



Vintage Voices

Senior Lawyers Division

A publication of the Senior Lawyers Division of the State Bar of Arizona

Division News

The **Senior Lawyers Breakfast** will be at the State Bar Convention at the Westin La Paloma in Tucson on Friday, June 26, beginning at 7:00 a.m. Incoming President-Elect Richard Platt will be reporting on our Division activities throughout the past year. If you are in retired status, you need only pay for the breakfast and can register for Friday's Convention seminars at no additional cost. Active and inactive members who pay for breakfast can attend the full day Friday for a substantial discount - an additional \$185.00. Be sure to register early. Please understand that this year's breakfast price, just like last year's price, returns no profit or margin to the State Bar. It is the actual cost of the food plus the hotel's service charge. The breakfast is an annual tradition and a great way to catch up with old friends.

Chuck Thomson, our incoming President, will assume the **Division Seat on the Board of Governors** on July 1. Mary Helen Maley Maynard, incoming Past President, was our first Division President on the Board of Governors after our Division spearheaded the change to Rule 32 (thanks to Sally Simmons and her Working Group!) and we thank Mary Helen for her service.

Chuck also has been busy leading the Access to Justice Working Group and we are now on our way, beginning this August, to champion revisions to Supreme Court **Rule 38(d)(1)** and (2) to streamline the certification process for our retired and inactive members to provide *pro bono* services to the Legal Services Organizations in Arizona. Chuck and the Working Group have been in contact with the Supreme Court's Access to Justice Commission and the working group handling Rule 38 of its Task Force on Restyling Supreme Court Rules. One of the State Bar's goals, and a major goal of the Supreme Court, is to improve **Access to Justice**. We want to encourage more of our retired and inactive members to participate in *pro bono* work for those who need it most. We hope that removing some of the more byzantine processes of Rule 38, which have discouraged such participation in the past, will help in this regard. By the way, we can sure use your help in this process. Let Chuck, charlesthomson33@gmail.com, or your humble author, denise@azlaborlaw.com, know if you want to get involved.

Another **Access to Justice** initiative in our Division has borne fruit as the Supreme Court is now engaged with the Sixth Amendment Project thanks to Mary Helen and Dave Stoller. Did you know that many indigent criminal defendants, especially in our Arizona rural "legal deserts," never have an attorney at their initial hearing? The *Division's Pretrial Justice* Working Group has been

working on this issue and will continue to do so as long as it takes for the Sixth and Fourteenth Amendment to be enforced. Want to help? Let Mary Helen, mhmcircle@icloud.com, and Dave, dstolr@gmail.com, know.

Our **Drop-In** sessions continue to be popular with topics like artificial intelligence, retirement, and **pro bono** options. Have a topic or want to be a speaker? Let John Messing, jmessing@law-online.com, know.

Love to write? Please join our **Creative Writers Listserv**. And what about our mentor, Gary Stuart? EVIDENCE proves he is alive, well, and writing up a storm. See https://store.lexisnexis.com/en-us/products/arizona-evidence-manual-print.html?gad_source=1&gad_campaignid=16535677327&gbraid=0AAAAADtOJyPw_0KnrZeWatNjRs2E5mfyw&gclid=EA1aIQobChMI2N26t_WBIAMVcCpECB2CAyg4EAQYASABEgJs4vD_BwE

Are you a member of the American Bar Association? Louraine Arkfeld is our Division liaison. There is a new **ABA Center for Civic Engagement's Disagreeing Better** series. See <https://learningcenter.americanbar.org/courses/171036> for more information about its inaugural webinar which is free for members.

Malpractice Insurance – Questions for Senior Lawyers

By Executive Committee Member Neil Irwin, Chair, Retirement and Other Options Working Group

At some point in time, senior lawyers must make decisions about malpractice insurance when contemplating a status change. If a lawyer plans to retire and assume retirement status, the lawyer may only be concerned about “tail coverage.” However, if the next stage in life is not so well defined, there may still be a need to consider the need for malpractice coverage.

Our working group wants to know whether there is interest in having a **drop-in session on malpractice insurance** to assist senior lawyers in their decision making.

Also, we would be interested to hear about specific questions you may have about malpractice insurance for senior lawyers contemplating a change in status. Please contact me at neil@theirwincompanies.com.

Guest Article

By Executive Committee Member, Marshall A. Lehman
From his *Lessons Learned From a Lifetime of Lawyering*
[aka Marshall's Mausoleum]

Settle or Try?

Another Tale from the Mausoleum

Back in the day (1969), the author was fortunate to land his first job out of law school as law clerk to Hon. Carl A. Muecke, United States District Court of Arizona. The job included gavel to gavel presence in the courtroom during all trials and oral arguments on motions.

Among the many lessons of litigation learned, one of the most memorable was in the Estate of Captain David Skaret v. ICX.

Navy Captain Skaret returned from Vietnam in 1967 and was met by his wife in San Francisco for the long drive back home in the Midwest. Their trip was tragically terminated by a head-on collision with a westbound ICX Freightliner on Interstate 40 near Winslow. In the argot of litigators, the case had a lot of “sex appeal”. A compelling story, tragic facts, a very sympathetic, young, vivacious widowed plaintiff, and a seven-figure damage claim.

The plaintiff estate was represented by a highly respected and successful trial lawyer who happened to be the immediate past president of the American Trial Lawyers Association (ATLA). The defendant trucking company was well represented by a competent but undistinguished mid-level partner in a large law firm with a sizable insurance defense practice.

Prior to trial, plaintiff’s counsel had advised his widowed client to reject an offer of settlement of \$1,000,000. “We can do better. I recommend that we try the case”. Famous last words: The jury returned with a defense verdict. To add insult to injury, it awarded the defendant trucking company \$10,000 as damages to its eighteen-wheeler.

"A trial is a joint confession of failure by two lawyers".

- Phil Goldstein -

"A bad settlement is better than a good trial".

- Dick Segal -

I don't know if either is the author. But they both illustrate a truth that most civil litigators know all too well from hard earned experience.

We've all seen trials where ALL parties walk away disappointed with not only the result, but the trial process itself. Their common refrain: In a civil trial, especially if tried to a jury, “the only winners are the lawyers.” Not a good look for our profession.

Recommended Reading:

For those interested in a holistic view of artificial intelligence, check out Pope Leo XIV’s first encyclical *Magnifica Humanitas* at

<https://www.vatican.va/content/leoxiv/en/encyclicals/documents/20260515-magnifica-humanitas.html>

If you like lovely prose and phenomenal sense of place, try Anthony Doerr’s first book, *About Grace*. Doerr won the *Pulitzer* for *All the Light We Cannot See*, which was turned into a great movie.

Recommended Viewing:

Project Hail Mary is a long movie, but you will never know it because it is so fascinating. Ryan Gosling should win an Oscar for his performance. A real treat at the movies this Spring, which is now available on Amazon for streaming.

OK – who is waiting for *The Odyssey* and *Disclosure Day*? Although I love *Star Wars*, I'm going to skip the Mandalorian movie. Yoda Grogu is not.

Spider-Noir on Amazon Prime Video is a 1930s version of Spider-Man starring Nicolas Cage. It is available in black and white (recommended) and color. It is a clever send-up of the modern superhero series.

The Brokenwood Mysteries on Acorn is in its 12th (!) season and is set on the South Island of New Zealand. It is smart, humorous, and engaging. The scenery is outstanding.

Whitstable Pearl on Acorn, a drama, is set in Devon, England, with a small town full of characters. The waves, cliffs, people wearing coats, and greenery are great, especially when it is over 100 degrees here.

Stay cool and have a wonderful Summer,
Denise
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