



Condemnation Summit XXIII

October 12, 2018 | Arizona Biltmore





Opening Remarks: Program Introduction & Greetings

Chris Kramer, Jennings, Strouss & Salmon
Jennifer Cranston, Gallagher & Kennedy



Strategic Evaluation at Intake

Jennifer Cranston, Gallagher & Kennedy

Bruce Washburn, City of Scottsdale

Damian Fellows, City of Tucson

Project Planning

- Identify and understand the Project
- What Property is involved?
- Develop a Plan
 - Impact on remainder parcels
 - Impact on existing improvements
 - Impact on access
 - Communications with the public
- Commissioning the Appraisal



Initial Communications & Negotiations

- Initial offer letter
- Analysis by Property Owner
- Negotiations
 - Compensation
 - Non-monetary issues / adjustments to the Project



Early Litigation Strategy

- When to file
- Obtaining possession
- Initial Disclosures
- Discovery
- Case schedule



Hypothetical Case Study





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Morning Networking Break





Settlement Evaluation: Tips from the Pros

Chris Kramer, Jennings, Strouss & Salmon

Judge Catherine Woods, Pima County Superior Court

Charles J. Muchmore, Skelly, Muchmore & Oberbillig, LLC

When to Mediate

- Early
 - Pros and cons
- After initial disclosures
 - Pros and cons
- Before expert disclosures
- After expert disclosures
- After discovery is completed

Private Mediator v. Settlement Judge

- Differences in approach and environment
- Timing
- Personalities
- Selecting private mediator v. assignment to settlement judge
- Bottom line is that all of the parties need to buy into the process

Preparing the Settlement Memorandum

- Settlement is how most cases are resolved
- Therefore, the mediation memo is critically important
 - Review your file thoroughly
 - Consult with your client
- Get your memo out timely
 - Not just for the mediator/judge, but for the opposing party
 - Don't forget that the decisions by institutions are usually made well in advance of the conference. Final authority may be decided far in advance and a late memo is not available to the decision makers

Preparing the Settlement Memorandum

- Take pride in your work and consider your audience
- Use graphics that are simple
- Photographs are always helpful
- Maps and overhead shots
- Try your best to synthesize you case
 - Concise facts
 - Timelines and chronologies are always helpful
 - If there are a lot of parties, create a cast of characters that the mediator/judge can look at while he or she reviews the memo
 - Explain and contrast the expert opinions; why is yours better than theirs; why is theirs wrong

Preparing Your Client

- In advance of the conference, it is a good idea to meet with your client
- Give the client an explanation of what to expect
 - Who is the mediator/judge and how was he or she selected
 - Importance of listening to the views of the neutral third-party
 - Tell the client to keep an open mind
 - Tell the client that while the conference is not binding, it is an excellent and perhaps best chance to settle
- If you have it, give your client the other side's mediation memo and go over it with them.
 - Create counter arguments
 - Are there additional pieces of evidence that you can present in response or rebuttal?

Who Should Attend

- Parties and persons with authority or in decision-making positions
- Consider bringing an expert, especially to explain complicated parts of your case
- Fact witness
 - Rare
- Bring an associate so they can learn – part of your mentoring obligation

Documenting the Settlement

- Settlement memo pursuant to ARCP, Rule 80(a)
 - (a) Agreement or Consent of Counsel or Parties.** If disputed, no agreement or consent between parties or attorneys in any matter is binding, unless
 1. it is in writing; or
 2. it is made orally in open court and entered in the minutes

Empowering the Mediator to Resolve Disputes in the Final Release

- Muchmore's standard language:
 - Plaintiff and Defendants will execute a formal release of all claims which are the subject of their dispute. In the event there is a dispute as to the language of the release, Charles J. Muchmore will mediate the dispute of such language, and failing mediation, arbitrate the dispute of such language.
- I do not feel strongly and am never offended if a party does not want this provision. But it does have its advantages.
 - The person who has the most knowledge is deciding the language dispute.
 - Cheap. I can only remember one case where I have charged. Your alternative is to go court.

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- Key issues from mediator/judge perspective
 - Plaintiff's best argument
 - Defendant's best argument
- Narrowing of issues
- Strategy in presenting issues to each side
- Additional facts helpful to resolution
 - Prior settlement discussions
 - Non-monetary elements of resolution



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Lunch





Ethics Pop Quiz

Patricia A. Sallen, Attorney
Ethics at Law

Question #1

You're the appraiser hired by the landowners' lawyer. When you see the government's appraisal, you realize that the other appraiser made a significant and obvious error that benefits the landowner. What should you do?

- A. Incorporate the error into your report citing your reliance on the government's appraisal.
- B. Incorporate the error into your report as an extraordinary assumption or hypothetical condition.
- C. Prepare your report without any reference to the error.
- D. Tell the attorney who hired you and defer to his instruction.

Guide Note 4: Reliance on Reports Prepared by Others

- When an appraiser has relied on work done by others he/she is responsible for the decision to rely on their work.
- The appraiser is required to have a reasonable basis for believing that those individuals performing the work are competent.
- The appraiser must have no reason to doubt that the work of those individuals is credible.

USPAP Definition of Extraordinary Assumption

- An assignment-specific assumption as of the effective date regarding uncertain information used in an analysis which, if found to be false, could alter the appraiser's opinions or conclusions.
- Comment: Uncertain information might include physical, legal, or economic characteristics of the subject property; or conditions external to the property, such as market conditions or trends; or the integrity of data used in an analysis.

USPAP Definition of Hypothetical Condition

- A condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purpose of analysis.
- Comment: Hypothetical conditions are contrary to known facts about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis.

Question #2

You're the landowner lawyer from Question #1. The appraiser told you about the error in the government's appraisal. What should you do?

- A. Tell your client and defer to her instructions.
- B. Instruct the appraiser to incorporate the error into the appraisal based on one of the previously discussed USPAP provisions (reliance on report of another, extraordinary assumption, or hypothetical condition).
- C. Call opposing counsel and inform him of the error.
- D. Make a settlement offer based on the government's appraisal before the landowner's appraisal is due.

Relevant Lawyer Rule:

ER 1.2 (Scope of Representation and Allocation of Authority Between Client and Lawyer)

(d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

Relevant Lawyer Rule:

ER 3.3 (Candor to the Tribunal)

Can't knowingly

- make a false statement of fact or law to a tribunal
- fail to correct a false statement of material fact or law previously made
- fail to disclose to the tribunal controlling and directly adverse legal authority not disclosed by opposing counsel
- offer evidence that the lawyer knows to be false

Relevant Lawyer Rule:

ER 3.3 (Candor to the Tribunal)

- Must take remedial measures if
 - the lawyer, the lawyer's client or a witness called by the lawyer has made false statements
 - a person intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding
- In an ex parte proceeding, must inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, no matter if the facts are adverse

Relevant Lawyer Rule:

ER 4.1 (Truthfulness in Statements to Others)

In the course of representing a client a lawyer shall not knowingly

- a) make a false statement of material fact or law to a third person; or
- b) fail to disclose a material fact when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by ER 1.6.

Relevant Lawyer Rule:

ER 8.4 (misconduct)

It is professional misconduct for a lawyer to

- a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- d) engage in conduct that is prejudicial to the administration of justice;

Question #3

You're the City's right-of-way agent. You transmit an initial offer to the property owner based on an appraisal that uses a highest and best use not currently approved by the City. Landowner asks about the assumption. What should you do?

- A. Tell the landowner to seek advice of counsel.
- B. Trust that the appraiser knew what he was doing and tell the landowner the City would likely approve the change in use.
- C. Contact the appraiser and seek clarification regarding the highest and best use analysis and share that clarification with the landowner.
- D. Tell the landowner you are just the ROW agent and its not your job to explain the appraisal.

Question #4

You're an attorney representing neighboring landowners on the same project. Through your representation of Client A, you learn about development plans that would negatively impact Client B's property, but isn't relevant to the valuation of B's property in the condemnation. What should you do?

- A. Nothing. You wrote your engagement letter for B to narrowly address the condemnation. So this issue isn't within your scope of representation.
- B. Tell B because the information relating to A's plans isn't attorney-client privileged.
- C. Seek A's consent to disclose the plans to B.
- D. Drop hints to B about the development plans without actually telling her.

Relevant Lawyer Rule:

ER 1.6 (Confidentiality of Information)

(a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted or required by paragraphs (b), (c) or (d), or ER 3.3(a)(3).

Relevant Lawyer Rule:

ER 1.6 (Confidentiality of Information)

Comment [3]:

....The confidentiality rule, for example, applies not only to matters communicated in confidence by the client but also to all information relating to the representation, whatever its source. A lawyer may not disclose such information except as authorized or required by the Rules of Professional Conduct or other law.

Relevant Lawyer Rule:

ER 1.7 (Conflicts of Interest: Current Clients)

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

- (1) the representation of one client will be directly adverse to another client; or
- (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

Relevant Lawyer Rule:

ER 1.7 (Conflicts of Interest: Current Clients)

(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if each affected client gives informed consent, confirmed in writing. and:

- (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
- (2) the representation is not prohibited by law; and
- (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal.

Question #5

You're an appraiser relatively new to condemnation. You have been hired by the State on a big project involving issues new to you. Your client provides materials and certain instructions regarding how to appraise properties for the project that don't seem consistent with your prior experiences, but you're instructed to follow them anyway. What should you do?

- A. Do as you are told.
- B. Ask for more information and the basis for the instructions.
- C. Do some additional research and try to convince your client that its instructions are wrong.

Withdraw from the assignment.

USPAP Ethics Rule

CONDUCT: An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests.

USPAP Competency Rule

An appraiser must: (1) be competent to perform the assignment; (2) acquire the necessary competency to perform the assignment; or (3) decline or withdraw from the assignment.

Question #6

You're counsel for the government on a project that will ultimately benefit the landowners by increasing the value of their property. Under the current law, the impact is a general benefit and therefore can't be used to offset severance damages. But your client is adamant that the impact is so significant that the law should be changed. What should you do?

- A. Refuse to assert the argument because you believe the law is correct and shouldn't be changed to save the government money.
- B. Go for it – you're in-house with the government and therefore there's no downside.
- C. Go for it – you're outside counsel and will get to charge lots of billable hours to challenge the existing law.
- D. None of the above.

Relevant Lawyer Rule:

ER 1.2 (Scope of Representation and Allocation of Authority Between Client and Lawyer)

Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter....

Relevant Lawyer Rule:

ER 1.2 (Scope of Representation and Allocation of Authority Between Client and Lawyer)

(b) A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social or moral views or activities.

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

Relevant Lawyer Rule:

ER 1.2 (Scope of Representation and Allocation of Authority Between Client and Lawyer)

(d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.



2018 Civil Rules Update

How Not to Commit Procedure-Based Malpractice

Vail C. Cloar, Dickinson Wright PLLC
Misty D. Guille, Assistant Attorney General

2018 Civil Rules Changes

1. What's the point?
2. What are the significant changes?
3. Why do we care?

Scope: Most applicable to eminent domain; not ESI, mandatory arbitration, commercial court, med mal.

What's the Point?

- To **strengthen mandatory initial disclosure** of relevant material, **making disclosure robust**
- To **keep discovery proportional** based on the understanding that proportional discovery follows up on **robust initial disclosure** under Rule 26.1

See 2018 Comment on Rule 26.2

What Are the Significant Changes?

- **Tiered Discovery** – tiers determine how much discovery you get and how much time to complete (absent stipulations/orders otherwise) – the whole system is changing
- **Disclosures** – for expert disclosure, more information is now required, either in the disclosure statement (Tier 2) or in the expert's report (Tier 3)
- **Stronger Penalties** – Vail will discuss Rule 37 in greater detail later

What Are the Significant Changes?

Tiered Discovery: The Three Tiers

Tier 1	Tier 2	Tier 3
Simple cases with minimal documents & witnesses	Intermediate complexity, more documents & witnesses, maybe expert witnesses	Logistically/legally complex cases; may have voluminous documents or many pretrial motions, many witnesses, or related actions in other courts
\$50,000 or less in damages sought	\$50,001- \$299,999 in damages and/or nonmonetary relief sought	\$300,000 or more in damages sought
ARCP 26.2(c)(3)(A)	ARCP 26.2(c)(3)(B), (D)	ARCP 26.2(c)(3)(C)

What Are the Significant Changes?

Tiered Discovery: Tier Assignment

- Rule 26.2(b)-(e) govern which tier applies
- Initial tier assignment is based on monetary or nonmonetary relief sought, see Rule 26.2(c)(3), (d)(1)
- Tier may change by stipulation of all parties or by motion, see Rule 26.2(c)(1), (d)(3)
- Tier may change by Court placement, see Rule 26.2(c)(2), (d)(2)

What Are the Significant Changes?

Tiered Discovery: Tier Assignment

Initial tier placement

- From Complaint's filing until Court assigns different tier, case is deemed assigned to tier based on monetary or nonmonetary relief sought. See Rule 26.2(d)(1)
- "The Civil Cover Sheet must contain . . . the amount in controversy pleaded, or if that amount is not plead, the discovery tier to which the pleading alleges the action would belong," see Rule 8(g)(1)(B)(vi)
- Condemnation Plaintiffs: likely to select Tier 2 because their Complaint seeks only nonmonetary relief, see Rule 26.2(c)(3)(D)

What Are the Significant Changes?

Tiered Discovery: Tier Assignment

In the Superior Court of the State of Arizona
in and for the County of _____

Case Number _____

CIVIL COVER SHEET- NEW FILING ONLY
(Please Type or Print)

Plaintiff's Attorney _____
Attorney Bar Number _____

Plaintiff's Name(s): (List all) _____ Plaintiff's Address: _____ Phone #: _____ Email Address: _____

(List additional Plaintiffs on page two and/or attach a separate sheet).

Defendant's Name(s): (List All) _____

(List additional Defendants on page two and/or attach a separate sheet)

Is Interpreter Needed? Yes No
If yes, what language: _____

NATURE OF ACTION

(Place an "X" next to the **one** case category that most accurately describes your primary case.)

100 TORT MOTOR VEHICLE:

- 101 Non-Death/Personal Injury
- 102 Property Damage
- 103 Wrongful Death

110 TORT NON-MOTOR VEHICLE:

- 111 Negligence
- 112 Product Liability – Asbestos
- 112 Product Liability – Tobacco
- 112 Product Liability – Toxic/Other
- 113 Intentional Tort

- 114 Property Damage
- 115 Legal Malpractice
- 115 Malpractice – Other professional
- 117 Premises Liability
- 118 Slander/Label/Defamation
- 116 Other (Specify) _____

120 MEDICAL MALPRACTICE:

- 121 Physician M.D. 123 Hospital
- 122 Physician D.O. 124 Other

130 CONTRACTS:

- 131 Account (Open or Stated)
- 132 Promissory Note
- 133 Foreclosure
- 136 Buyer-Plaintiff
- 139 Fraud
- 134 Other Contract (i.e. Breach of Contract)
- 135 Excess Proceeds-Sale
- Construction Defects (Residential/Commercial)
 - 136 Six to Nineteen Structures
 - 137 Twenty or More Structures

150-199 OTHER CIVIL CASE TYPES:

- 156 Eminent Domain/Condemnation
- 151 Eviction Actions (Forcible and Special Detainers)
- 152 Change of Name
- 153 Transcript of Judgment
- 154 Foreign Judgment
- 158 Quiet Title
- 160 Forfeiture
- 175 Election Challenge
- 179 NCC-Employer Sanction Action (A.R.S. §23-212)

Case No. _____

- 180 Injunction against Workplace Harassment
- 181 Injunction against Harassment
- 182 Civil Penalty
- 186 Water Rights (Not General Stream Adjudication)
- 187 Real Property
- Special Action against Lower Courts (See Lower Court Appeal cover sheet in Maricopa)
- 194 Immigration Enforcement Challenge (A.R.S. §§1-501, 1-502, 11-1051)
- 191 Declaration of Factual Improper Party Status
- 193 Vulnerable Adult (A.R.S. §46-451)
- 165 Tribal Judgment
- 167 Structured Settlement (A.R.S. §12-2901)
- 169 Attorney Conservatorships (State Bar)
- 170 Unauthorized Practice of Law (State Bar)
- 171 Out-of-State Deposition for Foreign Jurisdiction
- 172 Secure Attendance of Prisoner
- 173 Assurance of Discontinuance
- 174 In-State Deposition for Foreign Jurisdiction
- 176 Eminent Domain- Light Rail Only
- 177 Interpleader- Automobile Only
- 178 Delayed Birth Certificate (A.R.S. §36-333.03)
- 183 Employment Dispute- Discrimination
- 185 Employment Dispute-Other
- 196 Verified Rule 45.2 Petition
- 195(a) Amendment of Marriage License
- 195(b) Amendment of Birth Certificate
- 163 Other _____ (Specify)

150-199 UNCLASSIFIED CIVIL:

- Administrative Review (See Lower Court Appeal cover sheet in Maricopa)
- 150 Tax Appeal (All other tax matters must be filed in the AZ Tax Court)
- 155 Declaratory Judgment
- 157 Habeas Corpus
- 184 Landlord Tenant Dispute- Other
- 190 Declaration of Factual Innocence (A.R.S. §12-771)

RULE 26.2 DISCOVERY TIER or AMOUNT PLEADED:

(State the amount in controversy pleaded or place an "X" next to the discovery tier to which the pleadings allege the case would belong under Rule 26.2.)

- Amount Pledged \$ _____ Tier 1 Tier 2 Tier 3

EMERGENCY ORDER SOUGHT

- Temporary Restraining Order
- Employer Sanction
- Provisional Remedy
- Other (Specify) _____
- OSC
- Election Challenge

COMMERCIAL COURT (Maricopa County Only)

- This case is eligible for the Commercial Court under Rule 6.1, and Plaintiff requests assignment of this case to the commercial Court. More information on the commercial Court, including the most recent forms, are available on the Court's website at <https://www.superiorcourt.maricopa.gov/commercial-court/>.

Additional Plaintiff(s): _____

Additional Defendant(s): _____

What Are the Significant Changes?

Tiered Discovery: Tier Assignment

- **Stipulation or motion to change tier**
 - for good cause—proportionality factors in Rule 26(b)(1)—see Rule 26.2(c)(1)
 - proposed stip may be included in the Joint Report, see Rule 16(c)(6)(A)
 - motion must be made *before* Joint Report filed (3 pages max), see Rule 16(c)(6)(B)
 - a later joined or later served party may promptly move the court to change the assigned tier, see Rule 26.2(d)(3)

What Are the Significant Changes?

Tiered Discovery: Tier Assignment

- **Placement by the Court in different tier**
 - Evaluates totality of circumstances consistent with case characteristics under Rule 26.2(b) & the factors defining proportional discovery in Rule 26(b)(1), see Rule 26.2(c)(2)
 - If Court goes this route, it must assign the case to a tier within 20 days after the Joint Report is filed, see Rule 26.2(d)(2)

What Are the Significant Changes?

Tiered Discovery: General Rule for Discovery Allowed

The applicable tier dictates the amount of discovery allowed and the timeframes for completing it.

	"Old" Rules	Tier 1	Tier 2	Tier 3
Cumulative time of fact witness depositions per side	—	5 hours	15 hours	30 hours
Rule 33 rogs per side	40	5	10	20
Rule 34 RFPs per side	10	5	10	10
Rule 36 RFAs per side	25	10	10	20
Discovery period	—	120 days	180 days	240 days
Written expert witness report required	No	No	No	Yes

But, there is some flexibility in tiered discovery...

What Are the Significant Changes?

Tiered Discovery: Exceptions to the General Rule

- Exceeding Discovery Tier Limits
 - **motion**, see Rule 26.2(g)(1)(A)
 - **stipulation**, see Rule 26.2(g)(1)(B); authorizes taking the discovery unless Court disapproves it, see Rule 26.2(g)(3)
 - file before close of discovery & before actually exceeding discovery, see Rule 26.2(g)(2)
- Exceeding Discovery Timeframes
 - Unless the court orders otherwise, the parties may agree in writing to extend the time for discovery responses under Rules 33 (ROGs), 34 (RFPs), and 36 (RFAs), unless it interferes with a court-ordered deadline. See Rule 29(b)

What Are the Significant Changes?

Tiered Discovery: Exceptions to the General Rule

- Exceeding Deposition Time
 - If more than one party on a side, court may, for good cause, increase that side's fact witness hours, allocate hours, etc., see Rule 26.2(h)
 - Court must allow additional time if needed to "fairly examine" deponent or if something impedes/delays depo, see Rule 30(d)(1)
- Limiting frequency or extent of discovery
 - Rule 26(b)(2)(C), formerly at Rule 26(b)(1)(B)
 - on motion or on its own, Court must limit if...
 - unreasonably cumulative/duplicative or can be obtained from other source more convenient/less burdensome/less expensive
 - had ample opportunity to obtain info by discovery
 - outside scope of Rule 26(b)(1) (relevant & proportional)

What Are the Significant Changes?

Tiered Discovery: New Limitations

- New Limitation on Timing of Discovery
 - Unless the court orders otherwise for good cause, a party may not seek discovery from any source, including nonparties, before that party serves its initial Rule 26.1 disclosure statement. See Rule 26(f)(1)
- New Limitation on RFA Responses
 - An answer to a Request for Admission does not fairly respond stating that “the document speaks for itself,” denying “any allegations inconsistent with the language of a document,” or claiming that a factual-related allegation states a legal conclusion. See Rule 36(a)(5)(B)

What Are the Significant Changes?

Tiered Discovery: New Limitations

- **New Limitation and Notice Requirement for Subpoenas Duces Tecum**
 - **New Limitation:** “Absent good cause, a subpoena may not seek production of materials that have already been produced in the action or that are available from parties to the action.” Rule 45(e)(1)(A)
 - **New Notice Requirement:** Two-day advance notice (and copy of subpoena) must be served on each party before serving on the subject. See Rule 45(d)(3).
 - **Remaining Notice Requirement:** “A copy of every subpoena and any proof of service must be served on every other party in accordance with Rule 5(c).” Id
 - **New Rule 84 Form – Form 9**

What Are the Significant Changes?

Tiered Discovery: Early Meeting

- Early Meeting (Rule 16 conference)
 - **When:** Earliest practicable time, no later than the earlier of (a) 30 days after responsive pleading or (b) 120 days after complaint, see Rule 16(b)(1)
 - **Who:** attorneys & unrepresented parties who have appeared are jointly responsible for arranging & participating in the Early Meeting, see Rule 16(b)(1)
 - **Where:** in person or by phone, not merely by letter/email, see Rule 7.1(h)
 - **Why:** plan cooperatively for the case & facilitate case's tier placement, see Rule 16(b)(1)

What Are the Significant Changes?

Tiered Discovery: Early Meeting

- Early Meeting (Rule 16 conference) (cont.)
 - **What:** Discuss the following [see each rule for more detail]
 - Anticipated course of their case, including tier assignment, see Rule 16(b)(1)
 - Whether/how to streamline & limit claims/affirmative defenses; discovery; motions; see Rule 16(b)(1).
 - Subjects in Rule 16(b)(2): anticipated disclosures regarding witnesses & documents; motions anticipated; agreements that could aid in just, speedy, & inexpensive resolution; discovery tier assignment
 - Subjects in Rule 16(c): joint report & proposed scheduling order

What Are the Significant Changes?

Tiered Discovery: Joint Report & Proposed Scheduling Order

- Joint Report & Proposed Scheduling Order
 - File within 14 days of Early Meeting, see Rule 16(c)(1)
 - New forms in Rule 84 *required*, see Rule 16(c)(7):
 - Form 12(a), Joint Report: Tier 2 Case**
 - Form 12(b), Proposed Scheduling Order: Tier 2 Case
 - Form 13(a), Joint Report: Tier 3 Case**
 - Form 13(b), Proposed Scheduling Order: Tier 3 Case

**NOTE: new changes coming 1/1/19, see Handout 5

What Are the Significant Changes?

Tiered Discovery: Joint Report

- Joint Report – Requirements
 - Must state to extent practicable the parties' positions on Rule 16(b)(2) and 16(c)(3) subjects. See Rule 16(c)(2)
 - Must not criticize the rejection of proposed agreements or argue another party took unreasonable positions. See *id*
 - Must attach a good faith consultation certificate under Rule 7.1(h). See Rule 16(c)(2)
 - This certificate is not included in the Rule 84 Joint Report form, so you must attach your own
 - Must certify parties conferred about Rule 16(b)(2) & (c)(3) subjects

What Are the Significant Changes?

Tiered Discovery: Joint Report

- Joint Report – Options
 - May summarize Early Meeting, see Rule 16(c)(2)
 - 4 pages max, split evenly between parties if necessary
 - Must describe tier-related characteristics of case
 - Must state any agreements reached to streamline case
 - Must not criticize (see prior slide)
 - May include tiering stip, see Rule 16(c)(6)(A)

What Are the Significant Changes?

Tiered Discovery: Proposed Scheduling Order

- Proposed Scheduling Order
 - Must state discovery tier assigned
 - Must calendar deadlines consistent with the discovery tier assigned, see Rule 16(c)(4).
 - Must specify deadlines, including:
 - Rule 16(c)(3)(I): deadline for holding settlement conference or private mediation no more than 15 months after action commenced, unless Court orders otherwise for good cause; *in no event later than 60 days after date discovery is set to complete* (note: discovery time runs from the Early Meeting, see Rule 26.2(f))

What Are the Significant Changes?

Disclosures: Initial Disclosures

- Initial Disclosure Statement, *all* cases:
 - Plaintiff's: **30 days**, not 40, after filing of first responsive pleading, see Rule 26.1(f)(1)
 - Defendant's: **30 days**, not 40, after filing its responsive pleading, see *id*
 - Experts: the anticipated areas of expert testimony, see Rule 26.1(a)(6)

What Are the Significant Changes?

Disclosures: Expert Disclosures

- Expert Disclosures
 - Deadline in Scheduling Order.
 - Content governed by Rule 26.1(d)
 - Substance & format of expert disclosure depends:
 - **Pre-7/1/18 Cases:** Amended Rule 26.1 applies (except the part about Tier 3 expert reports), so provide expert info from Rule 26.1(d)(3) in your disclosure statement
 - **Tier 2 Cases:** Disclosure statement (or expert's report) contains the info from Rule 26.1(d)(3). *Unless the Court orders a Tier 3 expert report, see Rule 26.1(d)(2)*
 - **Tier 3 Cases:** Expert's report contains the info from Rule 26.1(d)(4). *Unless the parties stipulate or the court orders otherwise, see Rule 26.1(d)(2)*

What Are the Significant Changes?

Disclosures: Expert Disclosures

- Expert Disclosures – Tier 2
 - Rule 26.1(d)(3) – *the disclosure must state...*
 - (A) identifying info
 - (B) subject matter
 - (C) substance of facts/opinions
 - (D) summary of grounds for each opinion
 - **(E) a statement of the compensation to be paid for the expert's work and testimony in the case**
 - **(F) a list of all other cases in which, during the previous 4 years, the witness testified as an expert at a hearing or trial**

What Are the Significant Changes?

Disclosures: Expert Disclosures

- Expert Disclosures – Tier 3
 - Rule 26.1(d)(4) – the expert’s *report* must state...
 - (A) identifying info; qualifications include list of publications authored in previous 10 years
 - (B) complete statement of opinions and basis/reasons for them
 - (C) facts/data considered in forming them
 - (D) exhibits that will be used to summarize/support them
 - (E) identify any publication within scope of Ariz. R. Evid. 803(18) on which expert intends to rely for any opinion
 - (F) statement of the compensation to be paid for the expert’s work and testimony in the case
 - (G) list of all other cases in which, during the previous 4 years, the witness testified as an expert at a hearing or trial

What Are the Significant Changes?

Disclosures: Expert Disclosures

Civil Expert Disclosure Requirements Effective July 1, 2018

New Requirements for Tier 1 & Tier 2	New Requirements for Tier 3
Disclosure statement (or expert's report) must contain:	Expert's report must contain:
the expert's name, address, and qualifications <i>ARCP 26.1(d)(3)(A)</i>	the expert's name, address, and qualifications, including a list of all publications authored in the previous 10 years <i>ARCP 26.1(d)(4)(A)</i>
the subject matter on which the expert is expected to testify <i>ARCP 26.1(d)(3)(B)</i>	a complete statement of all opinions the expert will express and the basis and reasons for them <i>ARCP 26.1(d)(4)(B)</i>
the substance of the facts and opinions to which the expert is expected to testify <i>ARCP 26.1(d)(3)(C)</i>	
a summary of the grounds for each opinion <i>ARCP 26.1(d)(3)(D)</i>	the facts or data considered by the expert in forming them <i>ARCP 26.1(d)(4)(C)</i>
	any exhibits that will be used to summarize or support them <i>ARCP 26.1(d)(4)(D)</i>
	identification of any publication within the scope of Arizona Rule of Evidence 803(18) on which the expert intends to rely for any opinion; <ul style="list-style-type: none"> Arizona Rule of Evidence 803(18): Statements in Learned Treatises, Periodicals, or Pamphlets. <i>ARCP 26.1(d)(4)(E)</i>
a statement of the compensation to be paid for the expert's work and testimony in the case <i>ARCP 26.1(d)(3)(E)</i>	a statement of the compensation to be paid for the expert's work and testimony in the case <i>ARCP 26.1(d)(4)(F)</i>
a list of all other cases in which, during the previous 4 years, the witness testified as an expert at a hearing or trial <i>ARCP 26.1(d)(3)(F)</i>	a list of all other cases in which, during the previous 4 years, the witness testified as an expert at a hearing or trial <i>ARCP 26.1(d)(4)(G)</i>

What Are the Significant Changes?

Disclosures: Privilege Log Alternatives

- **Existing Privilege Log Requirement, Rule 26(b)(6)(A)(i)**
 - New Alternatives:
 - Parties may stipulate or court may order alternate requirements to reduce burden/expense of providing privilege log, such as identification by category or excluding certain categories. See Rule 26(b)(6)(A)(ii)
 - Party seeking alternative must confer with opposing party in attempt to reach agreement; present any dispute at Rule 16(d) Scheduling Conference or under Rule 26(d). See Rule 26(b)(6)(A)(iii)

What Are the Significant Changes?

Disclosures: More Changes Coming

- **Effective January 1, 2019:**
- Rule 26(b)(4), Expert Discovery
 - “would conform Arizona procedure with federal procedure on the discoverability of draft expert reports and communications between parties’ attorneys and experts”
 - <https://www.azcourts.gov/rules/Recent-Amendments/Rules-of-Civil-Procedure>
See Handout 5

What Are the Significant Changes?

Miscellaneous

- Dismissal Calendar
 - Cases will be placed on the dismissal calendar if 210 days (not 270) have passed since the action commenced and the parties have not yet filed a joint report and proposed scheduling order per Rule 16. Rule 38.1(d)(1)(A)
- Rule 45.2 governs resolution of disputes concerning scope of a party's or a nonparty's duty to preserve ESI

What Are the Significant Changes?

Miscellaneous: Pleadings

- Claims for Damages
 - Rule 8(f) moved to Rule 8(b)(1)
 - Rule 8(b)(2) adds a requirement to plead damage tier if a party who claims damages does not plead an amount
 - Rule 8(g)(1)(B)(vi) – Civil Cover Sheet tier requirement
- Restrictions on Denying Allegations – May Not:
 - State that “the document speaks for itself,” ARCP 8(c)(2)(A)
 - Deny “any allegations inconsistent with the language of a document,” ARCP 8(c)(2)(B)
 - Claim that a factual-related allegation states a legal conclusion, ARCP 8(c)(2)(C)
 - Deny “on information and belief” (but may state have insufficient info to form a belief about the truth of the allegation), ARCP 8(c)(5)

Why Do We Care?

New Sanctions

- Rule 37(c)(1) – Failure to timely disclose
 - Use of items not timely disclosed only if court “specifically finds that such failure caused no prejudice.”
 - New and **SCARY**
 - But, there’s an out: “or orders otherwise for good cause.”
- Court can also impose sanctions available under Rule 37(g)(2)(B), “[i]n appropriate circumstances.”
 - If the court finds intent to deprive a party of the information, it can:
 - Presume that the nondisclosed information was unfavorable;
 - Instruct the jury the jury that it must presume the information was unfavorable;
 - If the Court finds intent to deprive and prejudice, it may order dismissal or default
 - What is an “appropriate circumstance”?
 - Probably intentional acts to hide the ball, but curiously references to ESI sanctions

Why Do We Care?

New Sanctions (cont.)

- Rule 37(h)
 - Broad authority to enter “any order to require or prohibit disclosure or discovery to achieve proportionality under Rule 26(b)(1).”
 - Clarifies that proportionality is now an independent basis for protective orders and fee shifting.
 - Courts can now impose “without limitation”: (1) “any order” available under Rule 26(c), and (2) can order cost and fee shifting “as justice requires.”
 - Apparently intended to “make sure the parties are making prompt and compliant disclosures under Rule 26.1.”
 - But then it is redundant with Rule 37(c)?

Why Do We Care?

New Sanctions (cont.)

- Rule 37(d) – Failure to disclose unfavorable information
 - Clarifies that court can, “in its discretion,” “impose any sanctions the court deems appropriate in the circumstances.”
 - Includes dismissal in whole or in part, or default judgment.
 - Designed to clarify lenient abuse of discretion review for sanctions imposed.

Why Do We Care?

Retroactivity

- Rules effective only in cases filed after July 1, 2018:
 - 5.1 (minor numbering change)
 - 8 (pleading damages)
 - Experimental 8.1(f) (Tier 3 for commercial cases)
 - 16 (conferring and scheduling)
 - 29 (easy discovery deadline extensions)
 - 30(d)(1) (deposition time limits)
 - 33 (interrogatories)
 - 34 (requests for production)
 - 36 (requests for admission)
 - 38.1 (new trial setting)
 - 26.1 (expert reports in Tier 3 cases in subsection (d)(2))
 - 26.2 (tiered discovery limits)

See Handout 2.

Why Do We Care?

Retroactivity (cont.)

- Rules effective in all cases unless “infeasible or [it] would work an injustice”:
 - 11 (consultation)
 - 26 (discovery)
 - 26.1 (voluntary disclosure)
 - 26.3 (medical records in medical malpractice cases)
 - 31 (depositions)
 - 35 (mental and physical examinations)
 - 37 (sanctions)
 - 45 (subpoenas)
 - 45.2 (dispute resolution regarding document preservation requests)

See Handout 2.

Hypothetical

Facts

- Problem: Rules did not take into account condemnation cases at all
- **Facts:**
 - Larger parcel is 2.5 acres of vacant land
 - Property sought is for .5 acres in fee for new right of way, plus TCE
 - Initial offer for fee is \$6/sq. ft., \$130,680 total, with no severance claim, plus \$5,000 for TCE. Total of \$135,680
 - Condemnee does not have appraisal, but believes both unit value is too low and plans on asserting significant severance claim

Hypothetical

Pleading

- Complaint
 - Need to state damages with certainty or not at all
 - If no damages are alleged, must allege it satisfies a particular tier
 - Here, would need to allege class 2
 - But what if initial offer was \$400,000?
- Answer
 - Cannot deny allegations on “information and belief”
 - Cannot deny because authorizing resolution or exhibit “speaks for itself”
 - Cannot deny allegations of fact or applying law to fact by claiming it states a legal conclusion
 - Also, in our world must allege a discovery tier
 - But, how can you do that under Rule 11 if you just got the file?

Hypothetical

Early Meeting

- Reality: land owners do not always answer timely
 - What if County files the first responsive pleading?
 - Landowner does not timely file a responsive pleading
 - Early Meeting with County is required **30 days** after its Answer – Landowner hasn't appeared, so not included – seems counter to the purpose & spirit of new rules
 - County generally doesn't participate in disclosures, discovery, etc.; Landowner generally does and may need more time – likely will need new scheduling order
 - BUT two critical problems: discovery clock is ticking AND Joint Report is due within 14 days.

Hypothetical

Joint Report

- Joint Report must be submitted within 14 days of Early Meeting
- Problem: under Rule 16(c)(6), any motion to change default discovery tiers under Rule 26.2(c)(3) are due as of the date set for the joint report
- Double problem: inconsistent language between 26.2(c)(1) and 16(c)(6) make it unclear if parties can even stipulate to change after joint report date
- Best practice is to answer timely to avoid getting stuck in Tier 2 and having to seek additional discovery

Hypothetical

Discovery Limits and Disputes

- Assume landowner answers timely, participates in the Early Meeting and, through stipulation or motion, moves the case into Tier 3
- 240 days after Early Meeting to complete fact discovery
- 20 interrogatories and 30 hours for depositions of fact witness
- Parties can stipulate to expansion of limits or file a motion to exceed under Rule 26.2(g)
- Motions to compel and for typical protective orders are essentially gone
- Discovery disputes involve a consultation and then a joint statement of the dispute not to exceed 3 pages. Rule 26(d)

Hypothetical

Disclosure is Now a Trap!

- Assume property is subject to a long-forgotten PAD that condemnee wishes to rely upon. Condemnee had the PAD from inception, but for some reason does not disclose until after the deadline for expert reports. Does it come in?
- New sanctions put the onus on the non-disclosing party, and the consequences are potentially draconian
 - Might be a word that rhymes with “schmal-practice”
- Disclose, disclose, disclose

Hypothetical

Experts

- Assume that condemnor's appraiser drafts her report and sends to condemnor's attorney. They revise drafts and send back and forth
- Privileged?
 - NO! Federal-style reports, but NO federal-style confidentiality between lawyer and expert on reports!
- Critical: reports (if required) must contain exhibits and any authoritative texts
 - We cannot disclose your sources for you anymore in our 26.1 disclosures

Upcoming Rule Changes

Effective January 1, 2019

- Rule 26(b)(4), Expert Discovery
 - “would conform Arizona procedure with federal procedure on the discoverability of draft expert reports and communications between parties’ attorneys and experts”
 - <https://www.azcourts.gov/rules/Recent-Amendments/Rules-of-Civil-Procedure>
- Rules 38, 39, 49, 77, 84
 - “would simplify the procedure for getting a jury trial to ensure against waiver by mere inadvertence and to eliminate the jury demand trap in cases removed to federal court”
 - <https://www.azcourts.gov/rules/Recent-Amendments/Rules-of-Civil-Procedure>

See Handout 5

Handouts

1. Arizona Supreme Court Order No. R-17-0010, and four amendments thereto. (This includes strike-through version of rule amendments)
2. Effective Dates Summary: Overview of rules applicable to cases filed before July 1, 2018, and rules applicable to cases filed on/after July 1, 2018
3. Which Rules Apply?: Detailed discussion of rules applicable to cases filed before July 1, 2018, and rules applicable to cases filed on/after July 1, 2018
4. Civil Expert Disclosure Requirements Effective July 1, 2018: shows the new requirements for tiers (pre-7/1/18 expert disclosures follow Tier 2)
5. Arizona Supreme Court Order No. R-18-0007, amending ARCP 26(b)(4); Arizona Supreme Court Order No. R-18-0018, amending ARCP 38, 39, 49, 77, 84; both effective 1/1/19



Condemnation Summit XXIII

Afternoon Networking Break





Eminent Domain Litigation Nightmares

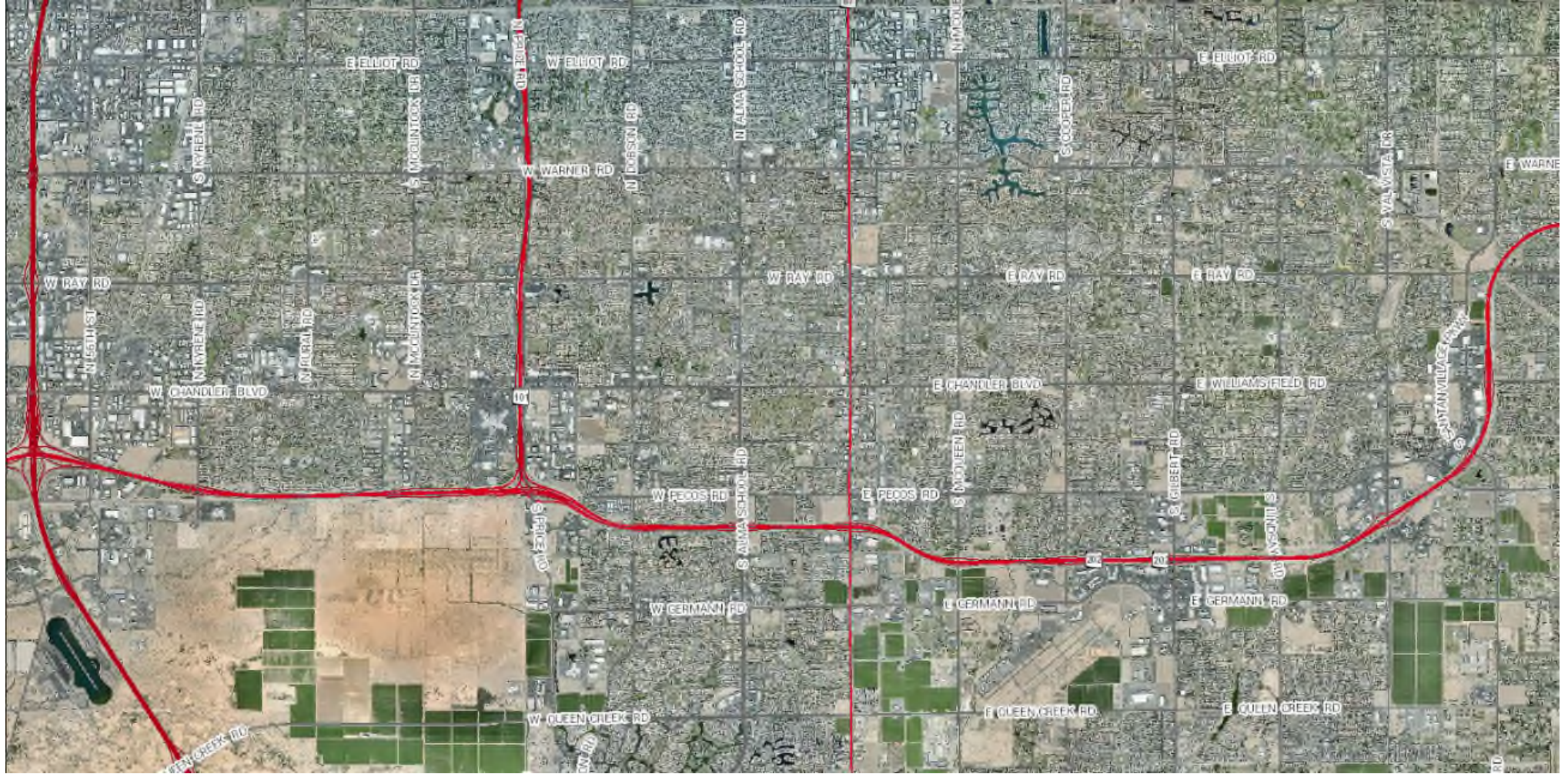
Project Influence, Scope of the Project, and More . . .

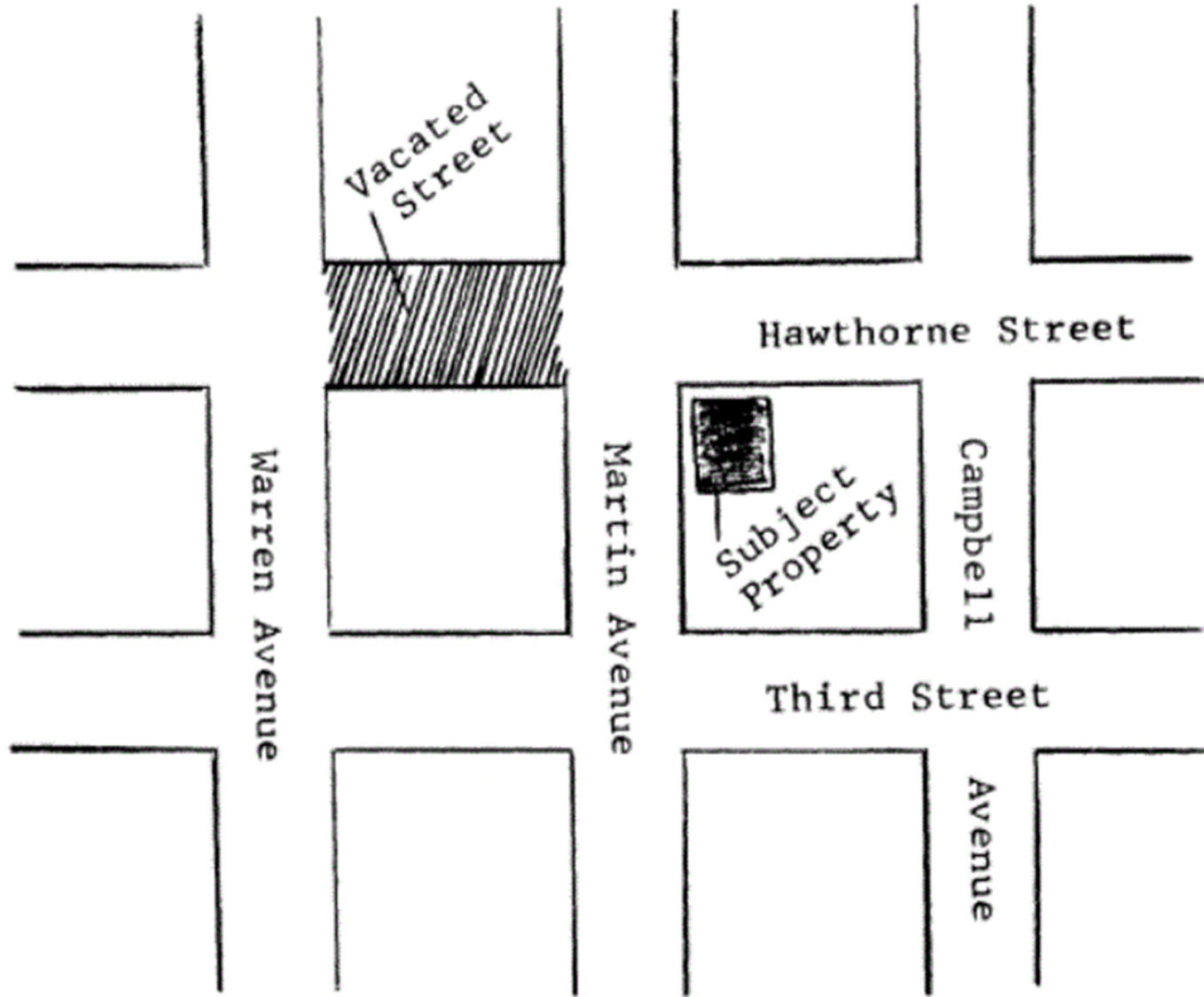
Danielle Constant, Jennings Strouss
Sara Baker, Baker, Peterson, Baker & Associates
James Braselton, Dickinson Wright



The Project: What is it?









Appraisal Considerations

- How does project influence affect appraisal process?
- Appraisal Applications: Total Acquisitions versus Partial Acquisitions
- Project influence and selection of comparable sales and rents
- Can you use a comparable sale from within the project area?
- Conversations with property owners
- Other Considerations









Civility, Professionalism, and Personal Wellbeing

Chris Kramer, Jennings, Strouss & Salmon
Judge Tim Thompson, Maricopa County Superior Court
Dr. Michele W. Gazica, Embry-Riddle Aeronautical University
Megan Irgens, Clinical Psychology Program, University of Arizona

Occupational Health Psychology

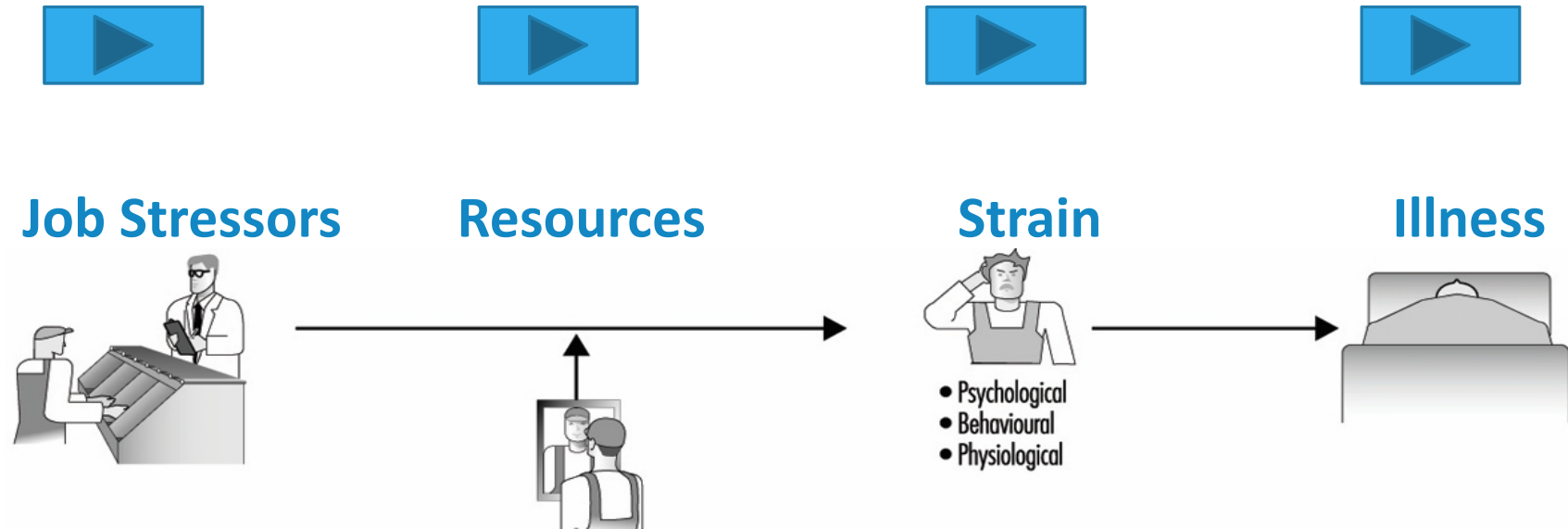
Defined

- The contribution of applied psychology to occupational health
- Occupational illnesses and injuries as a result of:
 - Psycho/Social/Behavioral Factors
 - Stress
- Four categories of factors that impact health and wellbeing:
 - Psycho-Social Work Environment
 - Individual Factors
 - Work-Family Interface
 - Fit (or lack thereof)
- Identify potential protective factors

Job Stress

A Model

- It's a Process!



Synchronous & Lagged Effects: Ford et al.'s (2014) Meta

Stressors

- Task-Related
 - Constraints on Performance
 - Unclear Expectations
 - Conflicting Demands
 - Workload
- Social
 - Interpersonal Conflicts
 - Incivility/Psychological Mistreatment
 - Violence



Strains

- Physical Reaction
 - Sleep Disturbances
 - Physical Symptoms
 - Musculoskeletal Disorders
 - Blood Pressure; Heart Rate
- Psychological Reaction
 - Psychological Distress
 - Burnout, Depression, Anger, Anxiety
 - Job Dissatisfaction
- Behavioral Reaction
 - Substance Abuse
 - Aggression
 - Withdrawal, e.g., absence, turnover, etc.



Effects of Chronic Stressors

- **Primary [immediate]**

- Physical
- Psychological
- Behavioral

- **Secondary**

- Compromised Immune System
- Elevated Blood Pressure
- Decreased Insulin Production

- **Tertiary**

- Disease Endpoints
 - Diabetes
 - Cardiovascular Disease
- Psychological disorders
 - Clinical Depression
- All-cause Mortality



Resources

- Environmental Resources
 - Autonomy
 - Performance Feedback
 - Social Support
 - Leadership
 - Technology
- Individual Resources
 - Skills
 - Perspectives
 - Positive Affect
 - Self-Efficacy
 - Self-Esteem
 - Energy/Motivation



Consequences of Workplace Stress

- **Poor employee performance and health** (both physical and psychological; Nixon et al., 2011, etc.)
- **Premature death**
 - Those working in stressful jobs
 - 15.4% more likely to die prematurely (Gonzalez-Mule & Crockburn, 2016)
 - 120,000 deaths per year (Goh et al., 2016)
- **Cost to US employers**
 - ~ \$190 billion per year (Goh et al, 2016)

Benefits of Maintaining Civility in the Workplace

- Civility Climate
 - Organizational commitment ($\rho = .59$)
 - Job satisfaction ($\rho = .53$)
 - Turnover Intentions ($\rho = -.40$)
 - Emotional strains ($\rho = -.38$)
 - Mistreatment exposure ($\rho = -.40$)
 - Incivility
 - Physical aggression
 - Nonphysical aggression
 - Bullying

Source: Yang, Caughlin, Gazica, Truxillo, & Spector (2014). Workplace Mistreatment Climate and Potential Employee and Organizational Outcomes: A Meta-Analytic Review from the Target's Perspective, Journal of Occupational Health Psychology. <http://dx.doi.org/10.1037/a003690>



Attorney Wellbeing: Why We Should Care and What We Can Do About It!

Lawyers & Health & Wellbeing

- **Lawyers and Health & Wellbeing Facts**
 - Entering law school, law students' psychological profile similar to general public (Benjamin et al., 1986)
 - After law school 20-40% have a psychological dysfunction (Benjamin et al., 1986)
 - Lawyers lead all other professions in substance abuse and suffering from depression (Eaton, et al., 1990)

Lawyers & Health & Wellbeing

- **Suicide**

- 3rd leading cause of death among attorneys after cancer and heart disease (CDC, 2011)
- Rate of death by suicide nearly 6xs the rate for general population (CDC, 2011; Hill, 2006)
- Top two risk factors: depression & substance abuse (Borges et al., 2000; Parks et al., 2014)

- **Depression**

- Attorneys 3xs more likely to suffer from depression than any other profession studied (>100; Eaton et al., 1990)

- **Substance Abuse**

- Attorneys twice as likely as members of general population to be dependent on alcohol or drugs (Krill et al., 2016)
- Attorneys experience a higher rate of problematic drinking than other professional populations (Krill et al., 2016)

AZ BAR Member Study:

Overview

- Collaboration with the State Bar of Arizona
- Short survey measuring:
 - Indicators of attorney wellbeing:
 - Job satisfaction
 - Stress
 - Quit intentions
 - Potential explanations:
 - Psychosocial safety climate
 - Employer prioritization of attorney wellbeing
 - Coping styles
 - Hours worked per week
 - Years practicing law
 - Type of practice
 - Gender

AZ BAR Member Survey:

Findings 1 of 7

- Participants:
 - Total 1,978
 - Men: 1,038
 - Women: 921
 - Most worked in litigation (67%)
- Job Satisfaction:
 - Most agreed that they were satisfied (71%)
 - Litigators = less satisfied than
 - In-house attorneys
 - Attorneys who practice transactional and administrative law

AZ BAR Member Survey:

Findings 2 of 7

- **Stress:**
 - Most agreed that they experienced stress because of their jobs (76%)
 - No practice group differences
- **Psychosocial Safety Climate:**
 - Most agreed that attorney wellbeing was a priority (875; solo practitioners excluded)
 - ~50% agreed that attorney wellbeing was as important as productivity (687; solos excluded)

AZ BAR Member Survey:

Findings 3 of 7

- Quit Intentions:
 - ~50% agreed that they've considered quitting the practice of law within the past year
 - Less likely to endorse quit intentions
 - In-house attorneys
 - Those who practice administrative law

AZ BAR Member Survey:

Findings 4 of 7

- Coping Strategies:
 - Let my feelings out somehow
 - Refuse to think too much about it
 - Try to keep my feelings to myself
 - Talk to someone about how I'm feeling
 - Criticize or lecture myself ("perfectionism")
 - Try to make myself feel better by eating, drinking, smoking, or using drugs or other medications
 - Make a plan of action and follow it

AZ BAR Member Survey:

Findings 5 of 7

- Potential predictors of stress
 - Hours worked per week^{***} ↑
 - Years of practice^{**} ↓
 - Job satisfaction^{*} ↓
 - Employer prioritization of attorney wellbeing
 - Gender
- Coping strategies
 - ↑ Stress
 - Criticizing or lecturing (women more likely; “perfectionism”)
 - Using food, alcohol, or drugs
 - moderation

AZ BAR Member Survey:

Findings 6 of 7

- Potential predictors of job satisfaction (JS)
 - Employer prioritization of attorney wellbeing** ↑
 - Stress* ↓
 - Hours worked per week
 - Years practicing law
- Coping strategies
 - Criticizing or lecturing (↓ JS; “perfectionism”)
 - Using food, alcohol, or drugs (↓ JS)
 - Making plans and following them (↑ JS)

AZ BAR Member Survey:

Findings 7 of 7

- Potential predictors of quit intentions (QI)
 - Job satisfaction*** ↓
 - Stress* ↑
 - Employer prioritization of attorney wellbeing
 - Gender
- Coping strategies
 - Criticizing or lecturing (↑ QI; “perfectionism”)
 - Using food, alcohol, or drugs (↑ QI)
 - Making plans and following them (↓ QI)

AZ BAR Member Survey:

A Recap

- Potential Predictors of Stress:
 - Hours worked per week
 - Years of practice
 - Job satisfaction
- Potential Predictors of Job Satisfaction:
 - Psychosocial safety climate
 - Stress (** can be satisfied AND stressed)
- Potential Predictors of Quit Intentions:
 - Job satisfaction (** by far the strongest)
 - Stress
- Coping Strategies:
 - Criticizing self and using substances to cope are by far the most detrimental to attorney wellbeing

Current Work ...

- Larger scale study on attorney health and wellbeing:
 - Predictors:
 - Perfectionism (self-oriented and socially prescribed)
 - Psychosocial safety climate
 - Interpersonal conflict (internal and external to firm)
 - Outcomes:
 - Alcohol and drug misuse
 - Physical and psychological distress
 - Weekly exercise frequency
 - Qualitative Data:
 - Motivations and expectations about the practice of law ...



Condemnation Summit XXIII

Thank You!

