

bar community

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from the board

STATE BAR BOARD OF GOVERNORS November Meeting Review

Below are highlights from the November 16, 2001, State Bar Board of Governors meeting. Meetings are held monthly at the Arizona Bar Center in Phoenix.

- ▶ President Nick Wallwork reported that he attended the recent admissions ceremony held at Gammage Auditorium for approximately 440 lawyers. He introduced Ryan Patrick Green to the Board and presented him with a briefcase. Mr. Green tied for first place for receiving the highest score on the July bar exam.
- ▶ President Wallwork introduced Curtis Jennings of Jennings Haug & Cunningham and presented him with a framed certificate acknowledging the firm's generous donation to the American Red Cross Disaster Relief Fund following the events of September 11.
- ▶ President Wallwork reported that he appointed several more task forces to study the following issues: associate State Bar membership for paralegals and legal assistants, multijurisdictional practices (MJP), the bar exam and admission requirements in Arizona, long-range planning with regard to the Bar's headquarters/facility, and board governance.
- ▶ Executive Director Cynthia Zwick introduced recent Employees of the Month chosen to be honored by the Bar Center staff: Diane Ellis, LOMAP/MAP (August) and Carol Stevens, Administration (September).
- ▶ Ms. Zwick reported that she is splitting the Chief Bar Counsel/General Counsel position. Allen Shayo will now serve solely as the Bar's General Counsel. The recruitment process has begun to fill the Chief Bar Counsel staff opening.
- ▶ Sally Simmons, Chair of the Task Force on Persons With Disabilities in the Legal Profession, provided a status report on the work of the task force.
- ▶ Trish White, Dean of the Law College at Arizona State University, made a presentation titled "The Disconnect Between Legal Education and the Legal Profession."
- ▶ Board members Ed Novak and Ken Countryman summarized a Model Rule proposed by the ABA's Standing Committee on Client Protection regarding mandatory disclosure by lawyers not carrying malpractice insurance.
- ▶ Michael Owen Miller, Chair of the Ethical Rules Review Group, summarized the group's efforts over the past nine months and provided a 2002 timeline for its completion of and revisions to the Ethics 2000 proposed rules. He recommended that Town Halls be held throughout the state next spring to inform the membership of the proposed rules and to invite input before the Board reviews the proposal.
- ▶ Chas Wirken, Chair of the Task Force on the Future of the Profession, summarized the proposal regarding multidisciplinary practices (MDPs). President Wallwork reported that Board action on this issue is calendared for January. Task force members and others shared their views on the proposal.
- ▶ The Board approved the proposed application for *pro hac vice* admission predicated on the Supreme Court's adoption of amended Rule 33(d), ARIZ.R.S.Ct., which is effective Dec. 1, 2001. Dan McAuliffe spoke on behalf of several law firms and expressed concern over the amended rule. The Board authorized President Wallwork to work with Mr. McAuliffe and those who expressed concerns in proposing technical changes to the amended rule and filing same in a Rule 28 petition with the Court.
- ▶ The Board voted to alter its historical policy and directed staff to begin prosecuting cases involving the unauthorized practice of law.
- ▶ Doug Dunipace, President of the Arizona Bar Foundation Board of Directors, expressed cautious optimism over the Ninth Circuit's 7-to-4 decision that IOLTA does not violate the Fifth Amendment and is not a taking of property.
- ▶ The Board authorized the filing of a Petition with the Supreme Court to amend Rule 54, ARIZ.R.S.Ct., which would provide for immunity for certain described members of the State Bar from bar complaints solely for administrative acts performed within the discretion granted them under the Supreme Court Rules.
- ▶ The Board approved proposed amendments to the bylaws of the Young Lawyers Division, the summary suspension of two members for their failure to respond to a formal discipline complaint and the minutes of the September Board meeting.

Mark Your Calendar

CLE OPPORTUNITIES ABOUND

JANUARY

- 1/10 A Funny Thing Happened on the Way to the Capitol
- 1/11 Time Mastery for Lawyers
- 1/16 Client Development Options: Discrete Legal Services (Telephonic)
- 1/18 For Better Or For Worse: Powerful and Practical Tips from Arizona's Leading DR Attorneys
- 1/23 Winding Down Your Practice (Telephonic)
- 1/25 E-Discovery
- 1/30 ADR - New Rule Change

FEBRUARY

- 2/8 Advanced Trial Practice: Skills and Strategies
- 2/14 E-Filing at the Court of Appeals
- 2/14 Avoiding the Common Ethical Pitfalls
- 2/21 State Bar of Arizona Course on Professionalism
- 2/21 Learn From the Experts... The Psychology of Influence
- 2/28 The Spanish-Speaking Client

To register for these programs and **more than 70 online programs**, go to cle.azbar.org or call (602) 340-7339.

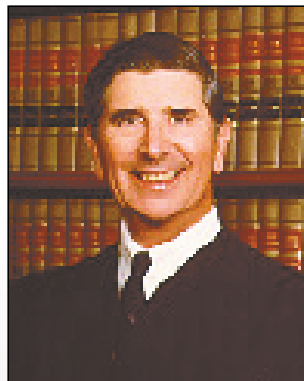
ABA TechShow 2002

UNLOCKING THE MAGIC OF LEGAL TECHNOLOGY

ABA TECHSHOW is the only technology show created by lawyers and other legal professionals for lawyers and other legal professionals. This three-day show brings together lawyers, IT managers and others from all over the world. Conference organizers know what lawyers need to “unlock the magic of legal technology.”

- When:** March 14–16
- Where:** Sheraton Chicago Hotel & Towers
- For information or to register:**
Go to www.techshow.com or call at (800) 888-8300, ext. 9191. CLE credit is available.
- More:** \$100 off to State Bar of Arizona members who **mention Code PP53 when registering**. If you are a State Bar of Arizona member and have further questions about this program or discount, contact Susan Traylor, Law Office Management Assistance Program, State Bar of Arizona, at (602) 340-7355 or susan.traylor@staff.azbar.org.

CORPORATE AND ETHICS LEADER VISITS STATE



E. Norman Veasey, Chief Justice of the Delaware Supreme Court, will speak at the ASU College of Law on Jan. 17 at 4:00 p.m. in room 105. His topic will be “Current Developments in the Corporate Law.” A reception will follow the lecture, which is free and open to the public.

Delaware is the leading state in corporate registrations and corporate bankruptcy filings. In many respects, Delaware courts define corporate law for the rest of the country.

Veasey was a leading corporate lawyer before his appointment to the bench and is chair of the American Bar Association’s “Ethics 2000” committee, which has proposed dramatic revisions to the Model Rules of Professional Responsibility.

Young Lawyers Division Events

JANUARY

- Jan. 10 7:30 am:
State/Pima YLD CLE Breakfast, Lodge in the Desert, Tucson (contact Traci Riccietello, 520-792-3836)
- Jan. 14 12:00 pm:
Maricopa YLD Board Meeting, 303 E. Palm Lane, Phoenix (Susan Wissink, 602-916-5319)
- Jan. 16 5:30 pm:
Pima YLD Board Meeting, 177 N. Church, Tucson (Steve Portell, 520-882-1209)
- Jan. 26 10:00 am:
State YLD Executive Council Meeting, Phoenix (Keri Silvyn, 520-749-9795)

FEBRUARY

- Feb. 9 Maricopa YLD MCBA Barrister’s Ball (Shane Clays, 602-257-4200 x 111)

CORRECTION

The announcement appearing in last month’s *ARIZONA ATTORNEY* that Stacy Gabriel has joined the law firm of Sherman & Howard is incorrect. Ms. Gabriel is a sole practitioner whose practice focuses on employment matters. She provides contract legal services to Sherman & Howard. Ms. Gabriel can be reached at (480) 368-2790.

REINSTATED MEMBER

HARRY NORMAN STONE

Bar No. 005281, File No. 00-0495

By Supreme Court Judgment and Order dated October 19, 2001, Harry Norman Stone, 7464 West Potter Dr., Glendale, AZ 85308, was reinstated pursuant to Rule 72. Mr. Stone was disbarred by order dated March 19, 1991.

SANCTIONED ATTORNEYS

GREG CLARK

Bar No. 009431, File No. 98-2060

By Supreme Court Judgment and Order dated June 28, 2001, Greg Clark, 45 West Jefferson, 12th Floor, Phoenix, AZ 85003 was censured by consent in violation of his duties and obligations as a lawyer. Mr. Clark also was ordered to pay costs and expenses in the amount of \$755.10 incurred by the State Bar, together with interest at the legal rate from the date of the judgment.

An overdraft notice was sent to the State Bar regarding Mr. Clark's IOLTA trust account. The notice indicated that several checks had been paid by the bank, resulting in a negative balance of \$599.28. Mr. Clark thereafter failed to timely respond to the State Bar's first letter of inquiry, and his response to the second letter was inadequate. Then after further correspondence, he requested an extension of time to provide the requested documentation, which he later failed to provide. Once the formal complaint was filed, Mr. Clark did ultimately respond through disclosure.

There were two aggravating factors found pursuant to the ABA *Standards for Imposing Lawyer Sanctions*, Section 9.22: (a) prior disciplinary offenses and (i) substantial experience in the practice of law. There were three mitigating factors found pursuant to Section 9.32 of the ABA *Standards*: (b) absence of selfish or dishonest motive, (e) cooperative attitude toward proceeding and (l) remorse.

Mr. Clark's conduct violated Rule 42, ARIZ.R.S.CT., particularly ER 8.1(b) and Rules 43 and 51(h)(1), ARIZ.R.S.CT.

FERNANDO FAJARDO

Bar No. 004694, File Nos. 98-0196, 98-0340, 98-1097, 98-2137, 98-2373, 99-0551, 99-1427, 99-1537, 00-0677, 00-0872, 00-1121, 00-1519, 00-1826, 00-1838, 00-2175, 00-2199, 00-2262, 00-2323 and 00-2371

By Supreme Court Judgment and Order dated July 16, 2001, Fernando Fajardo, whose last known address of record was 360 North Court Avenue, Tucson, AZ, was dis-

barred by consent for violations of his duties and obligations as an attorney. Mr. Fajardo was ordered to pay restitution to eight clients in the total amount of \$25,880 and to reimburse the Client Protection Fund for all claims paid from the fund. Mr. Fajardo also was ordered to pay costs and expenses incurred by the State Bar in the amount of \$3,036.56, together with interest at the legal rate from the date of judgment.

Mr. Fajardo's misconduct arose from his accepting retainers from clients and then failing to perform the services contracted for, failing to keep clients informed about the status of their cases, failing to return unused portions of the retainers and failing to respond to the State Bar's inquiries into the complaints received against Mr. Fajardo.

Mr. Fajardo's conduct violated Rule 42, ARIZ.R.S.CT., particularly ER 1.1, ER 1.2, ER 1.3, ER 1.4, ER 1.5, ER 1.15, ER 1.16, ER 3.2, ER 3.3, ER 8.1(b) and ER 8.4 and Rules 43, 44 and 51(h) and (i), ARIZ.R.S.CT.

SARA JANE ODNEAL

Bar No. 009230, File Nos. 98-2075, 99-0064 and 00-1074

By Supreme Court Judgment and Order

dated June 21, 2001, Sara Jane Odneal, 2826 South Carriage Lane #100, Mesa, AZ 85202, was censured by consent in violation of her duties and obligations as a lawyer. Ms. Odneal was placed on probation for one year and ordered to attend the Ethics Enhancement Program. Ms. Odneal also was ordered to pay costs and expenses incurred by the State Bar of \$654.80, together with interest at the legal rate from the date of the judgment.

In the first matter, Ms. Odneal held undisputed funds in her trust account for approximately three months and thereafter failed to promptly disperse the funds to the client. Ms. Odneal further dispersed disputed funds to herself before the matter was resolved.

In the second matter, Ms. Odneal was retained in a dissolution of marriage proceeding. The client was dissatisfied with Ms. Odneal's representation and requested a refund of the unearned retainer. Ms. Odneal did not promptly return the unused portion of the retainer. In addition, Ms. Odneal failed to respond to the State Bar's investigation of the allegations concerning

ETHICS OPINIONS

Opinion No. 2001-09

(October 2001)

A group of lawyers who share an office suite but are separate firms may share a common phone number for communications with Spanish-speaking prospective clients and hire a common receptionist simply to route calls to lawyers in the group based upon practice area without being deemed a "referral service." Such an arrangement appears to be group advertising. If the receptionist's only interaction with the prospective clients is to forward the calls to the appropriate attorney, then his or her common employment by the separate firms probably will not impute conflicts among the group members. [ERs 1.6, 1.10, 5.3, 7.1(r)(3), 7.5]

Opinion No. 2001-10

(October 2001)

This Opinion discusses the conflict of interest guidelines for personal relationships between members of a Prosecutor's Office and members of the Legal Defender's Office. [ERs 1.7(b), 1.8(i), 1.10]

Need an Opinion?

Check out the State Bar Web site at www.azbar.org/EthicsOpinions/ for a listing of the ethics opinions issued between 1985 and 2001.

If you are an Arizona attorney and have an ethics question, please contact Lynda Shely, Director of Ethics, at (602) 340-7284.

this matter.

In the third matter, Ms. Odneal contacted an opposing party at work several times, even though she was asked not to do so. Ms. Odneal again failed to respond to the State Bar's investigation of the allegations concerning this matter.

There were three aggravating factors found pursuant to the ABA *Standards for Imposing Lawyer Sanctions*, Section 9.22: (d) multiple offenses, (e) bad faith obstruction of the disciplinary proceedings by intentionally failing to comply with rules or orders of the disciplinary agency and (i) substantial experience in the law. There was one mitigating factor found pursuant to Section 9.32 of the ABA *Standards*: (a) absence of a prior disciplinary record.

Ms. Odneal's conduct violated Rule 42, ARIZ.R.S.Ct., particularly ER 1.3, ER 1.15, ER 1.16, ER 4.4, ER 8.1 and Rules 43, 44 and 51 (h) and (i), ARIZ.R.S.Ct.

WILLIAM J. WALKER

Bar No. 005337, File No. 99-0406

By Supreme Court Judgment and Order dated July 20, 2001, William J. Walker, 3110 South Rural Road, Suite 101, Tempe, AZ 85282, was censured in violation of his duties and obligations as a lawyer. Mr. Walker also was ordered to pay costs and expenses in the amount of \$5,966.35 incurred by the State Bar, together with interest at the legal rate from the date of the judgment.

The facts and procedural history underlying this matter are fully set forth in *In the Matter of Walker*, 350 Ariz. Adv. Rep. 36 (2001).

There were no aggravating factors found pursuant to the ABA *Standards for Imposing Lawyer Sanctions*, Section 9.22. There were five mitigating factors found pursuant to Section 9.32 of the ABA *Standards*: (a) absence of a prior disciplinary record, (e) full and free disclosure to disciplinary board and cooperative attitude toward proceeding, (g) character or reputation, (k) imposition of other penalties or sanctions and (l) remorse.

Mr. Walker's conduct violated Rule 42, ARIZ.R.S.Ct., particularly ER 1.7.

CAUTION

Nearly 16,000 attorneys are eligible to practice law in Arizona. Many attorneys share the same names. All discipline reports should be read carefully for names, ages, addresses and Bar numbers.

NEW PEOPLE, NEW PLACES



ANDERSON



FUREDY



HENNING



KOKANOVICH

Lewis and Roca LLP has announced the addition of 10 new associates. Susan E. Anderson, Jason C. Furedy, John K. Henning, Mark S. Kokanovich, Albert M. Bower, Scott K. Brown, David D. Garner, Emma K. Lehner, Alexander R. Oses and Cory A. Talbot have joined the firm's Phoenix office. Anderson joins the firm's Labor and Employment group. Furedy will concentrate on business, tax and corporate law. Henning joins the Tort Litigation group. Kokanovich and Talbot join the Commercial Litigation group. Bower will focus on real estate law. Brown and Garner join the Commercial Litigation practice group. Lehner will concentrate on criminal defense and commercial litigation, and Oses will focus on securities law.

Timothy P. Burr has joined Fennemore Craig as an associate in the firm's Phoenix office. Burr will practice in the areas of business and real estate.

Natman Schaye & Associates have announced their new location at 69 North Lazy Place, Tucson 85745. Telephone (520) 544-2955. Fax (520) 544-4677.

Amy Lynne Locklear has joined Rothstein, Donatelli,



LOCKLEAR

Hughes, Dahlstrom, Schoenburg & Frye as an associate in the firm's Phoenix office. She will focus on tribal, state and federal taxation issues.

Susan Charlton and Melissa Berren have joined the Phoenix law firm Gallagher & Kennedy. Charlton will practice in governmental affairs, and Berren will practice in labor and employment and health care/physician services.

Gerald L. Jacobs, former general counsel, senior vice president and chairman of the executive committee of the Resolution Trust Corporation, has joined Greenberg Traurig LLP in the real estate and international law departments of the firm's Phoenix office. The firm also announced that Benjamin Aguilera was elected to the Greater Phoenix Chamber of Commerce Board of Directors. Aguilera is a member of the firm's corporate and international practices.

Phoenix firms Holden Walker PLC and Brockelman & Brodman PLC have merged. The new firm, Holden Brockelman PLC, focuses its practice on commercial litigation, construction law and management-side employment law. The firm is located at 2425 E. Camelback Road, Suite 800. Telephone (602) 508-6210.

Seven attorneys have joined the Phoenix office of Brown & Bain. Practicing business litigation are Tracey Bardorf, Barbara Burwell, Michael Mandell and Christian Schulz. Practicing intellectual property litigation are Michelle Breit, Michael Nichols and Jim Kuntz, who also will practice antitrust litigation.

Andrew Turk, a partner at Jennings, Strauss & Salmon, PLC, has been elected to fill the vacancy on the Maricopa County Bar Association's Board of Directors. Turk practices in the areas of commercial litigation, tort and insurance defense, insurance coverage and toxic tort matters.

Morrison & Hecker LLP has announced that Jenny J. Clevenger has returned to the firm as an associate and will concentrate on environmental and litigation issues.

Rusing & Lopez PLLC has announced that Lorraine C. Gin

and **Ali J. Farhang** have joined the Tucson firm as associates. Gin will focus on civil litigation, and Farhang will focus on labor and employment law and commercial litigation.



ELBOGEN

Gary S. Elbogen has joined the Real Estate Law department of **Gust Rosenfeld PLC**. Elbogen will concentrate on real estate acquisition, development, leasing and financing matters.

HONORS & AWARDS



WOODS



GJURJEVICH

The Volunteer Lawyers Program has announced recent recipients of the **Outstanding Pro Bono Attorney of the Month** award. **Ronald N. Allen**, a member of the program for two years, was selected for the month of September for his work in domestic relations. **Catherine Woods** was selected for the month of October. She has assisted clients with landlord/tenant, tort defense and domestic relations matters in her 13 years with the program. **James Gjurjevich** was selected for the month of November. He has participated in the program for 15 years and has represented clients in real property, debt collection, tenant rights and contract matters.

Maricopa County Attorney **Rick Romley** has received the **Lois Pope LIFE Foundation**

Presidential Unsung Hero Award for his individual achievement as a disabled veteran. The award is presented to the individual named National Disabled American Veteran of the Year by the Disabled American Veterans Association. Romley administers the fifth-largest prosecuting office in the country.



FERGUSON

Fred E. Ferguson Jr., a partner with Gust Rosenfeld PLC, has been appointed Associate Solicitor for Mineral Resources at the **U.S. Department of Interior**.

John A. Micheals has become a **Fellow of the American College of Trial Lawyers**. He is a partner with Beale & Micheals, P.C. in Phoenix.

Phoenix law firm **Herbert Schenk PC** has contributed \$10,000 worth of interior furnishings and books to the Marian E. Rowlands Library. Homeward Bound, a non-profit housing program for the homeless, has established the "Herbert Schenk Reading for Life Program" in honor of the firm's long-term commitment to the library.

RECENTLY DECEASED

- Geoffrey Cheadle Jr., Tucson
- Cleon K. Combs, Lexington, KY
- Robert W. Finn, Tucson
- John S. Goff, Phoenix
- Joseph W. Mahowald, Phoenix
- Marion R. Smoker, Phoenix
- Jerome A. Zuravsky

CORRECTION

The December 2001 People column contained the misspelled name of a member. **Gary Inabinet** was selected as Cochise County's **Outstanding Pro Bono Attorney** for Summer/Fall 2001. We regret the error.