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Haunting faces, helping hands

Some of these stories may stick in your mind, haunting you as to what might have occurred had caring people not been there. **Page 6**

Jones letter ordering lower-court reforms

Editor's note: Following is the text of Arizona Supreme Court Chief Justice Charles E. Jones' June 11 letter to Maricopa County Superior Court Presiding Judge Colin F. Campbell regarding problems with the county's justice of the peace and municipal courts and the Supreme Court's decision to place them under Campbell's administrative control.

Dear Judge Campbell:

When you were appointed presiding judge, the Supreme Court assigned as your first priority the continuation of efforts begun by your predecessor to reduce delay in felony case processing and to reduce the unacceptable backlog of felony cases that had developed over the past several years in the Superior Court of Maricopa County. While the court has not yet reached full compliance with the speedy trial rules of the Supreme Court, you have made excellent progress. Recent statistics indicate that 86 percent of all new felony cases filed were completed in 180 days and the backlog of pending cases has dropped by more than 1,000. We are pleased with the attention given this problem and, frankly, the results have been remarkable.

The timely handling of felony cases will remain a priority of the Supreme Court, and should remain a high priority in Maricopa County. However, I believe you are far enough along in implementing a felony case delay reduction plan that it is time to turn our attention to other serious problems. In particular, I am referring to the limited jurisdiction (LJ) courts.

Some of the best functioning LJ courts in Arizona are in Maricopa County; so are a few of the most problematic. Some judges perform wisely, while others have acted foolishly. A number in the latter category did not deserve to remain on the bench. After consideration, we have determined to invoke the judicial power reserved to the chief justice and the

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Northwest Superior Court

The Superior Court's Northwest Regional Center is scheduled to open July 22. **Page 7**

Doing dismissals right

Dismiss one of multiple defendants in civil cases the right way. **Page 11**

Proposed rules define, prohibit unauthorized practice

By **Brian Cieniawski**
Maricopa Lawyer

Proposed rules pending before the Arizona Supreme Court would define the practice of law and the unauthorized practice of law and create a disciplinary mechanism to prosecute the latter.

Comments on the proposals by the State Bar of Arizona must be submitted to the court by Aug. 1. The State Bar's rule-change petition and other documents can be found on the State Bar website, www.azbar.org.

As proposed, amended Rule 31(a) would give the Supreme Court jurisdiction over any person or entity engaged in the practice of law or the unauthorized practice of law in the state.

In addition, the revamped rule would define the "practice of law" as providing legal advice or services to or for another by:

(A) Preparing any document in any medium intended to affect or secure legal rights for a specific person or entity;

(B) Preparing or expressing legal opinions;

(C) Representing another in a judicial, quasi-judicial or administrative proceeding, or other formal dispute resolution process such as arbitration and mediation;

(D) Preparing any document through any medium for filing in any court, administrative agency or tribunal for a specific person or entity; or

(E) Negotiating legal rights or responsibilities for a specific person or entity.

The "unauthorized practice of law" would be defined as:

(A) Engaging in the practice of law by persons or entities not authorized to practice pursuant to paragraphs (b) or (c) or specially admitted to practice pursuant to Rule 33(d); or

(B) Using the designations "lawyer," "attorney at law," "coun-



RULES

selor at law," "law," "law office," "JD," "Esq.," or any other equivalent words by any person or entity who is not authorized to practice law in this state pursuant to paragraphs (b) or (c) or specially admitted to practice pursuant to Rule 33(f), the use of which is reasonably likely to induce others to

believe that the person or entity is authorized to engage in the practice of law in this state.

Paragraph (b) is a slightly amended current Rule 31(a)(3), which prohibits the practice of law by anyone who is not an active member of the State Bar or who is suspended, disbarred or on disability inactive status. Proposed paragraph (c) includes the current Rule 31(a)(4), which delineates 14 exceptions to Rule 31(a)(3), as well as six additional exceptions. The proposed additional exceptions include nonlawyer assistants acting under the supervision of a lawyer in compliance with Ethical Rule 5.3 and the "preparation of documents incidental to a regular course of business when the documents are for the use of the business and not made available to third parties."

The petition also would add rules to create a regulatory system to prosecute violations of the unauthorized practice of law.

Proposed Rule 77 would authorize the State Bar to employ counsel to investigate information that would be grounds for sanctions for engaging in unauthorized practice of law, recommending dispositions and dismissing proceedings when appropriate. The rule also would create an Unauthorized Practice of Law Hearing Commission and a Probable Cause Panel.

Proposed Rule 78 would create — See **Rules** on page 10

PLD helps create nearly 11,000 meals



Public Lawyers Division members Karen Nicely of the Maricopa County Public Defender's Office and Maricopa County Superior Court Judge Eileen Willett sort food at St. Mary's Food Bank. They were among 19 PLD members, friends and relatives who volunteered at the food bank on June 1. **Story, page 3.**

Supply needy kids with school tools

FOR MANY VALLEY CHILDREN, summer vacation will be over way too soon and then it's back to school. Going back to school for most kids means new clothes, a new backpack and fresh school supplies.

Many children, unfortunately, have to return to school in the same clothes they ended the previous school year with. They have to use the same beat up backpack — or none at all. They often have to ask classmates for paper, pencils and other school supplies. Their

predicament often results in ridicule from classmates and makes going to school less and less fun each day.

The Young Lawyers Division of the Maricopa County Bar Association wants to change that. The YLD's Domestic Violence

Committee has collected items for many years through its Needs Drive. Last year, for the first time, the

committee launched a back-to-school drive specifically to help the children.

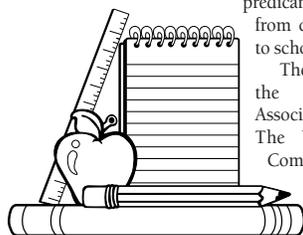
Your response was outstanding. The committee collected 15 backpacks, tons of school supplies such as pencils, pens and paper, and nearly \$2,000, which purchased more supplies.

As a result, last year, for the first time ever, every child in each of the domestic-violence shelters the YLD supports received a backpack and all the school supplies necessary to start school. More than 125 children at 12 local shelters received school supplies.

We again ask for your help. We need:

- ✓ Backpacks (desperately!)
- ✓ No. 2 pencils
- ✓ Notebook paper
- ✓ Erasers
- ✓ Small bottles of school glue
- ✓ Small boxes of crayons
- ✓ Ballpoint pens

— See **Supplies** on page 3



COMMENTARY

Put that patriotism to work by volunteering

Throughout my life, the Fourth of July has always been a time to wear patriotic colors, hang the flag and spend time at barbecues or pool parties with friends. For so many of us, it was an excuse to take the day off and celebrate our country's freedom. This year, after witnessing the worst disaster that many of us have ever seen, the Fourth of July means something different.

This year, I will take time from the usual Fourth of July celebrations to remember all of those innocent people who died on Sept. 11 and our troops who lost their lives in the ensuing months fighting for our country. I also will take time to appreciate what our founding fathers did for us so many years ago and be thankful for all the freedoms that I have taken for granted. And I will take time throughout the coming year to help those in our community who may have the same freedoms as me, but don't have the same privileges.

There are so many ways you can parlay your patriotic feelings this year in addition to hanging a flag and wearing red, white and blue. Most of us cannot fight the enemy abroad, but we can help fight racial prejudices here at home and help those who cannot afford legal services find justice.

One opportunity is the Tolerance Through Education Project of the Maricopa County Bar Association's Young Lawyers Division. We will be visiting third-grade classrooms in the fall to teach kids about the importance of accepting other kids' differences. Now, more than ever, our children need to learn that other kids may look different or practice a different religion, but that does not give them an excuse to ridicule or ostracize those children. We will visit with the third-graders, show them a



video about accepting others' differences, and then have a brief question and answer period. If you are interested in volunteering to work with kids, please call Shane Clays, 602-257-4200, ext. 111. Heading the Tolerance Through Education Project are James Shinn of Fennemore Craig and Mayan Tahan of the Arizona Attorney General's Office.

Another opportunity for you to take your patriotic feelings "inland" is to volunteer to take on a case for the Volunteer Lawyers Program. VLP is always looking for lawyers to represent its clients, in areas ranging from bankruptcy and debt collection to tenants' and other home-ownership rights. Each month, the VLP publicly thanks its volunteers who recently accepted cases in *Maricopa Lawyer*. I hope we'll see even more of your names in the upcoming months. If you are interested in volunteering, please call 602-258-3434.

The YLD recognizes its volunteer of the month for July, Phoebe Moffatt of Snell & Wilmer, for chairing the Gift of Life Project. Thanks, Phoebe, for all your hard work! ■

No lazy hot summer at the MCBA

By **Brenda Thomson**
MCBA Executive Director

What's EDC? Look on page 8 for an article about it.

During the 110-degree days of summer, we will be very busy at the Maricopa County Bar Association planning exciting events and programs for the rest of the year. If you haven't been involved before, now is a wonderful time to dive in.

We are working on the website, new publications, CLE programs and new member benefits as well as other programs, such as the Paralegal Conference, set for Sept. 27 at the Pointe Hilton at Squaw Peak. The event will feature local and national speakers on cutting-edge issues facing paralegal professionals. The early registration deadline is Sept. 10. The cost is \$135 for members, \$195 for non-members and \$50 for students. Call Sharon Frye at 257-4200, ext. 136, to register.

In addition, our Lawyer Referral Service is recruiting criminal lawyers to work with LRS and the Maricopa County Superior Court on a pilot project to provide representation for defendants being processed through the Early Disposition Court. Most defendants are charged with misdemeanors and are notified to appear within 30 days by summons. Many of these defendants need legal representation because they face possible jail time. LRS is seeking criminal attorneys who are interested in receiving these referrals of paying clients. The court will conduct several training sessions to familiarize attorneys with the process. Call Margarita Flores at 602-257-4200, ext. 121, if you would like to receive referrals.

Welcome aboard to our new State Bar of Arizona president, Ernest Calderon. The MCBA and State Bar always work closely together, and we will continue to offer our assistance to Ernie during his term in office. We face similar challenges to the profession, political, professional and technological. Ernie is more than up to the challenge.

Kudos to:

► The Public Lawyers Division for their hard work on June 1 at the St. Mary's Food Bank. Good job! For more details, see the article on page 3.

► John Everroad and Fennemore Craig for taking on the huge project of updating the ever-popular *Litigation Guide*. This is a must-have publication that lists leading case law in all different areas of practice. We hope to have the latest edition available for purchase in August.

► Margaret La Bianca and all the volunteers who helped update "The Most Commonly Asked Questions in Environmental Law" guide. This comprehensive guide is now available for purchase. Please call the CLE department at 257-4200, ext. 112, to order.

And, finally, the new pictorial directory is in.

During the summer heat, stop by and cool your heels at the MCBA. Have a soda on me! ■

An introduction to the Paralegal Division

As of Jan. 1, the Maricopa County Bar Association's Paralegal Committee became a division. We are currently the only paralegal division of a county bar association in the country. The Paralegal Division is committed to working with the MCBA on issues related to the promotion of the paralegal profession.

Along with traditional paralegals, we are comprised of educators, computer specialists, managers and supervisors, court personnel, compliance officers, engineers, artists, entertainers and students. Some of us have advanced degrees. Many of our members are quite experienced and write articles for publications, teach in paralegal programs, serve on advisory boards, edit paralegal textbooks, speak throughout the country on paralegal



issues, participate in American Bar Association-site visits for the approval (and re-approval) of paralegal programs, and hold offices in national organizations.

Last year was a big year for paralegals in Arizona. In addition to the MCBA granting division status to paralegals, three of the presidents of national paralegal organizations were from Arizona. These events were pro-

filed nationally and, for the first time in paralegal history, Arizona was recognized as a source of paralegal professionalism. The Paralegal Division is dedicated to continuing this tradition.

Since the inception of the Paralegal Committee nearly five years ago, paralegals have been active in many MCBA activities. Our members serve on the *Maricopa Lawyer* editorial board, the Website Committee and, as a division, we have a voting seat on the MCBA's board of directors. In addition, we have worked with the Young Lawyers Division on various projects and will continue to do so. For the past few years, we have provided the largest number of volunteers for the YLD Domestic Violence Committee's Needsities

— See *Paralegal* on page 9

Write a letter!

We welcome letters to the editor. Letters generally should be no more than 300 words long. *Maricopa Lawyer* reserves the right to edit all letters for length. Letters to the editor must be typed on your letterhead, signed and submitted to Editor, *Maricopa Lawyer*, Maricopa County Bar Association, 303 E. Palm Lane, Phoenix, 85004.



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Errors will be corrected in a subsequent issue.

The MCBA does not necessarily endorse the views expressed by contributors and advertisers. The editorial policy is available upon request.

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Snow, Irvine appointed to Court of Appeals

Grant Murray Snow and Patrick Irvine will become the two newest members of the Arizona Court of Appeals, Division One.

Gov. Jane Dee Hull appointed the two to fill the vacancies created by her appointment of then-Court of Appeals Judge Rebecca White Berch to the Arizona Supreme Court and by the retirement of Judge Noel Fidel.

Irvine currently serves as solicitor general in the Arizona Attorney General's Office. As solicitor general, he supervises civil and criminal appeals, formal attorney general opinions and election law. Before becoming solicitor general, he was chief counsel of the office's Tax Section.

In announcing Irvine's appointment, Hull said his "expertise in constitutional

law and his experience with government issues...will make a strong contribution to the court."

Irvine received his law degree from Arizona State University and a master's of laws in taxation from the University of San Diego. He has written numerous legal articles, including chapter supplements in *American Indian Law Deskbook*, and he lectures frequently on tax issues.

Irvine, a Democrat, is married and has four children.

Snow is a civil litigator with Osborn, Maledon. He has focused on commercial law, representing clients in insurance, contractual, trade secret and other cases.

Snow received his law degree *magna cum laude* from Brigham Young University. He is a member of the State Bar of Arizona's Ethical Rules Review Group, which is drafting revisions to the Rules of Professional Conduct.

Hull lauded him for his "excellent legal mind and years of experience practicing law to the courts."

Snow, a Republican, is married and has four children.

Snow and Irvine won't be the newest members of the Court of Appeals for long. The Commission on Appellate Court Appointments is in the process of making additional nominations to fill the vacancy created by Hull's appointment in May of Judge Michael D. Ryan to the Arizona Supreme Court.

The Maricopa County Commission on Trial Court Appointments took applications until

June 30 to fill the vacancy created by the retirement of Superior Court Judge Sherry Hutt.

The commission may use the applications to nominate candidates for any additional vacancies known to it before the committee meets to screen applications for this vacancy.

The commission will announce its schedule for reviewing applications and for interviewing selected applicants this month. ■

What did you do on June 1? PLD helped feed 129 families

By Terri Zimmerman
Maricopa Lawyer

On one day in June, the Maricopa County Bar Association's Public Lawyers Division helped create nearly 11,000 meals for hungry people.

At the world's first food bank, St. Mary's Food Bank in Phoenix, 19 PLD members, friends and relatives on June 1 sorted 10,876 pounds of food. Because each pound equals one meal, that means PLD boxed enough food to feed 129 families of four for one week.

"That's a lot of product for 19 people," said Peter Hernandez, coordinator for St. Mary's Reclamation Department.

That day, all groups volunteering at St. Mary's together sorted 40,000 pounds.

"Bank One Stadium holds [more than] 46,000 people, just to give you a comparison," Hernandez said.

St. Mary's depends on volunteers to supplement its workforce. Without the volunteers, the food bank would have to hire 90 full-time employees.

The food bank provides food to approximately 440 agencies, and partners with other food banks throughout the Valley. It distributes more than 80,000 meals a day.

Funding comes from individual and corporate donations as well as private grants. The food bank is neither government funded nor a United Way agency. Out of every dollar donated, 93 cents go to support program services.

St. Mary's also sponsors Community Kitchen, a training program to teach low-income students how to prepare food and then assist them in obtaining jobs. The student-prepared food is then given away.

John van Hengel thought of the concept of the food bank because of a conversation he had with a woman years ago when he volunteered at St. Vincent de Paul. He asked the woman what she did for her family's food when she was not at St. Vincent's, and she replied, "Dumpster dive." He came up with the idea that those who had excess food could make a "deposit" in a food bank and those in need could make a "withdrawal."

After starting St. Mary's in 1967, Van Hengel left in 1976 to establish America's Second Harvest, which began as a consulting organization for other cities starting food banks. It developed into a network through which manufacturers, such as Nabisco, could distribute food throughout the country. Local Second Harvest food banks include Westside Food Bank and Second Harvest United Food Bank of Mesa.

Once he had established food banks throughout the United States, in 1983 he proceeded to develop food banks in Canada, Europe, North America, Australia and Israel.

Van Hengel, now 79, still comes to the office a couple times a week and corresponds with other cities throughout the world that are seeking his advice on starting or supplying food banks.

St. Mary's Food Bank, a non-sectarian, non-profit organization, permits individuals, groups and families to volunteer their services. Instead of an evening in front of the television or on the computer, the food bank encourages family activities that include participating in community service.

PLD's next service project, in the fall, will be to make dinner for about 60 people at the Ronald McDonald House. ■

Supplies...

Continued from page 1

- ✓ Calculators
- ✓ Folders
- ✓ Three-ring binders

The committee purchases any needed supplies that are not donated, so money also is greatly appreciated.

If you would like to help with a donation of supplies or money, please contact Shane Clays at 602-257-4200, ext. 111, or sclays@mcbabar.org. Donations can be dropped off at the MCBA office, 303 E. Palm Lane, Phoenix. Pick up of donations also can be arranged.

Donations are needed by Aug. 1 to make sure the kids can be outfitted with supplies before school starts.

Our goal is to again send every child in each of the domestic-violence shelters to school with a backpack and all needed supplies. We can do it again — with your help. ■

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Resisting arrest not a victimless crime

By Daniel P. Schaack
Maricopa Lawyer

Part of the public debate over drug laws is the question of whether the government should prohibit such victimless crimes. While it was kicked around mostly in the '60s and '70s, the notion of a victimless crime recently arose for the Arizona Court of Appeals in a case in which it had to decide whether the state could prosecute a rowdy patron at an Indian gaming casino.

Samad Sorkhabi became disruptive at Casino Arizona, on the Salt River-Pima Indian Reservation, and was asked to leave. He refused and struggled with tribal police when they attempted to arrest him. Prosecutors charged him with resisting arrest, alleging that he tried to prevent Officer Abigail Platero

COURT WATCH

from arresting him by using physical force and threatening to do so.

Sorkhabi pleaded guilty and received probation, which he later violated by committing another crime. Before the hearing on his probation violation, he moved to dismiss the resisting-arrest conviction, arguing that the state lacked subject-matter jurisdiction to prosecute the offense.

Sorkhabi based his motion on the fact that the crime occurred on an Indian reservation and the victim was an Indian. While the states

have exclusive jurisdiction over non-Indians' crimes committed on reservations against non-Indians, only the federal government may prosecute crimes that are both committed on reservations and against Indians. The states retain jurisdiction over reservation crimes committed by non-Indians if there is no victim.

It was on the victimless-crime exception to federal jurisdiction that the state pinned its hopes. It contended that resisting arrest is a victimless crime. The Superior Court disagreed and dismissed Sorkhabi's conviction with prejudice.

The Court of Appeals affirmed in an opinion by Judge Cecil B. Patterson Jr. *State v. Sorkhabi*, No. 1 CA-CR 01-0605 (May 30, 2002). While the concept of resisting arrest may not seem to have a specific victim, Patterson analyzed the statutory particulars to reach his conclusion.

Under A.R.S. § 13-2508(A), resisting arrest occurs when a person intentionally attempts to or successfully prevents a peace officer from effecting an arrest. But there is more to the crime. The statute specifies that the resistance must arise from the use or threat of physical force against the peace officer or the use of any other means that creates a substantial risk of physical injury to the peace officer.

Patterson held that the statute's plain language showed that resisting arrest is a crime that is committed against a person.

"If defendant prevented arrest without using or threatening to use physical force or other means creating a substantial risk of physical injury," he wrote, "he 'avoids arrest.'"

"Resisting arrest involves more than just the criminal," Patterson continued. "Another person must be involved before a defendant can commit the crime of resisting arrest."

Judges E. G. Noyes Jr. and Michael D. Ryan joined in Patterson's opinion.

Background checks OK at gun shows on city property

Despite a state statute that preempts local regulation of firearms, a charter city may require instant background checks at gun shows held on city-owned property. So concluded Division Two of the Court of Appeals in *McMann v. City of Tucson*, No. 2 CA-CV 2001-0082 and 2001-0163 (May 30, 2002).

In 1998, Division Two held that municipalities could enact ordinances locally regulating firearms. In *City of Tucson v. Rineer*, 193 Ariz. 160, 971 P.2d 207 (App. 1998), it held that a state statute did not preempt local regulation.

The state Legislature quickly responded

by amending the statute, A.R.S. § 13-3108. The statute now provides that "a political subdivision of this state shall not enact any ordinance, rule or tax relating to the transportation, possession, carrying, sale or use of firearms or ammunition or any firearms or ammunition components in this state."

In an associated statement of intent, the Legislature announced its intent to preempt local firearm regulation: "Firearms regulation is of statewide concern. Therefore, the legislature intends to limit the ability of any political subdivision of this state to regulate firearms and ammunition."

Pat and Joan McMann, who had for years promoted gun shows at the Tucson Convention Center, reserved the convention center for a gun show in June 2001. The Tucson City Council had previously voted to require gun-show promoters using the convention center to require instant background checks for prospective purchasers. The McManns paid a deposit and signed a use permit with a provision requiring background checks.

The McManns then sued, seeking a declaration that the provision was invalid. The Superior Court agreed and enjoined the city from enforcing the provision. The city appealed, arguing that although the statute precluded it from using its police power to enact any ordinance regulating firearms, the Legislature did not intend to preempt the city from acting as a proprietor to impose such conditions on the use of its own commercial property.

Judge Joseph W. Howard interpreted A.R.S. § 13-3108(A) somewhat narrowly. Although he acknowledged that its language was arguably broad enough to encompass Tucson's requirement for background checks at shows at its convention center, he found limiting guidance in the preamble. The statement of legislative intent referred twice to regulation of firearms. "Accordingly," Howard wrote, "it is not clear that the legislature intended the statute to apply to the City's control of its own property as opposed to the City's attempt to control third parties."

Howard then looked to state constitution, which allows charter cities to frame their own organic law not subject to the Legislature's will. He found that the background-check requirement for shows on the city's own commercial property was a matter of solely local concern. That was so because, Howard held, the use permit was in essence a lease, and the Arizona Supreme Court has held that charter cities' sale or disposition of property is a strictly local matter, not subject to interference.

— See *Courtwatch* on page 6

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TO THE PARTNERSHIP

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Making the trial record electronically

■ Should it be optional?
Required? Publicly funded?

For the past six months, I have been heading a State Bar of Arizona task force that is looking into the use of digital recording in courtrooms.

Digital recording is used in a number of different contexts. Digital recording, whether audio or video, can substitute for a traditional stenographic record. Digital recordings also may serve a support and backup function when combined with a stenographic record prepared in real time or at a later date.

The State Bar's Special Task Force on Electronic Records first considered the question of using non-stenographic recording in depositions. The task force — composed of lawyers, judges, court reporters and information-technology professionals — agreed that we should follow federal practice and permit lawyers to choose the method for recording a deposition. This makes sense, given the availability of high-quality and inexpensive digital technology and the fact that the federal courts have reported no problems with essentially leaving the recording methodology up to the lawyer.

Under Ariz.R.Civ.P. Rule 30(b), if the opposing lawyer objects to using non-stenographic recording, the proponent of it must get a court order allowing it. If the proposal to conform to the federal Rule 30(b) were adopted, the notice of deposition would include the proposed means of recording. If there were good reason — within the context of the particular deposition — to object to that method, the opposing attorney would have to get a protective order against the use of non-stenographic recording.

Thus, the task force's first recommendation was to amend Arizona's Rule 30(b) so that it conforms to the federal practice. A petition to amend the rule has been prepared and is on its way to the Arizona Supreme Court.

Having dealt with the pretrial use of non-stenographic recording, the task force then turned to the much more controversial and difficult problem of non-stenographic recording in trial courts.

Audio and audio/video recording is being used in courts, agencies and legislative bodies worldwide. In Maricopa County Superior Court, for example, the new e-courtrooms use an audio/video recording system in which the entire day's proceedings are taken with



digital video cameras placed around the courtroom. At the end of the day, a lawyer who wishes to have a copy of the day's proceedings may have a CD-ROM burned along with a software log that allows access to the various events that occurred in the courtroom. If a transcript is needed, various transcriptionists or perhaps even the court reporter can prepare it.

The e-courtrooms have been in place for less than a year and, after some initial glitches, the system seems to be working reasonably well.

In Oregon, a mandated 10 percent across-the-board budget cut resulted in a number of counties replacing some or all staff court reporters with digital-audio recording. The Oregon Supreme Court has appointed a committee to look into the costs and efficiencies of the widespread adoption of digital recording technology. There have been a few debacles, including a jury trial that had to be retried because the video recording system failed. There have, however, been very many successes and more and more Oregon courts have embraced the many benefits of digital recording and storage.

The budget-driven adoption of digital recording of proceedings in Oregon gives a strong basis for analyzing the impact on litigants as well as court staff and judges of shifting to electronic records.

In Arizona, that task falls to several court committees established by Maricopa County Superior Court Presiding Judge Colin Campbell and to the State Bar Special Task Force on Electronic Records. We have just begun our inquiry into the viability of using digital recording as a substitute for traditional stenographic reporting. We have reached no conclusions on the very tough question of when a digital recording can substitute for a stenographic transcript.

We do know several things at this point. One is that a very large percentage of all proceedings by agencies and courts at all levels are recorded electronically using either ana-

log or digital recording technology. Modern digital audio systems can capture the proceedings with a high level of accuracy. High-quality audio capture clearly can be transcribed and reduced to a written transcript with relative ease and with great accuracy.

Given the fact that digital recording technology works and works well, under what circumstances should digital recording be allowed as a substitute for a traditionally prepared stenographic record? Or, under what circumstances should a stenographic record be prepared at public expense?

It is here that the pulse quickens as does the debate — a debate that raises very large questions of public policy and economics. The Arizona Court Reporters Association is a potent political force that has undertaken what it calls "an organized and coordinated effort to challenge proponents of electronic recording who seek to replace court reporters." Without citation, they claim "the Bar is outraged" by the prospect. (www.acraonline.org/monthlyupdates.htm)

On the other hand, court administrators and politicians see substantial budgetary benefits associated with reducing the number of publicly paid court reporters, if not their elimination entirely, as has occurred many places in Oregon. Lawyers who are adversely affected by the spiraling litigation costs that shut the courthouse door to many middle-class litigants see substantial savings in litigation costs as a very important goal. Judges see great benefit in the instant access to court records.

Nonetheless, the stenographic court

reporters and their lobbyists are girding for battle against the forces of technology. But Noah could not stand against the flood. Like it, love it or hate it, digital recording has become the dominant way of recording and distributing information in our 21st century world. It is coming to a courtroom near you sometime soon. It will not replace stenographic court reporting in all cases but, if properly implemented, can result in a substantial savings to court budgets.

We must draw lines that segregate the cases in which contemporaneous stenographic recording at public expense is important enough to our system of justice to require its use at all costs. The task force has developed a method using free, off-the-shelf software that provides a fully searchable, synchronized transcript that incorporates real-time court reporting in the video record captured by the e-courtroom systems. In those cases in which the best record possible must be provided at public expense, this system is just about as good as it gets.

It has been argued that in many cases, the use of contemporaneous stenographic recording should be discretionary and — in most private litigation — an expense carried by the private party who requests it. The Special Task Force on Electronic Records now is considering that issue among others. I would appreciate your comments directed to me at woods@law.arizona.edu.

► Winton Woods is a lawyer, professor at the University of Arizona College of Law and director of the college's Courtroom of the Future project. He also serves as general counsel to Lex Solutio Corp. and as an electronic litigation consultant. ■

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Will haunting faces prompt you to stretch out helping hands?

By Gregory R. Knight
Special to Maricopa Lawyer

The image haunts me in my sleep and plagues me during the day.

It is a simple black-and-white photograph, probably taken during the Vietnam War, and portrays a young Asian girl, maybe 7 or 8, standing half-naked amidst the ruins and debris of war, struggling to carry a baby, perhaps a sibling. The baby is obviously injured, and maybe dead. The young girl's expression is not capable of being portrayed in words. But to look at her expression and not be overwhelmed with horror, compassion, anger and a host of other emotions is not possible.

Maybe you've seen the photograph or an equally disturbing one. Maybe you've seen the face of a homeless person, wrinkled by sun, worry and hunger. Or perhaps you are haunted by the partially concealed face of an abused woman, bruised and broken.

Sometimes it takes a face to shock us out of our material complacency, our ceaseless scramble for more and more stuff, or our self-importance. Unfortunately, I cannot offer you a face to look at with this article, but I can offer you a few stories to help bring to life the work of the Maricopa County Bar Foundation and the organizations that the foundation supports in our community. The following stories may not be as horrifying as the one surrounding the image described above, but

they represent individuals who are equally confused, overwhelmed or desperate.

The foundation is the charitable organization linked to the Maricopa County Bar Association. It supports organizations committed to bettering people's lives through the law. The foundation's funding comes mostly from Maricopa County attorneys — through modest annual membership dues, donation of arbitration fees and support of the foundation's annual golf tournament. As you decide whether to provide support to the foundation, I hope some of these stories will stick in your mind, haunting you as to what might have occurred had caring people not been there, and inspiring you as to what we can all do together.

All of the following stories were provided by the Volunteer Lawyers Program (VLP), which received a grant award last year from the foundation. Names have been withheld to protect the privacy of the individuals involved, but these are real people with real stories.

► After more than a decade of severe abuse at the hands of her husband, a young Asian woman received help from a volunteer attorney working with the Family Law Assistance Program (FLAP), a VLP-sponsored program, to obtain an order of protection and prepare for a hearing if her husband contested the order. VLP also helped the woman to find a safe shelter for herself and

her child and to obtain additional legal assistance. When the husband requested a hearing on the order of protection, VLP found an attorney willing to assist with the hearing and arranged for an attorney to represent her in the custody case.

► Fleeing from an abusive boyfriend, another young mother with a toddler obtained help from a volunteer attorney working with FLAP to obtain an order of protection. The boyfriend was using illegal drugs and had threatened to kill the mother. He had

also physically abused the toddler. The volunteer attorney also helped the mother when the boyfriend sought joint custody of the child and helped her prepare an appropriate response in the custody action.

► A young child was developmentally disabled with a mother on drugs and a father in prison. Caring but impoverished grandparents wanted to help but did not know how. A VLP attorney helped the grandparents become the child's guardians and as a result,
— See *Foundation* on page 7

Courtwatch...

Continued from page 4

ence by the Legislature.

Howard also relied on the constitutional right of municipalities to engage in business. Because A.R.S. § 13-3108(A) does not preclude private property owners from requiring background checks, neither did it preclude the city from so doing.

Howard also looked to the statute's legislative history and found it lacking in any indication to support the McManns' position.

"[T]he legislature's primary concern," he wrote, "was to ensure that conduct legal in one municipality is not illegal in another and that citizens have access to firearms for protection, not to prevent cities from determining how to use their commercial property."

Construing the statute to preempt Tucson's ability to control its own commercial property by requiring background checks for prospective gun purchasers at shows at the convention center would render it unconstitutional, Howard concluded. Joined by judges Philip G. Espinosa and William E. Druke, he concluded, to the contrary, that the Legislature did not so intend, and therefore reversed the trial court's decision.

Evidence of atypical body OK in DUI case

May a person charged with DUI introduce evidence that his body is atypical so that a test of the alcohol concentration of his breath does not accurately reflect his blood-alcohol content? That question faced Division One in *State v. Guthrie*, No. 1 CA-SA 01-0312 (April 4, 2002). Note to readers: Lots of science follows, but there won't be a test.

Under A.R.S. § 28-1381(A)(1), a person is guilty of driving under the influence (the so-called "traditional" DUI) if he was driving a vehicle "[w]hile under the influence of intoxicating liquor." By contrast, under DUI "per se," § 28-1381(A)(2), he is guilty if, within two hours of driving, he had an alcohol concentration at or above the legal limit.

In DUI prosecutions, one of law enforcement's most important tools is the Intoxilyzer 5000, a machine that analyzes the blood-alcohol content of a person's breath. Based on the breath-alcohol concentration, it provides a calculation of the blood-alcohol concentration (BAC).

The Intoxilyzer bases its BAC calculation on researchers' determination that the percentage of alcohol in 100 milliliters of blood equals the percentage of alcohol in 210 liters of breath. But this ratio is merely an estimation, and the actual ratio of breath-to-blood alcohol level varies from person to person.

The ratio is an outgrowth of "Henry's Law," which holds that the concentration of gas in a closed container will be proportional

to the concentration of the gas dissolved in a liquid in the same container. The ratio is called "Henry's constant" or the "partition ratio." But unlike closed containers in laboratories, the human body is complex, and the actual ratio varies among individuals because of a number of factors, including body temperature, stage of alcohol metabolism, gender, breathing patterns, blood consistency and even such environmental factors as the barometric pressure and the elevation above sea level.

When Michael Floyd Guthrie was prosecuted in Municipal Court for DUI, he was precluded from eliciting evidence regarding breath-to-blood partition ratios. After he was convicted, he appealed to the Superior Court, which affirmed. He then sought special-action relief from the Court of Appeals.

Writing for the court, Judge Noel Fidel granted Guthrie only partial relief. Fidel rejected the notion that the proffered evidence was relevant to the per se charge — driving while having at least a specified alcohol concentration. The alcohol concentration is defined alternatively as a concentration of alcohol in the blood or in the breath. Thus, the crime is established, Fidel wrote, by either a breath-alcohol concentration or a blood-alcohol concentration "without regard to the question of how the former might be converted to the latter." In short, he concluded, the crime may be established simply on the basis of a breath test.

The same is not true of the traditional DUI charge. The statute defines that crime as driving a vehicle while impaired by liquor to the slightest degree. And it provides the state a presumption of impairment. The jury may presume a defendant was impaired based on the concentration of alcohol in the system.

The presence of alcohol in the breath does not cause impairment. Rather, the alcohol must find its way — via the bloodstream — to the central nervous system and the brain. Thus, the concentration of alcohol in the blood is directly relevant to impairment.

And, as Fidel pointed out, the statute specifically allowed Guthrie to introduce evidence to rebut the presumption. At this point, the partition ratio became relevant.

"Thus," Fidel wrote, "evidence that a particular defendant's ratio is significantly greater [than normal] is relevant, for it would have a tendency to rebut the presumption that the defendant was 'under the influence' at a certain breath alcohol concentration."

Joined by judges Rebecca White Berch and William F. Garbarino, Fidel held that "when the State uses breath test results to take advantage of the...presumption, partition ratio evidence may be relevant to rebut that presumption and thus admissible." The court therefore vacated the conviction for traditional DUI. ■

GRANT FUNDS AVAILABLE

APPLICATIONS FOR 2002 GRANTS from the Maricopa County Bar Foundation for law-related educational, literacy, scientific and charitable endeavors are being accepted. Deadline for grant applications is Aug. 31. If you know of a worthwhile charity in the community, please invite it to submit an application.

To obtain an application, contact
Barbara McDonald at 602-257-4200, ext. 103,
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Superior Court debuts in Northwest Valley July 22

By J. W. Brown
Maricopa Lawyer

The Valley's legal community can expect a unique experience when visiting Maricopa County Superior Court's Northwest Regional Center in Surprise after it opens for business on July 22.

All four courtrooms in the facility are outfitted with cutting-edge technology, including flat-screen video monitors, digital and voice-activated video recording equipment, infrared hearing devices for hearing-impaired court visitors and two-way video conferencing equipment for off-site witnesses, among other special features that should enhance court proceedings.

A Senior Law Resource Center, developed through a collaborative effort of the court, the Arizona Attorney General's Office and local community agencies, will be available. A Superior Court law library is also incorporated in the special features of the facility. A self-service center for litigants representing themselves is another amenity available to the community.

The four judges assigned to the new court center won't have specialized calendars as do the judges at other Superior Court facilities.

— See **Northwest** on page 10

Foundation...

Continued from page 6

the child has a brighter future. The grandparents have enrolled the child in school and provided other help the child needs.

➤ Desperate and without adequate knowledge to defend themselves, a low-income family obtained help from a VLP volunteer attorney to avoid eviction from their home. The family was current on its rent and had been good tenants. However, the landlord was attempting to evict them based on a theory that was not supported by either the lease agreement or the law. The volunteer attorney advised the family and went to court to represent them at the eviction hearing. As a result of the attorney's help, the family was not evicted.

Every day in our community hundreds of similar stories are being played out. Whether the images left behind haunt or bless us will in some part depend on our decision to stretch out our helping hands, either as a volunteer in any number of worthy legal service organizations such as VLP and its various programs or in financial support of the foundation.

➤ Gregory R. Knight, Law Offices of Gregory R. Knight & Associates, is chair of the Maricopa County Bar Foundation's Grants Committee. For more information about how to support the foundation, contact Brenda Thomson, executive director, at 602-257-4394. ■

Legal Brief

■ The West Tempe Justice Court has relocated to 8240 S. Kyrene Road, Suite 113, Tempe, 85284; telephone 480-705-7349; fax 480-968-6510. The new facility provides redesigned and renovated courts, clerical areas, holding facilities, offices for prosecutors and public defenders and mediation areas. ■

Superior Court judicial rotations

The reassignment of four judges to the Northwest Regional Center is only a small part of the annual summer rotation of judges. Following is a chart of reassignments and relocations effective July 22.

Judges in Phoenix, Southeast, Durango and Northwest				
Name	Previous assignment		New assignment	
	Department/calendar	Location	Department/calendar	Location
Mark Aceto	Family Court SE (DRJ12)	SE 4B/402	Criminal SE (CRJ16)	same
Arthur Anderson	Criminal	CCB 8A/801	Criminal (CRJ22)	same
Mark Armstrong	Associate presiding judge	CCB 4B/401	Associate presiding judge/Family Court presiding judge (DRJ01)	same
Robert Budoff	Criminal (CRJ22)	CCB 11D/1103	Family Court (DRJ17)	same
David Cole	Juvenile (JVJ03)	DUR 243	Northwest (FC/CV)	Northwest
Norman Davis	Criminal	CCB 9B/902	Northwest (FC/CV/PB)	Northwest
Margaret Downie		ECB 913		ECB 611
Alfred Fenzel	Criminal SE (CRJ23)	SE 3A/301	Family Court (DRJ18)	CCB 6B/602
Pamela Franks	Criminal	CCB 13E/1304	Criminal (CRJ14)	same
Frank Galati		ECB 813		ECB 612
J. Richard Gama	Family Court (DRJ17)	CCB 8B/802	Criminal SE (CRJ23)	SE 3A/301
Joseph Heilman	Criminal (CRJ14)	CCB 11E/1104	Northwest (FC/CV/PB)	Northwest
Bethany Hicks	Family Court (DRJ01)	CCB 4C/402	Civil SE (CVJ22)	SE 4A/401
Jeffrey Hotham		ECB 812		CCB 12A/1201
Carey Hyatt	Family Court (DRJ18)	CCB 6B/602	Probation revocations	ECB 912
Roger Kaufman		ECB 512		CCB 4C/402
J. Kenneth Mangum	Civil (CVJ16)	OCH 201	Juvenile (JVJ03)	DUR 243
Gregory Martin	Criminal (CRJ15)	CCB 10A/1001	Spec. Assign. (SAJ05)	same
Colleen McNally	Civil (CVJ07)	CCB 7B/702	Northwest (FC/CV)	Northwest
Robert Myers	Civil (CVJ22)	ECB 414	Civil (CVJ16)	Same
Robert Oberbillig	Criminal SE (CRJ16)	SE 4A/401	Family Court SE (DRJ12)	SE 2G
James Padish	Criminal (CRJ09)	CCB 12A/1201	Family Court (DRJ10)	CCB 7B/702
Douglas Rayes	Family Court (DRJ10)	CCB 11C/1102	Criminal (CRJ09)	CCB 11E/1104
Steven Sheldon		ECB 912		CCB 7A/701
David Talamante		SE 4D/404		SE 2F
David Udall		ECB 612		SE 4D/404
Eileen Willett	Criminal	CCB 13C/1303	Criminal (CRJ15)	same
Michael Yarnell	Criminal	CCB 7A/701	SA/CV (SAJ06/CVJ16)	ECB 512

Commissioners and hearing officers				
Name	Previous assignment		New assignment	
	Department/calendar	Location	Department/calendar	Location
Robert Colosi	Juvenile, Durango	DUR 114	Probate, Phoenix	OCH 001
Carl Eckhardt	Criminal, FOJ/NGA	CCB 5A/501	Criminal, IPTC/COP	CCB 9B/902
Aimee Faust	Criminal	CCB 13D/1302	Probation revocations	ECB 913
George Foster		CCB 13B/502		CCB 5E/506
Toby Gerst		CCB 3B/401		CCB 3A/301
Barbara Hamner	Criminal, RCC-Phx	ECB 713	Criminal, RCC-SE	SE 2B/202
Kristin Hoffman		CCB 3A/301		CCB 13D/1302
Nancy Lewis	Probate, Phoenix	OCH 001	Juvenile, Durango	DUR 114
Richard Nothwehr	Criminal, EDC-Phx	ECB 1L 011	Probation revocationa	ECB 812
Wesley Peterson	Criminal, I.A. Court	CCB 11B	Criminal, IPTC/COP	CCB 8B/802
Shellie Smith	Criminal, I.A. Court	CCB 11B	Criminal, EDC-Phx	ECB 1L 011
Ben Vatz	Criminal, I.A. Court	CCB 11B	Criminal, FOJ/NGA	CCB 5A/501
Chris Wotruba	Family Court(DRC06)	CCB 5E/506	Criminal, RCC-Phx	ECB 713

Early Disposition Court: Is there something scary in the basement?

Editor's Note: This article first appeared in the Maricopa County Public Defender's Office newsletter.

By Karen Kaplan and Paul Klapper
Special to Maricopa Lawyer

The Early Disposition Court began more than four years ago, in part to address a growing backlog of cases that slowed the system and increased the average time that it took to dispose of a case. Has it helped our clients and us?

Consider the following: The EDC currently handles 25 percent of all criminal cases in Superior Court. In 2000-01, the EDC saved 17,064 jail days, getting our clients out of jail and into programs more quickly and resulting in a savings of \$702,354.24 in incarceration costs.

The EDC provides an effective method of processing drug possession cases and works to improve the overall efficiency of criminal-case processing in the county's justice system. In addition to providing a speedy means of resolving drug cases, the EDC makes treatment available to defendants at an early stage — often the same day the case is resolved. Addiction problems are best addressed if

treatment begins very soon after arrest. The EDC provides a direct route from plea to treatment, thereby increasing defendants' chances for maintaining a drug-free lifestyle.

The EDC, which began operating in November 1997, is located in the basement of the East Court Building at 101 W. Jefferson. It has two functioning courtrooms and numerous offices containing attorneys, probation officers and TASC representatives. Cases come into the EDC one of three ways:

- ▶ The county attorney files a complaint on a defendant who remains in custody after the initial appearance;

- ▶ The court issues a warrant for a defendant whose whereabouts are unknown; or

- ▶ The court issues a summons for a defendant to appear. The court will conduct the initial appearance only in cases in which a summons was issued.

The EDC was established based on four goals:

- ▶ To seek new ways of processing cases and expediting time to case disposition on minor felony drug and welfare-fraud offenses.

- ▶ To respond to the community's desire to provide drug offenders the opportunity for treatment expressed in Proposition 200, expediting entry into treatment and affecting the potential to re-offend.

- ▶ To alleviate jail overcrowding and save jail space and costs.

- ▶ To reduce the potential for bench warrants due to fewer court appearances.

Defendants benefit in many ways by having their cases processed through the EDC. Under the standard court processing timelines, a case takes an estimated 100 to 130 days to resolve. The EDC process reduces the disposition time for these types of cases to between 12 and 38 days.

Other benefits for defendants include:

- ▶ The opportunity to proceed from initial appearance to sentencing in one day;

- ▶ Reduced number of court appearances and reduced time lost at work;

- ▶ Reduced need for traveling to and from court;

- ▶ Reduced number of jail days required; and

- ▶ The availability for early treatment.

During an average day, the EDC has 80 to 100 cases set on the calendar. The vast majority involve drug possession and attempted possession. In addition, welfare-fraud cases prosecuted by the Arizona Attorney General's Office are processed on Fridays. The EDC does not handle victim cases or possession-for-sale cases.

The EDC is staffed with public defenders, legal defenders, county attorneys, the Adult Probation Office and TASC. One commissioner handles in-custody matters; a second handles out-of-custody matters. The EDC's success is due largely to the different departments sharing office space and working closely together to resolve cases.

A typical day in the EDC

In the morning, all in- and out-of-custody defendants hear the commissioner give the group advisement, which lets them know their constitutional rights, possible penalties, etc. After this, each defendant meets with an attorney. The defendants generally have four options:

Option 1: Have a preliminary hearing

If the client maintains his innocence or the police have violated the Fourth Amendment, a preliminary hearing is usually held. If the case is bound over, an initial pretrial conference is set and the client is arraigned. The case will likely be assigned to a special EDC trial attorney rather than to a regular trial group. Currently, Rickey Watson (Mesa) and Michele Lawson handle trial cases transferred out of the EDC.

Option 2: Plead guilty and waive the preliminary hearing

In cases in which a defendant wants to accept a plea, the defendant can sign a plea, waive the preparation of a presentence report and be sentenced all in one proceeding. The defendant, however, has a right to have a full presentence report prepared. If a party or the court requests a full presentence report, sentencing will be continued for 30 days. If the defendant can be sentenced on the same day, the defendant will meet with an assigned EDC probation officer and a short-form probation report will be prepared. If the defendant is on probation or parole, has a violent or extensive criminal history, has out-of-state priors, prior sex offenses or arrests, offenses against minors or does not meet Proposition 200 guidelines, the EDC probation department will advise the judge that it is requesting a full presentence report. Normally, if the defendant is pleading guilty to a misdemeanor, the defendant does not need to be

screened by the EDC Adult Probation Department for sentencing.

The majority of defendants sentenced for first- and second-time drug offenses who are Proposition 200-eligible are sentenced to Drug Court. Drug Court is divided into Track 1 and Track 2.

Track 1 Drug Court applies to defendants who have no more than one prior felony conviction and have a low to moderate substance-abuse problem. Sanctions include deferred jail, lapse/relapse counseling, budget classes, additional community service hours, all-day court, written reports and more frequent court appearances. Rewards include reduction of deferred jail time, reduction of probation term, promotion to next path of treatment, graduation from the program and discharge from probation.

Track 2 Drug Court is for the first-time Proposition 200 offender in cases in which jail is not available as punishment. The same sanctions are available to these defendants with the exception of deferred jail. Whether the court can use its contempt powers to impose jail on Track 2 participants and circumvent the statute is currently an issue. It has not yet been decided by the courts and should be vigorously contested.

Track 2 Drug Court offers the same rewards, with the exception of reduced jail term. An additional reward is that upon promotion, defendants may get tickets for the Science Center, Phoenix Zoo and Harkin's Theatres. If defendants do everything required in the Drug Court program, they may graduate early and be discharged from probation after 10 months.

Option 3: Diversion to TASC

TASC is an excellent program with a reported 71 percent success rate. A defendant can enter the TASC diversion program before any charges are filed; this is referred to as "pre-file" TASC. If the individual is presented with this option and successfully completes the program, no charges will be filed. A TASC pre-file is not seen in the EDC.

If the defendant enters the TASC program as a post-file — meaning that the defendant is given the option to waive the preliminary hearing and be screened for TASC diversion — the defendant can meet with the TASC representative the day of the preliminary hearing. If the defendant waives the preliminary hearing for TASC, the court will enter a not-guilty plea and suspend prosecution for one to two years. If the defendant successfully completes the TASC diversion program, the charges are dismissed.

— See **EDC** on page 12

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Clerk phases in use of credit, debit cards

By Michael K. Jeanes
Clerk of the Superior Court

The Maricopa County Superior Court Clerk's Office continues to charge ahead in enhancing service to customers. As a result, customers can now charge as well.

I am pleased to announce that we are expanding the payment options for our customers to include credit and debit cards. For the past several years, our office has accepted a limited number of credit-card transactions over the telephone, from mostly out-of-state customers. But at the end of May, we installed a new credit/debit terminal at Window 9 of the downtown court complex Family Court filing counter that makes this payment option available for our walk-in customers wanting to pay their fee deferrals. These customers can now elect to pay with either their Visa or Mastercard.

Phase 2 of this effort will be to expand this payment option to the customer-service center so that customers can pay for their copies of court records, marriage licenses and the clerk's portion of the passport application fee with either a credit or debit card. This is expected to occur this summer.

The final phase will be rolling out this payment option to all filing counters at all locations, which will allow customers to pay for their filing fees with credit and debit cards. We expect this phase to be implemented in September.

Implementing this technology benefits

CLERK'S CORNER

our office and our customers. It is more convenient, improves efficiency and gives customers more options. Maricopa County's business transactions will improve by having a 48-hour turnaround in receiving funds, the payment is guaranteed upon authorization and county interest earnings will increase.

Stay tuned for further developments as this project moves forward.

Emailed minute entries

We are now distributing minute entries electronically to interested law firms. Thus far, we have about 110 law firms (totaling about 1,345 attorneys) taking advantage of this new service, which sends the minute entries directly to the law firm. Doing so allows us to provide you faster service while reducing our costs. Another benefit is that the law firm does not need to wait for a minute entry to be picked up or mailed. Instead, minute entries are available the day after the courtroom clerks approve them. Once the emailed minute entry is received, the law firm can forward it to as many people as need to see it.

All of the indigent-defense agencies (Public Defender, Legal Defender, Legal Advocate and Court Appointed Counsel

offices) are taking advantage of this new technology and are receiving their minute entries electronically. The Public Defender's Office has programmed email folders so that minute entries with key words in the subject line automatically go to certain email folders. For example, any minute entries with "sentencing" in the subject line go to an email folder for just minute entries having to do with sentencings. This assists the staff in processing the minute entries.

I am very proud of our team who has diligently worked to make this project such a success. Team members' vision, persever-

ance and hard work are to be commended.

If you are interested in this service, please contact us so that we can provide you further details and enroll you in the program. Contact Communications Director Cari Gerchick by email at cgerchick@cosc.maricopa.gov or phone at 602-506-5728. The law firm is required to sign a Minute Entry Distribution Agreement. Once a law firm begins receiving minute entries by email, it receives both paper copies and emailed ones for about 30 days. After that time, the paper copies are stopped and the firm receives minute entries via email only. ■

Paralegal...

Continued from page 2

Drive. We also have worked with the MCBA's continuing legal education department to develop seminars for attorneys and paralegals.

The Paralegal Division offers a myriad of services to its members. At quarterly meetings we hold seminars on substantive areas of law and offer one hour of CLE credit for paralegals. This year, we will present review courses for the two national paralegal exams — the Paralegal Advanced Competency Exam and the Certified Legal Assistant Exam. We offer reduced membership fees to paralegal students and developed a program under which we provide paralegal mentors to paralegal students. For the past two years, we have

sponsored Paralegal Career Day, a half-day event for those interested in learning about the paralegal profession.

The crowning achievement of paralegals at the MCBA has been our full-day annual Arizona Paralegal Conference, established two years ago. The success of our 2000 and 2001 conferences exceeded all expectations. Some of the proceeds provide four \$1,000 scholarships to one paralegal student at each of the four ABA-approved paralegal programs in Maricopa County. The theme of this year's conference, which will be held Sept. 27 at the Pointe Hilton Squaw Peak Resort, is "Access to Justice."

We appreciate the support we continue to receive from the MCBA and applaud all those who have contributed to our success as the MCBA's newest division. ■

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If you have questions or would like to join this valuable service, please call Margarita Flores at the MCBA office, 602-257-6072, during regular MCBA business hours, Monday - Thursday 8:30 a.m. to 5:00 p.m., and Fridays 8:00 a.m. - 4:30 p.m.

Rules...

Continued from page 1

ate sanctions and set forth the grounds for those sanctions related to the unauthorized practice of law. Proposed Rule 78 would allow consent to cease and desist agreements prior to formal proceedings; authorize the hearing commission and the Superior Court to issue orders and injunctions; and permit the Superior Court to issue civil contempt citations.

Proposed Rule 80 would contain rules of construction and procedure virtually identical to the rules of construction and procedure related to attorney admission and discipline.

Protective orders

State Sen. Scott Bundgaard has filed a petition to amend Rule 26(c), Ariz.R.Civ.P., which deals with protective orders. The staff revisions to the proposed amendment would add subsection (2) to Rule 26(c). The proposed new subsection would state:

Before entering an order in any way restricting a party or person from disclosing information or materials produced in discovery to a person who is not a party to the litigation in which the information or materials are being discovered, a court should consider and make findings of fact concerning any relevant factors, including but not limited to: (i) Any party's need to maintain the confidentiality of such information or materials; (ii) Any nonpar-

ty's need to obtain access to such information or materials; and (iii) Any possible risk to the public health or safety to which such information or materials are made relate or reveal. Any order restricting release of such information or materials to nonparties should use the least restrictive means to maintain any needed confidentiality.

Comments on the proposed rule change must be filed with the Supreme Court by Aug. 1.

Other proposed amendments

The Supreme Court also has ordered circulated for comment petitions to amend the Arizona Rules of Civil Appellate Procedure, the Superior Court Rules of Appellate Procedure related to criminal matters and the rules of procedure for civil traffic violation cases. All comments related to these proposed amendments must be filed by Aug. 1.

The staff revisions for the proposed amendment to Rule 8, Ariz.R.Civ.App.P., would explain that while an appellant must submit a filing fee as required by Arizona law with the notice of appeal or within a reasonable time thereafter, the Superior Court clerk may not reject or refuse to file the notice because it was not accompanied by the filing fee. The proposed amendment to Rule 10, Ariz.R.Civ.App.P., would explain that the clerk may not reject or refuse to file a notice of appeal because a cost bond does not accompany it.

The proposed amendments to the Superior Court criminal appellate rules would require the appellant to diligently prosecute the appeal in the trial court by obtaining the record and filing the appellate memorandum before the Superior Court would become involved in the next step of reviewing the appeal. The stated basis for the proposed amendments is an attempt to promote the more efficient use of court time and resources. As a result, the appellant would only deal with one court at a time in perfecting the appeal. The amendment also would simplify the terms of various rules.

The proposed amendments to the rules for civil traffic violation cases are designed to update definitions and clarify procedures as to how default judgments should be handled when the defendant appears for the hearing, but the state's witness does not.

Recent rule changes

The Supreme Court has amended the comment to Ethical Rule 8.4(d), Rule 42, Ariz.R.Sup.Ct., effective Dec. 1. ER 8.4(d) provides that a lawyer engages in professional misconduct by "engag[ing] in conduct that

is prejudicial to the administration of justice." Pursuant to the amended comment:

A lawyer who in the course of representing a client, knowingly manifests by words or conduct bias or prejudice based upon race, sex, religion, or national origin, disability, age, sexual orientation, or socioeconomic status, violates paragraph (d) when such actions are prejudicial to the administration of justice. This does not preclude legitimate advocacy when race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, or other similar factors, are issues in the proceeding. A trial judge's finding that peremptory challenges were exercised on a discriminatory basis does not alone establish a violation of this rule.

Rule 8.2, Ariz.R.Crim.P., has been amended to apply to all criminal cases in which the indictment, information or complaint is filed on or after Dec. 1. Subject to Rule 8.4, Ariz.R.Crim.P., under amended Rule 8.2 defendants in custody are to be tried within 150 days from arraignment. Defendants released from custody are to be tried within 180 days from arraignment. Trial is to occur within 270 days from arraignment when a person is charged with first-degree murder, offenses that will require the court to consider evidence obtained as a result of an order permitting the interception of wire, electronic or oral communication, and any complex case as determined by a written factual finding of the court. If a person has waived an appearance at arraignment pursuant to Rule 14.2, the date of arraignment held without the defendant's presence shall be considered the arraignment date for purposes of the amended rule.

The Supreme Court has extended until Dec. 31 the experimental amendments of Rule 10.2, Ariz.R.Crim.P., and E.R. 8.4(g) relating to the use of a notice of change of judge as a matter of right in criminal cases.

Revised pro hac vice rule

The Supreme Court has further amended Rule 33(d), Ariz.R.Sup.Ct., concerning pro hac vice admission, as previously amended in

October. The amendments to the amended rules take effect Sept. 1.

Under these rules, an attorney who is not a member of the State Bar may appear as counsel pro hac vice before any state or local court, board or administrative agency upon complying with the amended rule. The nonresident attorney must associate an attorney who is a member in good standing of the State Bar. Local counsel may be required to personally appear and participate in proceedings if the court, board or administrative agency deems such appearance and participation appropriate. For good cause shown, an entity may permit a nonresident attorney to appear pro hac vice on a temporary basis even before the nonresident attorney completes the application procedure set forth in the amended rule.

To appear pro hac vice, the nonresident attorney must file with the State Bar an original and one copy of a verified application together with a certificate from the state bar or highest court of each state in which the nonresident attorney has been admitted to practice law, certifying the nonresident attorney's admission to that jurisdiction and the status of the attorney's membership or eligibility to practice there. In addition, the nonresident attorney must pay a non-refundable application fee equal to 85 percent of the current dues paid by active State Bar members.

The State Bar will issue to local counsel a notice of receipt of complete application that states whether the nonresident attorney has previously made any application or motion pursuant to the rule within the preceding three years, the date of any such application or motion and whether the application or motion was granted or denied by the court or administrative agency.

Local counsel then must file a motion to associate counsel pro hac vice with the court, board or agency, including as exhibits the original verified application, any original certificates of good standing and the State Bar notice. The order granting or denying the motion to associate counsel pro hac vice must be entered by the court, board or agency no later than 20 days after local counsel has filed the motion. A nonresident attorney may not make an appearance in the proceeding until an order is entered granting the motion to associate counsel pro hac vice. ■

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We are pleased to announce
JAMES M. MCGUIRE
has joined the firm as an Associate.

Mr. McGuire received his Bachelor of Science in Business Administration with an emphasis in Finance from the University of Arizona. He graduated from the University of Arizona's James E. Rogers College of Law, where he was a member of the Arizona Law Review and received his Juris Doctor degree (Magna Cum Laude).

Mr. McGuire will be a valuable resource to our firm as we continue to serve our clients in the areas of complex business litigation; regulatory matters involving electric utilities and telecommunications; securities industry arbitrations and mediations; and SEC, NASDR, NYSE and State agency enforcement proceedings.

Paul J. Roshka, Jr. Raymond S. Heyman John E. DeWulf

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Northwest...

Continued from page 7

Instead of being assigned to specific types of calendars — civil, criminal, tax, Family Court, juvenile or probate/mental health cases — they will have mixed calendars.

About 6,000 cases have been reassigned to the northwest judges. However, no criminal or juvenile cases will be transferred to the northwest. The judges will handle only civil, probate and Family Court cases.

The Clerk of the Court has a filing counter at the facility, but will accept only probate, civil and Family Court filings. A 24-hour filing depository box will be installed in the near future.

The northwest judicial team includes Norman Davis, who serves as the regional center's presiding judge, David R. Cole, Joseph B. Heilman and Colleen McNally. Sarah Shew, formerly the court's director of jury services, is the northwest administrator. A team of six courtroom clerks and two filing counter staff members are also assigned to the northwest facility.

Customers are being notified that their cases have been transferred to the northwest

court docket. All northwest cases will be distinguished by a numerical identifier (07) in the case number — for example, FC2002-07000. (The numerical identifier (09) is used to designate a southeast case.)

Northwest cases will be housed at the Clerk of the Court's downtown Customer Service Center, 601 W. Jackson, Phoenix. A clerk's office courier will transfer court files between the service center and the northwest facility.

Visitors to the northwest courthouse are invited to inspect its unique design and construction. The 25,000-square-foot building was completed in six months, a remarkably rapid construction schedule.

Modular units were constructed in sections and transported to the construction site. The facility incorporates 34 separate units, some weighing as much as 65,000 pounds each. Construction was achieved by lifting each section into place with a crane. The contractor said the courthouse is the largest facility erected by this unique method.

The modular design provides flexibility not available with more conventional construction. If the courthouse needs to be moved as Maricopa County and Surprise continue developing the site, it can be relocated elsewhere on the property. ■

Three key mistakes made in mediation

By Richard Fincher
Special to Maricopa Lawyer

There is an increasing acceptance and use of mediation in Arizona to resolve commercial and employment litigation. Effective representation in mediation requires the same skill and legal analysis as is required in litigation. However, lawyers often make a few common mistakes during the process that hinder the ultimate outcome.

► Failing to prepare the client

Lawyers need to educate their clients about the mediation process. Clients often expect mediation to be adversarial, with the attorney doing all the talking in assertive and posturing tones. In reality, effective mediation involves a significant degree of personal client involvement, and more of a problem-solving tone by everyone in the room. Most importantly, clients need to begin with some understanding of their underlying interests in resolving the litigation. In summary, clients should be fully educated with the mediation process and prepared for their role.

► Mediating without a necessary person or decision-maker

The bane of a mediator's existence is finding out that a key player is missing from the room. There are two types of key missing players. One type is the person who was involved in the interaction and has important information or is in a position to acknowledge some responsibility sufficient to initiate settlement. The other type of key missing player is the decision-maker with the authority to settle a case. Defense counsel may bring a lower-level

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executive with minimal settlement authority instead of the real decision-maker. In partnerships or privately held corporations, it is not necessarily easy to figure out who the essential player is until the mediation is under way. Attorneys should carefully consider who needs to be invited to the mediation to achieve the desired outcome.

► Being overly assertive in the opening statement

The adversarial process with juries or in arbitration commonly includes an opening statement, which is formal and positional. In mediation, the mediator often will ask for opening comments from each side. This is an opportunity to achieve two goals: acquaint the mediator with some of the facts and theory of the case and signal the other side of your intent to negotiate in good faith. Attorneys should not use opening statements as an opportunity to blast the other side and signal the futility of settlement. Some mediators no longer use opening statements as part of the process.

► Richard Fincher is managing partner of Workplace Resolutions and is a full-time mediator/arbitrator of commercial, employment and class action litigation. He can be reached at 602-953-5322. The ADR Committee meets at 4 p.m. on the first Thursday of every month. To join the committee or inquire about CLE, contact Lan-Vi Tran, 602-257-4200. ■

Dismissing one of multiple defendants

By Pendleton Gaines
Special to Maricopa Lawyer

Two practice errors in multiple-defendant civil cases occur with surprising and dismaying regularity.

Scenario one: Plaintiff agrees to dismiss one of multiple defendants. All defendants have appeared. A stipulation of dismissal, signed by plaintiff and the defendant to be dismissed, is submitted with a proposed order.

Will the order be signed? Not by the clerk's office. Rule 41(a)(1), Ariz. R. Civ. P., requires the stipulation to be "signed by all parties who have appeared in the action." The clerk's office will refer the matter to the assigned judge, who may or may not sign the order.

Scenario two: An order of dismissal as to one defendant is signed and entered in a multiple-defendant case but does not contain an express determination of no just reason for delay and express direction for entry of judgment pursuant to Rule 54(b), Ariz. R. Civ. P.

Is the order of dismissal final? No. Any order, "however designated," which disposes of fewer than all claims or parties without the express determination and direction required by the rule does not terminate the action as to

any of the claims or parties. The order is subject to revision at any time before a final judgment adjudicating all claims.

► Maricopa County Superior Court Judge Pendleton Gaines is associate presiding civil judge. The views expressed in this article are his own. ■

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Food for your thoughts about communication

Have you filled out the MCBA's survey? Hope N. Kirsch of Broening, Oberg, Woods, Wilson & Cass did, and ended up winning a gourmet food basket. The MCBA has been distributing surveys to its members at seminars, meetings and other events to find out their preferred method of communicating. Kirsch's name was selected at random from among those who completed and returned surveys to the MCBA by early June. Another gourmet basket is waiting for another lucky winner. Maybe it will be you — if you fill out the survey.



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IS PLEASED TO ANNOUNCE

DOUGLAS L. CHRISTIAN
(formerly of Christian & Mariano, PLC)
has moved his practice to our Scottsdale Office and joined us as a partner. Mr. Christian's practice emphasizes insurance coverage, bad faith and professional liability litigation.

GENA L. SLUGA
(formerly of Christian & Mariano, PLC)
has joined the firm as an associate. Ms. Sluga's practice emphasizes insurance coverage and bad faith litigation.

JENNIFER M. BLIGH
(formerly of Jennings, Strouss & Salmon, PLC)
has joined the firm as an associate. Ms. Bligh's practice emphasizes insurance litigation and insurance coverage matters.

CARL O. WORTLEY III
(formerly of Kurtz Sommer Devlin)
has joined the firm as an associate. Mr. Wortley's practice emphasizes commercial and insurance coverage litigation.

JANET L. SWANSON
(formerly of Blue Cross and Blue Shield of Arizona)
has joined the firm as an associate. Ms. Swanson's practice emphasizes insurance bad faith and health care litigation.

JEFFREY C. MATURA
(formerly of Lewis & Roca, LLP)
has joined the firm as an associate. Mr. Matura's practice emphasizes commercial and construction litigation.

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Lower...

Continued from page 1

Supreme Court by the state constitution, to effectuate necessary reform in our limited jurisdiction courts.

Over the past 30 months, eight of Maricopa County's 46 limited jurisdiction courts (more than one in six) have had serious operational, administrative or misconduct problems. To make the point, allow me to recall some of the mismanagement and misconduct that has come to our attention during the past 2½ years:

► Chandler JP J. Brian Lamb pled guilty to federal charges of conspiracy and fraud and was sentenced to 2½ years in prison by a federal judge.

► The Commission on Judicial Conduct filed a recommendation for removal of Scottsdale JP Mark Dobronski for making racial, biased and offensive remarks, failing to maintain proper decorum in the courtroom and being intolerant, impatient, sarcastic and patronizing toward defendants. Dobronski subsequently resigned.

► Phoenix JP John Carpenter was removed from the bench by the Supreme Court for habitual tardiness, circulating racist, sexist and obscene materials and engaging in improper ex parte communications with litigants and attorneys.

► There have been a series of incidents in the Scottsdale Municipal Court involving sexual harassment and a hostile work environment.

► A Glendale Municipal Court clerk is serving 1½ to 3 years in prison for fraud, bribery of a public servant and tampering (ticket fixing) with a public record and an investigation is ongoing in which another clerk is alleged to have tampered with public records.

► The Supreme Court placed the Glendale Municipal Court under your control as the result of a review finding ongoing operational deficiencies.

► The Supreme Court placed the El Mirage Municipal Court under your control as a result of a review finding administrative deficiencies and after determining that citizens were being arbitrarily denied the right to jury trials.

► A Maryvale Justice Court clerk was charged with the theft of approximately \$18,000. An operational review conducted by staff from the Administrative Office of the Courts revealed that the judge routinely brought one or two large dogs to work, allowing the dogs to urinate and defecate in the court facility.

► The Supreme Court, at your request, placed the Guadalupe Municipal Court under your control as the result of an operational review finding missing court funds and numerous other operational and administrative deficiencies. An investigation is ongoing in the Guadalupe Municipal Court, regarding the possible theft of court funds.

I served as vice chief justice for five years and now serve as chief justice. During this period, we expressed growing concern about the quality of justice in our LJ courts. A number of justice and municipal courts in Maricopa County have a long history of administrative, financial and judicial conduct problems. In 1994, problems in the justice courts were so egregious that then-Chief Justice Stanley Feldman assigned administrative supervision of Justice Court Administration to Maricopa County Presiding Judge Kimball Rose. Justice Feldman subsequently ordered a review of the county's justice courts and appointed retired Chief Justice William A. Holohan as special counsel to lead the review.

The *Holohan Report* identified many problems, including, to name a few, justices of the peace who were paid as full-time judges did not spend a full day in their courts despite the need for a full-time justice of the peace to handle judicial matters; justices of the peace were not available during regular court business hours and improperly delegated judicial functions to court clerks in their absence; justices of the peace conducted wedding ceremonies during regular court hours, received personal compensation and, in some cases, stopped or delayed scheduled hearings to perform weddings in violation of the Code of Judicial Conduct; and justices of the peace routinely disrupted the sheriff's office prisoner-delivery schedules by delaying or changing court calendars or by not appearing when scheduled to handle in-custody matters. The report also cited poor case processing, cash management and accounting practices; inaccurate case file documentation; a high rate of computer data entry error; severe case backlogs; warrants and failure-to-appear complaints not issued timely; court proceedings not properly recorded or dockets completed; and an automation system that was inefficient, inaccurate and not properly programmed to process cases correctly. Many of these conditions have not improved during the intervening years.

There have been other studies of the justice courts in Maricopa County since 1994. For example, the February 2002 report, *Evaluation of the Effectiveness of the Regional Court Centers in Maricopa County*, prepared by Greacen Associates, found that the "justice courts have no standard convention for the entry of the crime charged," and "should not be relied upon as providing accurate detailed case type counts." This same finding of unreliable and unverifiable data elements was also noted in the 1994 *Holohan Report*. These inaccuracies call into question the integrity of the data and render justice court information highly questionable when managing case-loads, allocating existing resources and determining future resource needs.

Further, a more recent discovery by you and your staff found that the Maricopa County justice courts, without prior notification to you, discontinued participation in the 2002 Tax Intercept Program. The reason given for not participating in the 2002 Program was that changes to the Justice Courts' automation system that were necessary to extract and report the amounts eligible for the program were not made. The arbitrary

failure to make this \$10,000 program change cost the state, county, victims and others who rely on fines, fees, surcharges and restitution more than \$250,000.

A recent audit of the pending DUI cases in the Maricopa County justice courts prepared by the Administrative Office of the Courts at your request and issued on April 9, 2002, found "approximately 34 percent of the cases open longer than one year had no activity." Included were cases with defendants who failed to appear but no warrants were issued, as well as instances of long delays between scheduled court events and the issuance of warrants.

Finally, you advised the Administrative Office of the Courts recently that the financial collections data provided to you each month by the administrator of Justice Court Administration is not reliable. This again points to a continuing problem with the accuracy of case and financial information, lack of good automation and inadequate control over data quality.

For nearly a decade we have been "fixing" these administrative and operational problems one court at a time. It is now clear that this approach has not worked. Accordingly, it is time to find other ways to address these vexing problems.

The problems are systemic and, I believe,

EDC...

Continued from page 8

If the defendant does not successfully complete the program, the county attorney's office can file a motion to vacate suspended prosecution. The case is then set for a status conference in the EDC. The defendant is given the choice to either plead guilty and sign a plea agreement or plead not guilty and have the case transferred to a criminal division for an initial pretrial conference.

Option 4: Waiver of preliminary hearing

A not-guilty plea is entered, an initial pretrial conference is set and the client is arraigned.

Proposition 200

Proposition 200 provides for mandatory probation for a person's first and second drug or paraphernalia convictions. The first-time offender theoretically is not facing jail as a term of probation, while the second-time offender may be sentenced to jail time as a term of probation.

The word "theoretically" is used because a first-time offender might be jailed pending preliminary hearings or probation-violation proceedings.

Who is eligible? Who is not?

A defendant is eligible for Proposition 200 treatment if the conviction is the person's first or second (no distinction is made between misdemeanors or felonies) and the person has never been convicted of a "violent offense." A violent offense is one in which the defendant used a weapon or dangerous instrument or caused an injury or death.

The law appears to be that prior offenses are defined by the conviction, rather than the actual facts of the case. However, be prepared to argue whichever side of this issue favors your client.

If not admitted by your client, the state is required to prove convictions that strike defendants out of Proposition 200. In the real world, where plea agreements require avowals and presentence reports include rap sheets and excerpts from prior presentence reports, this issue often is resolved short of an evidentiary hearing.

"Open cases"

symptomatic of a governance structure that is ineffective in dealing with 46 courts located throughout the nearly 10,000 square miles of Maricopa County. Significant change is therefore warranted. It is essential that we put into place systems, people and an administrative structure that will improve court operations and maintain, over time, an acceptable standard of performance.

I have identified the following administrative changes that, hopefully, will provide a good foundation from which to address problems in the limited jurisdiction courts in Maricopa County. This is not an exhaustive list. There will be other areas that you will want to pursue. But, your initial efforts and resources should be focused on the following:

Governance: The governance structure is not adequate to manage effectively 23 justice of the peace courts and 23 municipal courts. The decentralization of authority has led to poor communication, little or no coordination among courts, and policies and practices that are incompatible and, in some instances, contrary to the goals and priorities of the Arizona Judicial Council and the Supreme Court. The independent and autonomous operation of many of these courts is contrary to Article 6,

— See **Lower** on page 13

If your client has a case pending in another court, your hands are tied in the EDC. The state probably will not make a plea offer but, if it does, it could stand as a prior conviction against the "open case."

Keep in mind that only drug cases land in the EDC. Therefore, if the open case is not a drug case, get your drug case out of the EDC so that it may be consolidated with the open case in another court. Thus, either put on the preliminary hearing or, in appropriate circumstances (such as if a plea in the case has been offered and accepted), waive it.

If the open case is probably going to be pled to a misdemeanor, it may be in your client's best interest to continue the EDC case until after the next court date on the open case.

If the open case is in RCC (the consolidation of justice courts for criminal cases), it may be possible to arrange for the EDC case to be handled in RCC. This may seem confusing, but because the EDC is considered Superior Court and RCC is both Justice Court and Superior Court, it can be done. Each open-case problem is unique and will have its own solution. You just have to find it. Do not be afraid to ask someone.

Favorable dispositions

Sometimes the state fails in its efforts to prove probable cause. While many of our victories are re-filed, some cases do go away forever. Some defendants spend little if no time in jail, in circumstances in which, without the EDC, they might have remained locked up for weeks or months. Some defendants are acquitted based in part on preliminary hearing testimony.

Some defendants strike out of Proposition 200 due to extensive criminal histories. Still others are able to enter TASC, receive treatment and ultimately have their charges dismissed.

There's nothing scary in the basement

When you have an opportunity, venture down into the basement and take a look. As you by now have realized, the location of the EDC belies its importance and impact on the criminal justice system in Maricopa County.

► Karen Kaplan and Paul Klapper are attorneys with the Maricopa County Public Defender's Office. Kaplan is Early Disposition Court supervisor and Klapper is a defender attorney. ■

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Lower...

Continued from page 12

Section 1 of the Arizona Constitution requiring an "integrated judicial department." As an integrated branch of government it is imperative that the judiciary pursue a single, uniform set of administrative policies.

Additionally the creation of the presiding justice of the peace position by Administrative Order 96-30 to help administer the JP court system has been an administrative failure in Maricopa County. In addition, for the past decade the justice court administrator has been placed in the untenable position of having too many superiors with no one really in charge. The other justices of peace have not recognized the presiding JP's authority in setting policy or establishing procedures. Likewise, not all presiding JPs over the years have accepted the authority of the presiding Superior Court judge. This condition can no longer be tolerated.

In an effort to initiate an effective chain of command, to provide greater participation by limited jurisdiction judges, and to develop and implement a countywide plan to address the problems I have raised in this letter, I am ordering the creation of the *Judicial Oversight Council for Maricopa County Limited Jurisdiction Courts*. Accordingly, Administrative Rule VI-A, adopted by Administrative Order 96-32, will be suspended in Maricopa County. An administrative order creating and appointing members to this council and a more specific charge of responsibilities will be issued within the next two weeks. The order will formally eliminate the position of presiding justice of the peace and will replace that position by the aforementioned multi-member council. I anticipate the council will consist of judges, justices of the peace, lawyers and public members.

Court administration: The management structure of Justice Court Administration is not conducive to accomplishing the goals of good court management. Data collection and utilization are not reliable pointing to the need for modernization of court automation and professional level case, financial and personnel management. To address this issue, the justice court administrator and staff will henceforth report to you through the Superior Court administrator. You should make whatever changes, staff or otherwise, that are needed to ensure that an effective and capable management team is in place to carry out the directives contained in this letter and those that will follow. You may wish to consider enlisting the assistance of administra-

tors from well-functioning courts to help in the accomplishment of this task.

Court automation: The Datatrieve computer information system now in use in the justice courts needs to be replaced with the state standard system, AZTEC. Additionally, the data links to the Judicial Data Warehouse that now exist for all other AZTEC courts must be established with all other courts in Maricopa County who are not already transmitting information to the data warehouse. These links allow for the timely and efficient transfer of vital information to Department of Public Safety, the Motor Vehicle Division, the Department of Economic Services and the Protection Order Central Repository maintained by the AOC. We have learned by direct experience that the events of Sept. 11 demonstrate the absolute importance of these enhanced data systems. We will ask the Oversight Council to ensure that these data links are completed in a timely manner.

We have directed the AOC and the Arizona Judicial Council's Commission on Technology to develop a plan in conjunction with representatives you designate to implement the new AZTEC system as quickly as feasible. In order to make this implementation possible and to improve the data quality, it will be necessary to improve training and to adopt more standardized procedures across the 23 justice of the peace courts. Local JCEF funds shall be made available to pay costs incurred in implementing AZTEC.

Bond schedule: We learned recently that some individuals advised the County Supervisors Association that some justices of the peace might circumvent changes to the surcharge laws enacted by the Legislature by decreasing the base fines in traffic cases. As part of its charge, we will ask the Oversight Council to review and recommend for your approval a bond and deposit schedule required by Administrative Rule VI-A, adopted by Administrative Order 96-32. This schedule is to be uniform, countywide, in regard to fines and the application of surcharges, taking into account local fees imposed by individual cities.

Centralized traffic ticket bureau: Several months ago Maricopa County Supervisor Don Stapley suggested the possible creation of a centralized traffic bureau to process more efficiently the huge volumes of paper now handled by the 23 justice courts. He mentioned his concern that our current system of adding more justices of the peace, facilities and court staff based on judicial productivity credits (JPCs), most of which were generated

— See **Lower** on page 16

The divisions, sections and committees in the calendar are those of the Maricopa County Bar Association, unless noted otherwise. All events are meetings and take place at the MCBA office, 303 E. Palm Lane, Phoenix, unless noted otherwise. Other frequent venues for meetings and events include the University Club, 39 E. Monte Vista, Phoenix; Arizona State University Downtown (ASUD) Center, 502 E. Monroe, Phoenix; and the Arizona Club, 38th floor, Bank One Building, 201 N. Central, Phoenix.

MCBA CALENDAR							
JULY 2002	S	M	T	W	T	F	S
		1	2	3	4	5	6
	7	8	9	10	11	12	13
	14	15	16	17	18	19	20
	21	22	23	24	25	26	27
28	29	30	31				

- 1 YLD Domestic Violence Committee, noon
- 3 Family Law Section, 5:15 p.m., University Club
- 4 MCBA OFFICE CLOSED IN OBSERVANCE OF INDEPENDENCE DAY.
- 8 YLD board, noon
Maricopa Lawyer editorial board, 5 p.m.
Paralegal Division board, 6 p.m.
- 9 Scottsdale Bar Association lunch meeting, noon, restaurant at McCormick Ranch Golf Club, 7505 E. McCormick Parkway, Scottsdale. Speakers: Attorney general candidates. Information/reservations: Jill Miller, 480-481-3047.
- 10 Environmental Law Section, noon
Executive Committee, noon
Hayzel B. Daniels Bar Association, 5:30 p.m.
- 12 Task Force for Recruitment and Retention of Minority Attorneys, 8:30 a.m.
- 16 Estate Planning & Probate Section Executive Committee, 7:30 a.m.
International Law Section, noon
Bankruptcy Law Section, 5 p.m.

- 17 Litigation Section Meeting, 7:30 a.m.
Sole Practitioners Section, 11:30 a.m.
- 18 MCBA board, 4:30 p.m.
- 19 Maricopa County Bar Foundation board, 7:30 a.m.
- 31 Arizona Women Lawyers Association lunch meeting, Arizona Club. Speaker: To be announced. Plate lunch will be served at noon; the formal program begins at 12:30 p.m. Reservations (required): 602-863-7678 or luncheons@awla-maricopa.org by noon July 29. Information: Amy Schwartz, 602-956-4438.

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LEGAL MOVES

■ After 42 years with Lewis and Roca, Jerry Butler has left to work with his son, Reid, in promoting affordable housing and the Human Resources Campus for the Homeless, an organization created to deliver high-quality human services and provide leadership and innovative solutions to help break the cycle of homelessness and poverty. Butler joined Lewis and Roca — then with 13 attorneys — three months after being sworn in to the Arizona bar. After beginning his career in commercial litigation, he focused on family law issues and alternate dispute resolution. The firm now has more than 135 attorneys. In addition to his work with affordable housing, Butler intends to maintain his license to practice law and work with the Arizona Center for Law in the Public Interest as well as continue to act as a mediator and arbitrator in family law matters.

■ Lewis and Roca has six new partners. Dawn Bergin began practicing with the firm in 1993 and was first elected to the partnership in April 2000. She left for 1½ years to serve as associate general counsel for a national and publicly traded ambulance and fire protection services company. She rejoined the firm January. Bergin (J.D., University of Virginia) concentrates her practice in tort and commercial litigation. Sean Garrison (J.D., Columbia University) co-chairs the firm's intellectual property and technology practice

group and focuses his practice on advising clients in the creation, identification and protection of copyrights, trademarks and trade secrets as well as intellectual property litigation and computer software licensing. Fred Petti (J.D., University of Arizona; M.A. history, Northern Arizona University) is a member of the firm's white-collar crime and special litigation group. Prior to joining the firm, Petti worked as an assistant U.S. attorney in Arizona and Oregon and is licensed to practice in Oregon as well as Arizona. Robert Schaffer (J.D., Duke University) focuses his practice on antitrust law, constitutional litigation and professional liability as well as business litigation and appeals. Henk Taylor (J.D. with high honors, University of Florida) concentrates his practice on bankruptcy and representing creditors in state and federal courts. He is licensed to practice in Florida as well as Arizona. Jon Weiss (J.D. *magna cum laude*, Duke University) focuses his practice on business and professional liability litigation.

■ Jennings, Strouss & Salmon has elected John C. West as managing partner. West, a litigator who practices health care and commercial litigation, joined the firm in 1997 and has served on the firm's management committee since 2000. He succeeds Gary Lassen, who served as managing partner for seven years.

■ Daniel E. Garrison, Chris S. Leason and Christian J. Mayled have joined Gallagher & Kennedy. Garrison (J.D. 1995, University of Utah) joins as a shareholder and



Bergin



Butler



Garrison, D.



Garrison, S.



Leason



Mayled



Petti



Schaffer



Taylor



Weiss



West

practices in the areas of bankruptcy and corporate restructuring. Leason (J.D. with honors 1993, George Washington University) focuses on environmental counseling and litigation. Mayled (J.D. *cum laude* 2001, University of Toledo) joins as an associate and practices

commercial litigation. ■

PEOPLE IN LAW

■ Mary C. McDonald, a sole practitioner in Glendale, recently received the Alzheimer's Association's Maureen Reagan Outstanding Advocate Award in recognition of her commitment to Alzheimer public-policy issues. The award, named in honor of the late daughter of former President Ronald Reagan, gives \$5,000 to the Arizona Alzheimer Chapter for state and national advocacy efforts.

■ John J. Bouma, chairman of Snell & Wilmer, is the new chairman of the board of The Attorneys' Liability Assurance Society (Bermuda) Ltd. (ALAS). Bouma has served on the ALAS board since 1986. ALAS, a mutual insurance company, is the largest single provider of malpractice insurance to U.S. law firms with 35 or more attorneys. ALAS currently insures 258 law firms and provides

coverage to more than 53,000 attorneys.

■ Bryan Cave's charity organization, Cavers Who Care, has received a special community service award from Arrowhead Elementary School. The committee, which includes people from almost every department in the firm, is one of the most reliable contributors to the school. This summer, the group is funding a literacy program that teaches English to Spanish-speaking parents, siblings or other relatives of Arrowhead students. Cavers Who Care also "adopts" families through Arrowhead each holiday season. Cavers Who Care donates enough money and goods to give several families a Christmas tree, lights and decorations, grocery gift certificates, new and gently used clothing, shoes and virtually every item on their wish lists. Last year, Cavers Who Care filled a moving truck with donated and purchased items for 33 people.

■ James G. Derouin, a partner in Steptoe & Johnson's Phoenix office, has been named to the Superfund Subcommittee of the U.S. Environmental Protection Agency's National Advisory Council for Environmental Policy and Technology. Derouin is one of 30 people nationwide and the only lawyer in a private law firm selected by the EPA to reflect Superfund stakeholders' perspectives. The Superfund Subcommittee will assist in identifying the future direction of the Superfund in the context of other federal and state waste cleanup programs.

■ Samuel A. Thumma, a member of Brown & Bain, has been elected chair of the board of directors of the Grand Canyon Chapter of the American Red Cross. Thumma has been a member of the board since 1999.

■ Jeff R. Wilhelm, a partner in Jennings, Haug & Cunningham, has been elected to the executive council of the State Bar of Arizona's



Coulter



Keltner



Thumma

Construction Law Section.

■ The new Arizona alumni association of the Thomas M. Cooley Law School has elected its first officers: David W. Reichel, president; Jeffrey L. Victor, vice president; Deborah A. Liverence, secretary; and Solomon Kanu, treasurer. The law school has 101 alumni in Arizona.

■ J. Greg Coulter, a senior associate with Jennings, Strouss & Salmon, has been elected chair of the State Bar of Arizona's Employment & Labor Law Section.

■ Gary G. Keltner, a partner with Jennings, Strouss & Salmon, has been elected to the board of directors and as secretary of the Desert Southwest Chapter of the Juvenile Diabetes Research Foundation International.

■ Tucson lawyer Luis A. Ochoa will receive a 2002 American Bar Association Pro Bono Publico Award during the ABA annual meeting next month in Washington, D.C. The award recognizes lawyers, law firms and other legal institutions for extraordinary noteworthy contributions to extending free legal services to the poor and disadvantaged. During his 14 years as a volunteer with the Pima County Volunteer Lawyers Program, Ochoa has helped more than 315 clients. As a member of VLP's advisory board, he has increased lawyer participation in the program. In addition, he has contributed significant work toward developing an innovative approach to providing legal services to unrepresented litigants in bankruptcy court. State Bar Executive Director Cynthia Zwick nominated him for the award. ■

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POSITIONS

ACCEPTING APPLICATIONS TO SERVE AS A LAWYER REPRESENTATIVE TO THE 9TH CIRCUIT JUDICIAL CONFERENCE Each year the Judges of the United States District Court in Arizona select lawyers with experience in the Federal courts to serve as Lawyer Representatives to the 9th Circuit Judicial Conference. Arizona's Lawyer Representatives are expected to attend the annual Judicial Conference and to meet periodically with Arizona's District Court Judges, Bankruptcy Court Judges and Magistrate Judges to discuss potential improvements to court operations and procedures. In addition, the Lawyer Representatives play a leading role in an annual Arizona District Conference for Federal Judges and practitioners. Lawyer Representatives serve a three-year term. If you are interested in serving as one of Arizona's Lawyer Representatives, please send a resume and letter explaining your qualifications and interest in the position to: Mick Rusing, Chair, Arizona's Lawyer Representatives to the 9th Circuit, Rusing & Lopez, P.L.L.C., 6262 N. Swan Road, Suite 200, Tucson, Arizona 85718. Applications should be received by August 1, 2002. Feel free to call Mick Rusing with any questions at (520) 529-4268.

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(b) **AZ Admitted DR attorney** with 2-5 years AZ Courtroom experience, including 2-5 trials. Must be computer literate and able to process own work. D.O.E. and D.O.Q. base salary of \$57,500 to \$70,000, plus benefits.

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LEGAL NOTICE

NOTICE OF HEARING ON PETITION FOR TERMINATION OF PARENTAL RIGHTS IN RE: Adoption of Brandon Richard Button and Cory Clement Button No. 258 of 2001, in the Orphans' Court Division of the Court

of Common Pleas of Allegheny County, Pennsylvania. To: Carol Ann Button, natural mother of Brandon Richard Button, born on March 29, 1988 at Las Vegas, Clark County, Nevada, and Cory Clement Button, born March 29, 1990, at Phoenix, Maricopa County, Arizona. A petition has been filed asking the court to put an end to all rights you have to your children, Brandon Richard Button and Cory Clement Button. The court has set a hearing to consider ending your rights to your children. That hearing will be held in the Orphans' Court Division, 1700 Frick Building, Grant Street, Pittsburgh, Pennsylvania on August 21, 2002, at 10:00 a.m. You are warned that even if you fail to appear at the scheduled hearing, the hearing will go on without you and your rights to your children may be ended by the court without you being present. You have the right to be represented at the hearing by a lawyer. You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help. Lawyer Referral Service, The Allegheny County Bar Association, 920 City-County Building, Pittsburgh, Pennsylvania 15219 (412) 261-5555. Attorney: Michael R. Ford, Esquire, 660 USX Tower, 600 Grant Street, Pittsburgh, Pennsylvania 15219 (412) 227-5888.

Legal Brief

■ Good advance planning for health-care decisions requires thoughtful consideration. To help people in this process, the American Bar Association Commission on Legal Problems of the Elderly has posted a "Consumers Tool Kit" for health-care advance planning on its website at www.abanet.org/elderly/home.html. The package contains a variety of self-help worksheets, suggestions and resources. Rather than creating a formal advance directive, the Tool Kit helps users with the much harder job of discovering, clarifying and communicating what is important to them in the face of serious illness. ■

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Effectiveness, altruism generate VLP award

By Peggi Cornelius
Special to Maricopa Lawyer

Thomas N. Payne feels compelled to intervene in the "unfair fight" and to "level the playing field" for those who might be denied access to justice because they cannot afford representation in a legal dispute. Payne says that's why he became an attorney and why his law practice only involves pro bono cases.

Because his effectiveness as an advocate is as impressive as his altruism, the Volunteer Lawyers Program has named him Attorney of the Month.

Payne refers to himself as an "old rookie" because he'd already had a successful career in business when he decided to follow his wife, Barbara Payne, into the law.

"Barbara has been an attorney for 25 of our 45 years of marriage. I recall envying her when she went to law school," he said.

Affection for his wife and four children is apparent in Payne's comments about family life and probably explains his strong feelings about the importance of the work he does for VLP clients.

Since graduating in 1993 from the Arizona State University College of Law, Payne has provided pro bono counsel to those in need through the public defender's office, his place of worship and various civic organizations. In 2001, he began participating in VLP.

In his first VLP case, Payne represented a single mother with two children. The client was having trouble maintaining employment without the vehicle she had purchased and was being pursued for payment of the car loan. Within a few months of the sale, the engine compartment caught fire. Although it could not be repaired, the car could not be declared totaled because the outstanding loan balance was more than twice the car's value. The annual interest rate on the loan was almost 40 percent.

Through interviews with insurance claims adjusters, Payne learned the fire had probably



Thomas N. Payne

been caused by an oversized battery installed by the dealer about one month before the sale. The suit Payne filed for real and punitive damages was hotly contested, but ultimately led to a settlement. The dealer cancelled the original transaction, paid vehicle storage fees, cleared the client's credit record of the debt and paid her a cash settlement sufficient to purchase another vehicle.

Payne recently accepted a VLP case in which a family of five was forced to vacate their home when the house they were purchasing was sold at a trustee's sale. The sale had occurred through no fault of their own and without their knowledge.

"When people are up against an opposing party with good legal counsel, their lack of knowledge of the law and court procedure is more than a disadvantage," Payne said. "Especially in situations where they stand to lose their homes or be buried in insurmountable debt, I don't think it's an exaggeration to say the quality of their lives is at stake.

"One advantage to providing pro bono assistance is that opposing counsel knows there is no point to stalling. They can't wait out or wear out the client because pro bono attorneys are in it for the duration."

Payne appreciates the screening of pro bono matters referred to him by VLP.

"When VLP asks me to help, I know the client is truly in need and my involvement will most likely make a positive difference," he said.

► Peggi Cornelius is VLP's programs coordinator. If you or members of your firm would like to know more about pro bono opportunities through VLP, contact director Patricia Gerrich at 602-254-4714. ■

Lower...

Continued from page 13

by civil traffic guilty pleas, was illogical. While we do not purport to change how JPCs are now calculated, we will direct that we utilize available resources differently in the handling of high-volume civil and criminal traffic and other minor misdemeanor cases.

Over the last several months, staff of the AOC has been examining the feasibility of centralizing collections relative to these cases. Thus far, the centralization of cases initiated by citation shows great promise for productivity gains and improved collections. We are convinced that this approach to handling

high-volume business in the courts is a "win-win" for everyone, particularly the taxpayers. We are, therefore, directing the AOC to conduct a requirements analysis and to proceed with the development of a centralized citation-processing bureau. I envision that such a bureau will be capable of handling high-volume processing operations, not only for your courts but, over time, for the rest of the state. Such a center holds the promise of relieving much of the workload for courts already understaffed, improving customer service and increasing the enforcement of court orders and the collection of fines and penalties owed.

The Board of Supervisors should provide an adequate number of geographically dispersed justice courts to afford the citizens good service and access, but I do not support the creation of new courts whose purpose is primarily to process traffic tickets and paperwork that can be handled more efficiently in a centralized location. It is time we utilize our limited resources to serve people, not predominantly to process paper.

"Courts of Distinction" Program: When serious problems arise in courts, the reputations of good court employees and judges also suffer. It is not my intention to portray all limited jurisdiction courts as having problems. In fact, we are proud of the reputations earned by many judges and administrators of our limited jurisdiction courts here in Maricopa County and around the state. They have distinguished themselves and can provide valuable insight into what it takes to do the job, and to do it well. I will enlist their assistance with the important reforms outlined in this letter, but I am also calling on these courts and the Oversight Council to establish a "Courts of Distinction" Program.

Other administrative issues: In addition to these reforms, the Oversight Committee will review other areas important to the effective administration of the limited jurisdiction courts. For example, the adequacy of court facilities and court security, procurement policy and practices, personnel system policies and budgeting to name just a few core administrative areas needing attention.

We are aware of the problems mentioned are not unique to Maricopa County, nor will these reforms solve all problems. Our judges and court staff need every reasonable opportunity to succeed. For this reason, I will direct the Arizona Judicial College and the Council on Judicial Education and Training to bolster its educational opportunities and to institute measures of success. Our courts must excel in ways the citizens of this state expect. It is our

goal to help every LJ judge to succeed.

There is an additional issue that also must be addressed at this time: the appointment of non-lawyer justices of the peace pro tempore. As the regional felony centers were implemented, the presiding justice of the peace raised several concerns.

As we examined these concerns, we spent considerable time reviewing statutes and constitutional provisions governing our branch. Article 6, Section 31, of the Arizona Constitution states, in part, that the Legislature "may provide for the appointment of members of the bar having the qualifications provided in section 22 of this article as judges pro tempore of courts inferior to the Supreme Court." Clearly, LJ courts fall in this category.

As you know, over the years individuals who are not members of the bar have been appointed routinely as judges pro tempore for justice of the peace courts in Maricopa County as well as in other counties. These appointments were made in good faith based on the provisions of A.R.S. § 22-122, which provides for lesser qualifications to serve as a judge pro tempore in justice of the peace courts. Specifically, this statute provides that a justice of peace pro tempore shall be of "good moral character" and a "qualified elector and resident of this state not less than one year next preceding his appointment." The constitution plainly requires all judges pro tempore to be members of the bar and preempts any statutory provisions to the contrary. Accordingly, the appointment of non-lawyer judges pro tempore in any court of this state is not permitted under Arizona's constitution. I will issue an administrative order directing all judges responsible for the approval of these appointments to adhere to the judge pro tempore qualification requirements dictated by Article 6, section 22 of the state constitution.

Over the past few months I have given much thought as to how we can best address the issues and problems we describe. The decision to take these steps was not an easy one, but it is the right one. You will have our complete support as well as that of the Administrative Office of the Courts as you implement these reforms. This is an opportunity to make long overdue improvements in the administration of the Maricopa County justice system, and to improve the public trust and confidence in courts that have suffered. The system is in dire need of reform. We are functioning in the 21st century with a system that has not been significantly changed for 90 years.

Thank you for your continued interest in improving justice for the citizens of Maricopa County. We are grateful for your efforts and leadership.

Sincerely,
Charles E. Jones

Two days after Jones sent Campbell this letter detailing some instances of "mismanagement and misconduct" in the justice and municipal courts, he ordered the "interim reassignment" of Northwest Phoenix Justice of the Peace Barbara Watkins. According to the order, an investigative panel of the Commission on Judicial Conduct asked for the reassignment. The order did not specify the alleged misconduct and noted that the specific nature and scope of the investigation is confidential at this stage of proceedings. Campbell is to reassign Watkins to other duties. ■

VLP thanks attorneys who accepted cases

The Volunteer Lawyers Program, co-sponsored by Community Legal Services and the Maricopa County Bar Association, thanks the following 42 attorneys and firms in Maricopa County who agreed recently to assist low-income clients with these civil legal needs:

Bankruptcy

Robert D. Beuler, Phillips & Associates
Randy Nussbaum, Jaburg & Wilk
Jeffrey L. Phillips, Phillips & Associates

Consumer

Jonathan A. Coury, Quarles & Brady Streich Lang
Stephanie R. Derby, Snell & Wilmer
Carolyn M. Kaluzniacki, sole practitioner
Carm R. Moehle, sole practitioner
Taj Oladiran, Quarles & Brady Streich Lang
William R. Phillips, Broening Oberg Woods
Wilson & Cass

Debt collection

Timothy H. Barnes, Barnes Lassiter & Killoughay
Kevin M. Kasarjian, Holden Brockelman
Frank G. Long, Stinson Morrison & Hecker
Harry N. Stone, sole practitioner

Dependency

Janet S. Storry, sole practitioner

Family law/domestic violence

David W. Curtis Jr., sole practitioner
Paul C. Riggs, Gibson Ferrin Riggs

Andrew Russell, The Cavanagh Law Firm
Harry P. Friedlander, Gibson Matheson Weber Lallis

Puklin & Friedlander (3 cases)

Richard C. Underwood, Ryan Woodrow & Rapp

Guardians ad litem for children in Family Court

Margaret A. Gillespie, Leonard Collins & Kelly
Joan E. Smith, Roberts & Rowley
Laura J. Zeman, Snell & Wilmer (2 cases)

Guardianships (children)

Kenneth W. Burford, Hastings & Hastings
Stefanie J. Evans, Quarles & Brady Streich Lang
Mary G. Isban, Sanders & Parks
Deanna Rader, Quarles & Brady Streich Lang
Geoffrey M. Trachtenberg, Levenbaum & Cohen
Allison Shiff Weinstock, Mariscal Weeks
McIntyre & Friedlander

Guardianships (incapacitated adults)

Dorothy E. Brogan, sole practitioner
Alisa J. Gray, Gray & Fassold

Home ownership

Carrie Marie Francis, Snell & Wilmer
Donald J. Karl, Quarles & Brady Streich Lang
Thomas N. Payne, sole practitioner

Non-profit organizations

Harold M. (Pat) Gilbert, Mesa Community
Action Network

Richard X. Herrera, Beus Gilbert
Douglas Martin, Quarles & Brady Streich Lang
Laura Sawicki, Quarles & Brady Streich Lang
Seth Smythe, Quarles & Brady Streich Lang

Tax

Kirk A. McCarville, sole practitioner ■