MARICOPA LAWYER

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WHERE THE LEGAL COMMUNITY CONNECTS

ADR: It's as easy as 1, 2, 3 . . . if done right!


Shannon Clark

Let's face it. Trials just don't happen very often for most of our practice areas. Increasingly, trial is becoming an unusual way to resolve a case, not the natural ending to a dispute. To purloin a phrase used by fellow mediator Myles Hassett, "mediation is the new trial." And as with trial, an attorney should be well-prepared for mediation.

As a mediator, I'm surprised by how often lawyers are not prepared for mediation. Many times, when I read parties' mediation memoranda, I get the distinct impression that they expect me, as the mediator, to figure their case out, make their best arguments, and get the case settled favorably for them. I'm good, but not that good. A mediator can only whittle and cajole the other side so much with the tools he or she is given.

It is better by far to see mediation as the true end-zone for a case. Prepare for mediation as if it was trial. Know what your witnesses will say and what the other evidence shows, and reliably and honestly communicate that information to the mediator. As someone who has been fortunate enough to have had success in the vast majority of his mediations and as a mediator trying to help others achieve the same success, there are several things that good advocates do in advance of (and during) mediation. It really boils down to three things, all sharing a common denominator: PREPARATION.

First, prepare yourself. Knowing your case better than anyone ever will goes without saying (though it's surprising how many lawyers don't have this baseline level of knowledge), but don't stop at knowing your facts and legal theories. Master them. Make yourself the definitive expert on all issues germane to your case.

Preparing yourself means more than just knowing about the legal claim. Understand the case holistically. Identify threats to resolution that you can address in advance. Are there third-party interests that must be addressed as part of any resolution? Will all the decisionmakers be at the mediation? Does your client have reasonable, informed expectations? How can you get ahead of these obstacles so that they do not impede progress? Can those same obstacles turn into negotiation advantages; with your client, third parties, or the other side? Being ready to mediate means being ready to make a deal, and knowing what the right deal is and how to bring closure to all interested parties.

Second, prepare your client. Do not show up at mediation and explain to your client for the first-time what mediation is. Get your client comfortable with the process, what it can do, and what it cannot do. Introduce your client to

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The Mexican Public Will System: Can It Help Protect Arizona in the World of AI?

By Daniel J. Esparza, JD/MBA

The legal traditions of different nations often provide fertile ground for reflection and reform. As we enter the Age of Artificial Intelligence (AI)—and with it, the ever-increasing danger of fraudulent documents—the time is ripe to consider how the Arizona legal system might be able to learn from other legal traditions in its quest to prevent the proliferation of faux legal documents. One potential model worth comparison is Mexico's system of public wills—particularly its reliance on public officials and a public registration system.

In Mexico, the Notario Público is not merely a witness to signatures or a certifier of documents, as is the case with our Notary Public. Rather, he or she is a highly trained attorney, appointed by the state, entrusted with the solemn responsibility of drafting, authenticating, and registering legal instruments, including wills. These documents are not only validated but also securely archived, forming part of a centralized registry that ensures their accessibility and legal integrity upon the death of the testator.

Contrast this with Arizona's current framework. While the state permits self-proving wills and recognizes notarization as a means of streamlining probate, it lacks a centralized registry or a formalized process for public authentication. Wills may be stored in private homes, law offices, or even digital repositories, but their legal validity is often challenged. And with AI, we can only expect the number of fraudulent wills to increase. After all, even if a notary public's seal is legitimate, the details of a will are susceptible to modification by technology.

The benefits of adopting an optional public-will registry in Arizona are manifold. First, such a system would provide legal clarity. By entrusting the drafting and registration of wills to certified professionals (such as licensed attorneys in conjunction with the Probate Registrar), the state could ensure that only valid and properly executed (and truly original) documents are preserved. This would mitigate the risk of fraud, forgery, and contested estates.

Second, occasions for undue influence can be greatly reduced. By mandating that "public" wills cannot be revoked or amended except by following the same registration process, testators could prevent their careful planning from being undone in secret by the last-minute efforts of the undue influencer.

Third, the integrity of recordkeeping would be strengthened. In Mexico, the Notario Público maintains a secure archive of all certified documents. Arizona could emulate this practice, ensuring that wills are stored confidentially and accessed only by authorized parties. This somewhat resembles the way we used to allow wills to be lodged with the superior court. Of course, we might consider reducing the burden on the judicial system by implementing a hybrid system, in which electronic copies of wills are securely registered, but the drafting attorney is required to store the original will.

With AI presenting an increasing number of both opportunities and challenges, it behooves the legal profession to take a measured but proactive approach to how it might protect and serve the public. Part of this means taking inspiration from multiple approaches to the inheritance process. And if we are to look for inspiration, why not start close by, with our fellow jurists across our southern border? ■

Daniel J. Esparza is a senior associate attorney at Lincoln & Wenk, PLLC. His current practice areas include estate planning, guardianships/conservatorship, and probate. He is also a Board Member on the Sun Health Foundation Board of Trustees.

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Nicholas Boca

Achieving Excellence Together: Why the MCBA 100% Club is a Smart Investment for Your Firm

The practice of law, particularly in a dynamic and large jurisdiction like Maricopa County, is not merely an occupation; it is a commitment to continuous professional development and community engagement. At the heart of this thriving legal community is the Maricopa County Bar Association (MCBA), a vital organization dedicated to supporting its members and advancing the administration of justice. For forward-thinking firms seeking to maximize their potential and demonstrate an unwavering commitment to their attorneys, joining the MCBA 100% Club is an essential strategic move—not a mere optional expense.

The 100% Club is an exclusive designation for firms that recognize the indispensable value of the MCBA by ensuring that every single lawyer in the firm is a current MCBA member. This collective commitment sends a powerful internal and external message: this firm prioritizes professional excellence, believes in community-wide collaboration, and invests fully in the career growth and success of all its legal talent.

The Indispensable Value of MCBA Membership for Every Attorney

For individual lawyers in your firm, MCBA membership provides a robust platform for professional growth that extends far beyond the basic credentials.

1. **Unparalleled Professional Development:** The MCBA offers a rich calendar of high-quality Continuing Legal Education (CLE) programs designed to keep attorneys current on the latest legal developments, best practices, and technological advancements. From specialized section meetings to large-scale seminars, these programs are crucial for maintaining competence and cultivating expertise. For a firm to truly thrive, every attorney, from the newest associate to the most seasoned partner, must have easy access to this continual knowledge pipeline.

2. **Strategic Networking and Relationship Building:** Law is a relationship-driven profession. MCBA events, sections, and committees provide invaluable opportunities for your attorneys to connect with judges, opposing counsel, and potential referral sources. These relationships are critical for career advancement, collaborative problem-solving, and maintaining professional decorum and civility in the courtroom and negotiation settings. When every lawyer is a member, the firm's collective network—its professional footprint—expands exponentially.

3. **Community Engagement:** Membership keeps attorneys connected to the pulse of the local legal system, offering opportunities to participate in pro bono work. This engagement not only strengthens an attorney's commitment to justice but also enhances their reputation as a respected and conscientious member of the bar.

A Smart Investment: The Benefits of the 100% Club for Your Firm

While the benefits to individual lawyers are substantial, the collective value of 100% Club membership to the firm itself makes it a wise and essential investment.

1. Enhancing Firm Culture and Morale: By paying for all memberships, the firm signals that professional investment and collaboration are core values. It eliminates administrative burdens and potential equity issues that arise when only some lawyers are encouraged or

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Seeing Double: Tricky Grammar Points

Have you ever read double words (echo words) in a sentence and done a double take? Especially if your grammar checker does not flag the construction as incorrect? I have. My initial reaction is to rewrite the sentence to avoid the echo. But before scrapping my writing and starting over, I wanted to investigate why I was seeing double.

That That

When you encounter a double "that," you are usually seeing two clauses working together. The first "that" typically acts as a subordinating conjunction, while the second functions as an adjective, pronoun, or adverb.

I think that that witness should testify first.

Although grammatically correct, I suggest avoiding these echo words by eliminating the initial phrase and conjunction (that) or substituting in the noun.

That witness should testify first.

I think that Officer Liu should testify first.

Is Is

Many times, these echo words are not grammatically correct.

Incorrect: *The problem is is that the meeting was cancelled.*

Because the subject of the sentence is "the problem," only one verb is needed.

Correct: *The problem is that the meeting was cancelled.*

Occasionally the subject may be a phrase that includes the word "is" (what she is). This construction is known as a double or reduplicative copula, which is used for rhetorical effect.

What she is is a judge.

Even though I would argue this is a correct construction, I suggest avoiding it.

She is a judge.

Had Had

These echo words are grammatically correct because they indicate the past perfect tense of the verb "to be." A writer uses the past perfect tense to show than one action happened before another action in the same sentence.

She had had time to take notes before she left work.

In sum, even when echo words are technically right, they can disrupt the flow of writing and confuse readers. A careful balance between grammar and readability will help your writing stay both correct and clear. ■

Clerk's Office Launches Scanned Orders and Judgments Project

The Clerk of the Court's Office is excited to announce the launch of the *Scanned Orders and Judgments Project*: a new initiative designed to streamline court operations and enhance customer service by delivering scanned orders and judgments directly to all endorsed parties.

The project, which was rolled out in stages across multiple court divisions this fall, represents a major step forward in improving efficiency, accuracy, and access to justice. Under the new process, courtroom clerks will no longer need to create minute entries to notify parties when an order is signed outside of a court proceeding. Instead, the signed order itself will be scanned and distributed. This change not only reduces unnecessary steps for clerks but also ensures that parties receive timely and accurate documentation.

This initiative really is a win for everyone! Courtroom clerks will save time, judicial officers and division staff will benefit from streamlined processes, and most importantly, customers will have faster and more direct access to their case information.

I want to also recognize the amazing work of the Clerk of Court DTI teams for getting this initiative off the ground. Their hard work has made this innovation possible, and it will have lasting benefits for Court staff, Clerk's Office staff, and the public.

Step Toward the Future

Beyond its immediate benefits, the Scanned Orders and Judgments Project lays the foundation for future technological advancements within the court system. It represents the first step toward integrating scanned documents into Judicial Review, a long-term goal aimed at further increasing transparency and accessibility.

This project reflects our office's ongoing commitment to innovation. We are continually looking for ways to modernize, invest in technology, and improve the customer experience. By reducing redundant processes and providing direct access to essential documents, we are making the justice system more efficient and more user-friendly.

Enhancing Access to Justice

This change also highlights a broader philosophy guiding the Clerk's Office—one that places customer service at the forefront. By moving from minute entries to distributing scanned orders, parties are given the information they need in a clearer and more immediate way. This not only helps attorneys and litigants stay informed but also supports our mission of ensuring fair and timely access to justice.

The Scanned Orders and Judgments Project serves as another example of how the Clerk's Office is adopting innovative solutions to meet the needs of the courts and the community it serves. As technology continues to evolve, Clerk of Court leadership remains committed to finding better ways to deliver services with efficiency, accuracy, and care. ■

PUBLIC LAWYERS DIVISION PRESIDENT

Cary L. Lackey

Burnout and Self-Care in Public Law: Protecting Ourselves to Better Serve Others

The Challenge of Burnout in Public Law

Attorneys working in the public sector shoulder unique responsibilities. Public defenders, prosecutors, agency counsel, and government attorneys often manage overwhelming caseloads with fewer resources than their private-sector counterparts. The subject matter—poverty, violence, mental health, discrimination, systemic inequities—can be emotionally draining.

Over time, these pressures can lead to burnout, a state of emotional, mental, and physical exhaustion. Warning signs may include persistent fatigue, irritability, difficulty concentrating, withdrawal from colleagues, family, friends, and/or a creeping sense of hopelessness. If ignored, burnout can escalate to depression, substance abuse, or departure from the profession.

Why Self-Care Matters

In public practice, there is often an unspoken expectation of self-sacrifice: working late nights, prioritizing clients above personal health, and accepting stress as "part of the job." Yet neglecting well-being undermines not only attorneys, but their clients and the justice system itself, as well.

The ABA Model Rules of Professional Conduct emphasize competence, and competence requires a healthy, functioning lawyer. Self-care is not an indulgence—it is a professional duty. When we care for ourselves, we safeguard our ability to provide effective representation of our clients and maintain the integrity of our work.

Practical Strategies for Resilience

Self-care doesn't need to be complicated. Even small, intentional habits can help sustain energy and perspective:

- Set boundaries: Define clear work hours where and when possible; resist the urge to always be "on." Limiting after-hours email helps create mental separation between work and life.
- Pause with purpose: Take short breaks during the day. A five-minute walk, deep breathing exercise, or even stepping outside for fresh air can reset focus.
- Connect with peers: Build supportive relationships with colleagues who understand the challenges of public law. Peer support groups and mentorship provide both encouragement and perspective.
- Move your body: Regular physical activity—whether walking, yoga, or strength training—reduces stress and improves mood.
- Use resources: Many bar associations (including our own Arizona State Bar) provide confidential lawyer assistance programs that address stress, burnout, and mental health challenges.
- Remember your impact: Take time to reflect on successes and the differences your work makes. Gratitude practices help balance the exposure to trauma and setbacks.

Building a Culture of Wellness

Individual strategies are essential, but broader cultural shifts are also needed. Public law organizations can play a critical role by:

- Normalizing conversations about mental health and stress.
- Offering access to wellness programs and employee assistance services.
- Training supervisors to recognize burnout and support their teams effectively.
- Advocating for manageable caseloads and fair compensation.

When organizations embrace well-being as part of professional excellence, they empower attorneys to remain resilient and effective in their service.

Conclusion

Burnout in public law is a pressing reality, but it does not have to define our profession. By recognizing the warning signs, adopting self-care practices, and encouraging institutional support, we can sustain both our own well-being and our commitment to justice.

Caring for ourselves is not separate from our mission—it is essential to it. ■

Post-OBBBA Estate Planning: Taking Advantage of the New High Exemptions

Sarah Clifford

The passage and signing of the One Big Beautiful Bill Act (OBBBA) on July 4, 2025, has fundamentally transformed the estate planning landscape for high-net-worth families. President Trump's signature on this comprehensive tax legislation permanently set the federal unified estate and gift tax exclusion amount at $15 million per individual, or $30 million for married couples, effective for calendar year 2026, with subsequent inflation indexing beginning in 2027.

This landmark change eliminates the uncertainty that dominated estate planning discussions in the first half of 2025 and creates an entirely new strategic framework for wealth transfer planning.

For estate planning practitioners, the OBBBA represents both relief from the previously looming "fiscal cliff" and a new set of considerations for advising clients. The days of urgent "use it or lose it" planning are over. They have been replaced by more nuanced strategic decisions about optimal timing, tax efficiency, and family wealth objectives in a permanently high-exemption environment.

From Crisis to Certainty

Throughout the first half of 2025, estate planning practitioners operated under the assumption that the 2017 Tax Cuts and Jobs Act's (TCJA) doubled exemption would sunset on December 31, 2025, reverting to approximately $7 million per person or $14 million per married couple. This created unprecedented urgency for large wealth transfers, with many families rushing to complete substantial gifts before the anticipated reduction.

The OBBBA not only extended the high exemption but increased it further. The legislation permanently sets the federal unified estate and gift tax exclusion amount at $15 million per individual, or $30 million for married couples, effective for calendar year 2026, with inflation beginning in 2027. This provides unprecedented certainty for long-term wealth planning.

Recalibrating the Stepped-Up Basis Analysis

One of the most significant implications of the OBBBA is its impact on the traditional trade-off between estate tax savings and the fact that assets receive a “step-up” in tax basis at the transferor's death.

For individuals with estates below $15 million per person, and married couples below the $30 million combined exemption, the analysis now heavily favors retaining assets until death to capture the stepped-up basis benefit. Consider a married couple with a $20 million estate consisting largely of highly appreciated assets. Under previous law, this family potentially faced significant estate tax exposure and had strong incentives to make lifetime gifts. Under the OBBBA, the same family faces no estate tax and should generally retain assets to benefit from the basis step-up.

Planning for Appreciation Beyond the Exemption

For individuals with estates above $15 million per person, and married couples above the $30 million combined exemption, the analysis becomes more complex. These families must balance the probability and timing of exceeding the exemption against the certainty of current income tax benefits from step-up basis.

Advanced techniques like sales to intentionally defective grantor trusts, which remove the asset from the grantor's estate for estate tax purposes but allow the grantor to continue to pay income tax, may become more attractive in this environment. These strategies allow families to benefit from continued growth while gradually transferring wealth in a tax-efficient manner.

Looking Forward: Long-Term Implications

While the OBBBA's permanent nature provides unprecedented stability for estate planning, there are several factors that warrant ongoing attention.

Political Durability

While the OBBBA establishes permanent exemption levels, future political changes could still affect estate tax policy. Practitioners should help clients understand that "permanent" in tax law means "until Congress changes it" and maintain some flexibility in planning approaches.

Economic and Fiscal Pressures

Extending the cuts has caused some economists to worry it could boost inflationary pressures and worsen America's fiscal trajectory. The $4.5 trillion reduction in tax revenues could increase the budget deficit and push up interest costs, though the government's recent efforts in efficiency and spending reduction could offset any loss in tax revenue.

Evolving Planning Techniques

The stable exemption environment may foster the development of new planning techniques optimized for the permanent high-exemption regime. Practitioners should stay current with emerging strategies and techniques that take advantage of the new environment.

Conclusion

The window of urgent action may have closed, but the window of strategic opportunity has opened wider than ever before. The most successful estate planning in the post-OBBBA era will be that which takes full advantage of this stability to build robust, flexible, and family-centered wealth transfer strategies designed to serve multiple generations. ■

Sarah M. Clifford is a shareholder at Gallagher & Kennedy, advising individuals, families, and business owners with their estate planning to help manage and preserve wealth and assets. Her experience includes probate and trust administration, including representation of high-net-worth clients with complex trusts and estates.

Estate Planning Considerations for Student Athletes in the NIL Era

Michelle Ronan

For years leading up to the National Collegiate Athletic Association's (“NCAA”) adoption of an interim policy allowing college athletes to benefit from their name, image, and likeness (“NIL”), athletes peppered NCAA with lawsuits seeking to gain the slightest advancement in policy. In 2015, the Ninth Circuit Court of Appeals opened the door ever so slightly with its ruling that NCAA member schools could award grants-in-aid up to the full cost of attendance, instead of limiting such grants to things like tuition and fees. See *O'Bannon. v. Nat'l Collegiate Athletic Ass'n,* 802 F. 3d 1049 (9th Cir. 2015). In 2021, the Supreme Court further released the reins on education-related benefits for student athletes with its ruling in *Nat'l Collegiate Athletic Ass'n v. Alston,* 594 U.S. 69 (2021) (precluding NCAA from limiting education-related benefits, such as graduate school scholarships and post-eligibility internships, that member conferences or schools could provide to student athletes). With victories on education-related expenses, college athletes shifted their focus to rules prohibiting them from receiving compensation in exchange for commercial use of their NIL.

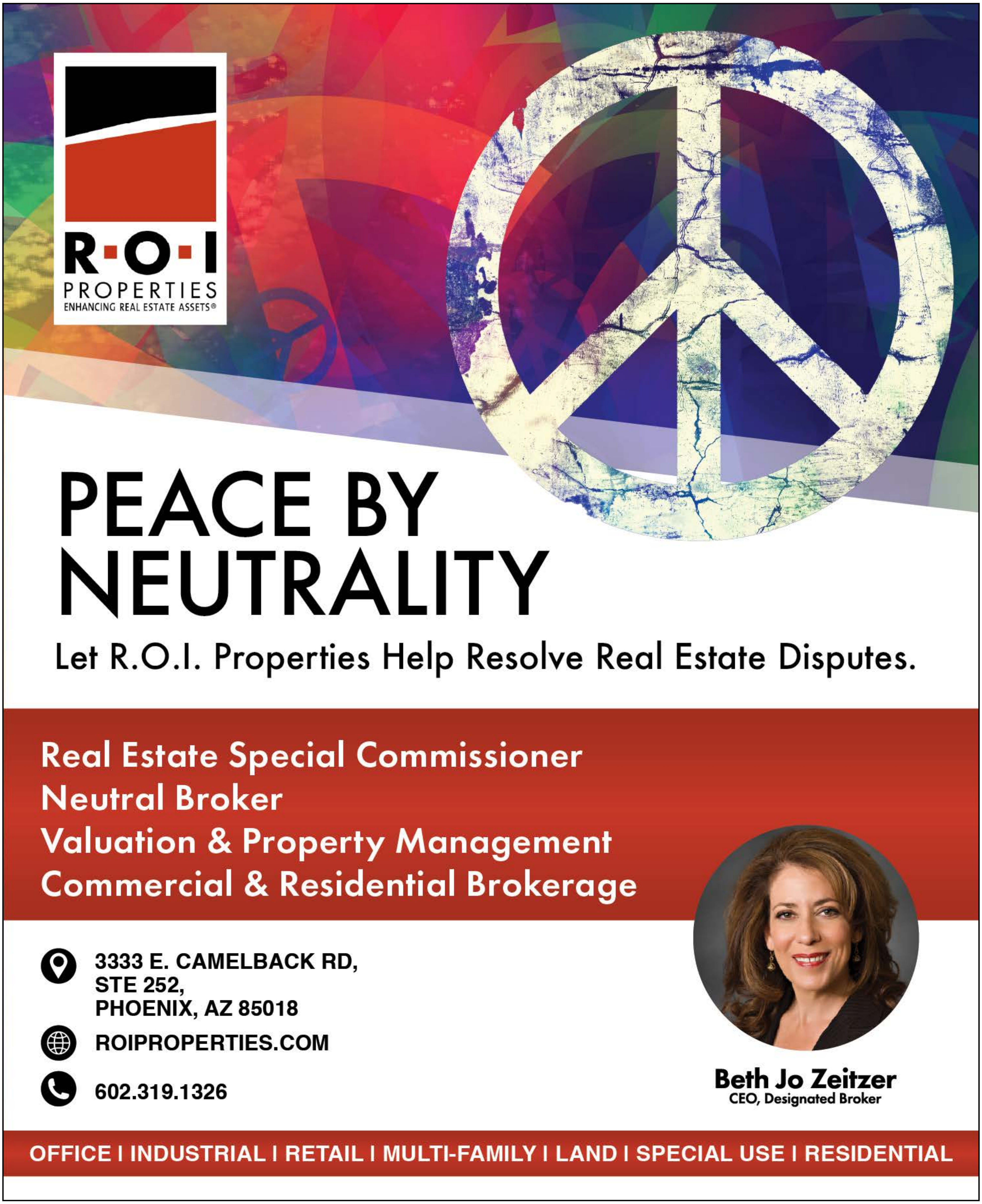
In 2021, the NCAA adopted a uniform interim policy suspending its prior rules prohibiting compensation for NIL. In part, the new policy allowed college athletes to engage in NIL activities that were consistent with the law of the state where the school was located. At that time, Arizona law allowed student athletes to receive compensation for their NIL but provided no guidance on what constituted permitted NIL activities. Effective May 7, 2025, in response to a settlement agreement reached in *House v. National Collegiate Athletic Association,* 4:20-cv-03919 (N.D.Cal.) and related consolidated cases, Arizona's NIL statute, A.R.S. §15-1892, was amended to not only allow college athletes in Arizona to earn compensation for their NIL, but also allow colleges and universities to pay these athletes for their NIL directly. Some believe this change in law will result in a significant amount of college athletes in dire need of competent estate planning.

For estate planning practitioners, young athletes receiving compensation for their NIL come with a unique set of circumstances, including that student athletes are (i) young, (ii) likely coming into a significant amount of money for which they lack the financial acumen to manage, (iii) likely yet to marry, have children or start their career, and (iv) facing a high risk of a debilitating injury.

As with any estate plan, careful consideration of the client's circumstances and goals is necessary, but for student athletes, practitioners may also want to consider the following:

- Does a revocable or irrevocable trust make the most sense? While a revocable trust may provide more flexibility for future life changes, some privacy protection and simplified asset management, it may fail to provide the desired tax benefits or creditor protection that an athlete desires. At the same time, given the athlete's circumstances and stage in life, does it make sense to remove certain assets from the athlete's control as may be required under an irrevocable trust?
- How does the estate plan deal with disability or incapacity? How is the athlete protected financially if the athlete is no longer able to participate in athletics? Who makes the decision about what treatment is necessary for the athlete when the treatment could potentially end the athlete's chances for a professional career or future NIL compensation?
- Does the estate plan incorporate a sustainable business succession plan? NIL deals can quickly turn into profitable businesses and creating a plan for the long-term sustainability of the business is key.
- How does the athlete protect his or her intellectual property or trademarks that result from the NIL deals? Advising your client to consult with an intellectual property lawyer may be key for the athlete to maintain control over his or her personal brand.
- What are the tax consequences? How would charitable giving play into the athlete's tax strategy? What about gifting to friends and family? Should you be working with a tax professional to structure the athlete's estate plan?

We have only begun to see the impact of the new NIL rules. As more college athletes challenge the current rules and regulations, more changes are undoubtedly on the horizon. In the meantime, as Arizona college athletes begin receiving compensation for their NIL, they should consider, and estate planning practitioners should encourage, an estate plan unique to the athlete's circumstances and one that addresses not only the opportunities associated with NIL deals, but also the risks. ■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the mediator, or, failing that, inform your client about the mediator. Establish trust in you, and in the process. Trust is key, and it goes a long way. Help your client understand the risks he or she faces. Help him or her understand what it means not to resolve the case, and what the economic impact of that may be (good or bad). Never underestimate—or fail to educate your client on—the emotional and psychological value of closure. The economic value of closure may be different for everyone, but the peace having an end to litigation works on body and soul is universal.

Finally, prepare the mediator. Don't leave the heavy lifting to the mediator. The mediator's job is to help the parties see things a different way, and to explain risk and the benefit of resolution. Dumping ten deposition transcripts on a mediator a few days before the mediation and expecting the mediator to comb through for helpful kernels isn't realistic, and it's just lazy lawyering. It's your case. Show the mediator the evidence, don't simply tell the mediator about it. Give the mediator the tools he or she needs to be your advocate in the other room. Come prepared to make a deal, and to make reasonable concessions. Let the mediator really get to know your client and your case. And share your mediation memorandum with opposing counsel. It makes the mediator's job much easier when he or she can share the key strengths of your case with the other side using your actual words. Moreover, exchanging memoranda allows both sides to directly understand the key points they need to address at mediation.

There really is no secret sauce to mediation, but, without proper preparation, one will not get the best result possible under the circumstances. Do the work early, so the mediation process can work and get your case resolved. ■

Shannon Clark is a trial lawyer at Gallagher & Kennedy, PA. He is co-chair of the firm's Personal Injury and Wrongful Death litigation group, and also serves as an independent neutral mediator and arbitrator when he's not litigating his own cases.

Achieving Excellence

continued from page 2

funded to join. This unified approach fosters a strong, supportive firm culture where every lawyer feels equally valued and empowered to utilize the best resources available.

2. Demonstrating Professional Leadership: Achieving 100% Club status is a clear, public demonstration of the firm's leadership within the Maricopa County legal community. It's a visible commitment to the quality of its legal team and to the overarching health of the local bar. This recognition bolsters the firm's brand, aiding in both client attraction and, critically, in the recruitment and retention of top legal talent who seek employment at firms that prioritize professional growth.

3. Exclusive, Tangible Returns on Investment: As a token of appreciation for this comprehensive commitment, the MCBA provides 100% Club firms with exclusive, valuable benefits that directly support the firm's operational excellence and team development:

- **A $300 Firm CLE Credit:** This credit offers immediate, practical support for the professional growth of your attorneys. It can be strategically used to fund a specialized training seminar, cover the cost of several key ethics courses, or otherwise offset the firm's annual CLE budget. It is a direct financial return on the firm's collective membership dues.
- **A Free Firm Member Membership for One Office Administrator or Paralegal:** This benefit is a smart recognition of the vital role support staff play in the delivery of legal services. It ensures your core team members—the people who manage the operations, client relations, and complex case logistics—have broader access to MCBA resources, networking with their peers, and relevant non-legal-specific professional development opportunities. This elevates the capabilities of your entire team.

By enrolling in the 100% Club, your firm affirms its belief that the whole is greater than the sum of its parts, and that collective investment in professional growth is the clearest path to achieving excellence. ■

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PRO BONO PROFILES

Community Legal Services' Volunteer Lawyers Program

Thanks All Pro Bono Attorneys & Applauds Diane Drain, AIC's Bankruptcy Distinguished Service Award Recipient

Volunteers don't get paid, not because they're worthless, but because they're priceless.
(Sherry Anderson)

The heart of a volunteer is not measured in size, but by the depth of the commitment to make a difference in the lives of others.
(DeAnn Hollis)

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

As fall settles in and many of us look forward to celebrating Thanksgiving, Community Legal Services (CLS), an Arizona legal aid law firm and the home of the Volunteer Lawyers Program (VLP), extends our deepest gratitude for our dedicated CLS/VLP Pro Bono Attorney Team. CLS/VLP provides legal services for underserved communities in five Arizona counties, and we could not serve the myriads of clients we help without our volunteer attorneys' dedication and selfless pro bono service. Their generosity grants access to justice and the legal system, that would otherwise not exist. Thank you, CLS/VLP Attorneys, for your amazing generosity and dedication!

Diane L. Drain, Esquire, Recipient of the 2025 American Inns of Court Bankruptcy Distinguished Service Award.

Diane Drain, one of our stellar CLS/VLP volunteer attorneys, received national recognition for helping our clients and other self-represented litigants navigate their way through the bankruptcy process for over two decades. After Diane started volunteering, she "left a large firm because they did not support my commitment to help my community by volunteering and teaching."

Several Arizona judges—including Arizona Supreme Court Chief Justice Ann Scott Timmer—attorneys, and colleagues supported CLS/VLP's nomination for Diane to receive this prestigious award. Diane was honored at the Supreme Court of the United States during American Inns of Court's *Celebration of Excellence* on October 25, 2025. On September 9, 2025, a national Press Release from *Business Wire* reported:

Diane L. Drain of the Law Office of D.L. Drain LP has been selected to receive the prestigious *2025 American Inns of Court Bankruptcy Distinguished Service Award*, which recognizes a judge or attorney specializing in bankruptcy law who has exhibited ongoing dedication to the highest standards of the legal profession, the rule of law, and personal ethics and integrity. Drain will receive the award at the National Conference of Bankruptcy Judges in Chicago in September.

bit.ly/AIC_Bankruptcy2025

Sharon Sergent, CLS Executive Director, nominated Diane for this award on behalf of CLS/VLP. She states, "I can attest to Diane's dedication and commitment to pro bono service, and our entire Arizona legal aid community has benefited from Diane's ongoing contributions to the field of bankruptcy." She continues:

Even more importantly, Diane has served a myriad of clients who are so desperate for legal assistance through her ongoing pro bono service as a CLS/VLP pro bono attorney, her creation and dedication to serving pro se litigants at the Self-Help Center at the Arizona Bankruptcy Court, her never-ending mentorship, and her willingness to teach and train attorneys and assist clients by representing them directly or assisting them with representing themselves.

Diane advocates for her clients in a conservative and pragmatic manner. She firmly believes that "going to work every day is a joy, not a job, when you find your passion." Diane has also passionately served CLS/VLP clients for over two decades, providing pro bono assistance in a bankruptcy clinic and as a resource for CLS/VLP staff regarding all things bankruptcy. Her clients and fellow attorneys attest to her passion and dedication. In 2023, Drain received CLS/VLP's *Bankruptcy Attorney of the Year Award*. She also received a *Foundation for Justice Award* for giving her time and expertise to change the justice system to promote access and opportunity for the most vulnerable.

We asked Diane a few questions about her work as a CLS/VLP attorney and the pro bono service she provides to our clients.

How have you helped our VLP clients to achieve better outcomes than they would have gotten without your assistance?

The US Constitution gives everyone the right to file bankruptcy. The real question should not be "how do I file bankruptcy," but "should I file bankruptcy?" Anyone filing for bankruptcy should know their rights and obligations. They need to know the consequences of actions they took in the past and how that affects them, and others, if a bankruptcy is filed. Therefore, my focus is to understand each person's financial situation and guide them as to the consequences of filing for bankruptcy. So many bankruptcy law firms see potential debtors as a cash register and do not care about the consequences to that person if a bankruptcy is filed. An inexperienced attorney may not understand the consequences and fail to give their clients accurate advice. Whether intentional or innocent, bad legal advice about the consequences to the debtor can be catastrophic – and lead to losing their home or vehicle, losing the ability to discharge their debts, lawsuits against their family or friends, all of which could have been avoided.

Please tell us about some clients you helped and made a positive difference in their lives.

• "Kim" is raising two grandchildren and living solely on Social Security. The funds were being deposited into a family member's bank account and then transferred to her own bank account. A creditor was garnishing that bank account (at the time the bank account exemption was only $300). Kim was unaware those funds could be exempt and had failed to notify her bank. The grandchildren are at an age where they no longer need her constant supervision, so Kim wants to find a job that will allow her to supplement meager income. Bankruptcy will help her take control of her finances.

• "Jill" has reading and comprehension disabilities but has not filed for disability. She lives with her mother, who is going into an assisted living facility soon but is relatively healthy. Once her mother passes, Jill will inherit; meanwhile, she is left without income. Filing bankruptcy will allow Jill to discharge most debts and also stop the dozens of harassing calls she is receiving daily. It also opens the way for her to inherit her mom's estate.

• "Bob" has been unemployed for 3 years due to COVID. When CLS/VLP referred him, he had just been offered a new job that would cover all his current living expenses, but not the prior expenses, nor several thousand dollars in medical bills. Bankruptcy will eliminate past expenses and allow him an opportunity for a fresh start.

What is your favorite part about providing our CLS/VLP clients with pro bono service?

At the beginning of our relationship, my clients are afraid of everything, including answering their phone or opening their mail. I see the fear in their eyes and hear it in their voices. When I file their bankruptcy, most are relieved, but they know there are several steps before the bankruptcy is completed. I love to hear the relief in their voices when I call to tell them their bankruptcy is finished. Many of my client reviews give me shivers, such as,

*Her focus is on doing things *right* and getting the best result for her clients. I was a hot wreck through the bankruptcy process, but Diane never let me feel less for any of it. She was encouraging, kind, and informative—often repeating the same answers to me because I could barely process things and needed to be told repeatedly. She never made me feel bad or like I was an inconvenience to her. Every question I had, she answered. Every concern I had, she was able to walk me through.*

What do you get out of serving our pro bono clients?

My paternal grandmother, Flora Frye, was my hero. She showed me what one person can do to make a difference in hundreds or thousands of lives. It was the spring before I started law school, and she invited me to join her at the Arizona Legislature. I was curious why she was there and thought it might be interesting to learn more about the woman who was helping put me through law school. We sat in the audience, and, much to my surprise, she got up to testify. This woman, who had been a farmer for 50 years, seemed right at home amidst all the males in suits (don't recall seeing any woman, except the secretaries). Turns out that she was testifying in front of the Arizona Legislature to get funding for a new project she started in Yuma, called *Displaced Homemakers*. End of story – she got her funding. Later that day, the Speaker of the House whispered to me, "If Flora Frye wants something, just give it to her because she will get it anyway." That was almost 45 years ago, and I still remember it today. What cemented my commitment to using the law to help others was my father's words when I announced acceptance to law school: "No lady can be a good lawyer." That was surprising, especially given that he was my grandma's only child. I didn't know if he was serious, but his words were so shocking and contrary to my grandmother's support that they solidified my goal for grandma's legacy to live on. Fast forward to the present: this experience led me to establish the Self-Help Center, help create ACBC and volunteer with CLS/VLP to help those who could not help themselves. I tell my pro bono clients about my grandma and that my fees – or lack thereof – are her gift to them.

For what are you most grateful?

I am thankful for the support I received from everyone around me – Jay, my husband of 35 years, and my mentors, such as Jim Kahn, plus so many others. I have been the luckiest person in the world when it comes to surrounding myself with great people and having the freedom to help those who need my help.

Roni Tropper, Director of VLP, states, "We are so grateful for Diane's long-term commitment and dedication to providing pro bono service for our clients. I am also personally grateful for Diane's mentorship and support. At this time of year and always, we want to express how much we appreciate all our VLP Attorneys and Volunteers who give so much of themselves to make a difference and enrich the lives of hundreds and their families every day. Come experience the gift of giving your time and expertise and see the rewards you'll reap for helping our clients, who so desperately need you." ■

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

Contact:

Roni Tropper, *CLS/VLP Director* at rtropper@clsaz.org

Konnie K. Young, *CLS/VLP Pro Bono Attorney Coordinator,* at kyoung@clsaz.org

Visit our website: https://clsaz.org/volunteer-lawyers-program/

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

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Dyer Bregman Ferris Wong & Carter PLLC

Gabriella Curatola –
ASU Intern

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BANKRUPTCY

David Engelman
CLS/ VLP Certified Pro Bono Counsel

Sheng Qin
Law Office of Fred H. Welch PLLC

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MayesTelles PLLC

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.

VLP THANKS THESE VOLUNTEERS WHO PROVIDED OTHER LEGAL ASSISTANCE DURING THE MONTH

ALLEN JONES & GILES CLINIC

Ryan Deutsch
Michael A. Jones
David B. Nelson
Zachary Phillips

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Andrew S. Jacob

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Heidi Davis
Shawnna Riggers

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Krista Robinson
Alden Thomas
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Greg Davis
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Charles I. Friedman
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Katherine Kraus
Elizabeth Langford
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Camila Alarcon
Michael A. Jones
James E. McDougall and Jennifer Cardenas
Adam P. Palmer
Donald W. Powell
Scott H. Zwillinger

VLP THANKS THE FOLLOWING INDIVIDUALS WHO RECENTLY HELPED OR ENCOURAGED COLLEAGUES TO VOLUNTEER WITH VLP

Kent S. Berk | Jeff Katz | Shawnna Riggers | Chief Justice Ann Scott Timmer | Gregg R. Woodnick

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

Q&A

LAWYER LIABILITY AND ETHICS

We Don't Need No (ABA accredited) Education

Joseph Brophy

Who needs the ABA anyway? The thought has probably crossed most lawyers', law students', and prospective law students' minds at least once or twice. But the question is no longer just a passing thought. At least, not for the supreme courts of Florida, Ohio, Texas, and Tennessee.

Earlier this year, President Trump took aim at Diversity, Equity, and Inclusion (DEI) practices in, among other areas, higher education. Through Executive Order 14173 "Ending Illegal Discrimination and Restoring Merit-Based Opportunity" and other orders, the administration sought to revoke federal grant funding for higher education organizations that implemented DEI policies. At the time, the ABA had such a policy in place, known as Standard 206, which required accredited law schools to demonstrate a commitment to diversity in student recruitment, hiring, and programming.

In February, President Trump and the Department of Justice threatened to revoke the ABA's federal accreditation authority unless it complied with the administration's policy directives regarding the elimination of DEI practices. In response to this threat, the executive orders, and a "Dear Colleague" letter issued by the Department of Education dated February 14, 2025, the Council of the ABA section of Legal Education and Admissions to the Bar suspended Standard 206 until August 31, 2025 so that it can review and amend the standard. In May, that suspension was extended and will remain in effect until at least August 21, 2026. This appears to have stayed the ABA's appointment with the Trump Administration's guillotine, for now anyway.

However, the ABA's apparent efforts to placate the feds have not stopped the states from looking at the accreditation issue. On April 4, the Court solicited public comments on "whether to reduce or end the Rules' reliance on the American Bar Association. On September 16, the Supreme Court of Tennessee issued order No. ADM2025-01403 that sought written comments from the Tennessee Board of Law Examiners, the Tennessee Access to Justice Commission, law schools, academia, professionals organizations, member of the Bar, and the public on several issues, including "whether the Court should modify, reduce, or eliminate its reliance on ABA accreditation…" The court cited, among its many goals, "lowering barriers to entry in the legal profession." The Court also references the Committee on Legal Education and Admissions Reform's (CLEAR) purpose of "ensur[ing] public trust and confidence in the legal profession."

On September 26, after reviewing public comments on the ABA, the Supreme Court of Texas issued an order, Misc. Docket No. 25-9070, "Preliminary Approval of Amendments to Rule 1 of the Rules Governing Admission to the Bar of Texas." The Texas court stated that it "is of the tentative opinion that the ABA should no longer have the final say on whether a law school's graduated are eligible to sit for the Texas bar exam and become licensed to practice law in Texas." The proposed rule change would replace "American Bar Association" with "Supreme Court" in the definition of "Approved Law School." Texas is currently soliciting comments regarding the proposed rule change, with an eye toward it taking effect in 2026. The court further clarified that it "intends to preserve the portability of Texas law-school degrees into other states." But the court provided no details on how this would be accomplished in light of the pervasive requirement all over the country of an ABA accredited degree to practice law.

What started earlier this year as a splash in your morning headlines is fast becoming a wave. Both Florida and Ohio's Supreme Courts are reviewing the accreditation process and requirements for law schools in their states. And as this wave swells, the universality and integrity of the legal education system in the United States is poised to be potentially inundated with new, non-accredited (by the ABA anyway) law schools. What that means, particularly for the portability of law degrees and the license to practice law in different states, is anyone's guess. But it appears this train is leaving the station.

Probate versus Probate

By Thomas W. Aldous Jr.

When a person dies, title passes to the individual's heirs if the individual died without a will or to the devisees if the individual died with a will.[1] Because title vests in the heirs or devisees at death, it is not always necessary to qualify a personal representative to prove title.[2] This article focuses on persons dying with a will.

Probate does not require appointment of a personal representative. Probate is the judicial procedure by which a testamentary document is established to be a valid will: the proving of a will to the satisfaction of the court.[3] The term now has also loosely extended to the process of administering the estate of a deceased person. But probate, meaning proving that a will is valid, and appointment of a personal representative are two distinct actions.[4] A person can probate a will and not seek appointment of a personal representative.[5]

A probated will, by itself, is proof of title in the absence of any administration.[6] A person can probate a will and thereby prove title without the appointment of a personal representative and without qualifying for a small estate affidavit.[7] For example, if real estate was not transferred to a revocable trust, a probated pour-over will can prove transfer of title to the trust after death, and qualification of a personal representative is not required.[8]

If a person does qualify as personal representative, that person has "power" over the property, not title.[9] The personal representative, if properly acting within the scope of its duties, may exercise the power and divest the heirs or devisees of title by transferring property.[10] If the power is not exercised during administration, the lapse of this power clears title in the devisees (or heirs).[11] This is why at the termination of estate administration, a personal representative may "release" its power over estate property owned by the deceased at death.[12]

Failure to probate a will may result in loss of the property if an heir claims title through intestacy and disposes of the property to a bona fide purchaser. In *In re Est. of Parker*, 217 Ariz. 563 (Ct. App. 2008), purchasers of real property were able to quiet title in their favor when they relied on a surviving spouse's small estate affidavit even though there was an unprobated will that devised the real estate to someone other than the surviving spouse. The devisee in Parker could have protected its interest by probating the will and, for good measure, recording the probated will in the land records.

As a practical matter, simply relying on a probated will to prove title may be helpful when there is one clear devisee (such as the deceased's revocable trust). If there is more than one devisee and the personal representative has the power to distribute estate assets non-pro rata among several devisees, administration through a personal representative is likely preferable if the beneficiaries do not want to own an equal share of each item owned by the decedent at death.[13] In that case, the beneficiaries may want a personal representative who can exercise power over the property.[14] ■

[1] Ariz. Rev. Stat. Ann. §14-3101(A); Ariz. Rev. Stat. Ann. §14-3901; see also *In re McDonnell's Estate*, 65 Ariz. 248, 252 (1947) (stating it is fundamental that immediately upon death title to real property vests in the heirs who may then convey their interests subject, of course, to the ordinary processes of administration and the rights of creditors).

[2] If there is no administration of the estate, the persons entitled to the property take subject to creditor claims. Ariz. Rev. Stat. Ann. §14-3901.

[3] PROBATE, Black's Law Dictionary (11th ed. 2019).

[4] Ariz. Rev. Stat. Ann. §14-3301; Ariz. Rev. Stat. Ann. §14-3402 (acknowledging a formal probate or adjudication of intestacy may be "with or without request for appointment of a personal representative").

[5] See Ariz. Rev. Stat. Ann. §14-3301. Note differences between (B)(1) and (B)(2). (B)(2) only applies to probate of a will.

[6] Ariz. Rev. Stat. Ann. §14-3901(A) (devisees may establish title by the probated will to devised property).

[7] In general, to be effective to prove the transfer of any property, a will must be declared to be valid by a statement of informal probate by the registrar or an adjudication of probate by the court. See Ariz. Rev. Stat. Ann. §14-3102. However, probate is not necessarily required if one is relying on a small estate affidavit. Ariz. Rev. State. Ann. §14-3971(E)(4) (noting that an affidavit for real estate can include the attached original will or state that the will was probated). A small estate affidavit is not a deed or instrument of transfer. A small estate affidavit assures the person in possession of property that it can pay over property to the person presenting the small estate affidavit. The person or persons presenting the small estate affidavit already received title at the death of the deceased under Ariz. Rev. Stat. Ann. §14-3101. In litigation, it is also possible to rely on an unprobated will as evidence of a devise. Ariz. Rev. Stat. Ann. §14-3102. But no court proceeding concerning the succession or administration of the estate could have occurred and either the devisee or his successors and assigns must have possessed the property devised in accordance with the provisions of the will, or the property devised was not possessed or claimed by anyone by virtue of the decedent's title during the time period for testacy proceedings. Ariz. Rev. Stat. Ann. §14-3102.

[8] The author has experience with title companies insuring title to real estate based on a probated will and without a small estate affidavit.

[9] Ariz. Rev. Stat. Ann. §14-3711. See comment to Uniform Probate Code section 3-711 (stating "[the personal representative] receives a *'power'*, rather than title, because the power concept eases the succession of assets which are not possessed by the personal representative. . . The power over title of an absolute owner is conceived to embrace all possible transactions which might result in a conveyance or encumbrance of assets, or in a change of rights of possession." The court in *In re Estate of Gordon*, 207 Ariz. 401, 408, ¶ 37, 87 P.3d 89, 96 (Ct App. 2004), overstates the plain language of the statute and incorrectly states that the personal representative has title - when the personal representative only has power over title - as follows, "The personal representative maintains title in the decedent's place to the property of the estate until the appointment is terminated. Ariz. Rev. Stat. Ann. § 14–3711 (1995)."

[10] Ariz. Rev. Stat. Ann. §14-3715.

[11] Uniform Probate Code section 3-711 comment; see also *May v. Ellis*, 208 Ariz. 229, 232, ¶ 12 (2004) (when "a statute is based on a uniform act, we assume that the legislature intended to adopt the construction placed on the act by its drafters, and commentary to such a uniform act is highly persuasive").

[12] The comment to Uniform Probate Code section 3-907 notes that a personal representative can acquire title to particular items of property during estate administration through purchase.

[13] See Ariz. Rev. Stat. Ann. §14-3908; §14-3910.

[14] There are benefits to the administration of an estate. There is no intent to say in this article that estate administration and qualification of a personal representative is not appropriate or necessary.

THE BULLETIN BOARD
News from the legal community

RAFI LAW GROUP

The team at Rafi Law Group today announced that they completed their second Rafi's Hope Summer of Service. The comprehensive 12-week volunteer initiative raised $40,000 and generated 523 volunteer hours of community service across the Valley, Yuma and Tucson. The program, which ran from June through September, focused on supporting children, families and communities through partnerships with local nonprofit organizations.

"Our commitment to Arizona extends far beyond the courtroom," said Rafi's Hope Chair Rich Yado. "The Summer of Service represents our firm's dedication to giving back to the communities we serve, and we're proud of the meaningful impact our team was able to make alongside these incredible organizations."

The initiative included partnerships with 12 nonprofit organizations, addressing critical community needs from food insecurity to educational support.

COPPERSMITH BROCKELMAN

Gabe Aragon

Coppersmith Brockelman is pleased to announce the addition of Gabe Aragon, an award-winning litigator with nearly 20 years of experience representing businesses and individuals in complex commercial disputes spanning multiple industries. His track record in business torts, trade secret misappropriation, unfair competition, business divorces, cannabis-related litigation, and employment matters strengthens the firm's nationally recognized commercial litigation practice.

Prior to joining Coppersmith Brockelman, Aragon was a longtime partner at a premier boutique litigation firm in Phoenix. Over the course of his career, Aragon has built a reputation for successfully tackling a range of challenging, high-stakes disputes. His work has earned honors from Chambers USA, The Best Lawyers in America©, Southwest Super Lawyers, PHOENIX magazine, and Martindale-Hubbell®, which awarded him its highest AV Preeminent® rating.

"Gabe is an exceptional lawyer who embodies the qualities that define our firm: deep expertise, a pragmatic approach, and a genuine commitment to clients," said Keith Beauchamp, partner at Coppersmith Brockelman. "His skill set and versatility will add even greater depth to our litigation practice."

MEMBER SPOTLIGHT

Roger T. Coventry

Coventry, Vernon, & Roberts, LLC

HOW LONG HAVE YOU BEEN A MEMBER OF THE MCBA?
14 years

HAVE YOU EVER BEEN INVOLVED WITH ANY SECTIONS OR DIVISIONS?
Yes; the Estate Planning, Probate, & Trust section

HOW LONG HAVE YOU BEEN PRACTICING IN YOUR FIELD?
23 years as a Licensed Fiduciary

WHAT WAS YOUR FIRST AREA OF PRACTICE?
I have never practiced law.

WHAT DO YOU SEE AS THE FOCUS FOR THE MCBA THIS YEAR?
Developing a user-friendly (AI enhanced) online lawyer referral technology to improve the public's ability to locate appropriate/competent legal counsel.

WHAT ISSUES DO YOU SEE FACING THE LEGAL COMMUNITY IN ARIZONA?
Adapting to the challenges and benefits in the use of Artificial Intelligence.

IF YOU HADN'T BEEN A (FIDUCIARY), WHAT ELSE WOULD YOU BE?
The captain of a 100 (+) foot sailing yacht for charter.

IF YOU COULD BE ANY FICTIONAL CHARACTER—ON TV, IN BOOKS, IN MOVIES—WHO WOULD IT BE AND WHY?
Walter Mitty, because I have had fifty (50) different jobs in my life and many interesting adventures and misadventures.

WHAT'S THE STRANGEST JOB YOU'VE EVER HELD?
A model for a college art class. ■

LEGAL PARAPROFESSIONAL DIVISION

Stephanie D. Villalobos, LP

The Risks of Working Late Nights

The likely number one reason most legal practitioners work long hours – that often turn into late nights – is the pressure of billable hours and/or a workload that exceeds one's capacity. As we all know, the onset of COVID-19 created a sudden and widespread need to have employees work remotely in order for firms to survive. Nearly six years later, many law firms are still offering a full-time remote or hybrid work schedule. While continuing to work remotely may improve morale and increase productivity, it can result in serious health problems if one is unable establish and maintain a strict work-life balance and prioritize their health.

Health Risks:

A disruption of the body's circadian rhythm (the body's internal 24-hour clock) is known to lead to sleep disorders and mental health issues. There is also an increased risk of chronic stress, inflammation, and immune system development. Although studies on the association between shift work (defined as "work beyond regular working daytime hours") and dementia are rare, there appears to be a "modest but significant" increase in the risk of neurodegenerative diseases (Frontiers Public Health, 2023). In fact, several studies revealed that sleep disturbance may increase the risk of developing dementia (Sleep Med Rev., 2018). Other health risks include cardiovascular disease, certain cancers (especially breast cancer), diabetes, and gastrointestinal problems.

Maintain Balance:

Setting boundaries by defining reasonable work hours is crucial. Turning off email notifications at the end of the workday may reduce work stress and improve our health. If working remotely, consider using different devices for work and personal use to avoid constant work-related access.

While working long hours is common practice in the legal field, minimizing extended workdays beyond regular daytime hours is vital in maintaining overall health and wellness. Find a way to disconnect from work at the end of the day and prioritize your health. The clients and work will still be there in the morning. ■