In 2003, the Board of Regents raised $250 (Ariz. App. Nov. 14, 2006). Arizona Board of Regents system, a group of university students can be Unconstitutional with the MCBA and its members, develop a longer-term and mutually beneficial relationship. Their goals in working with the MCBA were submitted, the MCBA selected Doug Reed Insurance Services, Inc. as the new president and a new director—Allen Kimbrough. What qualities do you see in the new director that will help you reach your goals? How can you and the board of directors help him reach his goals?

A: As the former Nevada State Bar Director, Allen brings experience and enthusiasm to MCBA. He appreciates the need to balance the budget while helping MCBA meet its mission of serving its members, the legal profession, the judicial system and the public. He will be hiring departmental directors for Membership, Continuing Legal Education and Marketing/Public Relations. I believe that Allen is the first attorney to serve as Executive Director of the MCBA. The Board and I will maintain closer communication with law firms, individual practitioners, judges, and paralegals to provide services to our members.

ML: How would you summarize your mission for MCBA?

A: My mission is to help MCBA implement its stated mission as a vehicle of service for the benefit of its members, the legal profession, the judicial system and the public.

ML: There are many reasons why lawyers join MCBA. It is not mandatory like the State Bar. Why did you become a member and remain a member throughout the years and why did you seek the presidency?

A: I may be like many current members, former members and those pondering whether to rejoin. That is, I first joined as a younger lawyer because I wanted to do community service through the area of law I was in at the time. Their dedication inspires me to try to do a good job this year as President. When you ask about my judicial qualities, it reminds me of an incident years ago that has become an inside joke about a botched attempt I made at trying to assess my judicial traits that my wife Monica and two daughters do not let me forget. In 1993 when then-Governor Fife Symington appointed me to the trial bench, one of the Spanish language television stations contacted me for an interview. As a third generation Hispanic American—and having studied Spanish in high school and college—I am not as fluent in Spanish as I would like to be. Given the choice to do the interview in English or Spanish, I insisted that I would do the interview in Spanish. At the point in the interview when I was asked what qualities I believed I could bring to the bench I tried to say that I was trustworthy and honest. Instead I said: “No digo mentiras” which is “I don’t tell lies.” My wife and daughters still laugh at my inability to say what I precisely mean when I use Spanish.

ML: As MCBA President, what goals have you set to achieve in 2007?

A: I consider 2007 to be a year for rebuilding and growth for MCBA both literally and figuratively. Immediate and pragmatic goals include:

• In spring 2007, to physically return to our remodeled and enlarged interior offices and meeting rooms at our building at 303 East Palm Lane in Phoenix.
• To return to full staffing with our Department Directors.
• To have MCBA continue to operate within its budget for projected revenues and expenses.

Longer term goals, assuming the Board approves, include having MCBA collaborate more closely with sister bar organizations and Community Legal Services and the Volunteer Lawyers Project.

In our County, there are many areas where members of the legal profession can be served as well as areas where members can be of service. I hope that MCBA and these organizations will work more closely together.
Paralegal Division Reaching Greater Heights of Excellence

As the Paralegal Division closes its fifth year in 2006, it is with great pleasure and honor that I serve the Paralegal Division and its members as President in 2007. Five Presidents served before me, all of whom contributed tirelessly to the excellence and success of the Division. Although the Division has thrived under each President, it requires the dedication of a Board of Directors and member volunteers, and they should all be commended for their contributions.

For those of you not familiar with the Division, it was founded in 1999 as the MCBA Paralegal Committee. On January 1, 2002, we became a Division of the MCBA and are currently the only paralegal division of any bar association in the country to hold a voting seat.

The Paralegal Division has committees and events led by talented paralegal and student members. Please visit the website at www.maricopaparlegals.org to see who they are and what you can do to help. We need paralegal and student members to volunteer for short- and long-term projects. Remember, this is YOUR Paralegal Division. We need YOU to help us make it the best it can be, and we welcome your participation and suggestions.

The Paralegal Division is looking forward to continuing its mission in 2007. On behalf of the 2007 MCBA Paralegal Division Board of Directors, we look forward to serving our membership and the community, and to reaching greater heights of excellence.

Embracing the YLD Mission in 2007

In anticipation of my 2007 Young Lawyers Division Presidency, I reviewed the YLD Mission Statement to determine whether any revisions were required by the current circumstances of our organization or profession. Fortunately, I found the Mission Statement to be in excellent condition:

“The Maricopa County Bar Association Young Lawyers Division’s mission is to involve young lawyers in serving the community and enriching the profession while focusing on the specific needs of young lawyers.”

I turned next to the more difficult analysis of whether YLD projects are measuring up to this lofty mission. In terms of community outreach, the Domestic Violence Committee organizes two events each year (the Mothers Day Drive and the Necessities Drive) to assist victims of domestic violence. During Law Week, lawyers offer free legal advice to the community via YLD’s Ask-A-Lawyer and Phone-A-Lawyer events. Finally, in 2007 our Student Outreach Committee will introduce the ABA’s Choose Law program to local middle and high schools in an effort to increase teenage understanding and appreciation of the crucial role that law plays in our society.

So, that covers community service, but what about enriching the profession while focusing on the needs of young lawyers? As a young lawyer myself, I interpret this portion of the Mission Statement as calling for us to provide opportunities for lawyers (young and not so young) to interact in atmospheres conducive to forming amicable professional relationships. To this end, YLD organizes two events specifically aimed at fostering friendly attorney interaction while raising funds for charitable causes. Most recently, YLD held its second annual Race Judicata, a 5K run/walk for the active, outdoor folks. For those of us who prefer to socialize over food and drink, the annual Barristers Ball is coming up on March 3, 2007, at the Ritz Carlton.

In closing, I feel reassured that YLD is working hard toward its goals by offering community outreach and social interaction opportunities for every shape and personality of attorney. Please join us in 2007 and embrace the YLD Mission!
New President
continued from page 1

Doug to our members:

Reed and his team. Following is a letter from
The MCBA is pleased to welcome Doug
pleased with the service provided.

ship, and ensure that the MCBA members are
continued from page 1

Insurance
continued from page 1

time (public/government law). I also enjoyed
reading MCBA’s local legal newsletter, the
predecessor of the Maricopa Lawyer. I then let
my membership lapse for a few years. About
seven years ago, I rejoined because a friend
asked me to get involved again, I became
impressed by the dedication of the Board and
Section and Division members, and decided
to contribute as a Board member. Later,
another friend asked me to run for Secretary.
Like the other Presidents before me, absent a
scandal, once you serve as Secretary you gradu-
ate to Treasurer, President-Elect and then
President. I remained on track to be President
because I believe that MCBA can continue to be
a vehicle of service, as its mission statement
declares.

ML: What is your fondest County Bar
memory?
A: I do not have a single fondest County
Bar memory. When I attend the annual
recognition ceremony in which the Volun-
teer Lawyers Project and Community Legal
Services recognize local lawyers - that cere-
mony usually gives me goose bumps. There
are several lawyers who have appeared before
me who quietly and steadily provide pro bono
service to others. Such selflessness makes me
very proud of these lawyers individually, and
our legal profession collectively.

ML: Have you made a New Year reso-

A: I hope to improve on my time in the
next Race Judicata 5K run that the Young
Lawyers organize in 2007. In December’s
Second Annual Run (in 2005), I surprised
myself by improving my time from a previous
run. In order to improve my time in 2007, I
may actually have to start running and jogging
again.

Q: What is the one thing most people
don’t know about you that would surprise
them?
A: It may the incident in which I lost my
wedding ring after mowing the lawn - and
while dumping grass cuttings into the garbage.
An exhausting search came up empty. Thank
heavens for replacement wedding rings!

ML: What haven’t you been asked that
you are eager to discuss?
A: Maricopa County has a vibrant legal
community, however that is defined. There
are many sister bar organizations which also
endeavor to serve the needs of their members
and offer opportunities of service to their
members. I would like to see closer interac-
tion among MCBA, the State Bar of Arizona,
the Arizona Asian American Bar Association,
the Maricopa County Chapter of the Arizona
Women Lawyers Association, Los Abogados
Hispanic Bar Association, Hayzel B. Daniels
African American Bar Association, East Valley
Bar Association, Scottsdale Bar Association
and West Maricopa County Bar Association.
Perhaps talking about collaboration is the first
step forward.

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firm’s needs.

You will be hearing more from us in
the upcoming weeks relating to our
new partnership with the MCBA. In the
meantime, please call either me or Ben
Broek at 480-998-1068 with any ques-
tions, or to get information on new cov-
erage and ensure you get the coverage
you need.

Sincerely,

Douglas H. Reed
President
Doug Reed Insurance Services, Inc.

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A Lawyer’s New Year’s Wish List

By Jack Levine
Special to Maricopa Lawyer

Security By-Pass for Lawyers

High on most lawyers’ list of pet peeves for the New Year is having to continue to submit to security searches at our courthouses. Going back as far as Territorial days and up through the 1980s, when there was no security screening of any kind, there has never been a reported incident of a lawyer assaulting a judge (or anyone) with a weapon within the confines of a courthouse. Such highly unprofessional conduct would similarly be highly unlikely to occur in the future. Yet lawyers meekly continue to submit to this demeaning assault on their dignity with hardly a whimper.

That these security measures were imposed so imperiously by our judges is a testament to the extent that the judiciary has taken over the reins of power in our legal system, usurping any last vestige of influence that lawyers at one time possessed. Many believe that the near omnipotent power acquired by the judiciary is an unintended consequence of our merit selection system which makes it nearly impossible to remove judges once they are appointed. In days before merit selection it would be unthinkable for judges to even propose such a security program without the Bar’s approval. Otherwise, judges supporting such a measure could count on lawyers lining up to run against them on election day.

For those judges who are overly concerned about being assaulted by lawyers bearing weapons in the courtroom, perhaps they should not have signed onto a job that carries such risks. Given the prestige of the office and the generous salary and other benefits that judges receive, one would think that such benefits would be more than sufficient compensation for such marginal risks.

What justification is there in requiring lawyers to being searched, while at the same time allowing judges, court staff, members of the county attorney’s and the public defender’s office to bypass the security procedures? Isn’t there as much risk that another judge, bent on revenge for the upholding of an affidavit of bias and prejudice against another judge, or for an assignment to the Family Law bench, could pose as much risk to the other judges as a lawyer would? Aren’t lawyers admitted to practice vouched for at least as well as someone employed in the file room at the Clerk’s office? Hopefully, in the New Year, our judges will exercise some of that “sound wisdom” and stop treating lawyers as potential assailants.

The Rotation System

Although I have heard many justifications for maintaining our present system of judicial rotation, none has ever convinced me that they outweigh the folly of judges presiding over cases involving issues of law that they have no prior experience with.

As lawyers, we have long ago embraced specialization in our practices. Except in the rural, less populous counties, we have become a profession of specialists. Because of the complexity and ever-changing nature of the law, the efficiencies and economies derived from dealing with similar issues day after day and the confidence level one acquires knowing that what he or she is doing is right are just some of the reasons why specialization works so well.

Yet, in clinging to our present rotation system, our judges prefer to ignore these self-evident truths. The result is a rotation of judges from one area to another, frequently with little or no concern over whether a particular judge has had any experience whatsoever in the particular area assigned. Although in recent years some effort has been made to assign newly appointed judges to their area of specialty as a practicing lawyer, when their initial assignment ends (usually in two or three years) the judge is frequently assigned to a totally foreign area of the law with only a few weeks of in-house training.

Most lawyers acknowledge that it takes a minimum of three years of full-time effort to become competent in any one area of the law. Yet, when a judge has completed an assignment and presumably has mastered the substantive law and procedural rules for that assignment, instead of giving litigants (and their lawyers) the benefit of the knowledge and experience acquired, the judge is then reassigned to an entirely unfamiliar area of the law where mistakes and injustices are bound to occur.

That the rotation of judges has an adverse impact on the quality of judicial decision making is clearly demonstrated by the biennial judicial evaluation polls conducted by the Commission on Judicial Performance Review. In every year since the inception of the polls, in the areas of knowledge of the law and knowledge of procedural rules, judges have consistently scored between 5 and 10 points below the scores achieved by them in the other areas that are rated.

My New Year’s wish is for a system of permanent judicial assignments so that judges can be selected by the Commission on Trial Court Appointments based on their past experience as lawyers and on the Bench’s need for judicial candidates in a particular area. Our trial court judges are capable of outstanding achievements, yet our present system of rotating judges is precisely what is preventing the fulfillment of this great potential.

Jack Levine is a sole practitioner. He is a past Chair of the Trial Practice Section of the State Bar and a past President of the Arizona Trial Lawyer’s Association.

A New Year Means a New Opportunity to Be More Credible and Reliable

Many legal documents (especially court documents) rely on case law to illustrate rules. The purpose of including case law to illustrate a rule is to convince the reader that the rule is accurately stated, synthesized, and analyzed. A document that does not use case law well reflects poorly on the writer’s credibility and may even negatively affect the reader’s reliance on that document. A good legal writer always evaluates the level of case law explanation needed by considering the three depths of explanation: conclusory, parenthetical, or substantial.

1. A conclusory case explanation consists solely of the citation to the case without any other explanation of the court’s reasoning or case facts. This level of explanation is appropriate when the reader will readily agree with the legal proposition made, such as when the writer is stating a basic rule for which there is no need to consider any

2. A parenthetical explanation consists of the citation to the case plus a brief parenthetical explanation of how the court applied the general legal proposition in the case. This level of explanation is appropriate when the legal proposition by itself is too vague or complex for the reader to understand without more information or when the explanation of the case is short enough to fit into one sentence. A helpful parenthetical begins with an “ing” verb explaining some court action (finding, holding, reasoning, ruling). Further, it begins with a small-case letter, contains no ending punctuation, and is not more than one sentence. For example: “Speech created off campus may become on campus speech. J.S. v. Bethlehem Area Sch. Dist., 897 A.2d 847, 867 (Pa. 2002) (ruling that a website was created off school grounds to be ‘on campus’ because it was accessed at school).”

3. A substantial explanation consists of a paragraph that explicitly describes the issue, facts, holding, and reasoning of the case (with the appropriate citations). This paragraph may also include a discussion of important policies of the case. This level of explanation is appropriate if the analysis in the document requires a comparison between the case’s facts and the document’s facts or if the legal proposition is too complex to explain in a parenthetical. Some writers also choose this level of explanation if the case is a key case in the area of law discussed.

Regardless of which level of explanation a legal writer uses, there is one universal rule that no credible, reliable legal writer violates: all case citations must include a pinpoint citation to the specific page where the cited information is located in the case.
“Service Innovation” is the title of our recently published annual report for the Clerk of the Court’s Office. It reflects the fast-paced year our office experienced in 2006. As we look ahead to 2007, we expect things to move even faster. Through innovation, we have been able to meet the fast pace, provide highly-valued personal service, and implement technology that will transform court operations now and in the future.

The most notable event that occurred in 2006 was establishing a foundation for the Court to move from a predominantly paper system to an electronic process. While this is a significant accomplishment, we have been mindful not to call this “a transition to a paperless system.” The courts will likely have an ongoing need for paper at some level and in certain situations for several years to come.

Realizing that much of the court record in certain situations for several years to come.

One significant initiative implemented in 2006 was seen in August, when the Clerk’s Office, with support from the Superior Court, started filing unsigned minute entries electronically. From that point forward, electronically generated original minute entries had no paper equivalent to be placed in paper hardcopy files. In November, another major step occurred when the Supreme Court issued an administrative order (effective January 1, 2007) authorizing a pilot program in the Clerk’s Office in Maricopa County to dispose of certain original paper filings after the document has been scanned and imaged. The electronic image is stored in our digital repository and considered the original court record for purposes of court rule and statute.

Other progress made this year was a greatly expanded eFiling system. The Clerk’s Office demonstrated the eFiling system to over 300 legal support staff, attorneys and the public through monthly presentations at the Clerk’s downtown Phoenix location. The eFiling system was presented to hundreds more attorneys via State Bar-sanctioned CLEs and through presentations onsite at both public and private venues.

In 2007, the Clerk’s Office looks forward to improving on the gains it made through innovative technology and serving our customers. Future improvements include expanding eFiling to more divisions and case types, growth of the electronic court record (which includes the expansion of remote party access that allows attorneys to view the complete public court record of documents filed in their cases), and the implementation of multiple vendors to accept and process eFilings.

The year 2007 promises to be another exciting year for the Clerk of the Superior Court in Maricopa County. To provide focus, a strategic plan for 2006–2008 was developed that details the short-term goals and milestones that will guide us as we move forward. More information on the office’s newly implemented 2006–2008 Strategic Plan is available by visiting the “Latest News” section on our website (www.clerkofcourt.maricopa.gov). You will find the plan, updates, and the latest news from our office as we achieve our goals toward continually improving service and innovation.
CourtWatch continued from page 1

a tuition refund to all affected students at the three state universities.

The students alleged that the Legislature’s failure to allocate more funds to the university system violated the Constitutional provision requiring the legislature to “ensure the proper maintenance of all state educational institutions, and . . . make such special appropriations as shall provide for their development and improvement.” They also pointed to the requirement that “the legislature shall make such appropriations, to be met by taxation, as shall ensure the proper maintenance of all state educational institutions, and shall make such special appropriations as shall provide for their development and improvement.” They alleged that the Board’s tuition hike violated the constitutional provision that “[t]he University and all other State educational institutions shall be as nearly free as possible.”

The defendants moved to dismiss on grounds that the controversy was not an appropriate case for the court to decide. They argued that they were entitled to absolute immunity and that the issues constituted non-justiciable political questions. The superior court agreed and dismissed. The students appealed, and a divided court of appeals reversed in part.

In the majority opinion, Judge Maurice Portley first addressed the claim against the Legislature and ruled that the superior court had correctly dismissed the case against it. The natural starting point for his discussion was Roosevelt Elementary School District No. 66 v. Bishop, 179 Ariz. 233, 877 P.2d 806 (1994), where the Arizona Supreme Court invalidated the Legislature’s system for financing the public school system. The students argued that their suit was the higher-education counterpart to Bishop. Portley disagreed.

“The constitutional provision at issue in Bishop requires the Legislature to maintain “a general and uniform public school system.” The supreme court ruled that the then-current system violated that provision because the system itself caused substantial nonuniformities. Portley held that the students’ claims were not analogous. “The Legislature,” he wrote, “in setting the annual appropriation for the university system, exercises its “power of the purse.” And “[a]lthough many, like the students, may believe the appropriation in any given fiscal year is insufficient, we have long recognized that “[u]nder our system of government, all power to appropriate money for public purposes... rests in the legislature,” he wrote, quoting a 1928 case.

In so doing, Portley concluded, the Legislature “establishes state policies and priorities and, through the appropriation power, gives those policies and priorities effect.” This, he wrote, is “the quintessential legislative function which “is generally immune from judicial review.” Quoting a case from the 1940s, he held that “[a] court’s... being vested with judicial, not legislative, powers, cannot properly interpose any obstacle to the exercise of the legislative discretion.”... Because the students had not alleged that the Legislature had failed to carry out its constitutional mandate, but rather had only expressed dissatisfaction with the results of its action, Portley held that

the general legislative immunity applied. But Portley rejected the Board of Regents’ argument that it was also protected by legislative immunity. He noted that the Board’s authority to set tuition is not unlimited but rather must comport with the constitutional provision that an Arizona education be “as nearly free as possible.” He rejected the notion that this states only an aspirational goal, referring to the supreme court’s decision in Board of Regents v. Sullins, 45 Ariz. 245, 42 P.2d 619 (1935), “which suggests that the constitutional provision could be violated if it is determined that the tuition, “[is] excessive or other than reasonable.” This presented a judicially measurable standard, Portley held.

So he turned to whether the Board enjoyed legislative immunity under A.R.S. § 12-820.01, which provides that a public entity “shall not be liable for acts or omission of its employees constituting either... [t]he exercise of a judicial or legislative function [or] [t]he exercise of an administrative function involving the determination of fundamental governmental policy.” This statute, Portley held, was not a prohibition against suing public entities, including the Board, for declaratory and injunctive relief. He pointed to Arizona Board of Regents v. Harper, 108 Ariz. 223, 495 P.2d 453 (1972), a declaratory-judgment action where the supreme court had reversed the trial court’s order declaring unconstitutional the statutes differentiating between tuition for in-state versus out-of-state students. “There is no hint in Harper that the Board was immune from declaratory judgment actions,” Portley noted.

Portley rejected the argument that the students’ request for a tuition refund made the case a damages action. “The students are only seeking a refund of tuition fees that they allege were unconstitutionally imposed,” he wrote. “They do not seek other monetary damages such as lost wages, damages for physical pain or emotional distress, or even prejudgment interest on the amount allegedly owed.” Joining Portley was Judge G. Murray Snow.

Judge Patrick Irvine dissented from the conclusion that the students had stated a claim against the Board. He did not assert that a university student could never state a claim for an illegally high tuition increase. He just did not believe that the student plaintiffs had done so here.

Irvine described the “root of the majority’s decision” as “its reluctance to find that a provision of the Arizona Constitution can never be judicially enforced.” He agreed with that notion and agreed “that there may be a time when the Board has so plainly disregarded the direction of the constitution that judicial intervention is warranted.”

But he did not feel that this was that case. He acknowledged that the interplay between the relevant constitutional provisions requires the Board to take into account competing considerations beyond the financial impact on students.” He found it “inexplicable that there will be disagreement regarding these considerations and the law leaves it to the Board to set the balance.” It followed, Irvine believed, that “setting tuition becomes a political question that is not suitable for judicial resolution.”

He did not, however, believe in an absolute bar to judicial action. “[T]here may someday be a case in which a plaintiff can allege facts sufficient to raise a colorable claim that there has been a violation of the constitutional requirement that instruction be ‘as nearly free as possible,’” he wrote. But it would require more than “a bare allegation that the Arizona Constitution has been violated,” he opined.

“It is unfortunate, but not surprising, that higher tuition makes it more difficult for some students to afford university instruction,” Irvine wrote. “Nevertheless, once it is acknowledged that tuition may be charged... merely alleging that a tuition increase makes a university education less affordable is not enough to raise a constitutional question.” By not alleging more, he concluded, “the complaint merely asks us to second-guess a political decision that is not ours to make.”

Editor’s note: Daniel P. Schaad, an assistant Arizona attorney general, was one of the lawyers representing the Legislature and the Arizona Board of Regents before the Court of Appeals in Kromko v. Arizona Board of Regents...

Picture this. The superior court grants partial summary judgment, tossing out some, but not all of the plaintiffs’ claims. Both the plaintiffs and defendants want an immediate appellate determination of the correctness of that ruling, but because it is not a final judgment no appeal is currently available. What to do?

In Grand v. Nashio, No. 2 CA-CV 2006-0033 (Ariz. App. Nov. 24, 2006), the superior court tossed out some of the plaintiffs’ securities claims but not others. The plaintiffs then dismissed the remaining claims without prejudice, and the defendants stipulated that they could refile them after an appeal. Now armed with a final judgment, the plaintiffs did appeal.

Division Two held that this was not kosher, violating the prohibition against piece-meal appeals. “[W]e conclude that the parties’ dismissal of claims not yet adjudicated with the intent to refile the claims later does not constitute a final [appealable] order,” wrote Judge William Brummer, Jr. He was joined by Judges Peter J. Eckerstrom and Espinosa. However, because the court did not raise the jurisdictional issue until after the case had been briefed and argued, it nevertheless addressed the merits, considering the case as a special appeal.
Unlawful Internet Gambling in the United States

Cynthia A. Ricketts, Allison L. Harvey, and Brian M. McQuaid
Marcopla Lawyer

On Friday, October 13, 2006, President George W. Bush signed into law H.R. 4954, the Security and Accountability for Every Port Act, otherwise known as the SAFE Port Act. The SAFE Port Act includes the Unlawful Internet Gambling Enforcement Act of 2006 (the “Internet Gambling Act”) or “the Act” as Title VIII. The Internet Gambling Act makes plain that Federal law prohibits Internet gambling in the United States and restricts United States-based financial transaction providers and electronic payment systems from accepting, distributing or otherwise honoring Internet gambling-related transactions.

Regulating Those Engaged in the Business of Internet Gambling

Under Title VIII § 5363 of the Internet Gambling Act, it is a federal crime for any person or entity “engaged in the business of betting or wagering” to “knowingly accept” credit (including debit and credit cards), electronic funds transfers, checks or similar instruments, or other forms of financing as payment “in connection with the participation of another person in unlawful Internet gambling.”

Title VIII § 5363 expressly applies only to those engaged in the “business of betting or wagering.” Although this phrase is not defined, the Act provides that those engaged in the “business of betting or wagering” are not financial transaction providers, interactive computer services or telecommunications services. Because financial transaction providers and payment systems are engaged in the business of financing and payment processing, they should not be held liable under § 5363.

Lawful Internet gambling activities, i.e., fantasy sports, state lotteries, horse racing and gambling on Native American lands, are exempted from the Act’s prohibitions. Internet gambling businesses are prohibited from accepting financial payment for “unlawful Internet gambling.” However, the Act does not explicitly define “unlawful Internet gambling”; instead, the Act relies on existing Federal and state Internet gambling regulations and thus may not be as effective at curtailing Internet gambling as intended.

The Internet Gambling Act does not amend the Wire Act of 1961, 18 U.S.C. § 1804, which prohibits using a “wire communication facility” to place bets “on any sporting event or contest.” However, the Act’s prohibition of unlawful Internet gambling likely includes gambling events and other contests. The Internet Gambling Act also likely incorporates the Internet gambling prohibitions included in the Interstate and Foreign Travel or Transportation in Aid of Racketeering Enterprises Act (the “Travel Act”), 18 U.S.C. § 1952, the Illegal Gambling Business Act (the “IGBA”), 18 U.S.C. § 1955; and the Racketeer Influenced and Corrupt Organizations Act (the “RICO” Act), 18 U.S.C. § 1961.

The Travel Act, IGBA, and RICO Act are more expansive than the Wire Act because they are not limited to sports and contest gambling. The Travel Act and IGBA impose criminal penalties for business operations engaged in unlawful gambling—that is, gambling that is prohibited by the laws of the state in which the transaction occurs. The IGBA, in particular, has been interpreted broadly. For example, prior to the advent of Internet gambling, a court, in United States v. DiMuro, 540 F.2d 503, 508 (1st Cir. 1976), cert. denied, 429 U.S. 1038 (1977), held that the IGBA may impose liability on all persons who are necessary and useful to the gambling business. This broad interpretation has not yet been applied to Internet transactions or financial providers. Nonetheless, with the enactment of the Internet Gambling Act, courts may interpret the IGBA to prohibit Internet gambling transactions.

Internet gambling businesses may be held liable under the RICO Act for engaging in a “pattern of racketeering activity” 18 U.S.C. § 1961(a)(5). A pattern of racketeering activity is evidenced by two or more violations of the law, among other things. Thus, an Internet gambling business could be liable for violating the Internet Gambling Act, the Wire Act, and the RICO Act.

As the definition of “unlawful Internet gambling” is unclear, the Internet Gambling Act fails to clarify Federal law and only further confuses the distinction between permissible and punishable Internet activities. The lack of clarity over the definition of “unlawful Internet gambling” may pose enforcement problems and could, eventually, nullify the intended effectiveness of the Act. Those engaging in, facilitating or participating in Internet gambling, nonetheless, should be cautious as this law continues to evolve as law enforcement officials may seek to interpret the law as broadly as possible.

Regulating Financial Institutions and Financial Transaction Providers

While § 5363 only applies to those engaged in an Internet gambling business and not to financial institutions or financial transaction providers, § 5364 should be of significant concern to financial transaction providers and payment systems. Under this section of the Internet Gambling Act, the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, and the Attorney General will proscribe policies and procedures requiring “designated payment systems, and

See Internet Gambling page 11
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. Other frequent venues include the University Club, 39 E. Monte Vista, Phoenix; Arizona State University Downtown (ASUD), 502 E. Monroe, Phoenix; and the Arizona Club, 38th floor, Chase building, 201 N. Central Ave., Phoenix. 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.

**JANUARY 2006**

1. MCBA Office Closed
2. MCBA Office Closed
3. Family Law Meeting (Fresh Start), 5:30pm
4. Construction Law Meeting (A), 12:00pm
8. YLD Meeting (B), 12:00pm
9. MCBA Office Closed
10. EC Meeting (A), 7:30am, Environmental Law Meeting (B), 12:00pm
11. PI/Negligence Section Meeting (A), 12:00pm
12. Foundation Meeting (A), 7:30am
15. MCBA Office Closed
16. Law Week Meeting (Snell & Wilmer), 12:00pm
18. MCBA Board Meeting (A), 4:30pm
19. Criminal Law Section Meeting (Old Courthouse), 12:00pm
24. VLP (B), 12:00pm
25. Estate Planning Section Meeting (B), 7:30am

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By the Time I Get to Pumpkinville
By Stan Watts
Maricopa Lawyer

At 10:00 a.m. Wednesday morning, April 3, 1878, the Hon. Deforest Porter, gavelled the Spring session of court for the 2nd Judicial District of the Arizona Territory to order. Judge Porter had rolled into town late in the day on Tuesday aboard the stage from Yuma. The session, mandated by the Territorial Legislature to begin on the first Monday in April, had to be delayed because the judge could not get a seat on an overcrowded earlier coach.

Getting There Not Half the Fun
The Yuma to Phoenix route, part of the Southern Pacific Mail Line, operated high quality Concord stagecoaches pulled by four and six horse teams. The big red coaches loaded up with up to nine passengers inside, and at least that many outside, left on the 208 mile trip to Phoenix every other day. Within a month, Phoenix would be fortunate enough to begin receiving daily mail deliveries from Yuma.

Judge Porter had spent at least 20 continuous hours couped up in the "cozy" confines of the stage, crowded with other dusty, tired, jostled and perhaps short-tempered travelers, their luggage, and the U.S. Mail. The coach stopped every 10 – 15 miles for fresh horses, and passengers were fed quick meals of dried oysters, game, fish, vegetables and everything the restaurant "will always keep ready for our judge likely paid a visit to the French Restaurant, where the proprietor boasted that fourteen hours couped up in the "cozy" confines of the stage, crowded with other dusty, tired, jostled and perhaps short-tempered travelers, their luggage, and the U.S. Mail. The coach stopped every 10 – 15 miles for fresh horses, and passengers were fed quick meals of dried oysters, game, fish, vegetables and everything the restaurant "will always keep ready for our judge likely paid a visit to the French Restaurant, where the proprietor boasted that

Court's Spring Session
After a restless Spring night on the clean beds of the Phoenix Hotel, Judge Porter was ready to face the legal community of Maricopa County. Due to the previous legislature’s re-shuffling of the territory’s judicial districts, this would be Judge Porter’s first official session in Phoenix. Since the establishment of Maricopa County on February 17, 1871, it had been under the jurisdiction of Judge C.A. Tweed. Judge Tweed was recognized as a "careful, upright and conscientious judge, who played a major role in making Phoenix a 'warm place' for the 'bullies and desperados' that had terrorized the community in its early years. With Judge Tweed, 'pursuit was so certain that they found it very unprofitable to continue their practices here.'

Judge Porter found a docket that reflected the quiet, tidiness of the little community. No grand jury had been called, and the criminal calendar consisted of only four cases—two for murder, one for assault and battery, and the fourth for grand larceny. Fortunately, the defendants in the first three matters had escaped custody, leaving only the larceny case of Territory v. Sotos Gonzales for hearing by the court. Mr. Sotos Gonzales’ case was, after a brief hearing, continued to the fall term that would convene six months later, the second Monday in October.

Although the criminal calendar was light, the civil docket was full and for the next week, the judge heard motions or held trials in at least eight civil matters. The parties in these matters were represented by the full panoply of local legal talent and a handful of visiting attorneys. As a preliminary to the legal proceedings, local attorneys A.D. Lemon, Dr. John T. Alsap and Captain William Hancock moved for the admission of William Wells, Edward Bannister, Edward Noble and J.H. Cox to practice before the 2nd Judicial District. All four of the new barristers had been admitted in other jurisdictions and were welcomed to the bar of Maricopa County.

Salt River Lawyers
Two of the lawyers before the court that April day were members of the original bar of Maricopa County when it was established in 1871. In fact, Dr. Alsap and Captain Hancock were early settlers and community leaders in the Salt River Valley. As they liked to say, they were practicing law here "when Phoenix was still Pumpkinville." For a time in the late 1860’s the settlement that later became Phoenix was known by this less classic and more descriptive name. Although Hancock was currently the sitting Probate Judge for Maricopa County, Dr. Alsap had previously been named to that respected position when the county was established and served for several years.

At the age of 21, young Dr. Alsap graduated from the New York College of Medicine. He practiced medicine and prospecting in California before relocating to the Prescott area. He became a military surgeon in the Apache campaigns of the 1860’s. He eventually settled in the Salt River Valley in 1869, was elected to the Territorial Legislature in 1870, and aided in the creation of the new Maricopa County. He was admitted to the bar in 1871 and appointed Probate Judge of the County. Later he served as the District Attorney of Maricopa County. Notably, Alsap was also instrumental in the creation of Phoenix. He was, who acting as a Trustee of the Salt River Valley Town Association, was granted a patent signed by President Grant on April 10, 1874, for the townsite of Phoenix. Total expenses for obtaining the patent were $550. Of that, Judge Alsap received $150 for his services. Alsap became the first Mayor of Phoenix after it was incorporated in 1881.

Captain Hancock attended the distinguished Leicester Academy in Massachusetts and at the age of 22 traveled to California and eventually enlisted in the California Volunteers during the Civil War. He rose to the rank of Captain and served at Fort McDowell until 1866. He settled in the Salt River Valley in 1870 and was appointed the first Postmaster of Phoenix, the first Sheriff of Maricopa County and later served as Assistant Attorney for the United States for the District of Arizona. He was admitted to practice in the District Court in May 1872. On the corner of what is now Washington and First Streets, in January of 1871, Hancock built his first permanent structure in the vicinity, a small adobe store that would house the first County officers and serve as a temporary courthouse. Later that year he built a larger building, at a cost of $980. The new building was the seat of community life and served as the Maricopa County Courthouse (rented for $45 per month) for the next four years. Captain Hancock was also a surveyor. He completed the first survey of the Phoenix townsite and laid out the lots and the town.

Judge Porter, who would himself eventually become the Mayor of Phoenix, had the rare privilege that morning of having before him in his courtroom two of the founding fathers of Maricopa County, Phoenix and the Maricopa Count Bar. These Pioneers played leading roles in laying the foundation for and building our community.

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Internet Gambling

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all participants therein to “identify and block or otherwise prevent or prohibit” restricted Internet gambling transactions. The policies and procedures to be enacted are intended to compile a nonexclusive list of ways to identify and block restricted Internet gambling transactions and will permit any participant in a payment system to choose among the alternatives. Once these polices and procedures are promulgated, no gambling credit, funds, instruments, other proceeds or payments may be transmitted to any person engaged in an unlawful Internet gambling business. Title VIII § 5362 (7). These policies and procedures are to be implemented by July 10, 2007—that is, 270 days from the date of the enactment of the law, October 13, 2006.

The extent of liability for failure to comply with the policies and procedures, which are to be implemented in accordance with the Act, are presently unknown. It is anticipated that financial transaction providers will be fined and that their future business activities will closely monitored. All financial entities should remain alert to the policies and procedures, which are to be implemented, even as they are developed, for provisions discussing and imposing liability. Holding financial transaction providers responsible for the actions of individual Internet bettors and Internet gambling businesses is a strict departure from existing law. This, however, seems to be the direction in which the law in the United States is evolving.

The seminal case regarding financial entities’ liability for Internet gambling (before the enactment of the Act) has been In re Mastercard International, Inc., 313 F.3d 257 (5th Cir. 2002). In the Mastercard case, the court found that the gamblers’ online gambling activities were separate from the gamblers’ credit card transactions paying for gambling fees. The court dismissed the civil RICO charges against Mastercard and other credit card companies, stating: “It is a temporal impossibility for the [defendant credit card companies] to have completed their transaction with the plaintiff before he gambled and then to be prosecuted for collecting the proceeds . . . which can only take place after some form of gambling is completed.” The court found that there are two steps in a transaction—the bet and the payment. The payment is separated from the bet such that the payment processor—here the credit card company—is not liable for how the money is used, even if the money is used for an illegal activity. The court additionally found that “limited involvement” in gambling, such as funding, is not sufficient to give rise to RICO liability. Thus, because the credit card was only used to initially fund the gambler’s account with the Internet merchant before any gambling occurred, Mastercard could not be held liable.

The Internet Gambling Act abrogates this liability analysis. Under the Act, “designated payment systems” will be required to identify, block, and otherwise prohibit the transfer of funds to unlawful Internet gambling businesses. A “designated payment system” is “any system utilized by a financial transaction provider that . . . could be utilized in connection with, or to facilitate any restricted transaction.” Title VIII § 5362(c). “Financial transaction providers” include credit card issuers, financial institutions, operators of terminals where electronic funds transfers may be initiated, money transmitting businesses, payment networks utilized to effect credit transactions, electronic fund transfers (EFTs), stored value product transactions or money transmitting services, and any participants in such payment networks. The Act expressly prohibits such “financial transaction providers” from utilizing any designated payment system to fund a restricted transaction. Under the Act, the bet and the payment are no longer considered separate transactions. Again, however, it is not yet clear what punishment or liability financial transaction providers may face for improperly authorizing restricted transactions. It is nonetheless clear that liability will exist.

A “restricted transaction” involves transmitting credit, EFTs, checks or similar instruments, and the proceeds of any other financial transactions in connection with unlawful Internet gambling. Fearing liability for violating state gambling laws, Visa and Mastercard quit processing Internet gambling transactions in 2001. Thereafter, Internet payment transactions for gambling websites have been processed (knowingly and unknowingly) by third-party payment processors. Third-party payment processors are Automated Clearing House-processing (“ACH”) companies that offer merchants online transaction processing services, such as EFTs. Many Internet gambling website operators incorporated companies that used the services of third-party payment processors to process payments from gamers. This practice, however, is now threatened as these third-party payment processors and others who process ACH payments and/or EFTs are likely included in the definition of “designated payment systems” and, thus, are intended to be regulated under the Act.

E-wallets are also included in the definition of “designated payment systems.” E-wallets are a type of electronic wallet in which a consumer can store money by placing conventional funds or credit into an account. The

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e-money can then be stored in the electronic wallet until the consumer is ready to spend it. Electronic money is fast and flexible, enabling consumers to purchase a range of items on the Internet with the same freedom as cash. E-wallets have become increasingly popular and many e-wallet applications operate successfully in the Internet marketplace to fund Internet activities and purchases. Companies such as CryptoLogic and PayPal have developed e-wallet solutions that permit consumers to transfer funds into a secure account that may be used to fund Internet purchases, including Internet gambling transactions. Both PayPal and CryptoLogic have previously settled actions brought against them for violations of state gambling laws—the laws of New Jersey and New York, respectively. In these instances, money in the PayPal and CryptoLogic e-wallets was being used for Internet gambling. Under the Internet Gambling Act, e-wallets, even those not directly related to Internet gambling activities, will be encompassed within the Act’s definition of “designated payment systems” and, thus, prohibited from processing Internet gambling payments. How an operator of an e-wallet is to know that money or credit in the e-wallet is used or will be used for Internet gambling is and remains an open question, however.

The extent of liability and penalties for failure to identify and block restricted transactions will likely be an important policy developed in the next 270 days. If designated payment systems adhere to the policies and procedures to be implemented under the Act, there will be a presumption of compliance with the Act. Likewise, if financial transaction providers adhere to the payment system and designated payment system policies and procedures to be implemented under the Act, there will be a presumption of compliance with the Act. Thus, financial institutions and financial transaction providers, i.e., banks, credit card companies, e-wallets, third-party payment processors, and others based in the United States must remain alert to the policies and procedures that are formulated and will govern their activities. Moreover, such financial institutions and financial transaction providers must police the transactions that they process to ensure that they are not unknowingly processing transactions related to any restricted transaction.

Regulating Interactive Computer Services

The Act does not intend to hold “interactive computer services” liable for unlawful Internet gambling activity. An “interactive computer service” is an information service, system, or access software provider enabling computer access by multiple users. 47 U.S.C. § 230 (f). This likely includes Internet Service Providers (ISPs), web hosts, domain name services, and others. Interactive computer services are excluded from the provisions of both §§ 5363 and 5364 and are not affirmatively obligated to monitor their services for links to illegal gambling sites. However, interactive computer services may be required to remove sites or links to sites that violate § 5363 after they have knowledge that the site is violating the Act.

Interactive computer services are not liable for Internet gambling businesses that use their services for their Internet activities; however, interactive computer services are precluded from operating, managing, supervising, owning, or controlling an unlawful Internet gambling website. Furthermore, under § 5365, interactive computer services may not be owned or controlled by “any person who operates, manages, supervises, or directs” an unlawful Internet gambling website.

Passing on the Costs of Regulation

All financial entities and other Internet gambling-related businesses should be prepared for the financial burden of the Internet Gambling Act. Presently, the enforcement provisions of § 5364 do not include any appropriations for establishing these policies and procedures. The cost of compliance, therefore, will likely fall on the financial transaction providers and payment systems that are required to implement policies and procedures to restrict Internet gambling. Financial institutions and payment processors will be required to formulate internal systems and practices to ensure they are not processing Internet gambling payments. Diligent and regular review by merchants of financial transactions to ensure compliance with the policies and procedures is expected to be costly and burdensome.

Financial entities may act proactively and take steps now to ensure they are not processing Internet gambling payments in order to minimize the financial burden of the policies once they are implemented. To ensure compliance with the Internet Gambling Act, financial entities will need to expend resources to develop a client/merchant review system to assess whether their clients are in any way involved with an Internet gambling business. This system may include requesting assurances and other documentation from merchants, requiring such merchants to avow that they are not presently, and will not in the future, use the financial entity to process Internet gambling-related payments, and requiring merchants to indemnify the financial entity if any of their representations prove false. The risks to financial entities of not requiring such proof and assurances are likely to include penalties, potential criminal liability and other remedies that are yet to be implemented or defined.

Thus, Internet gambling businesses and those who may be suspected of being related to an Internet gambling business should be prepared to provide assurances of the legitimacy of their business activities. Such assurances may include addenda to contracts, whereby a party will contractually agree not to request the financial entity to process any Internet gambling-related payments or other activities. Additionally, merchants should be prepared to provide documentation of their legitimate sources of business and legitimate business activities to their financial institutions, payment processors, and others.

Providing proof and assurances of business activities are likely to financially burden those engaged in legitimate Internet business activities. Title VIII § 5364 provides that no person or entity required to comply with the regulations will be liable for blocking or refusing to honor what are, or are reasonably believed to be, restricted Internet gambling transactions. In other words, if a credit card company or third-party payment processor blocks or refuses to honor what it reasonably believes is a restricted Internet gambling transaction, it will not be subject to civil liability in a lawsuit for blocking or refusing to honor such a transaction. Thus, financial institutions and payment processors may act conservatively and refuse to process what are allowable Internet transactions for fear of violating the Act. Such conservatism will have its own financial costs in terms of lost business, however.

The Act will also increase the costs of contracting with financial entities. Financial entities shall seek protection from liability if they are found in violation of the Act because of a merchant’s Internet gambling activities. Thus, financial entities and merchants should carefully negotiate contracts, in particular provisions on liability, indemnification, and personal guarantees, to ensure compliance with the Act. Financial institutions and payment entities if contracts engage in unlawful activities. The cost of doing business for both parties is expected to increase as there are now greater risks for involvement in Internet gambling activities, and indeed in any Internet transactions.

An Evolving Law

This article is not intended to be an exhaustive discussion of the law on these issues. Nor is it intended to provide legal advice on increasingly-complex transactions. This article is instead intended to give an overview of Internet gambling and this emerging area of the law.

In the coming months, financial entities should closely monitor the proposed policies and procedures to be implemented under the Internet Gambling Act, and must be prepared to implement significant and costly policy and procedural changes. Financial entities must also be prepared for the Justice Department to likely take aggressive, and unprecedented, actions. In particular, entities holding assets of those involved in Internet gambling should be cautiously aware that the Justice Department may freeze or confiscate such assets as part of an aggressive attempt to curtail unlawful Internet gambling.

The Internet Gambling Act is the culmination of years of attempts to restrict Internet gambling activities and now that it has passed may have drastic and far-reaching consequences for financial entities. In turn, Internet gambling businesses should be prepared for financial entities to terminate or modify their current contracts and to demand indemnity for transactions processed in violation of the Act.

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CNN poll on federal judiciary

An October poll conducted for CNN by Opinion Research Foundation finds that the majority of Americans believe that elected officials should not have more control over federal judges. Thirty percent thought elected officials should have more control, while 3 percent had no opinion. Additionally, thirty-four percent of Americans surveyed thought that federal judges were too liberal, twenty percent thought that federal judges were too conservative, five percent had no opinion, while the remaining forty-one percent thought federal judges were “about right.”

FRAP amendments take effect

Recent amendments to the Federal Rules of Appellate Procedure for the Ninth Circuit became effective on December 1, 2006 and include:

• Revised FRAP 25(a)(2)(D) governing electronic filing of documents in the appellate court. The amendment to FRAP 25(a)(2)(D) provides that a Court of Appeals may by local rule permit or require papers to be filed, signed, or verified by electronic means that are consistent with technical standards established by the Judicial Conference of the United States; however, the local rule may require filing only if reasonable accommodations are allowed.

• New FRAP 32.1 providing for the citation of judicial opinions, orders, judgments, or other written dispositions that have been designated by a court as “unpublished.” This new rule prohibits a court from restricting the citation of “unpublished” written dispositions issued after January 1, 2007. The new Rule also requires a party to file and serve a copy of cited federal judicial opinions, orders, judgments, or other written dispositions that are not available in a publicly accessible electronic database.

Proposals surface to resolve Indian trust fund mismanagement case

On October 23, 2006 the United States Committee on Indian Affairs released a briefing paper which outlines proposals under discussion that would amend the Indian Trust Reform Act of 2005 (Senate Bill 1439), a measure aimed at resolving the 10 year-old Indian trust fund mismanagement case of Cobell v. Kempthorne. Proposed amendments to S.B.1439, although not approved by the Chair and Vice-chair of the Committee, are centered on the following issues:

• Developing aggressive mechanisms to consolidate 128,000 individual Indian allotments into ownership allotments of no more than 10 or fewer owners for each tract of land within the next 10 years.

• Transitioning all individual Indian and tribal land to a beneficiary-managed trust system within 10 years.

• In addition to resolving individual Indian claims relating to the United States’ mismanagement of royalties from tribal lands, tribal claims will also be resolved via a settlement fund.

• Limiting United States liability during and after the time period of land consolidation and transitioning to a beneficiary-managed trust.

The Cobell plaintiffs allege that the Department of the Interior mismanaged more than $100 billion in royalties from tribal lands. The Senate Indian Affairs Committee briefing paper states that “[t]o gain support for a multi-billion dollar bill [S.B. 1439], it may be necessary to incorporate significant changes to the management system for Indian trust assets.”
Five Ways to Create a Life Portfolio

By David Corbett

Maricopa Lawyer

Life spans have increased and will continue to edge upward, even as older Americans are becoming more vital. That has yielded a new life stage—the first since social scientists identified adolescence a century ago. It's extended middle age, anywhere from age 50 to 90.

Old approaches to retirement are obsolete in light of this change, and we have new opportunities to make this new stage meaningful. The way to do this is to adopt a life planning model called a life portfolio. It's a “portfolio” because, like a collection of stocks and bonds, it is an integrated mix of personal holdings or assets. But this one covers the gifts, values, passions and pursuits that make who you are.

How do you get a life portfolio? Here are five ways to begin:

1. Work for pay or passion, but on your own terms. You've spent your career working for others, and hopefully, you've enjoyed your work. But now you have the opportunity to love what you do. You might get paid monetarily for it, or the payoff might be that you experience bliss. But you've waited for this chance your whole life and now, finally, the possibility is open to you.

2. Learning and spiritual growth. You may have missed the opportunity to get a degree, or an advanced degree, while you were getting established in your career and rising through the ranks. Or you may have had to say “no” to your inner voice that wanted to connect with nature, pray, or meditate. Well, now you have the time that you always used as an excuse. You can get that degree (or just take classes in whatever strikes your fancy). You can hike, or go to your house of worship, or explore your connection to the universe in whatever ways feel right to you - and you don't have to wait for vacation time to do it.

3. Recreation or down time. If you've always wanted to take more time for yourself, you finally can. Activities that you always had to cram into your two- or three-week vacation can now become ways in which you occupy much of your time. Whether you want to improve your golf game, become conversant in current movies and other aspects of pop culture, or travel to all the places you've never been - now is the time when you finally can indulge yourself. There's nothing to stop you from turning down time into your best ever time.

4. Connect with family and friends. Sure, you've always loved your family and valued your friendships. But you've never had the time you wished you had to devote to building those relationships, because you were so busy with your career track. The good news is that it's never too late to have the relationships you've always dreamed of. Now that you have the time to devote to your family and friends, you can finally strengthen those bonds and give the most important people in your life the attention they deserve - and that you deserve to give them.

5. Give back. If you've spent your whole career accumulating wealth and material possessions, you're not alone. You've had bills to pay, and perhaps you've had children and grandchildren to support. But now that you've made it to retirement, you can take the pressure off yourself. You don't have to acquire more wealth. Your kids can take care of themselves, and your grandchildren have their parents to rely on for support. You can use your money, time, and energies in ways that please you. Do you want to contribute money to your community, house of worship, or an organization that matters to you? It's done - if that's your choice.

Building your life portfolio is about making choices. it's never too soon to create one. All of this takes planning, of course, and a life portfolio is indeed a strategic plan. It has short and long-term goals to keep us on track and set realistic expectations for ourselves and our families.

But, fundamentally, it is an orientation to life—one spanning yet today's accomplishments, today's goals, and tomorrow's legacies. To adopt it, you have to step back, question what you may have learned about “retirement,” and be willing to envision and plan new possibilities.

Because one can begin to weave a life portfolio as early as one's twenties, even as careers are pursued, and because it may last thirty or forty more years afterward, a portfolio can actually have more impact in shaping adulthood than a career. Careers, in short, have a shelf life; portfolios can be timeless. Start yours today.

The Legal Definition of Hope.

The U.S. Supreme Court distinguishes ‘student aid’ from ‘aid to religious schools.’ Public aid to students at religiously affiliated schools is constitutional, Justice Sandra Day O’Connor explained, “where the aid is allocated on the basis of neutral, secular criteria that neither favor nor disfavor religion and is made available to both religious and secular beneficiaries on a nondiscriminatory basis.”

The Constitution’s First Amendment religion clause does not compel the exclusion of religious groups from government benefits generally available to a broad class of participants.

*Agostini v. Felton, 521 U.S. 203 (1997)*

Counting on More Hope, Not More Hardship.

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

Alliance for School Choice  
For more information about these programs, go to: www.azschoolchoice.com