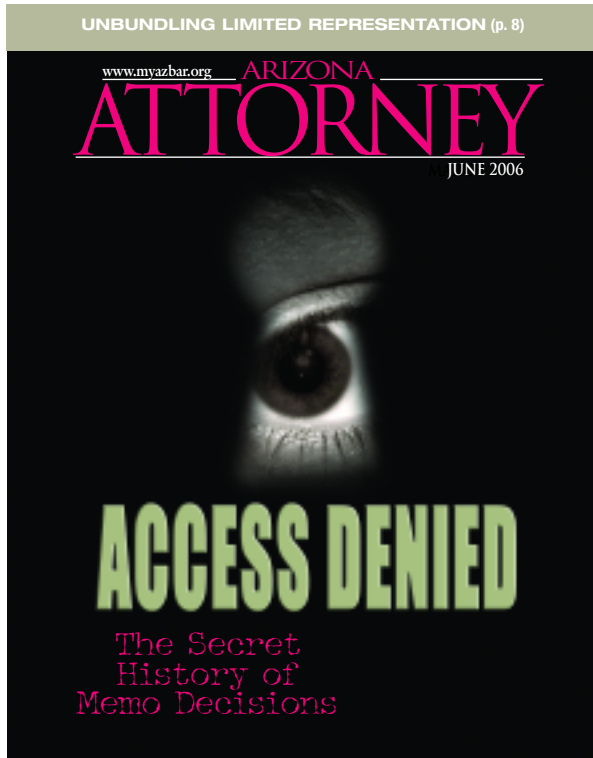




GIVE US AN OPINION

I found it interesting that anyone would argue that more appellate judges would be needed if all opinions needed to be properly prepared, not just those slated for publication (“The Secret History of



Memorandum Decisions,” ARIZ. ATT’Y, June 2006). In fact, the opposite would probably be true.

I practice property management law, mostly in justice courts. Appeals from those courts are to the Superior Court, and virtually all decisions are unpublished. Because their decisions are unpublished and thus cannot ethically be used as precedent, my fellow practitioners and I often have to file appeal after

appeal to the Superior Court on the same issues. Not only does this create undue expense to the parties who have to file an appeal on an issue that may well have been addressed by the court numerous times by other parties, but it also creates more cases and work for the courts.

Wouldn’t it be easier and more economical in the end to publish one good, binding decision that ultimately alleviates the need for filing numerous identical appeals, rather than creating dozens of unpublished decisions that “are thin on facts and written in loose, sloppy language,” and that do nothing to further judicial economy and the public interest? Furthermore, consider that having many unpublished decisions created in the “loose” style which supposedly occurs also creates the possibility of inconsistent opinions.

— *Guy Wolf, Phoenix*

EXTRA(ORDINARY) PEOPLE

In the late 1980s and throughout the 1990s, I had the privilege of being involved with the Arizona High School Mock Trial Program through the Young Lawyers Division. During my tenure as the Mock Trial Statewide Coordinator, one of my responsibilities included

recruiting practicing lawyers and members of the judiciary to serve as judges at the State Mock Trial Competition. Navajo County Superior Court Judge “Jay” Abbey could always be counted on to serve as one of the State Competition judges, and he truly looked forward to seeing the high school students competing each year. And the students equally enjoyed his good humor and constructive comments.

As a result, I became good friends with Judge Abbey and stayed in touch with him even after I concluded my mock trial duties. Over the years, our frequency of contacts became just a holiday card, with the usual updating on one’s life and family goings-on. So it was with great sadness that I learned about Judge Abbey’s passing in July of 2005 from his wife Anne’s holiday card this past year.

Judge Abbey was 73 years old when he died after a lengthy battle with Parkinson’s disease. He was appointed to the bench by Governor Bruce Babbitt in 1980 and served until 1993, when he took a medical retirement due to the Parkinson’s and heart problems. Besides serving as a Superior Court Judge, he also was a judge on the Hopi Supreme Court, the Apache Tribal Court and Court of Appeals and was a member of the Navajo Nation Judicial Conduct Commission. Over the years, he was a Tucson City Prosecutor, Tucson Assistant City Attorney, Assistant Utility Director for the Arizona Corporation Commission, Administrator of the State Insurance Department of Arizona, and Special Assistant Attorney General for the Arizona Corporation Commission and Arizona Insurance Department.

Simply due to their locale, the judges in our rural areas sometimes get less mention and accolades than those in the metropolitan areas of Phoenix and Tucson. Nonetheless, the work and service paid by such public servants as Judge Abbey are no less important and deserve as much, if not more, credit for their efforts. Judges in the outlying areas usually have had to

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render justice with fewer resources and less of everything than their Big City counterparts.

Anne's holiday letter of 2005 was, in fact, a "small celebration of his life," where she shared some personal information about the late Judge that many folks were unaware of, other than perhaps his closest family members. For instance, according to Anne, on Thanksgiving Eve and Christmas Eve, Judge Abbey would send the courthouse staff home early and answer the phones himself. Then he would go to town and buy cookies and milk for the young kids left in Juvenile Detention. Anne didn't know whether that was against the rules or not, but it didn't matter to Judge Abbey. "Only the kids mattered," she recalls. "Rules didn't govern his life, ever."

In 1990, Anne wrote a poem for Jay, which she had printed and available at his funeral last summer. The poem, titled "I Wonder," is a tribute to Judge Abbey as a person, as opposed to simply "another black robe." A few lines from the poem are indicative:

I wonder what the world would think
If they knew that when you shed
That black robe and start home,
You stop the car along the road and
Pick daisies and wildflowers
For those you love...

I wonder what the world would think of a man in anguish
Who sometimes must watch the guilty go free—
In order to protect the laws so
zealously Guarded for the rights of the innocent.

I wonder how they would assess a man who exhibits
Logical and rational thinking at all times—
Yet still keeps all his cards and notes tucked
underneath his socks, from the first Scrawled "I love you's"
of his children...
to the note I left on his pillow this morning.

I think the world might judge you "human"
and perhaps find some solace
in all those gentle frailties.

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and more economical
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Anne told me that the Judge really liked the poem "because he never thought judges were anything special—just ordinary people like everyone else—and he felt it [the poem] came close to conveying that."

In my view, Judge Abbey was certainly more than just an "ordinary person." He was someone exceptional, both personally and professionally. We will all miss him, but will always cherish the wonderful memories and his many achievements and accomplishments both for the legal profession and his community.

Thank you for letting me take up a little

space to acknowledge and honor the memory of the Honorable Judge James Manning "Jay" Abbey.

—Heidi McNeil Staudenmaier
Partner, Snell & Wilmer
Phoenix

KUDOS

I always enjoy reading Grant Woods' column in ARIZONA ATTORNEY. The one in the September 2006 issue, however, made me proud to have been in law enforcement for 20 years and to have been a lawyer for 15 more. Makes me feel like maybe I was doing something more than just being a good cop or a good lawyer. I don't get this feeling very often. Thanks.

—Joe Lambert
Mesa



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