

MARICOPA Lawyer

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The day the bar was born

Read about a day in the life of the legal community in 1914 in History & Hearsay, Stan Watts' new column on local legal history. Page 9.

Juvenile court gets a new presiding judge

By Jack Levine
Maricopa Lawyer

Without much fanfare there has been a "changing of the guard" at the juvenile court division of the Maricopa County Superior Court. With Presiding Judge Linda Scott's January retirement (see story on page 10), Judge Emmet J. Ronan has taken over the reins.

Ronan was first appointed to the bench in Dec. 1999 by Gov. Jane Dee Hull, and his only assignment since that time has been in the juvenile court. Ronan comes from a distinguished family of public servants. His father, Charles Ronan, was the Maricopa County Attorney from 1960 to 1964 and also served on the Superior Court bench.



Ronan

Ronan will preside over a court that processes between 15,000 and 20,000 new cases per year and supervises approximately 5,000 juveniles on probation. The court has 15 juvenile judges, three full-time commissioners, 80 supporting court staff and 400 probation officers divided between the Durango facility and the Southeast facility. Currently, the only juvenile court judge working "downtown" is Judge William Sergeant with a calendar limited solely to dependency cases. The main work of the juvenile court includes delinquency proceedings, adoptions and dependency proceedings in which children often are being abused or neglected. There also is the occasional habeas corpus proceeding involving a minor.

— See *Juvenile* on page 10

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Internet privacy

Winton Woods examines the plague of "cookies" in Law Office Computing. Page 5.

Lethal deadlines

Ninth Circuit shows no sympathy for miscalculated filing deadlines. Page 8.

O'Connor calls on attorneys to perform more pro bono work

By Teena Booth
Maricopa Lawyer

Nearly 600 attorneys, judges and members of Maricopa County's legal community attended the Volunteer Lawyers Program's "For Love of Justice" Awards Luncheon at the Phoenix Hyatt Regency on Feb. 10.

VLP honored more than 50 attorneys, firms, businesses and other volunteers who devoted countless hours in 2003 to meeting the legal needs of low-income families. Prior to the luncheon, the award recipients met with keynote speaker U.S. Supreme Court Justice Sandra Day O'Connor at a private reception sponsored by the Maricopa County Bar Association.

"It is a joy to be here," O'Connor said in her opening remarks. "VLP is an example of the very best of our profession... it helps make equal justice under law a reality."

She then quoted one of her predecessors on the Supreme Court bench, Justice Louis Brandeis, one of the first to champion the development of pro bono programs.

"Able lawyers have, to a large extent,



PHOTO COURTESY OF PATTY KAUFMAN, ITS U PHOTOGRAPHY

U.S. Supreme Court Justice Sandra Day O'Connor (left) was welcomed to the podium at VLP's "For Love of Justice" Awards Luncheon with a standing ovation led by Arizona Supreme Court Chief Justice Charles Jones (middle) and Vice Chief Justice Ruth McGregor.

become adjuncts to the corporation," O'Connor said Brandeis remarked in 1905. "They too often have neglected the obligation to use their powers to protect the people."

O'Connor noted that Brandeis' effort to exhort lawyers to offer their services free of charge once aroused high passions, both in support and opposition. Yet nearly a century

later, Brandeis' assessment of the need for pro bono work bore repeating.

"While we have much to celebrate in the innovative pro bono work being done today," O'Connor said, "we also have a great deal to be ashamed of on behalf of the people who need our services."

— See *O'Connor* on page 7

COURT WATCH

Random drug tests of firefighters declared 'unreasonable'

County faulted for condemning leasehold

By Daniel P. Schaack
Maricopa Lawyer

Three recent Arizona cases explored the limits of the government's power over the citizenry. On subjects ranging from drug testing to the power of eminent domain, the courts imposed limits in two cases and okayed the government's actions in a third.

In a case that has received much attention, the Arizona Supreme Court held that the City of Mesa's policy of random, suspicionless drug and alcohol tests for its firefighters violated the Fourth Amendment. Craig Petersen, the firefighter challenging the policy, appeared to face an uphill battle because U.S. Supreme Court cases had upheld similar policies in what appeared to be analogous situations. But

— See *Courtwatch* on page 6

Construction begins on Northeast courthouse



PHOTO COURTESY OF DAMIAN ARPS

County and court officials kicked up some dirt in the Feb. 10 groundbreaking ceremony for the new Northeast Court Facility at 40th St. and Union Hills in Phoenix. Construction is expected to be completed in the summer of 2005.

By J. W. Brown
Maricopa Lawyer

Court and county officials wielded their shovels on Feb. 10, signifying the start of construction on a Northeast regional court facility which will house 12 Superior Court and four justice of the peace courtrooms.

The planned L-shaped courthouse, to be located on 40th Street at Union Hills, is close to two major freeways — Loop 101 and State Route 51 — to make it easily accessible to court customers.

"This is another example of our commitment to increase public access to court services around the Valley," said Presiding Judge Colin F. Campbell. "We have a Southeast regional facility in Mesa and a Northwest regional facility in Surprise. Adding this third regional center in the Northeast Valley is particularly helpful because it provides for both Superior Court and Justice Court customers."

Civil and family court cases will be assigned to the Superior Court judges housed at the northeast facility. Scottsdale

— See *Groundbreaking* on page 3

COLUMNS

O'Connor threw down the gauntlet — are we up to the challenge?

By Jerome Ellwell
MCBA President

A few weeks ago, the Maricopa County legal community gathered in downtown Phoenix to thank and honor outstanding volunteer lawyers and legal service providers for their commitment and dedication to providing legal services for those who cannot afford them. Put simply, the VLP's "Love of Justice" Awards Luncheon was fan-

tastic. I hope you were able to join in celebrating one of Maricopa County's finest programs, of which we can all be proud.

If you attended, you know that U.S. Supreme Court Justice Sandra Day O'Connor was the keynote speaker. It was evident from her address that, despite her residence just outside Washington, D.C., she still loves her native Arizona and she considers our legal community her own. It was particularly satisfying to hear her compliment VLP as a model

for other organizations across the country to follow.

As a lawyer, legislator, judge and perhaps the most important Supreme Court Justice of our time, Justice O'Connor has witnessed firsthand the need for quality legal services to the indigent. In her words, it is our obligation as lawyers to make "equal justice under law a reality." She spoke with pride of the volunteer attorneys and service providers that are striving to meet this objective. She correctly noted that there is always room to do better, and that too many of us with the ability to help neglect our obligation to "use our powers to protect the people." She threw down the gauntlet of challenge — encouraging those who have not yet done so to give back to the community in which we live by taking on a pro bono case.

I am certain that all those who heard Justice O'Connor speak would agree that even as we celebrate the generosity of our legal community and the great strides we have made in making the legal system available to everyone, we need to acknowledge that important work remains. People with critical problems knock on the doors of VLP every day. As an attorney, you have the ability to help them. By carving a few hours out of your schedule, you may be able to save someone's home, his job, or his child. In the end, nothing else we accomplish will matter more.

Of course, most of us are busy pursuing a number of worthy goals, including building successful careers. Yet I find it interesting that a U.S. Supreme Court Justice — by anyone's standards the end result of a phenomenal career — has come home to tell us that one of the accomplishments of which she is most proud is her volunteer work setting up a pro bono service here in Maricopa County.

As MCBA president, I had the honor of meeting Justice O'Connor and the privilege of offering a toast to her and the VLP award recipients at the MCBA-sponsored private reception prior to the luncheon. It was then that I decided to echo her words and challenge the members of the Maricopa legal community to step forward and support the efforts of the VLP. By and large, we attorneys enjoy good fortune in our careers. Find the time. Make the effort. Help VLP help others who may be struggling. Call VLP Director Pat Gerrich at (602) 254-4714. Tell her you have the time to take on a pro bono case this month after all. ■



Corporate and law firm paralegals play different roles

Over a 20-year career, I have had the pleasure of working with attorneys in small, medium and large law firms, as well as working with attorneys in a corporate law department. Despite the similarities between these two paths, I have observed a number of differences in their respective roles.

An in-house corporate law department can be viewed as an extra layer of "red tape" for those deals hot to get market share. In-house paralegals ease the burdensome layer between client and in-house lawyer by helping to build trust and confidence. The answer they provide is "how can we help you get to where you want to be" rather than "no, not possible."

In a corporate environment, resources are not always plentiful and the associate lawyer does not exist. Hence, in-house corporate paralegals have an expanded role and acquire the ability to change hats throughout the day. As first point of contact for the clients, they screen the issue presented and, under the supervision of the in-house attorney, aid in getting an answer quickly and painlessly. They know how to think outside the box.

In-house corporate paralegals act as the corporate representative at the table, i.e., administrative agency meetings. As a cost saving measure, in-house corporate paralegals attend and take minutes of legal meetings and report back to the supervising attorney. The paralegal conducts the due diligence of a newly acquired business venture, working closely with a COO or a CFO. Updates to the corporate audit letter, the 10K reporting and developing an annual report are all part of his or her responsibility. Travel is usually required.

Corporate paralegals also are responsible for document-intensive litigation and electronic discovery, as well as third-party subpoenas. They have insight into where the documents and witnesses reside. They act as



liaison between outside counsel and client and supervise the project from the inside.

To answer a question I was asked many times over — in-house corporate paralegals do keep time sheets. Not descriptive time sheets but time sheets that allocate time to business units and sectors. Often, they are specialized in one or more areas of law, i.e.,

civil and commercial litigation, employment/labor, intellectual property, environmental, trademark, advertising, marketing, e-commerce, transactional, securities and sometimes criminal. They also can act as contract managers or program managers.

In-house corporate paralegals understand the corporation's reserve issue, work to establish an outside counsel budget, know about run rates and can supervise and approve outside counsel billing. They take an active role in settlement negotiations by assisting with risk management through decision-tree analysis for an effective evaluation of the

— See **Pendleton** on page 15

Case management skills help prevent overwork

Now that the holidays are well behind us, most of us are no doubt busy. Or swamped, or even buried. Before you disappear under that mountain of work, you might benefit by evaluating how well you manage your cases, and considering ways to improve your efficiency. The following five tips may prove helpful in formulating more effective case management:

1. **Communicate with your clients.** Spend some time with your clients at the outset of a case and determine their objectives and expectations. Work together to outline your strategy and the steps necessary to move toward your clients' objectives. Having an end goal with discreet, interim steps can be very helpful. This also may help you delegate some work to your clients and take advantage of their experience and knowledge regarding the underlying facts or issues. Make sure to keep your clients apprised of the progress of your work and any future events and deadlines. Periodic updates are easier to handle than an



update that requires you to review the file and re-familiarize yourself with past events and disclosed evidence.

2. **Communicate with senior attorneys.** If you are working under the direction of a more senior attorney, you need to establish the scope of your assignment(s) and the senior attorney's expectations. Take the time to ask questions early on in the assignment and avoid spending time on unnecessary work. Discuss the feasibility of the imposed deadline in light of your other commitments. If you are truly too busy to handle a new project or case, you should not be hesitant to say no.

3. **Communicate with staff.** Learn what

— See **Everroad** on page 3



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Errors will be corrected in a subsequent issue.

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Groundbreaking... 21 judges to be rotated to new assignments

Continued from page 1

Justice of the Peace Michael Reagan, Northeast Phoenix Justice of the Peace Jacque McVey and Northwest Phoenix Justice of the Peace Hercules Dellas will relocate from leased facilities to the new county-owned building in the summer of 2005. The county spends nearly \$3 million in leases each year for its justices of the peace.

"This decision by our county supervisors will pay dividends for the taxpayers," Dallas said. "By sharing physical and human resources, we can stretch the taxpayer's dollar further at a time when our caseloads are growing."

Dallas added that "with more than one judge available at the new facility, we will be better equipped to handle domestic violence emergencies or other unscheduled matters. Some people may have to travel a little further but wait times for service should be reduced through more efficient allocation of judge and staff time."

It is estimated that the \$18.4 million project will be completed and ready for occupancy in late June or early July 2005. The courtrooms will be equipped with state-of-the-art technology including special audio, video and/or CD taping of proceedings.

Services that will be available and shared by all of the courts include a self service center, domestic violence prevention center, juror services, clerks of the courts filing counters and offices, court interpreters, mediation, conciliation, court information services and court security.

► J.W. Brown is communication director for trial courts in Maricopa County. ■

Everroad...

Continued from page 2

your secretary or legal assistant can do. Learn what your paralegals can do. They can be tremendous resources and help you lighten your load when you delegate appropriate tasks to them. Please note that you should invest a little time early on discussing your goals and your expectations of those helping you.

4. Review your list of cases periodically. This necessarily requires you to maintain a list of active cases. A "to do" list for each case can help you determine what tasks, if any, can be delegated to others. Additionally, the list will help you prioritize your work, better manage your calendars, and foresee and address potential scheduling conflicts.

5. Get out of the office. Although some may not agree, I believe some time away from the office makes me more productive and efficient when I'm in the office. Whether it's a long lunch or a short vacation, make some time for yourself. And plan for the time away. Spontaneity is great, but unplanned absences may not sit well with clients or co-workers who rely on your availability.

Hand in hand with getting out of the office is getting involved in activities outside the office. With the March 13 Barristers' Ball just days away, the YLD is beginning to shift its focus to Law Week, which will begin on Law Day, May 1, and continue through May 7. If your schedule allows you the time to help, please give Maxine Becker a call at (602) 285-5091. Maxine is chairing Law Week and is looking for volunteers to help out with law fairs, Phone-A-Lawyer, and any marketing/advertising ideas. ■

By **Damian Aros**
Special to Maricopa Lawyer

Summer rotations scheduled for Maricopa County Superior Court will result in 21 changes in judicial assignments, and will include new family court, tax court and Southeast Court and Northwest Court presiding judges.

The rotations become effective during the Judicial Conference, June 23, 24 and 25.

Judge Norman Davis will become the family court presiding judge, taking over for Judge Mark Armstrong, who is rotating to the position of tax court presiding judge. Armstrong has served as presiding judge of the family court since July 2002.

Since Jan. 1, Davis has handled a family court calendar. He previously was the presiding judge of the Northwest Regional Center in Surprise. With Davis' departure, Judge Colleen McNally takes over the assignment of presiding Northwest judge.

Judge Silvia Arellano, a juvenile court judge in Mesa since June 2000, becomes the Southeast Facility presiding judge during the rotations. Arellano will take over from Judge M. Jean Hoag, who has served as presiding judge in Mesa for nearly four years. Hoag will assume Arellano's juvenile court calendar.

The juvenile court bench will be most affected by the summer rotations summer due to the opening of the new Durango Juvenile Courthouse. All judges and commissioners who presently preside over juvenile calendars at the existing courthouse, and whose assignments are not changing, will move over to the new facility.

Rotations at the newly constructed courthouse will occur as construction ends and the building becomes fully functional. Rotations will impact family court Judges George Foster and Raymond Lee, who will move to the Durango facility to launch the Integrated Family Court Pilot Project there. Judge Stephen Gerst also moves to the Durango court complex and will preside over a newly created juvenile court calendar.

Southeast criminal department Judge John Gaylord and Southeast family court Judge Robert Oberbillig will rotate to the Southeast juvenile court. They will take over the calendars of Judges Sherry Stephens and Andrew Klein respectively.

Changes to the criminal department impact both downtown and Southeast calendars. When Stephens leaves juvenile court,

she will take over Judge Mark Aceto's criminal calendar at the Mesa facility. Klein will rotate downtown to assume Judge Crane McClennen's criminal calendar.

McClennen will move to Mesa to take Gaylord's criminal calendar at the southeast facility. Mesa civil department Judge Bethany Hicks is rotating to the downtown facility and will take over Judge John Foreman's criminal calendar. Foreman will remain downtown and assume a combined special assignment and criminal case calendar. Also moving to the criminal department to take over Gerst's calendar will be family court Judge A. Craig Blakey.

Civil department Judge Frank Galati will rotate to the criminal department to assume Judge Eileen Willett's calendar, remaining downtown. Willett also will remain downtown and take Davis' Family Court calendar.

Current special assignment Judge Mark Santana will assume Judge Barry Schneider's criminal court calendar. Schneider will begin a newly created civil calendar.

To complete the rotations, Judge Paul Katz will be moving from his current tax court assignment to the civil department, and will handle Galati's civil calendar.

In February, a spurt of moves was created with the appointment of Steve Lynch as a Superior Court commissioner. On Feb. 23, Lynch began his assignment with the

Initial Appearance Court (IA Court). The move affects several other commissioners' assignments.

The new assignment moves IA Court Commissioner Randy Ellexson to early disposition court to take Commissioner Aimee Anderson's calendar. Anderson assumes Commissioner James Blomo's initial pretrial conference calendar and Blomo moved to an assignment with the Justice Courts in Maricopa County.

► Damian Aros is a public information officer for trial courts in Maricopa County. ■

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Lewis and Roca LLP

is pleased to announce that

Stephen M. Hart

has joined the firm as Of Counsel

Stephen has joined Lewis and Roca's Litigation Practice Group. He concentrates his practice on Indian law, gaming law and government relations. Prior to joining Lewis and Roca, Stephen was a partner at Burch & Cracchiolo. From 1992-2002 he served as the Director of the Arizona Department of Gaming. Stephen is a member of the American, Arizona State and Maricopa County Bar Associations. He is the past chairman of the Indian Law Section of the State Bar of Arizona.

Stephen received his B.A. from the University of California at Berkeley and his J.D. from the University of California at Berkeley, Boalt School of Law.

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Affordable online legal research: A buyer's guide

By Phil Rosenthal
Special to Maricopa Lawyer

It's 10 p.m. You absolutely need to find case law for a brief due tomorrow. The library is closed. Is it time to buy that expensive subscription to Lexis or Westlaw?

Today, the ability to perform full-text searches of case law is essential to performing efficient and comprehensive legal research. Most lawyers at large firms have unfettered access to a national database of case law; but whether your firm is large or small, no lawyer should be placed at a competitive disadvantage because they do not have the resources for meaningful online access to the law.

Happily, there are a number of online legal research services that can provide you with comprehensive access to a database of state and federal law at a price that every lawyer and paralegal can afford. Very recently, there has emerged a next generation of online services (see list below) that not only save you money, but can make the research easier and faster at the same time. Several have features not found on Westlaw or Lexis, allowing you to find the cases you need faster, saving you time as well as money.

But what to buy and whom to trust? Reliable legal research is essential for your practice, and you want to be sure you don't get a cut rate price, then "get what you pay for." As you decide what to buy, here are some tips and a checklist of factors to consider:

► **Consider the total cost.** A bare-bones service that does not include internal page numbers from official reporters may at first look attractive on the bottom line, but not if you need to go to the library to look up the page numbers every time you want to cite a case. Also, "single-state" packages from Westlaw and Lexis appear to save money, but most lawyers occasionally need to research other jurisdictions — resulting in transactional "off plan" costs that can exceed the monthly subscription costs. Also, consider your time. Libraries may be "free," but spending extra hours each month traveling to one can be more costly to your clients and your personal lives.

► **Unbundle.** Lexis and Westlaw offer a vast array of primary and secondary materials — including some you need and many you don't. Rather than paying for them all in one expensive package, buy only what you need. You can get your primary materials from one of the new online services, law reviews from a company like Hein Online and public records from a company like Accurint.

► **Supplement.** If you have an Arizona-only package with Lexis or Westlaw, don't pay high transactional fees when you need something "off plan." Use one of the new online services that can provide unlimited access to all 50 states for less than your transactional fees.

► **Check reviews.** LLRX.com is an excellent source for reviews of online legal research systems. Also, check the latest edi-

tion of the Legal Information Buyer's Guide by Ken Svengalis.

► **Take a free trial.** Make sure the system is easy to use for you.

► **Dun & Bradstreet Past Performance Evaluations.** Ask the company for its Dun & Bradstreet past performance evaluation results to make sure other customers are happy.

► **Other firms.** Ask other firms in town which research system they use. How do they rate their service?

► **Demand something better!** Are you willing to settle for less because you cannot afford more? Demand that your online system provide you with capabilities that will make your job easier.

Here is a checklist of items to consider before purchasing a subscription:

► **Comprehensiveness.** Does the service have all reported appellate opinions for all 50 states? From all the federal courts of appeals and the U.S. Supreme Court? Does it provide access to the federal district courts, bankruptcy courts, and the tax court? How far back does each database go? If the service does have federal district court opinions, does it contain just a selection or all or most of the F.Supp. series? Are statutes and regulations provided? You will need to decide if it is worth paying extra to have statutes and regulations in an online service, because almost all statutes and regulations are free online now on state websites, and most attorneys prefer to use paper sources anyway.

► **Internal pagination.** Does the service provide internal or "star" pagination so that when you want to cite a case you can cite the actual page, as required by most courts? If not, you may find yourself paying transactionally for more expensive services or making frequent trips to the library to find page numbers.

► **Ease-of-use.** You probably don't have time to learn complicated new systems. Some systems have gone to great lengths to make the interface intuitive. Can you search multiple jurisdictions at once? Are search terms highlighted in the results? Does the results list give information about each case or just non-descriptive links?

► **Customer service.** What kinds of support are there? Phone? Instant messaging? E-mail? Is it 24-7? Is there any extra cost? Is there an online tutorial? Is customer service willing to give training demos?

► **Citation lookup.** Can you enter a citation to pull up a case? Can you enter multiple citations at once? Does the syntax need to be perfect or is the system forgiving?

THE LAW OFFICES OF JAMES J. EVERETT, P.C.

is pleased to announce

TRACY S. ESSIG, ESQ.

has joined the firm

and will continue to concentrate his practice in taxation litigation, taxation-collection matters involving the Internal Revenue Service and Arizona Department of Revenue, workouts, settlement and/or payment arrangements, as well as, continuing to handle bankruptcy matters on behalf of debtors and creditors with a specific expertise in tax. Mr. Essig brings to the firm over fifteen years of practice in these areas.

Prior to joining the firm, Mr. Essig was Chief Counsel of the Bankruptcy and Collection Enforcement Section at the Arizona Attorney General's Office, considered the premier governmental collection entity in the United States, representing in excess of 70 different State Agencies, Councils, and Boards, including the Arizona Department of Revenue.

The firm will continue to be Arizona's premiere tax boutique, concentrating its practice on taxation related matters ranging from substantive legal tax matters to taxation related collection issues (such as offers in compromise; tax lien/levy removal, payment plan arrangements, and workouts), creditor/debtor representation, business and personal financial workouts, asset protection planning, bankruptcy, estate planning, probate, and corporate issues.

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► **Printing.** Does the system offer dual column printing? Does it facilitate downloading in multiple formats, such as Word and .pdf? Can the user choose whether to show highlighted search terms?

► **Account management.** Is there a way to track usage for client matter billing? Some services cost sufficiently little that pass-through billing may not be an issue.

► **Citators.** Is there a way to check if the case is still good law? Some services will show you other cases that cite the case, so you can check. None, other than Westlaw and Lexis, have signals. Happily, one can unbundle — subscribe to a new online legal research system and "Shepardize" or "Keycite" a case when necessary on the Lexis or Westlaw websites. Lexis now charges only \$4.25 to Shepardize a case online.

► **Hyperlinks.** The ability to just click on a cited case to get the full text is a great convenience. Some, but not all, services hyperlink the cases.

► **American owned?** If "buy-American" is important to you, ask about ownership. Many are surprised that West Publishing, Lexis-Nexis, and Loislaw are all owned by foreign conglomerates.

The following are some of the major companies providing online legal research systems:

Fastcase. This is my favorite, but I am biased. I co-founded Fastcase back in 1999 after practicing at Covington & Burling in Washington, D.C. Fastcase focuses on adding ease-of-use tools to make the research faster and easier. For example, Fastcase lets you sort and re-sort your search results six ways to bring the relevant, seminal, or otherwise important cases to the top. We've built the third largest U.S. case law database in the world, offer elegant dual-column printing and can provide our full database for less than the cost of a single-state package on other services. For more information, call 703-740-5920 or write info@fastcase.com.

Loislaw. Loislaw is one of the first and largest new entrants to the legal research market. They were acquired in 2000 by the German publishing giant, Wolters Kluwer. For more information, call 800-364-2512 or write to info@loislaw.com.

National Law Library. NLL was sold in 2002 to Jurisearch, a popular California-specific online service. NLL provides statutes and regulatory materials for certain states in addition to case law. For more information, call 877-484-7529 or write to sales@titislaw.com.

TheLaw.net. TheLaw.net is powered by VersusLaw (see below) and is well known for their e-mail campaigns. For more information, call 888-884-4035 or write postmaster@thelaw.net.

VersusLaw. VersusLaw is the low-price player in the market. Based in Redmond, Washington, VersusLaw offers a variety of pricing tiers. For more information, call 425-250-0142 or write service@versuslaw.com.

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► *Phil Rosenthal is president and chairman of the board of Fastcase, Inc. ■*

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Internet privacy: Should you just say no to cookies?

Note: What follows is a revised and updated version of an article first published in 1997. The problem it describes has only worsened with the rapid march of information technology and the Internet.

When I was a boy, my mama always reminded me to never take a cookie from a stranger. I always thought that was important advice and I handed it on to my children. I now hand it on to you.

The cookies I'm talking about are cookies that come over the Internet to your computer, sometimes from places unknown. Cookies are small files the sender stores on your computer hard drive, sometimes with your permission, but more often than not, without your knowledge. The purpose of cookies is to allow the sender to maintain basic information on particular users. A cookie tells its purveyor the identification number of the computer you are using as well as the type of hardware and software you use. Cookies also can track the kind of information that you seek and use when you are moving around a particular site.

In some cases, the cookie may give your e-mail address and other information you do not wish to circulate to others. To the extent that you have provided information such as your home address, your telephone number or your mother's maiden name to somebody over the Internet, there is always the possibility that the cookies stored on your computer may convey that information to unintended persons.

Basically, the cookie allows those who have placed it on your machine to engage in secret surveillance of your computer habits and to identify you as a further target for their machinations. Now, you may say that those who venture outside their computer know they are taking some risk. But you don't even have to be out on the Web to get a cookie. If a cookie "distributor" has your IP number, it can call you in the night and put a cookie on your machine without your knowledge or consent. These cookies are, to my mind, a very dangerous development for those who cherish their privacy.

Cookies do perform useful functions, which is why there are so many of them. For



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example, a cookie may track your password so you don't have to type it every time you visit a site. The cookie tells the site computer who you are and they recognize you just like you are recognized in a neighborhood store. Of course, you may not want to be recognized when you are on the Internet. But if the cookie is on your computer, it will tell the cookie's computer about your Internet travels anyway.

Another potentially useful thing that comes about from the use of cookies is the identification of your browsing habits at a particular site. One of the biggest users of cookies is an advertising broker called DoubleClick, which uses cookies to find out who is reading its ads and what their preferences are. DoubleClick even offers their corporate clients a system that tailors advertising to a particular user. DoubleClick doesn't see anything wrong with secretly tracking your usage. Their claim: "Users win too — they see only the messages that are relevant to their user profile."

Now, if all of this is as bothersome to you as it is to me, there are several things that you can do to deal with the cookie problem. If you are using Internet Explorer, you can go to Windows update (windowsupdate.microsoft.com) and download the latest update to your browser. Then go to **Tools/Internet Options** and click on the **Privacy** tab where you can select the degree of protection from cookies that suits your need. If you select the **Block All Cookies** tab you can work through your standard Internet programs and you will see the effect. For example, if you read the *Wall Street Journal* on the Internet, blocking all cookies will keep you from getting into that site. You probably will find that a **Medium High** selection will give you the best combination of flexibility and safety.

Furthermore, software is available that will intercept and remove the cookies that are sent to your machine. See for example, a great

little free program called AdAware you can download from www.lavasoftusa.com.

But "just say no" has consequences. If you block or filter cookies, you will find there are some Web sites that you will not have access to, while others (like the *Wall Street Journal*) will slow to a crawl. If you want to protect your privacy, that is the choice you are faced with today. Perhaps if everybody agreed to just say no to cookies, then we might be able to convince those who believe that they own the World Wide Web that cookies are a bad deal because we stay away from sites that use them. But that is probably a pipe dream, isn't it?

If you really want to know the whole story on cookies, you can go to (www.cexx.org/adware.htm) where the dirty details are laid out. As Otto Von Bismark once said, "There are two things you don't want to see being made — sausage and legislation," to which you can now add cookies. Don't blame me if you go out and buy a box of legal pads and a quill pen after you read about it!

► *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. He welcomes questions and comments by e-mail at wintonwoods@mail.com or by phone at 520-881-6118. Visit him at www.wintonwoods.com or www.digitaltrial.net.*

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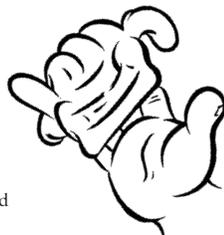
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Courtwatch...

Continued from page 1

Arizona's high court distinguished those cases, ruling unanimously in Petersen's favor. *Petersen v. City of Mesa*, No. CV-03-0100-PR (Ariz. Jan 27, 2004).

Mesa implemented a substance abuse program in 2001 that requires testing of firefighters in various situations, such as when a firefighter has been involved in an on-the-job accident or there is reasonable suspicion of drug use. Petersen filed an action for declaratory judgment and injunctive relief, challenging only the portion of the program that requires random, unannounced tests.

Petersen won at the trial level, with the superior court permanently enjoining the city from continuing random, suspicionless drug and alcohol testing. In a split decision, the court of appeals reversed, holding that the city had a compelling need for the testing program that outweighed the privacy interests of the firefighters. *Petersen v. City of Mesa*, 204 Ariz. 278, 63 P.3d 309 (App. 2003). The Supreme Court accepted Petersen's petition for review.

Petersen argued that the program violated his Fourth Amendment right to privacy. He also argued that it violated the Arizona Constitution's privacy clause — Article II, Section 8 — which he maintained provides greater protection than the Fourth Amendment. The Supreme Court did not address the latter condition because it held that the program did indeed violate the federal Constitution.

According to the U.S. Supreme Court, "the ultimate measure of the constitutionality of a governmental search is 'reasonableness.'" So began Vice Chief Justice Ruth V. McGregor's analysis. She noted that a search generally must be "based upon some level of individualized suspicion of wrongdoing." This requirement, she noted, assures citizens that intrusions are not the random or arbitrary acts of government agents.

McGregor noted that there are exceptions to the general rule, when special needs — beyond the usual law-enforcement needs — make it impractical to require probable cause and a search warrant. Again quoting the U.S. Supreme Court, she wrote that "where the privacy interests implicated by

the search are minimal, and where an important governmental interest furthered by the intrusion would be placed in jeopardy by a requirement of individualized suspicion, a search may be reasonable despite the absence of such suspicion."

This is where a line of problematic U.S. Supreme Court decisions appeared to impede Petersen's case. The range of constitutionally permissible suspicionless searches is, a "closely guarded category," the court has noted. But — weighing the government's special needs for the testing against an individual's privacy interests — that Court has upheld suspicionless drug testing of such diverse groups as political candidates, railway employees, customs services employees and high-school students participating in athletics and other extracurricular activities.

McGregor agreed with Mesa's contention that it has a special need to deter and detect prohibited drug use among its firefighters because they occupy safety-sensitive positions. But this wasn't enough. She asked whether the city had "identified a real and substantial risk," and, if so, whether its "proposed invasion of its firefighters' privacy interests further[s] the City's interest in deterring and detecting drug use among its firefighters."

Based on the record before the court, McGregor held that Mesa's case came up lacking: "[T]he record is devoid of any indication that the City has ever encountered any problem involving drug use by its firefighters." She noted that there was "no evidence of even a single instance of drug use among the firefighters to be tested" and no "evidence of accidents, fatalities, injuries, or property damage that can be attributed to drug or alcohol use by the City's firefighters."

Going further, she noted that the record revealed "not even an allegation or rumor that the City's firefighters used or abused drugs or alcohol." She concluded that there was therefore "no real and substantial risk that the public safety is threatened by drug or alcohol use among the firefighters to be tested." "At most," she wrote, "the Program's random testing component furthers only a generalized, unsubstantiated interest in deterring a hypothetical drug abuse problem among the City's firefighters."

The fact that there was only a generalized and unsubstantiated interest was not necessarily a death knell for the program, however. McGregor heeded *Nat'l Treasury Employees Union v. Von Raab*, 489 U.S. 656, 109 S. Ct. 1384 (1989), where the U.S. Supreme Court had upheld suspicionless testing of U.S. Customs Service employees involved in interdicting illegal drugs or whose duties required them to carry firearms. In so doing, the Court had noted that "it is not feasible to subject employees and their work product to the kind of day-to-day scrutiny that is the norm in more traditional office environments."

But McGregor distinguished *Von Raab*. She noted that "the City's firefighters are not directly involved in drug interdiction, do not carry a firearm, and are not required to use deadly force in the regular course of their duties." She also noted that "the firefighters' communal work environment provides a better opportunity for supervisors to detect drug use and therefore develop reasonable suspicion to conduct a test under appropriate circumstances."

The Vice Chief Justice also had little trouble distinguishing the scholastic cases. In upholding those policies, the U.S. Supreme Court held that "Fourth Amendment rights are different in public schools than elsewhere; the reasonableness inquiry cannot disregard

the schools' custodial and tutelary responsibility for children." Firefighters "have little in common with students entrusted to the government's care," McGregor pointed out. She also noted that in the scholastic cases, there was evidence of drug use that supported the policies there, while no such evidence was present in Mesa's case.

McGregor acknowledged that because of their job, firefighters have a diminished expectation of privacy. Not only do firefighters on duty live in a communal environment, but "a firefighter's ability to do this job in a safe and effective manner depends, in substantial part, on his or her health and fitness." She also acknowledged that Mesa had structured its random drug-testing program in a way that reduced the intrusiveness of the invasion of privacy.

Nevertheless, she held that this was not enough. "[R]andom, suspicionless drug testing, while not *per se* unreasonable, invades reasonable privacy interests even when the government collects the urine sample in a relatively unintrusive manner and takes steps to protect employees' privacy interests by limiting the information that is disclosed." McGregor therefore concluded that "the City's generalized and unsubstantiated interest in deterring and detecting alcohol and drug use among the City's firefighters by conducting random drug tests is insufficient to overcome even the lessened privacy interests of the firefighters in this case."

Ruling in Petersen's favor, McGregor concluded: "[T]he increased intrusion occasioned by the Program's random, suspicionless testing component represents the very type of 'arbitrary and invasive acts by officers of the Government or those acting at their direction' against which the Fourth Amendment is meant to guard."

Staying within the general theme of drugs and alcohol, the next question we face seems like a riddle. Can the government convict someone of DUI when that person was a passenger, not the driver of the car? In the circumstances presented to it in *State v. Rivera*, No. 2 CA-CR 2001-0445 (App. Jan. 30, 2004), Division Two of the Court of Appeals said "yes."

One night in April, 2001, Daniel Heriberto Rivera fled from the scene of a one-car accident. His girlfriend told others at the scene that she had not been driving. She told a deputy sheriff that she and Rivera had left a bowling alley where they had been drinking and that Rivera was driving at the time of the accident.

Officers went to Rivera's home. He acknowledged that he had been in an accident but said, "You guys can't prove I was driving." He was arrested nevertheless, and a blood test showed a blood-alcohol concentration well above the legal limit.

One of the officers recounted the history to a grand jury, identifying Rivera as the driver. The grand jury returned an indictment alleging that Rivera "drove or was in actual physical control" of the car.

Before trial, the girlfriend changed her story, now claiming that Rivera was not the driver; that she was driving and the accident occurred when Rivera grabbed the steering wheel. The state announced that it would proceed on the alternative theories that either Rivera was driving or had been in actual physical control of the car by grabbing the wheel.

On the stand, the girlfriend testified that she had been driving when they left the bowl-

— See *Courtwatch* on page 7

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O'Connor...

Continued from page 1

She observed that for most low-income families, legal needs involve the basic necessities of life, including food and shelter. "Legal services can make an enormous difference in the lives of people who are scrambling daily," O'Connor said.

And yet, she added, the majority of American citizens believe our judicial system is unresponsive to their needs, and find equal justice to be an unrealized slogan. She also reported that the American Bar Association estimates that 80 percent of the civil legal needs of low-income persons go unmet.

"There's never been a wider gulf between need and availability," she said.

The good news, O'Connor continued, is that "we're not suffering from a shortage of lawyers." She joked that in Washington, D.C. "there are probably more lawyers than people."

Courtwatch...

Continued from page 6

ing alley, not Rivera. She asserted that they had argued and he demanded that she pull over. When she didn't, he grabbed the wheel, leading to the accident. Her daughter also testified that Rivera was not the driver. This contrasted with the testimony of a civilian who had stopped at the scene and the deputy sheriff; both testified that the girlfriend had stated that she was not driving.

The state argued to the jurors that they could convict if they believed either that he had been driving or that he had grabbed the steering wheel. The jury returned a unanimous guilty verdict but did not specify on which theory that verdict was based.

On appeal, Rivera argued that his due-process rights were violated because his DUI conviction might have been based on a crime for which he was not indicted. The Division Two court disagreed. Writing for the court, Judge Philip G. Espinosa held that the evidence presented to the grand jury established that Rivera had either driven the car or and been in actual physical control of it. He concluded that the DUI statute, A.R.S. § 28-1381(A), was violated in either case.

Espinosa concluded that the legislature intended "to extend the DUI statutes to encompass those situations in which a person who is not actually driving, nonetheless poses an equivalent risk." When a passenger grabs the steering wheel of a moving car causing it to veer off course, Espinosa found it arguable whether he is driving. But that didn't matter. "[W]e conclude," he wrote, "that a passenger who grabs the steering wheel of a moving car and alters the car's movement has assumed actual physical control for purposes of the DUI statutes."

This conclusion led Espinosa to reject Rivera's contention that he was possibly convicted of a crime that the indictment did not charge. "The indictment itself need not inform the defendant of the theory by which the state intends to prove that charge," he held, "so long as the defendant receives sufficient notice to reasonably rebut the allegation." Furthermore, "[t]he jury need not unanimously agree on a theory so long as it unanimously agrees on a verdict."

Espinosa concluded that Rivera had received adequate notice of the state's alterna-

She commended VLP on bridging the gap between the supply of lawyers and the legal needs of the people. And, while she acknowledged that with so many VLP lawyers in the audience that she was "preaching to the converted," she encouraged VLP to continue in its efforts to mobilize Maricopa County attorneys to lend their talents to pro bono work.

"There is a great spirit of public service out there if we poke it and prod it a little and tell it to wake up," she said.

O'Connor expressed pride in what the Maricopa County legal community has accomplished so far through programs like VLP. But, in her opinion, not enough attorneys respond to "the call on the legal profession" to do the necessary work of the people.

"We have built a great structure of justice in this country," O'Connor said. "But there is a gate at the front door. And lawyers hold the keys to the gate."

To see a full list of VLP Award winners, please visit the MCBA Web site at www.maricopabar.org. ■

tive theories and that the evidence supported a conviction under either theory. Joining him in affirming the conviction were Judges John Pelander and Peter J. Eckerstrom.

Finally, we leave the world of drugs and enter the world of real estate. Imagine that your lease for space in a shopping center has run out. You want to rent the space for another two years, but the landlord refuses. What do you do? If you're Maricopa County, you try to condemn the leasehold.

That's exactly what Maricopa County attempted to do with respect to space it was leasing for a justice-of-the-peace court. It convinced a superior court judge that its eminent domain powers allowed it to take the property for a period of years under the same terms as the lease, except for the amount of rent. The court granted the county immediate possession.

The owner appealed, and Division One of the Court of Appeals held that the county had overstepped its statutory condemnation powers. *Orsett/Columbia Ltd. Partnership v. Superior Court*, No. 1 CA-SA 03-0171 (App. Jan. 29, 2004).

Judge Philip Hall held that it was conceivable for a government to condemn a leasehold, or anything else short of a fee-simple interest. "The issue," he wrote, "is not whether the legislature could authorize political subdivisions to condemn mere leasehold interests; rather, the question is whether the legislature did authorize such acts?"

"[A] county has the right to exercise the power of eminent domain only as granted it by the State," he wrote. Thus, he turned to A.R.S. § 12-1113, which establishes that the interests that can be taken for the public interest are (1) a fee simple; (2) an easement; (3) a right of occupation and entry; and (4) a "use" in certain waters.

Hall concluded that the statute does not allow condemnation of a mere leasehold. "By its very nature," a mere leasehold interest ... cannot be taken in perpetuity," he wrote. "Accordingly, § 12-1113(1) does not permit a political subdivision to condemn a leasehold interest in private property to be used as public buildings or grounds except as part of a proceeding that will culminate in the acquisition of title in fee simple."

The court vacated the order granting the county immediate possession. Joining Hall's opinion were Judges Daniel A. Barker and Donn Kessler. ■

VLP Awards

Here is a partial list of the generous attorneys and firms who were honored with awards at the Feb. 10 awards luncheon. For a complete list, please visit the MCBA Web site at www.maricopabar.org

VLP Attorney of the Year
Stephanie Lee Tang

HIV/AIDS Law Project Attorney of the Year
Michael J. Tucker

Public Attorney of the Year
Judith C. Ruhl O'Neill

Sole Practitioner of the Year
Janet S. Story

New Attorney of the Year
Camila Alarcon

Tenants' Rights Attorney of the Year
Jennifer R. Hunter

Consumer Rights Attorneys of the Year
Timothy H. Barnes
Frank W. Busch, III

Family Law Attorney of the Year
Lisa B. Johnson

FLA.P. Attorney of the Year
(Family Lawyers Assistance Project)
Paul B. Harvey

Children's Law Center Attorney of the Year
Clarence E. Matherson

Firm of the Year for Children's Services
Quarles & Brady Streich Lang

Small Firm of the Year
Cole & Wingard

Medium Firm of the Year
The Cavanagh Law Firm

Large Firm of the Year
Quarles & Brady Streich Lang

Sustaining Award of Excellence
Snell & Wilmer ■

Legal Brief

■ Professor Dan L. Burk, a prominent authority on intellectual property law and a specialist in cyber law and biotechnology, will speak on "Biotechnology in the Federal Circuit" at the Feb. 10 Intellectual Property Forum sponsored by Quarles & Brady Streich Lang and the University of Arizona James E. Rogers College of Law.

The forum will begin at 8 a.m. at the Phoenix County Club. Breakfast is included. Burk will lead a discussion of pivotal Federal Circuit laws regarding biotechnology inventions. Other topics will include how these inventions receive specialized and changing treatment, different from other inventions at the patent office and in the courts. The program will conclude at 10 a.m.

A registration fee of \$40 is required and space is limited. To register, contact Ericka Sahagun by phone at 602-26604820 or at esahagun@arizona.edu.

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Miscalculated filing deadlines can be lethal to your case

By Joan Dalton
Maricopa Lawyer

Horror stories dominate any discussion of missed legal deadlines.

The most ghastly outcome of missing a jurisdictional deadline is narrated in *Coleman v. Thompson*, 501 U.S. 722 (1991). In 1981, a Virginia jury convicted Roger Keith Coleman of the rape and murder of his sister-in-law and sentenced him to death. The Virginia Supreme Court affirmed both

his conviction and sentence. But early in the post-conviction relief phase, Coleman's lawyers miscalculated a filing deadline and the court consequently dismissed Coleman's state habeas corpus petition.

Coleman's lawyers next filed, but were denied, federal habeas corpus relief. The U.S. District Court concluded that the dismissal of Coleman's state habeas petition required that he default on the state habeas claims raised in the federal forum. The Fourth Circuit Court of Appeals affirmed the

district court's ruling. The U.S. Supreme Court also affirmed, holding that federalism principles precluded review of Coleman's state habeas claims in federal habeas corpus proceedings. Despite doubt as to Coleman's guilt, he was executed on May 20, 1992.

The most recent filing deadline debacle is retold in *Pincay v. Andrews*, 351 F3d 947 (9th Cir. 2003). In 1989, Pincay sued Andrews for financial injuries. A multi-million dollar judgment was entered in Pincay's favor on July 3, 2002. On July 10, the calendaring clerk in the large law firm representing Andrews faxed a copy of the judgment to the lawyer supervising Andrews' case. A series of emails between lawyer and calendaring clerk ensued, beginning with the lawyer asking the calendaring clerk when Andrews' time ran to notice an appeal. The calendaring clerk mistakenly informed the lawyer that he had 60 days (instead of 30) to notice the appeal and calculated the deadline using the incorrect time-frame.

On Aug. 22, Andrews' lawyer learned that the appeal period for the July 3 judgment had expired. Three days later, he requested an extension of time in which to file an appeal from the July 3 judgment, explaining that "he relied on the calendaring clerk at his law firm to calculate the deadline, and the clerk made a mistake." When the district court granted the extension of time, Pincay appealed.

In a 2-1 decision, the Ninth Circuit Court of Appeals reversed the district court's ruling and held that Andrews' attorney's reliance on a calendaring clerk to calculate the deadline for filing the notice of appeal did not amount to "excusable neglect" and did not warrant an extension of time for filing the notice of appeal. With the Ninth Circuit reversal, Andrews lost his appeal rights.

An attorney's failure to meet legal deadlines accounts for a high percentage of professional liability claims. Law firms large and small should regularly evaluate their calendaring system to make sure that missed deadlines can be avoided. Consider the following questions to evaluate your firm's ability to calendar accurate deadlines:

► Do you have a planned system for control of deadlines and other critical dates?

Despite the fact that some Arizona decisions have found "excusable neglect" under circumstances in which a secretary has failed to remind an attorney of a calendared deadline, expect a court to examine whether an adequate calendaring system exists in your office.

Today, computerized calendar software programs are commonplace and automatically generate reminders of critical deadlines 90, 60, and 30 days in advance. Yet computerized calendaring systems are only as good as the information input into them. Ensure that any computerized software program for calendaring can capture all critical dates applicable to the area of law in which you practice. Similarly, make sure that both lawyers and non-lawyers understand how to calendar and use the calendaring software.

► Do you have at least two independent date controls for your calendaring system?

Build redundancy into your calendaring system. In *Pincay*, Andrews' attorney relied on the firm's calendaring clerk to accurately calculate and record the appeal deadline. However, if both the calendaring clerk and the lawyer had independently calculated the deadline it is likely that the clerk's error would have been realized. In *Pincay*, the Ninth Circuit majority found that "[n]owhere in the proceedings [did] the lawyer state that he had read the federal rules governing appeals. . . . A lawyer's obligation to know relevant law cannot be delegated in this way to a nonlawyer." To stress the importance of two "independent" calculations, lawyers need only recognize, as the court did in *Pincay*, that responsibility for the accuracy of the docketed date rests with the attorney.

► Are your critical dates recorded in two distinct calendars?

After independently calculating the deadline, compare the two dates for accuracy and enter the appropriate date in at least two different calendars. Attorneys who use a computerized calendar may want to have the person keeping the secondary calendar record the entry on a paper calendar. This will ensure that someone has access to calendared critical dates in the event the firm's computerized calendar is inaccessible. Finally, make sure there is adequate cross-checking between the two calendars.

The missed deadlines in *Coleman* and *Pincay* resulted from inaccurate deadline calculations. Although not of the life-or-death magnitude of *Coleman*, the missed deadline in case like *Pincay* could translate into a "career-killer" for any attorney. To ensure that inaccurate deadline calculations will not hold your firm professionally liable, it is worth your time to establish a coherent calendaring system that will keep you from missing legal deadlines. ■

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Community still benefits from the day the MCBA was born

In spite of a little rain on Monday, June 1, 1914, things were moving right along in Phoenix. The overcast sky did little to slow down the traffic or to interfere with the generally prosperous legal community of Maricopa County.

From Agua Caliente in the southwest to Aguila in the northwest, to Higley and Scottsdale in the east, the 8,816 square miles of Maricopa County and its 53,435 inhabitants were served by at least 60 distinguished barristers. Most, if not all, of these attorneys were capable of handling the general legal needs of their clients, including civil and criminal matters. Several were experts in the water rights, mining law, land grants and agricultural issues so important to the economic development of the county.

These members of the legal profession were both the architects and the beneficiaries of Maricopa County's prosperity and growth during the years immediately following the 1910 completion of Roosevelt Dam. With a reasonably consistent supply of water, the county had transformed itself into a rich agricultural center for Arizona — boasting up to six crops per year and a year-round growing season. Rail spurs connected it to the major transcontinental railways and to the population centers in California and all parts east.

In the previous decade, the county's sleepy desert communities had grown by a factor of 10. By 1910, Phoenix had well over 1000 telephone subscribers, including many in the legal community. The city also boasted 29 miles of paved roads, including Central Avenue, paved for 9 miles. Gasoline was 18 cents per gallon.

The lawyers of the city certainly owned their share of the 2200 operational automobiles (almost 1 for every 10 residents) that cruised Washington and First Avenue around the Old Courthouse. From their Stutz Roadsters, Hupmobiles, Fords and Studebakers, the legal community could admire the lushly landscaped green space surrounding the 1889 vintage, two-story brick courthouse and its clock tower.

That Monday morning, no doubt more than a few commuters on their way to work were recalling the weekend's inaugural festivities at the city's brand new Riverside Park (the Park welcomed 10,000 visitors in its first week of operations). For a ten cent admission price, the city's new "Playground for the People" offered dancing to an orchestra on a 40' by 60'



Stan WATTS
HISTORY & HEARSAY

maple floor under a covered pavilion, first-class meals prepared by the chef from the country club, free feature films every night in an open air theater, and most importantly, "the finest bathing imaginable" in a 100' by 200' pool — the largest breakwater swimming tank in America. Riverside Park would remain one of the city's premiere social venues for the next half century.

Other commuters were likely anticipating a coroner's inquest being held that day in Judge Johnstone's justice court. The inquest was convened to investigate the Saturday night shooting of W.K. Meadows by his stepson, John Paul Oxley. Meadows and Oxley had reportedly quarreled over a ladder and Meadows, alleged to be an abusive spouse and parent, had been killed after threatening Oxley. Young Oxley, a popular high school student, was charged with murder and his trial was scheduled for the following Friday. (At the trial 4 days later, in front of a cheering, standing room-only crowd, Oxley pleaded self-defense and was found not guilty. No problem with the Speedy Trial Act in that case.)

Other drivers were more focused on the undertakings of the newly established Phoenix charter government. The city governing body had just proposed a controversial ordinance intended to help remedy the city's budget shortfall. The ordinance called for licensing of all occupations by the city, including attorneys. Under the new ordinance, each attorney would be required to pay licensing fees of \$4 per quarter. Opposition was widespread and, as a result of pressure from business and professional groups (including influential attorneys), the city would eventually withdraw the ordinance.

Later that Monday evening, more than 50 attorneys would make their way to Judge John C. Phillips' courtroom in the Old Courthouse to establish the Maricopa County Bar Association. Some would probably take time for dinner at the California Restaurant, the French Kitchen or the Golden Rule Chop

House, where 75 cents bought a full meal. Others would have been more inclined to relax with other gentlemen in a different sort of "bar" association. The Washington Bar and Gibson & Marsh's Saloon were across the street from the courthouse, and a cool libation may have lubricated the dry throats of the litigators in anticipation of nomination speeches or debate over the bylaws of the fledgling organization.

By the time those 50 attorneys finished their business together, they had given birth to a proud organization that would outlive them all. Today, 90 years later, MCBA members still lead in the social and civic life of the community, still contribute to the growth and prosperity of Maricopa County, still monitor the performance of the justice system, still engage in the great civic debates and still carry on the tradition of professionalism born that cloudy evening in June 1914. ■

PEOPLE IN LAW

■ The Arizona Chapter of the American Jewish Committee recently announced its 2004 Judge Learned Hand Awards, which honor attorneys who demonstrate the law's highest ideals and principles. Ernest Calderon, Jennings, Strouss & Salmon, was given the Community Service Award; Timothy M. Hogan, executive director of the Arizona Center for Law in the Public Interest, received the Public Service Award; Joseph A. Kanefield, election director for the office of the Arizona Secretary of State, was presented with the Emerging Leadership Award.

■ The Southwest Chapter of the Legal Marketing Association announced the election of new officers for 2004: Donna Rodgers, Quarles & Brady Streich Lang, was elected president. Caroline Letiecq, Gust Rosenfeld, was elected vice president. Jane Lundberg, Omega Legal Systems, was elected secretary. Patricia A. Giallanza, Brown & Bain, was elected treasurer. Jessica Howard,



Altshuler



Rodgers

Jones Skelton & Hochuli, was elected membership chair.

■ Amy Altshuler, a partner with Lewis and Roca, has been appointed to the board of the Development and Asset Management Company (DEVCO), a division of the Salt River Pima-Maricopa Indian Community Council. DEVCO is responsible for managing the council's commercial real estate development.

■ Jaburg & Wilk partner Randy Nussbaum was honored with a special achievement award by the ASU Law School Alumni Association. Nussbaum chairs bankruptcy seminars which have helped to raise thousands of dollars for student scholarships over the past 12 years. ■

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has become a partner in the firm

RICHARD M. BORRELLI

JAMES A. FRISBIE

have joined the firm as of counsel and

CARRIE H. SMITH

ROBERT T. SULLIVAN

BRANDI J. BEOUGHNER

have joined the firm as associates

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<p>"Includes all the necessary elements and then some...expertise, enthusiasm, humor and grace." — David Horowitz, Attorney</p>		

Juvenile...

Continued from page 1

Before his appointment to the bench, Ronan served two lengthy stints with the Maricopa County Public Defender's Office from 1974 to 1981, and then again from 1990 until 1999. In the interim, he was in a criminal defense practice with Tom Henze and Jim Kemper. While with the Public Defender's Office he was assigned to the Major Felony Division where the majority of his cases involved the death penalty.

Ronan acknowledged the value of his criminal defense experience before taking the bench on the juvenile court. He said the issues in the defense of adult criminal cases are much the same as in delinquency proceedings, where motions to suppress and reasonable doubt issues frequently arise. According to Ronan, one distinct difference between adult criminal cases and juvenile cases is that in the Juvenile Court, the sentencing options are more varied, complex and largely discretionary, unlike the mandatory sentencing which prevails in the adult system.

Another factor that makes juvenile cases unique is that, up until now, they have rarely involved jury trials. The juvenile court judge serves as fact finder and determines sentencing. However, as a result of recent legislation, jury trials are now available to parents in proceedings involving the termination of parental rights. Ronan admits this poses a logistical problem as neither juvenile court division has a jury box. In order to accommodate the new legislation, jury trials in parental termination proceedings will be held "across the street" at the Southeast Court Facility. The juvenile

court at the Durango facility will go downtown for its jury trials.

Ronan also noted the "frustration" of being "confronted with a case where I know exactly what a child or family needs in order to get back on the right path, but because of budgetary problems I cannot provide it... This is particularly true of the present limited facilities at residential treatment centers and in obtaining prompt mental health counseling."

In spite of such challenges, Ronan says he welcomes the assignment. He also stated he is not planning on making any big changes in the way the juvenile court functions until he gains more familiarity with the job. At the moment, he is actively participating in several different commissions and committees dealing with juvenile matters, including the State Commission on the Superior Courts and the Committee on Juvenile Courts, which consists of presiding juvenile court judges, law enforcement officers, mental health professionals and lay members of the community with an interest in juvenile court matters.

Meanwhile, the new Durango Juvenile Court Center is scheduled to open in the next few months and, according to Ronan, everyone in the juvenile court community is excited about this.

"I look forward to coming to work every day because it provides a new opportunity to make a huge difference in the life of a child or a family in trouble," Ronan said, adding that the increased flexibility in crafting solutions adds a welcome creative element to the job. "I often have the opportunity in talking to both children and their parents to fashion an appropriately tailored program to turn the life of a child or teenager around, sometimes in a matter of few months. I can't imagine a more satisfying job than this one." ■

Scott retires after 20 years on Superior Court bench

By Jack Levine
Maricopa Lawyer

When Maricopa County Superior Court Judge Linda K. Scott's son was five years old, he was asked at school what he wanted to be when he grew up. He unhesitatingly replied that he would like to be either a jet fighter pilot or a fireman. When asked "Wouldn't you like to be a lawyer?" No doubt thinking of his mother, he replied, "No thanks, that's a woman's job."

Scott was appointed to the Superior Court bench in 1984 by Gov. Bruce Babbitt. Her first two assignments were to the civil bench and the family court. In July 1986, she was only the second judge to be assigned to the new Southeast branch. She initially oversaw a combined calendar of civil, domestic relations and juvenile cases. From 1989 to 1995, she served as a juvenile court judge, then left for a criminal assignment followed by a civil assignment, bestowing on her the distinction of having handled every type of court assignment except for the tax division. From October 1998 through the end of December 2003, she served as the presiding judge of juvenile court.

"My most rewarding assignment has been on the juvenile court," Scott readily conceded. She said she takes pride in the fact that "75 percent of juveniles referred to the juvenile court never get another referral." She added that juvenile court judges "do make a difference." She also said that everyone involved in juvenile court, from judges to probation officers, as well as the lawyers on both sides, all work together to come up with a solution that is both "consequence and result oriented."

Because of the horror stories in the press focusing attention on children "falling through the cracks," Scott has noted a recent increase in the filing of dependency petitions. From September 2002 to September 2003, dependency



"My most rewarding assignment has been on the juvenile court... 75 percent of juveniles referred to the juvenile court never get another referral."

petitions increased from 170 to 180 petitions per month to 270 to 280 petitions per month. Each juvenile court now handles between 15 to 25 cases per day, and Scott has observed that in about 75 to 80 percent of these cases, the parents suffer from either substance abuse or mental health problems.

Scott has no definite post retirement plans other than to take an extended vacation and help out from time to time as a pro tem judge, should they need her. In addition, she stated that she plans on "getting more exercise and getting up later." She also plans to remain active and involved in children's welfare issues. ■

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MARCH 2004

March 1

- Maricopa Lawyer editorial board, 5:15 p.m.

March 3

- The Testing Minefield (Part 2 in the Construction Law Series) 2:30 to 4:30 p.m., ASUD
The second installment of from Drawing Board to Structural Issues, this seminar will focus on testing strategies as a part of construction defect litigation. Topics will include types of testing, benefits and risks for limited or widespread testing by the plaintiff and defense, statistical sampling and extrapolation of test results. Cost: MCBA member attorneys, \$50; member paralegals and public lawyers, \$35; non-member attorneys, \$70; non-member paralegals and public lawyers, \$50; same-day registrations/payments, \$15 additional. CLE: 2 hours

- Family/Juvenile Law Section, 5:15 p.m.

March 4

- Construction Law Section, noon

March 5

- DNA in the Courtroom 1:00 to 4:30 p.m., ASUD
Developments in DNA technology merit a closer look at discovery issues, interview techniques and the question of whether to present additional experts at trial to support or challenge DNA test results. Join our panel as they discuss how DNA testing is becoming a powerful identification tool, how you can recognize novel science, the need for the Frye hearing, the meaning of a "match" versus simple inclusion or exclusion, plus tips on how to present this technical science to ensure that both judge and jury will understand it. Cost: MCBA member attorneys, \$75; member paralegals and public lawyers, \$55; non-member attorneys, \$105; non-member paralegals and public lawyers, \$75; same-day registrations/payments, \$15 additional. CLE: 3 hours

- Civil Marriage Equality? Recent Developments in Planning for Nontraditional Families 1:00 to 4:30 p.m., ASUD
Recent decisions by the U.S. Supreme Court and the high court in Massachusetts may lead to widespread changes in marriage laws. Our panel will discuss recent constitutional developments affecting civil marriage, as well as tax, estate planning and employee benefit issues impacting nontraditional families. Attendees will learn about domestic partnership agreements, donor insemination agreements, adoption agreements and co-parenting agreements along with the

legal aspects of terminating a nontraditional relationship, the enforceability of related agreements and real estate, child custody and visitation issues. Cost: MCBA member attorneys, \$75; member paralegals and public lawyers, \$55; non-member attorneys, \$105; non-member paralegals and public lawyers, \$75; same-day registrations/payments, \$15 additional. CLE: 3 hours

March 8

- Young Lawyers Division board, noon
- Task Force on Recruitment and Retention of Women and Minority Lawyers, noon
- Paralegal Division board, 5:30 p.m.

March 9

- With This Prenup, I Thee Wed! 1:00 to 4:30 p.m., ASUD
Learn how to help your clients before they say "I do." This program will provide a comprehensive guide for prenuptial agreements, from initial consultation to signing agreements. Cost: MCBA member attorneys, \$75; member paralegals and public lawyers, \$55; non-member attorneys, \$105; non-member paralegals and public lawyers, \$75; same-day registrations/payments, \$15 additional. CLE: 3 hours

- VLP Advisory Committee, noon
- Hayzel B. Daniels Bar Association, 5:30 p.m.

March 10

- MCBA executive committee, 7:30 a.m.
- Environmental Section, noon

March 11

- Personal Injury/Negligence Section, noon

March 13

- Barristers' Ball, Arizona Biltmore Resort and Spa, 8 p.m.

March 15

- YLD Domestic Violence Committee, noon

March 16

- Bankruptcy Section, 5 p.m.

March 17

- Litigation Section, 7:30 a.m.
- Lawyer Referral Service Committee, noon
- Bench Bar Committee, noon, Central Courthouse

March 18

- Public Lawyers Division board, noon
- When Bankruptcy and Construction Law Cross Paths 1:00 to 4:30 p.m., ASUD
A bankruptcy filing by a contractor will affect the rights of sureties, subcontractors, suppliers, employees, project owners, bond claimants and others. This intermediate program will exam-

MCBA CALENDAR

This calendar includes all CLE seminars presented by MCBA as well as MCBA meetings, luncheons and events and those of other voluntary bar associations and law-related organizations. The divisions, sections and committees listed here are those of the MCBA, unless noted otherwise. Everything takes place at the MCBA office, 303 E. Palm Lane, Phoenix, unless noted otherwise. Other frequent venues include the University Club, 39 E. Monte Vista, Phoenix; Arizona State University Downtown (ASUD), 502 E. Monroe, Phoenix; and the Arizona Club, 38th floor, Bank One Building, 201 N. Central, Phoenix. For information about MCBA events or to register for any of the

MAR. 2004	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			

MCBA seminars, contact the MCBA at 602-257-4200 or visit www.maricopabar.org.

March 26

- Developing Water Quality Standards in the Arid West 9:00 to 12:30 p.m., Scottsdale Waste Water Treatment Plant
National water quality standards are based on aquatic species and flow regimes that are not representative of Western waters. The Arid West Water Quality Research Project was organized in the early 1990s to conduct scientific research to help resolve issues of significance to both the regulated community and regulators at state, tribal and federal levels. Join us for a tour of the Scottsdale Waste Water Treatment Plant and gain a better understanding of the unique aquatic ecosystems of the Southwest. Cost: MCBA member attorneys, \$75; member paralegals and public lawyers, \$55; non-member attorneys, \$105; non-member paralegals and public lawyers, \$75; same-day registrations/payments, \$15 additional. CLE: 3 hours

- Email: The Silent Killer of Companies CCD Lunch CLE 11:45 a.m. to 1:00 p.m., University Club Division members, \$22.50; Non-Division members, \$32.50 CLE: 1 hour includes lunch

March 30

- Paralegal Division Quarterly Meeting, 5 p.m.

ine the interplay between bankruptcy law and construction law, including the effects of the automatic stay on mechanics lien enforcement, stop notices and bond claims. Cash collateral issues, construction contracts as executory contracts, preference claims and non-dischargeability issues also will be explained. Cost: MCBA member attorneys, \$75; member paralegals and public lawyers, \$55; non-member attorneys, \$105; non-member paralegals and public lawyers, \$75; same-day registrations/payments, \$15 additional. CLE: 3 hours

- MCBA board of directors, 4:30 p.m.

March 19

- Maricopa County Bar Foundation board of trustees, 7:30 a.m.

March 22

- Employment Law Section, 12:30 p.m.

March 23

- Corporate Counsel Division board, 4:30 p.m.

March 24

- Sole Practitioners Section, 11:30 a.m.

March 25

- Estate Planning, Probate & Trust Section executive committee, 7:30 a.m.

**Estate Planning, Probate and Trust Presents
2004 Ethics Seminar**

**From Nancy Cruzan to Terry Schiavo:
What Have We Learned?**

Keynote Speaker
William H. Colby

Author of the Long Goodbye: The Deaths of Nancy Cruzan

The recent developments in the Terry Schiavo case are bring the "Right to die" issue back in the national news. In today's society, it is imperative that we talk about our plans in the event that we can no longer make our own medical decisions. Don't miss this timely Seminar on Friday, May 6, 2004.

Pro bono work 'sharpens skills' for family law attorney

By Philip Zerbe
Special to Maricopa Lawyer

For her enthusiastic service and exceptional work, the Volunteer Lawyers Program has named Phoenix attorney Karen Schoenau as its "Volunteer of the Month."

Schoenau, a family law attorney with Wilson Clark in Phoenix, has been working with the Family Law Assistance Project (FLAP) program since 1999. She is known for her gregarious personality.



Schoenau

"Karen has a wonderful sense of the spirit of volunteerism," said FLAP coordinator Karen Jackman, "whether doing research or doc prep, she always goes the extra mile."

"She's highly empathetic and sensitive during FLAP consultations — especially for those with mental disabilities," Jackman added.

Back in Schoenau's school days, the Chicago native designed her educational pursuits around her skiing habit. She earned an undergraduate degree in anthropology from the University of Colorado in Boulder in 1974.

With degree in hand, she went to work as a ski instructor. After a few years of this meritment, someone convinced her to study law. "I decided I would rather work with people than with rocks and ruins," she said. She

returned to Chicago to earn her J.D. from Loyola University in 1985. She swore she would stay out of the courtroom — but then she found she was a natural at it.

Schoenau said the unique challenges of FLAP transcend her everyday family law practice. Her experience at FLAP exposes her to a different side of family law practice. In fact, she says some of the challenges she tackles there resemble "bar exam questions from hell." These encounters sharpen her skills at Wilson Clark, where she practices complex custody litigation, domestic relations and bankruptcy law.

She also helped start a FLAP divorce information session at superior court, which helps pro-per parties execute default divorce actions.

"It is very beneficial for FLAP to have an attorney like Schoenau volunteering her time," said Rick Peters, a fellow FLAP volunteer. He worked with Schoenau on the default program and has also opposed her in court in his day job.

FLAP has been performing this unique community service for over ten years. Over 40 attorneys work with FLAP each year. VLP provides free training and continuing legal education discounts from the MCBA.

To find out more about FLAP or to offer services or support, contact VLP Director Pat Gerrich at 602-254-4174.

Philip Zerbe is a paralegal member of the MCBA and VLP. ■

Fennemore Craig carries on 'tradition' of giving back to the community



Fennemore Craig attorney Kevin Bonner prepares to race the firm-sponsored car in the UPC's Grand Prix fundraiser.

By Teena Booth
Maricopa Lawyer

At Fennemore Craig, a law firm of 150 attorneys founded back in 1885, it is not surprising to discover that the Phoenix office has accumulated a number of traditions. But rarely have the old firm traditions been carried on with as much striking success as the firm's tradition of service to community.

"Community service is something we expect to do, something we don't even question," said Steve Savage, the managing partner in the firm's Phoenix office. "It's a tradition that has been passed on from each generation of lawyers to the next."

With the establishment of the Fennemore Craig Foundation several years ago, the firm turned its tradition of service into an official component of its law practice. The firm holds special fundraising events to support the foundation, and encourages employees to contribute dollars through automatic paycheck withdrawals.

Yet perhaps more important than the

MCBA PARTNER PROFILE

money donations the foundation channels to area charities is the firm's commitment to getting its employees involved in volunteer work.

"We create frequent opportunities for our employees to do hands on work with different non-profits throughout Arizona," Savage said. "It helps people feel good about themselves, and it makes them proud to belong to the firm."

Fennemore Craig attorneys and other employees can be found feeding the hungry in soup kitchens such as the Phoenix Rescue Mission or collecting donations for St. Vincent De Paul or Back-To-School Clothing Drives. They contribute to blood drives, they walk for cures to cancer and diabetes, they

— See **Fennemore** on page 13

Volunteer Lawyers Program Thanks Attorneys

The Volunteer Lawyers Program thanks the following attorneys and firms who accepted cases to assist low-income clients during the past two months. Each attorney receives a certificate from the Maricopa County Bar Association for a CLE discount.

Bankruptcy:

Robert D. Beucler, Phillips & Associates
Jeffrey L. Phillips, Phillips & Associates

Consumer:

Ashley Adams, U.S. Attorney's Office
Craig J. Bolton, Jennings Haug & Cunningham

Robert W. Bruns, Sole Practitioner
David A. Clarke, BHFC Financial Services

Robert Crawford, Sole Practitioner
Gregory D. Honig, Mohr Hackett
Pederson Blakley & Randolph
LaShawn D. Jenkins, Quarles & Brady

Streich Lang
Randy Kries, Sole Practitioner
Ronald Messerly, Snell & Wilmer
Marshall S. Meyers, Krohn & Moss
Ernest Modzelewski, Sole Practitioner
Jonathan Muntz, Cooper & Scully

Michael L. Parrish, Stinson Morrison & Hecker
Thomas N. Payne, Sole Practitioner
Robert A. Resnick, Shugart Knudson & Kilroy
David E. Shein, Chester & Shein
J. Tyrell Taber, Meyers Taber & Meyers
Christine R. Taradash, Beus Gilbert
Jay Zweig, Gallagher & Kennedy

Dependency-Child Protection:

Janet Story, Sole Practitioner

Family Law/Domestic Violence:

Kiilu Davis, Lisa B. Johnson & Associates
Christina Hamilton, The Cavanagh Law Firm
Michael Hurley, Sole Practitioner
Lisa B. Johnson, Lisa B. Johnson & Associates
Andrew Russell, Lieberman Dodge Gerding & Anderson
Marie Zawtocky, Zawtocky Law Offices

Guardians Ad Litem for Children in Family Court:

Vanessa Andreshock, Sole Practitioner
Dennis K. Blackhurst, Steptoe & Johnson
Florence Bruemmer, Sole Practitioner

Jennifer G. Gadow, Fromm Smith & Gadow
Tami Hugo, Wilcox & Wilcox
Jeffrey L. Kastner, Community Legal Services

Ronald L. Kossack, Sole Practitioner
Mary C. McDonald, Sole Practitioner
Stephen Roy Smith, Fromm Smith & Gadow

Guardianships of Minor Children:

Elizabeth A. Campbell, Sole Practitioner
Alisa J. Gray, Gray & Fassold
Jim McGreevy, Sole Practitioner
Ronald Messerly, Snell & Wilmer
Deanna Rader, Quarles & Brady
Streich Lang
Luis F. Ramirez, Quarles & Brady
Streich Lang

Guardianships of Incapacitated Adults:

Charles L. Arnold, Frazer Ryan Goldberg Arnold & Gittler
Shoshana O. Epstein, Sole Practitioner
Alisa J. Gray, Gray & Fassold
Susan Watchman, Gammage & Burnham

Housing:

Ronald W. Carmichael, Carmichael & Powell
Amanda Crutchfield, Meyer Hendricks & Bivens
Reed W. King, Sole Practitioner
I. Harrison Levy, Sole Practitioner
Amy McGaw, Cooper & Scully
Kenneth G. Royer, Sole Practitioner
Michael Scheurich, Mariscal Weeks McIntyre & Friedlander
Gerald L. Shelley, Quarles & Brady
Streich Lang
Christopher Stickland, Holloway Odegard Sweeney & Evans

Non-Profit Group

Transactional Assistance:

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Classifieds

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POSITIONS

ASSOCIATE ATTORNEY Dynamic AV-Rated law firm seeks associate with two to six years commercial litigation experience. Applicants must be admitted to the Arizona Bar and have excellent academic and professional credentials. Please send resume to: John E.DeWulf, Roshka Heyman & DeWulf, 400 E. Van Buren, Suite 800, Phoenix, AZ 85004-3906.

ATTORNEY - BARNES, LASSITER & KILLOUGHEY, an AV rated, East Valley firm practicing exclusively in the areas of business, real estate and construction litigation and transactions, with a strong creditors' rights focus, seeks associate with two or more years of experience in the firm's practice areas. Excellent academic and professional credentials and a strong work ethic are needed to join the firm's expanding, progressive, high technology legal team. Direct confidential inquiries to jmorgan@blklaw.com

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CONSTRUCTION ASSOCIATE Lewis and Roca LLP is seeking an associate with two to three years commercial litigation experience to join our construction litigation practice. The candidate will possess strong writing and analytical skills, an ability to pay attention to detail, and demonstrate skills to timely respond to the day-to-day needs of a construction industry-driven practice. The candidate must have a strong desire and willingness to develop business and enthusiastically attend construction industry-specific functions. The person will be mature and self-confident, and after training, be able to interact with our clientele in a productive manner. Superior academic credentials are required. We offer a competitive compensation package, including productivity and discretionary bonuses, and full benefits. We will pay relocation and bar exam expenses for a qualified candidate. If interested, please reply in confidence with resume, transcript and writing sample to: Julie Moy, Director of Lawyer Recruiting, jmoy@lrlaw.com, or 602/734/3930.

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ANNOUNCEMENTS

NEED TO LOCATE WILL — Our dad passed away on December 30, 2003 in a house fire. We know he had a will or trust but we cannot locate it and do not know who his lawyer was. If you have any information regarding William M. Donnelly DOB 05-11-37, please contact his estate representative, Karen Jackson 480-580-5938 or Tara Donnelly 480-213-1993 to help our family in this matter.

Fennemore...

Continued from page 12

visit the elderly residents at the Christian Care Nursing Center and they clean up the stretch of highway they've adopted. They even climb into race cars to help raise money for UPC.

Beyond their work with charities, the firm's attorneys contribute to the community through volunteering on various civic boards and with pro bono programs such as VLP. In fact, every Tuesday, two Fennemore Craig attorneys show up at the VLP offices to give free legal advice to clients in need.

The firm's involvement in the community extends to organizations in the legal profession as well. More than 90 percent of all Fennemore Craig attorneys working in Phoenix belong to the MCBA, and the firm regularly co-sponsors MCBA events or host MCBA-organized seminars.

"We see the benefit of working with the bar as twofold," Savage said. "First, we want to do our part to maintain the standards of the profession. And second, we want build and maintain relationships with other attorneys in the county. Establishing successful relationships has always been very important to us."

Looks like yet another Fennemore Craig tradition is hard at work. ■

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LEGAL MOVES

■ Steptoe & Johnson has named Devin L. Olson as the new managing partner of its Phoenix office. A partner in the firm's corporate group, Olson's practice emphasizes general corporate advice, mergers and acquisitions, securities and corporate finance and other commercial transactions.

■ Mark I. Harrison, previously a partner with Bryan Cave, has been named as partner in the law firm of Osborn Maledon. Harrison (J.D., Harvard Law School) will focus his practice on ethics, professional liability and professional responsibility.

■ Jeffrey J. Goulder (J.D., Loyola University) has been named litigation chairman at the Phoenix office of Stinson Morrison Hecker.

■ Jennings Strouss & Salmon has elected two new partners. Brenda Barton Kolobara (J.D., University of Nebraska), concentrates her practice commercial litigation with an

emphasis on complex financial fraud cases, contract disputes and commercial lease disputes. Carolyn Craft Martin (J.D., ASU) focuses her practice in commercial real estate, commercial finances, corporate law and commercial transactions.

■ Richard W. Tobin II has joined Lewis and Roca's environmental practice as of counsel. Prior to joining the firm, Tobin (J.D., University of Florida) served as counselor to the director of the Arizona Department of Environmental Quality.

■ Michael J. Pearce, John D. Bethea and Lori A. Higuera have been named directors of Fennemore Craig. Pearce (J.D., UA) practices in the areas of interstate water disputes, compliance with the Endangered Species Act and Colorado River issues. Bethea (J.D., Brigham Young University) practices in real estate law, with an emphasis on the acquisition of retail commercial sites, sales of undeveloped land and representation of lenders, landlords and tenants in office and retail lease transactions. Higuera (J.D., University of Chicago) practices primarily in the area of labor and employment law.

■ Osborn Maledon announced the addition of three new members and four new



Arnold



Bethea



Goulder



Graffiti



Hall



Harrison



Higuera



Janitch



Kolobara



Martin



Olson



Pearce



Pollak



Schmidt



Tobin



Willboughby



Woinowsky

associates. The new members and their areas of practice are Darrin Mollet (J.D., UCLA), employment law and litigation, Christopher Simpson (J.D., UA), bankruptcy and business reorganizations, and Warren Stapleton (J.D., ASU), bankruptcy law and litigation. The new associates are Danielle Janitch (J.D., Stanford University), previously a clerk for U.S. District Court Judge Roslyn O. Silver, Kevin Pollak (J.D., UA), who served in the U.S. Army prior to law school, Shannon Willoughby (J.D., University of North Carolina), who previously focused her Oregon practice in general business, and Ronda Woinowsky (J.D., UA), a former clerk for Arizona Supreme Court Chief Justice Charles Jones.

■ Fennemore Craig has added eight new associates. Aaron Arnold (J.D. 2003, UA) will join the firm's tort litigation practice group. Sherida Colvin (J.D. 2003, ASU) will focus her practice on commercial litigation. Anthony Graffiti (J.D. 2003, ASU) will prac-

tice real estate law. Todd Hall (J.D. 2003, Vanderbilt University) will join the firm's business and finance practice group. Leo John LeSueur (J.D. 2003, University of Texas) will concentrate his practice on environmental law. Nina Montoya (J.D. 2003, USC) will join the firm's business and personal injury tort practice group. Renee Schmidt (J.D. 2003, University of San Diego) will focus her practice in business and finance and bankruptcy law. Scott Shelley (2002, UA) will join the firm's commercial litigation practice group.

■ Lisa R. Nathan has joined the firm of Brier & Irish. Nathan practices in the area of commercial real estate leasing and transactions.

■ Bowman and Brooke announced that Najia M. Kerrin and Barry C. Toone have been elected partners in the firm. Kerrin concentrates her practice on employment law and commercial litigation while Toone focuses on products liability law. ■

Legal Brief

■ The American Bar Association Section of State and Local Government Law is seeking nominations for its 7th Annual Jefferson Fordham Awards, to be presented in August during the 2004 Annual Meeting in Atlanta. The submission deadline is March 20.

The awards honor outstanding state and local government lawyers and law firms that have achieved professional excellence within their area of practice, and are presented in four categories: Law Office Accomplishment, Lifetime Achievement, Advocacy and Up and Comers.

Guidelines for submission of nominations are available online at www.abanet.org/statelocal. ■

To place a **classified ad**, call the MCBA, 602-257-4200

*The
Maricopa County Bar Association
wishes to extend sincere
Thanks and Gratitude
to the following firms & organizations:*

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Annual Luncheon and Awards Ceremony
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Continued from page 2

probability of success. At the end of the day, they are responsible for closing the file, paying the outside counsel bills and preparing a "lessons learned" memo.

Traditional law firm paralegals will have well-defined responsibilities and positions ranging from paralegal trainees to senior paralegals. Typically assigned to a practice group, they report to a supervising attorney and interact with many attorneys and staff. A multitude of resources and staff are available to assist in accomplishing assignments. They may supervise a secretary, a project clerk and a filing clerk. When a huge rush project hits the paralegals' desk, he or she is not apt to panic, and may even take the time to ask, "What color do you want your binders?"

Multi-tasking and multi-project is the lifestyle. Under the supervision of an attorney, responsibilities include managing a case from complaint through trial, factual and legal research, serving third-party subpoenas, noticing depositions, drafting discovery, supervising the imaging of documents, developing databases for records management, strategy meetings with attorneys and clients, witness interviews, supervising the document repository and trial preparation.

Types of specialized paralegals in a law firm setting include appellate, litigation, real estate, corporate, nursing consultants, contracts, bankruptcy, labor and employment, environmental, intellectual property, trademark, probate, tort and criminal. Typically, there is interaction with clients, in-house corporate paralegals, opposing counsel and outside vendors. Education and training are required; organizational, written and verbal skills are a must.

The part the law firm paralegal plays in the attorney/paralegal team is crucial to the attorney's practice. The interaction, reliance and trust on the paralegal to "get things done" allow the attorney to focus on the substantive side of practice rather than on the administrative side. Law firm paralegals work side by side with the attorneys to develop case strategy. They go to court and attend depositions and hearings. The more trust built up between the attorney and paralegal, the greater the responsibility in assignments.

Traditional law firm paralegals keep time sheets with task descriptions and have a billing rate. Under the supervision of an attorney, the paralegal's value is the performance of substantive legal work at a cost effective rate to the client.

No matter which path a paralegal takes, it is important to network with peers and continue to learn about developments in the field. The MCBA Paralegal Division supports the paralegal community with a comprehensive web site at www.maricopaparalegals.org. Please visit the website and check out the links. For more information about membership, please contact me at cpendleton@rlaw.com or Sonya Bryant at the MCBA (602) 257-4200. ■

Paralegal Career Day serves as catalyst to a successful career

By Sybil Taylor Aytch
Maricopa Lawyer

As part of the MCBA Paralegal Division's commitment to promoting the paralegal profession, the 4th Annual Paralegal Career Day will be held on Saturday, April 3, from 8 a.m. to 1:30 p.m. in the Dome Conference Room at Phoenix College. Paralegal Career Day is a unique opportunity for paralegal students, recent graduates and the public to learn about the paralegal profession.

This half-day event was initially developed for students enrolled in paralegal educational programs in Maricopa County, but has since been expanded to include the needs of paralegals who have recently entered the profession as well as those unfamiliar with what paralegals do. The event has become an important springboard for students embarking on a paralegal career. It provides a supportive environment for practicing paralegals to gain new skills and learn about new practice areas, while offering a vital learning experience for novices.

The topics to be presented this year include:

- Career Development and Placement

- Alternative Career Options for Paralegals
- The Attorney-Paralegal Team
- Developing Effective Organizational Skills
- The Certification Exams: Certified Legal Assistant Exam (CLA) and the Paralegal Advanced Competency Exam (PACE)

All educational sessions are conducted by experienced paralegals or attorneys and are enhanced by the use of state-of-the-art technology. Registration is \$15 for paralegal students and \$25 for all others. Continental breakfast and refreshments are included. For additional information, contact Amy Davis at adavis@triallaw.com, Tricia Kramer at paralegal2@globalmaclaw.com or go to the Info page on the Paralegal Division Web site at www.maricopaparalegals.org and check the Paralegal Career Day box.

Make a commitment to your current or future paralegal career by attending this informative program.

► Sybil Taylor Aytch chairs the MCBA's Membership Communications/Technology Committee and served as the first president of the Paralegal Division. ■

Certification does not always translate into higher pay for paralegals

Dear Editor:

I was interested to read the article, "Important Facts About Paralegal Certification," by MCBA Paralegal Division President Clare Pendleton in the February issue of *Maricopa Lawyer*. I have been a paralegal for nearly 14 years and have worked for law firms, municipal government offices and corporations in five different states. I have two bachelor's degrees and a paralegal certificate, but I am not a certified paralegal. In my years of moving from state to state, and job to job (my husband works for the federal government), I have found that employers, whether they are law firms, government offices or corporations, do not pay more if you are certified. Nor have I ever been told that I would not be considered for a position because I was not certified. In fact, I have been told directly on numerous occasions that I will not make more money even if I do seek certification.

It makes sense to me that a paralegal who is certified and, as Pendleton said, "is capable of providing superior services," would get paid more. But from my experience, a designation behind your name does not really matter to most employers. I know that nowadays many employers do require a bachelor's degree (and paralegal certificate) but I have noticed that many still consider years of experience over degrees/certificates or certifications.

Also, is it not true that certified paralegals are held to a higher standard in terms of liability? In other words, attorneys are ultimately liable for the work that is produced, but I believe I heard years ago at a seminar/conference that certified paralegals are held as liable or responsible as the attorney. Do certified paralegals maintain malpractice insurance? I would have liked to have seen that point addressed in your article. I agree with you that certification is important (maybe not for every paralegal in all situations); and I hope I have not come off as

LETTER TO THE EDITOR

though I was challenging your views. I look forward to reading *Maricopa Lawyer* and your articles on a more regular basis.

Michelle Pechan
Phoenix, AZ

Clare Pendleton responds:

Thank you for writing and I appreciate your comments. Taking the CLA or PACE exams is voluntary. I realize that not all employers know what it takes to achieve the credential and can be confused, but I know that for those who understand what it takes to pass such an exam, the credential is considered a credit to the paralegal and her employer. In answer to your question, the

courts have defined a paralegal as someone who performs substantive legal work who is supervised by an active member of the State Bar of Arizona or for whom an active member of the state bar is responsible. Traditional paralegals, those working under the supervision of an attorney as defined above, certified or not, are not held personally liable, nor are they required to maintain malpractice insurance. ■

Tell us!

Have you changed employment?
Has your law firm named new partners?
Send information for our Legal Moves column to *Maricopa Lawyer*,
MCBA, 303 E. Palm Lane, Phoenix, AZ
85004; fax to 602-257-0522; or
email to: maricopalawyer@mcbabar.org.

Got an itch to write more than motions?

Maricopa Lawyer welcomes contributions, from news and feature articles to humor and opinion pieces, that are law-related or of special interest to the legal profession.

For example, consider writing an editorial about a current legal issue that piques your interest, or a feature article about an interesting lawyer or judge.

The *Maricopa Lawyer* editorial board reserves the right to reject

articles and to edit contributions for length or content. You may send submissions to *Maricopa Lawyer*, Maricopa County Bar Association, 303 E. Palm Lane, Phoenix, 85004, or e-mail submissions to maricopalawyer@mcbabar.org

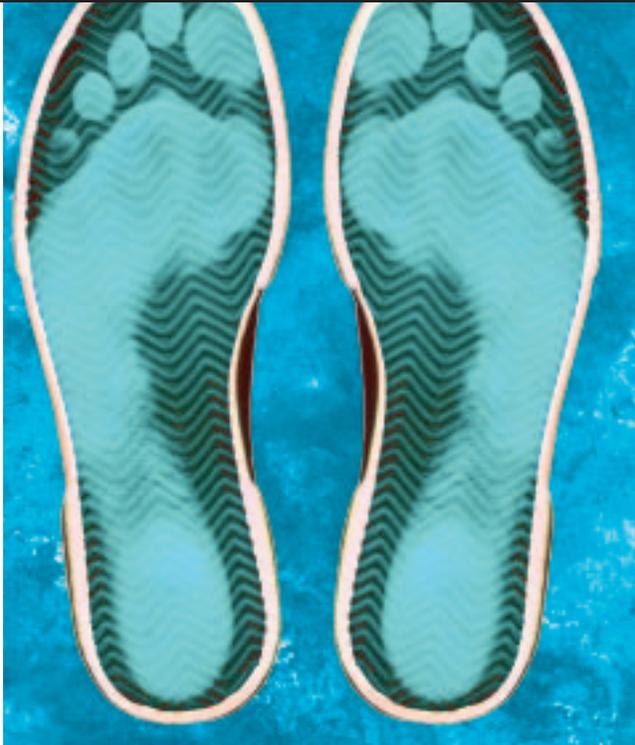
Even if you don't want to write the article, the editorial board welcomes story ideas as well as information for our Legal Moves and People in Law columns. ■

Tell us about your people!

Have you won an award? Is your law firm involved in an interesting community project? Send information for our People in Law column to *Maricopa Lawyer*, MCBA, 303 E. Palm Lane, Phoenix, AZ 85004; fax to 602-257-0522; or email to: maricopalawyer@mcbabar.org.

Are footprints as foolproof as fingerprints?

The prosecutor in a capital offense case wanted to submit footprints taken inside a shoe as evidence. Two nights before the trial, the defense attorney received a Mealey's E-Mail News Report about a case that questioned the admissibility of this evidence.



The Mealey's E-Mail News Report notified the defense attorney of a recent court decision from the highest court in a neighboring state. He was surprised to find the prosecution's expert witness had also testified in that case. But the court held that footprints from inside a shoe were not a recognized area for expert testimony under the Daubert standard. As the defense attorney continued his search of analytical sources from Matthew Bender[®], including *Moore's Federal Practice*[®] on the LexisNexis[™] services, he quickly found further supportive commentary and analysis. When you need to go a step beyond cases and codes in your research, use the LexisNexis[™] Total Research System—**It's how you know.**



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