

# The Record Reporter

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## CAREER MOVES

### Benford selected to lead Ryley practice group

Ryley Carlock & Applewhite announced recently that Jessica A. Benford has been selected as Practice Group Leader of the firm's Corporate, Banking & Real Estate Practice Group.



Benford

Benford, a shareholder in Phoenix, helps local entrepreneurs, startups, business owners, established companies and financial institutions navigate significant issues related to formation, governance,

financing, compliance and intellectual property. Benford is committed to understanding her clients' business goals and challenges in order to deliver responsive solutions.

Benford will oversee the firm's lawyers practicing in the expansive areas of corporate, banking and real estate. The group assists large and small businesses with a variety of business and transactional issues including: advertising and food and drug law, bond financing; business formation and governance; corporate and partnership tax; ERISA; executive compensation; insurance; intellectual property; lending and enforcement; mergers and acquisitions; public and private financing; and real estate.

### Ballard Spahr's Evans earns lifetime award

Booker T. Evans, Jr., an attorney who focuses on white collar crime and commercial litigation, was presented with the Las Vegas Chapter of the National Bar Association's (LVNBA) Lifetime Achievement Award on Nov. 7 at its 26th Annual Scholarship Gala. The Gala is the LVNBA's signature event to raise money for scholarships for law students who are committed to serving minority, low-income, and other underserved communities in Clark County, Nev.

Since 1987, the LVNBA has given tens of thousands of dollars to law students in scholarships.

## SMALL BUSINESS PROFILE

### Crafting Care



PHOTO BY CHRIS L. GILFILLAN

Andrew Burns is the Chief Executive Officer at Gobiquity, which has the goal of ending amblyopia, or what is commonly known as lazy eye.

By CHRIS L. GILFILLAN

The team at Gobiquity Mobile Health has a bold goal: End amblyopia.

The condition, commonly known as lazy eye, affects two or three out of every 100 children, and Gobiquity CEO Andrew Burns says, in spite of the daunting goal, the company is serious about treating the neural affliction.

"What we're trying to address is really allowing for early detection of vision issues, that if treated at an early age you can reverse and eradicate," he said.

That's why the company doesn't only use the hashtag #EndAmblyopia, but also #BrighterFutures.

"Both of those are related to vision and really emulate and represent our strategy," Burns said.

The strategy is this: Unveil a smartphone application that physicians, parents and specialists can use to help them find risk factors for early vision conditions. The parents — armed with the knowledge — can then know whether specialists are needed at an early age, thus preventing long-term injury.

That solution specifically is called Go Check Kids, and unveiled an iPhone application at

#### Andrew Burns

**Position:**  
Chief Executive Officer

**Company:**  
Gobiquity

**Location:**  
Scottsdale

the American Academy of Pediatrics National Conference on Oct. 24. The application is especially helpful because it puts a diagnostic tool in the hands of caregivers — parents and doctors — to allow for specialty testing and already major health plans are reimbursing for the test to be performed.

"So, the physicians get paid to perform this test, but they didn't have the tool really to be able to perform it," Burns said. "So we provide them that vehicle to be reimbursed for the test and the ultimate goal is to improve care for those physicians in their practice."

For his part Burns knows what building

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## ARIZONA ATTORNEY COLUMN

### Nativity scenes draw ire of 9th Circuit judges

Christmas is around the corner... But beware! Your city or town may have to think twice before putting up its Nativity or other religious scene this year. In April, a three-judge panel for the 9th U.S. Circuit Court of Appeal issued a loss for religious liberty advocates.

In *Santa Monica Nativity Scenes Committee v. City of Santa Monica*, the court ruled that the city's prohibition of unattended displays in Santa Monica's renowned Palisades Park — most notably a long-standing Nativity scene — was



Bob Brown,  
Gallagher &  
Kennedy



Perry Klauber,  
Gallagher &  
Kennedy

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**Editor's Note:** The above column is a three-week series detailing law and religious liberty by Gallagher & Kennedy. The columns will appear once a week for three consecutive weeks.

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Brown

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constitutional. The case arose from a nativity scene that depicted the Biblical story of Christmas, which the committee had erected in the park since the 1950s.

The nativity scene was living on borrowed time for over a decade. In 2003, the city enacted a “Winter Display” ordinance, which allowed the public to construct unattended displays only in the park and only during December. The public had to apply for a permit to erect winter displays in the park; these were given on a first-come, first-served basis. Then in 2011, atheists who opposed the nativity scene submitted a large number of permit applications for winter displays to crowd-out the committee’s nativity scene. In response to the controversy, the city repealed the entire ordinance, effectively eliminating all unattended displays in the park.

The Santa Monica decision impacts the business and legal community due to its potentially chilling effect on celebration of sincerely held religious beliefs in public, especially during popular religious holidays.

General bans on public forum religious speech do not violate the First Amendment

The Santa Monica opinion holds that public entity prohibition of speech in the form of unattended displays in a traditional public forum does not violate First Amendment Free Speech, so long as the ordinance is generally applicable. If a public entity has a secular purpose behind its ban on speech—here, to resolve controversy, eliminate legal risks, conserve staff time and resources, and protect views of the park and ocean—then the ban does not violate First Amendment Free Speech, even where the banned speech has traditionally been religious. Furthermore, the 9th Circuit ruled the city’s ban did not violate the Establishment Clause. The committee challenged the city’s ban on Establishment Clause grounds and claimed that the ban was a content-based restriction pursuant to the “heckler’s veto,” a curtailment of speech by the government to prevent a reacting party’s behavior. The court rejected the committee’s challenge, on the grounds that (i) the ban was a generally applicable regulation, (ii) it balanced competing speech rights,



PHOTO BY SHUTTERSTOCK

and (iii) it was narrowly tailored to serve a significant government purpose—avoidance of increased city costs to maintain the displays, and preservation of aesthetic qualities of the park.

Therefore, “intermediate scrutiny” will be applied to general bans of nativity displays in public parks, i.e., if a government ban on nativity displays is a content-neutral time, place and manner regulation in a traditional public forum, the regulation is narrowly tailored to serve a significant government interest, and if the regulation leaves open ample alternative channels of communications, then courts will probably uphold the ban. The bare fact that a display is traditionally religious will not raise the issue of whether such a ban violates the Establishment Clause, so long as the intermediate scrutiny test is met. Thus, Santa Monica effectively reduces the public’s freedom to erect religious displays on public property.

All is not lost for religious speech and celebrating one’s religious beliefs

Ultimately, the Santa Monica case exemplifies a generational shift in public support and open acceptance of religious displays in public places in America. While the city encouraged the yearly nativity display for decades, it took only a small group of atheists to cause the city’s overall ban on unattended displays in the park. The atheists’ objections arose only within the past few years. The committee that challenged the city ordinance indicated that it expected to lose the case, and said that it does not plan to appeal the 9th Circuit decision. Multiple polls, surveys and academic studies suggest that religious discrimination appears to be increasing against those who seek to openly practice

their religion. Even though the committee lost the case, their nativity scene is still on display, on private property at a Lutheran Church. While the government can impose general bans on speech in public places, the government cannot impose such bans on speech on private property. Viewed in a historical context, the Santa Monica case is a clear “cabining” of religious speech by limiting access to the “town square.”

In the end, the Santa Monica case is a loss for religious liberty, freedom of speech and

freedom of religion. While many religions encourage the display of religious messages in public, this decision makes it harder for religious groups to celebrate their beliefs in public places. The court failed to protect the “freedom to practice” religious beliefs in public in the manner intended by our Founding Fathers who sought to protect the exercise of religious faith in our daily lives in public, not just the freedom to worship privately inside houses of worship.

In his 40 year career, **Bob Brown** has focused his law practice in real estate, commercial transactions and nonprofits. As a *Certified Real Estate Specialist by the State Bar* for over 24 years, he has represented clients in a wide range of real estate transactions with particular expertise in medical real estate transactions. He advises clients in a wide range of business transactions of ongoing operations. Through his nonprofit work in the past 15 years, he has represented secular and faith-based nonprofit entities, including human services organizations, health-related charities, faith-based schools and other faith-based entities. For more information about Brown, please go to <http://www.gknet.com/attorneys/>

Newsday Crossword

CROOKED QUARTET by Bill Weber  
Edited by Stanley Newman  
[www.stanxwords.com](http://www.stanxwords.com)

- ACROSS**

  - 1 Thin cookie
  - 6 Figure of speech
  - 11 Henson of the Muppets
  - 14 Still in the game
  - 15 Actress Swinton
  - 16 End of MIT’s URL
  - 17 Vault specialist
  - 19 Drenched
  - 20 Docking locale
  - 21 British brews
  - 22 Peek at the answers
  - 24 Quite a few
  - 26 Con game decoys
  - 27 Chaperone
  - 30 Least vivid
  - 32 Warning signal
  - 33 Shady retreat
  - 34 Move like a bunny
  - 37 Cast a ballot
  - 38 Winter weather
  - 39 Pitchfork part
  - 40 Recede
  - 41 Eat well
  - 42 Section
  - 43 Except when
  - 45 Mickelson or McIlroy
  - 46 Fearful
  - 48 Work hard
  - 49 Starboard side
  - 50 “This is fun!”
  - 52 High in quality
  - 56 Under the weather
  - 57 Wild West outlaw
- 60** Bering or Adriatic

**61** National bird

**62** Plant life

**63** Go wrong

**64** Resided

**65** Serves brunch to
- 10** Certain parade participant

**11** Diamond specialist

**12** Best possible

**13** Mongrels

**18** Raise the roof

**23** That guy’s

**25** Sleeve filler

**26** Pigeonhole

**27** Roof overhang

**28** Messy one

**29** Climbing specialist

**30** Printing machine

**31** Aid in wrongdoing

**33** “What a shame”

**35** In the past

**36** Jury member

**38** Start a garden
- 39** Fit for cultivation

**41** Moved like a moth

**42** Luau food

**44** “Nope”

**45** Suffix for theater

**46** Stand up

**47** Manicurist, often

**48** Moral principle

**50** Hourly salary

**51** Spot for sledding

**53** Bassoon cousin

**54** Geek

**55** Historical periods

**58** Uncooked

**59** Out of whack

1	2	3	4	5		6	7	8	9	10		11	12	13	
14						15						16			
17					18							19			
20					21					22	23				
			24	25					26						
27	28	29					30	31							
32						33						34	35	36	
37					38						39				
40					41					42					
			43	44						45					
46	47							48							
49						50	51					52	53	54	55
56					57	58					59				
60					61						62				
63					64						65				

	6				5		7
		4				1	
		9	7	8		4	
			9			7	8
3			4		7		2
	2	7			5		
		3		9	1	2	
	4					6	
8		2					5

Answer to Nov. 9 Puzzle

7	1	3	2	9	6	4	5	8
2	5	8	7	4	3	6	9	1
4	6	9	8	5	1	7	2	3
3	9	6	4	7	8	2	1	5
1	2	7	5	3	9	8	4	6
8	4	5	6	1	2	9	3	7
5	3	2	9	8	7	1	6	4
9	8	1	3	6	4	5	7	2
6	7	4	1	2	5	3	8	9