

MARICOPA Lawyer

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JULY 2009
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MCBA

MARICOPA COUNTY BAR ASSOCIATION

Reminder: Hall of Fame Deadline Coming Up Aug. 7

Don't pass up a chance to nominate a deserving attorney or judge for the Maricopa County Hall of Fame. The Hall was started last year with 36 distinguished inductees, but the Hall of Fame Committee is well aware that many deserving individuals were not nominated.

The Committee is counting on members of the legal community to bring the best and brightest to their attention. Nominees should have practiced for at least 10 years and made significant or unique contributions to the profession, the law, and/or the community. Find complete details and a nomination form on page 13 in this issue.

The form may also be downloaded as a pdf at the MCBA website at www.maricopabar.org, or nominators may use an electronic form. ■

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Over \$60,000 in Foundation Grants Help Local Non-Profits Fill Legal Needs



Foundation Grants Committee Chair Pat Nolan presents a check for \$10,000 to Beth Haugen of the YMCA for the organization's Teen Court Program. The YMCA program was one of three youth and teen services programs awarded grants from a gift by the estate of Alice M. Turner. Another recipient of a grant made possible by the Turner estate was Arizonans for Children, Inc.; turn to page 8 to learn more about the organization.

The Maricopa County Bar Foundation last month handed out just over \$60,000—\$23,000 more than last year—in grants to 13 organizations that provide legal-related assistance to the public. The increase in 2009 was made possible by a gift from the estate of Alice M. Turner.

Turner died in 2008 at the age of 98. She was born in Cairo, N.Y., and was a resident of Phoenix for 60 years. Turner was a teacher in Cairo and had several businesses in Phoenix. The funds granted to MCBF were restricted to youth and teen services and this year's recipients of those funds are marked with an asterisk in the list on page 9.

"We are very grateful that the foundation was remembered by the Turner Estate," said Foundation Grants Chair Patricia Nolan. "It made it possible for us to fund several additional worthwhile programs this year, and there are still funds from the estate that we will be able to award in future years."

"We also really appreciate the many members of MCBA who give to the Foundation by donating when they pay their annual associa-

See **Over \$60,000 in Foundation Grants Help Local Non-Profits Fill Legal Needs** page 9

CourtWatch

Daniel P. Schaack

Arizona Courts Grapple with New Age Jurisdictional Questions

We don't want to bring up bad memories of your civil procedure class in law school, but this month we look at two cases on jurisdiction. Both examine how modern developments affect the courts' power over things and people.

State v. Western Union Financial Services

While they have jurisdiction over transactions with an Arizona component, Arizona courts do not have jurisdiction over electronic funds transfers to Mexico that originate in other states. So ruled the Arizona Supreme Court in *State v. Western Union Financial Services*, No. CV-08-0241-PR (Ariz. May 19, 2009).

Smugglers based in Mexico often bring immigrants into the US through Arizona. Once here, the smugglers often detain the immigrants, forcing family members, friends, or prospective employers to wire money to Mexico

to obtain their release. Similarly, drugs smuggled into the country also often come through Arizona, and money transfers are used to wire the proceeds of the sales.

To combat these crimes, the Arizona Attorney General's Office had taken to using the forfeiture laws, seizing certain Western Union wire transfers sent to or from Arizona. After this operation proved successful, the criminals adapted to the situation, resulting in fewer wire transfers from Arizona and an increase in wire transfers from other states to Mexico.

So, the Attorney General's Office obtained a warrant to capture funds that were wired from the other states. It did not identify any specific connection to any illegal Arizona activity. The

See **Arizona Courts Grapple with New Age Jurisdictional Questions** page 14

Two New Member Benefits Add to Membership Value

Two new corporate partners have partnered with MCBA to add even more value to membership: NxLegal Payment Processing and Vision Care Direct.

Since the Arizona Supreme Court adopted amendments to Supreme Court Rules 42 and 43, effective in January, attorneys may now accept credit cards for most transactions. (See box on page 11 for details).

NxLegal is the only payment solution designed by lawyers for lawyers. It offers lawyers and law firms the opportunity to make numerous payment options available to its clients—credit card processing, electronic check processing, ACH transactions, recurring and installment transactions and more.

As an MCBA member, you receive free

See **Two New Member Benefits Add to Membership Value** page 11

Finding a Good Lawyer through the Lawyer Referral Service



**MCBA
President**
Kevin Quigley

Today, most everyone knows someone who has needed a lawyer's assistance at some time, some place. And now, the impacts of the current economic crisis, including bankruptcy, foreclosure, and other financial hardships, are rampant. The people impacted often have no idea where they can turn for help. These people also do not know who they can put their faith in, or who they can entrust with their problem.

For those that qualify, pro bono representation through the Volunteer Lawyers Program or other low income program is the answer. But for those who do not qualify for this assistance, is there another answer?

Fortunately, yes. Many people every day seek and obtain assistance from the Lawyer Referral Service operated by the Maricopa County Bar Association.

Most of us are familiar with the traditional role that a lawyer referral service plays. Lawyers apply to serve on a panel, assisting people with questions regarding one aspect of the law. These panels of lawyers were developed by the Lawyer Referral Service to consult with people who are able to pay a

modest fee (\$35 for a standard consultation, and no fee is charged for personal injury or workers compensation matters), but do not know how to find a lawyer, or do not know what services they need.

This relationship also serves as a way for our member attorneys to reach out to prospective clients to offer their services, and these consultations frequently result in the attorney agreeing to represent the person in the particular legal matter.

Our panel, which is a part of the American Bar Association's network of referral organizations, includes hundreds of qualified and talented attorneys in good standing with the State Bar, experienced to handle all types of legal matters. Personal injury, bankruptcy, construction defect, consumer rights, divorce, estate planning ... these are only a few of the areas the Lawyer Referral Service panel attorneys are experienced in.

To review a full listing of these practice areas, log on to www.maricopabar.org and click on the Lawyer Referral Service link. And chances are that if you do not see the area of law your referral requires, our talented Lawyer Referral Service staff will be able to get you connected with the right attorney.

With the current state of the economy, and the collateral damage such an economy can cause to those impacted by it, the public's need for skilled lawyers to assist in navigating these times is at a critical point. The MCBA's members can do several things to promote the Lawyer Referral Service and help serve the public.

First, remember that the Lawyer Referral Service is a resource to refer individuals to that we cannot assist ourselves. Whether you have a conflict, do not practice in the particular area of law, or otherwise cannot assist an individual with his or her legal problem, please provide that individual with the Lawyer Referral Service contact information.

Second, the Lawyer Referral Service continues to need skilled and talented lawyers—lawyers like you—to meet the needs of all the people in our community who have legal concerns. If you are not already a member of the Lawyer Referral Service panel and can join the panel, please contact us and our staff will be glad to assist you in joining. If you practice in an area that the Lawyer Referral Service does not already offer, please let us know that as well and we will make sure the information is added to our database.

The Lawyer Referral Service helps everyone involved with the program—a true “win-win” situation. You can help people in our community. You can introduce yourself to prospective clients. And, the nominal fees payable to Lawyer Referral Service support the MCBA, and go toward marketing and promoting Lawyer Referral Service.

Thank you for your support of the Lawyer Referral Service, and your continued support of the MCBA and all of its programs. ■

OPINION Point: It's Time to Speak Out

By Jack Levine

The State Bar needs to revisit the issue of lawyer's advertising for personal injury cases.

Since the inception of large scale personal injury advertising, jury verdicts in favor of injured people have suffered a marked decline. As a result of the combination of lawyer advertising and a hugely successful effort by the insurance industry and the business community to convince the public that jury verdicts are out of control and that personal injury claimants are faking or exaggerating their claims, there has been a near total collapse of the tort system due to a poisoning of the jury pool.

As a result, there have not been more than a handful of successful plaintiff's verdicts in Maricopa County courtrooms in more than 15 years. The success of this public relations blitz would not have been possible if lawyer advertising had not already pre-conditioned the public to distrust lawyers and tort victims.

It is not too late to reverse this distressing trend. In fact, the experiences of the last 25 years of personal injury advertising, with its accompanying decline in the public's respect for lawyers, may have been necessary in order to demonstrate that there are some values that are worth preserving even at the expense of some infringement to commercial speech. Certainly, public respect for the legal profession and preservation of our tort system, which holds individuals and corporations responsible for their wrongdoing, would be high on this list.

Based on their last expression on this subject, a majority of the justices on the U.S. Supreme Court at that time (Rehnquist, O'Connor,

Scalia, Thomas, and Breyer), would have banned personal injury advertising if sufficient evidence were presented demonstrating that such advertising was harmful to the public or was impairing the public's confidence in the legal profession. In *Florida Bar v. Went For It*, 515 U.S. 618 (1995).

Instead of providing information through media advertising for selecting a lawyer, such information can just as readily be made available on a registry maintained by the State Bar, with the names of lawyers willing to handle personal injury cases continually rotated so that everyone on the registry has an opportunity to be selected. Since it was the State Bar that played such a major role in initiating the current advertising nightmare that began with *Bates v. State Bar of Arizona*, it would be appropriate for it to take the initiative to end it.

A study should be commissioned, without delay, to determine the extent to which the public's attitudes towards tort victims and the legal profession has been poisoned by personal injury lawyer advertising and the effect that such advertising has had on the tort system and the image of our profession.

It's time to speak out: The time for action on the issues of personal injury advertising is long overdue. Call, e-mail or write to our State Bar board of governors. There are very few issues that are more important to our profession and to the public than this one. ■

Jack Levine is a sole practitioner in the areas of personal injury, family law, employment law and criminal law.

Counterpoint: The Public's Interest in Lawyer Advertising

By Van O'Steen

If you have normal sensibilities, lawyer advertising is bound to offend you—some more than others. It is often loud, aggressive, frequently insulting, and sometimes overstates its value.

As lawyers, we are especially sensitive to commercial messages affecting our sense of self-worth and professional dignity. For this reason, lawyer advertising remains largely unpopular among members of the bar.

It is only when one recognizes the substantial benefits to consumers of legal services can lawyer advertising be justified. Available economic research teaches us:

1. Stricter regulation of advertising in all product and service markets produces the unintended harmful effect of less advertising, rather than more informational advertising or more dignified messages;
2. The less use sellers make of advertising, the less competitive the market;
3. The less competitive a market, the higher product or service prices will be.

The legal services market is not exempt from these fundamental principles of economics.

Following the U.S. Supreme Court's decision in *Bates v. State Bar of Arizona*, four substantial studies were conducted to determine the effect of lawyer advertising on the price of legal services. Two of them were funded by grants from the National Science Foundation, and another was conducted by the Federal Trade Commission. All the studies came to the same conclusion: lawyer advertising has resulted in lower prices for legal services. No research has concluded otherwise.

One of the lawyer advertising studies attempted to measure the comparative quality of service between an advertising multi-office legal clinic and non-advertising lawyers in Los Angeles. It concluded that the advertising clinic provided higher quality service to its clients than did the more traditional, non-advertising practitioners. These qualitative differences are less settled than the effect of advertising on price, but they are consistent with available empirical data and economic theory.

It is no surprise that the numerous attempts to re-regulate lawyer advertising originate with

See *The Public's Interest in Lawyer Advertising* page 11



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The MCBA does not necessarily endorse the views expressed by contributors and advertisers.

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Q&A on New E-Mail Requirements



Clerk's Corner

Michael K. Jeanes
Clerk of the Superior Court

New E-mail Requirements

New requirements regarding e-mail addresses take effect this month. In response to recent inquiries, the following questions and answers are offered to assist with the transition:

Q: Do I have to include an e-mail address on every pleading I file in Superior Court?

A: Yes, effective July 1, 2009. Specific requirements are in Arizona Supreme Court Administrative Order 2009-43.

Q: By including an e-mail address on my pleadings, am I agreeing to electronic service from opposing counsel?

A: No. However, you may agree to electronic service via Civil Rule 5(c) and you may be ordered by the court to serve and be served electronically in some situations.

Q: By putting my e-mail address on pleadings, will I automatically get my minute entries electronically?

A: No. Minute entries that are sent electronically are delivered to one e-mail address per law firm. Each solo practitioner or firm must follow the Clerk's process to provide the Clerk's Office with the designated e-mail address for receiving minute entries electronically. The minute entry distribution agreement is available online at clerkofcourt.maricopa.gov/forms.asp.

Q: If I am using one e-mail address for my minute entries now and I use a different e-mail address on my pleadings, will my electronic minute entries stop?

A: No. Solo practitioners or firms that have already designated an e-mail address to receive their minute entries electronically will continue to receive them from the Clerk's Office at the designated email address on file with the Clerk.

Q: What if I don't want to receive minute entries electronically?

A: The Clerk is authorized to charge \$1 per paper minute entry mailed to an attorney. Attorneys who are not registered to receive electronic minute entries by July 1, 2009, may be charged for paper minute entries until they register with the Clerk for electronic distribution.

Q: What organization do I have to give my e-mail address to and how do I do it?

A: Administrative Order 2009-43 requires that an e-mail address be maintained for accepting documents from the court, supplementing the requirements of Arizona Rule of Civil Procedure 5.1(b). Any change of information (e-mail, business address, name change, phone, etc.)

should be updated with the Clerk's Office. Contact information can be updated on paper at any Clerk's filing counter or online with the Clerk's Office at www.clerkof-court.maricopa.gov/address_change_form.asp. In the Superior Court in Maricopa County, updating your information with the Clerk satisfies the Rule 5.1(b) requirement to notify the court administrator of changes.

Q: Is updating a change to my e-mail address on a pleading the same as notifying the Clerk that my e-mail address has changed?

A: No. Although you are required to notate a changed e-mail address on your pleadings, Clerk staff are unable to update your records at the time of filing, given the volume of filings processed each day in the Clerk's Office. You must notify the Clerk's Office directly of any changes, per Administrative Order 2009-43 and Arizona Rule of Civil Procedure 5.1(b). See the answer above for ways to notify the Clerk's Office.

Q: Can I avoid electronic documents altogether?

A: No. Clerk's Offices are required to distribute documents electronically as soon

as the technology allows. This technology is available now in Maricopa County. Regardless of individual preference, it is highly likely that all practitioners will receive at least some official court documents electronically after July 1, 2009.

Q: Do the rules relating to additional time after delivery by regular mail apply to electronically transmitted documents?

A: Yes. See Administrative Order 2009-43, subsection (6).

Q: What else should I know?

A: To be effective, an e-mail account must have enough memory available to receive e-mails from the courts. This requires organization and maintenance to ensure the inbox is available. It is important to ensure the designated e-mail address accepts emails from the Clerk and courts and that messages are not inadvertently blocked by the e-mail service provider's spam filters. ■

See Supreme Court Administrative Order 2009-43, "Electronic Distribution of Court Documents" for more details: www.supreme.state.az.us/orders/admorder/Orders09/2009-43.pdf

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trict are EEO/AA Institutions.

Lawyer Referral Service Needs You

Potential clients can be yours with the MCBA Lawyer Referral Service. The LRS receives more than 100,000 calls per year from people seeking legal assistance as well as attorneys referring clients outside their practice area. Among the areas needing coverage are: administrative law, SSI-SSD/Medicare law, workers' compensation, and immigration. Spanish-speaking and West Valley attorneys are also needed.

It's easy to join! Call Linda Peña at
(602) 682-8590.

INSIDE THE PARALEGAL DIVISION

Yes, You Do Have Time to Volunteer



**Paralegal Division
President**
Maureen L. Zachow

Did you know that it has been shown that volunteering can lead to living a longer and happier life? Many people are feeling the tight pinch of today's economy. However, your time is more valuable than your money and many agencies need your time and energy to assist them in helping people in need.

Between family and work commitments many of us feel we have spare time to give. With this in mind, I would like to highlight the opportunities the Paralegal Division's Outreach Committee organizes each year for division members to get involved in helping different organizations. Several of the events don't require much of your time, but they make a big difference in other people's lives.

The Paralegal Division Annual Dental Drive

is one such event. The Dental Drive benefits the John C. Lincoln Health Network's Desert Mission Children's Clinic. The staff at the dental clinic looks forward to our donations of dental goody bags, which contain toothbrushes, toothpaste, floss and stickers each year.

Previously the staff has told us it is not unusual for an entire family to share one toothbrush or brush their teeth with no toothpaste. The staff has expressed how excited the children are to receive one of the dental goody bags.

To ensure we are able to give as many dental goody bags as possible, we need individuals willing to coordinate the collection of dental items within their firm or company. The collection of dental items will continue through July 10, and on July 13, we will assemble the dental goody bags to give to the clinic. All members are invited to attend and help with the assembly of the dental goody bags.

These bags will be delivered to the Dental Clinic in time for their back to school rush. If you are able to assist with this very worthwhile project please contact Stacy Palmer at

spalmer@swlaw.com or (602) 382-6812.

The second opportunity to volunteer will come in November with the start of the Paralegal Division's annual Toy Drive. We will again need people willing to coordinate the collection of unwrapped toys within their firm or company. The toys are presented to the agencies at our end of the year celebration on Dec. 15.

A Couple of Notes

Thank you to the Hon. Aimee Anderson, Superior Court of Maricopa County; and Denise M. Quinterri, Law Office of Denise M. Quinterri, PLLC, for taking their time to present the June 17 CLE, "Attorney-Client Privilege Distinguished from Confidentiality."

Don't forget to register for the 10th Annual Paralegal Conference. Registration forms can be found on our website and look for the new section on our website "Updates from Superior Court."

The Paralegal Conference registration form and the new section can be found on our website www.maricopabar.org; click on the "For Paralegals" link. ■

Calendar of Events

JULY

- 7 Tuesday Conference Committee Meeting
- 10 Friday Dental Drive Ends
- 11 Saturday CLA Review Classes Ends
- 13 Monday Board of Directors Meeting
Assemble Dental Drive Bags following BOD Meeting

AUGUST

- 4 Tuesday Conference Committee Meeting
- 10 Monday Board of Directors Meeting

SEPTEMBER

- 8 Tuesday Conference Committee Meeting
- 14 Monday Board of Directors Meeting
- 25 Friday 10th Annual Paralegal Conference
Location:
Phoenix Civic Center
Registration: 7:30 am

OCTOBER

- 13 Tuesday Board of Directors Meeting
- 20 Tuesday Quarterly Division Meeting
Time and Topic to be determined

NOVEMBER

- 9 Monday Board of Directors Meeting
- 16 Monday Toy Drive Begins

DECEMBER

- 14 Monday Board of Directors Meeting
- 15 Tuesday Division End of Year Celebration
Time: 5:30 pm
- 15 Tuesday Toy Drive Ends

Board of Director and Conference Committee meetings are held at 5:30 pm unless otherwise specified. Board of Director, Conference Committee and Quarterly Division Meetings are held at the MCBA office unless otherwise specified. ■

MCBA

MARICOPA COUNTY BAR ASSOCIATION

10TH ANNUAL ARIZONA PARALEGAL CONFERENCE 2009

Sponsored by the MCBA Paralegal Division

BUILDING OUR LEGACY: A DECADE OF GROWTH

WHEN:
REGISTRATION:
PROGRAM:
WHERE:

FEATURING:

CONFERENCE FEES:

REGISTRATION:

Friday, September 25, 2009 ■ 7:30 a.m. – 5:00 p.m.

7:30 – 8:30 a.m.

8:30 a.m. – 5:00 p.m.

Phoenix Convention Center, Downtown Phoenix
100 North Third Street (South Bldg., Exhibit Rms 160-167)

Robert J. LeClair, Esq., Therese A. Cannon, Esq., Susan J. Howery, M.A., Scott A. Hauert, Esq.,
Meredith L. Larabee, and Sybil Taylor Aytch, RP, M.Ed.:
"The Future of the Paralegal Profession: Sustaining Viability in a Sharply Competitive Industry"

Jonathan B. Frutkin, Esq., The Frutkin Law Firm, PLC: **"Bankruptcy Myth"**

Marc H. Lamber, Esq., Director, and James Goodnow, Esq., Associate, Fennemore Craig, P.C.:
"The Lean Mean Negotiating Machine: Cost-Effective Client Service"

Joshua R. Woodard, Esq., Partner, Snell & Wilmer, L.L.P.:
"What Attorneys Expect from Paralegals: E-Discovery and Beyond"

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For additional information, or if you have a disability and require accommodations, please contact Andrea Bartles at andrea.bartles@bowmanandbrooke.com or Sara Neily at roger@rtsharp.com. For more information about the MCBA Paralegal Division, please visit our website: www.maricopabar.org ("For Paralegals" link).

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Let's Talk About It



YLD President

LaShawn Jenkins

This past month, you have probably seen or read national reports about the recent acts of violence fueled by hate: the shooting of the Army military recruiter in Little Rock, Ark., by a Muslim extremist; the gunning down of Dr. George Tiller as he served as usher at his church on a Sunday morning by an anti-abortion extremist; and the fatal wounding of a guard at the Holocaust Memorial Museum as a

white supremacist took two paces through the doors and opened fire.

So what's fueling the hate these days? Of course, we could attempt to dismiss these extremists as lunatics. But as I listen to the talk radio shows, Fox News, CNN, and read internet blogs, these extremists received applause from a number of citizens across America for committing these heinous acts of violence!

I don't know all the root causes of hate (actually, I do, but I won't throw my belief system over your eyes). One cause, however, is that when people feel like their views are marginalized, irrelevant, discounted, or otherwise suddenly unpopular, they sometimes act out in ways that are not always the most rational

or healthy to bring attention to their ideas. Extremists, as the name suggests, will go to the extreme to draw attention to their views, to the detriment (sometimes fatal detriment) of others.

Thankfully, we lawyers know how to deal with our problems at a much higher and more peaceful level than the rest of society, right? We talk. We listen. We write. We communicate. We lawyers are the social engineers of society, building and honoring the legal boundaries in which society operates.

Well (gulp), consistent with my plans announced in my January column (of course, you remember my plans that appear in paragraph 14, page 6 of the January issue of the *Maricopa Lawyer*), I plan to test my faith in the legal community by holding the YLD's first ever Town Hall Forum.

At this first ever YLD Town Hall Forum, we will discuss what some believe is one source

of fuel pushing people over the edge: the economic downturn caused by the mortgage crisis. The YLD Town Hall Forum will take place at Wild Thayer (2631 N. Central Ave., which is next to Durant's) in the main dining room from 4:30-5:30 p.m. on July 14.

The forum is free, and free appetizers and beverages will be provided. Just bring your open and critical mind, and come prepared to grill our guest speakers from Bankers Trust who have so graciously volunteered to... well, be grilled.

Keith Kormos, SVP of private banking and wealth management, and Duke Pyle, VP and manager of residential real estate lending, will state the banker's side of the mortgage crisis argument, explaining their views on the causes and the government's response to the crisis. They will also be joined by Matt Deutch, former president of Scottsdale Area Association of Realtors, and others. ■

SAVE THE DATE

SATURDAY
NOVEMBER 14, 2009

REGISTRATION **6:30 a.m.**
SHOTGUN START **7:15 a.m.**



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Play Ball! A 'Playbook' on Eradicating Wind-up Language



Legal Writing
Tamara Herrera

Now that we are officially in the thick of baseball season, I am reminded of some great advice a mentor once gave me when I first started practicing law: Avoid the wind-up (before the pitch) language.

These word-wasting phrases take up space and take the focus off the main point of the sentence or clause. These phrases can also affect clarity, because it is hard to find the main subject or actor in the sentence or clause. Following is an example of needless wind-up language:

It is a fact that the witness will delay talking until such time that the court signs the order.

"It is a fact" does not add any meaning to the sentence, and "until such time that" can be replaced with the simpler word "until." The sentence is clearer rewritten as follows:

The witness will delay talking until the court signs the order.

Two red flags help you spot word-wasting phrases: (1) the use of "it is" or "there is/are" and (2) the use of phrases ending in the word "that" or "which." Although not every use of these red flags is a word-wasting phrase, it is helpful to look for them in a document and assess whether the

phrase adds meaning to the sentence. If it does not, then you should edit the phrase.

Here is a list of some common wind-up phrases and their suggested replacements.

Wind-up Language	Suggested Edit
It is clear/obvious that	Clearly, obviously (or leave out completely)
In the situation/case/ instance that	If, when (or leave out completely)
In most/some situations/ cases/instances that	Mostly, sometimes
Until such time that	Until
This is the point/ topic/case that	This point/topic/case
At the/such time that	When
For a period of ____	For ____
There is no doubt	Doubtless, no doubt but that
The question as to whether or not	Whether
Insofar as ____ is concerned . . .	(leave out completely)
There is/are ____ that ____ . . .	(take out "there are" and "that")
Ex. There are five elements that prove the point	Ex. Five elements prove the point.

Eradicating these phrases from your writing is worth the effort because improved clarity is always a home run. ■

Legal Briefs

By Joan Dalton

Eight Applicants Interviewed for Supreme Court Judgeship

On June 29, the Arizona Commission on Appellate Court Appointments interviewed eight candidates vying for a vacancy resulting from Arizona Supreme Court Justice Ruth McGregor's retirement from the Arizona Supreme Court bench.

The eight candidates interviewed were: Robert M. Brutinel, Norman J. Davis, Philip G. Espinosa, John C. Gemmill, Wallace R. Hoggatt, Diane M. Johnsen, A. John Pelander III, and Ann A. Scott Timmer.

The commission must send at least three nominations to Gov. Brewer, who will appoint the new justice.

Arizona Courts' Communications Go Digitized

As of July 1, 2009, Arizona's superior and appellate courts require attorneys to designate and maintain an e-mail address to which official court documents will be sent.

Attorneys must include the designated e-mail address on each filing and pleading filed in superior court or the state's appellate courts.

Under Administrative Order No. 2009-43, the Clerks of the Supreme Court, the Court of Appeals, and the Superior Court are authorized to distribute any document electronically. In cases in which it is necessary to preserve the security of

confidential or sealed documents, clerks may use an alternate means of distribution.

An attorney wishing to obtain paper copies of documents that could be distributed electronically may do so upon paying a fee established by the board of supervisors to recover preparation, printing and mailing costs.

Obama Okay to Reining in Medical Malpractice Lawsuits

President Obama has purportedly been making the case that reining in the number of medical malpractice cases can reduce health care costs overall and should be considered as part of any health care overhaul plan.

Obama is hoping that his support of curbing the number of medical malpractice lawsuits will serve as a "credibility-builder" and keep Republicans and doctors at the negotiating table longer when it comes to health care reforms.

Tennessee Moving Away from Merit Selection of Judges

Under new legislation coming out of Tennessee, members of a commission that selects a slate of potential judicial appointees for state judgeships will now be picked directly by elected officials rather than by groups associated with the state's organized bar.

The change is thought to remove the power of the professional guild to control state jurisprudence and reintroduce judicial appointments by way of elected officials. ■



But 'Will It Write'?

How Writing Sharpens Decision-Making

By Douglas E. Abrams

The 2004 National Football League Draft was fast approaching, and the last-place San Diego Chargers held the first pick overall. Their expected pick, University of Mississippi quarterback Eli Manning, was no stranger to the inner workings of the NFL because his father, former New Orleans Saints quarterback Archie Manning, and his older brother, Indianapolis Colts quarterback Peyton Manning, had preceded him to stardom.

Eli told the Chargers that he would not sign if the team selected him, and he intimated that he would instead re-enter the 2005 draft, expecting selection by another team. Sitting out the 2004-2005 season would mean losing a year's multimillion-dollar income in his athletic prime, but media reports indicated that the young quarterback also believed he could get a more favorable long-term contract from a team in a major media market.

The Chargers did pick Eli first. To avoid a stalemate that would leave them with nothing to show for the first round, however, they

immediately traded him to the New York Giants. The rest, as they say, is history. Just ask any Giants fan about the team's 17-14 upset victory over the New England Patriots in Super Bowl XLII in 2008.

How did future Super Bowl Most Valuable Player Eli Manning reach his high-stakes decision to spurn the Chargers and threaten spending a season on the sidelines?

"Eli did what I have always suggested in making big decisions," said his father. "I'm a legal pad guy. He took out a legal pad, drew a line down the middle, and put the pluses on one side and the minuses on the other side. It wasn't even close, so he went with it."

The Discipline of Writing

This sort of written decision-making also aids presidents, legislators, judges, lawyers, business people, and others who recognize that the discipline of committing arguments to paper can focus thinking more clearly than mere contemplation or oral discussion can.

As author John Updike put it, writing "educates the writer as it goes along." Indeed, said

California Chief Justice Roger J. Traynor, writing is "thinking at its hardest." "The act of writing," concluded U.S. Circuit Judge Frank M. Coffin, "tells what was wrong with the act of thinking."

At least three recent presidents—Richard Nixon, Jimmy Carter and George H.W. Bush—were also "legal pad guys" who methodically penned longhand lists of pros and cons to marshal their thoughts as they wrestled with major policy decisions.

Other leaders reliant on such lists when mulling over vexing personal and professional decisions include Secretary of State Hillary Rodham Clinton; Secretary of Agriculture Tom Vilsack; Sen. Blanche Lambert Lincoln and former Sens. Lloyd Bentsen, Sam Nunn, Lincoln Chafee and Paul Simon; former Treasury Secretary Robert Rubin; former Congress member and 9/11 Commission vice-chair Lee Hamilton; former Govs. Michael Dukakis and Pete Wilson; and World Bank President Robert Zoellick. Even naturalist Charles Darwin made extensive notes listing the pros and cons of getting married before he proposed to his future wife.

Judges offer a solid rationale for written decision-making. "All of us have had seemingly brilliant ideas that turned out to be much less so when we attempted to put them to paper,"

said U.S. Circuit Judge Wade H. McCree, Jr. "Every conscientious judge has struggled, and finally changed his mind, when confronted with the 'opinion that won't write.'"

Choosing the Format

Rather than listing pros and cons in two columns to expose tentative decisions that "won't write," the decision maker might pen longer passages, or even an informal essay. Hand-written diagrams or flow charts might also help. Felt need and personal preference determine the format because the point-counterpoint is normally for the writer's eyes only, unless the writer shares the document with a small circle of advisors or other colleagues.

Regardless of the chosen format, writing can influence not only lawyers' own personal and professional decision-making, but also the advice lawyers provide clients about how to reach decisions on matters within the scope of representation. Some individual and institutional clients adept at problem-solving may already understand how committing thoughts to paper induces careful reflection, but other clients may not.

Written decision-making should come naturally to lawyers because it remains fundamental to the American judicial system, and thus to

INSIDE THE COURTS

Public Comment Sought on Superior Court Applicants

The public is invited to comment on 45 applicants for a vacancy on the Superior Court in Maricopa County created by the retirement of Judge Silvia Arellano.

The applicants are:

William D. Anderson, Bradley H. Astrowsky, John F. Beatty, Jerry Bernstein, James B. Bowen, Mark H. Brain, Tamika N. Cheatham, Katherine M. Cooper, Christopher A. Coury, Wendy L. Coy, David O. Cunanan, John R. Doody, Jr., Jeffrey R. Finley, Troy P. Foster, Colleen L. French, Pamela S. Frasher Gates, Douglas Gerlach, Robert L. Greer, Roger L. Hartsell, Michael J. Herrod, Steven K. Holding, Jaime B. Holguin, Frank A.

Johnson, Jr., Daniel J. Kiley, William C. Knoche, Kirby D. Kongable, Thomas P. Liddy, Colleen A. Lomax, Steven P. Lynch, C. Steven McMurtry, Michael T. Morrissey, James R. Morrow, Bernard C. Owens, David J. Palmer, Carolyn K. Passamonte, Wesley E. Peterson, Jay M. Polk, Virginia L. Richter, Joan M. Sinclair, Barbara L. Spencer, Peter A. Thompson, Benjamin E. Vatz, Eartha K. Washington, Robert J. Weber and William R. Wingard.

The Maricopa County Commission on Trial Court Appointments will review the applications and take public testimony at a meeting on July 22. The meeting will be held at the State Courts Building, 1501 W. Washington St., Room

345, starting at 9 a.m.

Citizens may address the commission at that time or send written comments to 1501 W. Washington St., Suite 221, Phoenix, Ariz., 85007 or to jnc@courts.az.gov. Written comments must arrive by July 17 to be considered. Anonymous comments cannot be considered.

At the July 22 meeting, the commission will choose the applicants to be interviewed. The selected applicants will be interviewed on Aug. 21. After the interviews, the commission will recommend at least three nominees for the opening to Gov. Jan Brewer, who will appoint the new judge. ■

Q&A with Superior Court Judge Scott McCoy



Judge Scott McCoy

Q: What has surprised you the most about making the transition from commissioner to judge?

A: The administrative details. Tons of paperwork has to be completed, and two critical positions must be filled, all

seemingly as soon as humanly possible.

Q: Early in your legal career, you were a law clerk for Arizona Supreme Court Justice James Moeller. What did you learn from Justice Moeller that has remained with you as your career has progressed?

A: Brevity enhances clarity.

Q: Who has been the biggest inspiration in your legal career?

A: United States Supreme Court Justice John Marshall Harlan II. He was brilliant, good natured and intellectually honest during the historic upheaval of the Warren court.

Q: What's your favorite quotation?

A: "That whole porno website scandal is behind us now!" Irrelevant outburst by a family court litigant (and, apparently, pornographic actress) to an astonished judicial officer (me) during a hearing.

Q: If you had a day to spend with anyone, living or dead, real or fictional, who would it be and what would you do?

A: My father, who did not live to see me take the bench. I would show him around the courthouse and tell him war stories (like the one above) from my days as a commissioner. He would be in stitches.

Q: Do you own an iPod? If so, what songs are currently in your playlist?

A: "Voodoo Chile (Slight Return)" – Jimi Hendrix

"Train in Vain" – The Clash

"My Old School" – Steely Dan

"Come as You Are" – Nirvana

"Domino" – Van Morrison

"Don't Believe the Hype" – Public Enemy

"Even Flow" – Pearl Jamm

"Get Closer" – Seals and Crofts

"Give Up the Funk" – Parliament

"I Wanna Be Sedated" – The Ramones

"I Want You Back" – Jackson 5

"Killer Queen" – Queen

"No Sleep 'til Brooklyn" – Beastie Boys

"Let's Stay Together" – Reverend Al Green

"Lonely Boy" – Andrew Gold

"Paint it Black" – Rolling Stones

"Tattooed Love Boys" – Pretenders

"5:15" – The Who

"American Idiot" – Green Day ■

A Fond Farewell

By Jack Levine

On July 1, 2009, the mantle of Chief Justice of the Arizona Supreme Court passes from Ruth V. McGregor to Rebecca White Berch. Chief Justice McGregor leaves a legacy of accomplishments that will be hard to equal.

Having graduated summa cum laude from both the University of Iowa and from Arizona State University College of Law, she was with the law firm of Fennemore Craig for seven years before being tapped by newly appointed U.S. Supreme Court Justice Sandra Day O'Connor to be her first law clerk.

After returning to private practice, she was appointed to the Arizona Court of Appeals, Division One, in 1989 and served as chief judge from July 1995 to July 1997 before being appointed to the Arizona Supreme Court in 1998. She is only the second woman to be appointed to the court and to hold the position of chief justice.

Chief Justice McGregor has logged a combined total of 20 years as an appellate judge through her service on the Court of Appeals and then the Supreme Court.

"It will be hard to leave the court," Chief Justice McGregor said. "The work we do is challenging and meaningful and the court has become my work family."

Although claiming no specific plans for retirement, she and her husband are looking forward to spending more time with family and friends, and are planning to take more time to pursue other interests. Nevertheless, she does expect to remain involved with issues important to the judicial system, including the need to retain judicial independence and our merit selection system.

Also of concern to Chief Justice McGregor is "the need to provide adequate resources for all our courts so we can provide access to those who need our services."

Chief Justice McGregor points, with pride, to a number of accomplishments during her tenure as chief justice. It was under her leadership that an effort was launched to expedite the processing of DUI cases "because of the severe consequences these cases have on our community statewide." According to Chief Justice McGregor, that effort has reduced by 77 percent, DUI cases that had been pending for more than an 180 days.

Other innovations under Chief Justice McGregor's leadership include providing an online service that allows prospective jurors to select their most convenient date for jury service, objective performance evaluations to measure the level of satisfaction of those using our courts so that improvements in our court system can be instituted, and a program to improve our criminal justice system by using research that helps to identify those offenders who are most likely to re-offend and to provide appropriate supervision and treatment that will reduce the recidivism rate.

Additional innovations which Chief Justice McGregor points to with pride are the expansion of the Self-Service Centers to the Internet, so that litigants do not have to travel to the courthouse to obtain the forms they often need; the use of the Internet to distribute information about court proceedings by posting court agendas, rulings and administrative decisions, and by posting the qualifications of those who apply for judicial merit selection openings, as well as information concerning the court's rule-making process. Chief Justice McGregor also supported making arguments before the Supreme Court available live on the web.

In an effort to ensure the continuing adequate funding of the courts, Chief Justice

Deputy Court Administrator Completes Fellowship

Christopher G. Bleuenstein, deputy criminal court administrator, became a fellow and certified court executive of the Institute for Court Management by successfully completing the ICM's Court Executive Development Program.

Bleuenstein and 21 other court professionals from around the United States took part in graduation ceremonies conducted at the Supreme Court in Washington.

Chief Justice John G. Roberts, Jr., welcomed and addressed the graduates.

The Court Executive Development Program is the only program of its kind in the United States. This professional certification program was established more than 30 years ago, in part, by Chief Justice Warren E. Burger in his call for improving the management of state court administration.

The intensive four-phase educational program better prepares court professionals for management and leadership positions.

Since the first class of CEDP graduated in 1970, more than 1,100 court professionals in 48 states, the District of Columbia, Guam and 12 foreign countries have become fellows. ■

Grant Recipient, Arizonans for Children, Inc., Improves Lives of Children and Youth in Foster Care

By Kaye McCarthy, Arizonans for Children, Inc.

Arizonans for Children, Inc., (AFC) was established in October 2002 by a small group of concerned volunteers who recognized and articulated the critical community need to provide suitable home-like visitation space to the increasing number of children in state custody, their families and child care providers. This nonprofit organiza-

tion is committed to improving the fragile lives of children and youth in foster care in Maricopa County by providing opportunities to help them break out of the cycle of abuse and poverty.

In this time of financial crisis, when people are out of work and losing their homes, their children are also being taken away because they can't provide for them. AFC focuses on provid-

ing a safe, comfortable and neutral environment specially designated for supervised visitations so that children who are wards of the state can establish and maintain the best possible relationship with non-custodial parents and family. We also work to develop and offer innovative programs which help foster youth improve academic success, develop self esteem and life skills, and make a successful transition to independent adulthood.

One of our programs that was initially established in 2007 through the generous support of the Maricopa County Bar Foundation is the Justice League Program, a legal education program developed to serve foster youth between the ages of 12 and 17. The Justice League curriculum was designed to incorporate the best practices of law-related education, based on the principles of the American Bar Association and using the resources of the Arizona State University's Junior Law Program.

By almost any measurement, children and youth in foster care are some of our most vulnerable children. Given their histories of abuse and/or neglect and their tenure in the child welfare system, these children face an adulthood shadowed by an exceptionally high risk of educational failure, unemployment, emotional disturbances and mental illnesses, homelessness, incarceration, and dependency on public assistance programs. As wards of the state, all major

decisions regarding foster youths' lives are made by the court.

The decisions regarding each child or youth's foster care plan are governed by agreements made by attorneys, caseworkers and ultimately through decisions handed down by a judge. Foster youth receive virtually no education regarding this legal process that governs their lives, and as a result, they often are ineffective at articulating their needs, preferences and concerns, and fail to ask for explanations that could help them grasp what's going on.

As a result, foster youth become frustrated, resentful of the legal system, which they don't understand and feel helpless to influence, and rebel, often resulting in further involvement with the legal system due to delinquency.

The Justice League Program is designed to prevent delinquency by positively affecting attitudes and increasing understanding of laws and the justice system among youth in foster care. The program also aims to empower these youth to advocate effectively for themselves in their own dependency hearings and case planning, and to become informed citizens, able to function in and contribute to the society in which they live. ■

This is the first in a series of articles about the organizations that received a 2009 grant from the Maricopa County Bar Foundation (see story p. 1).



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All events are held at the temporary MCBA headquarters at 2001 N. 3rd Street, Suite 204, Phoenix, unless otherwise noted. Also check www.maricopabar.org or call (602) 257-4200.

July office hours:
8:00 a.m.-5:30 p.m.
Monday through Thursday
The office is closed on Fridays.

2 Construction Law Section
12 p.m.
MCBA Office closes at 12 p.m.

3 MCBA Closed for July 4 holiday

11 Paralegal CLA Review Class
9 a.m.

13 Paralegal Division
5:30 p.m.

*Please watch your MCBA E-News for updated information about meetings and events.

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continued from page 1

tion dues. And last, but certainly not least, we're grateful to those attorneys and firms that responded to our year-end appeal. It all goes to help those who really need, but can't afford, help from the justice system to get on with their lives," she said.

The 2009 recipients are:

- Arizonans for Children - \$3,150*
- Advocates for the Disabled - \$5,000

- MCBA Young Lawyers Division Law Week - \$4,487
- Arizona Coalition Against Domestic Violence - \$2,500
- Volunteer Lawyers Program (Tenant's Rights/HALP) - \$10,000
- Volunteer Lawyers Program/Children's Law Center - \$10,000*
- Partners for Paiute - \$2,700
- Area Agency on Aging - \$3,000

- ASU College of Law Civil Justice Clinic - \$2,500
- MCBA Young Lawyers Division Domestic Violence Program - \$2,222
- YMCA Teen Court - \$10,000*
- Arizona Center for Disability Law - \$2,000
- Never Again Foundation - \$2,500

The Foundation, the charitable arm of the Maricopa County Bar Association, makes

grants each year to nonprofit organizations who further the goals of its mission: "...to enhance the rule of law and the system of justice in Arizona, with a focus on programs that relate to the administration of justice; ethics in the legal profession; legal assistance for the needy; the encouragement of legal research, publications and forums; and the education of the public." ■



At the Foundation Grants Breakfast, held last month at the University Club, are, front left: Kaye McCarthy and Charlie Stayton, Arizonans for Children; Gwyneth Cowger, Advocates for the Disabled; and Roni Tropper, Volunteer Lawyers Program. From left, back row are: Lisa Randall and Valerie Kime-Trujillo, Partners for Paiute; Jannette Brickman, Arizona Coalition Against Domestic Violence; Beth Haugen, YMCA; Jennifer Barnes, ASU Civil Justice Clinic; LaShawn Jenkins, MCBA YLD president; Elaine Timmins, Arizona Center for Disability Law; Mary Lynn Kasunic, Area Agency on Aging; Edward Myers, Arizona Center for Disability Law; Nicole Holt, MCBA YLD; Patricia Nolan, MCBF; Leslie Satterlee, MCBA YLD; Robbin Conlon, Area Agency on Aging; and Pat Gerrich, Volunteer Lawyers Program.

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VLP ATTORNEY OF THE MONTH

Thomas Moring Takes Cases Home



Thomas Moring

With a little whimsy and a lighthearted chuckle, attorney Thomas Moring quips, "I should have been a rock star." His other gifts not to be denied, Moring is currently being recognized as Attorney of the Month by the Volunteer

Lawyers Program

(VLP) for the expertise and compassion he brings to his pro bono work for those with civil legal problems.

In 2001, Moring was an associate at the law firm of Morrison and Hecker. The firm's policy on pro bono work supported his interest in community service, and he learned of VLP by conducting case assessment interviews with applicants for assistance at Community Legal Services.

Thereafter, Moring began to provide direct representation to clients referred by VLP, and has continued to participate in intake and advice clinics as well. In fact, when Moring volunteers for a clinic, he often "takes cases home," as VLP staff members say. Moring explains, "Once a legal problem has a face and a name, it's difficult to walk away."

Certainly, that motivation inspired Moring in a VLP case involving a single parent of two children. The seller of the family's mobile home was withholding title and extorting more than the purchase price the client had agreed to pay.

"When the client came to VLP, the residence was in horrible condition and the family was facing homelessness because there was no expendable income for repairs," Moring says. "The situation was additionally compelling in view of the client's physical disability."

In the course of his legal assistance, two of Moring's private clients, a dentist and a contractor, offered help with some of the family's other needs. When the case concluded, the client had title to the home at the original purchase price.

Many low income people, especially those living on disability benefits or other fixed income, seek help at VLP to address debt related problems. Moring has been instrumental in providing legal advice to those facing harassing collection practices and resolving cases where a defense can be asserted. He notes that lawyers who represent collection agencies will often respond positively to an advocate who offers a reasonable approach.

Another of the clients Moring met at VLP was a defendant in a complaint filed by a company who had purchased credit card debts. The client's only income was Social Security benefits. Despite there being no wages or assets at stake, a judgment could have subjected the client to a debtor's exam and possible attempts at collection of protected income.

The debt had originated years earlier, as the result of a credit card solicitation by mail. On receipt of the card, the client had destroyed it without reading the fine print which defined the terms of cancellation. Although the card had never been used, the issuing creditor had applied a \$50 activation fee to the account and attached late fees to the unpaid balance until the account was sold for collections. When Moring intervened, the plaintiff agreed to dismiss the law suit.

Moring credits his law partner, James Pak, with supporting his involvement in VLP and notes that Pak also participates in pro bono work originating in Scottsdale, where they share a practice they opened together in 2006.

He adds, "Some of our community service is more indirect, such as contributing to Scottsdale's Shop With A Cop program, where police officers use the donations to take children on shopping trips for school supplies. I also like to encourage colleagues to get involved by suggesting I trade my consultations for their pro bono time at VLP. Sometimes volunteering can be the 'coin of the realm!'" ■

If you would like more information about pro bono opportunities, contact VLP Director Patricia Gerrich at (602) 254-4714.

Mesa Judicial Advisory Board, VLP Advisory Board Seek Nominees

The City of Mesa is seeking a current Maricopa County Bar Association member who resides in Mesa to serve on the city's Judicial Advisory Board.

Designed to make recommendations to the city council, the Judicial Advisory Board reviews city magistrate applicants, evaluates appointed magistrate performances, and advises the council about retaining them.

Three nominees selected by the MCBA board of directors will be recommended to the Judicial Advisory Board, one of which will be appointed by the Mesa mayor with the concurrence of the city council. The selected nominee will serve a two-year term

and must maintain his or her membership in the MCBA during that period.

The Volunteer Lawyers Program Advisory Board currently has two vacancies which must be filled by the MCBA board of directors. The Advisory Board provides oversight to the VLP, which is a joint venture of Community Legal Services and the MCBA.

If you wish to apply or if you have questions regarding either board, please contact MCBA Executive Director Allen Kimbrough at akimbrough@maricopabar.org. Applications for the VLP Advisory Board must be received by Aug. 1, 2009. ■

Volunteer Lawyers Program Thanks Attorneys

The Volunteer Lawyers Program thanks the following attorneys and firms for accepting 36 cases during the past month.

VLP supports pro bono service of attorneys by screening for financial need and legal merit and provides primary malpractice coverage, donated services from support professionals, training, materials, mentors, and consultants. Each attorney receives a certificate from MCBA for a CLE discount.

For information about cases and other ways to help, please contact Pat Gerrich at VLP at (602) 254-4714 or pgerrich@clsaz.org.

ADOPTION Robert S. Reder, two cases Bryan Cave	Robert J. Kramer Fennemore Craig Laura J. Zeman Snell & Wilmer	HOME OWNERSHIP ISSUES Madelaine R. Berg Sole Practitioner Marguerite M. Breidenbach AWEE
BANKRUPTCY Robert Ray Teague, four cases Phillips & Associates	GUARDIANSHIPS OF INCAPACITATED ADULTS Lisa M. Coulter Snell & Wilmer Marsha Goodman Sole Practitioner	John T. Gilbert Alvarez & Gilbert Timothy Mackey Mackey Law Firm
CONSUMER James A. Craft, two cases Gammage & Burnham Eric B. Johnson Quarles & Brady	Marian Zapata-Rossa Quarles & Brady Michelle Anne Schultz Quarles & Brady	Sarah E. Price Warner Angle Hallam Jackson & Formanek
FAMILY LAW/ DOMESTIC VIOLENCE: Ruth A. Lusby Sole Practitioner Ronee Korbin Steiner Sole Practitioner	GUARDIANSHIP OF MINOR CHILDREN Christina Geremia Jones Skelton & Hochuli Kyle S. Hirsch, three cases Bryan Cave	TENANTS' RIGHTS Victoria E. Tandy Quarles & Brady
GUARDIANS AD LITEM/COURT ADVISORS FOR CHILDREN Jessica M. Cotter Sole Practitioner Ronda R. Fisk Osborn Maledon Harold M. (Pat) Gilbert, Jr., two cases Marc Center of Mesa	Nancy M. Lashnits Ballard Spahr Andrews & Ingersoll	TORT MOTOR VEHICLE DEFENSE Neil J. Harrington Sole Practitioner
		OTHER ISSUES Kenneth W. Burford Hastings & Hastings Candess J. Hunter Hunter Humphrey & Yavitz W. LaNelle Owens Quarles & Brady

How Can a Contract Paralegal Help Your Practice?

By Pamela Anders, CP

Often times, when I introduce myself to a lawyer as a contract paralegal, the response goes something like this: "I am a small practice; I can't afford to pay for an assistant," or "I already have a full time legal assistant; I don't need any more help."

These are both reasonable and understandable responses, yet I must present a few counter questions that make an argument for use of contract paralegals.

"Have you ever had to turn down a new client or case because you were already buried in work, and couldn't find a way to come up for air?" "How many times have you listened to your assistant groan, as you piled another task on top of her already overflowing inbox?" "What do you do when your already over-worked assistant goes on vacation or medical leave?" These are all scenarios that suggest a need in the legal community for contract paralegals.

As your practice grows, there seems to be less and less time to adequately service your clients. As your existing clients' demands increase, so does your workload. Keeping up with the court's requirements, the needs of your clients, and the administrative tasks involved in running your practice, can quickly become a pressure cooker.

Without the high cost of a placement agency, contract paralegals can be highly trained and skilled temporary assistants. They can work in your office or in their own office, picking up and dropping off their assignments as needed. They are there when

you need them, for as long as required.

They are self-employed, independent contractors who do not expect benefits or paid holidays. When you use their services, you are not required to pay workers compensation, insurance or social security. When the task is finished, their services are terminated until needed again, without the need for a human resources expert or an employment law attorney.

The services of a contract paralegal can be of tremendous benefit to a young lawyer or the solo practitioner just starting out and growing a practice. Rather than stifling the growth of the practice by turning away business that they are unable to handle, they can turn to a contract paralegal to assist them, thus removing much of the workload from their shoulders. Once they have offloaded the tasks to the contract paralegal, they are free to spend their time more profitably, working billable hours.

Contract paralegals can help you by offering flexibility and experience. Those who are trained and experienced legal professionals are able to assist your practice during peak times with filing, correspondence, motions, research, or organization. Additionally, they are there to fill in and provide coverage for staff members who are on vacation, or medical or maternity leave. ■

Pamela Anders is a Phoenix-based certified paralegal, and can be reached at pam.anders@paralegal4hire.net.

Two New Member Benefits Add to Membership Value

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setup service and the most competitive pricing program in the industry. You may contact NxLegal at (866) 863-6063 or info@nxlegal.com. Be sure to mention that you are MCBA Referral Program Member #7734 in order to receive discounted services.

Vision Care Direct saves you money when you visit a private optometrist for an eye exam, glasses or contact lenses. All optometrists on the Vision Care Direct plan own their practice and offer the very highest standard of care, along with a wide selection of frame and lens products.

Though there are many mass market alternatives to a private optometrist, these discounters generally cannot offer the same standard and continuity of care. Vision Care Direct practitioners have invested in advanced technology and education to detect diseases and eye disorders that can cause vision impairment or irreversible loss.

Vision Care Direct has developed several competitively priced plans for MCBA members for both individuals and groups, and these are offered exclusively through Cabrera Financial. Contact Jane Kassel or Steve Cabrera with Cabrera Financial at (602) 346-5155 or jmkassel@cox.net or stevecabrera@yahoo.com for more information. ■

Supreme Court Credit Card Rules

The Supreme Court of Arizona adopted amendments to Rules 42 and 43 of the Rules of the Supreme Court that will allow attorneys to accept credit cards.

Effective Jan. 1, 2009, attorneys may accept credit cards for advance fees, costs and expenses. However, only three methods of accepting credit card payments will be permitted by the state Supreme Court.

(1) Attorneys or law firms may accept credit card payments for earned fees and the reimbursement of costs or expenses, in which the funds must be deposited into the attorney's or law firm's operating or business account.

(2) In cases of advance fees, costs or expenses, funds generated from credit cards must be deposited into the attorney's or law firm's trust account.

(3) Lastly, attorneys or law firms may use a credit card processing service that allows the attorney or law firm to identify the account into which funds from each credit card transaction should be deposited.

There is no prohibition against using one credit card account for the payment of earned fees and cost and expense reimbursements, and another account for the payment of advance fees, costs or expenses.

Earned fees and funds for reimbursement of costs or expenses may be deposited into an attorney's or law firm's trust account only if they are part of a single credit card transaction that also includes the payment of advance fees, costs or expenses. In such cases, the earned fees and funds for reimbursement of costs or expenses must be promptly withdrawn from the trust account.

In the event that an attorney or law firm uses a credit card processing service that permits it to identify accounts into which funds from each transaction will be deposited, earned fees and funds for reimbursement of costs or expenses may never be deposited into the trust account; separate transactions should be conducted for the payment of earned fees or cost or expense reimbursements.

Attorneys and law firms should strive to use a processing service that deposits advance fees, costs and expenses into the trust account, but which debits the operating or business account for fees and charges related to credit card transactions. ■

This article originally appeared in the January 2009 Maricopa Lawyer.

The Public's Interest in Lawyer Advertising

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lawyers—not consumers. Historically, efforts to control markets and prices by limiting competition have come from established product and service sellers, not from members of the public.

Much of the enthusiasm for restricting lawyer advertising appears to have as its real objective the re-distribution of plaintiffs' personal injury work. Rarely is there any criticism of the vast marketing activities of large commercial law firms. Does good taste quiet the criticism?

The next time you bristle at a lawyer advertisement, try doing what I do. Remind yourself that the First Amendment does not guarantee good taste and this commercial message—provided it is truthful and not deceptive—has value to someone, including those who use lawyers who do not advertise.

The bar's role in regulating lawyer advertising should be limited to insuring that it is truthful and not misleading. Consumers require no more protection than this, and lawyers deserve no more insulation from competition. ■

Van O'Steen, a member of O'Steen & Harrison, PLC, was one of the litigants who challenged the prohibition against lawyer advertising in the case of Bates v. State Bar of Arizona, 433 U.S. 350 (1977).



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Preparing Medical Experts for Deposition and Trial: Preparing the Medical Expert to Testify, Part One

By James C. Goodwin and Emily Vatz

Rule #1: Tell the Truth

The core of every preparation session between attorney and witness should always be “tell the truth.” Not only do the ethical rules require an attorney to avoid suborning perjury, and to deal with false statements when they are known to emerge, but it just makes good strategic sense to encourage pursuit of the truth.

Long before an attorney ever discloses an expert, he should be quite comfortable that the expert is going to be fully supportive. By the time an expert is ready to be prepped for deposition, both the attorney and expert should know their themes, know the evidence, and anticipate the strengths and weaknesses of both sides of the case.

Periodically reminding the expert to tell the truth reinforces the importance of their testimony, the sanctity of the process, and quite simply gives them renewed confidence in their own opinions.

Why Your Medical Expert or Client is Unique

You should begin your preparation with your expert by reminding him or her that as a doctor or nurse, s/he will be the only true medical expert sitting in the room.

Opposing counsel will likely employ various intimidation tactics, such as: 1. Reading perjury statutes, or making repeated references to the witness being under oath; 2. Keeping the room uncomfortably hot or cold, or affecting some other environmental factor; 3. Having the record reflect conferences between counsel and the

witness; 4. Making gestures that suggest the lawyer thinks the witness’s answer is so obviously false as to be funny or incredulous; and/or 5. Name dropping to suggest the lawyer knows more about the witness or the subject than the witness does.

Your expert should take confidence in the fact that he is the one in possession of detailed medical knowledge—and knowledge is power.

Secondly, the expert must know that a deposition is not like peer review, where things are discussed with candor and protected by privileges. Medical experts should never volunteer information without even being asked a question out of some misguided hope that doing so will “win the case.” Instead, depositions are truly about getting the relevant facts and opinions out, and leaving any excess emotions behind.

Working with the Court Reporter

Medical experts need to understand not only when to answer questions, but also how to answer questions.

As a courtesy to the court reporter, the medical expert should speak slowly and should let the attorney finish his entire question before beginning to answer. The expert should avoid the use of utterances, such as “uh-huh,” or non-verbal responses, such as nodding of the head, and should spell out technical terms, either when using them during testimony or during a break.

The Importance of Listening to the Question and Thinking Before Answering

The medical expert must listen to the question, and think about the answer before answering aloud.

The expert should listen for “yes” or “no” questions, and limit response to “yes” or “no” answers where appropriate. The expert should only answer the question that was actually asked, and not the question the expert thinks the lawyer meant to ask. If the lawyer says he will restate a question, the expert should listen to the restated question, and answer the restated question (not the “original” question). If the expert does not understand the question, he should realize that he can, and should, ask to have the question read back or restated.

The expert should never guess. For instance, it is okay to ask to look at records when the expert thinks he will find the answer within them. If timing is an issue, the expert should look at his watch and reconstruct the sequence of events in his mind to determine reliable times.

Additionally, he should not automatically yield to questions such as: “Well, can you at least say whether it was less than 10 minutes?” Sometimes it is possible to do so, but other times it is not.

Another area of confusion can stem simply from a lack of definition of what is being timed. For example, when the lawyer asks how long “scrubbing” takes, the expert needs to understand what is meant by

“scrubbing.” Is it just the time to actually wash your hands? Or does it mean the time it takes to walk from the side of the operating table, into the scrubbing room, wash your hands for the requisite period, dry them, and walk back into the room for gowning? In short, the expert must be prepared to seek clarification whenever necessary.

When there are multiple questions, they should each be answered separately. If the question asks the expert to agree with a specific proposition, he should not answer with a general statement.

For example, if the question asks: “Did you prepare a statement in which you admitted falling below the standard of care?” the expert should not answer by simply saying, “Yes, I wrote a statement.” Such an answer suggests that the statement does, indeed, contain an admission that the expert fell below the standard of care. Instead, the expert should say, “No, I did not prepare a statement admitting I fell below the standard of care, but I did prepare a statement.”

The expert should be careful when answering questions that refer to events or items as “this,” “that,” “these,” “those,” or other similar vague references. The expert must make sure that both he and the record are clear as to what is meant by “that.” If not, the expert should either ask the lawyer to clarify what was meant by “that,” or he will need to at least clarify his answer by defining “that” within the answer.

The expert should answer the correct question, and avoid answering a long string of questions with simply “yes” or “no” answers. Opposing counsel will sometimes get the expert in a “yes” or “no” mode, by getting him to agree with a series of easy questions. In doing this, counsel hopes the expert will reflexively answer “yes” to a question which he would not have answered “yes” to had it been asked independent of the other questions in the string.

At the same time, while you do not want the expert to volunteer information beyond that which would answer the question asked, the expert must understand the significance of being fair and complete. The rules require complete disclosure of that which will be presented at trial.

Finally, the expert should never yield to opposing counsel’s phrasing of “would this be consistent with good medical practice?” “Good medical practice” is not the legal standard medical practitioners are held to. Medical practitioners are judged according to the applicable “standard of care.” ■

This is the third in a series of articles from the authors on preparing medical experts for deposition and trial. Goodwin may be reached at James.Goodwin@SandersParks.com and Vatz may be reached at ejvatz@gmail.com.

Practice Area Makes Perfect In-House Attorneys Say Practice Area Expertise Key When Choosing a Law Firm

Rather than trying to be all things to all people, the best way for law firms to attract new corporate clients is to emphasize their specialties, a recent survey suggests.

Almost half (45 percent) of in-house attorneys interviewed said practice area expertise is the most important factor when deciding to hire outside counsel. Previous experience working with the law firm ranked second, with 35 percent of the responses from corporate attorneys. Litigation and intellectual property were identified as the matters legal departments most often assign to outside counsel.

The survey was developed by Robert Half Legal, a staffing service specializing in attorneys, paralegals and other highly skilled legal professionals. It was conducted by an independent research firm and includes responses from 150 attorneys from among the largest corporations in the United States and Canada. All respondents have at least three years of experience in the legal field.

Lawyers were asked, “Which one of the following criteria is most important when deciding to hire outside counsel?”

Their responses:

Practice area expertise	.45%
Previous experience working with the firm	.35%
Knowledge of business/industry	.9%
Reputation of the firm	.6%
Cost or project pricing	.3%
Other	.2%
	100%

Lawyers also were asked, “Which of the following matters, if any, does your legal department assign to outside counsel?”

Their responses:*

Litigation	.92%
Intellectual property	.75%
Mergers and acquisitions	.71%
Bankruptcy	.60%
Financial or regulatory	.60%
Employment	.55%
Electronic discovery	.53%
Environmental	.52%
Corporate transactional	.51%
Real estate	.45%
Securities	.3%
Antitrust	.1%
Insurance	.1%
Other	.3%

*Multiple responses were allowed.

“In a challenging economy, competition among law firms has intensified as legal departments carefully monitor their spending and assign more projects to internal teams,” said Charles Volkert, executive director of Robert Half Legal. “But for certain matters, companies will always have a need for specialized legal services. Law firms that showcase their practice area expertise and demonstrate a thorough understanding of an organization’s specific needs, challenges and goals will have an advantage in attracting business.”

Volkert added that legal departments often must develop comprehensive strategies to prepare for litigation and to safeguard their company’s assets.

“In-house attorneys are seeking timely, value-added advice and support from outside firms to successfully navigate complex issues and minimize risk.” ■



MARICOPA COUNTY BAR HALL OF FAME



2009 NOMINATION FORM

Throughout its history, Maricopa County has been blessed with extraordinary lawyers dedicated to the improvement of the legal profession and the lives of its citizens. Many of those attorneys have also served in leadership roles in the Maricopa County Bar Association. The MCBA has created the Maricopa County Bar Hall of Fame to recognize and thank in some small way these true giants of our profession. Thirty-six distinguished attorneys were the first inductees into the Hall of Fame in 2008. This year, we again seek nominations to represent the broad diversity of the legal profession in Maricopa County.

HALL OF FAME CRITERIA

The Maricopa County Bar Hall of Fame will recognize Maricopa County attorneys who have **practiced for at least 10 years** and who have:

1. Played prominent and important roles that have had an impact on the history and development of our local bar and the legal profession;
2. Made significant or unique contributions to the law or the administration of justice; or
3. Demonstrated significant leadership, advocacy and accomplishments in service to the community or the profession.

Full name of nominee: _____

NOMINATION SUBMITTED BY: _____

PLEASE ATTACH A DETAILED BIOGRAPHICAL DESCRIPTION OF NOMINEE

Brief statement of nominee's significant qualifications and achievements: _____

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DEADLINE FOR SUBMISSION IS AUGUST 7, 2009

Nominations may be made by mail or e-mail. Go to www.maricopabar.org for electronic forms and more information. Submit nomination form to Allen W. Kimbrough, Executive Director, Maricopa County Bar Association, 2001 N. 3rd Street, Suite 204, Phoenix, AZ 85004-1439; Phone: (602) 257-4200; akimbrough@maricopabar.org.

But 'Will It Write'?

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the way law schools teach students to "think like lawyers." In bench trials or actions tried to an advisory jury, Rule 52(a) of the Federal Rules of Civil Procedure requires the court to "find the facts specially and state its conclusions of law separately." Appellate courts commonly hand down decisions with signed opinions (including majority, plurality, concurring and dissenting opinions), per curiams, or unpublished opinions or orders stating reasons. These cornerstones of trial and appellate judging hold lessons fundamental to the everyday decision-making of lawyers and their clients.

Rule 52(a)

The trial court's written findings and conclusions focus appellate review, permit application of preclusion doctrines, and inspire confidence in the trial court's decision-making. But the federal courts of appeals have also recognized a "far more important purpose" of Rule 52(a), "that of evoking care on the part of the trial judge in ascertaining the facts." The Supreme Court has recognized that "laymen, like judges, will give more careful consideration to the problem if they are required to state not only the end result of their inquiry, but the process by which they reached it."

In *United States v. Forness* in 1942, the Second Circuit gave perhaps the most thoughtful judicial explanation of the prime goal of Rule 52(a). The unanimous panel included Judge Charles E. Clark, the chief drafter of the Federal Rules of Civil Procedure and an

acknowledged expert in their meaning and application.

Writing for the panel, Judge Jerome Frank said this: "[A]s every judge knows, to set down in precise words the facts as he finds them is the best way to avoid carelessness Often a strong impression that, on the basis of the evidence, the facts are thus-and-so gives way when it comes to expressing that impression on paper." Judges hold no monopoly on this knowledge.

Appellate Decision-making

The appellate court's full opinion or abbreviated writing shows litigants that the court considered their arguments, facilitates further review on remand or by a higher court, and defines the decision's meaning as precedent. But the written word's capacity to sharpen the decision makers' internal thought processes looms large, as it did in the district court. "The process of writing," says Justice Ruth Bader Ginsburg, is "a testing venture."

Chief Justice Charles Evans Hughes found "no better precaution against judicial mistakes than setting out accurately and adequately the material facts as well as the points to be decided."

"Reasoning that seemed sound 'in the head,'" U.S. Circuit Judge Richard A. Posner explained decades later, "may seem half-baked when written down, especially since the written form of an argument encourages some degree of critical detachment in the writer. . . . Many writers have the experience of not knowing except in a general sense what they are going to write until they start writing."

Conclusion: 'The Human Factor'

In *Forness*, Judge Frank acknowledged that

"fact-finding is a human undertaking" which "can, of course, never be perfect and infallible." Writing can certainly sharpen thought in everyday decision-making, but the outcome depends on prudent use of the writing and other extrinsic sources of information and reason. Listing pros and cons can orient the decision maker, but the list offers no compass pointing ineluctably to the right answer.

When President Bush pondered a Supreme Court nomination in 1990, for example, he took a legal pad and carefully penned the pros and cons of naming U.S. Circuit Judge David H. Souter, whose tenure on the court did not turn out the way the president had anticipated.

Because so much professional and personal decision-making involves emotion and other intangibles whose force written words alone cannot capture, the outcome does not necessarily depend on which side of the ledger—pro or con—holds the longer list. Indeed, when Charles Darwin pondered whether to propose to his future wife, his list contained 13 "cons" and only nine "pros," but he married her anyway.

The "human factor," sometimes called a "gut feeling," may tilt the scale and ultimately carry the day. When Thomas P. Schneider's term as U.S. attorney for the Eastern District of Wisconsin ended in 2001, for example, he weighed offers to join large influential law firms at handsome salaries, plus friends' suggestions that he cap his 29-year career as a prosecutor by running for state attorney general.

"As most lawyers would," reported the *Milwaukee Journal Sentinel*, "Schneider grabbed a legal pad and divided the page into two columns: pro and con." Then his wife stepped in. "This is not a legal brief," she told him.

"This is your life."

And the rest is history, as it was with Eli Manning. Schneider rejected politics and lucrative private law practice to become executive director of COAYouth and Family Centers, an agency dedicated to improving poor Milwaukee neighborhoods by enhancing opportunities for needy children and their families.

"I've always loved working with kids," he says, "What I really care about is how you make a positive difference in this world." ■

Abrams is a professor at the University of Missouri School of Law. This article originally appeared in Precedent, the quarterly journal of The Missouri Bar.

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Arizona Courts Grapple with New Age Jurisdictional Questions

continued from page 1

warrant authorized the state to seize person-to-person wire transfers sent from states other than Arizona to numerous locations in Sonora. When a person in Sonora requested payout of a covered transfer, Western Union was required to retain the funds, notify the intended recipient of the seizure, and remit funds to the superior court.

Western Union challenged the court's jurisdiction and asked it to enjoin the state from seeking further warrants in similar circumstances. The court agreed that it lacked jurisdiction to seize funds sent to Sonora from states other than Arizona. It quashed the warrant, holding that there was no probable cause to believe that any specific wire transfer involved the proceeds of Arizona racketeering activity.

The court of appeals reversed. *State v. W. Union Fin. Servs.*, 219 Ariz. 337, 199 P.3d 592 (App. 2008). It held that "if a foreign corporation is subject to general in personam jurisdiction in Arizona, its debts can be considered within this state for purposes of in rem jurisdiction." The supreme court granted review, vacated the court of appeals' opinion, and reinstated the trial court's judgment. Justice Andrew Hurwitz wrote the majority opinion.

Before analyzing the issue, Hurwitz emphasized that in rem jurisdiction was the only question. "Because Western Union does not dispute that its activities in this state allow the exercise of general jurisdiction, . . . the Due Process Clause permits the corporation to be sued in personam in Arizona for any reason," he wrote. Consequently, "the Fourteenth Amendment poses no bar to an Arizona court, after an appropriate showing, issuing in personam orders to Western Union governing the disposition of wire transfers involving the proceeds of racketeering conducted in this state."

The particular issue, as posed by Hurwitz, was "whether the superior court can properly exercise in rem jurisdiction over Western Union money transfers originating in other states and directed to Sonora, Mexico." Analyzing the rocky road that the United States Supreme Court had blazed on the subject of in rem jurisdiction, Hurwitz agreed with the superior court that it lacked jurisdiction here.

Hurwitz asked whether "a money transfer sent from a state other than Arizona to a recipient in Sonora, Mexico [is] located within this

state for purposes of in rem jurisdiction?" It is easy to determine the location of tangible property. But intangible property can be problematic; as the Fifth Circuit has noted: "The situs of intangible property is about as intangible a concept as is known to the law."

This brought up cases that you might remember from law school, including *World-Wide Volkswagen Corp. v. Woodson*, *Shaffer v. Heitner*, *International Shoe Co. v. Washington*, and so on back to the 1877 case of *Pennoy v. Neff*. But the bone of contention was *Harris v. Balk*, 198 U.S. 215 (1905), where the court had indulged the legal fiction that a debt follows the debtor. From that reasoning, the court had concluded that when the debtor's creditor himself owed money to a third party, that third party could garnish the debtor wherever he might be found.

The state asserted that in its wire-transfer transactions, Western Union was indebted to the sender, and thus the debt was located in Arizona because Western Union could be found here. But Hurwitz questioned the state's analogy.

He felt that the company's role was less a debtor and more a courier "who has agreed to deliver a package containing cash sent from Colorado [Western Union's home state,] to Mexico." In such a situation involving a tangible package, Arizona could not obtain jurisdiction when the package was in either Colorado or Mexico, even if the cash inside was proceeds of a crime committed in Arizona.

But Hurwitz also rejected the notion that cash in the form of an electronic transfer truly represents money that is physically in Arizona. "The technical complexities of the electronic age should not blind courts to the substance of transactions in conducting jurisdictional analyses," he wrote.

Nevertheless, the state's contention led Hurwitz to question whether "the hoary doctrine of *Harris v. Balk*"—as he called it—remained good law. The Supreme Court appears to have abandoned the notion of "attempt[ing] to assign a fictional situs to intangibles" in favor of "general principles governing jurisdiction over persons and property rather," Hurwitz wrote, quoting the California Supreme Court. "Courts must," he continued, "focus on reality, not fiction."

Wire transfers from other states, initiated by persons who are not Arizona residents and sent to recipients in a foreign country

who are also not Arizona residents, were not located in Arizona simply because Western Union is generally amenable to suit here. Nor did the possibility that the seized funds might be payment for a crime committed in Arizona locate the funds here.

In Hurwitz's eyes, these facts pretty much doomed the state's argument: "We decline to resuscitate the moribund *Harris* fiction as a substitute for reasoned analysis of the situs of the particular intangible at issue, and as the state concedes, that fiction is the essential underpinning of its in rem jurisdictional claim."

Joining Hurwitz in holding that there was no in rem jurisdiction over the seized funds were Chief Justice Ruth V. McGregor and Justices Michael D. Ryan and W. Scott Bales.

Division Two Judge Philip G. Espinosa—sitting for Vice Chief Justice Rebecca White Berch—dissented. He opined that the majority opinion had only succeeded in erecting, and knocking down a straw-man argument in *Harris v. Balk*.

Holland v. Anthony

Meanwhile, Division Two faced its own jurisdictional issue arising out of the new electronic frontier: Do Arizona courts have jurisdiction over a person outside the state who uses the Internet—specifically Ebay—to sell a product to an Arizona citizen? That was the question in *Holland v. Anthony*, No. 2 CA-CV 2008-0126 (Ariz. App. May 19, 2009).

Arizonan Jimmie D. Holland bought a used car from Michagander Michael Anthony Hurley through the Internet auction site, Ebay. Holland had the car shipped to Tucson, where he discovered that it needed extensive repairs. Believing that Hurley had misrepresented the car in his Ebay listing, Holland sued Hurley in the Pima County Superior Court. The superior court dismissed for lack of personal jurisdiction, and Holland appealed.

The court of appeals affirmed in an opinion by John Pelander. The issue was whether the trial court had specific jurisdiction over Hurley. Thus, the court had to determine whether Hurley had purposely availed himself of conducting activities in Arizona or had purposefully directed his activities toward Arizona.

Pelander held that Hurley had done neither by posting an ad for his car on Ebay. There was, he held, no evidence that an individual who sells an item on Ebay "can control the state of residence of the buyer of that item." This was, he wrote quoting the Ninth Circuit, "a one-time contract for the sale of a good that involved the forum state only because that is where the purchaser happened to reside." The fact that Hurley had sold several other products on Ebay did not change that conclusion.

Joining Pelander in affirming the dismissal were Espinosa and Judge Joseph W. Howard. ■

A Fond Farewell

continued from page 7

McGregor instituted the FARE program, which requires criminal defendants to pay the fines, fees and restitution that are owed, but which were frequently not previously enforced. According to Chief Justice McGregor, this program has recovered more than \$100 million in amounts that were past due, together with the recovery of more than \$350 million dollars in annual fines, fees and restitution.

Of great concern to Chief Justice McGregor during the last year has been the effect of the state budget crisis on the court system. Working with the legislature and the governor, Chief Justice McGregor reported that the courts have absorbed state funding cuts and fund sweeps of more than \$28 million. Because of these cuts, the court system has had to eliminate more than 125 state positions and, in addition, Arizona lower courts have frozen hundreds of other positions as a result of spending cuts imposed by counties and cities.

Taking a tough position in her recent State of the Judiciary Address to the Arizona Legislature, Chief Justice McGregor's message was respectful, but direct, in response to the current financial pressures felt by the judicial system as well as all branches of state government:

"Our ability to absorb cuts is not without limits. The judicial branch of government is a separate, co-equal branch of government, not a discretionary agency: we must operate no matter the economic climate."

In her last address, Chief Justice McGregor also told the legislature:

"What we can not do, however, is to take steps to make it impossible for the judicial branch of government to operate. In these challenging days, [although] Arizona state government may have to eliminate some services; a fair and impartial justice system can not be one of them."

Chief Justice McGregor in assessing the effect of our current financial crisis observed that "during bad economic times, people need the courts more than ever and our case loads will increase even as our resources decrease." She believes that statewide Superior Court civil filings will increase by 50 percent over the next two years and that we can expect contract lawsuits to increase by 90 percent.

Because of the predicted huge increase in court cases, Chief Justice McGregor believes that this can not be handled without implementing state-of-the-art automated case management system which the court has mandated and is currently in the process of being developed.

Chief Justice McGregor leaves the bench with the gratitude of many well wishers and supporters and with total confidence that her successor, Vice Chief Justice Rebecca White Berch, and her other colleagues on the court, will amply lead and serve the judicial system and the state. ■

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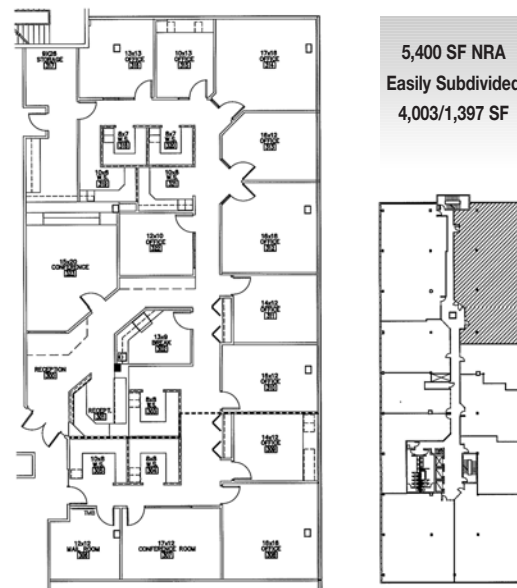
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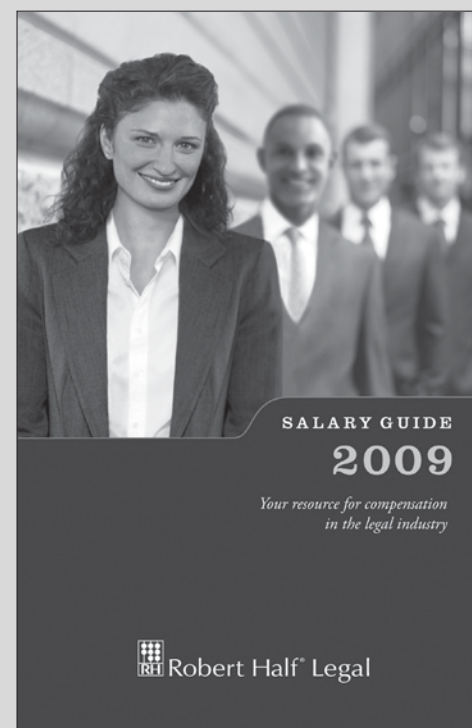
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