

MARICOPA LAWYER

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WHERE THE LEGAL COMMUNITY CONNECTS

PERSONAL INJURY SECTION

Justice for All: Recognizing and Addressing Neurodivergence in the Legal Profession

Jennifer Elias
The Husband & Wife Law Team



and picture if possible(sent as attachment) The legal profession demands precision, empathy, and adaptability. These qualities are especially important when working with individuals who are neurodivergent. It is imperative that legal professionals and members of society consider and reflect about different neurodiverse characteristics because we are all working with someone who is neurodivergent, from coworkers, to clients, to opposing counsel, to jurors or judges. By not learning about neurodivergence, legal professionals are missing an opportunity to be more effective at their jobs.

What is neurodivergence? Essentially, it is a broad term encompassing how brains work differently, with the most common diagnoses being autism spectrum disorder (ASD), attention-deficit/hyperactivity disorder (ADHD), dyslexia, sensory processing disorder, auditory processing disorder, and other neurological variations. These differences affect how individuals perceive and interact with the world, and impact nearly one in five people in the world.

Neurodivergent characteristics can create challenges, but also, it can also be an incredible strength if understood and accommodations are provided. The first step is education and awareness. Read and learn about different neurodivergent conditions. For example, ASD and ADHD may present a lot differently than what you may think. There are three types of ADHD: inattentive, hyperactive-impulsive, and combined

(both). Inattentive ADHD mainly presents without physical hyperactivity.

Embracing neurodiversity is also important because it can be a strength for firms and the profession. Individuals with ADHD may be very creative and very effective during emergencies. Their brains kick in to high gear and they can problem solve quickly. Individuals with dyslexia may be very empathetic and resilient. Individuals with ASD may think very logically, be exceptionally precise, and extremely detailed-oriented.

Many neurodivergent individuals have a strong sense of justice. If legal professionals were able to tap into these strengths, they would unlock a new level of effective advocacy. If you were able to connect with a neurodivergent juror who has a strong sense of justice, that juror may be a

See **Justice for All** page 6

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Don't Worry About Big Brother ... Not Yet, Anyway

While fears that Big Brother is watching us might be growing, they were not strong enough to convince an appellate court to overturn a man's drug convictions, which depended in large part on information garnered from automatic license plate readers. *State v. Sidor*, No. 1 CA-CR 22-0387 (Ariz. App. Oct. 17, 2024).

On December 31, 2020, John Joseph Sidor was driving a Nissan Rogue eastbound on Interstate 40 near Lake Havasu City. A highway patrolman, parked in the median monitoring eastbound traffic, spotted the Nissan. Sidor did not wave at the officer as he drove past; instead, he stared straight ahead and had his hands in the 10 and 2 position on the steering wheel. According to the officer, this behavior is atypical of the "innocent motoring public."

His suspicions aroused, the officer began following Sidor and soon saw Sidor commit a moving violation: following too closely behind a semi. Having obtained reasonable

cause to pull Sidor over, the officer used his computer to request information from the United States Drug Enforcement Agency's database of license plates photographed on the public roads. The database—known as "DEASIL": Drug Enforcement Agency Special Intelligence Link—collects information captured by Automatic License Plate Readers, or ALPRs.

According to a law-review article, ALPRs are "high-speed cameras that photograph each license plate that passes by the devices." The devices "can image about 2,000 license plates per minute" 24 hours a day and "can be placed anywhere from police vehicles to stationary objects like poles, traffic lights, and overpasses." Samuel D. Hodge, Jr., *Big Brother Is Watching: Law Enforcement's Use of Digital Technology in the Twenty-First Century*, 89 Univ. Cin. L. Rev. 30, 38 (2020).

Although DEASIL is available to law-enforcement officers, before they may make a

query they must certify that there is a reasonable and articulable suspicion of criminal activity and must also specify the basis for their suspicion. The officer certified that based on the behavior described above he reasonably suspected the Nissan was "associated with narcotics trafficking or bulk cash smuggling." He testified that he habitually made that certification when querying DEASIL because "that's what I'm doing as criminal interdiction, looking for drug smuggling and terrorists, and money laundering or bulk cash."

The information from DEASIL indicated that the Nissan, which had Minnesota plates, had been spotted driving westbound through Seligman on October 30, eastbound through Kingman the next day and again on November 30, and westbound through the state of Kansas on December 31.

The officer pulled Sidor over and told him he would be issuing a warning for following

See **Don't Worry About Big Brother** page 12

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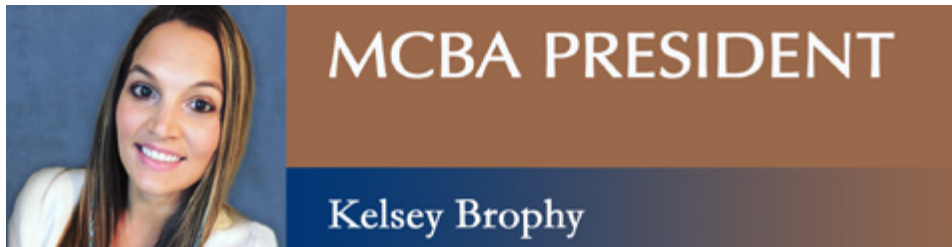
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Kelsey Brophy

Cheers to 2025!

Happy New Year, everyone! I'm beyond thrilled to step into the role of President of the Maricopa County Bar Association for 2025. It's an honor to lead such an incredible group of professionals, and I can't wait to dive into what promises to be an amazing year. A huge shoutout to all our returning members – we're so grateful for your continued involvement – and an equally warm welcome to our new members. We're excited to get to know you and support you every step of the way.

One of the best things about the MCBA is that we truly have something for everyone. Whether you're part of Corporate Counsel, Paralegal, Public Lawyers, Solo & Small Firm, or the Young Lawyers division, there's a community waiting for you. And that's not all – we have 10 sections covering practice areas like Bankruptcy, Employment, Criminal Law, Family Law, and Real Estate (to name a few). Wherever you focus your practice, we've got you covered.

Don't forget about our Lawyer Referral Service, which connects people in need of legal help with MCBA's LRS participating attorneys. Here's a fun fact: last year, this program generated over \$1 million in referral fees for participating attorneys. Pretty amazing, right?

We also have the Maricopa County Bar Foundation, our charitable arm, which does incredible work for the community. In 2024, we awarded two Justice Michael D. Ryan Diversity Scholarships and raised over \$30,000 for the Volunteer Lawyer Program through the Tim Huff Pro Bono Golf Classic. And guess what? We're aiming even higher in 2025 with plans for more programming and scholarships.

Need CLEs? We've got you covered! With a mix of in-person and virtual classes on a wide range of topics, getting your continuing legal education has never been easier. Be sure to grab our yearly CLE package for unlimited access. Last year, we offered over 75 hours, and this year we're planning for even more. And here's a bonus: one of our CLEs will be hosted in Scotland this year! Yes, SCOTLAND. It's the perfect opportunity to combine professional development with an unforgettable adventure.

But hey, it's not all work. The MCBA is also your go-to for fun and networking. We host social events throughout the year, giving you the chance to grow your network, meet new people, and enjoy some downtime. From casual meetups to larger events, there's

something for everyone.

We're also big on giving back. Through events like the Tim Huff Pro Bono Golf Classic and the Young Lawyers Division's Barristers Ball, we help bridge the gap between the legal and non-legal communities in meaningful ways. Thanks to your efforts, last year we raised nearly \$50,000 for the Volunteer Lawyers Program and Friends of the Court. Let's aim even higher this year!

Need a great space to work, meet, or host an event? We've got just the spot! Our centrally located offices are a fantastic resource for members, whether you need a conference room, a quiet place to work, or a venue for your next gathering.

Let's make 2025 our best year yet! If you have ideas, suggestions, or feedback, please don't hesitate to reach out. We're here to support you and help make this year a fantastic one for everyone.

Cheers to a great year ahead! ■

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Permission to Paraphrase



At this time of year, many first-year law students ask me for my tips on polishing their writing samples. I tell them to use logical headings, ensure the analysis is clear, and proofread, proofread, proofread. This year I added a new step: cut bulky quotations.

Novice legal writers tend to rely (too heavily) on quotations. Seasoned legal writers have the same tendency if they are writing about a new subject: they let someone else's words overshadow their argument and voice. In legal writing, the use of authority is important to show that an argument is well-supported. However, this does not mean that authority should always be quoted. Generally, paraphrases (with proper citation) are the best way to ensure the document incorporates authority seamlessly.

A legal writer should use direct quotations of language in the following three scenarios:

- When the language is so clear and articulate that its essence would be altered by paraphrasing it.
- When the language itself is being analyzed, such as statutory or contract language.

- When the author of the language is well-known and quoting that author would lend credibility to the document.

I suggest quoting only the language relevant to the argument at hand and using ellipses to keep the writing smooth.

An ellipsis indicates omission of material. An ellipsis is made up of three periods, with a space before each one. Use an ellipsis to indicate an omission occurring in the middle of the quotation. Do not use an ellipsis to indicate that material is left off at the beginning of the quotation.

In addition, use an ellipsis to indicate an omission occurring at the end of the material only if the quotation is an entire sentence. In this case, a fourth period is added to the ellipses as the final punctuation mark. Do not use an ellipsis if the quotation used is a phrase in an otherwise original sentence.

Original: "I saw a total of four cars that were traveling the same direction stopped at the scene."

Example: I knew we had many potential witnesses because we located "four cars that were traveling the same direction."

My main take-away: if you would not read a quote if you saw it in another document (I am looking at you specifically, block quotations!), then do not include it in your writing. ■

A Year in Review and Looking Ahead



Greetings! I hope you, your loved ones, and your teams are well and had a most wonderful holiday season. As we start the year anew, I wish to extend to you the sincere appreciation of my team and I for your service and contributions to justice in 2024.

Likewise, I am sincerely thankful to serve with such an amazing team. Last year was brisk. According to our most recent annual figures, our team assisted over 333,000 customers in-person, processed over 3.5 million court documents, over 810,000 pieces of mail, created over 540,000 minute entries, processed over 508,000 payments, responded to over 102,000 records requests, issued over 26,000 marriage licenses, and were recognized with five national achievement awards, and a statewide award from the Arizona Supreme Court.

The figures I am most proud of for 2024 are our internal employee engagement survey results. With an over 95% response rate, 96% of our staff said they feel like their work positively impacts people's lives and 98% feel that their work impacts the organization's business goals. These survey results reflect an important truth --- that our team views their work as ultimately being about people's lives. One employee said, "I value and truly believe the work we do makes a difference in people's lives. I have been a public servant for over 20 years, and it is tremendously rewarding. I feel a great sense

of accomplishment in my daily duties and love to tackle challenges and improve processes, it is what drives me."

Lastly, in 2024 our team was able to deliver some big wins, from the roll out mental health e-filing to the continued expansion of our digital evidence platform to the implementation of new, emerging technologies that possess the ability to further reduce document processing time. These efforts significantly improve our ability to set goals, manage staffing needs, meet mandated processing times, and direct resources where they can be most helpful to those we serve. Ultimately, these Digital Workforce initiatives are advancing access to justice and enhancing the administration of justice.

While 2024 was a busy year, we know that 2025 will likewise be brisk with many improvements under way and in planning. To start, in coming weeks we anticipate rolling out our new Minute Entry Electronic Distribution System (MEEDS) that will ensure better workflow for our Courtroom Clerks. The legal community will not see any changes on their side, but with the update, the process will become much more efficient for Clerk's Office staff. We project this will be soon followed by launching e-filing for probate cases, a much needed and welcomed development that has been in the works for some time. And that's just the start!

Many thanks to everyone who responded to our survey earlier this year. We are incorporating your feedback as we continue to create and improve services that positively impact the lives of those we serve.

For more information on our services, innovations, and accomplishments visit www.clerkofcourt.maricopa.gov/annualreports to read our 2024 Annual Report. ■



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Logan Matura

Empowering the Community with Updated Self-Help Guides

The Young Lawyers Division (YLD) is excited to announce the recent update of our self-help guides, which provide crucial support to individuals navigating the legal system in Arizona. These resources are designed to help the public understand basic legal concepts, clarify procedural requirements, and assist with everyday legal matters that affect many Arizonans.

The updated guides cover a wide range of topics, including foundational subjects such as court etiquette, how to file legal documents in both Justice Courts and Superior Court, and the rules of decorum in Arizona's courtrooms. These guides serve as an accessible introduction to the often daunting legal process, helping individuals feel more confident and prepared as they navigate the system. Whether someone is representing themselves in a small claims case or attending court for the first time, these tools will help ensure they understand their rights, responsibilities, and the steps necessary to participate

fully and respectfully in legal proceedings.

Additionally, the YLD has further updated the guides to include substantive areas of law such as family law and landlord-tenant law—two areas that frequently involve self-represented parties. Family law, in particular, is a subject that deeply impacts the lives of many, with issues like child custody, divorce, and spousal support affecting families across the community. Landlord-tenant disputes, too, are common, and understanding the basics of rental agreements, evictions, and tenant rights can make a significant difference in resolving conflicts fairly.

By providing these updated guides, the YLD is fulfilling its mission to make legal information more accessible and understandable to the public. These resources are not only invaluable to individuals involved in legal matters, but they also serve the greater good by promoting greater fairness and transparency in the legal system. When

people are informed about their rights and obligations, they are empowered to make better decisions, avoid unnecessary conflicts, and ensure that their voices are heard.

We believe these guides will have a lasting impact on the community by reducing barriers to access to justice. The updated self-help guides are a step forward in our ongoing efforts to support Maricopa County residents in

understanding the legal system, ensuring they have the tools they need to navigate challenges with confidence and clarity.

The YLD remains committed to providing resources that help individuals thrive in the legal process and are proud to contribute to the ongoing development of a more informed, equitable legal community in Maricopa County. ■

A SMALL DONATION MAKES A BIG DIFFERENCE




Arbitration Fee Donations Help

Partnering with the Maricopa County Superior Court, the Maricopa County Bar Foundation (MCBF) is once again encouraging attorneys assigned to arbitration to donate the \$75 fee to the Foundation's fundraising efforts.



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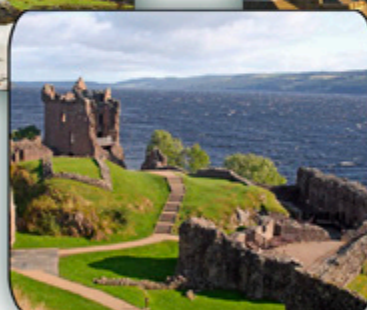
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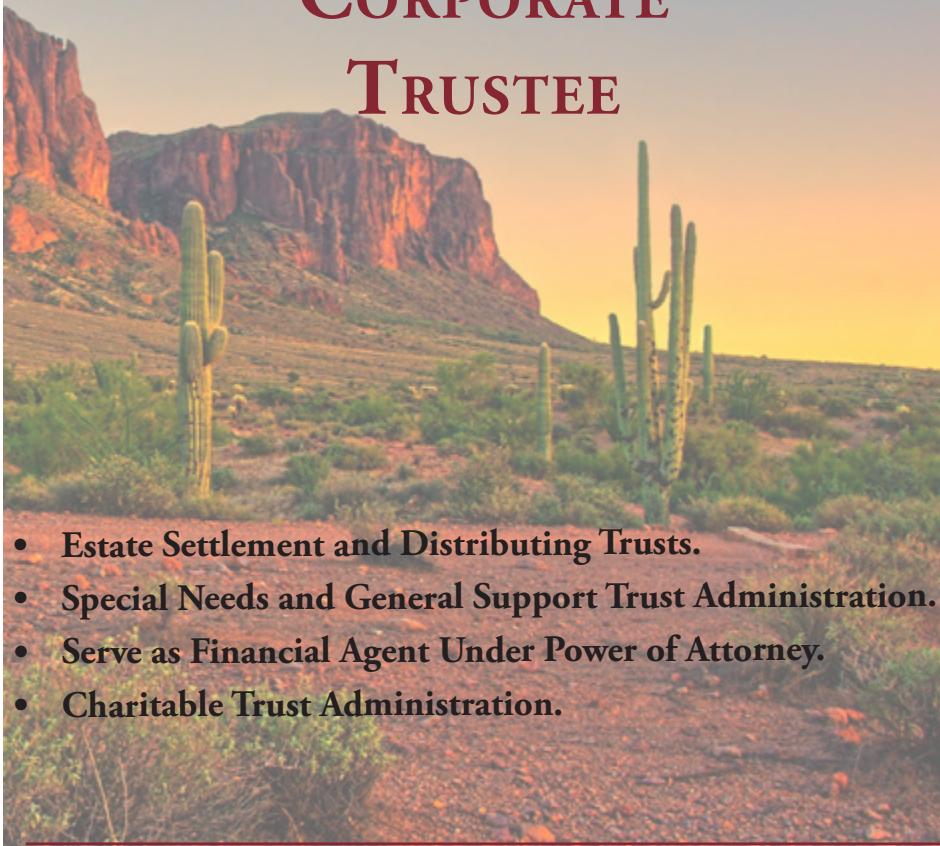
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Phoenix College's Paralegal Studies Program Celebrates 50 Years

By: Sybil Taylor Aytch

In the fall of 2024, the nationally known and highly-regarded Paralegal Studies Program at Phoenix College celebrated its 50th anniversary. Founded in 1974 and ABA-approved since 1989, it is the largest and longest continuously-operating paralegal program in Arizona and remains an exemplary standard in paralegal education.

The Program was created by the late Linda Edwards, who saw the potential for paralegals in the legal profession and the role Phoenix College could play in developing educational standards. In the mid-1980s, Edlyn Soderman and the late Cecilia Esquer joined the faculty and helped shepherd the program through its initial ABA approval.

In 1996, Scott Hauert was hired as a faculty member and has served as the Program Director since 2000. He was previously a prosecutor at the Maricopa County Attorney's Office. Although Linda, Edlyn, and Cecilia were the catalysts for the Program, Scott is its heart and soul. In nearly a quarter century at the helm, he has guided the Program through a myriad of changes and advancements. One of the Program's shining accomplishments was the development of a full-scale, full-blown replica of a Maricopa County Superior Court courtroom on campus in 2010, the only paralegal studies program in the country to have one at that time. When the Program was relocated from the downtown campus to the main campus in 2017, Scott made sure

that the courtroom was replicated again.

In reflecting on the Program's longtime success, Scott says that the most valuable thing he has learned as Program Director is that "like practicing law, you must surround yourself with a talented, hard-working, team of people with diverse viewpoints, talents, and experiences to do the best job for your clients, or in this case, the students. It is only through the sustained, collective efforts of the team that we can help students succeed in school and prepare them for their professional career in the law."

Scott emphasizes that the Program has been able to remain current and viable in a changing legal market due to widespread support. "We are extremely fortunate to be supported by all facets of the legal community. The courts, big and small law firms, government agencies, private business – all of them provide us with feedback on how well our graduates are meeting the employment needs of the legal community, as well as share input on what we can do better. Also, the Program faculty that support me, all of whom are experienced lawyers and paralegals working in the field, help provide context to the feedback as it relates to implementing changes in the classroom."

I was hired as a substitute instructor by Cecilia in 1999 and have been teaching my own courses as an adjunct faculty member since 2001. While being a paralegal is my vocation, teaching is my avocation. The first thing I ever wanted to be was a teacher. As an

undergraduate, I spent part of my junior year teaching English to middle school students of North African descent in an economically disadvantaged neighborhood in Paris. As the child of immigrants, I truly believe that education is the key to success.

While Cecilia she was one of my teaching mentors, Scott is steadfast in his support of all faculty members. This is best exemplified by recent events. Through early 2020, the Program was on campus and in-person. When the pandemic hit during Spring Break that year, Scott was able to move the entire Program online in an efficient and expeditious manner. Due to its ABA approval, the Program has strict metrics and guidelines under which it is required to operate. Keeping this in mind, as soon as the pandemic emerged as an obstacle to completing the Spring semester, Scott immediately sprung to action. This proved to be even more daunting since the entire faculty (other than Scott) is comprised of adjunct instructors, all of whom are practitioners in the legal profession with busy schedules, and who were also transitioning to working remotely. Despite these challenges

under uncertain circumstances, we did not miss a beat and were able to effectively complete the semester.

The Phoenix College Paralegal Studies Program is a vital educational resource in Arizona. Our students, who come from diverse backgrounds, are provided with the training and skills needed to succeed as paralegals in a demanding profession. The Program's dozens of faculty members, numerous advisory committee volunteers, consistent community support, and thousands of students have made it the gold standard in paralegal education. I am proud to be a part of its history. Please join me in congratulating the Program on reaching such an important milestone. Here's to the next 50 years! ■

Sybil Taylor Aytch was the first President of the MCBA Paralegal Division and served as the first paralegal member on the MCBA Equity, Diversity & Inclusion Committee. She is an award-winning paralegal at Quarles & Brady LLP, an adjunct faculty member at Phoenix College where she teaches Ethics & Professional Practice and Bankruptcy, and the author of two ethics textbooks for paralegals.

MEMBER SPOTLIGHT

Stephanie D. Villalobos DE NOVO LAW

HOW LONG HAVE YOU BEEN A MEMBER OF THE MCBA?

I first joined the MCBA as a Paralegal and now as a Legal Paraprofessional. I am not exactly sure, but I believe it may have been prior to 2018.

HAVE YOU EVER BEEN INVOLVED WITH ANY SECTIONS OR DIVISIONS?

I have been a member of the Family Law Section since 2021. I became the first President Elect of the new Legal Paraprofessional Division in 2023, and I am now the President as of January 1, 2025. I am excited to see the LP Division grow.

HOW LONG HAVE YOU BEEN PRACTICING IN YOUR FIELD?

I worked in the legal field as a Paralegal for 32 years before becoming the first licensed Legal Paraprofessional in 2021. I opened my own LP firm, De Novo Law, shortly thereafter.

WHAT WAS YOUR FIRST AREA OF PRACTICE?

Prior to becoming a licensed LP, I worked in the areas of criminal law (major felonies) and family law. My current LP practice is focused solely on family law.

WHAT DO YOU SEE AS THE FOCUS FOR THE MCBA THIS YEAR?

The MCBA does a fantastic job of providing continuing legal education and connecting those in the legal field; hence, my desire to become a member before ever being licensed to practice law. My hope is to bring more awareness of the positive and much needed role of the LP in the legal community.



WHAT ISSUES DO YOU SEE FACING THE LEGAL COMMUNITY IN ARIZONA?

Since the licensing of the LPs in 2021, there has been a noticeable struggle with finding experienced individuals to fill those Paralegal positions

within firms.

IF YOU HADN'T BEEN A LEGAL PARAPROFESSIONAL, WHAT ELSE WOULD YOU BE?

Prior to going into the legal field, I dreamt of being in the FBI some day; however, I was married with small children and unwilling to be absent. To this day, I love to watch shows depicting the FBI and CIA. If I had not become an LP, I would have happily continued my career as a Paralegal. I have always enjoyed what I do and made lifelong friends with those whom I have worked with over the years.

IF YOU COULD BE ANY FICTIONAL CHARACTER—ON TV, IN BOOKS, IN MOVIES—WHO WOULD IT BE AND WHY?

I have really never thought about this. I do admire Erin Brockovich's drive and determination; however, she is not a fictional character. My daughter has always referred to me as "Wonder Woman" — I guess due to my unwavering ability to overcome. I'll take it!

WHAT'S THE STRANGEST JOB YOU'VE EVER HELD?

As a teenager, I worked (for a very short time) at Wendy City Hot Dogs in Mesa and wore a paper hot dog hat. Suffice to say, those around me found it to be quite humorous. ■

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PERSONAL INJURY SECTION

When Fido Bites: Understanding Dog Bite Injuries and Your Rights

Kelly Durham

K Durham Law, PLLC



Kelley and Megatron

In Arizona, dog bite incidents can lead to complex legal challenges, making it crucial for victims to understand their rights and the legal framework surrounding such cases. The state has specific laws that dictate the liability of dog owners, primarily focusing on whether the injury was caused by a dog bite while the victim was in a public place or lawfully present on private property. This legal stipulation emphasizes the importance of gathering evidence and understanding the circumstan-

es surrounding the incident to establish a strong case.

When a dog bite occurs, immediate actions are vital for both health and legal reasons. Victims should contact the police and file a report with local animal control agencies, as well as gather information from the dog owner and any witnesses present at the scene. Taking photographs of the dog and the injuries sustained can also serve as critical evidence. Seeking medical treatment promptly is essential not only for health reasons but also to document the injuries, which will be necessary for any legal claims. An experienced attorney can guide victims through this process, ensuring that all necessary steps are taken to build a solid case.

The types of damages that a victim may seek in a dog bite claim can vary widely, encompassing medical expenses, lost wages, property damage, and pain and suffering. Fu-

ture medical expenses, including corrective cosmetic surgery, may also be considered if they are reasonably related to the dog bite incident. The severity of the injuries often correlates with the amount of damages sought, as more severe injuries typically warrant higher compensation.

Arizona law also recognizes the concept of comparative negligence, which can impact the outcome of a dog bite claim. If a jury finds that the victim shares some degree of fault for the incident—such as provoking the dog or trespassing on the owner's property—the total settlement value may be reduced in proportion to the victim's percentage of fault. This aspect of the law underscores the importance of presenting a well-documented case that clearly establishes the dog owner's liability while minimizing any potential claims of shared responsibility.

Finally, understanding the potential de-

fenses available to dog owners is essential for victims pursuing a claim. In Arizona, defenses such as provocation and trespassing can absolve a dog owner of liability under certain circumstances. For instance, if the injured party was found to have provoked the dog or was trespassing at the time of the incident, the owner may not be held liable for the injuries sustained.

I would encourage victims of a dog bite to consult with an experienced dog bite attorney who can navigate the intricacies of the law and help accurately assess the value of their claim and ensure they receive full and fair compensation for their injuries. Selecting a knowledgeable attorney who can help navigate the complexities of the case, identify the correct parties to hold accountable, and ensure that the victim's rights are protected throughout the legal process can be vital. ■

Slips, Trips, and Falls: Understanding Your Rights After an Incident

Kelly Durham

K Durham Law, PLLC

Slip and fall incidents are a prevalent issue that can occur in various settings, particularly in commercial establishments. These incidents often arise from hazardous conditions such as wet floors, uneven surfaces, or obstructed pathways. When a person slips or trips and sustains injuries, they may have grounds for a premises liability claim against the property owner. The legal framework surrounding these claims is complex, requiring a thorough understanding of the circumstances leading to the incident, the nature of the injuries sustained, and the responsibilities of the property owner.

The first step following a slip and fall incident should be to report the occurrence to the appropriate personnel on-site. Gathering evidence is essential; this includes obtaining wit-

ness contact information, taking photographs of the hazardous conditions, and requesting a copy of any incident report generated. Such documentation can be vital in establishing liability and supporting the injured party's claim. Additionally, seeking medical attention promptly is critical to assess the extent of injuries and to create a medical record that can be referenced later in the legal process.

In premises liability cases, the property owner has a legal obligation to maintain a safe environment for visitors. This duty includes warning of any known dangers and remedying hazardous conditions. A property owner may be deemed negligent if they fail to act upon a dangerous condition that they knew about or should have known about in a reasonable timeframe. For instance, if an employee created a hazardous situation or if a dangerous condition existed for an extended period, the owner could

be held liable. However, defenses such as the "open and obvious" doctrine may be employed by property owners to argue that the injured party should have recognized and avoided the danger, potentially reducing their liability.

The resolution of slip and fall cases can vary significantly based on the complexity of the situation and the extent of the injuries involved. Generally, straightforward cases may take between two to six months to resolve after treatment is completed. However, if litigation is necessary, the timeline can extend considerably. The average duration for a case to reach a conclusion can be influenced by factors such as the need for extensive documentation, negotiations with insurance companies, and the potential for trial. Understanding these timelines is essential for clients as they navigate the legal process and manage their expectations regarding compensation.

Ultimately, victims of slip and fall accidents may be entitled to various forms of compensation, including medical expenses, lost wages, pain and suffering, and future medical costs. The principle of comparative negligence also plays a significant role in determining the amount of compensation awarded. If the injured party is found to be partially at fault for the incident, their recovery may be reduced proportionately.

It is important for individuals to consult with a knowledgeable legal professional who can provide tailored advice and representation helping to navigate them through the intricate legal landscape. This can help to ensure that their rights are protected throughout the legal process. Knowledgeable counsel can work with victims towards achieving a fair resolution and obtaining the compensation they need to recover from their injuries. ■

Justice for All

continued from page 1

persuasive and passionate advocate for your case during deliberations.

Consider a client, a witness, or a deponent with ASD who struggles with eye contact or processes information differently. Without awareness, a lawyer might misinterpret the behavior as evasiveness or defiance. A lawyer may misjudge and determine the person to present "poorly," but that might not be the case with a different lawyer who is aware and can solicit better testimony. Cumulative or long leading questions can be difficult or confusing for anyone, but especially for neurodivergent individuals.

With opposing counsel, clear and concise communication, including email subject lines is helpful. If the opposing counsel is not responding to an email, escalating with the

urgent ! or using all caps does not help. Constantly responding to emails for neurodivergent individuals can be very challenging. Your email may be a snowflake in a blizzard of emails that day. Professionalism, clearer communication, and kindness are more effective in getting a response. Reach out to the assistant and schedule a meeting if you do not get a response and provide a topic for the appointment.

Understanding neurodivergent clients' needs is key to effective advocacy. Start by asking open-ended questions like, "is there anything I can do to specifically support you?" Once, I had a client ask for positive email subject lines when I sent her emails so the email would not trigger her anxiety. A more positive subject line made it easier for her to read the email. Accommodations might include scheduling shorter meetings, providing written summaries or an agenda, using visual images, allowing for breaks, or

providing pen and paper so a person can take notes or even doodle, which helps some neurodivergent individuals actually pay attention. Recently, I had a client tell me she had ADHD, and she was nervous about fidgeting during her deposition. I gave her a pen and a smaller fidget for her finger, which alleviated some of her anxiety and helped her listen and respond.

When presenting to jurors and judges, our job is to be the best advocate for our clients. Understanding that you will have jurors who are neurodivergent is crucial in effectively and persuasively presenting your case. For individuals with ADHD, make your point quicker. Visual aids, simplified timelines, speaking clearly and loudly, looking at the jurors when speaking so they can see your lips, and being direct can help with attention, remaining engaged, and for those who have trouble with numbers, words, or even auditory processing delays. Visual aids

can include a slideshow presentation as well as a blow-up of the street intersection or a body part or a list of medical providers and bills or important dates. It is so important to have visual aids to keep jurors engaged and to help them better understand your case.

Individuals with sensory processing disorder may struggle with the florescent lighting in the courtroom or peculiar sounds or smells, which may trigger a migraine. As such, it is imperative to be cognizant that you are not wasting jurors' time and agree when a judge suggests a break so neurodivergent individuals can get a movement break or break from the sensory distractions.

By embracing neurodivergence, the legal community can champion inclusivity and fairness. With education and awareness, we can ensure the pursuit of justice leaves no one behind. ■

PERSONAL INJURY SECTION

Pitfalls in Personal Injury Cases



Jonathan Litster

Introduction

Personal injury cases are not simple or easy. They have many traps for the unwary. Here are some common pitfalls.

1. Statutes of Limitation

Many people think statutes of limitation are easy. They can be, except, you don't know what you don't know.

For example, in Arizona, an injured person typically has 2 years to file a lawsuit from the date of injury. A.R.S. § 12-542. But, if the claim is against a governmental entity like the State, a County, or a City, the time period is only 1 year. A.R.S. § 12-541.

Dram shop cases have another trap. Last year, the Supreme Court of Arizona held that "dram-shop actions are not based in a right of action recognized by our pre-statehood common law" and therefore, among other things, the statute of limitations is no longer 2 years. It's only 1 year. See *Torres v. JAI Dining Services (Phoenix), Inc.*, 256 Ariz. 212, 536 P.3d 790 (2023), see also A.R.S. § 12-541(5) and A.R.S. § 4-311.

Arizona's Dog Bite Statute provides strict liability for the owners of dogs. A.R.S. § 11-1025. However, the claim must be filed within 1 year. A.R.S. § 12-541(5). Otherwise, the 2 year limitation applies, but strict liability does not.

2. Notices of Claim

Notices of Claim are tricky as well. Like statutes of limitation, failing to timely serve a sufficient notice of claim to the correct person or entity will bar any recovery for your clients. A.R.S. § 12-821.01.

Notices of Claim are required for any governmental entity. Seems simple enough, however, certain entities you may think are not governmental entities are still entitled to a Notice of Claim.

For example, Banner University Hospital is associated with the University of Arizona, a governmental entity. Therefore, tort claims against Banner University require a notice of claim.

Also, a portion of the Salt River Project ("SRP") is an "improvement district." In Arizona, "irrigation, power, electrical, agricultural improvement, drainage, and flood control districts, and tax levying public improvement districts" are entitled to the immunities of governmental entities. Ariz. Const. art. XIII, § 7. Therefore, some claims against SRP require a Notice of Claim.

3. Failing to Preserve Evidence

Sending preservation letters to potential defendants as early as possible is crucial. If defendants fail to preserve evidence relevant to your clients' claim(s), at trial, the jury may receive a spoliation instruction, which can devastate the defendants' case. See *Souza v. Fred Carries Contracts, Inc.*, 191 Ariz. 247, 955 P.2d 3 (App. 1997).

Also, failing to preserve evidence can poten-

tially eliminate your client's claim(s) because you don't have the evidence to sustain the action.

4. Third Party Interests (Liens, Subrogation, etc.)

There are many horror stories in this area. You may be forced to pay for your client's past medical bills if not careful.

Medical providers may be entitled to a portion of your client's settlement funds. Make sure you search the county recorder's office for existing third party claims on your client's settlement funds. Otherwise, you can be on the hook, and, like all these pitfalls, create ethical problems. Ariz. R. Sup. Ct. ER 1.15.

5. Not spotting claims

So many claimants settle for less than the full value of their claim. This could be due to an attorney not properly evaluating the case, which includes not spotting existing claims. Different claims can yield different discovery responses which can yield more helpful facts for the jury to consider.

In any car crash case, consider claims for:

- Product liability issues against the manufacturer of the vehicle(s);
- Road design/maintenance issues against governmental entities, HOAs, homeowners, and others;
- Distracted driving from sleeping, eating, and/or cell phone use (use discovery/subpoenas to verify cell phone records);
- Toxicology issues;
- Diminution of Value;
- Wage Loss;
- Loss of Earning Capacity;
- Household Services;

- Negligent Entrustment; and
- Uninsured/Underinsured Motorist claims.

In any injury case, consider claims for:

- Negligence Per Se;
- Vicarious Liability;
- Negligent Hiring, Training, Supervision, Retention;
- Negligent Credentialing (in medical malpractice);
- Negligent Referral (professional malpractice);
- Negligent Infliction of Emotional Distress;
- Negligent Undertaking;
- Joint Venture;
- Alter Ego;
- Joint Enterprise;
- Loss of Consortium; and
- Punitive Damages.

Conclusion

Personal injury cases are complex. This is just the tip of the iceberg. There are many more issues such as insurance bad faith, stacking insurance policies, the Federal Tort Claims Act, expert witnesses, and more.

If you ever have any questions, please reach out to me. I'm happy to help. ■

Jonathan Litster is a personal injury attorney at Gallagher & Kennedy in Phoenix, representing plaintiffs in a broad range of tort litigation, including catastrophic personal injury, insurance bad faith, motor vehicle accidents, product liability, and professional malpractice. He has extensive experience helping injured victims and their families obtain just compensation.

The NP and the PA as Providers and Experts



Ronda M. Kelso,
BSN, RN, Esq.

The PA – Physician Assistant (future name Physician Associate)

The role of Physician Assistant ("PA") originated during the 1960's. The idea was to provide support to physicians and increase access to healthcare. Healthcare changed dramatically due to physician specialization, the advent of Medicare (1965), and political upheaval. The end of the Vietnam War produced many medical corpsmen who had extensive experience in battlefield medicine. These individuals had extensive experience of limited scope – battlefield and surgery, and no path to enter the field of medicine short of going to medical school. Recognizing the pool of talent and a need, an academic PA program was established in 1965. The first PA graduating class, consisting of four Navy Corpsmen, was from Duke University in 1967. In 1971, the American Medical Association recommended PAs as primary care providers. The model of care is medical.

Each PA program has its own requirements, most require PAs to have an undergraduate degree with a GPA greater than 3.0 on a 4.0 scale, must have taken the GRE (for most programs),

served community service hours, passed a criminal background check, and some pre-requisites (e.g. statistics, biochemistry, biology, English composition). The degree conferred is a Master of Medical Science in Physician Assistant Studies. The selection process is extremely competitive with less than 31% of applicants being accepted in 2024. One of the requirements is at least some experience in a medical setting (e.g. combat medic, phlebotomist, ER tech, x-ray tech...), some shadowing of a healthcare provider, some non-health care work experience.

Until January 1, 2024, PAs could not practice without the supervision of a physician. The supervising physician delegated specific tasks. On January 1, 2024, the legislature enacted ARS §32-251 (B) which eliminates the supervision of a physician when a Physician Assistant has 8,000 hours of clinical practice. The PA is required to collaborate with, "a physician employer, physician group practice or health care institution." Collaboration may be electronic. If a PA is not practicing under a supervision agreement, that PA is legal responsible for the health care services performed by the PA.

PAs are permitted to provide health histories, physical exams, evaluate and diagnose

patients, order, perform and interpret diagnostic studies, provide consultations, write orders, assist in surgery, prescribe drugs and medical devices, perform minor surgery, certify disability, and order home health. All of these tasks can be undertaken if the PA has been prepared by education, training, and experience. There is no mandatory limitation on the scope of practice of a PA.

Nurse Practitioners

Nurse Practitioners ("NP") hold two licenses, an RN and an NP. Registered Nurse programs are either two-years or four-years in duration and include didactic and clinical time. NP programs require a Bachelors degree to apply and an RN license. Most NP candidates have completed their BSN RN and have been in the acute care workforce as an RN for at least one to two years, some programs require three to five years of experience as an RN. Many NP applicants have received specialty certification in specific areas of practice (e.g. pediatrics, oncology, critical care, emergency care, flight nurse).

The competition for NP programs is high. Programs require a GPA of at least 3.0 on a 4.0 scale and an unencumbered RN license. Some programs require the GRE. NP pro-

grams are specialized and focus on an area of care (e.g. pediatric, maternal health, psychiatric, oncology, family medicine). NP programming and education is specific to the scope of practice. An NP may not practice outside of the scope of education specialty. All clinical hours are spent in the specialty. The model of care is nurse based. The scope designation is identified by letters surrounding the NP.

NPs are permitted, and have always been permitted, to practice independently. There are situations where an employer may require physician oversight, but it is not required under the statute. See Az State Board of Nursing FAQ at APRN Q&A -w-Cover Page 5.24; see also Nurse Practice Act rule R4-19-508(A)

PA and NP as experts

Rasor v Northwest Hospital, LLC 243 Ariz. 160 helps to clarify what qualification-san expert must have when opining on the standard of care. Venue of practice (e.g. clinic versus hospital; ICU versus oncology) and certifications (e.g. pediatrics versus women's healthcare) must match or there is a risk of disqualification of the expert. An NP can testify to the standard of care of an RN, with some caveats. Only a PA can testify to the standard of care of a PA. Courts have tightened the reins on expert qualifications and matching of certifications under *Rasor*. ■

Judicial Leadership in Action: Chief Justice Timmer shares Her Perspective



**Chief Justice
Ann Timmer**

Q Your five-year term as chief justice began July 1, 2024. How does a Supreme Court justice prepare for leading the judicial branch?

A The best preparation for becoming Chief Justice is gaining experience in the judicial branch. I have been a judge since 2000 (!). During that time, I have served on many task forces and committees, which exposed me to the wide variety of issues in the judicial branch. During my years on the Supreme Court, and especially while serving as Vice Chief Justice, my participation in those types of experiences increased. And, of course, I was closely involved with the leadership efforts from my predecessors, so I learned a great deal from them. Thus, by the time I started my term as Chief Justice, I felt as prepared as possible for the role.

Q What so far has surprised you about being chief justice that you didn't realize as vice chief justice?

A The only thing that has surprised me is the number of unanticipated issues that the Chief Justice has to address almost daily. (Bob Brutinel, my respect for you has grown!) With a branch this large, it seems like there is always something cropping up that needs attention. As a result, to get uninterrupted time to work on cases, I now block a few hours early in the morning at home for reading and writing.

Q What past experiences inform your leadership style and what is your leadership style?

A I never enjoyed leaders who micromanaged, wouldn't listen to other people, or had large egos. I try to avoid that. My style (I hope) is to set the larger goals, keep people motivated to pursue those goals, ensure they have the tools to accomplish those goals, and then trust they will do so without me looking over their shoulder.

Q The Court recently posted summaries of its opinions with the opinions. What prompted that change?

A Increasingly, and happily, people have an interest in Court opinions. Traditionally, the Court has taken a passive role with the public. We issue opinions and then bar the doors, leaving others to dissect and report often-complex decisions, maybe inaccurately or incompletely. Thus, paraphrasing Hamilton (the musical, not the man), the Court has decided to be "part of the narrative" and issue our own summary with every opinion in the form of a press release. We're hoping this will allow people to quickly digest what the Court decided and then determine whether they wish to read the opinion for themselves to get the full picture.

Q Government institutions are struggling with falling perceptions of public trust and confidence. What can Arizona's judicial branch do to reverse this trend and what can Maricopa County's legal community do to help?

A I am very concerned about the waning trust people have in our courts. The rule of law—the foundation of our democracy—largely depends on the willingness of people to respect and follow court rulings. If people don't trust they're getting a fair shake from the courts, there's little reason to respect the rule of law. Consequently, we are exploring better ways to communicate with the public about what the courts do and don't do. (Spoiler alert: we're not a second legislative branch). Lawyers, as officers of the court, can assist in this effort by correcting any misperceptions they hear about the courts from their friends, neighbors, clients, and others, especially in the wake of an unpopular decision. Arizona has a great state judiciary, and the public deserves to get a full picture of it.

Q The Court lowered the bar exam passing score to 270 in 2023 and established the Lawyer Apprentice Program in 2024 for those scoring 260-269. How will these changes help Arizona?

A The Court lowered the bar passage score in response to evidence that our prior minimum score was unnecessarily high. The Lawyer Apprentice Program is intended as an alternate pathway to licensure for applicants who just miss a passing score. The program permits participants to show competency through a combination of a minimum score on the bar exam (260) and two years of real-world work experience. We anticipate this as a win-win for lawyers, public sector employers, and Arizonans in underrepresented areas of our state. Keeping more qualified lawyers in Arizona is our goal, and these changes

are intended to achieve that goal.

Q What projects, programs, or innovations from your strategic agenda might the legal community experience in the next year?

A Over the course of the next year, we hope to launch a statewide community-justice worker program. Under this program, people like social workers, who are already embedded in communities and working with people who need legal services, will be certified to give legal advice in areas like housing, public benefits, and consumer debt. These community justice workers will be supervised by one of our three legal aid firms in the state, which will also give clients a pipeline to a legal aid lawyer, if needed.

A task force is also working to determine better ways to communicate with the public. I think the legal community can expect to see increased and better communication from the courts, including by video messaging.

Q What are you most encouraged about from Maricopa County's legal community?

A I've always admired lawyers. If we look at virtually every organization in our county, we'll find a lawyer in the mix. Maricopa County lawyers are innovative, involved, and altruistic. I'm encouraged that the lawyers here to use their talents and devote their time to myriad causes and endeavors that make this county a fantastic place to live. We're all fortunate to have you. ■

Ralph A. Gigliotti, CPA, ABV

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OUR LAWYERS HAVE RECOVERED MORE THAN \$3 BILLION FOR OUR CLIENTS

Konnie K. Young, CLS/VLP Attorney
Pro Bono Attorney Coordinator

Community Legal Services' (CLS's) Volunteer Lawyers Program (VLP) Staff are starting the New Year without our dear friend and paralegal, Karen Stuart, who retired from CLS on December 20, 2024. Karen started volunteering for VLP in 1994 while attending Paralegal School and joined our VLP Team as a CLS employee in April 1996. Throughout her employment at CLS, Karen helped VLP Clients in a wide array of projects and practice areas including, but not limited to, VLP's



Karen Stuart
VLP Paralegal

Landlord/ Tenant Clinic, Bankruptcy, Consumer, and HIV/AIDS Law Projects, and our Financial Distress Clinic (FDC). We asked Karen a few questions about her experiences as a VLP Paralegal and her plans for retirement.

What did you do before working at CLS/ VLP, and what led you to apply for work here?

Before attending Paralegal School, I worked 10 years in clothing retail followed by 10 years in the Grocery Business as a cashier and manager and three years at PetSmart. But as a single mother, I decided to change careers so I could spend more time with my son; I needed a job that didn't require working nights, weekends and holidays. While attending Paralegal School, I was given the opportunity to do an internship to expand my knowledge of the legal field by volunteering with VLP. After graduating from Paralegal School, I began working for Mariscal Weeks law firm and continued to volunteer with VLP, recruiting attorneys to conduct legal clinics for clients in the HIV/AIDS Community. In 1996, I gladly accepted a full-time position at CLS, as I thoroughly enjoyed volunteering for VLP and working alongside the VLP Team and Volunteer Attorneys.

What is the most important work you've done as a VLP Paralegal?

I do not feel that any one thing I have accomplished while working at CLS/VLP is more important than another. All the work VLP does is very important in assisting the low-income community. Without CLS and VLP, our clients facing Benefits, Housing, Family Law and

PRO BONO PROFILES

VLP Bids Farewell to Karen Stuart and Rings in 2025

Please help us help our clients—join our VLP Pro Bono Team today!

Contact: Roni Tropper, VLP Director at rtropper@clsaz.org &
Konnie K. Young, VLP Pro Bono Attorney Coordinator, at kyoung@clsaz.org
Visit our website: <https://clsaz.org/volunteer-lawyers-program/>

Happy New Year from our VLP Family to Yours!

Row 1: Randy Reyes (Paralegal); Lupe Aguilar (Paralegal); Konnie Young (Attorney)
Row 2: Jean Celian (Paralegal); Midi Arellano (Retired Paralegal); Maria Fulgencio (Paralegal); Karen Stuart (Paralegal); Jennifer Hunt (Paralegal); Karen Jackman (Paralegal); Roni Tropper (Director); Tania Rathburn (Paralegal); Peggy Cornelius (Retired Paralegal)]



Consumer issues would have no access to equal justice. VLP owes a lot to the many hundreds of Volunteer Attorneys who give of their time to assist our clients who have nowhere else to turn for legal assistance and guidance.

What are some of the best cases or client outcomes you've witnessed?

There have been numerous great outcomes for clients throughout my years with VLP, from clients maintaining their homes, to shutting down shoddy car dealers who were taking advantage of our clients, grandparents being able to obtain guardianship or adoption of their grandchildren, disabled clients being able to maintain their government benefits. Maybe I am most proud of personally assisting an HIV/AIDS Client in dissolving a \$400K lien on

his and his mother's home. He was so grateful that he could continue administering care to his mother before she passed away.

Karen says she has "no big plans for retirement" but wants to spend more time with her son, granddaughter, and two great grandchildren who live out of state. She also plans to connect and volunteer with the Homeless Day Center in downtown Phoenix. Karen will miss "the client connections, caring and compassionate CLS co-workers, and the friendships, connections and knowledge I have been so graciously provided through the many volunteer attorneys I have had the pleasure to meet and work with throughout my years with CLS/VLP."

CLS/VLP welcomes Lupe Aguilar, who has assumed Karen's paralegal position, and Karen encourages Lupe to maintain her compassion and dedication for assisting VLP Clients. Karen reflects, "Down deep all of us in the legal community know that we cannot solve all of the problems that our clients face on a day-to-day basis, but we give it our all to reach that goal." Karen also encourages our VLP Attorneys:

"Keep up the great work you do every day. The clients appreciate all you do to assist them."

Without a doubt, our CLS/VLP Staff and VLP Attorneys will greatly miss Karen, and some have provided their farewell messages to her below.

Sharon Sergent, CLS Executive Director:

On behalf of CLS and personally, I extend our thanks and appreciation to Karen for her dedication and the excellent legal services she provided to our community over her 28-year

career with CLS/VLP. I have witnessed her going above and beyond to serve and comfort her clients as they faced the most difficult and frightening times in their lives. Her impact will be remembered. We wish Karen the very best in her next adventures.

Don Powell, VLP Attorney & Advisory Committee Chair:

I have been serving as a VLP attorney for 25+ years and continually worked with Karen. She was responsible for the scheduling of consultations with individuals experiencing financial concerns through VLP's monthly Financial Distress Clinic (FDC). I conferred with hundreds of VLP Clients over many years; each of them knew Karen, who comforted them and assured them that she would take every step possible to assist in resolving their concerns. Additionally, Karen found volunteer attorneys to represent clients in bankruptcy cases on a pro bono basis. Karen is ethical, dedicated, positive, caring, committed, and humble. VLP was absolutely blessed to have Karen as an employee for 28+ years. I am thrilled for Karen as she embarks on her retirement.

David Wilhelmsen, VLP Pro Bono Attorney:

Karen worked tirelessly advocating for the legal rights of those less fortunate. She always went above and beyond; her gracious smile was contagious and imbued those around her with positivity. She will be greatly missed. We wish her the best as she embarks on this next chapter.

Nancy Anger, VLP Pro Bono Attorney

One of the unexpected benefits of working with VLP is meeting the many individuals who make the organization run smoothly. For me, Karen Stuart is one such individual. For the past five years, Karen has been my "go-to" person. She always impresses me with her extensive legal knowledge, never failing to give accurate advice no matter the issue. Her organizational skills cannot be matched. Karen gathers the information that I need to assist clients, making the interview process seamless. She also is a true advocate for VLP clients who consistently compliment her helpfulness in their times of need. I am very grateful for the opportunity to work with Karen and will miss her greatly.

Pat Gerrich, Former VLP Director:

Karen is very respectful of every client. She is committed to helping everyone. She is a strong advocate who urges colleagues and community agencies to do everything possible to help clients get fair treatment and justice. I am so impressed by Karen's years of dedicated service through VLP. I would estimate she has impacted as many as 30,000 people through her work.

Roni Tropper, VLP Director:

I've been privileged to work alongside Karen Stuart for 26 of her 28 years at CLS/VLP. Karen is so dedicated to our mission and clients, and she exudes a never-ending compassion for them. Karen has devoted her life to helping people who need a voice, are marginalized by society, and turn to us as their last possible resort. She takes with her decades of institutional knowledge and know-how, attributes that cannot be easily replaced. We are so happy for Karen to take the next step in her journey, but we are sad to see her go and will miss her very much. She will always be part of the CLS/VLP family. Karen, enjoy some well-deserved relaxation and YOU time.

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Volunteer Lawyers Program Thanks Attorneys

The Volunteer Lawyers Program thanks the following attorneys and firms for agreeing to provide pro bono representation on cases referred by VLP to help people with low incomes. VLP supports pro bono services of attorneys by screening for financial need and legal merit and provides primary malpractice coverage, verification of pro bono hours for CLE self-study credit, donated services from professionals, training, materials, mentors and consultants. Attorneys who accept cases receive a certificate from MCBA for a CLE discount. For information on rewarding pro bono opportunities, please contact Roni Tropper, VLP Director, at 602-258-3434 x 2660 or Rtropper@clsaz.org or enroll with us at <https://clsaz.org/volunteer-lawyers-program/>. ■

VLP THANKS THE FOLLOWING ATTORNEYS AND FIRMS FOR ACCEPTING CASES FOR REPRESENTATION:

<p>ADOPTION Shawna R. Riggers Arizona Family Law Attorneys</p> <p>ADULT GUARDIANSHIP/ CONSERVATORSHIP Lisa M. Castillo Dominguez Law Firm PC</p> <p>Charles F. Hauff Bailey Hopkins Snell & Wilmer LLP</p> <p>F. Javier Sobampo The Sobampo Law Firm PLLC</p>	<p>BANKRUPTCY/ DEBTOR RELIEF Diane Drain Law Office of D L Drain PA</p> <p>Liz Nguyen – Two Cases Law Office of Mark J Giunta</p> <p>CONTRACTS/WARRANTIES Richard K. Mahrle Gammage & Burnham PLC</p> <p>LANDLORD/TENANT Diane L. Mihalsky CLS/VLP Certified Pro Bono Counsel</p>	<p>MOBILE HOMES Lindsay Prosky Esther Suh Littler Mendelson PC</p> <p>UNFAIR AND DECEPTIVE SALES PRACTICES Paloma Maria Scheiferstein John Urbanic Snell & Wilmer LLP</p>
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VLP THANKS THESE VOLUNTEERS WHO PROVIDED OTHER LEGAL ASSISTANCE DURING THE MONTH:

<p>ALLEN JONES & GILES CLINIC Brian Deagle Ryan Deutsch Michael Jones</p> <p>ATTORNEY OF THE DAY Nancy Anger Andrew Jacobs</p> <p>CHILDREN'S LAW CENTER Edwin Ramos Shawna Riggers Brad TenBrook</p> <p>EMPLOYMENT Morgan Bigelow Denise Blommel Clara Bustamante Michelle Hogan Krista Robinson Alden Thomas Necole Walloch</p> <p>FAMILY LAWYERS ASSISTANCE PROJECT Steve Cole Greg Davis Charles Feldman Jeanne Garcia Stuart Gerrich</p>	<p>Robert Hahn Christina Hamilton Kina Harding Lowen Jones Katherine Kraus Elizabeth Langford Christopher Lazenby Susan McGinnis Heather Stewart Lisa Stone Aurora Walker Marie Zawtocky</p> <p>FEDERAL COURT ADVICE CLINIC Timothy Eckstein Makenzi Galvan Gabriel Hartsell Andrew Jacob</p> <p>FINANCIAL DISTRESS CLINIC Ryan Deutsch Michael A. Jones Donald Powell</p> <p>INTEL Romy T. Drysdale</p>	<p>PROBATE LAWYERS ASSISTANCE PROJECT Alexus Anderson Kent Berk Emily Burns Lauren Garner Thomas Hickey Kelly L. Kral Michelle Lauer Tracy M. Marsh James Rayburn Ryan Talamante</p> <p>Avery Hampton – ASU Extern Monique McClung – ASU Extern</p> <p>SNELL & WILMER Haley Breedlove Ian Joyce Anthony Marino Trish Refo David Rogers Bryon Sarhangian Diamond Zambrano</p> <p>TENANTS' RIGHTS CLINIC David Engelman John Gordon Diane Mihalsky Judy O'Neill</p>
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VLP THANKS THE FOLLOWING INDIVIDUALS WHO RECENTLY HELPED OR ENCOURAGED COLLEAGUES TO VOLUNTEER WITH VLP:

James C. Abood Diane Drain

PRO BONO SPOTLIGHT ON CURRENT NEED FOR REPRESENTATION

Attorneys are needed to help consumers with contract matters. Attorneys' fees can be claimed if litigation is required.

The Volunteer Lawyers Program provided \$2,034,915 in measurable economic benefit to families in 2022, in addition to improving safety and well-being for children and adults.

The Volunteer Lawyers Program is a joint venture of Community Legal Services and the Maricopa County Bar Association

Q&A



LAWYER LIABILITY AND ETHICS

California Supreme Court Rejects Bar Exam Alternative



Joseph Brophy

It has become fashionable in recent years to question the utility of the bar exam. The exam topics largely overlap with what is already taught in law school. The exam tests general legal knowledge when attorney specialization is the rule, not the exception. Oral communication, counseling, and negotiations are irrelevant to the exam, but central to the practice of law. And bar exams are extremely difficult with no obvious connection to ensuring applicants are capable of or prepared to represent actual clients, which suggests that the exam's real purpose is to limit competition for lawyers' jobs.

In recent years, state bars and supreme courts have considered various potential changes and alternatives to the bar exam. In October 2024, the Supreme Court of California rejected the recommendation of a commission that alternative methods for assessing minimum competence for entry into the profession. Because this is California – the source of the cause and solution to so many our nation's problems – attention should be paid.

In October 2020, the California Supreme Court established the Joint Supreme Court/State Bar Blue Ribbon Commission on the Future of the California Bar Exam. After 17 months of work, the commission recommended the development of a new California bar exam but could not achieve consensus regarding an alternative pathway to licensure. The Board of Trustees for the California bar seemed disappointed in this result and invited the commission members who supported a bar exam alternative to submit a proposal for consideration.

What that commission working group came up with was a Portfolio Bar Examination (PBE) as an alternative pathway to licensure. Candidates who choose this option would be required to complete law school courses in specified doctrinal subjects. Then they would obtain provisional licenses and work under the supervision of licensed California lawyers for four to six months. During that time, they would assemble portfolios of work product that would be assessed by independent graders trained by the California bar. Candidates who achieved passing scores on their portfolios would not take the two-day bar exam but would have to fulfill all other requirements for admission to the bar. A pilot program was proposed.

Supporters said the alternative path to licensure would help graduates who do not have the time or money to afford pricey bar exam study courses – a burden that they say falls disproportionately on historically disadvantaged groups – while adding to the pool of attorneys

who work with underserved clients. To those who view California from afar as a bastion of liberalism, this proposal might sound like a slam dunk – helping the poor and historically disadvantaged groups gain access to legal services and jobs sure sounds Californian. However, when it comes to lowering barriers to entry to the profession (read: more competition), the members of the California bar as ridged of an interested group as you are apt to find.

The PBE proposal was circulated for a 30-day public comment period, during which 2,814 public comments were received. Only 24% of the comments agreed with the proposal; 4% agreed if the proposal was modified; and just over 70% disagreed. Just under 1% of commenters took the time to comment that they had no position, just in case silence (taking no position) did not express clearly enough that they had no position.

The theme that ran through the opposing comments was that the PBE was insufficient to assess minimum competence. The PBE does not require the same broad subject matter knowledge as the bar exam; there are insufficient protections against fraud in producing candidate work product for review; there is no guarantee that PBE candidates would work in areas of the law where legal services are needed; and the consistency and quality of supervision would vary from candidate to candidate, leading to varying outcomes and a lack of standardization.

The hostility of the California bar to the PBE proposal was reminiscent of 2022, when California's legislature and governor blocked the California bar's attempt to implement Arizona-style reforms that would have allowed non-lawyers to either participate in law firm ownership or to perform legal services normally reserved to lawyers with the goal of increasing the availability and decreasing the cost of legal services. The effort to kill those reforms was spearheaded by politically powerful California law firms and legal interest groups (read: donors) using the same justification that killed the PBE – protection of the public.

On October 10, 2024, the California Supreme Court rejected the PBE proposal. In a nod to the PBE's goals, the court said that the California bar exam should have "a significantly increased focus on assessment of skills along with the application of knowledge and performance of associated skills for entry-level practice, deemphasizing the need for memorization of doctrinal law."

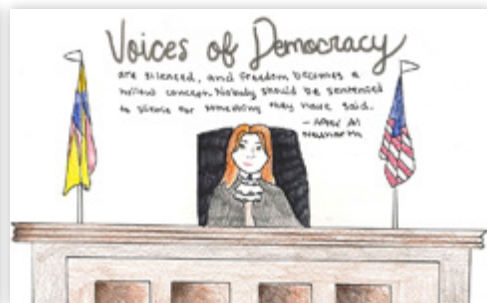
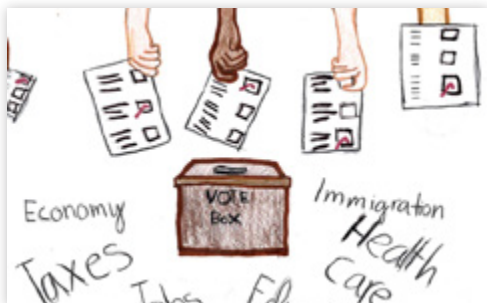
How one could construct an intense, two-day, 19-subject, pass fail test to assess minimal competence in knowledge of the law while simultaneously "deemphasizing the need for memorization of doctrinal law" is a fascinating philosophical question that the California

Maricopa County Justice Museum & Learning Center

The Maricopa County Justice Museum and Learning Center Founders and Art Contest Recognition Breakfast. This year's art contest theme Voices of Democracy



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Don't Worry About Big Brother CourtWatch, continued from page 1

the semi too closely. During the ten minutes it took to process the infraction, the officer questioned Sidor, who reported that he was returning from a one-day trip to California to pick up a dog that he had bought. He said he had borrowed the Nissan from a friend named Jason. Upon being told that the car's owner was named Christopher, Sidor said that Jason had borrowed it from Christopher.

After handing Sidor the citation, the officer asked if there were drugs, money or weapons in the vehicle, and he asked for consent for a search or to wait for a K-9 to sniff the vehicle's exterior. Sidor refused, but the officer told him to wait and called for a K-9 officer, who arrived 45 minutes later. The dog alerted to the driver's side door; the officer handcuffed Sidor and found a glass pipe and what appeared to be meth in his pocket. A search turned up over 32 pounds of cocaine and another pound of meth in the vehicle.

The superior court denied Sidor's motion to suppress, and a jury convicted him of two counts of transporting drugs. A divided court of appeals affirmed.

Judge Andrew M. Jacobs ruled that the officer was justified in detaining Sidor after issuing the traffic citation because the information he gleaned from Sidor, together with to the DEASIL data, established reasonable suspicion to prolong the stop. But he first held Sidor's behavior during the encounter did not provide the necessary justification for prolonging the stop.

"The superior court properly rejected the officer's observations that Sidor was suspicious because his hands were at 10 and 2 on the steering wheel, observing that the judge himself was taught to drive that way in school," Jacobs wrote. And "looking 'straight ahead' as one passes a law enforcement vehicle is likewise not a reliable indicator of criminal activity." Furthermore, bodycam footage did not support the officer's contention that Sidor was overly nervous during the stop.

Hence, the necessary reasonable suspicion

depended on the DEASIL information "and the fact that Sidor was driving a borrowed Nissan across the country," which "Sidor borrowed from someone other than the owner." The DEASIL documentation of the vehicle's previous trips revealed a pattern that Jacobs agreed was suspicious: "Sidor's trip was the third time in three months, at precise one-month intervals, at which the Nissan went through Kingman at the end of a month," he noted. "By Sidor's own explanation, he had been to and from California on that third trip," he added. Thus, the "evidence supports the superior court's finding the officer reasonably could conclude Sidor might have been engaged in drug trafficking."

Jacobs rejected the notion that suspicious explanations for that driving pattern were indistinguishable from innocent ones. "The DEASIL data strongly suggest that Sidor's travel to Los Angeles formed a pattern with trips others took in the same Minnesota-plated car from the upper Midwest through western Arizona, to southern California and back on each of October 30, November 30, and December 31," he wrote. Hence, the superior court reasonably chose "to credit law enforcement's inference that this highly distinctive pattern of travel is distinguishable from 'innocent behaviors.'"

This left one question: could the State rely on the DEASIL information in the first place? Jacobs said yes. He rejected Sidor's argument, based on *Carpenter v. United States*, 585 U.S. 296, (2018), that the ALPR surveillance violated his Fourth Amendment rights. Jacobs acknowledged the possibility that ALPR surveillance might someday become "so widespread as to risk offering government the very comprehensive surveillance decried in *Carpenter* and against which the Fourth Amendment stands." But the surveillance here was too limited to be problematical.

Furthermore, "Sidor lacked a reasonable expectation of privacy in the DEASIL data ... because those data principally concerned other drivers of the Nissan on other trips," Jacobs wrote. "Sidor was not subjected to an unconstitutional search by the officer on the

particular facts of this case," he continued, "where the DEASIL query only resulted in a single snapshot of his car travel taken the day before, and where the relevant pattern in the DEASIL data consisted almost entirely of the movements of other persons."

But Jacobs warned against overreading the implications of his opinion. "As DEASIL becomes more comprehensive," he wrote, "its reach backwards in time to map the activities of defendants will continue to improve." It will thus be more like the cellphone-location information at issue in *Carpenter*, where the Supreme Court had held that "an individual maintains a legitimate expectation of privacy in the record of his physical movements as captured through" advanced location technology. But, given the limited facts of this case, that day had not yet arrived.

And although Jacobs agreed with Sidor that the officer had improperly accessed the DEASIL database, he disagreed that the data should therefore have been suppressed. "We are troubled by the use of DEASIL based on an automatic certification of articulable reasonable suspicion in all cases," Jacobs wrote. While the officer's action might have violated DEA policy, Sidor had not shown that it implicated his Fourth Amendment rights. Joining him in affirming Sidor's convictions was Chief Judge David B. Glass.

Judge Michael J. Brown dissented. He wrote to "echo the majority's concerns addressing the officer's automatic certification to the DEA that he had reasonable suspicion of narcotics trafficking based only on Sidor's driving position." He explained that "no reasonable interpretation of such conduct permits an inference of criminal activity, much less drug trafficking. I am particularly concerned that the officer testified he was trained to always check the box indicating he has reasonable suspicion of narcotic trafficking and bulk cash smuggling."

But Brown parted ways with the majority's conclusion the officer had a reasonable, articulable suspicion that Sidor was engaging in criminal activity. "The information the officer acquired through accessing DEASIL was too

vague and incomplete for the officer to infer a pattern of travel to indicate that Sidor was trafficking drugs."

"Nothing about this car's whereabouts nor Sidor's explanation of his travel shows there was reasonable suspicion of criminal activity," Brown wrote. He opined that nothing other than speculation established that the Nissan had actually been in California before Sidor's trip, let alone that Sidor had previously driven it there.

Nor had the State shown how the DEASIL data demonstrated potential criminality. "Beyond a generic affirmation that this information was 'indicative of drug trafficking' based on the officer's training and experience," Brown wrote, "the officer never explained *how* such incomplete information would indicate some sort of criminal activity."

"Though an officer can 'perceive and articulate meaning' in seemingly innocent conduct that would imply criminal activity," Brown wrote, "the officer needs to articulate what that meaning is for courts to assess whether there are objective grounds for extending a stop." But when asked about this, the officer had testified "only that it was indicative of 'some kind of criminal activity.'" To Brown, this "vague assertion shows he was acting on a mere hunch rather than reasonable, articulable suspicion."

Indeed, the officer testified that when he began following the Nissan he believed he already had the necessary reasonable suspicion that its driver "was associated with narcotic trafficking or bulk cash smuggling." To Brown, this "purely speculative assertion lacks any basis in Fourth Amendment jurisprudence."

"Ultimately," Brown concluded, "the fact that Sidor was driving a borrowed vehicle making its third trip out west in a little more than two months does not provide reasonable suspicion that he was engaged in drug trafficking."

He believed the evidence should have been suppressed, and he would have reversed the convictions. ■

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News from the legal community

The Maricopa Lawyer invites members to send news of moves, promotions, honors and special events to post in this space. Photos are welcome. Send your news to maricopalawyer@maricopabar.org.

GALLAGHER & KENNEDY



Sarah M. Clifford

Gallagher & Kennedy is pleased to welcome **Sarah M. Clifford** as a lateral attorney in its Phoenix office.

Joining G&K as a lateral shareholder, Sarah develops estate plans and trusts to help manage and preserve wealth and assets for individuals, families, and business owners.

Her experience includes probate and trust administration, including representation of high-net-worth clients with trusts and estates valued in excess of \$20 million. As part of her corporate practice, Sarah advises micro to large businesses on commercial transactions, entity formation, contract review, and dispute resolution.

An East Valley resident, Sarah served on the Board of Directors and the Economic Development Committee of the Tempe Chamber of Commerce from July 2020 to July 2023.

Sarah earned her law degree cum laude from Brigham Young University. She was an active member of the J. Reuben Clark Law Society, published a story in *The BYU Advocate*, and worked at the International Center for Law and Religious Studies, which hosts the Annual International Law and Religion Symposium. Sarah gained legal experience as a judicial extern at the Utah Supreme Court, as a law clerk at a Utah-based bankruptcy and litigation firm, and through a summer fellowship in New Zealand.

While earning her undergraduate degree in Interdisciplinary Humanities from BYU, Sarah volunteered in the South African bush to fight against rhino poaching. She also had an essay chosen for publication in *BYU's Alumni Magazine*, *The Y*.

ADULT PROBATION'S TURKEY FEAST BRINGS HOLIDAY JOY TO THOSE IN NEED

Attendees received holiday meals, gift bags for children



In the heart of a community they serve, volunteers from the Adult Probation Department, hosted the 29th annual Turkey Feast celebration distributing 400 holiday meals and over 200 gift bags for children.

One of the dedicated volunteers, Letty Martinez, has been spreading holiday cheer at the event for several years, dressed as an elf.

"It's always nice to have an opportunity to help others, especially around the holidays. It's nice that so many kids get at least one gift and a special memory," said Letty Martinez, Adult Probation's reachout clinical supervisor. "It was important to me as a child and to pay it forward. It's always so gratifying to give and share, but it's extra with the Turkey Feast. You see the

impact on hundreds of people. My hope is that they carry that joy with them for a while or have a forever memory to look back on that warms their heart, even in tough times."

The Maricopa County Adult Probation Department, part of the Judicial Branch of Arizona in Maricopa County, coordinates the Turkey Feast event every year, partnering with the Phoenix Police and Fire Departments, Terros Health, Arizona Probation Officers Association, Dress for Success, Smart Justice and St. Mary's Community Kitchen.

"Our annual Turkey Feast is a celebration of community, kindness, and connection," said Tiffany Grissom, Adult Probation division director for community transition and support. "By sharing food, toys, and resources with families in need, we bring joy and hope to those we serve while staying true to our mission of enhancing safety and creating positive change. This event shines a light on the values we hold close—fairness, respect, and the power of coming together to make a difference."

At the event, the Terros Mobile Unit provided free vaccinations, as well as blood pressure and glucose screenings for attendees. Representatives from the BTG Reentry team and Maverick House shared information about their services with the community. Dress For Success provided free clothing to those in need, while Maricopa County's Smart Justice program representatives offered details on workforce and training opportunities.

"I know the focus is on the kids, but seeing adults become so excited to take a picture with the Clauses is endearing," said Martinez. "When I offered to take photos so the adults would be part of the pictures with Santa, they were so excited. Many adults came solo to take a picture. I don't have memories or pictures of myself as a child with Santa. Most people tap into their inner child, just for a moment at the event. Christmas JOY is magical! I love spreading cheer year-round and I'm so grateful to be part of it all."

ARIZONA MEDIATION INSTITUTE



Bruce R. Cohen

Judith Wolf, Andi Paus, Aris Gallios, Steve Serrano and Jared Sandler welcome our newest member, **Judge (ret.) Bruce R. Cohen**, to Arizona Mediation Institute. Judge Cohen will be continuing his focus on family law and civil litigation, providing mediation, special master work and arbitration to our clients.

Bruce was appointed as a Superior Court Judge to the Maricopa County Superior Court in May 2005. He served a family court assignment for six years and from June 2019 through June 2023 as Presiding Judge of the Family Department of the Court. He officially retired from the court, effective December 31, 2024, after 19+ years as a Superior Court Judge.

Prior to his appointment to the bench, Bruce was in private practice for 24 years. He was a certified specialist in Family Law, served on the Family Law Board of Legal Specialization for the State Bar of Arizona and was a Fellow in the American Academy of Matrimonial Lawyers. Bruce earned his J.D. from the Sandra Day O'Connor College of Law in 1981. ■

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California Supreme Court

Ethics, continued from page 11

Supreme Court did not attempt to answer in its eight-page order. However, the National Conference of Bar Examiners has been working on just such a test since 2021 — the Next Gen bar exam.

The Next Gen bar exam is not just a fancy sounding title. The test claims to emphasize "legal skills," rely less on memorization of laws, and will be at 9 hours shorter than the current 12-hour exam. The test debuts in 2026, with Arizona due to administer the

new exam starting in 2027.

For now, applicants to the California bar will continue to endure two days of torture aimed largely at eliminating competition for existing lawyers, all in the name of protection of the California public, while that same legal profession continues to bemoan the public difficulty in obtaining legal services. ■

Joseph Brophy is a partner with Jennings Haug Keleher McLeod in Phoenix. His practice focuses on professional responsibility, lawyer discipline and complex civil litigation. He can be reached at JAB@jhbklaw.com.

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Members and non-members are encouraged to submit articles for publication. The editorial deadline for each issue is generally the 8th of the month preceding the month of issue.

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If you registered and paid, but could not attend, you may request that the self-study program be sent to you after the program. Allow 3-5 days.



FRIDAY ■ FEBRUARY 19
8:30-10 AM

Advising on and Conducting Internal Employment Investigations



IN-PERSON AT MCBA, 3550 N. CENTRAL, SUITE 1101, PHOENIX & ONLINE

Attorneys often find themselves advising on or conducting internal employment investigations. These investigations are crucial for resolving conflicts, addressing misconduct and ensuring compliance with legal and ethical standards. This program will provide in-house and outside counsel practical guidance on navigating complex and even seemingly straightforward employment law related investigations. These guidelines apply whether your client chooses to conduct the investigation internally or decides due to conflicts or other reasons to hire independent investigators.

PRESENTERS: Jay Zweig, Partner at Ballard Spahr LLP
Melissa R. Costello, Of Counsel at Ballard Spahr LLP

MCBA Legal Paraprofessional Family Law Trial College

FRIDAY ■ FEBRUARY 21 ■ 9 AM-5 PM

IN-PERSON

Maricopa County Superior Court, 18380 N. 40th St., Phoenix, AZ 85032
Northeast Courthouse—Courtroom TBD

The Maricopa County Bar Association-Family Law Section will be hosting its first Family Law Trial College for Paraprofessionals.

This is a unique program available to only twelve (12) participants and is designed to help take their practice to the next level working with experienced Family Law Attorneys, Paraprofessionals, and Judges.

Participants will receive exhibits and a pretrial statement, and will have the opportunity to present a case in a live court setting to a Family Court Judge. Each participant will receive feedback from experienced Family Law Attorneys, Paraprofessionals, and Judges. Participants will attend morning trial training sessions, and will present their case in a live court setting in the afternoon. The program will end with an example case presentation from two experienced Family Law Attorneys.



Lunch will be provided for this all day seminar.

PRESENTERS:

Dan Riley, Riley Law Firm PLC ■ Nicholas Boca, Cantor Law Group
Staci Maret, Maret Law ■ Leslie Martinez, High Desert Family Law Group, LLP
Dionne J. Howell, affiliate member of the State Bar of Arizona

The State Bar of Arizona does not approve or accredit CLE activities for the Mandatory Continuing Legal Education requirement. The activities offered by the MCBA may qualify for the indicated number of hours toward your annual CLE requirement for the State Bar of Arizona, including the indicated hours of professional responsibility (ethics), if applicable.

TUESDAY ■ JANUARY 7
12-1 PM

Organ Donation Laws: A Journey Through Time and Tissues



ONLINE ONLY

Take heart as we delve into the history of organ donation, highlighting key milestones that have shaped the field. We'll dissect the current laws governing organ donation, with special attention given to key statutes and ethical considerations. Finally, we'll flesh out exciting innovations on the horizon including advancements in technology and practices that promise to enhance the future of organ donation.

PRESENTERS: Ashley L. Case, J.D., LL.M., AEP®, Estate and Trust Law Board
Certified Specialist at Tiffany & Bosco, P.A.
Riley L. Arter, J.D. at Tiffany & Bosco, P.A.

FRIDAY ■ JANUARY 31
12-1 PM

"You Had One Job!": Protecting Trustee's from Litigation and Liability



ONLINE ONLY

Just in time for the Super Bowl, this CLE will cover the duties a trustee has under the Arizona Trust Code in administration and litigation with a fun football theme. It will focus on a trustee's obligations when it comes to defending a trust document and their role and responsibility to do so in litigation. The CLE will include a discussion about what a Trustee's duties look like in practice and the exposure a trustee may face based on the positions they take, while providing advice to avoid trustees from committing fouls, turnovers, and neutral zone infractions.

PRESENTERS: Nora L. Jones, Shareholder at Tiffany & Bosco, P.A.
Krysta C. Furnell, Attorney at Tiffany & Bosco, P.A.

FEBRUARY ESTATE PLANNING PROBATE & TRUST SECTION SERIES

FEBRUARY 7 • 12-1:30 PM

EPPT FUNDAMENTALS I

Where There Isn't a Will, There's a Way



A quiet revolution is happening in estate planning. Non-probate Will substitutes are occupying the field so that probate is not necessary, and even Wills often are not necessary. In this seminar, you will examine the competing philosophies of probate vs. non-probate transfers, explore the various alternatives to Wills, and discuss the importance of coordinating probate and non-probate “governing instruments” for your clients.

PRESENTER: Hillary Gagnon,
of counsel Stacey L. Johnson, PLLC

FEBRUARY 14 • 12-1:30 PM

EPPT FUNDAMENTALS II

Basic Estate Planning

The presentation will include an overview of estate planning vehicles including Wills, Trusts, Powers of Attorney and Living Wills, as well as discussions regarding applicable Arizona law, information needed from clients, client interactions, family considerations, community property, funding of Trusts, and basic tax considerations. The materials will include several forms, including a form engagement letter, client questionnaire, trust funding letter, and powers of attorney. This course is designed for new attorneys and attorneys who want to become more knowledgeable in this area.

PRESENTER:
Hillary Gagnon,
of counsel Stacey L. Johnson, PLLC

FEBRUARY 21 • 12-1:30 PM

EPPT FUNDAMENTALS III

Basic Probate Proceedings

This program will provide guidance on the passing of assets via informal and formal probate proceedings, the effective use of small estate affidavits to transfer real and personal property, and helpful tips for navigating the probate process. The program will also address common problems encountered during estate administrations, payment of attorneys' fees, handling creditor claims, and resolving beneficiary disputes. This CLE is an ideal opportunity for law students, new attorneys, attorneys looking to add probate proceedings to their practice, and attorneys seeking a refresher on probate procedure.

PRESENTERS:
Hillary Gagnon,
of counsel Stacey L. Johnson, PLLC
Krysta C. Furnell,
Attorney at Tiffany & Bosco, P.A.

FEBRUARY 28 • 12-1:30 PM

EPPT FUNDAMENTALS IV

Basic Guardianship/ Conservatorship Proceedings



In this program, you will learn about guardianship and conservatorship proceedings for adults in Arizona. We will also discuss best practices and recent changes and clarifications to the law. This CLE is geared towards fiduciaries, law students, new attorneys, and anyone looking for a refresher on guardianship and conservatorship proceedings and procedures.

PRESENTERS:
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