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Pro Bono Option

The Maricopa County Bar Foundation once again encourages attorneys assigned as arbitrators to donate their \$75 fee to the foundation's fundraising efforts. Page 11.

Murder statute still requires actual reflection, just not direct evidence

By Daniel P. Schaack
Maricopa Lawyer

Reflecting on the need for reflection, the Arizona Supreme Court has upheld the premeditation element of Arizona's first-degree murder statute. Faced with a statutory amendment that intended to clarify the situation but seemed only to obscure it, the Supreme Court preserved the difference between the degrees of murder while still giving effect to the amendment. *State v. Thompson*, No. CR 01-0435-PR (Mar. 12, 2003).

First-degree murder requires that the defendant intentionally or knowingly, and with premeditation, cause the death of another. Second-degree murder does not require premeditation.

In defining premeditation, the Legislature seemed to wipe out that difference in the two degrees:

'Premeditation' means that the defendant acts with either the intention or the knowledge that he will kill another human being, when such intention or knowledge precedes the killing by any length of time to permit reflection. *Proof of actual reflection is not required*, but an act is not done with premeditation if it is the instant effect of a sudden quarrel or heat of passion.

A.R.S. § 13-1101(l) (emphasis added). This definition contradicted prior incarnations of the first-degree murder statute, which explicitly required actual reflection.

Complicating the problem in *Thompson* was an instruction that emphasized the passage of time,

COURT WATCH

rather than actual reflection:

The time for reflection need not be prolonged and there need be no appreciable space of time between the intention to kill unlawfully and the act of killing. *It may be as instantaneous as the successive thoughts of the human mind*, however it must be longer than the time required to form the intent or knowledge that such conduct will cause death.

Prior to the amendment, the two divisions of the Court of Appeals had split on whether premeditation required actual reflection. Division One held in *State v. Ramirez*, 190 Ariz. 65, 945 P.2d 376 (App. 1997), that it does. Division Two disagreed in *State v. Haley*, 194 Ariz. 123, 125, ¶ 9, 978 P.2d 100, 102 (App. 1998), holding that "premeditated murder requires only that the defendant's intent to kill...precede the killing by a sufficient period of time to permit reflection, and does not require actual reflection." The Legislature then amended the definition of premeditation to wipe out the need to show proof of actual reflection.

Writing for the Supreme Court, Justice Rebecca White Berch opined that the amended statute only muddied the waters, noting that in a previous opinion in *Thompson's* case, Division One had struggled to give meaning to the statute while still preserving the distinction between the two degrees of murder. It had concluded that the statute's constitu-

— See **Courtwatch** on page 6

Campbell sets time limits for lower-court DUI cases

By J.W. Brown
Maricopa Lawyer

Misdemeanor drunk-driving cases are taking too long to get to trial in some limited-jurisdiction courts, so Maricopa County Presiding Judge Colin Campbell has issued a countywide order setting time limits.

Campbell's plan cuts in half the time some courts have been taking to resolve DUI cases. The plan also simultaneously permits each limited-jurisdiction court to develop its own case-management solution to guarantee DUI cases are resolved within six months from the arraignment date (five months if the defendant is in jail).

Valley municipal and justice courts have never been under such a countywide mandate

until Campbell's directive. The change in focusing on these cases beyond municipal or precinct boundaries is part of a reorganization within the judicial branch, giving more authority and responsibility to a county presiding judge in each of Arizona's 15 counties to coordinate every trial court in a county.

Campbell is concerned about the DUI processing for a number of reasons, including the fact that many defendants are released awaiting trial and can pose a potential public safety hazard if they continue to drink and drive. Some cases are taking a year or more to be resolved.

There is little consistency in the speed DUI cases move through the 46 municipal and justice of the peace courts in the Phoenix area, resulting in an

equal justice problem, according to Campbell.

"The public, victims and defendants deserve more uniformity in getting cases resolved," he said. "My directive to the courts will help."

Once the new case-processing solutions are outlined, municipal and justice of the peace courts must provide Campbell with monthly updates of pending DUI cases that were not resolved within the time limits. Those cases will be targeted for corrective action.

This must all be in place and operating by January, giving the courts eight months to show Campbell how they will meet these new goals.

► J.W. Brown is communications director, Maricopa County trial courts. ■

Public Lawyers Division puts the bunny in Easter

By Sharon Frye
PLD Director

Members of the MCBA Public Lawyers Division were on hand to help with kid organizing and prize-giving at the Kids Street Park Easter Egg Hunt on April 19.

Hundreds of children ages 2 to 12 showed up to hunt eggs and meet the Easter Bunny, the PLD's own Jack Hudock. The bunny received many handshakes, hugs and adoring looks, and found it to be a worthwhile and entertaining experience.

Thanks to the generosity of PLD members and the merchants they solicited, no child went home empty-handed. PLD received donations of more than 160 Easter baskets, along with stuffed animals, Beanie Babies, cash and candy.

The hunt's organizers, Kurt Sjoerdsma, director of the Marc Atkinson Recreation Center, and Donna Neill, Westwood neighborhood leader, expressed their appreciation to the PLD for helping to make the hunt a success. Once again, PLD members have shown their consistent dedication to community service. ■



The Easter Bunny — also known as PLD board member Jack Hudock — greets egg hunters at the Kid Street Park Easter Egg Hunt.

MAY 2003

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Scavenger hunt

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Immigration

Special registration is most volatile immigration topic this year. Page 8.

Innocent spouses

Tips for federal and state income-tax relief for innocent spouses. Page 10.

COMMENTARY

MCBA members find more opportunities to share information, expertise

Where can you find your fellow MCBA members? Actually, we are everywhere. In addition to the wide-ranging activities of the MCBA Young Lawyers Division, we have an array of sections and divisions that provide something for everyone licensed to practice law in Arizona. Members of these groups practice in all areas of Maricopa County, as well as bordering counties such as Pinal and Gila.

In the last year, we have added four new sections: Criminal Law, Construction Law, Personal Injury/Negligence, and Employment Law. If you have co-workers or colleagues who practice in these areas, please let them know about the benefits of MCBA membership. Our members enjoy a myriad of opportunities for networking (see our calendar, page 9), and find the MCBA to be a welcoming place to get together to solve the problems we encounter in the legal profession.

MCBA section and division membership offers further opportunities to share informa-

Yvonne R.
HUNTER
MCBA
PRESIDENT



tion and exchange practice ideas. Your fellow members have hundreds of hours of experience, and they are more than willing to lend their expertise to help you build your practice. We have made sharing information even easier with a new list serv system that allows members to quickly and easily communicate with each other.

We also are making it easier for our members to connect with members of other bar associations. The MCBA is working in partnership with our "sister" bars — the East Valley and West Valley bar associations, to name two — on a number of activities. The MCBA staff is ready, willing and able to assist you in meeting with the leaders of our sister

bar associations so you can take your "show on the road" and take your programs to their membership.

You will find more details about these and other opportunities for improving your practice and increasing your knowledge on the MCBA website. We encourage you to visit our site regularly for updates on great CLE seminars, bar activities and division/section news.

To help you become familiar with the site, we have prepared a fun and easy website scavenger hunt (see page 8). We think you will enjoy playing along, and as an added incentive, if you mail or drop the answers to the MCBA offices by May 30, your name will be entered in a drawing for some fabulous MCBA prizes. (Read: We are cleaning out our

— See **Hunter** on page 4

In memory of Andy

Editor:

Some people we see every day we truly do not "know." At times there are other extraordinary people who we have never met face-to-face that we feel we "know" and are close to. For more than 25 years, I and hundreds of other lawyers called *The Trial Reporter* and were greeted by an extraordinarily knowledgeable voice on the other end of the line known as Andy.

Recently, I called *The Trial Reporter* for a compendium. The voice that answered was not the wonderful curmudgeon with whom I shared similar characteristics. In my own typical curmudgeon style, I inserted my foot down my throat and said: "Is that old grouch still alive?" To my shock, the answer was that she is not.

I only "knew" her by her words, her deeds and that wonderful voice. Although I never met Andy in person, I felt that I knew her and that we were friends. I admire greatly what she did and

LETTER TO THE EDITOR

what she had accomplished and done for the bar. While I did not know her as a businessperson, I knew the service she provided was not only accurate under difficult circumstances, but it was provided at a reasonable price. I knew that she was facing competition from technology. I also knew that the quality of information she was providing to those of us who relied on it so heavily could only be provided by human beings. I also knew there were hundreds, if not thousands, of people who relied on the accuracy of that information.

While *The Trial Reporter* will live on, the won-

— See **Letter** on page 7

Take time to de-stress with a mini-vacation

"I don't have time to get away."

"I'll take a break when things slow down."

I've heard these phrases from many young lawyers as they rush from deadline to deadline. These same lawyers also are most likely to ignore advice to "take time for yourself." They continue with hectic schedules and risk burning out. They also may convince themselves that short of a full vacation, there are few other options to escape.

Granted, a full vacation may not be realistic. Young lawyers are simply too busy. But a full vacation is not the only way to get away from it all. With a little creativity, you can find plenty of opportunities for mini-vacations right in front of you. These simple, quick indulgences are great escapes that can be easily integrated into your busy schedule.

Here are a few ideas to get you started.

► Get a pedicure or a manicure. This tiny luxury allows you to experience the pleasures of a spa in a fraction of the time.

► Hit a bucket of balls at the driving range, play a round of golf at an executive golf course or play a virtual round on Golden Tee 2004. For many, just being on the course is therapeutic, while the video game version allows you to hit dream shots impossible in reality.

► Get away from your desk and eat lunch out at least once a week. Better yet, walk to lunch. Spring is one of the most pleasant times of the year in Arizona, so get out and enjoy it!

Lori A.
HIGUERA
MCBA/YLD
PRESIDENT



► Go to happy hour. A night on the town may be out of the question if you have an early morning in the office ahead of you. Brief social time after work allows for a good night's sleep.

► Schedule a monthly social event with friends and keep it. Make time to get together for dinner or a movie.

► Grab a coffee drink and read for pleasure. Drafts of motions and deposition transcripts are not leisurely reading. Instead, browse through a magazine or read the newspaper from front to back.

► Eat breakfast. A bagel or doughnut on the run doesn't count. Cook something easy at home or enjoy a midweek meal at your favorite weekend breakfast place. Breakfast is good for you and a great way to start your day.

These pint-sized excursions pale in comparison to a couple weeks on a sunny beach with a frothy drink. But they are practical escapes and fun, too. Go ahead and try one! When work gets busy, these mini-vacations can quickly become one of the highlights of your day. ■

Paralegal Division success built on team effort

I had an interesting conversation recently with a non-division member. We were discussing various programs and benefits our respective associations offer paralegal members. During this conversation, the non-member stated that the success of our Paralegal Division was due to the financial backing of the MCBA. After a moment of shock, I explained that all of the division's programs were, in fact, funded by the Paralegal Division and not the MCBA general fund. The non-member responded: "I can't believe that!"

The comment burned into my brain. Is it really so difficult to believe we have been successful without MCBA financing? I chose to accept this person's remark as a compliment to the division and our members. Those who are not MCBA Paralegal Division members and/or have not been active in the programs we sponsor may not understand the significance of volunteers doing what they do best — volunteering.

Since 2000, the Paralegal Committee

Garth
HARRIS
PARALEGAL DIV.
PRESIDENT



earned its own way financially, and now that we are a division we fully support ourselves. Our funding initially comes from the \$20 our members pay each year to be a part of the Paralegal Division. During the course of the year, all funds earned over and above our operational expenses are added to the division coffers. At the end of the year, any funds left in the Paralegal Division's account are transferred to the MCBA's general account. At the end of last year, our first as a division, we transferred approximately \$16,000 to the MCBA general account.

In addition to being financially solvent, since 2001 the Paralegal Committee/Division

— See **Harris** on page 4



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Errors will be corrected in a subsequent issue.

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

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Portley appointed to appellate court

So with Kaufman retirement, two more trial bench openings

Gov. Janet Napolitano has named Maricopa County Superior Court Judge Maurice Portley to fill one of two vacancies on the Arizona Court of Appeals.

Portley fills the vacancy created by the retirement of Judge E.G. Noyes Jr. in January.

"I am pleased to appoint Mo Portley to the court," Napolitano said. "Those who have practiced with and before Mo have uniformly praised his intelligence and demeanor and I expect he will be an excellent addition to the Court of Appeals."

Portley, a Democrat, has served on the Superior Court since 1991 after working in private practice with Jennings, Strauss & Salmon. He received his law degree in 1978 from the University of Michigan.

He will join the Court of Appeals on June 9.

In addition to Portley, the Commission on Appellate Court Appointments had nominated Donn G. Kessler of Jones, Skelton & Hochuli and Maricopa County Superior Court judges Louis A. Araneta, David R. Cole and Eileen S. Willett.

The commission was to meet April 28 to prepare a new list of nominees for the vacancy created by the recent retirement of Judge Edward C. Voss.

The Maricopa County Commission on Trial Court Appointments is taking applications until May 16 to fill the vacancies created by Portley's appointment to the Court of Appeals and the retirement of Superior Court Judge Roger Kaufman on May 31.

Applicants must be at least 30 years old; have been admitted to practice law in and have been a resident of Arizona for the past five years; and have been a resident of Maricopa County for the past year.

Applications may be obtained from the Administrative Office of the Courts, Human

Resources Division, 1501 W. Washington, Suite 227, Phoenix; by calling 602-542-9311; or by sending an email request to jnc@supreme.sp.state.az.us; or from the court's website, www.supreme.state.az.us/hr (judicial vacancies).

The original and 16 copies must be submitted to the Human Resources Division by 3 p.m. May 16.

Applicants for the recent Superior Court vacancies will automatically be considered for these two openings and do not need to re-apply

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

Legal Brief

■ The Civil Practice & Procedure Committee of the State Bar of Arizona, as part of its ongoing work, examines and takes efforts to attempt to improve the civil procedure rules. The committee welcomes comments, anecdotes or submissions of any kind to aid that endeavor and asks that they be directed to the committee chair, Samuel A. Thumma, Brown & Bain, 2901 N. Central Ave., P.O. Box 400, Phoenix 85001-0400; telephone 602-351-8338; fax 602-648-7138; or email thumma@brownbain.com. A subcommittee currently is examining Ariz.R.Civ.P. 68 (offers of judgment). The subcommittee also welcomes comments, anecdotes or submissions of any kind in aid of that endeavor and asks that they be directed to the subcommittee chair, Shawn K. Aiken, Hebert Schenk, 1440 E. Missouri Ave. Suite 125, Phoenix 85014; telephone 602-248-8203; fax 602-248-8840; or email ska@hs-law.com. ■

Looking for CLE? We've got it!

The Maricopa County Bar Association offers affordable, convenient and relevant continuing legal education seminars. May seminars are:

- May 1: The 15 Basic Rules Every Young Attorney Should Know
- May 6: International Custody Issues
- May 8: So You Want to be a Certified Specialist: All You Need to Know About Becoming Certified
- May 9: Can We Be Safe & Free? A Panel Discussion on Recent Developments in Civil Rights Laws
- May 13: Interstate Custody Issues
- May 15: Choices of Legal Business Entities: Which Structure is Right for You?
- May 16: Do No Harm: A Civil Lawyer's Nuts and Bolts of Immigration
- May 20: Grandparents Rights

■ May 20: Crossing the Bridge between Law School and Private Practice: Developing your own practice niche

■ May 21: Computer Forensics: Is it the smoking gun that will win your case or the opposing party's?

■ May 28: The Sky Is Not the Limit: A Panel Discussion of State Farm Mutual v. Campbell - Limiting Punitive Damages

■ May 28: Valley of the Sun Growing Pains: Building from the Ground Up

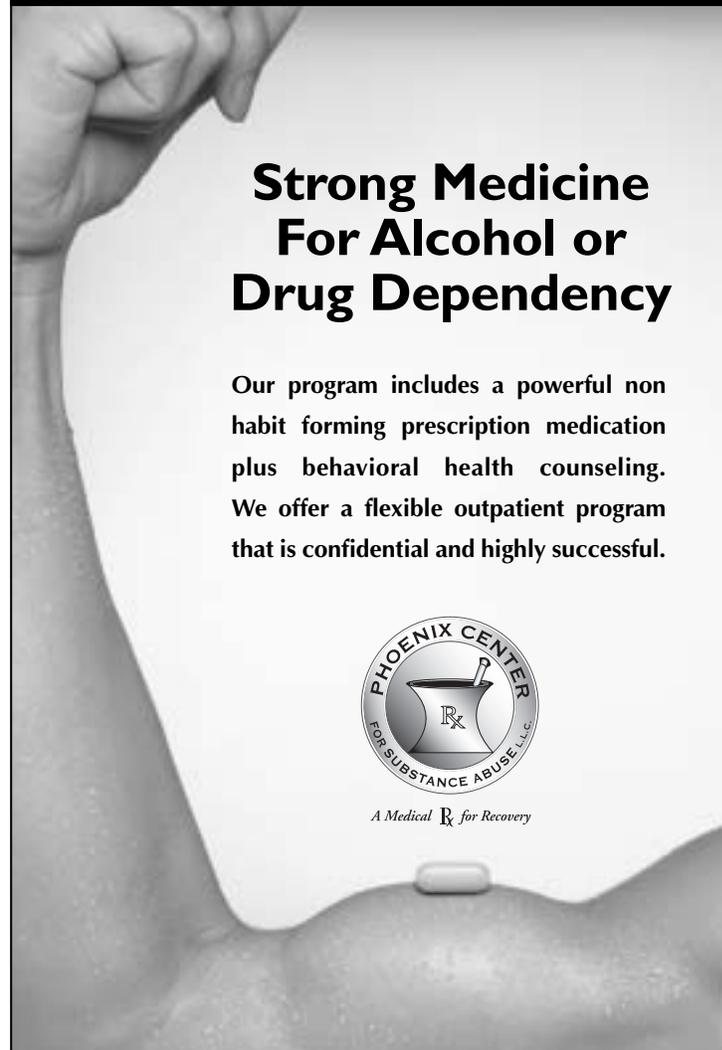
■ May 29: Technology Transfer Opportunities in Arizona

■ May 30: Professional Liability Insurance

■ May 30: Delivering WOW!

For all the specifics — time, place, price and information about the content — see *Maricopa Lawyer's* calendar, page 9. ■

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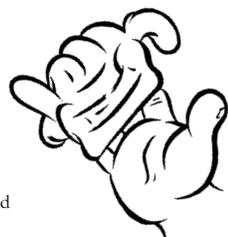
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For complete information, call Steve Leshner in Phoenix at 602•252-8888



Harris...

Continued from page 2

has generously donated \$4,000 a year in scholarships to students, \$1,000 each to the four local ABA-approved paralegal schools. In 2002, the division adopted the William K. Eaton High School as a community service project. Through the efforts of our Outreach Committee, we have raised hundreds of dollars to assist teachers at this Prehab school for at-risk students. Additionally, our members have spent untold hours as volunteers working on various events and programs. The Volunteer Lawyers Program recognized the division's volunteer efforts and presented us with the Paralegal Recruitment Award 2002.

The last thing I want to do is minimize the value of this division's association with the MCBA board. The MCBA has given us invaluable support. It has provided us with a place of operation, staff support, a staff

liaison, a medium for the publication of paralegal-related articles and information, encouragement and, above all else, trust. We have other supporters as well: copy companies, placement and staffing services, litigation support organizations and the ABA-affiliated paralegal educational institutions. Each of these groups has contributed time, money and countless hours of effort aiding our success. Law firms also provide support through encouraging our participation in division activities and monetary support for our programs and events.

Clearly, the Paralegal Division's success goes beyond any one person or one organization's support. Our success transcends differences by bringing all of us together, individually and organizationally, to achieve specific goals.

Yet even without minimizing support from the MCBA and other organizations, I can honestly say that the success of the programs undertaken by the Paralegal Division is directly related to the amount of effort and contributions made by its paralegal members. If you really want to know what makes the Paralegal Division so successful, don't sit outside, looking in and supposing. Become a member and join us in looking forward, and moving onward and upward.

For more information about Paralegal Division events, please go to www.maricopaparalegals.org. ■

Paralegal Division offers PACE review

By Theresa A. Prater
Maricopa Lawyer

The MCBA Paralegal Division will offer a review course to prepare paralegals for the Paralegal Advanced Competency Exam (PACE) on May 10 and 17.

The intensive two-day course will prepare experienced paralegals to sit for the PACE, which earns the designation Registered Paralegal when successfully completed. Currently, 10 paralegals in the state and about 600 nationwide have the designation.

The review course is designed to give test candidates a chance to learn about the topics on the exam, including legal research and writing, factual research, ethics, technology and administration of client work. The teaching team includes instructors who have taken and passed the exam, some of whom also have worked on exam and study guide development. Paralegal Division members have previously instructed review courses for the Certified Legal Assistant exam.

Working paralegals, in conjunction with educators, lawyers and professional testing services, developed the PACE to test the competency of experienced paralegals.

The exam is given via computer and each candidate sets the exam date at their convenience. Successful candidates must renew their designation every two years by complet-

ing 12 hours of continuing legal education, including at least one hour of ethics.

Candidates for the exam must have six years of experience as a working paralegal and an associate's degree in paralegal studies; a bachelor's degree in any area, with three years of substantive paralegal experience; a bachelor's degree, with a paralegal certificate and two years of substantive paralegal experience; a minimum of four years experience as a paralegal by Dec. 31, 2000; or a bachelor's degree, completion of a paralegal program and a minimum of two years of experience as a paralegal.

The cost of the review course includes all textbooks as well as lunch on both days. Cost for Paralegal Division members is \$325 and for non-members, \$350.

The ethics section of the review course is available for CLE credit at a reduced rate. Paralegals who need continuing education credits for recertification by either NFPA or NALA can sign up to take the ethics review, scheduled for 8:30 a.m. to 11:30 a.m. May 17. Cost for the ethics review only will be \$60, and includes lunch. The book Ethics and Professional Responsibility for Legal Assistants, by Therese Cannon, may be purchased separately from a local bookseller.

Visit the division's website, www.maricopaparalegals.org, for registration information or call the MCBA liaison, Sharon Frye, at the 602-257-4200. ■

To place a **classified ad**, in Maricopa Lawyer, call the MCBA at 602-257-4200

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Hunter...

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closets and found some things that would make great gifts!)

As we head toward the summer months, I encourage you to take a minute and look for ways to take a little time for yourself. Some people may have altered travel plans because of various travel advisories or concerns. However, you and those you care about still deserve the time for a break. (See Lori Higuera's column, page 2).

In the old days, Phoenix-area residents looked forward to Memorial Day as the day in which men were freed of their ties and women were freed of the dreaded panty hose. Thank goodness we did not go as far as some

suggested and allow folks to wear shorts as "business attire." I won't bore you with the reasons why this idea was scrapped, but a quick survey of folks around you will tell you why shorts should never be considered a "dress uniform."

This year, Memorial Day has special meaning when so many in military service are far from home and so many of their families are worried for their safety. This year, it is important to pause and remember those who are no longer with us. And it is especially important to remember they are deserving of our thanks. In the words of Melody Beattie:

Gratitude unlocks the fullness of life. It turns what we have into enough, and more. It turns denial into acceptance, chaos to order, confusion to clarity. It can turn a meal into a feast, a house into a home, a stranger into a friend. Gratitude makes sense of our past, brings peace for today, and creates a vision for tomorrow. ■

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Questions I get and the answers I give

One of my editors recently suggested that I do a column now and then on questions I get from my readers. I thought it was a great idea and so this is the first of those columns.

The first issue is establishing the best salutation. "Dear Maven" does not seem appropriate. My baby daughter, now 21 and bearing the burden of being the last of five children of a geek, brought me a broken toy when she was about 2. It had lost a screw or something and I fixed it right away. She was amazed and after that used to say when something broke around the house, "That OK! Daddy ficket!" So I thought "Dear Daddy Ficket" would be pretty cool as I wander off into the stratosphere of Medicare and Social Security. Then, what is left of my judgment in old age said, "No, Woody, for god's sake NO!"

Maybe "Hey Woody" is best and that is what I think I will use. Here goes!

Hey Woody!

I am doing a lot of video now, particularly with video depositions, which I think is the best way to go in this technological age. I love the ability to bring up the actual deposition testimony on cross-examination. Talk about "magic moments." This is the best! I also have many gigabytes of office files that I need to back up on a regular basis. I have followed your advice and have purchased a Western Digital FireWire 200 GB drive for my video and backup. The problem is that when I try to capture video or when I try to back up my files, I get an error message. It seems that some kind of hidden limit on video capture or backup stops the process when the file size exceeds about 4 gigabytes. What's up?

Sleepless in Flagstaff

Dear Sleepless:

This is the result of the not-well-documented fact that only in the last few years have operating systems allowed files sizes to exceed 4 gigabytes. Video-capture files and backup files now routinely exceed that limit. The problem is that your new hard drive is formatted to accept files in the old FAT format, which is where the limitation comes from. Modern computers (Windows 2000 and Windows XP, and yes, the Mac) now allow the NTFS (NT File System) format, which does not limit file size.



Winton WOODS
LAW OFFICE
COMPUTING

The following advice applies only if you are installing a new drive on a computer that is running the Windows 2000 or XP operating system and have experienced this problem. If you are trying to record to an existing drive where you have stored other data, this does not apply (see below for more information).

You need to reformat your new drive to the NTFS format. If your computer has Windows 2K or XP, this is easy. Remember that reformatting will erase all of the files on the existing drive. To reformat your new drive, go to "My Computer," right click on the drive and select "Format," and then select "NTFS" as the file system that will format that drive in the new system.

You can convert any drive to NTFS without erasing the existing files, but that process is something beyond the scope of this column. Read Microsoft Knowledge Base Article 214579 for details and cautions. Access the Microsoft Knowledge Base by article number at support.microsoft.com. The process is called "converting" the drive partition and is reasonably easy to do. If you do that you need to back up your existing data.

Once you have an NTFS drive in place, you won't have a practical limitation on file size. My standard backup file is about 40 GB and growing! If you are still suffering from the Windows 98 blues you will have to learn to live with the 4 GB limit.

Hey Woody!

My kids and the young lawyers in my office think I am way behind the times because I have not gone to a wireless network. They talk about how great it is to just walk into an airport computer lounge or a Starbucks and hook up to their home or office computers. It sounds just great to me and I would like to access the Internet while watching TV. Are there problems I should think about? My husband says he has heard horror stories about hackers getting into wireless networks.

In the Air and on the Road

Dear In and on:

The big problem is that you are a lawyer and your computer system has a lot of stuff on it that you probably do not want to share. Much of it may be privileged client information or work-product material for which you need to maintain tight control on access. Wireless networks can be made reasonably secure, but never as secure as a standard hard-wired network. There is even a game called war driving, which is defined by one computer dictionary as "n. A computer cracking technique that involves driving through a neighborhood with a wireless-enabled notebook computer and mapping houses and businesses that have wireless access points." It's the rage in New York and San Francisco. Go to www.wordspy.com/words/war-driving.asp for more of the frightening details.

The technique for making your system secure can be found at www.linksys.com/Products/befw11s4_sec_add.pdf or by going to the Intel site: www.intel.com/eBusiness/pdf/it/wp021306.pdf. You cannot just set up the wireless system without changing the default settings that allow war-driving escapades or worse. It is a complicated process but necessary. There are so many issues that the Administrative Office of United States Courts has issued an advisory against local rollouts of wireless networking in the federal court system pending development of adequate security measures.

If you are not concerned about having some random hacker or slacker like Stephen the Dell Drip gain access to your network or (best choice) you have implemented top-level security, the new wireless access is very good. The latest standard is called 802.11g. Known as the G standard, it is four to five times as fast as the older standard called 802.11b (known as the B

standard). Make sure you get the G standard, which is only a few bucks more. All you want to know and more is available at 80211b.weblogger.com/about. The wireless router acts as the interface between your network and the Internet so that all the computers on the network can share a high-speed connection. Any of the standard routers from companies like Linksys or NetGear will serve. You can find high quality gear for under \$100 for the older, slower system and around \$130 for the new G routers such as Linksys Wireless G 54MBPS CABLE/DSL Router that serve as a four-port network hub as well as the router interface to the Internet. The new G standard routers are backward compatible with the older 802.11b standards.

You can make your entire network wireless by buying wireless cards for each computer. The G level cards run around \$70 and the B level cards are around \$30.

Our wireless access system at the law college works very well. Indeed, some would say it works too well because students can surf the Internet during class! It goes without saying that no new technology is free from criticism and wireless network technology is no exception. By the way, giving your notebook computer wireless capabilities is easy. All you need is a wireless PCMCIA antenna or the USB equivalent. Plug and pray, as they say! Just watch out for keyboard coffee spills in those airport lounges!

► 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 email 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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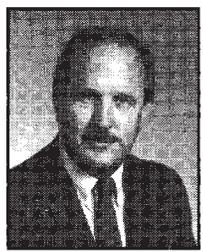


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Courtwatch...

Continued from page 1

tionality depended on the facts of each case. It was valid in a case — like Thompson's — that included concrete evidence of prior reflection. But there was no difference between the degrees of murder when the judge instructed the jury that "reflection can occur as quickly as successive thoughts of the mind," because "when premeditation is just an instant of time and nothing more, irrefutable evidence of premeditation will exist in every case of intentional or knowing murder." *State v. Thompson*, 201 Ariz. 273, 34 P3d 382 (App. 2002).

Berch agreed with this conclusion. "Such an interpretation would relieve the state of its burden to prove actual reflection and would render the first-degree murder statute impermissibly vague and therefore unconstitutional under the United States and Arizona Constitutions," she wrote.

She nevertheless took a different tack, mindful of the requirement of giving the statute an interpretation that made it constitutional, if possible.

Berch focused on the fact that the amendment only obviated proof of actual reflection. "Recognizing that direct proof of a defendant's intent to kill often does not exist, the Legislature sought to relieve the state of the often impossible burden of proving premeditation through direct evidence."

But she held that the Legislature could not do so by erasing this distinction between first- and second-degree murder.

"While the phrase 'proof of actual reflection is not required' can be interpreted in a

way that relieves the state of the burden of proving reflection," she wrote, "such an interpretation would not pass constitutional scrutiny, and the Legislature could not have intended such a result."

Berch concluded that the Legislature intended to ease the state's burden of proving premeditation by not requiring direct evidence of the defendant's thought processes. She held that the statute distinguished the element of reflection from the evidence necessary to prove it: "[O]nly in rare situations will a defendant's reflection be established by direct evidence such as diary entries or statements to others."

Berch held that "the state may use all the circumstantial evidence at its disposal in a case to prove premeditation," such as "threats made by the defendant to the victim, a pattern of escalating violence between the defendant and the victim, or the acquisition of a weapon by the defendant before the killing."

"The key," she wrote, "is that the evidence, whether direct or circumstantial, must convince a jury beyond a reasonable doubt that the defendant actually reflected."

In addition to disapproving of jury instructions that relieved the state of the burden of proving actual reflection, Berch also disapproved of the instructions that the opportunity to premeditate could be as short "as instantaneous as successive thoughts of the mind."

"We continue to be concerned that juries could be misled by instructions that needlessly emphasize the rapidity with which reflection may occur," she wrote.

Chief Justice Charles E. Jones, Vice Chief Justice Ruth V. McGregor and retired Justice Stanley G. Feldman joined Berch's opinion.

Justice Michael D. Ryan dissented from the majority's interpretation of the statute, complaining that it did not comport with the legislative intent.

"[T]here can be no doubt that the Legislature intended to eliminate any requirement that the state prove actual reflection, whether by direct or circumstantial evidence," he wrote.

Ryan did not share the majority's concern that such an interpretation would make the statute unconstitutional.

"[R]ead as a whole," he wrote, "I think the statute adequately distinguishes between an intentional or knowing second-degree murder and an intentional or knowing first-degree murder."

"By using the passage of time as a substitute for actual reflection, while at the same time requiring that a killing not be 'the instant effect of a sudden quarrel on heat of passion,'" Ryan opined, "the Legislature has drawn a discernible line between intentional or knowing first-degree murder and intentional or knowing second-degree murder."

"That is all the constitution requires," he wrote.

Another Arizona statute faced a constitutionality challenge in the Ninth Circuit Court of Appeals in *Arizona Right to Life Political Action Committee v. Bayless*, No. 01-17065 (9th Cir. Feb. 25, 2003). This statute did not fare so well.

Seeking to curb one aspect of negative political advertising, the Arizona Legislature enacted A.R.S. § 16-917(A), which addresses cases in which a political action committee spends money on advertisements for a political office within the 10-day period before the election. Under the statute, a PAC must provide a copy to any candidate the ad names or refers to 24 hours before disseminating the ad.

The requirement applies to an "independent expenditure," defined as an "expenditure by a person or political committee, other

than a candidate's campaign committee, that expressly advocates the election or defeat of a clearly identified candidate, that is made without cooperation or consultation with any candidate or committee or agent of the candidate and that is not made in concert with or at the request or suggestion of a candidate, or any committee or agent of the candidate." Any violation of the statute is punishable by a fine of three times the cost of the ad.

The Arizona Right to Life Political Action Committee unsuccessfully challenged the statute in the District Court. It found a more sympathetic ear in the Ninth Circuit.

Weighing the state's interests in curbing campaign abuses against the PAC's core First Amendment right of political speech — and subjecting the statute to strict scrutiny as a content-based restriction — the Ninth Circuit found it wanting. The court held that the statute delayed the free flow of political speech, and this "prevents the timely exercise of First Amendment rights and prohibits spontaneous political expression." This, said the court, "places a severe burden on political speech because, as the Supreme Court has observed, 'timing is of the essence in politics...and when an event occurs, it is often necessary to have one's voice heard promptly, if it is to be considered at all.'"

But delay was not the statute's only vice, according to the court.

"It also effectively prohibits speech in situations where the communication was not, or could not have been, prepared far enough in advance of the election for the PAC to comply with the notice provision."

This is of special importance in the Internet age, the court noted, when damaging political information can be quickly disseminated in the waning days before an election.

The court also was troubled by the fact that the statute only targets PACs. As the court noted, under the statute "an individual or a candidate could immediately run an advertisement stating 'Defeat Burns — He Sold Weapons to Terrorists' whereas a PAC would have to wait twenty-four hours before running the same advertisement."

The court concluded that "the advance notice requirement of § 16-917(A) severely burdens speech by restricting spontaneous expression, by regulating speech on the basis of content, and by discriminating against PACs." The court found the state's interests in enacting the statute insufficient to overcome these problems.

Judge M. Margaret McKeown wrote the opinion, joined by Judge Richard A. Paez and District Court Judge Louis H. Pollak of the Eastern District of Pennsylvania. ■

"Recognizing that direct proof of a defendant's intent to kill often does not exist, the Legislature sought to relieve the state of the often impossible burden of proving premeditation through direct evidence."

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CLERK'S CORNER

Crime victims can check for unclaimed restitution online

By Michael K. Jeanes
Clerk of the Superior Court

The Clerk of the Court's Office has created a new online service that allows crime victims to find out if our office holds any unclaimed money due them.

Currently, our office holds about \$650,000 of unclaimed funds and assets for individuals and businesses. Our goal always has been to get these funds to the victims as quickly as possible. I am proud that we are now able to provide access to this information.

The new program, which is available at www.clerkofcourt.maricopa.gov under "Unclaimed Property," is designed so users simply enter their names or the names of their businesses to see if the office has any court-ordered restitution belonging to them. If so, they can print and complete the two forms, and either fax them to the office at 602-506-5127 or mail them to the Clerk of the Court's Criminal Financial Obligations Unit, 201 W. Jefferson, Phoenix 85003.

Frequently, individual victims of crime who are owed restitution move without notifying the Clerk's Office of their new addresses. In cases in which restitution is ordered to a business or government agency, it can be more complex. The organization may have multiple work sites and the employees who process that type of work may not be aware of the restitution. In all of these cases, the Clerk's Office holds the money. Our Criminal Financial Obligations Unit makes significant efforts to locate these people. Our new interactive web program will increase and enhance our chances in locating those people who have money or assets owed to them.

Per Administrative Order 2003-024, filing fees for the following probate filings increased effective April 1:

- Court investigator fee increased to \$350 from \$325;
- Court accountant fee increased to \$250 from \$227.50.

An updated listing of all fees is posted on the Clerk of the Court's website under "Filing Fees." ■

Bench Bar Summit sheds light on courtroom trends

By Teena Booth
Maricopa Lawyer

Thirty-two speakers, including 12 trial and appellate judges, shared their expertise and opinions with the attendees of the MCBA's 2003 Bench Bar Summit March 28 at the Pointe Hilton at Squaw Peak.

For the first time, the summit was a full-day event and covered numerous subjects of vital interest to members of both bench and bar, from the impact of budget cuts to advice on how to navigate specialty courts.

"The Bench Bar Summit is one of the best ways for attorneys to learn about the judges they regularly appear before," said MCBA CLE Director Mona Fontes, who helped organize the event. "Most find it enlightening to hear firsthand a judge's point of view on topics they might encounter in the courtroom."

Attendees heard a number of judicial points of view on topics such as jury selection, the death penalty, important cases in family law and the potential impact of proposed drug laws.

According to Fontes, the topic that generated the most discussion was "E-Courtroom: Refining the Art of Persuasion." The seminar looked at how technology is changing the way attorneys present their cases as well as the way juries are responding to such information. Led by Maricopa County Superior Court Judge Gary E. Donahoe, the seminar made a convincing case for rising to the challenge of incorporating computer and video technology into one's practice.

Those who missed the summit may order self-study materials by contacting Fontes at 602-257-4200, ext. 131. ■



MCBA Executive Director Brenda Thomson, Arizona Attorney General Terry Goddard, Arizona Supreme Court Chief Justice Charles E. Jones and Maricopa County Superior Court Presiding Judge Colin Campbell after their presentation at the Bench Bar Summit on the impact of budget cuts on the justice system.

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- **For rent** (property other than office space)
- **For sale** (real and personal property)
- **Announcements**
To place a classified ad, call the MCBA at 602-257-4200.

Letter...

Continued from page 2

derful, lovely voice is silenced. It is difficult to describe the impact of the loss of a close "friend" who I never physically met. Even though *The Trial Reporter* may continue to provide the same level of service at the same prices, something will be missing when we call regarding our trials and that wonderful, loveable curmudgeon isn't asking us all of the appropriate questions.

Andy, rest in peace with the assurance that all of us you served remember you fondly and with gratitude.

William R. Jones Jr.
Jones, Skelton & Hochuli ■

Legal Brief

■ Maricopa County Superior Court Conciliation Services will now provide copies of documents only by email, unless you provide the office with a self-addressed stamped envelope to receive paper copies. The change took effect April 1. To receive email copies, you must provide Conciliation Services with a current email address where you want the documents sent. Email addresses are attached to individual attorneys, not firm names, so the office should be advised when an attorney of record changes firms. All email addresses or changes should be sent to Lynn McGill, office manager, 201 W. Jefferson, 3rd floor, Phoenix, AZ 85003, or call 602-506-6102. ■

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Special registration: the new immigration mandate

By David Raft
Special to Maricopa Lawyer

Special registration is the most volatile immigration topic of 2003.

With the second wave of registration having concluded on Jan. 10, and with phases three and four deadlines extended, this article looks to the intent behind special registration and its results so far.

Special registration is a component of the National Security Entry-Exit Registration System (NSEERS). The Immigration and Naturalization Services (INS) had authority for the special registration system. The INS has now been dissolved and its functions assumed by the Department of Homeland Security.

The attorney general implemented regulations requiring citizens or nationals of 25 countries to undergo special registration in designated INS offices nationwide. With the dissolution of the INS, it is unclear which bureau of the Department of Homeland Security will be responsible for the special registration program, although it is likely the Bureau of Immigration and Customs Enforcement (BICE) will get the job.

The stated goal of the NSEERS program is to ensure our nation's security by requiring classified individuals to register with the government. The intent is to promote several important national security objectives by identifying wanted criminals and known ter-

rorists entering the country, thereby enabling the government to instantly determine when temporary foreign visitors have overstayed their visas, verify that they do what they said they would do and live where they said they would live. Most of the individuals affected are students, individuals in the United States on extended business travel or individuals visiting this country for extended periods.

Special registration requires all males, 16 and older, who hold citizenship or nationality of certain countries to present themselves to the federal government to be registered. The law applies to those who were legally admitted to the United States on or before Sept. 30 and who intend to remain in the United States beyond the specific registration deadline imposed for the call-in group to which they belong.

The first phase of special registration required citizens or nationals of Iran, Iraq, Libya, Sudan and Syria to register by Dec. 16. This was shortly followed by the second phase, which required citizens and nationals of Afghanistan, Algeria, Bahrain, Eritrea, Lebanon, Morocco, North Korea, Oman, Qatar, Somalia, Tunisia, the United Arab Emirates and Yemen to register by Jan. 10. People who were included in the first or second phases later were given extensions so they could comply with the registration requirement by appearing at a designated INS office between Jan. 27 and Feb. 7.

The third phase initially required citizens

and nationals of Armenia, Pakistan and Saudi Arabia to fulfill the special registration requirements by March 21, but Armenia was removed from the list. The fourth phase originally required citizens and nationals of Bangladesh, Egypt, Indonesia, Jordan and Kuwait to register between Feb. 24 and March 28, but the deadline was extended to April 25.

The regulations specify that citizens of other countries who may hold dual citizenship or may be considered as nationals of the listed countries also must register.

All nonimmigrant aliens (persons applying for temporary admission to the United States) must complete this registration process by 2005.

Failure to register is a basis for finding an individual in violation of his nonimmigrant status and, therefore, subject to removal proceedings. Furthermore, individuals who failed to register will now be found inadmissible to the United States. INS published announcements also indicate that the failure to register may impact the availability of future immigration benefits in the United States.

The special-registration requirement does not apply to U.S. citizens, lawful permanent residents (green-card holders), refugees, asylum applicants, asylum grantees and diplomats or others admitted under "A" or "G" visas.

Under the program, individuals holding temporary, nonimmigrant status who meet the citizenship or nationality criteria referenced above, or who meet a combination of intelligence-based criteria, are identified as presenting elevated national security concerns. As a result, they must register under NSEERS, providing detailed information about their background and the purpose of their visit to the United States. The program also mandates that these individuals periodically report in person to a designated office to verify their location and activities, as well as to confirm their departure from the United States by reporting to a specified office immediately prior to departure.

The regulations currently exclude women as well as individuals who entered the United States illegally. Unfortunately, the program is not likely to result in the registration of individuals who have no hope in the system and will remain underground, nor will it likely result in criminal aliens registering who have otherwise previously escaped INS scrutiny. These individuals will clearly be arrested, detained and placed in proceedings by BICE if they comply with special registration. In the first phase of the program, INS arrested and placed those individuals in proceedings.

The persons who are registering are those individuals who are in lawful status and intend to remain here legally and those individuals who entered legally but have some technical violation of nonimmigrant status but have a potential immigration benefit that they fear losing.

Initially, as a part of this program, aliens

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Answer the questions, win great prizes

Have fun surfing the Internet in the MCBA Website Scavenger Hunt and qualify to win valuable prizes.

Simply mail, fax or deliver the correct answers to the MCBA office, 303 E. Palm Lane, Phoenix by May 30 and you will be entered into our special drawing. Prizes include a certificate for a free CLE seminar, a copy of the *Arizona Litigation Guide*, a pictorial directory and several gift baskets with MCBA T-shirts, mugs, goodies and more.

Visit the MCBA website, www.maricopalawyer.org and answer these questions:

- 1) How many board members are wearing glasses in their photos?
- 2) What year did Yvonne Hunter move to Arizona?
- 3) How many members of the Estate Planning, Probate and Trust Section have a last name beginning with "A"?
- 4) What is the member price of the *Arizona Litigation Guide*?
- 5) Who is chair of the CCD's Mentorship Program?
- 6) In January, who did Michael Jones present with the MCBA's Distinguished Public Lawyer Award?
- 7) What CLE seminar will be held May 20?
- 8) On what page does the Law Office Computing column appear in the September 2002 *Maricopa Lawyer*?
- 9) One benefit of membership is a reduced CLE rate. How much do members pay per hour?
- 10) How many links does the Public Lawyers Division feature on its page? ■

faced detention, even if they had petitions or applications pending that conferred them immigration benefits. The INS indicated that because it had insufficient information at the time to determine who could and should be released, it would hold (or release on bond) those persons until such time as appropriate information was provided.

To a certain extent, NSEERS and special registration will have a positive impact on the safety of the nation by imposing further security clearance checks on those individuals on a routine basis. Those persons who have positive "hits" will be refused admission to the United States or will not be permitted to remain in the U.S. Unfortunately, the shift of the INS functions to the Department of Homeland Security and its various bureaus is taxing the limits of the department's capabilities in performing the necessary security clearances and registering the persons who do report for special registration.

► David Raft, certified as a specialist in immigration and nationality law by the State Bar of California, is managing partner of the Las Vegas and Phoenix offices of HironWexlerPerl, which specializes in immigration law. ■

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MAY

May 1

■ Construction Law Section, noon

■ *The 15 Basic Rules Every Young Attorney Should Know*
4 p.m. - 5 p.m., Barmouche, 3131 E. Camelback Road, Phoenix
The MCBA YLD in conjunction with Law Week presents the 2003 Law Week Forum. Topics will include: five tips for public lawyers; recommendations for courtroom decorum and motions practice; case management and time issues; and handling clients and client development and retention.
Cost: \$20 per person
CLE: 1 hour

■ ADR Committee, 5:15 p.m., Starbucks, southwest corner of 24th St. and Camelback Road, Phoenix.

May 5

■ Paralegal Division executive committee, noon, conference call
■ *Maricopa Lawyer* editorial board, 5 p.m.

May 6

■ *International Custody Issues*
Part 2 of the 4-part Custody Issues brown-bag lunch series
12:30 p.m. - 2:30 p.m., ASUD
This four-part series will cover a wide range of important custody issues. Join us for one or all of the sessions. Future sessions: Interstate Custody Issues (May 13) and Grandparents Rights (May 20).
Cost: Member attorneys, \$50; member paralegals and public lawyers, \$30; member self-study, \$50; non-member attorney, \$70; non-member paralegals and public lawyers, \$55; non-member self-study \$70; same-day registration, \$15 additional.
CLE: 2 hours

May 7

■ Family Law Section, 5:15 p.m., University Club

May 8

■ *So You Want to be a Certified Specialist: All You Need to Know About Becoming Certified*
1 p.m. - 3 p.m., ASUD
If you were ever interested in becoming a certified specialist, now is your chance to find out how. Our panel of specialists practice in the areas of family law, estate planning law, real estate law and tax law. Topics will include why should you become a certified specialist, the advantages and disadvantages, and the process for becoming and maintaining your certification.
Cost: Member attorneys, \$50; member paralegals and public lawyers, \$35; member self-study, \$50; non-member attorney, \$70; non-member paralegals and public lawyers, \$50; non-member

self-study \$70; same-day registration, \$15 additional.
CLE: 2 hours

■ West Valley Bar Association, 5 p.m. - 8 p.m., La Loma Mexican Grille, 4900 N. Litchfield Rd. Bldg. B, Litchfield Park. Admission is free for members and a guest. Reservations: David Brnilovich, dbr@jsslaw.com, or Patty, 623-878-2222.

May 9

■ *Can We Be Safe & Free? A Panel Discussion on Recent Developments in Civil Rights Laws*
1 p.m. - 4:30 p.m., ASUD
The new national commitment to safeguarding the nation from terrorism has revived public debate about balance between national security and civil liberties. Join our panel in examining the civil and criminal issues that are at the heart of this important national debate. Topics will include the impact of Patriots Acts I & II, Homeland Security and Executive Orders, recent developments in discrimination law including racial profiling, media rights of access and discreet issues on the civil rights of newspapers and news issues and the impact of recent changes on immigration laws.
Cost: Member attorneys, \$75; member paralegals and public lawyers, \$55; member self-study, \$75; non-member attorney, \$105; non-member paralegals and public lawyers, \$75; non-member self-study \$105; same-day registration, \$15 additional.
CLE: 3 hours

May 12

■ YLD board, noon
■ Paralegal Division board, 5:30 p.m.

May 13

■ VLP Advisory Committee, noon
■ Scottsdale Bar Association lunch meeting, noon, Scottsdale Athletic Club, 8225 E. Indian Bend Rd., Scottsdale. Speaker: TBA. Cost: \$15 with advance payment (send checks payable to Scottsdale Bar Association to P.O. Box 2087, Scottsdale, 85252-2087); \$18 at the door. Information/reservations: Jill Miller, 480-481-3047.

■ *Interstate Custody Issues*
Part 3 of the 4-part Custody Issues brown-bag lunch series
12:30 p.m. - 2:30 p.m., ASUD
This four-part series will cover a wide range of important custody issues. Remaining session: Grandparents Rights (May 20).
Cost: Member attorneys, \$50; member paralegals and public lawyers, \$30; member self-study, \$50; non-member attorney, \$70; non-member paralegals and public lawyers, \$55; non-member self-study \$70; same-day registration, \$15 additional.
CLE: 2 hours

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

MAY 2003	S	M	T	W	T	F	S
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	4	5	6	7	8	9	10
	11	12	13	14	15	16	17
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25	26	27	28	29	30	31	

May 14

■ MCBA executive committee, 7:15 a.m.
■ Environmental Law Section, noon
■ Hayzel B. Daniels Association, 5:30 p.m.

May 15

■ Public Lawyers Division, noon
■ Phoenix chapter of the Federal Bar Association lunch meeting, noon, Arizona Club. Speaker: ASU constitutional law Prof. James Weinstein. Program: TBA. Reservations (required) by May 13. Information/reservations: Diana Celeste, 602-916-5118 or dceleste@fclaw.com.

■ *Choices of Legal Business Entities: Which Structure is Right for You?*
1 p.m. - 4:30 p.m., ASUD
Attendees will learn the basic differences between partnerships, limited liability companies and corporations. Topics to be covered include formation, taxes, dissolution, owner and shareholder liability, business planning, choice of entity and changing existing business structures.

Cost: Member attorneys, \$75; member paralegals and public lawyers, \$55; member self-study, \$75; non-member attorney, \$105; non-member paralegals and public lawyers, \$75; non-member self-study \$105; same-day registration, \$15 additional.
CLE: 3 hours (0.5 hours ethics)

■ MCBA board, 4:30 p.m.

May 16

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

■ *Do No Harm: A Civil Lawyer's Nuts and Bolts of Immigration*
1 p.m. - 4:30 p.m., ASUD
Since March 1, the laws on immigration have changed radically. The INS no longer exists. Hear the latest update on immigration law from our distinguished panel. Topics will include ignorance and misinformation and its impact on your clients; issues affecting fami-

ly relationships (law, marriage, adoption, custody and abusive spouses); employment issues (hiring, firing, promotions and authorization to work "special matters").
Cost: Member attorneys, \$75; member paralegals and public lawyers, \$55; member self-study, \$75; non-member attorney, \$105; non-member paralegals and public lawyers, \$75; non-member self-study \$105; same-day registration, \$15 additional.
CLE: 3 hours (1 hour ethics)

May 19

■ Membership Communications Committee, noon
■ YLD Domestic Violence Committee, noon

May 20

■ Estate Planning & Probate Section, 7:30 a.m.

■ *Grandparents Rights*
Part 4 of the 4-part Custody Issues brown-bag lunch series
12:30 p.m. - 2:30 p.m., ASUD
Cost: Member attorneys, \$50; member paralegals and public lawyers, \$30; member self-study, \$50; non-member attorney, \$70; non-member paralegals and public lawyers, \$55; non-member self-study \$70; same-day registration, \$15 additional.
CLE: 2 hours

■ *Crossing the Bridge between Law School and Private Practice: Developing your own practice niche*
2 p.m. - 5 p.m. seminar; 5 p.m. - 7 p.m. hosted happy hour
Ryley Carlock & Applewhite, One N. Central Ave., Suite 1200, Phoenix

A distinguished panel of speakers will offer their experience on ways to make the transition from law school to private practice. This program will outline ways for a young attorney to develop his or her own practice niche, from identifying practice opportunities to ways to gain expertise in those areas.

Cost: Free. Pre-registration is required and seating is limited.
CLE: 2 hours (0.5 ethics)

■ Bankruptcy Section, 5 p.m.

May 21

■ Litigation Section, 7:30 a.m.
■ Sole Practitioners Section, 11:30 a.m.
■ LRS Committee, noon
■ Bench Bar Committee, 12:15 p.m., Central Courthouse

■ *Computer Forensics: Is it the smoking gun that will win your case or the opposing party's?*
1 p.m. - 4:30 p.m., ASUD
In the information age, document and file recovery is a crucial part of discovery. Do you know what to do if asked to produce documents, spreadsheets, email, attachments, accounting records, website visits, deleted data, business records, personal records, databases or information about intrusions? This course will show you what information can be discovered and how to access it.
Cost: Member attorneys, \$75; member paralegals and public lawyers, \$55; member self-study, \$75; non-member attorney, \$105; non-member paralegals and public lawyers, \$75; non-member self-study \$105; same-day registration, \$15 additional.
CLE: 3 hours

May 22

■ Technology Section, 7:30 a.m.
■ Los Abogados, noon, Matador Restaurant, First Street and Adams, Phoenix

May 26

■ MCBA closed for Memorial Day

May 27

■ Juvenile Practice Section, noon, southeast court facility, Mesa
■ Corporate Counsel Division board, 4:30 p.m.

Tips on tax relief for the innocent spouse

By **Thomas J. Murphy**
Maricopa Lawyer

On Feb. 19, the Maricopa County Bar Association sponsored a seminar on obtaining innocent spouse tax relief. Timothy Tarter and I, both Phoenix tax practitioners, explained the three methods for obtaining innocent spouse relief from both federal and state income taxes.

On the federal level, a spouse or ex-spouse who feels unfairly burdened by taxes that should be attributed solely to the other spouse has three grounds for obtaining relief. The applicable statute is Internal Revenue Code § 6015. Regulations issued in August 2002 and IRS Publication 971 provide further guidance.

Subparagraph (b) of § 6015 provides the narrowest form of relief. It only applies to married taxpayers who have filed a joint return, and does not apply to divorced couples or couples who have filed separately. It only applies if the tax has been understated, meaning that the return as filed is incorrect due to unreported income or disallowed deductions or credits. In other words, if the amount of tax as shown on the return is correct, then no relief is available.

Subparagraph (b) also requires that the

innocent spouse not know or had no reason to know that the return understated income. It also must be "inequitable" to hold the innocent spouse responsible for the understatement. On this point, the IRS will closely scrutinize whether the spouse significantly benefited from the understatement.

Subparagraph (c) of § 6015 provides the second ground for relief. It applies to divorced, widowed or separated taxpayers - as opposed to married taxpayers - who filed jointly. As with subparagraph (b), it only applies to understated income.

But subparagraph (c) has three important differences from subparagraph (b). One concerns knowledge. The IRS has the burden to prove that the spouse actually knew of the understatement. Simply having reason to know is not enough. The second difference is

that the innocent spouse can prorate the liability based on the spouse's income. Community property rules do not apply and the innocent spouse is treated as if a separate return was filed using only that spouse's income. The third difference is the prorated approach essentially replaces the "inequitable" test, so there is no fairness issue to contend with.

The third, and most wide-ranging, form of relief is the "equitable relief" provided in subparagraph (f) of § 6015. With this form of relief, marital status does not matter and the return can be filed jointly or as married filing separate. Relief can be sought from any liability, not just understated income. Subparagraph (f) is a catchall provision under which the IRS can look to any number of factors, such as the terms of the divorce decree (such as which spouse has agreed to be responsible for the taxes in question) and how much of the deficiency is attributable to the other spouse. The IRS also will use the knowledge and the "who benefited" tests. It is, in short, a matter of the IRS's exercise of discretion.

Arizona law corresponds with § 6015 except for two instances. One is that innocent

spouse relief is never available to taxpayers who filed separately. The other is that a refund (rather than simply eliminating a liability) can never be obtained through innocent spouse relief.

A statistical review of innocent spouse applications indicated that the IRS had processed 123,000 cases for the years 1999 through 2001, but granted relief in only 28,000 of them.

Tarter and I gave several practice pointers:

- ▶ Promptly file for relief, because the two-year statute of limitations begins to run from the date of the first IRS collection activity.

- ▶ Make sure that the IRS is notified of a change of address so that the taxpayer is actually receiving the collection notices. These only have to be sent to the last known address.

- ▶ Encourage separate returns, because this will make knowledge of an understatement harder to prove.

- ▶ Get it right the first time. The IRS is only required to review a petition for relief once on the merits.

Audiotapes of the entire three-hour session may be obtained by calling the CLE Department at 602-257-4200, ext. 131. ■

Minority convention explores impact of diversity on justice

By **JoAnn Garcia**
Special to Maricopa Lawyer

More than 100 attorneys descended on the San Marcos Sheraton Golf Resort in Chandler on April 4 and 5 for the 2003 Minority Bar Convention.

In keeping with the theme of "Practicing Diversity: Answering the Call for Justice," a number of local bar associations and groups — Arizona Asian American Bar Association, Los Abogados, Hayzel B. Daniels Bar Association, Arizona Women Lawyers Association, Arizona Minority Bar Association, along with the State Bar of Arizona's Indian Law Section, Gender Identity Committee and Task Force on Persons with Disabilities in the Legal Profession — sponsored breakout sessions.

ASU law Professor Paul Bender set the tone with an examination of affirmative action and, in particular, the constitutionality of achieving diversity within a student population. Tom LeClaire discussed criminal jurisdiction at state, tribal and federal levels, while Louis Hollingsworth addressed representing the minority plaintiff in a personal injury case. A panel of women attorneys led by moderator Court of Appeals Judge Ann Scott Timmer discussed "Unique Practices and Strategies of the Successful Multicultural Woman Lawyer."

State Bar President Ernie Calderon gave a heartfelt and courageous address at lunch. Many were inspired to follow his path of stepping up to the plate and speaking out.

During the afternoon breakout sessions, Phoenix Municipal Court Judge Louis Frank Dominguez got his audience to their feet with some diversity training through salsa movements; Ervin Walker focused on the economic benefits of diversity; and Brendan Mahoney and Claudia D. Work discussed the legal issues that affect gay, lesbian, bisexual and transgender clients.

In other sessions, Augustine Jimenez III



Organizers of the Minority Bar Convention include (front row, left to right) George Logan, Janine Letellier, Phemonia Miller, JoAnn Garcia, Patricia Green and Sylvina Cotto and (back row, left to right), Bernita Williams, Mary Dolores Guerra, Toysha Martin, Milagros Cisneros, and Lynda Russell.

led a panel on diversity within the Latino community, and Arizona Supreme Court Justice Michael D. Ryan, Joe Mikiutish, Randall Howe, Joe Parkhurst, and James Reed explored the issues surrounding legal professionals who are disabled.

Friday's events culminated with lively music provided by Sistah Blue. It didn't take long for dancers to hit the floor.

Saturday's session on "Ethical Legal Jeopardy" proved a crowd pleaser. An energetic and humorous host, Maricopa County Superior Court Judge Maurice Portley (playing Alex Trebek) held the audience's attention with a quiz game with Phoenix Municipal Court Judge Roxanne Song Ong and Court of

Appeals Judge Cecil Patterson sitting as judges.

The Minority Bar Convention Committee consisted of Corey Babington, Milagros Cisneros, Sylvina Cotto, Otilia Diaz, JoAnn Garcia, Ursula Gordwin, Patricia Green, Mary Dolores Guerra, Virginia Herrera-Gonzales, Faith Klepper, Eileen Lanterman, Janine Letellier, Phoenix Municipal Court Judge George Logan, Toysha Martin, Jo Ellen McBride, Phemonia Miller, Patrick Mixon, Natasha Price, Lynda Russell and Bernita Williams.

▶ JoAnn Garcia chaired the Minority Bar Convention Committee. ■

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the MCBA, 602-257-4200

Calendar...

Continued from page 9

May 28

■ **The Sky Is Not the Limit: A Panel Discussion of State Farm Mutual v. Campbell — Limiting Punitive Damages**
8:30 a.m. - 10:30 a.m., ASUD

A panel of experienced litigators will discuss the impact of the Supreme Court decision in *State Farm Mutual Automobile Ins. v. Campbell*, which upholds the limiting of punitive damages. The panel will discuss the implications of the ruling from the plaintiff's and defendant's perspectives.

Cost: Member attorneys, \$50; member paralegals and public lawyers, \$35; member self-study, \$50; non-member attorney, \$70; non-member paralegals and public lawyers, \$50; non-member self-study \$70; same-day registration, \$15 additional. CLE: 2 hours

■ **Arizona Women Lawyers Association lunch meeting, noon, Arizona Club.** Speaker and program: TBA. Program begins at 12:30 p.m. Cost: AWLA members, \$15; non-members, \$20. Reservations (required): 602-863-7678 or luncheons@awla-maricopa.org by noon May 26. Information: Amy Schwartz, 602-956-4438.

■ **Valley of the Sun Growing Pains: Building from the Ground Up**
1 p.m. - 4:30 p.m., ASUD

During the '90s, the construction industry in metro Phoenix exploded. In 2003, the construction industry is forging ahead without an end anytime soon. With this boom in our community, there are bound to be construction issues that will crop up pertaining to design, warranties, breach of contracts, tort claims and defects. This kick-off seminar for MCBA's new Construction Law Section includes a distinguished panel that will discuss those issues and more. This three-hour program will give an intermediate to advanced look at the construction industry in Arizona.

Cost: Member attorneys, \$75; member paralegals and public lawyers, \$55; member self-study, \$75; non-member attorney, \$105; non-member paralegals and public lawyers, \$75; non-member self-study \$105; same-day registration, \$15 additional. CLE: 3 hours (0.5 hours ethics)

May 29

■ **Technology Transfer Opportunities in Arizona**
1 p.m. - 4:30 p.m., ASUD

Arizona universities and newly created research institutes are seeking to transfer technology for commercial application. Changes in Board of Regents' policies and proposed legislation are facilitating the technology transfer process. Arizona attorneys and companies can learn of recent successes and future opportunities at this seminar for beginner and intermediate practitioners. Topics to be covered include what technology is available and the role of Arizona Technology Enterprises; whether a university can accept an equity interest instead of royalty payments; when a university transfers ownership, not just license rights; who pays the cost of obtaining a patent; and how using university technologies can

help your company succeed.
Cost: Member attorneys, \$75; member paralegals and public lawyers, \$55; member self-study, \$75; non-member attorney, \$105; non-member paralegals and public lawyers, \$75; non-member self-study \$105; same-day registration, \$15 additional. CLE: 3 hours

May 30

■ **Professional Liability Insurance**
Corporate Counsel Division lunch CLE
11:45 a.m. to 1 p.m., University Club
Speaker: William Bruno, Lebaron & Carroll
CLE: 1 hour (ethics)

■ **Delivering WOW!**
1 p.m. - 4:30 p.m.

Nationally recognized speaker Tom D. Begley Jr. of Begley and Bookbinder will feature his "25 Step Program to Success," on law practice management. Topics will include: good law firms deliver WOW service; good ethics is good business; to succeed law firms must distinguish themselves from the pack; client dissatisfaction; unique client service; internal standards; effective time management; ethical marketing is effective marketing; and successful filing system.

Cost: Estate Planning Section members, \$80; member attorneys, \$90; member paralegals and public lawyers, \$60; section member self-study, \$80; member self-study, \$90; non-member attorney, \$130; non-member paralegals and public lawyers, \$80; non-member self-study \$130; same-day registration, \$15 additional. CLE: 3 hours ■

Arbitration fee donations serve legal needs of community

By **Shane Clays**
MCBF Director

Working in partnership with the Maricopa County Superior Court, the Maricopa County Bar Foundation is once again encouraging attorneys assigned as court-ordered arbitrators to donate their \$75 fee to the foundation's fundraising efforts.

The court has made it easy to contribute to Pro Bono Option with a convenient check-off box located at the bottom of the invoice in support of request for warrant, a form provided in your arbitration packet. When an attorney checks the box for Pro Bono Option, the arbitration fee is automatically forwarded to the foundation, where it helps fund our grant-giving program.

Each year, the foundation gives tens of thousands of dollars in grants to the organizations and projects that serve the legal needs of the community. Recent grant recipients include Save the Family Foundation, Arizona Senior Citizens Law Project and the Never Again Foundation.

The foundation's board of trustees asks all attorneys assigned to arbitration to remember the foundation's work when filling out their forms, and thanks all those who have donated their arbitration fees in the past. See the accompanying box for a list of those who have contributed through March 2003, and watch for future lists of participating firms and attorneys who generously donate.

If you have any questions regarding the arbitration program, please call me at 602-257-4200, ext. 111. ■

The Maricopa County Bar Foundation thanks those who have donated their arbitration fees to the foundation so far in 2003:

- Carol Baron
- Jennifer Barnes
- John Burger
- Melvin Bushman
- Maria Crown
- Eric Childs
- Rebecca Collins
- Terry Corbett
- William Curosh
- Dan Curtis
- Dean Dinner
- David Earl
- Darryl Engle
- Dean Fink
- David Heap
- Jeffery Hernandez
- John Lemaster
- Thomas Longfellow
- Andrew Marshall
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- David Rauch
- Lawrence Rosenfeld
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- David Weinzwieg

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LEGAL MOVES

■ Jonathan F. Ariano has joined Osborn Maledon and will continue to focus on transactional practice, with an emphasis on technology transactions. Ariano (J.D. 1999, Rutgers University) brings with him 10 years of information technology experience.

■ Renaud, Cook & Drury has added three new associates. Stacie Robb (J.D. 1995, University of New Mexico) practices insur-



Ariano



Dickson

ance defense, medical malpractice, landlord/tenant disputes and commercial and civil litigation. Randy Aoyama (J.D. 1997, University of Washington) practices in the areas of product, professional and health care liability. He also represents companies in the areas of commercial and civil litigation, insurance defense and construction defects. Mark Gove (J.D. 1993, ASU) practices commercial and civil litigation, professional liability, construction defects, failures and disputes, and insurance defense.

■ Erica J. Dickson (J.D. 2002, DePaul University) is a new associate at Sanders & Parks and will concentrate her practice in medical malpractice defense.

■ Elizabeth R. Finn has been officially sworn in as the presiding judge of the Glendale Municipal Court. Finn (J.D. 1972, ASU) will be responsible for all court operations and supervises a staff that includes three other judges. Previously, she was a Phoenix Municipal Court judge and served as chair of the Arizona Supreme Court's Committee on the Impact of Domestic Violence and the Courts.

■ Jenny Pelton, formerly an associate with Stinson Morrison Hecker, has joined the Arizona Department of Water Resources legal division. ■

High schoolers tour legal community



MCBA YLD board members (from left, back row) Andy Everroad, Susan Wissink, T.J. Ryan, John Wallack and Lori Higuera offered their lunch hour and advice on entering the legal profession to Arcadia High School students Meagan Kearl, Katie Edgar and Theresa Reiss.

MCBA Division Director Sharon Frye hosted three students from Arcadia High School Interact Club (sponsored by the Rotary Club) for a daylong tour of the Maricopa County legal community.

Katie Edgar, Meagan Kearl and Theresa Reiss, who plan to pursue careers as attorneys, began their day at the Arizona Supreme Court with Justice Michael D. Ryan taking over as tour leader. After answering questions, Ryan accompanied the students to the Court of Appeals to listen to an argument in progress. Other tour stops included the City of Phoenix Law Department, the Phoenix Municipal Court and Quarles & Brady Streich Lang, giving the students an overview of the

practice of law from all sides.

"The students were fascinated by the activity in the courtroom," Frye said. "They watched the prosecuting attorney juggling witnesses, and witnesses being questioned... They were reluctant to leave."

Lunch with MCBA Young Lawyer Division officers Lori Higuera, Susan Wissink and Andy Everroad offered still more insight.

"The students were exceptional, and very grateful to get this special inside look into the legal profession," Frye added. "I'm sure they will take the knowledge they received and use it to their benefit."

Frye said the MCBA might organize another tour for interested students later in the year. ■

Legal Brief

■ Maricopa County Superior Court has given its hearing officers the title of "commissioner" and, for internal purposes, will re-classify them. In his administrative order renaming hearing officers, Presiding Judge Colin Campbell said the work is "by and large the same, although at different pay levels," and that calling all hearing officers commissioners would eliminate confusion. Commissioners will be categorized as I, II or III, based on the percentage of a Superior Court judge's salary they receive. ■

Write a letter!

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

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PHOTO COURTESY ASU COLLEGE OF LAW

ASU acquires English legal volumes

Jonathan Rose (right), professor of law and Willard F. Pedrick Distinguished Research Scholar at the Arizona State University College of Law, shows Dean Patricia D. White one of the 75 volumes from the collection of Victor Tunkle, a member of the faculty of laws at the Queen Mary and Westfield College and secretary of the Selden Society, in London, England. Rose, whose scholarship involves English legal history, acquired the books with part of his Pedrick stipend when Tunkle, a friend, decided to sell part of his collection. Last year, Rose acquired six folio volumes called the *Vulgate Edition of the Year Books*, which were published in 1679-80 and include cases from the royal courts during the late 13th century through the early 16th century. Rose and Victoria Trotta, associate dean for the Ross Blakley Law Library, hope to eventually establish an English legal history room in the library. ■

Applicants sought for pro tem JPs

Maricopa County Justice Courts invite attorneys to apply for appointment as justices of the peace pro tem.

Applications now being accepted are for the 12-month term beginning Jan. 1 and ending Dec. 31, 2004. A judicial committee will review the applications of prospective candidates and offer recommendations for appointment. The deadline to submit applications is Aug. 8.

Attorneys who are appointed must attend 24 hours of unpaid training and must serve 16 hours of pro bono service before being placed on paid status. After fulfilling these requirements, pro tems will be paid at the hourly rate of the justice of the peace they are replacing.

For more information about the appointment process, contact Pamela Lizardi, judge pro tem coordinator, 602-506-5232 or pamelalizardi@mcjc.maricopa.gov. ■

Write a letter!

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Orient Express is a distant cousin to the real thing

By George Ridge
Special to Maricopa Lawyer

Enough with all this Orient Express nostalgia!

I've heard my fill about its fancy clothes and crystal vases.

Let me tell you about the real Orient Express.

The Direct-Orient Express to Istanbul steamed into history in the summer of 1977. It arrived at Sirkeci Station an embarrassing 5 hours and 38 minutes late. The Direct-Orient Express was replaced by another scheduled train from Paris called the Simplon-Orient Express.

Please do not confuse these grimy, working-class trains with the excursion version that occasionally leaves London or Paris (and now, Singapore, Bangkok and even some U.S. cities). The nouveau Orient Express caters to a few well-heeled, quiche-munching nostalgia buffs who arrive at the station with copies of Agatha Christie.

The real Simplon-Orient Express packs itself up like a can of sardines nightly at Gare de Lyon in Paris. Barring an avalanche or flood, it reaches Venice and continues deep into the Balkans on a schedule that could run 24 hours behind time.

Instead of a tap on the compartment door to signal champagne in the salon, you sleep on your wallet in a *courette*. This is a European bunking arrangement best described as a youth hostel on rails. You bed down with about 24 inches of headroom, squashed into a compartment with five similarly berthed strangers.

In winter the doors won't close, siphoning icy air from outside. In summer the windows stuck shut.

Along with Dame Agatha, Alfred Hitchcock, Ian Fleming and Eric Ambler, author Graham Greene didn't let the facts get in the way of legend when he wrote "Stamboul Train." (Greene, as it turns out, only traveled a fraction of the way because his money ran out.)

The luxury Orient Express is related to its distant cousin on the scheduled run only through the use of the Simplon Tunnel to pass through the Alps.

And after all is said and done, thanks but no thanks to *hir royale* and truffles. I'll take

QUALITY OF LIFE

Maricopa Lawyer's Quality of Life column features articles about juggling work and family, non-work activities (travel, hobbies and sports) and mental and physical health — all those things that affect your quality of life. We welcome contributions. Submit your articles via email to maricopalawyer@mcbar.org or by regular mail (a printout and your article on a computer disk) to Maricopa Lawyer, Maricopa County Bar Association, 303 E. Palm Lane, Phoenix, 85004.

the *vin rouge* and *baguettes* of the people's train.

I can't pass up my Simplon-Orient Express for mere luxury.

Besides, mine probably resembles the train of legend most closely.

► *George Ridge, a University of Arizona professor emeritus and a member of the Arizona bar, divides his time between France and Arizona. He writes a weekly travel column. ■*

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Don Thompson
Hernog & O'Connor PC
Lorraine Torner, CLAS
Dr. Samuel E. Cohen & Associates PC
Allen Zerennerman, Attorney at Law

PEOPLE IN LAW

■ **Todd Julian**, a partner with Burch and Cracchiolo, has been elected president of the Arizona Deer Association, a non-profit wildlife conservation organization.

■ Bryan Cave partners **Steven A. Hirsch** and **Mark I. Harrison** were honored at the University of Arizona's 29th annual Law College Association appreciation dinner. Hirsch received the Sidney S. Woods Alumni Service Award for "unwavering interest in and loyalty" to the university. Harrison received an appreciation award in recognition of his term as president of the Law College Association board of directors for 2002-03.

■ The Better Business Bureau of Central/Northern Arizona has named **Snell & Wilmer** as one of six winners of its Business Ethics Award, Category Five (100 to 999 employees). The firm earned the honor for "demonstrating high standards of ethical conduct and practices" and is now being consid-

ered for a national BBB Business Ethic Award.

■ The Arizona chapter of the American Jewish Committee presented its 2003 Judge Learned Hand Awards to retired Arizona Supreme Court Justice **Stanley Feldman**, **Larry Hammond** of Osborn Maledon and **Brian Booker** of Quarles & Brady Streich Lang. Feldman received the Public Service Award, Hammond, the Community Service Award and Booker, the Emerging Leadership Award.

■ **Jon Frank**, a real estate, finance, zoning and land use attorney with Snell & Wilmer, was appointed vice chair on the Valley Partnership Community Project Committee. Valley Partnership has completed 15 community projects with a total contribution of about \$1.25 million.

■ Gov. Janet Napolitano has nominated five new members of the Arizona Commission on Appellate Court Appointments, including two attorney re-appointments. **Deborah Oseran** of the Tucson-based firm Mendolsohn Oseran & Eisner will rejoin **Thomas Chandler**, founder of the Tucson-based firm Chandler Tullar Udall & Redhair, for another four-year term

on the committee. The non-attorney appointments are business owners **Robert Suarez** and **Kahryn Nix**, along with **Laurence Gishey**, a member of the Navajo nation. The nominations must be confirmed by the Arizona Senate.

■ **Victoria K. (Tory) Trotta**, associate dean for information technology at the Arizona State University law college, has been elected vice president and president-elect of the American Association of Law Libraries. She will serve a three-year term.

■ The Arizona Court Appointed Special Advocate program named Chandler resident **David Brown** as its Advocate of the Year. Brown plans to apply for law school.

■ **Snell & Wilmer** attorney **Leonardo Loo** was re-elected to serve as chairman of Phoenix's Pacific Rim Advisory Council. As chairman, Loo will oversee the council's efforts to enhance trade, and develop cultural and educational relationships between the city and Pacific Rim countries.

■ **Ernest Calderón**, president of the State Bar of Arizona and partner with Jennings, Strauss & Salmon, received the Dan O'Meara Extraordinary Servant Community award from the Society of St. Vincent de Paul for outstanding community service and his involvement in regional efforts to end homelessness.

■ Two third-year ASU law students, **Kiersten Murphy** and **Karen Stillwell**, argued before a panel of the U.S. Ninth Circuit Court of Appeals in Seattle as part of the law college's civil practice clinic. They represented **Richard and Corinne Balsler** in a case against a U.S. bankruptcy trustee. The court is consid-



Calderón



Frank



Harrison



Hirsch



Julian



Neal



Williams

ering whether a trustee is immune from suits for negligent administration of bankruptcy estates under the doctrines of sovereign, judicial and qualified immunity.

■ **Snell & Wilmer** attorney **Wendy Neal** was elected to serve as secretary of the executive committee for the Greater Arizona Chapter of the Muscular Dystrophy Association. The committee helps organize fundraising campaigns and various other events.

■ **Craig Williams** has been elected general counsel of the Fiesta Bowl. Williams, a partner with Snell & Wilmer's real estate and finance group, has been involved with the Fiesta Bowl since 1985. ■

Legal Brief

■ **NALS**...the association for legal professionals, formerly known as the National Association of Legal Secretaries, will hold its regional conference June 19-21 in Anaheim, Calif. Legal professionals from Arizona, California, Colorado, Hawaii, Nevada, New Mexico and Utah form NALS Region 8. This year's conference will focus on family, environmental and intellectual property law; privacy rights/identity theft; ethics; legal research and writing; and professional development. Visit www.nals.org for more information. ■

Write a letter!

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

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POSITIONS

SMALL DOWNTOWN LAW FIRM HAS IMMEDIATE OPPORTUNITY for an experienced business transaction and real estate attorney with a minimum of five (5) years experience. Qualified candidates may forward their resumes to ourlawfirm@aol.com, or mail to MCBA, 303 E. Palm Ln., Box #1100, Phoenix AZ, 85004.

SANTIN, POLI & BALL, P.L.C. is looking for a lawyer with 2-5 years experience in the areas of real estate law, secured lending, general contract and commercial finance. Entity formation experience helpful. Must have strong communication and writing skills and be licensed to practice in Arizona. Compensation commensurate with credentials and experience. E-mail or fax resumes in confidence to: Administrator, SP&B, 2999 N. 44th St., Suite 500, Phoenix, AZ 85018; email: burtont@spblawyers.com; fax: 602-840-4411.

RYLEY CARLOCK & APPLEWHITE, an AV-rated downtown law firm, has an opening in its Commercial and Real Estate Practice Group for a paralegal with a minimum of three years experience in real estate lending and real estate transactions. The candidate must have excellent organizational and communication skills. Please submit resumes to: Ms. Shannon Bryant, Human Resources Director, fax: 602-257-6996, email: hrdirector@rcalaw.com. Please visit our website at www.rcalaw.com for more information about our firm.

SEEKING RECEPTIONIST... Small Biltmore-area land use and environmental law firm seeking receptionist with some secretarial duties. The ideal candidate will enjoy client contact as well as providing support for two associate attorneys. Previous legal secretarial experience is not required. Requirements: Proficient in Microsoft Word, type 55+ wpm. Must have solid grammar and math skills. Must be personal, reliable, detail-oriented, flexible, courteous and have a professional office appearance. Skills in Excel, TimeSlips, TimeMatters and/or tape transcription are helpful, but not essential. E-mail resume to resume@wflaw.com by May 16, 2003. Replies confidential.

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Tell us!

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.

PENTHOUSE EXECUTIVE OFFICE. Very large Penthouse office with incredible views and balcony. Sublet from small plaintiffs' firm. Secretarial, paralegal stations also available. Library, conference room and storage. Prefer attorney with compatible practice and potential for cross-referrals. \$1,500-\$3,000 per month depending upon space needs. Call Candice at 602-264-1077 x109.

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ANNOUNCEMENTS

INVITATION FOR PUBLIC COMMENT ON THE REAPPOINTMENT OF U.S. BANKRUPTCY JUDGE REDFIELD T. BAUMThe current term of the Honorable Redfield T. Baum, U.S. Bankruptcy Judge for the District of Arizona, is due to expire March 25, 2004. The U.S. Court of Appeals for the Ninth Circuit is considering the reappointment of the judge to a new term of office of 14 years. The court invites comments from the bar and public about his performance as a bankruptcy judge. The duties of a bankruptcy judge are specified by statute, and include conducting hearings and trials, making final determinations, and entering orders and judgments. Members of the bar and public are invited to submit comments concerning Judge Baum for consideration by the Court of Appeals in determining whether or not to reappoint him. Anonymous responses will not be accepted. However, respondents who do not wish to have their identities disclosed should so indicate in the response, and such requests will be honored. Comments should be submitted no later than May 30, 2003 to the following address: Gregory Walters, Circuit Executive, Office of the Circuit Executive, PO Box 193939, San Francisco, CA 94119-3939, Attn: Reappointment of U.S. Bankruptcy Judge Redfield T. Baum, Fax: 415-556-6179.

LOOKING FOR WILL FOR ROBERT HOLCOMB (dob 5/17/1935). Contact Samuel Kelsall IV at 602-234-1999.

DISPLAY ADVERTISING RATE CHANGES

Maricopa Lawyer display advertising rates increased effective May 1. This is our first increase in 11 years! Here are the new general rates as well as the special member rates:

Ad Size	General Rate	Member Rate
1/6 page	\$ 125	\$ 100
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1/4 page	\$ 500	\$ 315
1/3 page	\$ 715	\$ 425
1/2 page	\$ 1,000	\$ 605
2/3 page	\$ 1,350	\$ 815
Full Page	\$ 1,900	\$ 1,180

Volunteer finds 'extra satisfaction' in fighting for low-income clients

By Peggi Cornelius
Special to Maricopa Lawyer

"It's always important and fun to do well for your client," said attorney Steven W. Cheifetz, the Volunteer Lawyers Program's Attorney of the Month. "But I find extra satisfaction helping people who would otherwise have no representation."

Cheifetz recalls starting with the VLP 10 years ago, conducting intake interviews at VLP to identify cases for referral for pro bono representation.

"One thing leads to another, so I took a case and I've averaged about one VLP case a year since then. It's always been doable."

Not long after his graduation with his law degree from Arizona State University, Cheifetz opened his own law office.

"My father had a very successful law practice with the firm of Lewis and Roca," he said. "Although his example influenced me to become an attorney, I wanted to establish my own firm."

He began as a sole practitioner, handling construction litigation and collections. Today, the firm of Cheifetz & Iannitelli has 12 attorneys, with expertise not only in general commercial litigation and collections, but also land use and personal injury.

In representing VLP clients, Cheifetz has

used his knowledge to champion the rights of tenants and consumers who find themselves in unfair situations. His most recent pro bono case involved a family of three, living on an annual gross income of \$16,000. Hardship



Cheifetz

had caused the parents to fall behind in making dues payments to their homeowners association. By the time Cheifetz intervened, a relatively small debt had grown into a lawsuit for thousands of dollars.

"The circumstances seemed to be the result of confusion, but the homeowners association did not want to settle out of court," Cheifetz said. The clients had already negotiated a plan for payment with the association, but after only one payment, they received notice of the lawsuit. Association rules entitled it to accelerate dues payable for the entire year, while court costs and attorney's fees added to the clients' debt.

"Because we had to prepare for trial with depositions and testimony practice, the case was more time-consuming than it would have been had the homeowners association been reasonable," Cheifetz added. "My colleague, Aryeh Schwartz, served as co-counsel on this case. We were very pleased when the judge ruled in our favor with a workable payment plan for the clients. He also awarded costs, which we were able to collect and donate back to VLP."

Besides the extra satisfaction that comes with winning such cases, another reason Cheifetz may find VLP cases compelling is his experience as a family man. As a husband and father of three, he knows the responsibilities that accompany marriage and parenthood. It's easy, then, to imagine the weighty concerns that befall those with fewer resources in unfair situations.

► Peggi Cornelius is VLP's programs coordinator. For more information about pro bono opportunities through VLP, contact director Patricia Gerrich at 602-254-4714. ■

VLP thanks attorneys who accepted cases

The Volunteer Lawyers Program, co-sponsored by Community Legal Services and the Maricopa County Bar Association, thanks the following attorneys and firms in Maricopa County who agreed recently to assist low-income clients with these civil legal needs. Each volunteer attorney receives a discount CLE certificate from the MCBA.

Bankruptcy

Robert D. Beucler, Phillips & Associates
Gary Jaburg, Jaburg & Wilk
Jeffrey A. Katz, sole practitioner
Jeffrey L. Phillips, Phillips & Associates

Consumer

James T. Acuff Jr., Lewis and Roca
John P. Ager, Robbins & Green
Gerald W. Alston, Jennings Strouss & Salmon
Stephen J. Anthony, Sacks Tierney
David C. Auther, Bowman & Brooke
Natalia Ballinger, Snell & Wilmer
Patrick R. Barrowclough, Atkinson Hamill & Barrowclough
Frank W. Busch III, First National Bank of Arizona
David G. Campbell, Osborn Maledon
Greg S. Como, Lewis and Roca
Jason Ebe, Snell & Wilmer

John J. Egbert, Jennings Strouss & Salmon

Abby L. Ewing, Jones Skelton & Hochuli
Daniel A. Goldfried, Lewis and Roca
Colleen Goodell, Stinson Morrison & Hecker
Jeffrey B. Guldner, Snell & Wilmer
Karen Hartman, Steptoe & Johnson
Shane L. Harward, Anderson Hurwitz & Harward
Warren C. Kotzmann, Pinnacle West Capital Corp.
Sean Larkin, sole practitioner

David T. Maddox, Schmidt Schneck Smyth & Herrod
Clarence E. Matherson, Quarles & Brady Streich Lang
Elan S. Mizrahi, Jennings Haug & Cunningham
Thomas Moring, Stinson Morrison & Hecker
Phyllis L. New, Martinez & Curtis
Benjamin R. Norris, Quarles & Brady Streich Lang
Salvador Ongaro, Lieberman Dodge Gerding

Kothe & Anderson
Alexander R. Oses, Lewis and Roca
Michael S. Reeves, Reeves & Tafoya
Jay P. Rosenthal, Jones Skelton & Hochuli
Paula Williams, Martinez & Curtis

Family law/domestic violence

Clarence Calvin, sole practitioner
Harry Friedlander, Gibson Matheson Lalliss & Friedlander
Roger K. Gilbert, Warner Angle Roper & Hallam
George Griffith, sole practitioner
Lee Marshall Holtry, Quarles & Brady Streich Lang
Shelley Kays Hubbard, sole practitioner
Christine Marie Meis, Quarles & Brady Streich Lang
Paul C. Riggs, Gibson Ferrin Riggs
Michael J. Shew, Shew & Lombardo
William M. Spence, sole practitioner
J. Robert Walston, sole practitioner

Guardians ad litem for children in Family Court

Janell M. Adams, Lewis and Roca
Sarah L. Barnes, Stinson Morrison Hecker
Dominique K. Barrett, Lewis and Roca
Logan F. Boren, sole practitioner
S. Alan Cook, sole practitioner
A. Brian Edres, Steptoe & Johnson
H.M. (Pat) Gilbert, Mesa Community Action Network
Kelly Anne Hammer, sole practitioner
Tami Hugo, sole practitioner
Mary C. McDonald, sole practitioner
Donna R. Rohwer, Graham & Associates
Debra L. Runbeck, Jerome Gibson Stewart Friedman
Stevenson & Engle
Heather L. Stewart, Carnahan & Perry

Guardianships (minor children)

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Elizabeth A. Campbell, Maynard Marray Cronin
Erickson & Curran
Otilia M. Diaz, sole practitioner
William F. Doran, sole practitioner
Michael C. Ford, Bryan Cave
Richard H. Herold, sole practitioner
Marnie L. Hodahkwen, Quarles & Brady Streich Lang
Monica Limon-Wynn, Snell & Wilmer
Clarence E. Matherson Jr., Quarles & Brady Streich Lang
Troy McNemar, sole practitioner
Eric W. Messinger, sole practitioner
Nancy E. Tribbensee, ASU Office of General Counsel

Guardianships (incapacitated adults)

Charles L. Arnold, Frazer Ryan Goldberg Arnold & Gitter
Dorothy E. Brogan (Przeniczny), sole practitioner
Charles M. Dyer, Dyer & Ferris
Helene S. Fenlon, Spinelli Corp.
Suzanna Goldman, sole practitioner
Catherine Leas, sole practitioner
John C. Lincoln, sole practitioner
Susan L. Watchman, Gammage & Burnham

Home ownership

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Paul V. Wentworth, sole practitioner
Dean J. Werner, sole practitioner

Tenants' rights

J. Michael Christopher, Snell & Wilmer (3 cases)
Bradley D. Gardner, Udall Shumway Blackhurst
Allen & Lyons
Robert A. Royal, Tiffany & Bosco
Kimberly A. Warshawsky, Greenberg Traurig

Tax

Kirk A. McCarville, sole practitioner

Tort Defense

Thomas C. Hall, The Cavanagh Law Firm

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Legal employers from Arizona, Colorado, New Mexico, Utah and Wyoming are invited to attend.

The MCBA Task Force encourages your participation in this worthwhile event to support Arizona's law schools and minority students.