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WHERE THE LEGAL COMMUNITY CONNECTS

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ENVIRONMENTAL & NATURAL RESOURCES SECTION

Far from the Shallow Now: An Update on Post–2026 Colorado River Negotiations

Cameron D. Toering
Arizona Legislative Council

December 13, 2007 was a day of haze and mist in the District of Columbia as the Secretary of the Interior scribbled his signature across the 2007 Colorado River interim guidelines. However, in the western United States, the future appeared clear regarding how the collective states would allocate the burden of shortage on the Colorado River for the next nearly twenty years. Despite ongoing discussions between the basin states and the federal government, what lies ahead after the 2007 guidelines and the 2019 Drought Contingency Plan expire on December 31, 2025, is far from clear.

In June 2023, the Bureau of Reclamation requested that the seven basin states form consensus for the scope of an upcoming environmental impact statement for post–2026 Colorado River operational guidelines. Recently, the affected states submitted competing proposals. On March 5, 2024, the upper basin states of Colorado, New Mexico, Utah, and Wyoming submitted their recommendations to the Commissioner; one day later, on March 6, the lower basin states, Arizona, California, and Nevada, did the same.

The proposals differ greatly. For example, they offer different solutions for how the Bureau and the basin states should measure water on the river, and how to manage the "structural deficit". The lower basin states assert that the Bureau should examine the shortage and the river system's health in a "holistic system-wide approach based on actual hydrology and total system contents." In contrast, the upper basin states support the traditional approach of tying future actions to the elevation levels of Lake Powell and Lake Mead. In a world where one foot of elevation can have drastic impacts, basin states have frequently accused others of gaming elevation levels. The "structural deficit" comes from an overallocation of the river that dates back to the early twentieth century. While lower basin states technically receive an annual allocation of 7.5 million acre-feet, this amount does not account for the nearly 1.5 million acre-feet

See **Far from the the Shallow Now** page 8

CourtWatch

Daniel P. Schaack

Judicial Disagreement Over Tort-Duty Analysis

In *Gipson v. Kasey,* 214 Ariz. 141 (2007), our supreme court reiterated its previous recognition that determining whether a tort duty exists "is a legal matter to be determined *before* the case-specific facts are considered." How far that admonishment extends is a question that recently vexed a panel of Division One of the Arizona Court of Appeals.

Roxanne Perez was injured when, after retrieving some ice cream from a convenience store's freezer, she walked to the next aisle where she tripped over a case of bottled water that was displayed on the floor in an end cap. She was familiar with the store, having often shopped there, and she admitted that the case of water was out in the open; she would have seen it if she had looked down after grabbing the ice cream.

Perez suffered significant injuries to her elbow, neck, and back. She sued the store for negligence and premises liability. She appealed after the superior court granted summary judgment to Circle K. The court of appeals affirmed. *Perez v. Circle K Convenience Stores, Inc.*, No. 1 CA-CV 22-0425 (Ariz. App. April 9, 2024). The vote was unanimous, but the judges split on the rationale for the decision.

Judge Anni Hill Foster wrote the opinion for herself and Judge Samuel A. Thumma. They agreed with the superior court that, under the facts presented, Circle K did not owe a tort duty to Perez.

Acknowledging *Gipsons* admonition, Foster nevertheless held that under the facts adduced at summary judgment, Circle K did not owe a duty because it had not created an unreasonable risk of harm. She rejected Perez's argument that Circle K owed her a duty to use reasonable care to make its premises reasonably safe simply because she was a business invitee. "When determining whether duty exists," she wrote, "a court cannot resolve the issue without examining the scope of the duty, including what it is not."

She relied primarily on *Dinsmoor v. City of Phoenix*, 251 Ariz. 370 (2021), where the high court had stated courts may "consider facts to determine whether a duty exists based on the presence of an unreasonable risk of harm that arose within the scope of a special relationship." She read this to require the court to delve into the facts of the particular incident, explaining that in liability cases, the court must determine the legal relationship between "the relationship *and* the reasonableness of the circumstances." Otherwise, she asserted, "if a plaintiff minimally alleged being injured while on the property of a business, the issue of duty could never be resolved by motion short of trial."

"Here," Foster continued, "the duty owed required that Perez not be subjected to the possibility of an unreasonable harm." And the facts that Perez asserted in response to Circle K's motion for summary judgment failed to establish such a possibility.

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Rebecca Marquis

The Importance of Setting Realistic Expectations

One of the greatest challenges we attorneys face is setting and managing client expectations for favorable outcomes. Thus, it is vital before we accept a case that we ascertain the potential client's goals and objectives so that we can provide feedback and advice about possible results, including the client's worst-case scenario. Understandably, clients are constantly seeking promises or guarantees about their case; but no matter how confident we may be about a particular matter, even hinting at a guaranteed outcome is risky business. This is especially true as our advice and strategy may change and adjust as the case progresses and new information comes to light. The following tips will help manage and set realistic expectations during the course of representation:

1. Make sure the client understands the process. Remember that clients are often unfamiliar with our legal jargon and the archaic terms we use to presumably remind others that we are, in fact, lawyers. Explain the process in terms that the client can understand and, where applicable, seek feedback and encourage questions when relaying information about the case. Create a timeline for clients so that they understand the chronology of the case, impending deadlines, and their role in moving the case forward, such as obtaining disclosure and gathering other relevant information.

2. Establish and clearly articulate communication expectations. Setting communication expectations in the beginning will help avoid issues down the road. For example, make sure the client understands what you consider to be a realistic timeframe for responding to emails or calls. Also, when you know you will be out of the office for trial, mediation, or personal reasons, set a detailed auto-response on your email apprising clients of your absence, when you will likely be able to respond, and who to contact while you are away. For clients who require more attention, set up regularly calendared conversations and set aside time for updates or for simply touching base. Make sure clients also understand your working hours so that reasonable boundaries are respected, and expectations managed.

3. Be realistic about what you can deliver. Our clients should be able to rely on the promise that we will use our best efforts during the course of our representation. Beyond that, they need to understand what we can and cannot control and how those variables may impact their desired outcomes. Remind clients that the legal field is complicated and can be unpredictable, but that you are there to help navigate and guide the process. Never overpromise.

4. Be forthright about your costs. When discussing the client's goals and objectives, it is crucial that they understand the time required for certain tasks so that realistic monetary expectations can be set. Clients do not like surprises, particularly when it comes to billing, so any anticipated increases in the client's budget should be communicated early and often. In addition, your time is valuable. When you set expectations early, clients may be less likely to try and monopolize your time.

5. Remind the client of your duty to practice professionalism: Many potential clients seek out a lawyer who is willing to be aggressive merely for the sake of being aggressive, or one who is willing to morph into whatever the client expects—the "Shark" or the "Pitbull"—during the course of representation. Explain to clients how professionalism can serve to resolve conflict in a manner that is fair and respectful while still allowing the client to maintain control over the case. Many clients view cordial and respectful relationships with opposing counsel, and appropriate courtroom etiquette, as signs of weakness when, in fact, they are quite the opposite. Explain to the client early on how you intend to conduct yourself inside and outside of the courtroom. This will help the client set realistic expectations. In addition, remind clients that good professionalism helps keep costs lower and helps avoid needless litigation. If a client still insists on a shark, offer up the names of the five Great Whites that you know across town and avoid dealing with the unmet expectations that will undoubtedly ensue after undertaking representation.

Keep in mind that for many clients, your repre-

See **The Importance of Setting** page 3

Finding Your (Legal Writing) Voice

Some legal professionals have expressed concern about generative AI taking over the drafting of legal documents. The one piece that I am not concerned about (yet!) is the ability of generative AI to write in an individual legal writer's voice. A legal writer's voice is a blend of that writer's style, tone, and vocabulary, as well as sentence and paragraph structure. Developing a distinct voice is important because it connects the writer to the audience and builds trust with that audience. Following are some questions to consider in discovering your legal writing voice.

Word Choice: Word choice matters. Words can be formal (black-tie language) or informal (T-shirt language). The words "utilize" versus "use" is a perfect example of black-tie/stuffy language versus T-shirt/more informal language. Similarly, the use of Latin phrases indicates more formal language, while the use of contractions (especially in court documents) is considered more informal. Do your word choices make sense for your audience and your role?

Syntax: Put simply, syntax is the way that words are arranged in a sentence. Some writers use long sentences more frequently. Other writers focus on short sentences that follow the subject/verb/object order with little to no interrupters. The writers who compose long, complex sentences may be categorized as too flowery or detailed, while the writers who write mainly short sentences may be categorized as robotic or choppy. Ideally, readers prefer a mix of both types of sentences. Do you start detailed (long) and punctuate your point at the end with a short sentence? Or do you start with a simple sentence (short) and work your way up to detail? Can you spot the rhythm of your sentence lengths? You can do this same exercise with use of transition words. Do you use many? Where do they appear most often? Do you have favorites? And do they create a rhythm to your writing? Even the order of words in a sentence can be a part of your unique voice. Notice how I start this paragraph with "put simply" instead of "simply put." Generative AI cannot (yet?) capture those small choices in my writing voice.

If you are interested in assessing your own legal writing voice, I suggest checking out this blog post about the three legal writing personas: https://write.law/blog/three-personas or the more general book "The Sound on the Page: Style and Voice in Writing" by Ben Yagoda. ■

Overhauled H-1B Lottery Promises Better Selection Odds

Elizabeth Chatham
Stinson LLP

Elizabeth Chatham

Once again, U.S. Citizenship and Immigration Services (USCIS) received sufficient electronic registrations during the initial registration period to reach the FY2025 H-1B visa cap. This year's lottery was highly-anticipated after USCIS announced changes intended to reduce fraud and make the process beneficiary-centric. We are still awaiting final numbers from USCIS, but initial reports and client results suggest that selection odds have improved significantly.

The H-1B visa is the most important channel for highly-skilled immigration. Despite the business community's persistent lobbying, the annual statutory cap hasn't increased since 2004, when 20,000 additional spots were set aside for foreign nationals with advanced degrees from U.S. universities. And with just 85,000 cap numbers available, the process has become intensely competitive.

For FY2021, USCIS moved to an electronic lottery process to reduce the burden on employers, who previously had to file complete petitions with no guarantee of selection. The relative ease of registering beneficiaries for the lottery resulted in a sharp increase in registrations year over year.

With tech, education, health care, architecture, engineering, finance and other professional sectors all competing to hire foreign workers, it's not surprising that employers and potential employees attempted to maximize their chances of receiving an H-1B cap number. While some employees had multiple legitimate job offers, there were also those who tried to game the system. Last spring, USCIS received more than 780,000 registrations for FY2024, a 60% increase in registrations from FY2023. More than half of all registrations last year were for beneficiaries whose names were entered multiple times, resulting in dismal selection odds – just 14.6% of eligible registrations were selected in the first round.

"The large number of eligible registrations for beneficiaries with multiple eligible registrations ... has raised serious concerns that some may have tried to gain an unfair advantage by working together to submit multiple registrations on behalf of the same beneficiary," the agency stated in an alert. "This may have unfairly increased their chances of selection."

The new, beneficiary-centric approach USCIS rolled out in February clearly targets such attempts to improve the selection odds. This year, even if multiple employees registered a beneficiary, the beneficiary was only entered into the lottery once.

The FY2025 registration window was opened March 6, 2024, and was originally slated to close March 22. USCIS extended the registration deadline to March 25 due to a temporary system outage that prevented some users from accessing their online accounts. Still, this did not delay the selection process, which USCIS announced it had concluded on April 1.

Employers and employees who were lucky enough to receive cap numbers now have until June 30 to file an immigration petition with USCIS. This is the most important part of the entire process, and employers should work closely with their attorneys to ensure that filings are mistake-free. Employers who haven't yet engaged counsel should consider doing so, as you do not want to lose a coveted cap number due to a paperwork error.

This year, USCIS is incentivizing online registration with lower fees, as the agency's goal is to modernize the process and eventually do away with paper filing. Employers have until June 30 to file petitions on behalf of selected beneficiaries. The earliest new H-1B visa recipients can start is Oct. 1.

Beneficiaries whose status remains "submitted" in myUSCIS were not selected in the initial lottery process but will remain eligible for selection if cap numbers issued in the first round are later released. As H-1B denial rates have been low in recent years – just 3.5% last year, down from a high of 24% in 2018 – employers should begin to consider alternative visa options, including H-1B1, E-3, L-1A, TN professional and O-1 extraordinary ability visas.

This year, multiple registrations submitted by or on behalf of the same registrant for the same beneficiary were denied as duplicate registrations, and all registrations for that beneficiary were invalidated. Anecdotally, changes to the lottery process have cut down on the pervasive problem of multiple registrations and vastly improved selection odds. The real test will come next year, when lottery registration fees jump from $10 to $215 – an increase of 2050%.

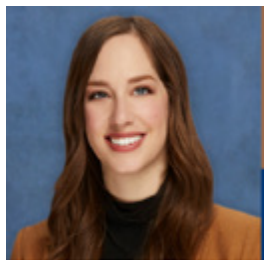
H-1B filing fees have already increased, from $460 to $780, effective April 1, 2024. Nonprofits and small businesses are eligible for some exemptions and discounts, but most employers will also have to pay a new $600 asylum program fee. This fee will help USCIS fund asylum adjudication. If USCIS can actually clear its substantial backlog and speed up processing times, then the new rules and higher fees could end up being a net positive for employers.

While the newly-revamped H-1B lottery won't solve the problems of a tight labor market, USCIS is at least trying to make the process more fair. Small- and medium-sized employers stand to benefit immensely from this leveled playing field, and better selection odds will undoubtedly help drive innovation in market sectors previously locked out of the competition for highly-skilled foreign workers. ■

The Importance of Setting

continued from page 2

sentation of them is the first time they have been involved in a legal action. They are scared and in the dark on all things related to a lawsuit. Setting parameters and expectations early on can change their entire perspective. It is important for them to know they are not simply another file number, that you are dedicated to meeting their needs and want to understand their circumstances. They need you to talk to them, listen to them, and treat them with empathy and respect. Regardless of the rules you follow in your practice, you will ultimately face the client with unreasonable expectations as some point in your career. But, if you establish your own clear rules for managing client expectations, you can avoid misunderstandings while affording clients the representation they deserve. ■



YOUNG LAWYERS DIVISION PRESIDENT

Mickell Summerhayes

Enriching the Legal Community

Nearly half way through 2024, the Young Lawyers Division (YLD) of the MCBA is continuing to use a blend of altruism, camaraderie, and professional development, to make significant strides in enriching the legal community.

In January, the YLD hosted mock interviews for law students—an event that not only provided invaluable experience for aspiring lawyers but also exemplified the division's dedication to fostering growth within the legal community. By offering guidance and simulated interview scenarios, the YLD aimed to empower students and kindle their interest in the MCBA, laying the groundwork for future collaboration and mentorship.

Moreover, the YLD has been instrumental in holding several well-attended networking happy hours, serving as vibrant hubs where legal professionals can forge meaningful connections, exchange ideas, and unwind after a day's work. These gatherings not only strengthen the fabric of the legal community but also create opportunities for mentorship and professional advancement.

Looking ahead, the YLD is excited for the Barrister's Ball slated for this September—a hallmark event that promises an evening of celebration, camaraderie, and recognition within the legal fraternity. As one of the highlights of the legal calendar, the Barrister's Ball and its charity auction and scholarship element reflects the YLD's commitment to fostering a vibrant and inclusive legal community.

In addition to its social engagements, the YLD remains committed to enhancing legal literacy and accessibility. The recent update of the statute of limitations guidebook underscores the division's dedication to providing valuable resources to legal practitioners and individuals alike. Available for purchase, this guidebook serves as a comprehensive reference, empowering practitioners with up-to-date information essential for navigating complex legal terrain.

Furthermore, the YLD is poised to update the Laws pamphlets—a vital resource aimed at demystifying the legal system for unrepresented individuals. By simplifying legal concepts and procedures, these pamphlets play a pivotal role in promoting access to justice and empowering individuals to navigate the legal landscape with confidence.

The YLD is looking forward to its accomplishments in the rest of 2024. ■

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ENVIRONMENTAL & NATURAL RESOURCES SECTION

PFAS Regulations Settle in Arizona

At the time this went to the printer, U.S. EPA listed PFOS and PFOA as hazardous substances under CERCLA and issued discretionary enforcement guidance. Look for an update to this development in our next edition of the Maricopa Lawyer

Tiffany Thomas, PhD
Principal Chemist, Emerging Contaminant and Litigation Support Leader Haley & Aldrich, Inc.

Per- and polyfluorinated alkyl substances (PFAS), used in a wide variety of commercial and industrial applications, have been the focus of increasing scientific, regulatory, legal, and media attention since the late 1990s. Over this time period, regulations have been driven at the state level in the absence of federal guidance. Approximately 20 states have already promulgated some combination of drinking water standards, product bans, and other permitting requirements. On 10 April 2024, the Environmental Protection Agency (EPA) promulgated the final Maximum Contaminant Levels (MCLs) under the Safe Drinking Water Act (SDWA) for six PFAS and is imminently expected to list two PFAS as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Arizona, and the other 29 states that have not specifically regulated PFAS, will quickly be subject to these federal regulations that have, to date, no precedent at the state level. The following is a primer for the implications of these regulations for known and potentially PFAS-contaminated sites in Arizona.

In 2019, Arizona instituted a ban on the use of aqueous film forming foam (AFFF) for training and non-emergency purposes. Then, in 2023, the Arizona State Senate passed an appropriations bill to provide $5 million in funding for PFAS "mitigation". The Arizona Department of Environmental Quality (ADEQ) must report to the Senate on the progress of the expenditures on or before 31 July 2024; it is unknown at this time the identity or nature of the funded projects. According a 2019 U.S. Senate Committee on Environment and Public Works hearing, at least four of the 15 federal National Priority List (NPL) sites in Arizona have known PFAS contamination: Luke Air Force Base, Marine Corps Air Station Yuma, Williams Air Force Base, and Tucson International Airport Area. Nationally, other NPL sites associated with possible PFAS use or release have been required to address PFAS as part of 5-year reviews and other milestone activities. Notably, these lists do not include screening of sites listed under state programs such as Arizona's Water Quality Assurance Revolving Fund, the state NPL-equivalent.

Once promulgated, the inclusion of perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS) under CERCLA will enable EPA to require site characterizations at existing NPL sites, list new NPL sites, and re-open closed sites. The EPA's stated focus is on industrial and manufacturing sources, potentially expanding the Potentially Responsible Party lists with implications for cost allocations. It is unknown at this time how many sites may be proposed as potential candidates for listing, since the use of PFOS and PFOA has not been historically included on ingredient lists, safety data sheets, or other product disclosures. EPA indicated their intent to use discretionary enforcement for passive receivers such as public landfills and municipal wastewater treatment plants, as well as sites such as Federal Aviation Administration Part 139-certified airports who used PFAS-containing products such as AFFF under federal mandates. However, discretionary enforcement under CERCLA does not protect these entities from state enforcement or third-party actions.

As of 10 April 2024, the final MCLs for both PFOA and PFOS are 4 parts per trillion (ppt, nanograms per liter); perfluorohexanesulfonic acid (PFHxS), perfluorononanoic acid (PFNA), and hexafluoropropylene oxide dimer acid (HFPO-DA, or Gen-X) are 10 ppt – three orders of magnitude (1,000 times) less than the drinking water standards currently applied to most other regulated contaminants. In addition, perfluorobutane sulfonic acid (PFBS), PFHxS, PFNA, and HFPO-DA will be regulated using a calculated Hazard Index of 1.0. Additionally, Arizona House Bill 2706 and Senate Bill 1245 call for ADEQ to establish drinking water aquifer water quality standards for PFOA, PFOS, and "other PFAS". The inclusion of PFOA and PFOS under both SDWA and CERCLA will allow the MCLs for PFOA and PFOS to become Applicable or Relevant and Appropriate Requirements for sites where groundwater is categorized for drinking water use. By extension, the MCLs then become the groundwater clean-up standard for PFAS NPL sites.

As messaged in the EPA's PFAS Strategic Roadmap, a significant expansion in PFAS regulatory oversight is ongoing or expected shortly under multiple regulatory programs. The EPA has focused regulatory attention on drinking water concentrations, with additional initiatives such as the enhanced reporting of 196 PFAS to the Toxic Release Inventory (November 2023), the Toxic Substances Control Act Section 8(a)(7) reporting (November 2023), and the proposed inclusion of nine PFAS under the Resource Conservation and Recovery Act (February 2024). In total, these actions represent abrupt changes to the regulatory landscape of Arizona, forcing parties from all facets of the environmental spectrum to rapidly educate and adapt. ■

Top Ways Chat=Gpt-4 Can Help You In Your Law Practice

Kent S. Berk
Berk Law Group, P.C.

Kent S. Berk

The question for most in the legal industry is not whether, but "how" can we implement Artificial Intelligence (AI) to better and more efficiently serve more clients and/or the public.

There are so many chatbots and other AI services that it is almost impossible to keep up with them. And it may not be necessary. I have been experimenting with and using Open AI's GPT+ (now GPT-4), $20/month, through openai.com.

Most of the advertised AI services are GPT-4 based models that have been specially trained, so for anyone who has not done so already, I recommend that you try GPT-4 or one of the other general AI models, such as Gemini (Google) or Copilot for Microsoft, especially before spending the money to purchase access to a proprietary and usually much more expensive model.

Below, I briefly summarize some of the potential uses of a general use AI model. All of these are subject to applicable legal and ethical requirements (not the subject of this article), and you should read and double check anything AI provides since it makes mistakes.

1. Drafting Documents: From pleadings and contracts to wills and trusts, AI can assist in drafting legal documents by providing templates and suggesting language. For example, a client asks you to draft a document you have never prepared before. You could ask AI and it will provide a starting point, similar to accessing a form bank through a print or online service. Except here, AI will have analyzed thousands or more of similar documents to generate a synthesis to generate a custom response based on what it predicts you want.
2. Contract Analysis: AI can review and analyze contracts, identifying key clauses, potential issues, and areas for negotiation, thus speeding up (not replacing) manual review. For example, you receive a draft lease from your client, a commercial tenant, from an attorney with whom you've never met. As a starting point or after your manual review, you could upload that contract to AI and ask some questions, like, from the perspective of the tenant, are there any clauses missing, can you suggest any clauses, are there any provisions that you recommend revising, is there anything unexpected?
3. Legal Education and Training: AI can be used for legal education, offering simple explanations (sometimes simpler than an attorney can provide) on complex legal concepts, recent case law, and statutory changes. So, you want to teach an in-house workshop for your firm on a set of rules, statutes or procedures? You could upload the relevant materials to GPT and ask it to summarize the material, create a list of key takeaways, PowerPoint slides or even a list of key discussion questions.
4. Document Reviews and Summaries: Subject to size limitations, you can upload documents to AI and ask it to prepare summaries, timelines, a list of key points or answer specific questions, all in seconds or minutes.
5. Legal Marketing Content Creation: AI can generate blog posts, web pages, newsletters, and social media content focused on legal insights, case studies, and firm updates, all custom tailored to the message you want to convey.
6. Policies/Procedures: AI can be used to analyze and update or even create firm policy and procedure manuals.
7. Employee Reviews: AI can easily generate lists of roles and responsibilities, key performance indicators and evaluation checklists.
8. Language Translation: AI can assist in translating legal documents and communications into various languages.

These are just some of AI's uses for lawyers and those working in the legal industry. Best of all, you can ask AI what it can do for you. Just tell it a little bit about yourself, your practice and your goals and ask if it needs any more information before giving you its suggestions. ■

ENVIRONMENTAL & NATURAL RESOURCES SECTION

Revitalize and Recharge: The Emergent Trend of Adaptogens and Nootropics in Functional Beverages

Megan Beebe
Husch Blackwell

In an industry full of buzzwords, "adaptogens" and "nootropics" are current standouts within the beverage industry.

The beverage industry experienced a significant shift in consumer preference following the COVID-19 pandemic, as consumers' proclivity for nutrient-rich foods stimulated a rise in beverages designed to provide added health benefits, such as increasing energy, decreasing stress, and improving overall mental health. The increased popularity of these "functional beverages" (i.e., beverages that provide added health benefits) is more than a fleeting trend, as the industry is projected to reach $62 billion by 2027.

What is a Functional Beverage?

As previously discussed, there is no legal definition for functional beverages. However, functional beverages are commonly thought of as products that purport to do more than provide fluids and quench thirst—they provide additional "health benefits not found in conventional beverages." These "health benefits" are often linked to the functional ingredients included in the product. Common functional ingredients include "adaptogens" and "nootropics."

In this post, we will define adaptogens and nootropics and provide common examples of each type of substance. In addition, we will highlight the different claims brands may make about their products containing adaptogens and/ornootropics.

Before reading further, it is important to understand that the statutes and regulations applicable to your product will ultimately depend on whether your product is categorized as a beverage or liquid dietary supplement. As our freereport highlights, a product's classification may be affected by factors such as health claims and recommended usage.

What Are Adaptogens?

Adaptogens are plant substances (such as roots, herbs, and mushrooms) that help the body manage stress and mitigate fatigue. However, not all plant substances are adaptogens. To be categorized as an adaptogen, a substance must be non-toxic, it must help increase the body's resistance to environmental stress, and it must help the body maintain a state of homeostasis.

Adaptogens are typically consumed in pill or tincture form; however, the recent rise in the popularity of functional beverages has increased the prevalence of adaptogen-infused beverages.

The term "adaptogen" was first used by scientists in the former USSR to describeplant-originated substances that:

1. Assisted the body in resisting stress;
2. Resisted physical ailments caused by external stress; and
3. Did not harm the normal functions of the body.

Today, adaptogens are more commonly thought of as plants and mushrooms that help the body resist and adapt to physical, emotional, and environmental stressors.

Despite the presence of adaptogens in traditional medicine, adaptogens remain subject to ongoing research to support their purported health benefits. Nonetheless, studies have revealed that adaptogens may have anti-fatigue, anti-depression, and stimulating effects on the body.

Examples of adaptogens commonly found in functional beverages include, among others:

- Ashwagandha
- American ginseng
- Cordyceps
- Lion's Mane
- Reishi

These substances have been credited with stress-relief, boosting immunity, and improving mental clarity, among other health claims.

Adaptogen-infused beverages are becoming increasingly popular alternatives to traditional alcoholic beverages. Additionally, consumers are consuming adaptogen-infused beverages as alternatives to energy drinks that often contain a high level of caffeine. Adaptogen-infused beverages purport to provide a more balanced increase in energy while also calming anxiety and reducing stress.

What Are Nootropics?

Nootropics are ingredients that support cognitive function to improve memory, motivation, attentiveness, and energy levels. Nootropics are commonly referred to as "smart drugs" because of their ability to enhance thinking, learning, and memory. Nootropics work by increasing cognitive abilities by targeting specific aspects of brain functions, such as neurotransmitters and blood flow.

Like adaptogens, nootropics were historically consumed in pill form prior to the increased consumer demand for beverages providing added health benefits. However, unlike adaptogens, which are derived solely from plant substances, nootropics may be synthetically or naturally derived.

While widely available in supplement form, prescription nootropics (such as Modafinil) are also commonplace. Prescription nootropics are typically used to treat Alzheimer's and ADHD, along with other diseases that affect cognitive functioning.

Examples of over-the-counter nootropics commonly found in functional beverages include, among others:

- Caffeine
- Gingko biloba
- Creatine

These substances have been credited with improving creativity, motivation, and mental stimulation, among other health claims.

While nootropic beverages are not a new development—humans have been consuming coffee and tea for millennia—the functional beverage industry has only recently started adding nootropic ingredients (such as B vitamins) to their products in an effort to meet consumer demand for beverages with added health benefits.

What is the Difference Between Adaptogens and Nootropics?

Simply put, adaptogens are used to ease the effects of stress on the body, while nootropics are used to stimulate cognitive function.

Today, functional beverages containing adaptogens may claim that the product promotes a calmer mind or boost immunity, whereas functional beverages containing nootropics may advertise stronger focus or sustained energy.Accordingly, it is not surprising that functional beverages have embraced adaptogens and nootropics as brands look to leverage these health-related claims to promote their products.

It is important to note that a product's classification as either a beverage or liquid dietary supplement will affect the types of claims that may be made about the product—whether on the product label or as part of the product's marketing. As our free report highlights, there are three categories of claims defined by the Federal Food, Drug, and Cosmetic Act (FDCA) and FDA regulations: health claims, nutrient content claims, and structure/function claims.

Functional beverages commonly make structure/function claims—claims that describe the role of a nutrient or dietary ingredient in maintaining the normal structure or function of the human body.

Notably, beverages are limited to making structure/function claims that are tied to a nutrient (not an ingredient) in the product. In contrast, liquid dietary supplements can make broad structure/function claims that apply to the whole product (without focusing on nutritive value).

Whether your product contains adaptogens, nootropics, or both, it is important to ensure that any claims made about your product (whether on the product's label or through any marketing efforts) are truthful and substantiated (meaning that there is competent and reliable scientific evidence supporting such claim at the time the claim is made).

The Future of Functional Beverages

In light of the growing consumer appetite for functional beverages purporting to provide added health benefits (such as boosting energy, mitigating stress, and bolstering mental well-being), we expect that the demand for products containing adaptogens and nootropics will continue to climb and increasingly dominate the functional beverage market.

In this new era of drinkable wellness, beverages with adaptogens and nootropics not only provide essential hydration but potentially other added health benefits. We anticipate that functional beverage brands will continue leveraging this newfound consumer demand for health-conscious beverages by infusing their products with adaptogens and nootropics as a means to bolster the health claims that are essential to their marketing initiatives.

Therefore, it is important for functional beverage companies to ensure compliance with applicable state and federal law, including FDA regulations, regarding the use of any health claims. If a business fails to comply with all labeling and marketing requirements (e.g., ensuring that all claims are truthful and not misleading), then the FDA would consider that the product is misbranded and, therefore, illegal.

Husch Blackwell has significant experience advising functional beverage businesses on state and federal regulations, including product formulation, labeling, and appropriate warnings. Contact Megan Beebe for further information. ■

ENVIRONMENTAL & NATURAL RESOURCES SECTION

FERC Proposes to Limit Reactive Power Compensation

Linda L. Walsh
Husch Blackwell

On March 21, 2024, FERC issued a Notice of Proposed Rulemaking (NOPR) to revise its reactive power compensation rules to limit compensation to interconnection customers to times when the transmission provider asks the interconnection customer to operate its facility outside the standard power factor range established in the interconnection agreement.

The NOPR follows a 2021 Notice of Inquiry (NOI) in which FERC sought comments. Multiple RTO/ISO regions have already elected not to compensate the provision of reactive power within the standard power factor range, including CAISO, SPP andMISO. PJM compensates generating facilities within the standard power factorusing the AEP Methodology and ISO-NE and NYISO use a flat rate design. Transmission providers outside of RTOs/ISOs that pay compensation generally use the AEP Methodology. Many Transmission providers outside of RTOs/ISOs do not provide any compensation.

FERC is proposing to revise Schedule 2 of its pro forma OATT to prohibit transmission providers from including in their transmission rates any charges associated with the supply of reactive power within the standard power factor range from generating facilities. As a result, transmission providers would only be required to pay for reactive power when the transmission provider asks interconnection customers to operate their facilities outside the standard power factor range.

The problem with the current reactive power system, according to FERC, is that"providing reactive power within the standard power factor range is a 'no cost' or de minimis cost service in addition to being a resource's obligation under its interconnection agreement and good utility practice." That is because the same equipment is used for the production of real power and reactive power. FERC stated that to the extent that generators incur any costs associated with providing reactive power within the standard power factor range, those costs can be recovered through energy or capacity sales and, thus, do not require separate compensation.

Within the RTO/ISO regions that do not currently compensate for reactive power outside the standard power factor range, FERC found no evidence of an insufficient supply of reactive power or that generating facilities in these regions have been unable to recover any costs associated with the production of reactive power. FERC also found that investors of facilities in those regions have been able to develop generating facilities that can satisfy the obligations in their interconnection agreements without separate reactive power compensation.

FERC emphasized that compensation for any reactive power production outside of the standard power factor range was beyond the scope of the rulemaking. Transmission providers are required to provide compensation for any production of reactive power outside of the standard power factor range because it may result in increased costs, including opportunity costs to the generating facility. For example, if a transmission provider requires a generating facility to provide reactive power outside of the standard power factor range, the generator may have to reduce its MW output to comply with such a request, which could then limit the generator's opportunity to receive revenues for real power sales.

In the NOPR, FERC preliminarily found that where transmission providers require transmission customers to pay for the provision of reactive power within the standard power factor range, transmission rates may be unjust and unreasonable because the rates include costs without a sufficient economic basis or justification. FERC also seeks comments on the following issues, among others:

- Whether there will be a reliability impact of eliminating compensation for reactive power within the standard power factor range in regions where generating facilities currently receive such compensation.
- Whether the elimination of reactive power compensation will affect the ability of generators to recover their costs in the markets that currently provide reactive power compensation within the standard power factor range.
- How eliminating reactive power compensation within the standard power factor range may affect investment decisions to build, or finish building, generation facilities, and how it could otherwise affect generators' business decisions in those markets.
- Whether the proposed compliance and implementation timeline would allow sufficient time for changes to be implemented in response to a final rule on whether a transition period or some other transition mechanism beyond the 90-day implementation period proposed in this NOPR is necessary.
- For regions that have an established capacity market, whether the compliance date should align with the region's capacity market timelines in order to allow costs associated with reactive power production, if any, to be incorporated into capacity market bids.

Entities are requested to submit comments within 60 days after the NOPR is published in the Federal Register. Reply comments are due 90 days after the publication of the NOPR in the Federal Register. FERC's Order is available here, Compensation for Reactive Power Within the Standard Power Factor Range, 186FERC ¶ 61,203 (2024) (NOPR). ■

Far From the Shallow Now

continued from page 1

that is lost to leaks and evaporation before it reaches Mexico to fulfill treaty obligations. To remedy the "structural deficit", the lower basin states propose that in times of severe shortage, such as what has occurred the previous few years, both basins should evenly bear reductions. Upper basin states disagree, noting that they account for evaporation and water lost to the system on the front end when snow melt is lessened into the headwaters of the Colorado River.

While differences abound in the competing recommendations, some similarities exist. Both groups provide an explicit acknowledgment of the "structural deficit" and agree that the river system needs reform. Both groups say they look forward to working with the other basin states, tribes, non-governmental organizations, and the Bureau to develop a consensus. These promises appear to have some merit. For example, on March 18, the upper basin states signed an MOU promising to consult with various tribes every two months. Despite submitting competing proposals, the basin states still have a chance to submit a unified plan.

In public, the Bureau has asserted that if the basin states did not submit a cooperative scoping agreement, it would independently draft a new environmental impact statement based on its own proposal for Colorado River operations. The question of whether the Bureau will do so remains open. As reported in *The Hill*, the Department of Interior has made public comments noting the agency is "not expecting every single issue to be smoothed out between the Upper and Lower basin tomorrow." With the deadline not until 2026 and rumors of very intense but productive meetings ongoing, as noted by Governor Hobbs in the question-and-answer session at the University of Arizona's Water Research Center's annual conference and the parties' history of hammering out deals in the last second, there is a strong sense of optimism that the states will come together and submit a collective plan that the Bureau can support.

As discussions continue, hope for consensus remains. Working on the basic assumptions that the Colorado River is in a "structural deficit" and that change is needed to ensure water security for millions of Americans in the traditionally arid Southwest is a step in the right direction. In stated comments, both sides appear ready to work for the good of all, rather than solely their competing individual interests. While differences among the basin states will continue, hopefully, these statements prove true. ■

ENVIRONMENTAL & NATURAL RESOURCES SECTION

Generator Interconnection Rule: FERC Provides Clarification and Tweaks to Order No. 2023 But Stands Firm on Late Study Penalties

Linda L. Walsh
Husch Blackwell

On March 21, 2024, FERC issued a follow up rehearing order to its landmark Order No. 2023 generator interconnection reform rule, providing several clarifications and tweaks in response to industry comments.

Improvements to Generator Interconnection Procedures and Agreements, 186 FERC¶ 61,199 (2024) (Order No. 2023-A). In Order No. 2023, issued on July 28, 2023, FERC adopted a comprehensive package of reforms in three general categories: (1)implementation of a first-ready, first-served cluster study process, (2) reforms to increase the speed of interconnection queue processing by eliminating the reasonable efforts standard and adopting study delay penalties for failing to complete studies on time, and (3) requirements to incorporate technological advancements into the interconnection process. *Improvements to Generator Interconnection Procs. & Agreements*, 184 FERC ¶ 61,054 (2023) (Order No. 2023).

Overall, in Order No. 2023-A, FERC upheld all the major reforms provided in Order No.2023, including the requirement to assess penalties on transmission providers for late completion of interconnection studies, which received significant opposition. Some of the key clarifications and modifications are discussed below.

Reforms to Implement a First-Ready, First-Served, Cluster Study Process

Order No. 2023's cluster study requirement for processing interconnection requests has largely already been adopted by most RTOs/ISOs. Indeed, some RTOs/ISOs already meet or even surpass the rule's requirements in some regards. Thus, it is no surprise that on rehearing FERC continues on the path to requiring cluster studies as a basic measure to improve on the interconnection process. In the rehearing order, FERC discussed many aspects of the cluster study requirements, providing clarifications and in some cases revisions to the proforma interconnection rules to clarify and improve on the language initially proposed.

Some of the more notable changes include:

- Readiness requirements. FERC clarified that where a transmission provider proposes to adopt new readiness requirements for its annual cluster study, an interconnection customer who is already in the queue must comply with the transmission provider's new readiness requirements within 60 days of the Commission-approved effective date of the transmission provider's compliance filing.
- Shared network upgrades. A network upgrade that is required for multiple interconnection customers in a cluster may be considered a shared stand alone network upgrade if all interconnection customers mutually agree to exercise the option to build. If there is no mutual agreement, no interconnection customer will be able to exercise the option to build a shared stand alone network upgrade.
- Curing deficiencies. Transmission providers must complete their determination that an interconnection request is valid by the close of the cluster request window and therefore, interconnection customers must also cure deficient interconnection requests by the close of the cluster request window. Only interconnection customers with interconnection requests that are valid and non-deficient can proceed to the customer engagement window. Additionally, interconnection customers must receive as many cure periods as needed to remedy a deficient interconnection request, as long as the end of such cure periods fall prior to the last day of the 45-day cluster request window. Thus, transmission providers must issue a second or third deficiency notice to an interconnection customer during the cluster request window, if time allows.
- Security requirements. Acceptable forms of security for the Commercial Readiness Deposit and deposits prior to the Transitional Serial Study, Transitional Cluster Study, Cluster Restudy and the Interconnection Facilities Study should include not only cash or an irrevocable letter of credit, but also surety bonds or other forms of financial security that are reasonably acceptable to the transmission provider.

Reforms to Increase the Speed of Interconnection Queue Processing

In Order No. 2023, FERC eliminated the reasonable efforts standard for transmission providers to complete cluster studies, cluster restudies, facilities studies, and affected system studies by the tariff-specified deadlines. FERC instead required transmission providers to implement a study delay penalty structure, whereby delays of studies beyond the tariff-specified deadline would incur penalties, per business day of delay, of $1,000 for cluster studies; $2,000 for cluster restudies and affected system studies, and $2,500 for facilities studies. According to FERC, the

See **Generator Interconnection Rule** page 11

THE BULLETIN BOARD

News from the legal community

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

ARIZONA SUPREME COURT

The Certification and Licensing Division of the Arizona Supreme Court realigned its structure to address the expansion of the Alternative Business Structures and the Legal Paraprofessional programs. The following changes are underway:

Alternative Business Structures:

Marquita Brazil will begin as the ABS Manager on March 13, 2024. Marquita brings more than 10 years' compliance, regulatory, risk management, and investigative experience working with Fortune 500 companies. Her work has included implementing process improvements, technology deployment, and project management. Her "know your client/know your business" experience working with complex business structures will provide a helpful transition to the ABS application process. Marquita earned her bachelor's degree in Organizational Leadership from Arizona State University and an MBA with an emphasis in project management from Grand Canyon University. Marquita's email and phone are contact information: mbrazil@courts.az.gov 602-452-3998.

Legal Service Innovations (Legal Paraprofessionals and related pilot programs):

Mark McCall began as the Legal Service Innovations Manager on March 4, 2024. Mark brings with him a long history of education and training. He is a Certified Public Manager through Arizona State University and has two master's degrees in education – one from ASU and another from Northern Arizona University. Mark's experience with executives at the state and county level includes program creation and implementation, strategic planning, and facilitating training. Mark can be reached at mamccall@courts.az.gov and 602-452-3278.

Daisy Cambron-Perez will continue as a Program Specialist, supporting both the ABS and LSI programs. Daisy can be reached at dcambron@courts.az.gov and 602-452-3946.

You will no doubt interact with these realigned teams soon. Thank you in advance for your patience as the newest team members get familiar with the programs. Special thanks to Ash and Daisy who have moved mountains to support and maintain the programs. I am confident each program will serve our applicants, the public, and the board and committee members well on the programs' journey toward continued growth and improvement.

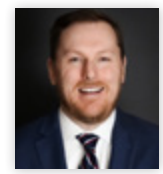
SANDRA DAY O'CONNOR COLLEGE OF LAW

An article advocating for a novel approach to water rights conflicts has been awarded the Morrison Prize by the Sandra Day O'Connor College of Law at Arizona State University.

Karrigan Börk

Karrigan Börk, acting professor of law at the University of California, Davis School of Law, was awarded the prestigious honor for his article "Water Right Exactions," published in 2023 in the *Harvard Environmental Law Review*.

Judith Wolf, Andi Paus, Aris Gallios and Steven Serrano are pleased to welcome new partner and mediator, **Jared Sandler**, to Arizona Mediation Institute.



Jared Sandler

Jared's background in psychology, his years of family law practice, and his dedication to mediation bring the perfect blend of experience to AMI. We look forward to Jared joining us in our continued commitment to provide unparalleled family law mediation.

The Sandra Day O'Connor College of Law at Arizona State University has formed an innovative partnership with the U.S. Department of Agriculture to provide recent graduates and experienced attorneys with a job pipeline at the federal level — a unique agreement between a law school and a federal agency.

ASU Law will be hiring five Public Service and

Leadership Development Fellows who will engage in an ongoing study on the value of public service, including participation in leadership groups and mentorship for 90 days in ASU Law's Public Service and Leadership Development program, followed by a two-year assignment to the USDA's Office of the General Counsel for hands-on legal work. The fellowship will aid early-career attorneys on their journey to becoming skilled public servants.


Stacy Leeds

Stacy Leeds, the Willard H. Pedrick Dean at ASU Law, said the partnership between the Sandra Day O'Connor College of Law and the U.S. Department of Agriculture is a great example of the ways federal agencies can work with universities to better the community. Photo by Tabbs Mosier/ASU

"As a public law school dedicated to improving the lives of the communities we serve, growing public service opportunities for our community is key to our success," said Stacy Leeds, the Willard H. Pedrick Dean and a Regents and Foundation Professor of Law. "This fellowship is a unique agreement between a law school and a federal agency, and it's a great example of how the two can work together to achieve common goals.

GALLAGHER & KENNEDY

Gallagher & Kennedy is pleased to announce that 13 of its attorneys have been recognized as 2024 Southwest Super Lawyers, and six have been named Rising Stars. In addition, shareholder Shannon Clark has been recognized as "Top 50 Attorney" in Arizona for his work in plaintiffs personal injury and wrongful death litigation and Dalva L. Moellenberg has been recognized as "Top 25 Attorney" in New Mexico for his work in environmental law.

2024 Southwest Super Lawyers:
Robert W. Boatman—*Personal Injury Products: Plaintiff*
Shannon L. Clark—*Personal Injury General: Plaintiff, "Top 50 Attorney" in Arizona*
Mark A. Fuller—*Business Litigation*
Donald Peder Johnsen—*Employment & Labor*
William F. King—*Professional Liability Defense*
Dalva L. Moellenberg—*Environmental Law, "Top 25 Attorney" in New Mexico*
Kevin D. Neal—*Personal Injury General: Plaintiff*
Kevin E. O'Malley—*Business Litigation*
Michael R. Ross—*Business Litigation*
Dale C. Schian—*Bankruptcy: Business*
J. Tyrrell Taber—*Personal Injury General: Plaintiff*
Terence W. Thompson—*Mergers & Acquisitions*
Woodrow C. Thompson—*Criminal Defense*

2024 Southwest Super Lawyers Rising Stars:
Matthew R. Boatman—*Personal Injury Products: Plaintiff*
Daniel Z. Kolomitz—*Personal Injury General: Plaintiff*
Lindsay G. Leavitt—*Business Litigation*
Kortney Otten—*Bankruptcy: Business*
Hannah H. Porter—*Civil Litigation: Defense*
Dominick San Angelo—*Business/Corporate*

Generator Interconnection Rule

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penalty amounts are intended to incentivize transmission providers to meet study deadlines and the increasing penalty amounts reflects the progressively greater harm caused by delayed studies at later interconnection stages. In addition, FERC justified the need for a penalty structure based on its prior determination that the reforms in Order No. 845 have not eliminated the problems of interconnection queue backlogs and delayed interconnection studies.

A significant portion of the rehearing order contains FERC's further discussion in support of adopting a penalty structure. According to FERC, a penalty structure aimed at transmission providers recognizes the key role transmission providers play in timely interconnection study completion. According to FERC, the transmission provider conducting the study is the entity with the most control over whether the study deadline is met, including the resources allocated to the study process; the actual conduct of the study, coordination with interconnection customers and consultants, and providing the study conclusions. In rejecting the numerous legal and procedural arguments from protestors, FERC reiterated that the study deadlines in Order No. 2023 should be achievable and where there maybe factors outside of a transmission provider's control that influence whether these deadlines can be met, FERC has adopted appropriate safeguards in the penalty structure to account for this possibility.

To entities that argued FERC should not penalize transmission providers without a finding of intentional delay, bad faith, misconduct or lack of effort, FERC responded that such findings are not necessary as predicates to concluding that the interconnection study process must occur more expeditiously in order to help remedy the problem of unjust and unreasonable rates caused by interconnection queue backlogs. According to FERC, the available data indicate that cluster studies alone are not sufficient to remedy interconnection queue backlogs.

To entities that argued the study time frames adopted in Order No. 2023 are not long enough (and thus it was unfair to impose penalties for failure to meet those deadlines), FERC responded that the deadlines were selected based on timeframes that, as a general matter, should be reasonably achievable for transmission providers under the pro forma LGIP process. FERC concluded that a transmission provider's failure to meet these deadlines presumptively reflects that the transmission provider has failed to respond appropriately to the need for timely interconnection study processing such that a penalty is warranted.

FERC also denied that the penalty structure adopted in Order No. 2023 was an improper "strict liability" measure because the pro forma LGIP provides a framework for transmission providers to appeal any study delay penalties. According to FERC, unlike a "strict liability" regime, transmission providers can raise case-specific facts and circumstances for consideration in determining whether there is good cause to grant relief from a penalty. FERC stated that it would consider affording relief based on the transmission provider's conduct in any particular study and also the transmission provider's efforts to prevent future delays.

Reforms to Incorporate Technological Advancements into the Interconnection Process

In Order No. 2023, FERC initiated a number of reforms to incorporate technological advancements into the interconnection process, including, among other things,requiring transmission providers to evaluate an enumerated list of alternative transmission technologies during the study process.

In the rehearing order, FERC rejected arguments that the requirement to evaluate the enumerated list of alternative transmission technologies will burden transmission providers and lengthen the interconnection process. According to FERC, the record supported a finding that these alternative transmission technologies can provide benefits to optimize the transmission system in specific scenarios.

Compliance Requirements

Prior to the rehearing order, the Order No. 2023 compliance deadline was April 3,2024. To allow transmission providers additional time to incorporate the revisions required in the rehearing order, FERC extended the current deadline for transmission providers to submit compliance filings to 30 days after the order is published in the Federal Register. Interested entities have 30 days from the date of issuance to seek rehearing of any new requirements in the rehearing order. ■

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:

ADOPTION
Daniel I. Ziskin
Daniel I. Ziskin P.C.

ADULT GUARDIANSHIP/ CONSERVATORSHIP
David A. Myers – Three Cases
Guadalupe Law Center
John C. Vryhof
Snell & Wilmer LLP
Kevin John Walsh – Two Cases
Quarles

BANKRUPTCY
Diane L. Drain – Three Cases
Law Office of D. L. Drain PA

EMPLOYMENT LAW
Katya Marie Lancero
Sacks Tierney PA

HOMEOWNERSHIP/ REAL PROP. (NOT FORECLOSURE)
Erick Durlach
Kilpatrick Townsend & Stockton LLP

MINOR GUARDIANSHIP/ CONSERVATORSHIP
Christina W. Kelly
Nationwide Mutual Insurance Company Trial Division
Sarah Janelle Michael
Your AZ Lawyer

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

ATTORNEY OF THE DAY
Nancy Anger
Robert F. Crawford
Andrew Jacobs
David Ouimette

CHILDREN'S LAW CENTER
Jessica Cotter
Shana Dawson Fish
John Gordon
Shawnna Riggers
Annette Cox Sandoval
Jennifer Shick

EMPLOYMENT
Shifa Alkhatib
Josh Black
Josh Carden
Bill Hobson
Robert Martinez
David Nowakowski
Krista Robinson

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Annette Trainor Burns
Michael Crane
Greg Davis
Ashley Donovan
Charles Friedman
The Honorable Jeanne Garcia
Stuart Gerrich
Robert Hahm
Kina Harding
Joel Hoffman
Christopher Lazenby
Susan McGinnis
Heather Stewart
Lisa Johnson Stone
Robert Walston

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James McDougall
James Rayburn
Jimmy Rohde
Christina Stoneking
Ryan Talamante
Kyle Bycroft – ASU Extern
Lexa Oakeson – ASU Extern

SNELL & WILMER
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Chris Fahrendorf
Matt Feeney
Robert Lee Fraley
Ryan Hogan
Robert Ito
Alex Nathe
Emily Parker

TENANTS' RIGHTS CLINIC
John Gordon
Peggy LeMoine
Diane Mihalsky
Judy O'Neill

VLP THANKS THE FOLLOWING VOLUNTEER ATTORNEYS WHO RECENTLY ENCOURAGED COLLEAGUES TO VOLUNTEER WITH VLP

Bradley D. Pack **Nina R. Targovnik**

PRO BONO SPOTLIGHT ON CURRENT NEED FOR REPRESENTATION

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

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

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

PRO BONO PROFILES

VLP Applauds 25 Awesome Pro Bono Attorneys for their Service in 2023

On April 17, 2024, the Volunteer Lawyers Program (VLP)—co-sponsored by Maricopa County Bar Association and Community Legal Services (CLS)—hosted an Awards Celebration to honor the following VLP Attorneys for their outstanding pro bono service in 2023. Roni Tropper, VLP Director, queries, "Without our volunteers, where would we be?" She continues, "The Volunteer Lawyers Program credits its success to our wonderful volunteers we have helping us every day to serve our clients and fight injustice. Ensuring equal access to justice for all is more than a full-time job, which is why our volunteers are so very important and valued. Our success, the volunteers' success, and the community's success all translate to better services and better outcomes for our client population."

Nancy Vottero Anger
Consumer Attorney of the Year]

Nancy, *a retired attorney*, has served numerous clients as a weekly volunteer for VLP's Attorney of the Day Program. Nancy makes calls, writes letters and speaks to opposing parties to encourage settlement on behalf of our clients. She works with each client to help them understand their issues and works with VLP's staff so we can further assist the clients, if at all possible. Nancy has helped over 110 VLP clients in 2023, and VLP certainly appreciates her ongoing dedication and support for our clients and Staff.

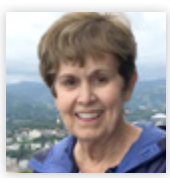
Anthony W. Austin
Teeing it Up for VLP Award

Anthony, *Director at Fennemore Craig,* who serves as Maricopa County Bar Foundation's Golf Committee Chair, continues to be extremely dedicated and committed to helping raise money for VLP. When Anthony took on this role, he decided he was going to give it his all. He leaves no stone unturned as he recruits players and sponsors, and he fully participates as a golfer in the annual fundraising golf tournament. He has succeeded in making the event more spectacular and profitable for VLP each year. Anthony's unwavering support for VLP is remarkable and so appreciated.

Florence M. Bruemmer
Federal Advice Only Clinic Attorney of the Year

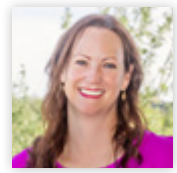
Florence, *Law Office of Florence M. Bruemmer*, is a sole practitioner who has been a valued attorney with VLP's Federal Advice Clinic since it began in 2017. She assists the public and the court by helping unrepresented litigants be better prepared to represent themselves in Federal Court. Florence has been committed to VLP and serving our clients since 2001, when Florence initially volunteered with VLP's Children's Law Center to assist families.

Emily G. Burns
Probate Lawyers Assistance Project Attorney of the Year



Emily, *CLS/VLP Certified Pro Bono Counsel,* has been volunteering for PLAP since April 2022. She usually covers at least one PLAP shift per month. Whenever we need an extra PLAP shift or two to be covered, or if there is a last-minute cancellation from a volunteer attorney, we can always count on Emily to help out. She has been a big help with the PLAP program and is well respected by the law student externs who work with her. Emily's expertise is so valued, and she is able to help guide applicants with probate issues and help them navigate the legal system.

Colleen S. Contreras
Family Law Attorney Rookie of the Year

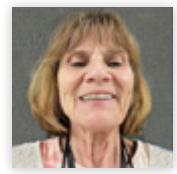


Colleen, *Arizona Family Law Ranch*, joined VLP's Pro Bono Attorney Team in mid-October of 2023 and immediately began assisting clients in the Family Lawyers Assistance Project (FLAP). Soon afterward, she also took on direct representation for some challenging cases for some of our FLAP and VLP Clients who are victims of domestic violence to help them protect their children from abuse, as well. Since joining VLP in mid-October until December 2023, Colleen contributed almost 40 hours to assist FLAP clients and represent some of our VLP Clients in Family Court.

Robert F. Crawford
MVD MVP of the Year

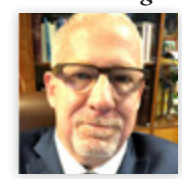
Robert, *a Sole Practitioner*, has made such a positive impact on VLP and our clients. With his special knowledge of motor vehicle issues, he has helped so many work through motor vehicle department and title issues and more problems with their consumer cases. He takes time with each client and does a tremendous amount of research. His care and concern for our clients is evident in all he does for us. In 2023, Robert donated over 55 hours utilizing his expertise and skills to assist our VLP Clients.

Michele Crick
Most Valuable Paralegal of the Year



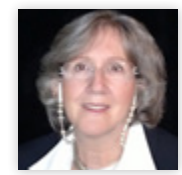
Michele, *CLS/VLP Volunteer*, has tirelessly volunteered her paralegal and administrative skills to benefit VLP and our clients for over five years. She routinely donates at least 10 hours every weekend and has become an expert at updating attorney profiles and entering data into Legal Server, CLS's case and information management system. She stepped up to quickly learn this new data system, which is still challenging to most of our staff, and helped migrate data from our old system. VLP so appreciates all the time and work Michele contributes to help update and manage our system.

Greg R. Davis
Outstanding Family Law Advocate



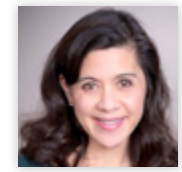
Greg, *Warner Angle Hallam Jackson & Formanek PLC*, has actively demonstrated his commitment and dedication to VLP's Family Lawyers Assistance Project (FLAP). Since 2022, Greg has committed to volunteering as a FLAP Attorney two times per month, every year. Greg instructs, educates and advises each pro per litigant to effectively navigate their case through the family court system. He treats everyone with respect and dignity and empowers clients to confidently represent themselves. During 2023, Greg donated over 92 hours, helping 116 families with their family law matters.

Diane L. Drain
Bankruptcy Champion of the Year



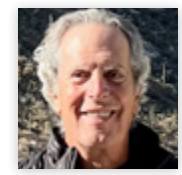
Diane, *Law Office of D. L. Drain PA*, has worked diligently and tirelessly to not only assist numerous VLP Clients with filing bankruptcy, but also to teach them how to electronically access documents, resources and information they need throughout the litigation process. Diane never says "no" when asked to accept a VLP case, and she encourages and trains other attorneys to do this pro bono service for VLP Clients, as well. She accepted 9 cases in 2023, and she continues her steady practice of accepting VLP Cases and helping all she can.

Romy (Schlecht) Drysdale
Clinic Coordinator of the Year



Romy, *Group Counsel, Network and Edge Solutions, Intel Corporation*, worked with VLP to create Intel's Arizona Debt Clinic over ten years ago. She continues to enthusiastically and successfully recruit volunteers within Intel to staff this monthly clinic after our VLP Staff sends a list of clients struggling with debtor/creditor issues. Every month our Intel Team of Volunteer Attorneys help so many clients understand and navigate their way through the debt collection process and settlement. Since its inception in 2014, over 500 families with barriers to legal access have received much needed legal assistance.

Charles I. Friedman
Michael E. Hurley Memorial Family Law Award



Charles, *Charles I. Friedman PC*, is the recipient of the Michael E. Hurley Memorial Family Law Award. Our VLP Staff presents this award to an attorney every year in memory of Michael, who spent half of his time in his law practice volunteering for VLP from 1993 until his passing in 2021. Charles has been Volunteering with VLP for the past 25 years. This past year he assisted FLAP clients twice per month providing over 60 hours of pro bono service. Charles provides in-depth advice and strong guidance to low income clients and has extraordinary compassion for victims of domestic violence. Our VLP Staff extends our heartfelt gratitude to Charles.

Honorable Jeanne M. Garcia
Family Lawyers Assistance Project Attorney of the Year

Jeanne, *CLS/VLP Certified Pro Bono Counsel* and retired Maricopa County Superior Court Judge, brings a wealth of knowledge and experience as a former family court judge to help FLAP clients with divorce, custody, child support, parenting time and other family court issues. She is also a strong, compassionate advocate for clients who are victims of domestic violence, and she always provides the highest quality advice to pro per litigants who are unable to afford legal representation. Jeanne volunteered over 70 hours in 2023 and helped nearly 100 family law litigants effectively represent themselves in Maricopa County Superior Courts.

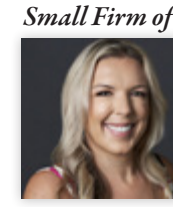
John F. Gordon
Life Saver Attorney of the Year

John, *CLS/VLP Certified Pro Bono Counsel*, has been helping VLP Clients successfully litigate, settle, and overcome their Landlord/ Tenant issues since 2015. He assists tenants first with understanding their rights, and he spends so much time to ensure that each client fully understands everything. He also takes a creative approach to helping clients resolve their problems with their landlords. As one of VLP's Rule 38 Licensed Retired Attorneys, John is one of VLP's most experienced and seasoned attorneys. So many VLP clients have benefitted from John's expertise and personable approach to resolving and litigating their Landlord/Tenant cases.

Andrew S. Jacob, M.D., J.D
Consumer Attorney of the Year

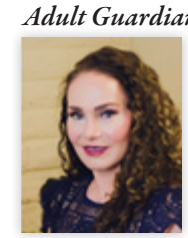
Andrew, *CLS/VLP Certified Pro Bono Counsel,* had been volunteering with VLP's Federal Court Brief Advice Only Clinic and decided he wanted to do more. He jumped right into our Attorney of the Day Clinic before realizing he could make the most difference by offering clients more than brief advice. Andrew helped over 80 clients in 2023 and continues to go above and beyond as he assists numerous VLP Clients with negotiating, writing letters, and making calls on their behalf as they work to resolve their consumer issues. He is truly effective in showing opposing parties that VLP clients have the strength and confidence to stand up for their rights and overcome the many obstacles they face.

Katherine Kraus
Small Firm of the Year Pro Bono Award]



Katherine Kraus, *Law Office of Katherine Kraus PLLC*, not only volunteers for FLAP, but is a great example of "pro bono spirit" within her firm. She recruited all family law attorneys in her office to provide pro bono service for FLAP Clients. So now, Elizabeth Langford, Carrie Canizales, and Kimberly Staley all join Katherine in helping our VLP FLAP Clients. In 2023, Katherine's law firm spent approximately 160 hours providing brief advice and assistance to pro per litigants in family law matters. Thank you, Katherine and Team, for your strong support and commitment in assisting Arizona's underserved population.

Michelle M. Lauer
Adult Guardianship Attorney of the Year



Michelle, *Lincoln & Lauer*, has provided excellent assistance, advice and representation for clients with limited means who need to become guardians for incapacitated family members.

Since 2008, Michelle has helped so many VLP clients seeking guardianship for adult family members. These adults need guardians because they cannot care for themselves or make their own medical, legal and other life decisions. Michelle's super power is that she is also a Spanish speaker, and we have such a need for Spanish speaking volunteers. Michelle also helps VLP recruit and train other pro bono attorneys and presented an Adult Guardianship CLE in 2023.

Peggy M. LeMoine
Life Saver Attorney of the Year]

Peggy, *CLS/VLP Certified Pro Bono Counsel*, has volunteered as a Landlord/Tenant Clinic Attorney for several years and has offered brief advice to so many clients. Peggy runs with the cases as she calls opposing parties, writes letters, negotiates and works diligently to achieve positive outcomes for our clients. She has assisted 12 clients this year and put in over 50 hours to help them achieve great outcomes.

Diane L. Mihalsky
Life Saver Attorney of the Year

Diane, *CLS/VLP Certified Pro Bono Counsel*, has been volunteering with our Landlord/Tenant Clinic, and VLP and our clients are so fortunate to have her as part of our Pro Bono Attorney Team. She not only offers excellent brief advice to our clients, but also writes letters, negotiates, makes calls and fights for our clients to ensure positive outcomes and remove unfounded debts from their credit reports. Diane has selflessly donated 85 hours this year to help VLP Clients.

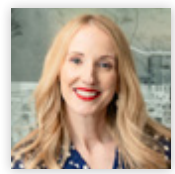
Judith C. Ruhl O'Neill
Life Saver Attorney of the Year

Judy, *a retired Sole Practitioner*, joined our VLP Pro Bono Attorney Team in 1996; for the last eight years, she has volunteered weekly with the Landlord Tenant Clinic to help those facing housing issues. Judy has also assisted clients in our Attorney of the Day Clinic and always offers to help clients wherever she is needed. She goes the extra mile for our clients and also recruits other volunteers to help us as well. We are so lucky to have Judy volunteer with us for 28 years.

Donald W. Powell
Defender of Justice & Best Friend to VLP

Don, *Carmichael & Powell PC*, has provided ongoing outstanding service and dedication to VLP and our clients. Don has taken a lead role in our Financial Distress Clinic (FDC) and often steps in to help other VLP clients who are waiting for their cases to be referred to a VLP Attorney but are in immediate need of information and advice. He never hesitates to help us answer random questions for clients and assists our staff with bankruptcy, consumer, and debt issues. Additionally, as our VLP Advisory Committee President, Don makes the meetings interesting and keeps us all on task. Don has donated 50 hours and 100 percent of his heart to helping VLP and our clients succeed.

Shawnna R. Riggers
Juvenile Law Attorney of the Year

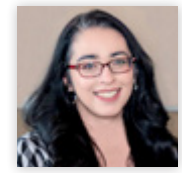


Shawnna, *Arizona Family Law Attorneys*, has been an amazing volunteer for years. She schedules herself at the beginning of each year for two Juvenile Law Phone Clinics a month. She says she truly wants to make a commitment to VLP and help people with her unique skill set, and she means it. Shawnna also takes severance and adoption cases for direct representation and has helped over 60 people navigate the Juvenile Law System. She never says "no" when she's asked to help any Children's Law Center Clients.

Jennifer W. Shick
Court Appointed Advisor of the Year

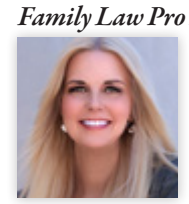
Jennifer, *Shick Law Offices PC*, has served as a VLP Court Appointed Advisor (CAA) for The Children's Law Center since our humble beginnings in 1999. Whenever asked, Jennifer jumps at the chance to take a CAA case and help children and families in need. As a long-time practicing family law attorney, she is well aware of the need for judges to appoint CAA's due to safety concerns about the children involved in these often difficult and high-conflict cases. Jennifer also helps spread the word to the courts and judges to make sure all are aware and using VLP's valuable CAA Program.

Ana L. Soto
Paralegal Interpreter of the Year



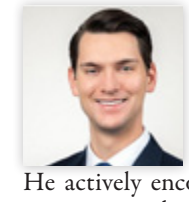
Ana, *Snell & Wilmer*, is always happy to help our VLP Attorneys who need Spanish interpreters for our Spanish speaking clients. Ana frequently and graciously assists our VLP Attorneys and Clients with her exceptional skills. Having only one Spanish speaking VLP Staff member, we often need help with communicating to our clients. Ana always says "yes" whenever any of our VLP Clients or Attorneys are in need of her assistance and her excellent translating skills. In 2023, she also stepped in to help VLP when our Spanish speaking staff member was on leave.

Lisa Stone
Family Law Pro Bono Commitment Award



Lisa, *Lisa Stone Law PLLC*, has been a volunteer with the Family Lawyers Assistance Project (FLAP) since 1997. For years, Lisa has helped by offering brief advice and instructions to pro per litigants and guiding them through tough family law situations. In addition, Lisa took on direct representation cases when a client was in dire need. She has contributed her time and expertise to help our FLAP Clients once a month, which has made a huge impact for low income families and for victims of domestic violence. VLP and clients are so grateful for Lisa's kindness and generosity and her strong commitment to pro bono service.

David W. Wilhelmsen
Liaison of the Year



David, *Snell & Wilmer LLP*, expends countless hours to coordinate a roster of more than 320 attorneys who volunteer with VLP to assist our clients. He actively encourages, recruits, trains and mentors pro bono attorneys on a daily basis. He also offered to help with all Spanish Speaking clinic case interviews. So many VLP Clients receive excellent advice and pro bono assistance due to David's work to help with getting their cases assigned to pro bono attorneys at his firm. VLP is so very grateful for David's help and ongoing efforts to get all VLP Clients legal assistance and advice. ■

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NO SHOWS

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

WENESDAY ▪ MAY 15
12-1 PM
LOCATION ONLINE

Preparing for and Participating in Mediation

The presentation will provide information on preparation for and successful participation in mediation, including the importance of discovery, client consultation, preparation of a mediation memorandum, accurate information and presentation about issues that will come up for discussion during the mediation, e.g. assets, debt, valuations, dates of "valuation," and support.

PRESENTER: Hon. Steve Sheldon (Ret.)

TUESDAY ▪ MAY 21
12-1 PM
LOCATION ONLINE

Important Updates to the Roles of Court-Appointed Counsel in Probate Proceedings

Important Updates to the Roles of Court-Appointed Counsel in Probate Proceedings CLE will be presented by active court-appointed counsel in the Maricopa County probate court, Attorney Daniel "Danny" J. Mazza. Danny Mazza will provide viewers with important updates to the roles of court-appointed counsel in probate proceedings and insight to his service as court-appointed counsel in probate proceedings.

PRESENTER: Daniel J. Mazza, Partner at Mazza + Niro, PLC

Judicial Disagreement Over

CourtWatch, continued from page 1

Foster pointed to Perez's deposition testimony that "she would have seen the case of water if she had looked down." This admission, Foster concluded, "contradicts her assertion that the danger was hidden and not obvious and demonstrates that the presence of the case of water was clearly visible." Furthermore, Perez had shopped at the store "25 to 30 times previously," and was aware that "stores often have end cap displays." Thus, Perez's case was analogous to *Hagan v. Sahara Caterers, Inc.*, 15 Ariz. App. (1971), "where the plaintiff had previously been to the restaurant and had seen the pebbles that she later slipped on resulting in a determination that the condition was not unreasonably dangerous."

Foster noted there was no testimony "demonstrating it was unreasonable that the case of water was on the floor," nor anything in the record suggesting "that other customers tripped on a case of water or any other item displayed at an end cap." She wrote that defective conditions are not necessarily dangerous conditions, and "the mere fact that an injury has been sustained does not give rise to a presumption that a defective condition created an unreasonable risk of harm."

"The determination of duty is not dictated by testimony but by the record presented," Foster wrote. "Considering the direction given by *Dinsmoor*," she added, "facts may be examined to determine whether the condition was 'unreasonably dangerous' for the purposes of determining duty under the law." Under the facts adduced at summary judgment, Perez had failed to establish that Circle K owed her a duty.

Vice Chief Judge Randall M. Howe agreed with the result but not the majority's reasoning. "Summary judgment was appropriate here, in my view," he wrote, "because Perez failed to show a genuine issue of material fact that Circle K breached its duty of care to her when she shopped at the store."

He rejected the majority's conclusion that determining whether businesses owe a duty to their invitees to keep the premises reasonably safe "includes resolving the factual question whether the condition that may have caused the injury was unreasonably dangerous or whether it was open and obvious." Doing so, he opined, "intermixes the issues of duty and the breach of that duty."

Howe believed Circle K's duty to Perez "is clear as a matter of law." He noted that possessors of land generally owe to their invitees a duty to keep their premises in a reasonably safe condition. "Circle K thus owed a duty to Perez," he concluded, because it "is a possessor of the store in which Perez was injured."

He disagreed with the majority's belief that deciding duty requires the court to also analyze both whether there was an unreasonable risk of harm and whether the plaintiff was aware of it. These "are factual questions that go to whether a defendant has breached its duty, not a part of the duty analysis."

He cited the seminal case of *Markowitz v. Arizona Parks Board*, 146 Ariz. 352 (1985), where the supreme court had admonished against "attempts to equate the concept of duty with specific details of conduct" and had held that issues of unreasonable risk of harm and known and obvious conditions are questions of fact going to breach, not duty. "[T]he Majority's analysis," he wrote, "brings in the specific details of Perez's case to determine Circle K's duty." Those facts "are important indeed to determine whether Circle K did or did not protect Perez from an unreasonable risk of harm and whether the danger from the end cap was open and obvious, but they are not relevant to whether Circle K had a duty to Perez in the first place."

"Duty involves 'generalizations about categories of cases,'" he wrote, quoting *Gipson*. "Considering the specific facts of Perez's case in deciding duty is at war with that principle." He continued, "The Majority's analysis blends factual questions going to breach into its duty determination when those issues should be distinct."

Blending the separate elements will cause "confusion for courts and for litigants," Howe believed. "Which facts go to duty—which a court can find—and which facts go to breach—which only a jury can find?" he asked. "What rule determines which side certain facts fall on? Any set of facts can be read to go to the scope of a duty or to breach."

He reiterated the supreme court's warning from *Gipson*: "A fact-specific analysis of the relationship between the parties is a problematic basis for determining if a duty of care exists. The issue of duty is not a factual matter; it is a legal matter to be determined *before* the case-specific facts are considered."

Howe believed the majority's reliance on *Dinsmoor*—where the supreme court had looked deeper into the specific facts—was improvident. *Dinsmoor* analyzed whether a school's acknowledged duty to its students extended to an incident that occurred neither on school grounds nor during a school-related activity. By contrast, he wrote, "No question exists whether the allegedly unreasonable risk of harm to Perez—placing the water cases at the end cap, creating the risk of tripping and physical injury—occurred within the context of the land possessor/business invitee relationship."

Foster responded that *Gipson* and *Dinsmoor* had abandoned *Markowitz's* limited approach. "Without examining the scope of the duty owed, a court cannot determine whether a relevant duty existed," she wrote.

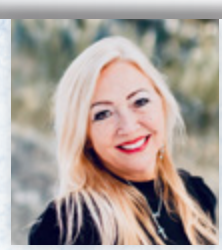
She also rejected Howe's analysis of *Dinsmoor*: "The Concurrence argues that *Dinsmoor* differs because of a special relationship in that case between a student and a school. But that argument requires a factual analysis of the nature of the relationship, something the Concurrence states is impermissible in addressing duty."

Given the controversy, Howe invited the supreme court to step in: "[I]f my understanding of *Dinsmoor* turns out faulty and *Dinsmoor* applies to this case, it is inconsistent with *Markowitz* and the other cases holding that whether an unreasonable risk of harm exists and whether the danger is open and obvious are factual questions not for a court to resolve, but for a jury." He added, "In that event, I would urge the supreme court to grant review in this case to resolve that conflict." ■

MEMBER SPOTLIGHT

KONNIE K. YOUNG

Community Legal Services (CLS)—Volunteer Lawyers Program (VLP)



HOW LONG HAVE YOU BEEN A MEMBER OF THE MCBA?

I first joined MCBA as an ASU Law Student in the early 2000's, then rejoined as an attorney.

HAVE YOU EVER BEEN INVOLVED WITH ANY SECTIONS OR DIVISIONS?

I've been actively involved in MCBA's Family Law and Criminal Law Sections for over 10 years and served on the Public Lawyers Division Board for three years.

HOW LONG HAVE YOU BEEN PRACTICING IN YOUR FIELD?

The Legal Field is a second career path for me. I enrolled in law school as the solo parent of four young sons when I was almost 40-years-old and graduated from Sandra Day O'Connor Law School over 20 years ago. Upon graduating from law school, I served as the Family Law Rules Specialist and Domestic Violence Specialist for the State at the Supreme Court of Arizona. I didn't become a Member of the Arizona State Bar until 2008, prior to serving as a State Prosecutor for Maricopa County Attorney's Office.

WHAT WAS YOUR FIRST AREA OF PRACTICE?

Right after graduating from law school I started my first job in the legal field as the Domestic Violence Specialist and Family Law Specialist at the Supreme Court of Arizona.

Immediately after being admitted to the Bar in 2008, I represented clients for their family law, criminal law, and juvenile law cases in my solo law practice and served as a CLS VLP FLAP Pro Bono Attorney.

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

The MCBA has always provided such great CLE's and opportunities for attorneys and judges to network and interact with fellow practitioners, and this year is no exception. Connecting practitioners with other legal professionals to learn from one another, share experiences and interact, as well as connecting litigants with attorneys through MCBA's Legal Referral Services (LRS) seem to be top priorities.

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

From my experience as a sole practitioner, prosecutor, family law and victims' attorney, and now the Pro Bono Attorney Coordinator, the imbalance of power for self-represented litigants continues to be a huge challenge for the legal community, courts, and litigants—especially for underserved and indigent litigants and victims of domestic or sexual violence.

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

If I weren't a lawyer in my second career life, I would probably be a teacher or writer. I taught English and TV Production at the high school and college levels for 17 years before going to law school, so this is a second career for me.

I also always wanted to join the Peace Corp and travel to help others all over the world. I still have visions of traveling and helping others who so desperately need help. So I'm hoping to still have the opportunity to do this in my lifetime.

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

I would probably choose to be cast as Maria (played by Julie Andrews) in the musical The Sound of Music.

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

Depending on how you define "strange," probably the strangest job I had was serving as an MCAO "Night" Prosecutor in the Initial Appearance (IA) Court at 4th Avenue Jail. I worked 12-hour shifts, from 7 am until 7 pm for 7 straight days and nights. Then I would have 7 days off to try to catch up on sleep, however, I failed as a Day Sleeper, so the nights and days all sort of blended together. ■