer and Steven N. Berger, have expanded their practice areas to include the mediation of commercial and bankruptcy disputes. The partners have over 50 years experience in representing parties in bankruptcy and other commercial disputes. Both have completed formal training through the Pepperdine University course on mediation.

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LITIGATION ATTORNEY. Mann, Berens & Wisner, LLP, a small/mid-size AV-rated firm, is seeking an attorney with at least 2+ years commercial litigation experience and excellent academic credentials. The firm offers above average salary and objective bonus program. Please send resume to: Rich S Wisner, 3300 N Central Ave., Ste. 2400, Phoenix, AZ 85012-2513, fax (602) 258-6212 or email tzmoran@mblawlaw.com.

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THE SHEA FAMILY OF COMPANIES – GENERAL COUNSEL – SHEA HOMES TRILogy. The Trilogy division is a large homebuilder, developing resort-style, master planned communities for baby boomers and offers world-class amenities to its residents. This division is currently seeking a full-time Corporate General Counsel. Will be responsible for providing legal consultation for this multi-state division. Will negotiate and document large complex land acquisitions and dispositions. Will negotiate and document joint ventures with builder and financial partners. Reviews and negotiates various operational contracts including construction contracts and management agreements. Must possess a Law Degree (JD) and be a member of Arizona and/or California Bar. 7+ years experience handling real estate related transactions. Specific experience with joint ventures with builders. $90,000+ per year. Send resume, references and legal work samples to: Joe DeWitt, 3125 S. Deer Valley Road, Phoenix, AZ 85029.

ATTORNEY NEEDED to handle commercial litigation, construction litigation, and general civil litigation matters, on contract basis, up to 40 hours per week. Send resume, references and legal work samples to: Joe DeWitt, 3125 S. Deer Valley Road, Phoenix, AZ 85029. 602-257-4200.

ASSOCIATE ATTORNEY. Dynamic AV-rated boutique law firm seeks associates with two to five years of commercial litigation experience. Applicants must be admitted to the Arizona Bar and have excellent academic and professional credentials. Please send resume to: E DevWulf, Rossa DeWulf & Patten, 400 E Van Buren, Suite 800, Phoenix, AZ 85004.

ASSOCIATE ATTORNEY needed for 9-attorney, AV-rated firm with a general civil practice. Focusing in the areas of regulatory, municipal, utility, natural resources and environmental law. 5+years experience required. Experience in environmental, natural resources or utility law preferred. The firm desires an attorney who works well in a team environment and who will contribute to a positive atmosphere. Send resume to Susan D. Goodwin, Curtis Goodwin, Sullivan, Udall, & Schwab, 501 E. Thomas Road, Phoenix, AZ 85012 or email to mwilson@csuslaw.com.

ATTORNEY NEEDED to handle commercial litigation, construction litigation, and general civil litigation matters, on contract basis, up to 40 hours per week. Send resume, references and legal work samples to: Joe DeWitt, 3125 S. Deer Valley Road, Phoenix, AZ 85029. 602-257-4200.

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Paralegal Division Offers CLE on Animal Law

Paralegal students, paralegals, attorneys, and other legal professionals are invited to join us for a complimentary one-hour CLE program regarding animal law on Tuesday, June 19, at 5:30 p.m. at the offices of Fennemore Craig, 3003 N. Central Avenue, Phoenix, AZ 85012. Tony Church, a deputy county attorney, will present, “Investigating Animal Cruelty.” Church is a staunch advocate for animal rights and has prosecuted all of the felony animal abuse cases in Maricopa County for the past three years.

As noted in an Arizona Republic article on June 20, 2005, County Attorney Andrew Thomas saw the mistreatment of animals as the first step toward more violent crimes while serving as a prosecutor in the juvenile division. He wanted to monitor and prosecute abusers to keep them off the streets, and in 2005, he created a task force known as the Law Enforcement for Animal Protection (LEAP). LEAP began with 26 volunteers representing police, prosecutors, animal-control and shelter personnel.

Please join us to learn more about this fascinating area of law, how animal abuse cases are investigated, and the efforts to prosecute abusers. There is no charge to attend the CLE meeting.

In keeping with our tradition of giving back to the community, we will collect donations at the meeting for the Arizona Animal Welfare League, including dog and cat toys, machine-washable bedding (old sheets/towels), and clinic items (gauze, iodine, rubbing alcohol). For a detailed wish list, visit www.awl.org.

IKON Document Services graciously volunteered to provide refreshments, so an accurate headcount is needed. Please register via email at resources@maricopaparalegals.org.

Additionally, remember to mark your calendar for the annual Arizona Paralegal Conference, Friday, September 28, at the Heard Museum. We have an impressive line-up of speakers in several areas of law, including elder law. There will be vendor and exhibit booths, prizes, printed materials, and 6 hours of CLE credits.

For more information about the many benefits of the Paralegal Division, its programs, and how you can be involved, please visit www.maricopaparalegals.org.

Think Mediation Before Lawsuit in Employment Discrimination

By Alona M. Gottfried, Esq.
Special to Maricopa Lawyerr

Picture this scenario: An employee receives her first disciplinary write-up. She is upset and concerned about what this means for her job stability. Then, she gets angry—she can think of two other employees who did what she did without being disciplined. She wonders why she is being treated differently.

Is it because of her race? Is it because she is a woman? She remembers one manager who told a joke about women being less intelligent than men. She goes to the human resources department to complain.

What is the employer’s next step?
Option 1: The human resources director takes down the complaint. A few weeks later, the director reports that she found no evidence of discrimination. The employee feels slighted and files a charge with the Equal Employment Opportunity Commission (EEOC).

Option 2: After the employee complains, the employer wants to get rid of the troublemaker. The employer finds some basis upon which to terminate the employee, or simply makes the environment so uncomfortable for the employee that she has to leave. Now the employer also has a cause of action for retaliation, which is often easier to prove than discrimination. The employer faces even more liability and disruption to his business.

Option 3: After the employee complains to the human resources department, the employer asks the employee if she would be willing to address this issue in a neutral environment with the aid of an outside mediator. The employee is pleased that the employer is taking her concern seriously. The employee feels that the mediation will be fair because the mediator is not part of the company.

The employer sets up confidential mediation and invites the employee’s supervisor. At the mediation, the participants communicate. Perhaps the employee comes to understand that the discipline was fair. Or perhaps the employer determines that it should not have issued the discipline.

Where some action has to be taken, the participants, with the help of the mediator, consider creative solutions and enter into a binding and confidential agreement. The employee feels respected. As a result, the employee returns to being a productive team member, the employer experiences less job turnover and averts a lawsuit.

Employment discrimination lawsuits are a big problem for employers. The Bureau of Justice Statistics reports that there was a 300% increase in the number of employment discrimination cases filed in federal courts between 1990 and 1998. The Society of Human Resources management found that, out of 616 businesses polled, 57% had faced at least one employment-related lawsuit in the previous five years.

An employer can avoid lawsuits by dealing with the conflict at its onset and by showing its employees that it cares about their concerns. Mediation offers that option.

At the initial stages of conflict, the employer can use a mediator to address the problem. Mediators, trained in conflict resolution and bound to neutrality, assist both the employer and the company to resolve conflict. Mediation is immeasurably less expensive and intrusive than litigation, and most are successful.

Some companies appear fearful that using mediation demonstrates weakness, and other employees will then lodge complaints. In fact, mediation is a confidential process, so other employees will then know about any agreement reached in mediation. Employees will likely see an employer’s mediation policy as its effort to provide its employees with a safe and comfortable environment.

Alona M. Gottfried is a mediator for Unlimited Resolutions Mediation, Inc. (www.URME.net) who has been practicing employment discrimination law over ten years.
Applications for New Court Commissioners Now Available

By J.W. Brown
Maricopa Lawyer

The Superior Court in Maricopa County is accepting applications from attorneys who are interested in becoming court commissioners. Assignments are varied and include criminal, civil, family, juvenile, and probate/mental health matters.

The application deadline is 3:00 p.m., Friday, June 22. Application packets are available from the court’s Human Resources Department, 101 W. Jefferson, Phoenix, and can also be downloaded from the court’s website at www.superiorcourt.maricopa.gov.

The Commissioner Nomination Committee will meet on Friday, July 13, to determine whom to interview. The interviews will take place on Friday, July 27. An eligibility list will be created for Presiding Judge Barbara Rodriguez Mundell following the interviews. Judge Mundell will appoint new commissioners from that list as vacancies occur.

Applicants must have been engaged in the active practice of law in Arizona for the five years immediately preceding their application. Commissioners are currently paid 80% of a judge’s salary. Commissioners may be assigned to any of the court’s facilities and departments, including 24-hour Initial Appearance Court and certain night court/Saturday calendars.

Questions about the application process should be directed to the court’s Human Resources Department at (602) 506-0149.

Twenty-Seven Attorneys Accept Volunteer Lawyer Program Clients

The Volunteer Lawyers Program thanks the following attorneys who recently accepted pro bono cases to assist low-income clients with adoption, bankruptcy, consumer, guardianship, and home protection:

Kenneth Abrams – 2 cases
Nima Aghili
Jennifer Axel
Robert Beucler – 2 cases
Richard Boyd – 2 cases
Kenneth Burford – 2 cases
Frank Busch III
Joshua Covey
Sandra Creta
David Wm. Engelman
Jason Dellman
Cynthia Gonzales
Jacob Hecker
Candess Hunter
Ruth Khalsa – 2 cases
Kelly Kral
Thomas Loquvam
Jacyln Malka
Katherine McLeod
Howard Meyers
Walter Opaska
DeShon Pullen
Denton Robinson – 2 cases
Bryan Sandler
Sandra Day O’Connor College of Law Clinic – 2 cases
Shelia Schmidt – 2 cases
Todd Wiley

Have something newsworthy to share?

Have you changed employment? Has your law firm named new partners? Send information for our Bulletin Board column to: Maricopa Lawyer, MCBA, 3003 N. Central Ave., Suite 1850 Phoenix, AZ 85012; fax to 602-257-0522; or e-mail to: idavidson@mcbabar.org

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Attorneys Invited to Learn About E-Courtrooms

Since 2001, Maricopa County courts have been increasing the number of courtrooms with electronic technology. In order to give attorneys and their staffs the opportunity to become familiar with the latest technology in the courtrooms, law firms and agencies can request a one-hour E-Courtroom Orientation for their employees. The session will give them an overview of the available equipment and how to effectively use it.

Free training is also offered to individuals who are preparing for a trial or hearing in an electronic courtroom and want an opportunity to get hands-on experience.

The courts employ a variety of digital recording equipment in courtrooms that provide an official record of proceedings. Some of the courtrooms are configured with audio recording only, and some have video recording capability.

Copies of proceedings that are electronically recorded are available for a fee through the Electronic Records Services Department. This department is currently working on the development of a web-based, electronic recording request system that will streamline and improve efficiency in responding to over 500 requests per month.

In addition to the digital recording capability, some courtrooms have an electronic presentation podium equipped with a document camera (ELMO), VCR, DVD player, and touch-screen monitors. They allow the attorneys and witnesses to annotate displayed images.

The purpose of the plan is twofold:

- To provide the Plan for Expedited Process as required by A.R.S. § 25-412 and Laws 1987, Chapter 211, Section 11;
- To serve as the policies and procedures to implement and maintain the operation of the specialty courts.

The six specialty courts are:
- Child Support Modification Court
- Support Establishment Court
- Support Enforcement Court
- Support Non-compliance Court
- Parenting Time Enforcement Court
- Order of Assignment Court.

All use court commissioners and are equipped with audio conferencing equipment, and some of them also have video teleconferencing technology to facilitate testimony by witnesses or parties appearing from off-site locations.

For information or to schedule a demonstration or training session in an electronic courtroom, please contact Bert Binder, the E-Courtrooms Administrator at bindere@superiorcourt.maricopa.gov or call 602-372-1059.

Family Court Specialty Courts Expected to Save Time, Confusion, and Ensure Appropriate Decision-Making

By Cheri Clark
Special to Maricopa Lawyer


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All use court commissioners and are staffed by the Family Court Conference Center (formerly known as Expedited Services).

The new specialty courts are expected to resolve petitions promptly, refer matters that involve more than one pending action (for example, both support modification and support enforcement) to the assigned judge, reduce the number of times parties must come to court, and ensure that judicial decisions are made by judicial officers.

When parties file an expedited petition, they will need to obtain an Order to Appear from the Family Court Conference Center (with the exception of the Modification of Child Support Simplified Process and Stop or Change Orders of Assignments, which are done by a mailed notice).

Matters in the specialty courts are generally set within 30 to 45 days. Due to this turn-around time, firms are asked to provide dates when they are available, so their calendars can be accommodated to the extent possible.

On the scheduled day, litigants meet with a conference officer to try to reach an agreement. If complete agreement is reached during the conference, it will be memorialized as a written stipulation and, if approved, it will be signed by a judicial officer before the parties leave the courthouse.

If there is a pending petition, or if one party files a cross petition, all issues will be heard by the judge assigned to the case; the issue will not be heard in the specialty courts.

Generally, parties will no longer be referred to the Family Court Conference Center by their judge for child support calculation or enforcement once the Judge has entered child custody or parenting time orders. In these cases the litigants must be prepared to address all pending issues at one hearing.

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Monday, June 4
- 10:00 a.m.-12 noon. — Preparation and Presentation of Motions: What Do Judges Expect? (2 hrs)
- 1:30-4:30 p.m. — Intellectual Property Law Every In-House Lawyer and Outside Counsel Should Know (3 hrs)

Tuesday, June 5
- 10:00 a.m.-1:00 p.m. — Computer Forensics: How to Leverage It in Your Practice and Cases (3 hrs)
- 1:30-3:00 p.m. — Caring for a Terminally Ill Person (1.5 hrs)

Wednesday, June 6
- 10:00 a.m.-12 noon. — Litigation Ethics: In and Out of the Courtroom (2 hrs ethics)
- 1:30-4:00 p.m. — Legal Writing Workshop (2.5 hrs ethics)

Thursday, June 7
- 10:00 a.m.-1:00 p.m. — Avoiding the Five Most Common Evidentiary Problems (3 hrs)
- 1:30-4:30 p.m. — Staying Out of Hot Water: Preventing Bar Complaints and Malpractice Claims (3 hrs ethics)

FRIDAY, June 8
- 10:00 a.m.-12 noon. — David v. Goliath...You ARE the Underdog! Five Keys to Defeating the Giant and Walking Away with the Greatest Prize: A Successful Life and Thriving Business (2 hrs)
- 1:30-3:30 p.m. — Debts, Debt Collection & Alternatives to Bankruptcy (2 hrs)

LIVE CLE PROGRAMS

Ethics for Estate Planners, Before and After a Client’s Death
Presented by the Estate Planning, Probate and Trust Section
Credits: 3 hours Ethics

THURSDAY, June 7, 2007
1:30 – 4:30 p.m.
ASU Downtown Center, Bldg. C, Rm. C230
502 E. Monroe St., Phoenix
(SE corner of Monroe & 5th streets; parking at Heritage Square Garage)

The litigation between Vickie Lynn Marshall (Anna Nicole Smith) and the estate of J. Howard Marshall III involved all of the seven deadly sins, greed, lust and wrath in particular. It also offers numerous practical lessons on applying the ethical rules in the practice of estate planning.

Part II: After Death: Avoiding Conflicts of Interest and Other Ethical Considerations
After death, conflicts arise—such as will contests and actions under the Arizona vulnerable adult statutes. How should the intent of the decedent be protected?

Faculty: Mark Moritz, Esq., Thomas Shumard, Esq., and John Lewis, Esq.

Public Lawyers Ethics Forum
Presented by the Public Lawyers Division
Credit: 3 hours Ethics for full program; 1 hour Ethics for each of three hour-long segments

TUESDAY, June 12, 2007
Full program (includes lunch): 10:30 – 2:00 p.m.
University Club - 39 E. Monte Vista, Phoenix

Segment #1 10:30 – 11:30 a.m.
Ethics Related to the Media and the First Amendment
Faculty: David Bodney, Esq.

Segment #2 11:45 a.m. – 12:45 p.m. (includes lunch)
Ethics Related to Conflicts of Interest
Faculty: Geoff Sturr, Esq.

Segment #3 1:00 – 2:00 p.m.
Ethics Related to ER 8.3: Reporting, Professionalism and Using the Rule as a Sword Against Opposing Counsel
Faculty: Patricia Sallen, Esq.

Bankruptcy Update
Presented by the Bankruptcy Section
Credit: 1 hour

TUESDAY, June 14, 2007
4:00 – 5:00 p.m. (Reception to follow)
University Club
39 E. Monte Vista, Phoenix

Friday, June 8
- 10:00 a.m.-12 noon. — David v. Goliath...You ARE the Underdog! Five Keys to Defeating the Giant and Walking Away with the Greatest Prize: A Successful Life and Thriving Business (2 hrs)
- 1:30-3:30 p.m. — Debts, Debt Collection & Alternatives to Bankruptcy (2 hrs)

Here’s a chance to catch up on bankruptcy law and meet other lawyers who practice in this area. Plan to stay for the social following the program.

Faculty: TBA

Staying Out of Hot Water: Preventing Bar Complaints and Malpractice Claims
Presented by MCBA and Doug Reed Insurance
Credit: 3 hours Ethics

TUESDAY, June 14, 2007
2:00 – 5:00 p.m.
ASU Downtown Center, Bldg. C
502 E. Monroe St., Phoenix
(SE corner of Monroe & 5th streets; parking at Heritage Square Garage)

This program covers the following topics:
- Covering statistics
- Types of errors
- Risk management tips to avoid malpractice claims
- Risk management techniques to avoid bar complaints
- The defense of malpractice claims
- Types of situations that often result in bar complaints

Faculty: John C. Dyle, Doyle-Best, P.C. and Lynda C. Shely, The Shely Firm, P.C.

Best Practices in Crisis Management: A Collaboration of the Legal and Strategic Communications Disciplines
Credits: 2 hours

WEDNESDAY, June 20
9:30 – 11:00 a.m.
ASU Downtown Center, Bldg. C
502 E. Monroe St., Phoenix

This program will help lawyers and their clients better understand the importance of being prepared to effectively manage the communication of issues surrounding significant litigation, major corporate crises, information security breaches, or difficult labor situations.

Topics will include:
- Types of Crisis and the Seven Phases of Crisis Management
- Why Communicate During a Crisis or Legal Issue?
- Crisis CPR and Good Crisis ACTS
- Leadership: Changing Emotions to Change Behavior
- Ethical Guidelines and Supreme Court on “Talking to the Media”
- Case Studies: American Airlines; West Virginia Coal Tragedy; Northwest Airlines; Where’s Oscar?

Faculty: Kevin Donahue, Senior Managing Director, Crisis Management & Strategic Legal Communications, Dix & Eaton
**Legal Briefs**

By Joan Dalton

**U.S. Supreme Court issues multimedia ruling**

The United States Supreme Court decision issued in Scott v. Harris, No. 05-1631 (April 30, 2007), concerns a dispute about the lawfulness of a police chase. But the unusual aspect of the Supreme Court’s decision in this case is that the Supreme Court attached a 91.7 MB RealPlayer video file to its decision. You can access the video file at the Supreme Court’s website: www.supremecourts.gov/opinions/06slipopinion.html

**New phone numbers for 9th Circuit Courthouse**

In March, the phone numbers for the Browning United States Courthouse in San Francisco changed. The main number for the Clerk's Office is 415/355-8000. Visit the Ninth Circuit Web site for additional new numbers: www.ca9.uscourts.gov/.

**Costs of incarceration and supervision released**

The Administrative Office of the United States Courts has issued fiscal year 2006 costs of supervision and incarceration. A year’s incarceration of a federal inmate amounts to $24,443.08, while a federal offender released under the supervision of a probation officer for the same time period is $3,535.18.

**Applications for wiretaps up**

The federal judiciary reports that the number of judicial orders authorizing or approving the interception of wire, oral or electronic communications rose by 4% in 2006. The judiciary report statistical data indicate that while the number of applications for wiretaps submitted to state judges rose by 20%, the number of applications submitted to federal judges decreased by 26%.

**Are You Receiving Your Weekly E-News?**

The weekly E-News from MCBA brings updated CLE listings and other news directly to your in-box. But to get it to you, we need your correct e-mail address. You may be assured that your e-mail address will not be sold or otherwise provided to outside parties. We use it only to send you useful or time-critical information. To update your e-mail address, contact Cynthia Quinonez, membership assistant, at (602) 257-4200 or e-mail her at cquinonez@mcbabar.org.

Seventy-nine percent of all wiretap applications came from the states of California, New York, New Jersey and Florida. The figures do not include the number of wiretaps regulated by the Foreign Intelligence Surveillance Act of 1978.

The most common device or location requested for tapping was a portable device. The most common offense cited for the wiretap application was a drug offense. New York was the state with the most intercepts.

** Jury Trial Improvement Committee make recommendations**

As Ninth Circuit Jury Trial Improvement Committee seeking to make jury service more pleasant and informative for jurors recommends including juror-related training for judges during new judge orientations, permitting juror note-taking during a trial in appropriate cases to enhance juror comprehension and memory, and providing all jurors with both preliminary and final jury instructions in written form.

The committee’s chair, Judge Susan Bolton of the District of Arizona, said that “[s]ome of the recommendations are appropriate in all cases, and some may be appropriate only in some cases. But it is an antiquated notion to think that jurors simply sit in court with their hands folded and then make the best decision that can be made for the case. Jurors need to stay engaged and interested in the process.”

A National Center for State Courts national study on jury system improvements recently issued surveys to judges and attorneys. Responses from the survey indicate that 71.2% of survey respondents reported that jurors were allowed to take notes in federal proceedings compared to 69% in state court proceedings.
RABBITS, ROBES & DISABLED CHILDREN.

The Arizona State Procurement Commodity Codes allow for the State to use tax dollars to buy all kinds of things from the private sector -- 5,000 goods and services in all.

Yet, some now say disabled students and their parents shouldn’t be able to use state dollars to help access a better future and a better education at a school of their choosing, even when theirs is failing.

Using public money to buy such things in the private sector as rabbits and robes is OK, but doing so to help disabled children is not?

That’s supremely taxing logic. And for a state that was recently ranked 50th in the country for education we can’t think of a better way to stay last.