

**One citizens' input to the ADOT-MAG Leadership Team
Regarding the proposed SMF on Pecos Road.
10-13-09**

Air & noise pollution—major issue due to the surrounding mountains & elevation.

It will abut the Kyrene de Los Lagos Elementary School—with in 75 feet. Plus be near other schools on Liberty Lane.

Destruction of a portion of the South Mountain Park- which is sacred to the GRIC.

Loss of a church—plus scores homes could be a 100 +—depending on the footprint.

Few residents in this village need to travel to 55 Av & 1-10 on a daily basis .If they work in central Phoenix— then why drive to 55th Av just to back track on 1-10 for five miles.

It is a truck by- pass route -CanaMex—plain and simple.

\$2-3 Billion SMF cost ---for a 7 % traffic reduction on the B'Way Curve. Where is the cost benefit? Let's spend the money wisely on 1-10 & 1-17 improvements.

Currently my village has six ways to gain access to Pecos Road—under the plan-- 32nd St. will not be an option and yet 6-8,000 vehicles per day travel that road. Where is that traffic going to go—on the arterial streets?

One of the discussion points I hear from MAG/ADOT is it was “voter” approved in 1985—so was the Paradise Corridor—where does that corridor exist today?

Why was Scottsdale under the leadership of Herb Drinkwater able to negotiate with the SRPMIC to get the Pima 101 route moved ½ mile east?

Please work with the GRIC and negotiate a placement south of Pecos Road—that would be a win-win for all parties. The 101 is an economic engine for the SRPMIC.

Bottom line: Let's try to prevent this from being an issue that is decided in the federal courts.

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PURPOSE OF STUDY

1. Identify a transit alternative that increases efficient access to employment opportunities throughout the Central Phoenix/East Valley region for City of Mesa residents.
2. Identify a transit alternative that provides improved travel times in a congested environment over local bus.
3. Identify a transit improvement.

THE SCOPING PROCESS

What is it, Why do it?

Scoping is a study process designed to inform the public, interested groups and participating agencies about the proposed project, potential alternatives under consideration, and issues for public and agency review and input. The main goal is to encourage the active participation of the community and public agencies early in the decision-making process. It provides the public an opportunity to communicate issues and concerns to help develop alternatives before considerable resources have been expended.

The scoping process defines the alternative routes and alignments that will be examined in the study, identifies potential impacts that

Aug 2007

FIGURE 1: REGIONAL TRANSPORTATION PLAN TRANSIT CORRIDORS



Mesa wrangles with how to pay for light rail

1.1-mile segment's cost ranges from \$20M to \$40M

BY JASON EMERSON
TRIBUNE

Pressured to move along with plans to build about a mile of light-rail line on the city's western border, Mesa officials have yet to figure out how to pay for it.

The project moved forward last week when Valley leaders on the Regional Public Transportation Authority voted 6-1 to begin looking for an engineering firm to build the system. Mesa Mayor Keno Hawker cast the dissenting vote.

While Hawker, who represents Mesa on the authority, favors building a 1.1-mile segment from the Tempe border

to the East Valley Institute of Technology at Longmore and Main Street, said he wants his full council to vote on it, he wants to know how much it will cost and he wants to know who will run the rail system.

"I would like to see some of those (questions) answered," Hawker said Monday. "And I'm not going to move forward on my vote until I'm sure the council is supportive," he said.

The City Council will discuss the light-rail project at 7:30 a.m. Thursday in the council chambers, 57 E. First St. A formal vote is expected sometime during the next two months, said City Manager Mike Hutchinson.

Plans call for 20.3 miles of rail to run from 19th Avenue and Bethany Home Road in Phoenix through downtown Tempe, ending about a mile into Mesa. Total cost is

estimated at about \$1 billion.

Some officials worry that if Mesa backs out of the project, it would wreak havoc with the schedule.

"It would probably cause a delay," said Jack Tevlin, Phoenix's deputy city manager.

Tevlin points to the project's lengthy environmental study, which was done based on a 20.3-mile system. If the track is shortened because Mesa backs out, a new study might have to be done, he said.

Tevlin met with each Mesa City Council member in late March to extol the merits of light rail.

"Phoenix realizes that without us, they'll have to redesign the project," said Mesa City Councilman Bill Jaffa.

Others are concerned that if Mesa backs out, Tempe may shorten its segment. Instead of

'I would like to see some of those (questions) answered. And I'm not going to move forward on my vote until I'm sure the council is supportive.'



KENO HAWKER
Mesa mayor

extending the track to Mesa's border, which currently is planned, Tempe may cut costs and stop the rail at McClintock Road or Mill Avenue, officials said. Tempe Mayor Neil Giuliano could not

be reached for comment.

Mesa is being asked to commit up to \$40 million to build its segment at a time when the city is facing a \$33 million revenue shortage for fiscal year 2002-03.

In the past, Hawker has estimated the system would cost Mesa \$40 million, but Monday he revised his estimate to \$30 million. The new number is based on the information that Mesa's segment will be 1.1 miles instead of 1.5 miles, Hawker said. Wulf Grote, the project director, has said Mesa's share will be about \$20 million.

Some federal money might be available to reduce Mesa's cost, Tevlin said. The federal government is expected to pay about half the cost of building the system.

(I am unable to understand why the Light rail was not routed South near 24th Street, then east to Tempe and Arizona State University. Very little passenger boarding between those points other than 44th St., the Airport. That would have been taken up south of 24th Street and Washington. It seems like the Highway builders did the planning so as to avoid solving traffic problems. Why not go where the people are? The proposed Sky Harbor Airport Train would be much shorter, less expensive to build and operate. That area to south of the Airport is light industrial with limited traffic access, Far more passengers by relieving traffic from land locked Ahwatukee, solving a huge problem.

Now, with no opportunity to contest the decision the proposed extensions east and west are for areas that have even less potential. Two downtown main streets that refused to enter the twentieth century. Mesa's Main Street, is known as a Heritage low density area. East are large trailer parks, retirees and snow birds populate the area. It seems deserted four months out of the year. The growth and industry is five miles south overflowing the County. North of Main Street lays the Salt River and Indian reservation.)

The Trolley Folly Fraud

April 17,2009

Another rip-off like one court for six million people, the future of Maricopa population with no public hearing or vote. We only vote on small matters, on the big ones we get distracted and confused by the press and Media.

At the Mesa more telling process not much hearing on Light Rail at the E V Institute on April 16, few were heard. The subject of an alternative route South East to the Phoenix Mesa Gateway Airport was dismissed. It was claimed that voter approval of the Light Rail limited the choice to Main Street to Power. That was not correct. As the 2002 Tribune article states before the public vote only the track to Sycamore was approved by the Mesa City Council and later the Voters.

In 2007, a public meeting was conducted at the E V Institute to consider alternatives for a possible extension of the rail. Only Main Street or First Ave. and First Street were discussed. The same as last night. Note the Purpose of the study, August 21 -23 ,2007." 2. Identify a transit alternative....." Only East on Main Street, the least likely route to serve the East Valley was discussed. Not those who live south, and Gilbert, Chandler etc. We had the same problem when it came time to build the 202 north of Mesa. Those who do not want to pay taxes cause the rest of us to pay more.

South to the Banner Hospital complex across from Mesa, College then East to Alma School Road to the dyeing Fiesta Mall area. South to Guadalupe or Elliott Rds. then East to end north of the Phoenix Mesa Gateway Airport. At the Mesa City Council 2002 Vote on Light Rail I spoke at that meeting, as I did in favor of the Stadium. The same people who were against that now want the Light Rail if they do not have to pay for it.

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Dear

The Trolley Folly Fraud

April 17, 2009

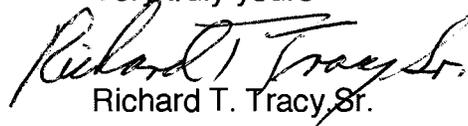
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If you check the record on the city Council Vote you'll find that I spoke at that meeting as I did in favor of the Stadium. The same people who were against that now want the Light Rail if they do not have to pay for it.

Very truly yours



Richard T. Tracy, Sr.

From: Rick Tracy [mailto:rtracysr@cox.net]

Posted At: Thursday, May 07, 2009 9:17 PM

Posted To: Daily eMail

Conversation: Goldwater Institute: Coyotes score ultimate hat trick on taxpayers Did Goldwater Institute have any thing to do with loss of Scottsdale site?

Subject: Re: Goldwater Institute: Coyotes score ultimate hat trick on taxpayers Did Goldwater Institute have any thing to do with loss of Scottsdale site?

The Coyotes Hockey team filed for Bankruptcy, may leave the area. Not unexpected since those operating the business of governing in our community ignore the basic property rule, location, location. There are so many that confuse the successful theory of property use evolution with the religious theory of the same name. A caring person would have allowed the Hockey team to occupy the former Los Arcos mall site for the good of the community. The Cardinal Stadium should have been allowed to locate at the Tempe location. Metropolitan Phoenix has been plagued with major, costly taxpayer supported errors. You know what they have been and who has been responsible. Remember the light show in the landing flight path, the Grand Prez race downtown, Patriot Square, the empty Civic Plaza and four hundred thousand dollar, twelve hundred square feet sixty year old dream homes in the center of the city on a half or full acre that should contain a fourplex at least.

I am unable to understand why there was not an objection and protests by officials responsible for planning and approving major improvements when meetings were conducted by the promoters of Light Rail continuing the rail east on a sparsely populated route, rather than go south at 24th Street, then east to Tempe and A S U then on south east. Very little passenger boarding other than 44th St. for the Airport. That would have been taken up south of 24th Street and Washington, at the airport entrance. Seems like the Highway builders did the planning so as to avoid solving traffic problems. The proposed Sky Harbor Airport Train would be much shorter, more effective, less expensive to build and operate. Closer to downtown hotels and proposed new terminal. The area to south of the Airport going east is light industrial with limited traffic access, Far more passengers to serve while relieving the traffic jam from land locked Ahwatukee, solving a huge expensive problem.

Now, with no opportunity to contest the decision the proposed Light Rail is planned to extend east and west to areas that have even less potential. Two main streets in towns that refuse to enter the twentieth century. Mesa's Main Street is known as a Heritage, low-density area. East are large trailer parks, retirees and snowbirds populate the area. It seems deserted four months out of the year. The growth and industry is south, north of Mesa's Main Street lays the Salt River and Indian reservation.

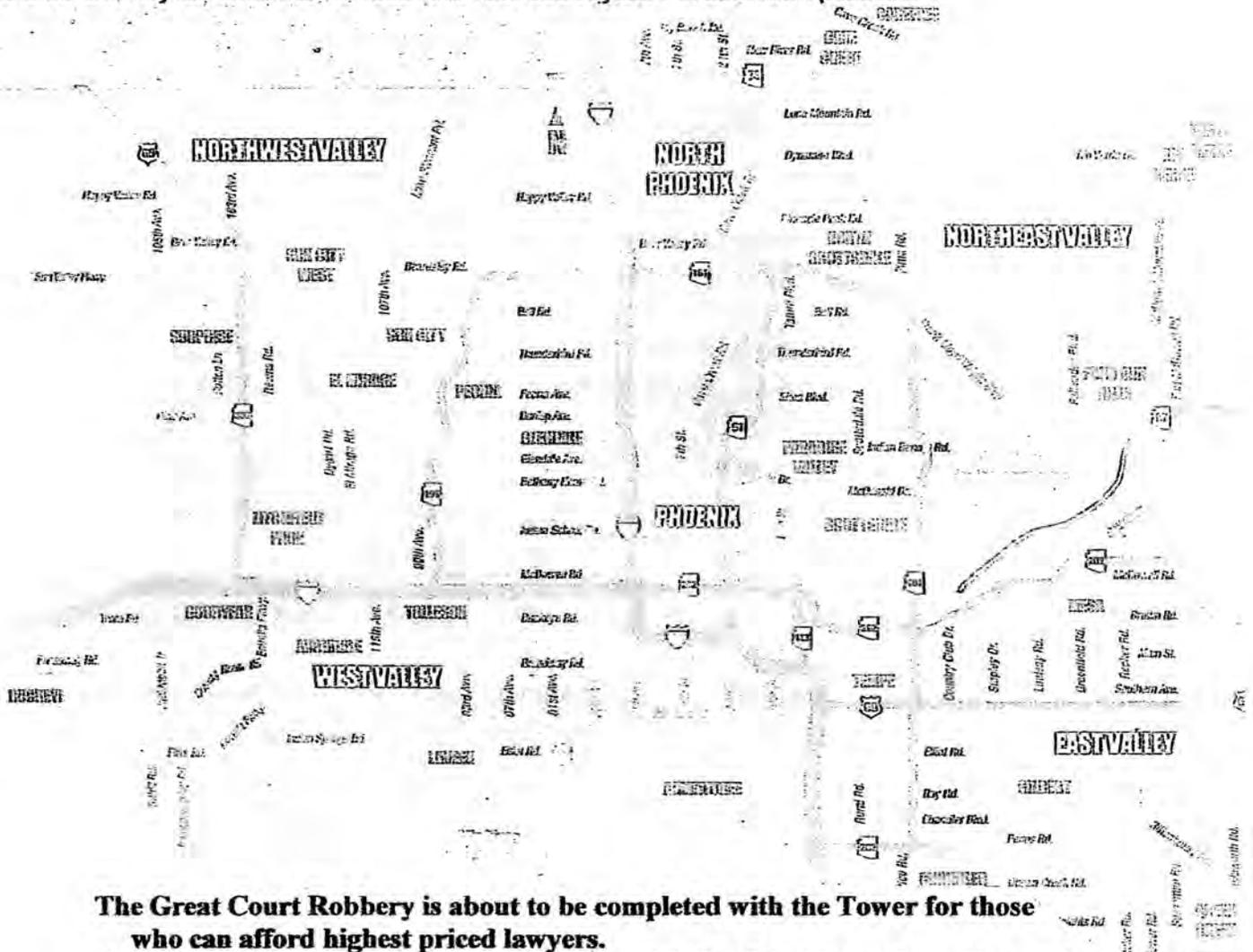
Lets try to get it right this next time, leave politics out of the Public Transit decision process.

Richard T. Tracy, Sr. Mesa--

A CONSTITUTIONAL FORM OF GOVERNMENT GUARANTEES

Open and fair courts, Meaningful and fair Elections, Knowledge of Government affairs.

A Municipal Court in each community, which we already have, that handle money damage cases with local judges, accountability, reasonable time limits and costs are available throughout the Country. Not in Maricopa or Tucson. Since 1994 damage cases under \$50,000 are passed-out the back door to disinterested, often biased attorneys to be disposed of. After all the Superior court judges have 800 to 1200 cases and that is because the large hundred to two hundred attorney law firms want to retain the 1950 court system in downtown phoenix.



The Great Court Robbery is about to be completed with the Tower for those who can afford highest priced lawyers.

Hope of reduced traffic congestion and orderly growth in the distant future dimmed last week with two revelations. First, our population is expected to double in the next twenty-five years. Sooner if California has another earthquake. Second, the public and growth be damned, they will not decentralize. Where can we place the blame? Not the financial community, there is a bank branch and broker in every population center. Not the medical profession, hospitals and medical centers have been suburban trailblazers. Its our alleged public servants who enjoy reserved parking places in offices far from their constituents that have determined that all shall travel to an area where few live, other than the homeless to acquire legal relief or be forced to participate in what they refer to as the justice system.

In a reversal of prior policy, Mesa is destined to lose jury trials according to the Chief Superior Court Judge. As far as I can tell the problem is that it is too popular. Everyone wants to go there rather than downtown. People on the West side want the same advantage of convenience, reduced expense, organization and consistency rather than judicial rotation.

That will not do, so the country supervisors bowed to the downtown law firms and agreed only nominal satellite Courts will be established. Like the City of Phoenix that operates one giant Court, although it is larger than some states. Maricopa County is larger than most states will hold all jury trials and house prisoners a few blocks from City Hall in an area where over a billion dollars is invested for entertainment, sports and convention center.

The sheeple (blind followers) just don't bother to question the plan. It is not more efficient, overall economical, convenient, or less likely to be corrupted. The rest of the world is wrong maintaining that smaller systems with 5 to 15 judges are better, more effective, in addition to fostering respect, accountability and having the ability to dispense justice.

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Hon.
Justice, Arizona Supreme Court
1500 West Washington St.
Phoenix, Arizona 85003

September 24, 2007
Maricopa Courts, Ignore the Constitution
Lack Civil Process, Fair Election, Reasonable Costs

Dear

As I pointed out at the last Bar-Bench conference, in 1973, the Committee of Experts retained to evaluate and plan for Court growth advised against making Los Angeles' mistake. They had 119 judges in a downtown court building away from the residential areas. The experts recommended five judicial districts. The L.A. Court like the present Maricopa County Court was overwhelmed, unable to function. Several years later they distributed the courts in Districts with two tier Superior, Limited Municipal and specialized courts. Today L.A. County has fifty one state court locations.

Arizona is now one of the larger states and Maricopa County population, greater than twenty six states like Phoenix with a population greater than several states also has a single court center distant from the citizens who support it. The deciders, hopefully County Supervisors and City Council members accept the lame excuse, "the danger to the public transporting prisoners." The real reason, Phoenix is a hot legal business market. One of the most expensive considering the nature of proceeding and limited local commerce. Law firms of one hundred fifty and two hundred attorneys thrive and run the process. A State and County army of attorneys basically push papers with a back log and wastes millions. Few civil cases go to trial.

Without asking for a vote on the issue. it is proposed that a sixteen to twenty story half billion dollar building be started after demolition of several building and the parking garages near the Madison St. Jail. All county jury trials will continue to require the public to travel great distances in a county that is still exploding. Triple the population since 1973, yet a 1950 court plan is retained. Jury civil trials have already been taken from Mesa. Arizona is the only large state that does not have intermediate courts that process case efficiently and inexpensively. Most matters are disposed of by arbitration or mediation or one side will run out of money. Local attorney fees twice the national average, here they are \$ 200 to start, \$ 450. an hour for law partners.

Insurance companies use a no- settlement policy to clog the courts. That allows them to reduce just compensation ,yet our insurance rates are among the highest. Insurers can afford \$300. an hour lawyers avoiding paying just claims. After people pay tens of thousands cases are often disposed of by one of the unpaid three hundred pro teme judges that handle most of the civil load above fifty thousand dollars. Mean while Judges are doing clerks jobs and reading briefs. Attorneys want the judge involved so they can create suspense and justify fees processing what should be well established legal doctrine. Some family matters have three or four public attorneys involved. A cottage industry of retired judges with healthy pensions do well in the arbitration - mediation business rather than share the court caseload as they once did.

Justice Feldman noted years ago, the public can not afford to be represented. Very limited information about court proceedings is provided yet hundreds of cases are processed each week. The summary of daily activity could go in a court news or on the Internet and assure accountability as well as guidance on other cases. We do get an opportunity to vote to retain fifty or seventy judges , a majority do not case a vote they do not know the judges even by name, but the committee dominated by judges selected from downtown law firms advises we retain all. Can this be called a justice system? Can it be said there is an independent judiciary when the judges and their accomplishments are not known? Their voices filtered through limited media. Often judges are blamed for the conduct of the County attorneys and the legislature wishes to reduce judicial discretion and limits operational funds. Our crime and insurance costs are high as a result of poor performance and waste.

With only eighteen of the ninety two Maricopa County Superior Court judges assigned to civil cases each has over 800 cases assigned. Most civil cases are subject to mandatory arbitration, some simple criminal cases linger for years, some continued till they go away. Over fifty judges and commissioners for Domestic Relations matters, many matters settle in the hall before trial leaving judges a two productive hour day when elsewhere a referee in Superior and Municipal court handles much of that.

We have had judges that just can not make a decision and after a couple hearings the case gets resolved by a \$300.an hour arbitrator. The legislature funds the court like it was the year 1912 rather than pay for staff.

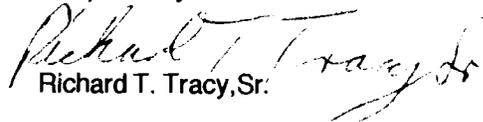
Notice how the Arizona Republic continually publishes articles claiming the Arizona Court system is award winning, the envy of other communities. Only Justice Court Judges malfeasance is exposed although there are hundreds of complaints against judges. Band -Aid programs become the standard for our courts, the Short -Trial and heavy penalty for trying to appeal an award punishes the citizen. Can we be proud of the Tent -city jail. Is there evidence it does reduce crime? The record, it encourages homelessness and crime. Creates and increases hardship; family separation and welfare costs .

Why do County and City Administrators ignore millions of dollars wasted in officers time to transport rather than cite or handle locally, alleged offenders. They are taken to an inconvenient location, then trial away from their areas where offenses occur and witnesses live. This heavy heavy traffic area which should some day be prime commercial property. Over a hundred and thirty thousand persons booked into Maricopa County Jail last year. Many several times. Average cost per booking \$ 70. and \$189. with medical. An occasional wrongful death or injury claim judgment. Punishment, not treatment. The sheriff is famed as judge and jury, decreeing punishment for those not yet tried and convicted.(over 70% at times in tent city are awaiting trial,52% are misdemeanor charges and 30 % that should have mental health attention) The real purpose is to retain the 1950 court system with all civil and criminal trials where the big law firms are. An area where few live and each addition gives the public more reason to avoid. Efforts to make it an entertainment, residential,convention, sport center conflict with it being the financial-legal center so private investment and the public go elsewhere in the valley. Pay large sums for open land.

The proposed court center will require the public,employees,officers, jurors,witnesses and parties be put to additional expense and overload transpiration corrodors. All costs increased, to serve attorneys who are among the most expensive in the county, processing matters that occur in other parts of the county or state. Such matters are better handled in the local community. It has been proven that when attempting to improve human conduct, human contact and consistency is important. Maricopa county courts at all levels lacks both taking them away from the neighborhood. Mass confusion is sheltered, aided by unwanted judicial assignments and frequent reassigned. Check the Court of appeals records. Even there lawyers get brownie points processing cases free for judges.

In almost forty years of local experience I have observed some of the least equipped lawyers on the bench, they advance beyond their ability and are sheltered by the system, they do more harm than good. We have had judges that did not make a decision in five years,some were incompetent or could not hear or understand and some just plain frightened and insecure. Minor offenders often become victims of simple matters that become unnecessarily complicated or are given the revolving door treatment and repeat. Judge are rotated in assignment, leaves them the least equipped lawyer in the court.The more important a case, the more likely attorneys will be specialist, it wastes time if they have to teach the judge. Large court systems, some with two hundred years of experience in handling our populations are not copied, Maricopa leaders refuse to learn from them, attorneys do not mind confusion, it is good for business if cases drag on. Most only know ASU and this court system and have adjusted to the Band Aids applied to the sores over the past twelve years.

Respectfully


Richard T. Tracy, Sr.

US States Population and Ranking

US total population 281,421,906 (As of 4-1-2000 according to U S Census)

(Maricopa County fastest growing, considerable increase and some states decreased over seven years)
 CHECK IT OUT, MARICOPA COUNTY HAS NO JUSTICE SYSTEM. MERELY QUASI - LEGAL BUSINESS.

With the exception of a few states that are agriculture most states have three times or more counties than Arizona. Each with local court and jail. A typical justice system for example the state of New Hampshire is the size of Maricopa County with less than one third the population. It has 11 Superior Courts, 11 Probate Courts, 36 District Courts, 6 Family Courts divided into 17 Divisions across the state. District and Municipal Courts have jurisdiction of \$35 to 70 thousand misdemeanors and some felonies. PLANS ARE FOR MARICOPA COUNTY TO HAVE ONE SUPERIOR COURT WHERE ALL CIVIL AND FELONY JURY TRIALS WILL TAKE PLACE. CITIZENS WILL BE REQUIRED TO TRAVEL TO AN AREA MOST PEOPLE TRY TO AVOID. DOWNTOWN PHOENIX. WHY? TO ACCOMMODATE THE LARGE LAW FIRMS TO RETAIN CONTROL OF AN INEFFICIENT SYSTEM.

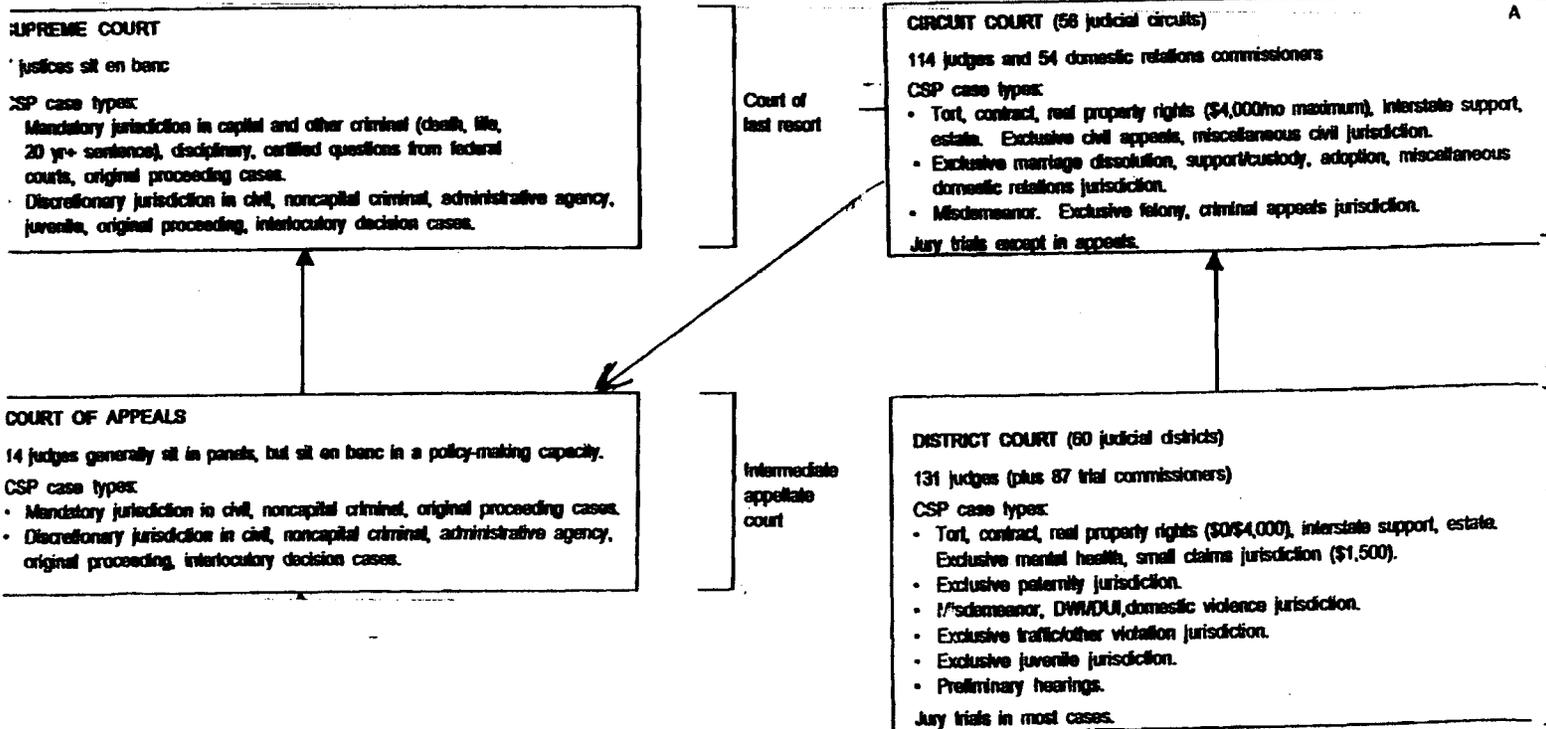
State	Counties	SUPREME Court of Appeals	Superior Court	Municipal or District	Traffic Local	Population Data: April, 2000
California	58	7/110	1498	414	-	33,871,648
Texas	254	9/89	472	1310	831	20,851,820
New York	62	7/72	894	277	2312	18,976,457
Florida	67	7/62	509	280	-	15,982,378
Illinois	22	7/52	852	-	-	12,419,293
Pennsylvania	67	7/	454	575	13	12,281,054
Ohio	88	7/68	376	252	428	11,353,140
Michigan	57	7/28	316	258	6	9,938,444
New Jersey	21	7/34	427	334	-	8,414,350
Georgia	49	7/12	347	507	159	8,186,453
State		Population 1	Ranking			Population
North Carolina	62	7/15	119+	235	721	8,049,313
Virginia	31	7/11	150	190	-	7,078,515
Massachusetts	69	7/25	82	211	-	6,349,097
Indiana	5	5/16	304	64	9	6,080,485
Washington	39	9/22	175	113	104	5,894,121
Tennessee	95	5/24	251			5,689,283
Missouri	45	7/32	351	361	154	5,595,211
Wisconsin	72	7/16	241	226	-	5,363,675
Maryland	24	7/13	146	172	-	5,296,486
Arizona	16	5/22	159		82	5,130,632
State		Population 1	Ranking			Population

Civil jurisdiction in Maricopa County Superior Court is vested in eighteen (with over 1200 cases each) of the ninety two Judges. Twenty three Justice of the Peace who are being consolidated to operate in six locations. We had the same number in 1972, at that time state was less than two million and Phoenix, seven hundred thousand, Like the Superior court they can not handle civil cases, just process evictions and traffic trials and force civil case to mediation. Few J P s are admitted to the bar and lay persons are well paid to substitute. Arizona failed to implement the Modern Courts Amendment (Az. Cont. §6.22) therefore the 82 Justice courts have jurisdiction in all cities and the 94 Municipal Courts have no civil jurisdiction although most of their judges are required to comply with the Constitution . Maricopa County 's 23 Justice of the Peace Courts are now to be house in six location rather than twenty . It is not material to the Empire builders that the public, employees and officers will spend more time and expense are a result of this consolidation. People will lose two or three days from work to attend court. In most parts of the county, Courts are located where it is convenient to the public and economical. An example of poor planning will be the location of the Westside Complex which will be built at 107th Avenue Considerable property is available in populations centers like 51 th Avenue. That like Mesa would be preferred by the public and the objective is to force people down to where the big law firms are.

State	Population	Ranking	Population	Ranking	Population	Ranking
Alabama	41	9/10	23	302	174	4,447,100
Colorado	64	7/16	24	132	312	4,301,261
Kentucky	56	7/14	25	168	218	4,041,769
South Carolina	46	5/4	26	127	310	4,012,012
Oklahoma	73	9/17	27	78	361	3,450,654
Oregon	36	7/10	28	166	142	3,421,399
Connecticut	22	7	29	180/18	-	3,405,565
Iowa	99	7/9	30	182	136	2,926,324
State	Population Ranking		Population			
Mississippi	32	9/10	31	120	234	2,844,658
Kansas	31	7/10	32	234	257	2,688,418
Arkansas	28	7/12	33	115	247	2,673,400
Utah	29	5/7	34	90	-	2,233,169
Nevada	9	7/1	35	56	22	1,998,257
New Mexico	32	5/10	36	72	111	1,819,046
West Virginia	31	5/1	37	65	122	1,808,344
Nebraska	12	7/16	38	54	103	1,711,263
Idaho	7	5/3	39	39	83	1,293,953
Maine	16	7/1	40	16	73	1,274,923
State	Population Ranking		Population			
New Hampshire	10	5/1	41	41	-	1,235,786
Hawaii	4	5/4	42	49	20	1,211,537
Rhode Island	4	5/1	43	26	35	1,048,319
Montana	56	7/1	44	45	-	902,195
Delaware	3	5/5	45	19	22	783,600
South Dakota	7	5/1	46	33	-	754,844
North Dakota	53	5/1	47	57	82	642,200
Alaska	4	5	48	34	17	626,932
Vermont	14	5	49	28	20	608,827
District of Columbia	1	7/7	50	58	-	572,059
Wyoming	9	5/1	51	17	79	493,782
State	Population Ranking		Population			
MINNESOTA	10	7/14	21	263	-	4,919,479

KENTUCKY COURT STRUCTURE, 2002

TYPICAL COURT ARRANGEMENT



Constitutional power to grant civil jurisdiction in Municipal Courts exits

(Arbitration and mediation favors business and insurers so available courts are avoided)

As can be seen the Constitution provides for a Court Inferior to the Superior Court. Adopted in 1960 under the leadership of Morris Udall it was to replace the Justice of the Peace Court with the Municipal Court in larger cities. Most states that adopted the so-called Modern Courts amendment did move ahead with the necessary statues. The sitting Justices of the Peace were grand fathered in, most were qualified to continued in the position. In Arizona appropriate legislation was not in place until 1974. Under the leadership of then Senator Sandra Day O'Conner with a Joint Legislative and Judicial Committee, composed of Judges from Phoenix and Tucson, statues were submitted which would have made the jurisdictional change optional in various cities .The Chief Justice of the Supreme Court at first supported the program..

The large firms and Superior Court Judges of Maricopa County had former Court of Appeals Judge Henry Stevens lobby the Justices of the Peace organization and Legislature and defeated the proposed legislation. They then succeeded with the help of the Bar Association and Phoenix Forty to replaced Chief Judge and Assistant Chief Judge of the Phoenix City Court with two county employees using a Grand Jury investigation which produced daily head lines with false allegations, that were never to be tested in court and no charges were filed. A committee then selected replacements for three City Court Judges who were denied a hearing although called for in the Open Meeting law.,

. Judicial power; courts Arizona Constitution Article Six

Section 1. The judicial power shall be vested in an integrated judicial department consisting of a supreme court, such intermediate appellate courts as may be provided by law, a superior court, such courts inferior to the superior court as may be provided by law and justice courts.

16. Superior court; appellate jurisdiction

Section 16. The superior court shall have appellate jurisdiction in cases arising in justice and other courts inferior to the superior court as may be provided by law.

Superior and other courts; qualifications of judges

Section 22. Judges of the superior court, intermediate appellate courts or courts inferior to the superior court having jurisdiction in civil cases of one thousand dollars or more, exclusive of interest and costs, established by law under the provisions of section 1 of this article, shall be at least thirty years of age, of good moral character and admitted to the practice of law in and a resident of the state for five years next preceding their taking office.

32. Justices of the peace and inferior courts; jurisdiction, powers and duties; terms of office;

Section 32. A. The number of justices of the peace to be elected in precincts shall be as provided by law. Justices of the peace may be police justices of incorporated cities and towns.

B. The jurisdiction, powers and duties of courts inferior to the superior court and of justice courts, and the terms of office of judges of such courts and justices of the peace shall be as provided by law. The legislature may classify counties and precincts for the purpose of fixing salaries of judges of courts inferior to the superior court and of justices of the peace.

C. The civil jurisdiction of courts inferior to the superior court and of justice courts shall not exceed the sum of ten thousand dollars, exclusive of interest and costs. Criminal jurisdiction shall be limited to misdemeanors. The jurisdiction of such courts shall not encroach upon the jurisdiction of courts of record but may be made concurrent therewith, subject to the limitations provided in this section. (Other states have provisions to discourage small claims from being file in their Superior or District court to reduce case load and costs)

[§ 4, §] consent, rather than one imposed by force of law.

The due process provisions of the federal and state constitutions were held in *Bradford Woolen Corp. v Freedman* (1947) 189 Misc 242, 71 NYS 2d 257, not violated by a provision of the New York arbitration statute permitting the courts of that state to direct entry of judgment on an arbitration award in cases where those courts had jurisdiction of the arbitration proceedings, notwithstanding lack of personal jurisdiction over the parties against whom the award was entered. Pointing out that, in the instant case, the party against whom the award was entered had been given notice by mail of the arbitration proceedings, the court said that the consent to arbitrate in New York was a sufficient contact with the state, for jurisdictional purposes, and that service of the papers by mail gave the nonresident sufficient notice, both of the arbitration proceedings and of the instant application for confirmation of the arbitrator's award, to bring forth objections from the nonresident as to his nonresidence.

[b] Provisions held unconstitutional.

To be contrasted with the decisions discussed in § 4[a], supra, is *Schafran & Finkel, Inc. v M. Lowenstein & Sons, Inc.* (1939) 280 NY 164, 19 NE2d 1005, rearg den 280 NY 687, 21 NE2d 196, which involved a provision of a New York arbitration statute to the effect that a person personally served with notice of an intention to conduct arbitration, pursuant to the provisions of the contract, could only put in issue the making of the contract by a motion for a stay, notice of which must be served within 10 days after the service of the notice of intention to arbitrate, and that, upon failure to make timely

service of the notice of a motion for a stay, the arbitration award might not be set aside on the ground that there was no valid contract. The court said that it was at least doubtful whether the statute would be constitutional if construed to permit one to be deprived of his property by virtue of an arbitration award where, notwithstanding his denial of the existence of a contract providing for arbitration, he failed to serve notice of a motion for stay of the arbitration proceedings after receiving notice of such proceedings in the form of an informal letter from a lawyer which, although stating a demand for arbitration, did not state where or at what time the arbitration was to be held, or what would be the consequences of a failure to act with respect thereto.

B. Statutes compelling arbitration regardless of agreement or election of parties

§ 5. View that statutes are unconstitutional.

It seems that only in Pennsylvania has the legislature enacted a general arbitration statute applicable to civil controversies of all kinds, by which parties to a dispute are required to arbitrate their differences regardless of whether they have consented to arbitrate and regardless of whether either of them has elected to arbitrate. Although the Pennsylvania statute has been upheld as against a variety of constitutional attacks (see § 6, infra), the current of judicial thinking (expressed almost exclusively in dicta) is that such compulsory arbitration legislation is unconstitutional.¹⁷

Thus, in *Mengel Co. v Nashville Paper Products & Specialty Workers Union* (1955, CA6th Tenn) 221 F2d 644, it was recognized that "compul-

sion of the state constitution guaranteeing trial by jury, but also the due process provision contained in the Fourteenth Amendment of the Federal Constitution, held that the statute before it, although compelling arbitration in certain cases, was not unconstitutional. See the discussion of this

sory arbitration, without right to have the issue determined by court action, is invalid."

In *Henderson v Ugalde* (1944) 61 Ariz 221, 147 P2d 490, it was recognized that an arbitration statute whose effect is to coerce parties to submit to arbitration, without any agreement or assent on their part to do so, is unconstitutional.

And in *St. Louis, I. M. & S. R. Co. v Williams* (1887) 49 Ark 492, 5 SW 883, there is a dictum to the effect that the legislature lacks power to substitute boards of arbitration for the courts, without consent of the parties, and make the awards of such boards obligatory.

Similarly, there is a dictum in *People ex rel. Baldwin v Haws* (1862, NY) 37 Barb 440, 15 Abb Pr 115, 24 How Pr 148, to the effect that when the law compels a party without his assent to arbitrate upon a claim which properly should be the subject of an action, such law deprives him of the right which is secured by the Constitution, of "a trial according to the course of the common law."

And in *Farel v Roberts* (1891) 1 Pa Dist 743, 11 Pa Co 58, the court, apparently referring to a statute compelling arbitration of controversies regardless of any agreement therefor by the parties, or any election to arbitrate by one of the parties, recognized that such a provision was unconstitutional as working a denial of the right to trial by jury.¹⁸

§ 6. Contrary view.

The Pennsylvania arbitration statute, as amended in 1952 (Act of January 14, 1952, PL 2087),¹⁹ authorizes the Courts of Common Pleas of that state to provide, by rules of court, that all cases in which the amount in controversy is \$1,000 or less, except

those involving title to real estate shall first be submitted to and heard by a board of three members chosen by the county for consideration and award. The statute further provides that following an arbitration award either party may appeal to a court in which the cause was heard at the time it was referred to arbitration, with all appeals to be decided in *Re Smith* (1955) 381 Pa 2 A2d 625, 55 ALR2d 420, app 350 US 858, 100 L ed 762, 76 S Ct 1000, the statute was upheld as constitutional attacks based upon various grounds. With respect to the claim that the statute, as amended, violated the Pennsylvania constitutional provision guaranteeing the right of trial by jury, the court held that although a statute the effect of which is to compel parties to submit to arbitration against their will without their assent is violative of the constitutional guaranty regarding jury trials, as well as the guarantee of due process of law, this is not so where the statute closes the door to litigants and makes the decision of the arbitrators the final disposition of the rights of the parties, there is no denial of the right to trial by jury if the statute preserves the right to each of the parties to seek allowance of an appeal from the decision of the arbitrators or a writ of certiorari. Such a right of appeal, if pointed out, was provided for by the statute challenged in the case.²⁰ As to the provision of the statute by the amendment increasing the fees of arbitrators, initially set by the county, were to be repaid by the party appealing and should be taxed as costs or be recoverable from the adverse party whether the appellant was ultimately successful in his appeal, the court is

18. Arbitration statutes, other than the one involved in the *Farel* case, have also been in effect in Pennsylvania. As to the constitutionality of such statutes, see the cases discussed infra, §§ 6 and 8.

19. For cases involving the constitutionality of Pennsylvania arbitra-

operative by the 1952 amendment, see *Farel v Roberts* (1891) 1 Pa 11 Pa Co 58, supra, § 5, and cases discussed in § 8, infra.

20. The rule stated in the *Case* on the jury trial question was recognized in *Talhelm v Bugaj* (Pa) 68 Dauph Co 310.

MANDATORY ARBITRATION AND JUDICIAL ROTATION

An attorney's Commentary last year made many good points. "With a population that has tripled in thirty years, the present (judicial) system is failing, in part because of rotation." That is the reassignments of judges court assignment or for no reason cases about every two years. I asked a Superior Court judge if a law office would be successful and efficient if every two years a third of the lawyers changed their specialty. His reply was that rotation allows a judge to become familiar with all phases of the law. The same could be said of other fields such as medicine, engineering construction. But is that not a formula for mediocrity?

Let us be honest and agree with Mr. — that our judges are often the least qualified in a dispute which requires knowledge of a specialized legal nature, that consumes time and money educating them. The problem is compounded when a judge does not want to demonstrate lack of knowledge by asking questions.

Back East, the cost of court operation is far less expensive. Judges normally are specialist in the field of the law and attorneys respect their knowledge so arguments and briefs are shorter. If it is not true, you do not advance an argument. Here attorney charge by the hour and page. Some, "twenty hours on a Saturday afternoon" according to one high powered attorney.

Major counties in New York and Ohio rely on professional masters or referees and commissioners to handle volume, reduces the formality and cost of a proceeding. Under Ohio's Civil Referee Rules they process most matters that do not require a jury. A judge may have several referees with different assigned duties. It is cost effective for the community and the parties because it speeds up case processing. Objections to the referees report can be reviewed by motion to the judge quickly, and may lead to trial de novo before the judge. You do not have two year delay and great expense going to the Court of Appeals. Judges review is used sparingly and not for delay, because judges are not rotated and the attorney knows that he or she will face that judge again. Here, dirty tricks thought and judges are busy spending time duplicating what another may have done a week before in the same court room or down the hall. As the few who dare speak out have stated, the current practice "has done immeasurable damage to thousands of litigants who have been on the receiving end of avoidable judicial error." Who likes to admit they were wrong? Not most judges. Having been an attorney, a litigant, judge and hearing officer and tried cases in three states, I am prepared to debate anyone who praises this system as being beneficial to the public that pays for it.

Individual Rights/Constitutional Rights

In Maricopa County, cases involving an amount in controversy of less than \$50,000 are subject to mandatory arbitration. The Arizona Supreme Court Rules of Procedure for Arbitration (rules ARCP 73) Under these rules, attorneys who are residents of the county who have been active members of the State Bar for at least five years are appointed as arbitrators, and can be forced to arbitrate cases even if they do not volunteer to do so. An attorney who is appointed as an arbitrator receives \$75 for each day, or part thereof, spent hearing the case. The rules do not provide for reimbursement of expenses or reimbursement if the case is settled or otherwise concluded before a formal arbitration hearing is held. It is recommended that at least two hours be devote to the hearing, some are over before they start.

right assured by the Constitutions but denied citizens in Arizona where most civil cases are subject to mandatory arbitration or mediation without their consent without made in America legal safeguards.

As a direct result of the Arizona Supreme Court for economic reasons overreaching by supplementing and modifying a legislative act, Arizona Revised Statute 12-133 a Statute in derogation of the Common Law by adoption of certain Court Rules. In particular Arizona Civil Rules of Procedure, Rule 73 and Rule 76 by which it is alleged the public and attorneys are deprived of numerous constitutional safeguards this Court finds itself a party rather than an adjudicator.

As the Supreme Court pointed out in an Order filed November 23 rd 2004, the Plaintiff had filed with the Commission on Judicial Conduct a Complaint raising several questions regarding the propriety of the Justices sitting in judgement of its authority to promulgate such substantive Rule in the absence of a legislative or Constitutional authority. Before the Commission considered that Complaint the Supreme Court which has appellate jurisdiction over the Commission rather than allowing the Committee to exercise its independent judgement and consider a Responsive brief in support of their position, the Justice issued a final Order in the affirmative and thus precluding real debate on the issues raised in the Complaint. In effect depriving Plaintiff in his representative campascity of a remedy provided for in the Arizona Constitution.

O of 2003 - Report of the Court Mess in Maricopa Co. Improper funding as stated in my article

Court's strategic plan identifies

By Colin Campbell
Special to Maricopa Lawyer

In 2000-2001, each court department prepared a strategic plan. Each strategic plan studied case filing trends over the last 10 years, projected filings over the next five years, projected new case management initiatives and judicial officer requirements and set directions for new funding requirements. These individual strategic plans form the backbone of the court's overall strategic planning. In 2003, each department is revisiting and updating their strategic plan.

The strategic plans and review of justice court operations reveal the continual pressure the judicial system faces in an environment of increased filings and flat funding. The following critical growth areas have been identified:

► State monies are not available for any new state judgeships. Any increase in the ranks of judicial officers will have to be accomplished through county funded commissioners who can also be vested with judge pro tem authority.

► The civil department's resources have decreased over the past few years due to budgetary constraints and the needs of other departments. In 1999, for example, the civil department had 20 full-time judges, with an average of 1,519 filings per judge and 1,173 pending cases. In fiscal year 2003, the department was down to 17 full-time judges, with an average number of filings per judge of 2,115 and an average caseload of 1,449. Last year alone, the department saw an increase of over 4,700 cases. In addition, the civil bench provides back-up coverage for the criminal department through the court's case transfer system, back-up coverage to the probate department and special assignment judges on sexually violent persons cases, and handles the Criminal Department Motion to Continue Panel. Complex civil litigation judges also carry full caseloads in addition to the complex cases.

► In 2001, the civil department strategic plan recommended 23 civil judges by 2003 with a recommended civil caseload of 900 cases per judge. In 2003, the civil department

would need an additional 12 judges to bring caseloads down from 1,449 per judge to 900 per judge.

► Maricopa County has a consolidated Probation Revocation Center staffed by one judge and two commissioners. For over one year, the criminal department has been requesting an additional commissioner for this center due to the inordinately high volume of the calendars. These calendars handle from 20 to 30 in-custody matters each morning and afternoon.

► The juvenile department is facing an unprecedented rise in dependency cases — a 40 percent increase. This increase is attributable not only to a demographic increase, but also to a change in philosophy from the executive branch as to protecting children from abuse. The juvenile department has requested two additional commissioners to address the increased caseload.

► The probate department has requested a full time mental health commissioner. The mental health court calendar is currently only a one-half day calendar. The court does not conduct report-and-review hearings on mental health patients who are wards of the court, as it does with wards in juvenile proceedings. The probate department has concluded that not holding these hearings is a major flaw in the probate court and a derogation of the court's duty.

► A major strategic initiative for family court has been to evolve the current system of differentiated case management into a case manager system based upon a model from Dade County, Florida. Essentially, in Dade County, lawyer case managers review new filings in family court and assure that litigants are sent to appropriate ancillary services and move through the case management system. A pilot program in Maricopa County was started at the Northwest Regional Court under Judge Norman Davis, and has been highly successful. New monies are required to implement this strategic planning initiative on a courtwide basis.

► The bilingual pay differential for clerks in the justice court was eliminated because of the lack of the county general

funding to support the program. Many multilingual Spanish speakers who are cited in the justice court need over-the-counter assistance in the Spanish language. New monies required in the justice courts to bring back managed bilingual pay program for clerks.

► A staffing study of the Maricopa County justice courts has shown that the courts short 29 staff people to adequately operate countywide. Staff is needed to perform administrative tasks as assisting customers at the counter, inputting and processing tickets and processing payments, fines and restitution monies. No internal audit or mechanisms currently exist in justice court management to prevent corruption in tickets. New monies are required in the justice courts to adequately staff and audit the courts.

► Critical security concerns for courts after September 11 are not currently funded. Some justice courts have gap security that cannot be tolerated. Magnometers for screening entrants into courts are at the end of their useful life.

90% of the cases do not belong in a Superior Court

Superior Court's 'Shorttrials' — Band-Aid or cure?

James W. Fritz
Special to Maricopa Lawyer

"SHORTTRIALS"? YOU PROBABLY THINK I'm in bad need of a spelling lesson. You may be right, but if I am, so is the Maricopa County Superior Court because this is how it is billing its newest pilot program.

This program provides an alternative to compulsory arbitration and the frequent consequence of arbitration, appeal to trial de novo. Compulsory arbitration has proven itself to be both a blessing of sorts and a pain at the same time. In personal injury cases, particularly those involving soft-tissue injury, court-ordered arbitration was intended as a means of giving parties a more expeditious and generally less expensive track to resolution of a case.

On the other hand, with so many cases qualifying for arbitration, logjams at the court's arbitration desk have often occurred, resulting in lengthy delays in obtaining appoint-

often, and that jury verdicts are much less and reflect the public's true feeling about such cases.

Plaintiffs' attorneys and their clients, the "victims" of what are considered low speed, little-or-no-damage collisions, have griped since the inception of compulsory arbitration that the change only gave insurers an added excuse to put plaintiffs and their lawyers through the meat grinder again by appealing to a jury trial. They claim that the insurers are colluding to make a united as well as concerted effort to force plaintiffs to litigate these cases to the point that plaintiffs cannot afford to spend the time and money necessary to process them to conclusion. More and more, plaintiff personal injury attorneys are lamenting that they "only make \$1.95" on these cases and that they are starting to turn such clients away.

Rumors are that the advertising law firms are also changing their initial case screening procedures and declining cases that once served as bread and butter for overhead. The net result is a regression to a time when a victim of a motorcycle accident just bit the bullet and lived with the physical financial pain of such a trauma.

Running the Railroad
February 10, 2005
Page 5

discovery disputes would quickly be exposed. The "discovery czar" approach would also rapidly increase the predictability and consistency of judicial determinations of discovery disputes. The discovery czar's approach to common situations would quickly become known, and attorneys would be able to conform their conduct to a consistent set of expectations, would know how much disclosure is enough, etc.

This approach has been used successfully elsewhere. One example is San Jose County, California, where one judge at a time has handled all discovery motions for the last 13 years. Practitioners report that discovery abuse has dropped significantly: the lawyers know what is expected of them, and they are careful to control their practice to avoid appearing very often in "discovery court."

Some judges are understandably reluctant to surrender the opportunity to "manage" their cases by personally handling discovery disputes. However, if discovery disputes began being handled in a consistent manner, a lot less "management" might be needed.

An oft-heard maxim in the National Basketball Association is that the players don't care if the referees call the fouls tight or loose, as long as they call them the same at both ends of the floor. Only by having a discovery czar are attorneys likely to encounter consistent rulings in discovery disputes. There can be no sense of justice without consistency, and the predictability which consistency engenders. Having one person interpret the rules will do more to grease the wheels of justice than all the rules-tinkering in the world.

Justices deal blow to court system

THE NATIONAL
LAW JOURNAL

LESS THAN a month ago, the U.S. Supreme Court dealt another setback to employees and consumers when it again endorsed the strong presumption in favor of arbitration in *Circuit City Stores Inc. v. Adams*, No. 99-1379 (Mar. 21, 2001), the final case of a trilogy considered this term.

The court's rulings this term have underscored its fondness for arbitration as a means of diverting cases from an overloaded federal judiciary to private forums. But the recent decisions will fundamentally alter the way employees, consumers and individuals generally resolve disputes with employers, retailers and various lending institutions.

Continuing a trend that it has followed for a decade, the court has read into the Federal Arbitration Act its preference for the private resolution of claims brought to enforce rights in areas as varied as antitrust, civil rights and consumer protection.

The court's actions have contributed to a burgeoning use of mandatory arbitration clauses in standardized, non-negotiable contracts. Since around 1985, companies and employers have been inserting these clauses to compel consumers and employees—in advance—to surrender their right to use the courts to vindicate rights they later perceive to have been infringed. The practice has grown dramatically since the early 1990s.

Hidden risk

The supporters of arbitration, most of whom are representatives of big business and employers, tout its speed and its flexibility as well as the potential to save litigation expenses as features which commend its broad use.

But they fail to disclose the serious risk that arbitration will ride roughshod over the parties', and particularly the individuals' substantive and procedural rights, which the judicial system is designed to protect.

Today, it threatens to deny, to anyone who lacks the power to bargain over terms of arbitration, basic procedural protections that most Americans take for granted. In particular, it could well obviate any or all of the following rights ordinarily

available in the courts:

- The provision of a jury trial when seeking legal relief;
- The provision of a public forum in which to litigate the controversy;
- The right to have the public, rather than the parties, bear the substantial cost of litigation, thereby avoiding large expenses associated with simply getting access to the forum;
- The provision of a writ record of the litigation;
- The right to have the litigation proceedings and result subject to appellate review;
- The right to discover and present all relevant, cumulative evidence and examine witnesses under oath;
- The right to bind the forum to the legal precedent prevailing in the jurisdiction and to create legal precedent from litigation that can guide the parties and future litigation;
- The right to the joinder of cases involving the same subject matter and to prosecute a case as a class action, relieving the claimants of the need to initiate actions on their own.

Each of these features of litigation, standard in judicial forums, can be compromised or eliminated in arbitral forums. Notwithstanding the court's strong endorsement, not all arbitration agreements can—or should—be enforced.

While the *Circuit City* decision reaffirmed the court's reluctance to exclude any category of case from arbitration, the decision this term in *Green Tree Financial Corp.—Alabama v. Randolph* recognized that an arbitration agreement that would

impose large costs opposed to arbitration render it unenforceable.

In *Circuit City*, the court narrowly construed the arbitration provisions of the contract.

The Arizona Supreme Court has amended Rule 16(g), Arizona Rules of Civil Procedure, to require that parties in an action confer in person or by telephone about the possibility of settling or their case and whether to participate in a dispute resolution process.

In *Green Tree*, the Supreme Court recognized that arbitration agreements that impose costs on consumers are unenforceable.

By a majority of 5-4, the court held that the Arbitration Act, to arbitrate a litigant's rights in a dispute. Having decided in *Green Tree* that arbitration should not be favored over litigation, the court's ruling in *Green Tree* signaled strongly that high arbitration costs should leave an arbitration plaintiff, however, had to record the costs and the

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Civil litigants must consider ADR

By Brian E. Cienawski
Maricopa Lawyer



James W. Fritz
Special to Maricopa Lawyer

This program provides an alternative to compulsory arbitration and the frequent consequence of arbitration, appeal to trial de novo. Compulsory arbitration has proven itself to be both a blessing of sorts and a pain at the same time—personal injury cases, particularly those involving soft-giving parties a more expeditious and generally less costly track to resolution of a case. On the other hand, with so many cases qualifying for arbitration, logjams at the court's arbitration department, resulting in lengthy delays in obtaining a resolution, are more than justice itself is worth.

RESULTS OF REAR-END ACCIDENTS INVOLVING SOFT-TISSUE INJURIES

	Successful plaintiff appeals	Unsuccessful plaintiff appeals	All plaintiff appeals
Number of cases	4	15	19
Average arbitration award	\$975	\$3,844	\$3,082
Average trial award	\$2,788	\$913	\$1,308
Average days in trial	2.75	2.27	2.37
Average gain (loss) per day of trial	\$659	(\$1,203)	(\$749)

TABLE 7 PLAINTIFFS' COMBINED APPEALS

	Successful plaintiff appeals	Unsuccessful plaintiff appeals	All plaintiff appeals
Number of cases	14	27	41
Average arbitration award	\$3,600	\$3,593	\$3,598
Average trial award	\$13,808	\$1,136	\$5,463
Average days in trial	2.29	2.59	2.49
Average gain (loss) per day of trial	\$4,466	(\$948)	\$751

TABLE 2 DEFENDANTS' APPEALS OF REAR-END ACCIDENTS INVOLVING SOFT-TISSUE INJURIES

	Successful defendant appeals	Unsuccessful defendant appeals	All defendant appeals
Number of cases	43	1	44
Average arbitration award	\$15,717	\$9,000	\$15,564
Average trial award	\$3,350	\$10,000	\$3,501
Average days in trial	2.63	2.00	2.61
Average gain (loss) per day of trial	\$4,706		

TABLE 8 DEFENDANTS' COMBINED APPEALS

	Successful defendant appeals	Unsuccessful defendant appeals	All defendant appeals
Number of cases	105	11	116
Average arbitration award	\$18,970	\$12,172	\$18,325
Average trial award	\$3,270	\$19,347	\$4,794
Average days in trial	2.68	2.27	2.64
Average gain (loss) per day of trial			\$5,129

A sample of the results of Appeals from Arbitration Award to the Superior Court, out of 116 Appeals Joe Citizen won five, the defendant or their insurance company had 105 Awards set aside and often recovered their legal costs.

OPINIONS

Tough, speedy justice often is neither

Retired jurist says the system is broken

Rudolph J. Gerber retired from the Arizona Court of Appeals in May. He sat on that court for about 13 years.

Before that, he was a Superior Court judge for nine years and in the County Attorney's Office for about three years.

So Gerber has seen criminal justice up close and personal.

Which is why his article in the spring issue of the *Arizona Law Review* is such an eye opener. It amounts to a scathing indictment of the justice system from someone in a position to know.

And as such it should be required reading for every attorney considering a career in criminal law and for every law-and-order legislator tempted to get "tough" on crime.

An inescapable conclusion after reading the article: Our justice system is broken, concerned more with expediency than justice and with appearing tough far more than being effective.

Gerber reserves much of his criticism for this societal penchant of ours for getting tough, as reflected in mandatory sentencing, drug laws and the death penalty.

Mandatory sentencing, for instance, has resulted in more severe sentences than deserved, the effective abridgment of a person's right to trial and virtually no deterrence.



O. RICARDO PIMENTEL

The Arizona Republic

In other words, it's not working.

This abridgment occurs, says Gerber, when prosecutors purposely load up a defendant with charges that carry mandatory sentences to induce a plea bargain to avoid a trial.

In 1976, he said, the state Legislature enacted a law that permitted prosecutors to add firearm-possession charges and then dismiss them in exchange for guilty pleas. In 1982, the Legislature increased sentences for people convicted of felonies while on parole or probation, making life imprisonment possible.

Within a decade, the number of cases going to trial in Maricopa County fell from 10.74 percent to 3.77 percent, according to Gerber.

"Severe mandatory sentences effectively make the constitutional right to trial too risky to be exercised, even for an innocent defendant (my emphasis)," Gerber wrote.

In other words, in the name of getting tough, we've mandated

tough sentences that are, nonetheless, not imposed. That's because they are more useful as guns to the heads of defendants to avoid trial.

Consider: Ninety-five percent of all defendants now enter guilty pleas in Arizona.

"When adjudication appears on the horizon, prosecutors use sentencing mandates to threaten a greater sanction to discourage it," Gerber wrote. "Our court system has become a vice: The system favors a plea and penalizes the constitutional right to a trial"

Mandatory sentencing has been the rage, so much so that the U.S. now imprisons 476 of every 100,000 Americans, higher than any other industrialized nation. Make that 507 of every 100,000 in Arizona, the eighth-highest in the country.

Gerber also criticizes a number of other legal monstrosities.

■ The felony murder rule allows a murder charge, for instance, against a pot dealer because someone might have suffered a heart attack while witnessing the sale of a small amount of medicinal marijuana.

■ On the drug war. "Thousands of youngsters are serving prison terms for a first-time, non-violent pot offense while being guarded by uniformed tobacco and alcohol addicts." Draconian drug laws cannot be the first line of defense, Gerber argues.

■ On the death penalty. "For those who do not or cannot address the moral issues, there remain the disturbing facts ... that our capital punishment falls disproportionately on minorities ... and sweeps some innocent defendants ... in its wide nets"

I know many will dismiss Gerber as some liberal, bleeding-heart former jurist.

And I am quite certain that at least the first of his solutions is a non-starter. He recommends removing criminal policy from legislators and turning it over to a non-partisan panel of experts. He calls for the appointment rather than election of all judges and law enforcement officials and simply more research to guide us as we consider the administration of justice.

They are all suggestions with merit, though, sadly, politically difficult to achieve.

Nonetheless, to ignore Gerber's observations and eachew any fix would be tantamount to ignoring the canary in the mine shaft.

Getting tough has really only meant getting mean — and ineffective.

Reach Pimentel at ricardo.pimentel@arizonarepublic.com or (602) 444-8210. His column appears Tuesdays, Thursdays and Saturdays.

Cost of county's criminal justice soars

JUSTICE
Continued from A1

As costs, they can't not going to be wild anywhere as the county's income needs as we would be able to percentage of it is fed up into the justice system,"

Director Don Stastic safety is our priority. We don't voice." The county's population So is the nominal cases filed county, rising to 10,000 last year and to keep growth figures tell one story.

nominal cases are ill. Costs of debt have hit an all-time high. High meth use has driven officials say, for jail inmates

Immigration, and illegal, further the system. the infrastructure behind the county's off-lying catch-up, and with one of the most expensive: \$334 million criminal court-Phoenix

criminal Court place the Mar- garage, at the corner of First Madison Street, next to the current court complex. in early 2011. The county has no "who commits who gets re-system," said manager David demand-dried there's re- of case-

if almost ev- to criminal doubled be- 2007, in- ces of the ty attorney

Over the last decade, **CRIMINAL-JUSTICE SPENDING** in Maricopa County has more than doubled, soaring to

\$734 MILLION

"It's (criminal-justice spending) one of the major challenges facing county governments. Maricopa County is a booming county, and you would expect to see a growth in criminal justice."

Donald Murray, senior legislative director for justice and public safety at the National Association of Counties

Criminal-justice spending accounts for an **EVER-GROWING PORTION** of the county's operating budget

35%
 OF COUNTY OPERATING BUDGET

SPENDING SOARS

Overall spending on criminal justice shot up 156 percent over the past decade, between fiscal 1997 and 2007, according to a *Republic* analysis of county operating budgets.

Costs rose to \$204,000 per 1,000 county residents in 2007, compared with about \$93,000 a decade earlier, using 2000 and 2005 population figures from the U.S. Census. At the same time, the county grew about 17 percent, adding 100,000 residents each year.

In 2006, about 3.8 million people lived in the county, compared with about 3.1 million in 2000. The Consumer Price Index shows that nationwide, \$100 in 1997 dollars is equivalent to \$129.81 in 2007, an almost 30 percent increase.



Sheriff's budget soars

In the Sheriff's Office, spending is at an all-time high, climbing to \$256.8 million in 2007 from \$90.8 million in 1997. The county's population has exploded over the past decade, creating the need for more deputies, administrators, detention officers, and other staff. Also, the



Inmate health needs

Providing health care for inmates costs almost three times as much as it did a decade ago. This area of criminal justice spending jumped the most, to \$45.5 million in 2007 from \$11.9 million 10 years earlier. ■ About 25 percent of inmates have drug problems



The cost of trial by jury

Courts are expensive to run, and it's difficult to cut corners where justice is concerned, said Barbara Rodriguez Mundell, the presiding judge of Maricopa County Superior Court. Under state and federal constitutions, everyone accused of a crime is entitled



The cost of a defense

The real wild card in the criminal-justice system, court officials say, is the cost of providing a defense for those who can't afford to pay for attorneys in criminal cases. The costs of defending the poor rose to \$72.2 million in 2007, up from \$23.4 million in 1997.

12A

It's time to take Tent City statewide

As violent crime rates rise across America, Arizona faces a particularly difficult challenge. Based on various surveys, Arizona's crime rates are ranked anywhere from first to third in the nation among all 50 states. While many factors contribute to this unacceptable distinction, including the chaos along our southern border, Arizonans are right to demand tough and decisive action from their government.

Since taking office in 2005, I have sought to help lead this fight. I have instituted tough sentencing policies that ended plea bargaining as we know it for serious violent criminals. As a result of actions taken by the Maricopa County Attorney's Office, tougher sentences now are handed out to criminals who prey upon children in this county. Repeat felony offenders now must go to prison rather than enjoying probation (i.e. freedom). For making this reform last year, I was criticized roundly by Gov. Janet Napolitano and the Arizona Department of Corrections, who for some reason didn't want the additional inmates.

Also last year, I convened the first Valley-wide gang task force. Inspired by the pre-existing East Valley Gang Task Force, this collection of representatives from Valley police organizations has become an important place for law enforcement officers to share intelligence and coordinate efforts regarding specific gang members and recent gang activities.

STATEWIDE TENT CITY

Still, much remains to be done. Gang members sent to prison in the 1990s are completing their sentences and returning to the streets. Other social trends reinforce the recent rise in criminality.

We must invest in the one government institution that unquestionably reduces crime rates: prisons. As of July 31, the Arizona Department of Corrections had a total prison population of 37,216. Tellingly, 6,515 of these inmates were housed in facilities outside the Department of Corrections, many out of state.

This state of affairs reflects a basic lack of planning. Arizona's population is the fastest-growing of all 50 states. Even if crime rates do not rise but simply remain constant, we will need more prison space. Yet we

EAST VALLEY VOICE



ANDREW THOMAS
COMMENTARY

are not preparing for the future, or even the present, as we continue to have an inadequate prison system to house the criminals among us. It has reached the point that Arizona is forced to pay to send inmates to Indiana and elsewhere because we do not provide for proper facilities in our own state.

The solution is straightforward: It's time for a Tent City for Arizona. The Department of Corrections could use tents to house non-violent property offenders and reserve actual prison cells for violent offenders. Already the Department of Corrections has about 1,000 inmates in tents, so the inevitable complaint from that department that a tent city would be unworkable is impeached by its own current practices.

A Tent City for Arizona would be cost-effective. Sheriff Joe Arpaio's Tent City Jail in Maricopa County

has an annual budget of \$7,977,182 and an average population of 1,526 inmates. If you break these figures down, the cost per inmate per day is about \$14.32. This is about a third of the cost of housing inmates in the Arizona Department of Corrections.

Further, the sheriff's office lists the total construction costs for Tent City (and the Estrella Support Building that serves it) as \$2.85 million, compared to \$92 million and \$98 million for the two most recently constructed "hard" Maricopa County jails. Direct comparisons obviously must take into account differences in inmate populations. Based on these numbers, however, it's clear that tent cities provide a realistic and efficient alternative to support our expanding prison needs.

BRING BACK PRISON LABOR

To defray the expense, we should require inmates to engage in productive labor. Compensation paid to inmates holding real jobs could be used to pay restitution to the victims of their crimes and some of the costs of incarceration. All the while, inmates would learn productive habits to help them succeed when they leave prison and re-enter society.

Archaic federal laws from the 1920s currently restrict inmates largely to doing work around the prison yard. But prisoners should be given more to do than one another's laundry. Our laws should be modified or repealed as necessary to free up this large pool of labor so that inmates can learn important life skills while incarcerated. If given meaningful work, this potential labor pool would be a boon to the state and the taxpayers rather than a financial drain.

While I understand the various competing interests for government resources, the main mission of government is to protect law-abiding citizens from criminals. Government must honor this duty before it can attend to its other, rightful concerns. A Tent City for Arizona with fully employed inmates will help us to tackle our crime problem in an efficient and effective manner. This system also will enable us to impart to inmates abilities and employment history that will serve them well for the rest of their lives.



Andrew Thomas is Maricopa County attorney.

Abusive fathers win custody of kids

63-03

Advocacy group's study claims court bias against mothers in disputes

By BRYON WELLS
TRIBUNE

Abusive fathers won sole or joint custody of children in contested custody cases 74 percent of the time in Maricopa County Family Court, according to a study released Monday by an advocacy group.

Also, income level, which is often skewed toward the father, had the highest effect on the ultimate custody

decision, said Dianne Post with the Arizona Coalition Against Domestic Violence, which organized the Battered Mothers' Testimony Project.

"People have this stereotype that mothers are favored in family court," Post said. "It is a complete myth."

The two-year study stemmed from 57 interviews with women, 89 from Maricopa County, involved in domestic relations cases since 1986. To qualify for the study,

participants must have been involved in a contested custody battle with allegations of abuse of either them or the children, and their case must have gone before a judge or commissioner.

Maricopa County Presiding Family Court Judge Mark Armstrong called the study "breathhtakingly extreme and inflammatory." He questioned the survey method, while agreeing with some of the study's conclusions.

"It's based on a sampling of 89 cases, one going back 20 years," Armstrong said. "These folks came to the

coalition to complain about their case. The selection method was anything but random. But on the other hand, if 89 people feel concerned about the court system, then I'm concerned about that."

Several women involved in the study outlined how the system failed them during a coalition news conference.

Post, also an attorney for battered mothers, said many judges have no background in domestic violence.

Court custody evaluators rely on faulty theories that place the blame on the wrong parent. Domestic violence

and child abuse training is needed for all judges, evaluators, family court advisors and other court personnel, and public education campaigns, she said.

Armstrong said judges and court officers are trained about domestic violence, but more training and awareness could not hurt.

"I'm very concerned about domestic violence," Armstrong said. "Calling for improvement is a far cry from accusing a court of torture."

CONTACT WRITER: (480) 898-6536
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TO THE RIGHT IS A COPY OF THE SCHEDULE FOR TEMPORARY SUPPORT ORDER BY A COURT REFEREE IN AN OHIO COURT. Wheels are much slower here.

There, a hearing to get family support while waiting for a final order or agreement was typically set within 15 days of filing. A notice was sent to the employer for an earnings record at that time. Payment payments within a month was the norm.

Many families united because they usually did not have enough to support two households. In Maricopa County Superior Court I am told "less than four months,"

In Ohio there was another schedule, again 15 minutes apart, on Thursday for those who failed to pay, only problem payers would stay over to visit jail if payment was not arranged.

Problem payers get infrequent attention in Maricopa County. By the time the law clamps down some are so far in arrears they never catch up, meanwhile family does without, pays extra, eviction costs or welfare pays.

FRIDAY, JULY 14, 1993	THURSDAY, JULY 24, 1993	MONDAY, AUGUST 2, 1993	TUESDAY, AUGUST 3, 1993	WEDNESDAY, AUGUST 4, 1993	THURSDAY, AUGUST 5, 1993
SDV 221—Karen S Lovell vs Joseph Patrick Lovell. AT 9:30 A. M.	SDR 564—Madeline M West Raymond West Jr. LAD'Apolito. AT 9:30 P. M.	SDR 678—Elaine S Merlan vs David Merlan, et al. J D Doziano; E B Fox. (G)	SDR 133—David Dirienzo vs Mar Dirienzo. J Dunn; R A Henkin. AT 10:00 A. M.	SDR 572—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 411—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 427—Susan Elizabeth Downie vs Thomas Allen Downie. J L Messenger; A G Darvassan, ST Bolton.	SDR 498—Richard Jencuk vs Ka Elaine McHenry. M E Dean. AT 9:00 A. M.	SDR 679—Darla R Ballinger Haydem La Monte Ballinger. B Tarashevsky; J S Gentile. (G)	SDR 423—Myrtle Melina vs John Melina. M E Dean; T E Zena. AT 11:00 A. M.	SDR 581—Pamela Jane Pusateri Gene Joseph Pusateri, et al. E B Fox. AT 11:00 A. M.	SDR 506—Larry Coan vs Linda S Coan. W Bo Pritchard; M S Hume. (G)
SDR 312—Elizabeth Ann Brookhart vs T Michael Brookhart. A A Palombaro. AT 9:15 A. M.	SDR 499—Wendy Jo Ritchie vs Ter Lee Ritchie. L J Sedda; T E Zena. AT 10:00 A. M.	SDR 175—Daniel A Thomas vs Barbara Thomas. CM Draz; L J Sedda. AT 10:00 A. M.	SDR 134—Paul A Sodemman vs Ches A Sodemman. L A D'Apolito; B A Smit (G)	SDR 573—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 507—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)
SDR 318—Claire E Scott vs Lee B Scott. J Vaporia. AT 10:00 A. M.	SDR 503—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 404—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 574—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 525—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 412—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 505—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 504—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 405—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 575—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 526—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 413—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 506—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 507—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 406—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 576—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 527—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 414—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 508—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 509—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 407—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 577—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 528—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 415—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 509—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 510—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 408—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 578—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 529—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 416—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 511—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 512—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 409—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 579—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 530—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 417—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 513—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 514—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 410—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 580—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 531—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 418—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 515—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 516—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 411—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 581—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 532—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 419—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 517—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 518—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 412—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 582—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 533—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 420—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 519—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 519—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 413—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 583—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 534—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 421—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 521—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 520—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 414—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 584—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 535—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 422—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 523—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 521—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 415—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 585—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 536—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 423—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 525—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 522—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 416—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 586—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 537—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 424—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 527—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 523—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 417—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 587—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 538—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 425—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 529—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 524—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 418—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 588—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 539—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 426—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 531—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 525—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 419—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 589—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 540—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 427—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 533—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 526—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 420—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 590—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 541—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 428—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 535—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 527—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 421—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 591—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 542—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 429—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 537—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 528—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 422—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 592—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 543—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 430—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 539—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 529—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 423—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 593—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 544—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 431—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 541—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 530—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 424—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 594—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 545—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 432—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 543—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 531—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 425—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 595—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 546—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 433—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 545—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 532—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 426—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 596—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 547—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 434—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 547—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 533—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 427—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 597—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 548—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 435—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 549—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 534—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 428—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 598—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 549—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 436—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 551—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 535—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 429—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 599—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 550—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 437—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 553—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 536—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 430—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 600—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 551—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 438—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 555—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 537—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 431—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 601—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 552—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 439—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 557—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 538—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 432—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 602—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 553—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 440—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 559—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 539—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 433—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 603—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 554—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 441—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 561—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 540—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 434—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 604—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 555—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 442—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 563—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 541—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 435—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 605—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 556—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 443—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 565—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 542—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 436—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 606—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 557—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 444—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 567—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 543—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 437—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 607—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 558—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 445—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 569—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 544—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 438—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 608—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 559—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 446—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 571—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 545—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 439—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 609—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 560—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 447—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 573—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 546—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 440—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 610—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 561—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 448—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 575—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 547—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 441—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 611—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 562—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 449—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 577—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 548—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 442—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 612—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 563—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 450—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 579—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 549—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 443—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 613—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 564—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 451—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 581—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 550—William E Crawford Jr vs Veronica F Crawford. E B Fox; G P Desmarie. AT 1:30 P. M.	SDR 444—Robert Alan Randall Annmarie Randall. P A Morris. AT 10:30 A. M.	SDR 614—Kathleen F Kera Valentine E Kera. M Pentz. (G)	SDR 565—John Michael Pontikos Susan Lyon Pontikos, aka Susan Pontikos, et al. E B Fox. (G)	SDR 452—Bertie Lee Hoopes vs Jo Martin Hoopes. T E Zena. AT 10:00 A. M.
SDR 583—Timothy F Stanley vs Carol A Stanley. M A Huberman; M Georgiadis. AT 1:30 P. M.	SDR 551—William E Crawford Jr vs Veronica F Crawford				

Judges pro tem make big impact at Superior Court

By J. W. Brown
Maricopa Lawyer

Attorneys are setting an impressive pace for service as pro tem judges in Superior Court in Maricopa County.

So far this year, lawyers have provided nearly 1,500 hours performing many of the same duties as a Superior Court judge. They are not paid for the time, but the financial value they were paid as a

In 2003, more attorneys were temporarily assigned to criminal, probate, and family departments. The hourly rate of pro tem judges is \$375,700 worth of

Lawyers who serve as pro tem judges provide help for a day or more, case backlog and and post holiday d

Perhaps the biggest benefit to the public occurs during the most popular time of the year. The week bet

Year's also can be a challenge for court officials to find enough lawyers willing to fill in during a peak time for judicial time off.

Kip Micuda, who works with the State Bar, logged the most hours of any attorney providing the court with pro tem judicial work. Of his total of 167 hours' service, he worked 104 hours in civil court and another 62 hours

as a commissioner for 25 years gave him the means to retire, but not having to work made him realize that he was happy to come back and share his "free" time with the court. "When you are retired you have the flexibility to do more things that you want to do."

Most of Trombino's work in the regional

Duncan appointed to Superior Court bench

Gov. Janet Napolitano has appointed Sally Schneider Duncan to fill the vacancy created by the retirement of Judge Linda Scott from the Maricopa County Superior Court bench.

1 of Bryan



chance to Arizona," this is one

Panel to rate judges' performances

Maricopa, Pima county voters will get results

BY GARY GRADO
TRIBUNE

A state panel on Wednesday will recommend to voters which of 60 judges in Maricopa and Pima counties should stay or leave the bench.

The Commission on Judicial Performance review will say whether each judge who is up for retention on November's ballot meets the state's judicial performance standards.

The 30-member commission, made up of lawyers, judges and members of the public, is supposed to base its recommendations on comments from the public at previous commission meetings, letters to the commission and responses that jurors, witnesses, litigants, court staff and other court users gave in surveys.

Commission's chairman

IF YOU GO

What: Judicial review meeting
When: 10 a.m. Wednesday
Where: Room 345 of the Arizona State Courts Building, 1501 W. Washington St., Phoenix

Christopher Skelly, a former Maricopa County Superior Court judge, said the most useful information comes from the surveys because not many members of the public attend the commission's meetings.

The "meet" or "do not meet" standards recommendations, the commission tally and the survey results will then be published in a publicity pamphlet mailed to registered voters in each county.

"You try to give important information without getting it too bogged down," Skelly said.

Arizona's governor chooses who sits on the bench in Maricopa and Pima counties, but judges must get voter approval every four years to keep their jobs.

Voters in Arizona's remaining 13 counties choose judges at the ballot box.

Skelly said the retention system has come under criticism because judges are rarely voted out of office — fewer than five have been.

But that is because bad judges are usually weeded out by the state's Commission on Judicial Conduct, a panel that investigates judicial

misconduct, Skelly said.

He added that when judges realize they might be voted out, they usually resign.

ON THE NET

The list of 60 judges who are up for retention in November can be found at www.supreme.state.az.us/jpr

Many lawyers spend 40, 50, 60 and 70 hours as pro tem Superior Court judges, providing an invaluable duty to Superior Court.

"We thank every lawyer who provides Superior Court with their time and expertise," said Presiding Judge. "Obviously the court and from the services of save hundreds of thousand a year with their volunteer

► J.W. Brown is comm trail courts in Maricopa Co

of the best opportunities to make my skills count.

Duncan is a 1989 graduate of the University of Arizona College of Law as well as a member of the Association of

How to app judge

By Barbara Rodi
Special to Maricopa

Maricopa County depends on the attorneys who judges pro temp assist the court

JAMES E. MCDOUGALL

RETIRED SUPERIOR COURT JUDGE
ANNOUNCES THE OPENING
OF HIS OFFICE FOR

MEDIATION
AND
ARBITRATION



3003 N. CENTRAL AVE., SUITE 1200
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Mr. Robert Van Wyck, Acting Director
Arizona State Bar Association
111 W. Monroe, Ste. 1800
Phoenix, Az. 85003-1742

October 15, 2003
Re: Attorneys Second Class Citizens
Lack of Professionalism and Discipline
Mandatory Arbitration, Unconstitutional

Dear Mr. Van Wyck:

In Phoenix the public's view supported by the media is that attorneys rank some where between telemarketers and used car salesmen. The reputation is not without cause and needs correction. Brother attorneys and judges are arrogant and treat other attorneys without respect as a trial tactic. That conduct is condoned by agencies paid to enforce discipline that ignore apparent unethical and unprofessional conduct. Is it time to question if the organization, which attorneys are required to support, is looking out for their interest as one would expect from an independent Bar Association?

I was the plaintiff in Case No. 2000-00- . . . From the start the attorney representing persons guilty of fraud involving a simple physical product was insulting because I was an attorney and employed as a tool through out the litigation the fact that I was an attorney trying to take advantage of his clients. He and his clients already had a long history with this defective product. By outlandish lying and staging indignation he enlisted the Arbitrator's and then Judge's sympathy for his client and I, the defrauded consumer was required to pay \$8,6000. and left with a defective pool.

My well documented Bar Complaint was summarily dismissed by Consumer Assistance Director, Kip Micuda with the message advising where I can find the Rules governing attorney's conduct. Discipline File No 03- . . .

In Civil Case No. CV2000-00: . . . after I accepted service on behalf of my client and we were waiting to be notified of the time for the hearing the Judge provided the opposing attorney without formality and safeguards of the Statute (ARS 65(d) with a Temporary Restraining Order which the Attorney proceed to employ to extort unwarranted concessions from my client after insisting that I, as the attorney of record not participate in the negotiations. That was recently filed as an Ethics Complaint on behalf of the clients and myself and also as a Peer Review Complaint. File No. 03- . . . It was summarily dismissed with the following notation by Mr. Micuda:

"It appears that you and the above-named attorney have a personality conflict that has, at least partially, contributed to the conduct about which you complain."

Nothing in the file would support that allegation, I had no prior dealing with the attorney who was rude from the outset, (Professionalism training means nothing when money matters.) I was right and he knew it and I was courteous although stabbed in the back. Evidence in both cases supported with documents demonstrate a lack of candor to the tribunal and false testimony and allegations in affidavits encouraged and prepared by the attorneys.

Despite 36 years of progressive service, Judge Stanley Goodfarb is being destroyed by political correctness.

The High-Tech Lynching of an Honorable Loudmouth

Judge subjected to cruel and unusual criticism

The recent editorial by a leading newspaper following the report of the Judicial Conduct Commission on Superior Court Judge Goodfarb was a fair report of the matter.

To this writer the integrity and independence of the judiciary was more the issue than the unfortunate use of street language by a judge in chambers several years ago. The particular judge is one of the most competent and trustworthy on the local bench. It is not coincidental that some of the most difficult cases have found their way to his court.

The accusations that the judge was a racist and guilty of discrimination were not supported by the judge's 18-year reputation on the bench. The evidence at the Judicial Conduct Commission on March 25 not only refuted such

allegations, but established that the judge had at times been the victim of discrimination.

Inquiry could have satisfied the reporter that this judge had no evil heart. The embarrassment endured by the judge and his family by the unprecedented prehearing publicity borders on cruel and unusual. More self-control and counseling as promised by the judge should be sufficient.

The public, including minorities, will be the real losers if this judge is removed from the bench. His contributions to justice and fair play could continue beyond his normal retirement age but only in an atmosphere where judicial independence is welcome.

Richard T. Tracy, Sr.
Phoenix

Judiciary discipline going public June 13, 2005

It is important to note that it was not consumer or injury attorneys that effected the change but rather the county attorney's office. They already are known as being too selective demanding, oppressive and load up charges. With mandatory sentencing and decision in the prosecutor rather than the judge, as the law intended what Judge Rudy Gerber had to say will get worst. Having been in the system and I saw first hand cases being given different consideration and our crowded jails, reporting daily activity in court and having several Court Districts were accountability is possible is the only way to assure justice, economy and avoid corruption.

Lawyers plundered unfortunate citizen

In regards to Gary Nelson's column "Unpaid HOA dues come back to bite," does anyone else but me think that \$2,388.82 is excessive?

I understand that HOAs have rules. What I don't understand is the fees involved to collect \$187.50. All right, the amount being collected through the attorney (Olcott) was \$380.70. On Dec. 12, they received \$187.50. Couldn't they have just sent out a letter on Dec. 28 asking for the difference? How did the amount reach \$1,293.54? Shame on them!

What I get out of this is that the lawyer gets his money off the back of a hard-working husband and father trying to support a family, who lost his job for six months and cut his expenses the best he could. Then, after getting a job, he caught up with those expenses. Which to the HOA was \$187.50.

I'm sure he probably had electric bills and water bills, and medical expenses (if you have children). But the lawyer who wrote two letters got \$1,074.88, which goes to show the lawyers in this country will always squeeze those less fortunate for every cent they can.

Again, shame on the lawyers. And shame on Judge Tom Freestone, who ruled on this travesty.

TERRY SANBORN
CHANDLER

Constable to replace retiring JP ⁷⁻³⁻⁰³

County board taps
longtime veteran
of East Valley court

By Jim Walsh
The Arizona Republic

MESA — A longtime constable will take retiring Justice of the Peace Tom Freestone's seat on the South Mesa/Gilbert bench later this month.

Harrell Boyster Jr., first appointed constable in 1991 when the court was created, says he will serve the 1½ years remaining on Freestone's term and then run for election.

Boyster said he has learned much from Freestone and Freestone's predecessor, Don Skousen.

"My father told me I should become a doctor or a lawyer," said Boyster, who worked at

"My father told me I should become a doctor or a lawyer. I can remember telling my mom that I want to be a judge someday."

— Harrell Boyster Jr.
Replacing retiring Justice of the Peace Tom Freestone

his family dairy before his appointment as constable. "I can remember telling my mom that I want to be a judge someday. I don't know why."

Boyster, 47, was unanimously appointed by the Maricopa County Board of Supervisors on Wednesday to fill Freestone's term, which ends Dec. 31, 2004.

"I'm really nervous, but I'm really excited, too," said Boyster, who attended Mesa Community College and is pursuing a criminal justice degree at the University of Phoenix.

Freestone's son, Phillip, 28,

was appointed to replace Boyster, whose term as constable also expires on Dec. 31, 2004. Constables serve eviction notices and other court documents, such as summonses and subpoenas.

Justices of the peace, who handle misdemeanors, small claims and civil cases with a value of less than \$10,000, make about \$84,000 a year, and constables make about \$48,000.

County Supervisor Don Stapley, who represents the East Valley, recommended the appointments. Stapley said the

selection process went through political channels.

"I realize some may say it's nepotism. My answer is no, it's based on qualifications," he said. "It's a political call and a relationship call."

Tom Freestone, 65, an East Valley political legend, is retiring to spend more time with his wife, Phyllis, after 35 years in elected office. He held virtually all county elected offices and served in two state posts.

Freestone said that he launched his career as a constable in 1968 and that his son is following in his footsteps. He said Phillip has an associate's degree and currently works with physically and mentally disabled people.

Reach the reporter at
jim.walsh@arizonarepublic.com or
(602) 444-7984.

*The public's interest is secondary in this system,
there is a sentiment of how well the court system is run.*

(Below is a typical example of the result of the lack of limited jurisdiction courts requiring Mandatory Arbitration and appeal to a Superior Court that has insufficient time and interest to properly consider the merits and evidence. Plaintiffs are unsuccessful in the bulk of appeals from arbitration awards. Bold type is actual wording of Minute Entry)

SUPERIOR COURT OF ARIZONA MARICOPA, COUNTY 05-30-2001

CASE NO. 2000-008228

Clerk of Court

Hon. Michael J. O'Melia Beery Deputy

Atty. RICHARD T. TRACY, SR.

RICHARD T. TRACY, SR. v

Sun Valley POOLS, INC Atty. GREG A. THURSTON

MINUTE ENTRY

The Court has had various matters under advisement, and after rereading the memoranda numerous times and considering arguments of counsel, the Court now makes the following rulings:

On May 11, 2001 the Court announced that the Motion for Summary Judgment was the only matter he would consider at that time. Argument was so limited.

The Court had set for hearing on that date the following on which oral argument was denied.

1. Motion to Amend Complaint, filed March 21, 2001. dated December 27, 2000 when it was mailed to the attorney for defendant. Attached to such Motion was a copy of Mr. Thurston's letter, dated January 23, 2001 refusing to stipulate to the amendment containing an unprofessional, arrogant, untrue and a legally inaccurate statement of law as well as another threat of judicial retaliation for pursuing an appeal. ** (pages) 2. Plaintiff's Motion for Rule 11 Sanctions dated April 9, 2001. *

3. Defendant's Motion to Strike Plaintiff's Exhibits dated April 20, 2001. **The defendant has submitted affidavits of the owner of the defendant company as well as the expert in respect to fiberglass, Dr. David Ellsworth.**

* The action filed by plaintiff alleged that those two persons had engaged in a fraudulent scheme. Their false and inconsistent testimony and their attorney's lack of candor to the Court and unethical harassment of plaintiff was the purpose of the Rule 11(a) Motion requesting the Courts intervention if not imposition of sanctions. Only Mr. Thurston, attorney for the defendant, insisted that a fiberglass coating was applied to plaintiff's pool. The owner and expert acknowledge that the coating contained fiberglass. What they sold and advertised was a FIBERGLASS INTERIOR FINISH. THE SAMPLE FROM MY POOL was identified by the pool company owner as fiberglass resins and also in the sales contract.

In his argument Mr. Thurston misrepresented both the nature of plaintiff's evidence and the law but also mislead Court knowingly with false statements inferring one would have to request two different forms of, "fiberglass coating," one with fiberglass and one without fiberglass. He knew, the Court did not that fiberglass mat is employed for a pool or spa interior fiberglass resurface process. He advised the owner to testify fiberglass mat was not for pools after having testified they used it.

"The evidence is clear that a fiberglass coating was applied to the Plaintiff's swimming pool. The evidence is also clear that a 'mat' was not used. Examining the advertisement and the warranty, the 'mat' is not the issue. This was a coating to an existing pool, and it was not a re-do exclusively of fiberglass/matting. The Plaintiff has no credible evidence to contradict this. The affidavit of the person that he believes creates a fact question, Mr. Russ, only indicates that a fiberglass mat was not used. His opinion does not really contradict Dr. Ellsworth.

Not correct. Plaintiff's expert witness, with forty years in the pool business, the most qualified person in Arizona regarding fiberglass interior resurfacing under oath stated the product applied to plaintiff's pool was Micro Fiber Technology or reinforced plastic not fiberglass due to the absence of fiberglass mat. As demonstrated to the Court the material from plaintiff's pool cracks and separates, fiberglass does not. ***

The defendant had no evidence to support the principal issue, that a fiberglass interior pool resurfacing had been applied to plaintiff's pool so Mr. Thurston repeatedly attacked the plaintiff and successfully ridiculed the evidence plaintiff submitted. For example, he continually acted angry, as the offended party and argued that the litigation was, "absolutely vindictive" and knowingly falsely claimed that a Fiberglass resurfacing had been applied. Mr. Thurston represented Sun Valley when they

applied for two years fiberglass resin which contained Micro Fiber, powder like ground up fiberglass. Before and after 1994 like the rest of the local pool industry fiberglass mat was employed by Sun valley pools on their resurfacing jobs that were advertised as fiberglass. Sun Valley purchased the product from Mr. Russ' company prior to 1994. After 1995 only the warranty repairs on 1994-95 jobs were done without Mat. This was never denied by the owner at any time.

The Court disregarded the evidence before it that a fiberglass mat was necessary to regard the coating as a fiberglass interior resurfacing ; that fiberglass are thread like fibers. The fiberglass used in pools is matted like a (bird nest)rather than a grid pattern (Cloth)to protect from movement in all directions due to expansion and contraction caused by changing water temperature. It is secured by resins or epoxy, an adhesive and hard seal. The material demonstrated to the Court did not exhibit the qualities of fiberglass described in technical manuals, dictionary, encyclopedia, packages of the product. On Motion for Reconsideration plaintiff provided parts of four video tapes demonstrating fiberglass application and Sun Valley's film showing no fiberglass mat being used although the film referred to fiberglass. Plaintiff submitted

the opinion of two local well qualified experts. All apparently not considered by the court that Sun Flex is not fiberglass.

After receiving the Motion for Summary Judgment, and one day before the deadline for filing motions, the Plaintiff has filed an Amended Complaint. The Court has read the original Complaint and the Amended Complaint. They are essentially the same, and both of them are very difficult to understand. Both Complaints have four cases of action, Cause of Action #1 talks about the warranty and a return of the money paid for the original work done. The Amended Complaint seeks rescission but also talks about misrepresentation and fraud. In the Amended Complaint these allegations are not pled with any specificity, and because there has been no disclosure and no discovery since the original complaint, there does not seem to be a basis for this allegation. The Court wrote further in summary of the Complaints about relief requested which makes it difficult to understand his subsequent findings in both Minute Entries. Count #2 asks for the costs of removing the defective product. That count is the same in both Complaints.

"Paragraph 3 is almost the same as the original Complaint in that the Plaintiff alleges defective product, fraud, misrepresentation, loss of enjoyment of the pool, but adds that there was a scheme by the Defendant, and Plaintiff wants punitive damages."

Plaintiff cited for the Court, the Case of Owen v Superior Court 133 Ariz, 75, 649 P2d 278 (1982) in which the Supreme Court held that the, Court abused its discretion in refusing to allow the Amendment of the Complaint to permit a claim for punitive damages upon facts which are at issue.

Paragraph 4 in the original complaint asks for reduction in value of his home because the pool was in disrepair. and the Amended Complaint claims emotional distress. After reviewing everything, this is the first allegation of emotional distress, and any claim for emotional distress would be subject to a statute of limitations defense.

Such claim would relate to defendants conduct over the previous ten months and it would appear the Court understood the acts complained of and relief requested. The COURT FINDS it would be extremely prejudicial under the circumstances of this case to allow this amendment. The facts indicate that an original Complaint was filed; lost at arbitration, an appeal was filed, Defendant filed a Motion for Summary Judgment, and faced with a summary judgment motion and no credible evidence to oppose it,

Plaintiff then files a Motion to Amend Complaint. Also, the case of Tucson Electric v. Round Valley ..., 163 Ariz. 532 (1990) upheld the denial of amendments when it would delay the trial. The Motion to Amend is not timely.

IT IS THEREFORE ORDERED granting the Defendant's Motion for Summary Judgment and denying Plaintiff's Motion to Amend.

IT IS ORDERED vacating the trial date of June 5, 2001. **Re: The Motion to Amend the Complaint

The Court was incorrect and acted to contrary to the facts by stating, "After receiving the Motion for Summary Judgment, and one day before the deadline for filing Motions, the Plaintiff has filed an Amended Complaint."

The Motion to Amend was filed prior to the Motion for Summary Judgment filed by the Defendant, The Court on April 5, 2001 set May 11, 2001 as the date of Hearing on the Motion then denies as untimely a Motion which had been filed 71 days prior and cited a case in which the Motion to Amend and alter factual questions was made on the date set for trial. Mr. Thurston had delivered his Response to the Motion to Amend, alleging falsely that Plaintiff was Amending the Complaint to plead a different claim than that which had been arbitrated. The Court had before it on April 5, Defendant's Motion for Summary Judgment on the warranty grounds not addressing the claims set forth in either Complaint and Mr. Thurston's false allegation that plaintiff was altering the case that had been arbitrated. The warranty claim was never an issue once plaintiff discovered his pool cracked and peeled because fiberglass was not applied to the interior as represented, it was only a defense asserted by Mr. Thurston to distract the Court and be awarded attorney fees under ARS 12 § 341.01. Both the Defendant's Response to the Motion and the Minute Entry of May 30, 2001 acknowledged the original and Amended Complaint, "are essentially the same. " They were, except to reflect the increased damages aggravated by the actions of defendant's counsel which are elements that a jury may be permitted to consider in an action for, "fraud in the inducement and material misrepresentation. "

The Court was also in error in accepting Mr. Thurston's unfounded and prejudicial argument that Plaintiff had, "no credible evidence to oppose the Motion for Summary Judgment, " The Court fanned through, but did not appear interested in plaintiff's exhibits. He did not ruled on the Response to defendant's Motion to Strike Plaintiff's exhibits that specifically rebutted the vague allegations and false statements of fact presented by Mr. Thurston and perjury of the owner in the Rule 11(a) Motion. The Court was apparently influenced by the us and him argument of Mr. Thurston and the allegation that the Motion (to Amend) be denied on the false grounds that, "said Motion is precluded by arbitration and is untimely. "

**MINUTE ENTRY OF JULY 2 nd 2001 SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY**

**Hon. Michael J. O'Melia J.
Stobierski Deputy**

(Same Caption)

The Court has considered all of the memoranda submitted since the Court's ruling granting summary judgment in defendant's favor.

This case was filed by the Plaintiff because of a dispute in respect to the warranty provided for the work done on his pool. The complaint is not very clear as it sounds in tort and contract. The Plaintiff lost the arbitration and then appealed the decision. Defendant filed a Motion for Summary Judgment. Plaintiff had no expert testimony in respect to the "tort" claims. The affidavit submitted did not

address the issues. There was no evidence that Defendant breached the warranty"contract" claim. Hence, the ruling in Defendant's favor.

The Plaintiff's motion for reconsideration is denied. Defendant is entitled to double costs pursuant to statute in the amount of \$1,871.60. Defendant is entitled to expert fees of \$806.25 and attorney's fees of \$6,100.00 all in accordance with the formal written Judgment signed by the Court on June 29, 2001 and filed (entered) by the clerk on July 2, 2001.

The warranty was only material as further evidence of fraud, the requests of Plaintiff for oral argument supported by factual and legal argument was denied and apparently the exhibits not considered. They were not reviewed by the Court on May 11, 2001 when the unrestrained, unfounded, prejudicial and inflammatory remarks of Mr. Thurston occupied the Courts attention. While the Rule provided that, " the Appeal shall be de novo on law and

fact, The findings of the arbitrator not binding, it was stressed by Mr. Thurston and as reflected in his decision, important to the Court.

The full judgment has been paid. Plaintiff would not qualify for a reduction as provided by the new Rule 76, Arizona Rules Of Civil Procedure, which must be based on, "substantial economic hardship as not to be in the interest of justice".

Such rule also provided that, "attorney fees necessitated by the appeal" and "reasonable expert witness fees incurred by the appellee in connection with the appeal." as determined by the court shall be award to appellee. That would according to Mr. Thurston's statement of attorney fees amount to \$2,184. nor \$6,100 and according to Mr. Thurston, "After the appeal an Mr. Ellsworth spent, " an additional hour of expert witness time. on this case". apparently time enough to read and sign the affidavit prepared for him and faxed to him by Mr. Thurston. That would amount to \$ 75. Ellsworth originally alleged to have a contract price of \$ 2,000. Plaintiff complained in the Rule 11(a) Motion that such invoice was for the purpose of harassing plaintiff. The Court awarded Expert fees of \$ 806.25 to one alleged by plaintiff to be a co conspirator in a fraudulent scheme who never appeared as a witness, and if he had he would have conceited that Sun Flex was not a fiberglass interior and that he was employed not as a chemist but an OCHA representative for a retail distributor of composites, reinforced plastic products, not fiberglass. Plaintiff's witnesses were Independent Maricopa County residents, defendants only witnesses were interested parties, the owner careful to allege only that Sun Flex contained fiberglass and alleged expert who resided in the state of Washington, unlikely to appear in an Arizona Court to commit perjury.

There are those who claim that an efficient local modern two tier court system would be too costly. That is not true, there are more judges at all levels in Maricopa County then would be needed if they were employed more effectively with proper specialization, assignment and revealing daily docket entry progress in a legal publication as has been done in most metropolitan areas. It is not unusual for three to five judges to be processing the matters involving one family in Maricopa County where as one judge would do it all in Pinel County with one staff and one appointed attorney. With consistent results fewer cases are litigated I proved that in the City of Phoenix Municipal Court and again Motor Vehicle Hearing Office and saw it work in Ohio and New York. Costs to litigants and taxpayers would be reduced. The results would be more fair and the judges less frustrated and less opportunity for error and need to appeal. *The above case would have been settled if the attorney was sure the judge would have time to formally consider the evidence and hold a proper hearing where the evidence and merit and not personalities were review in open Court ,* Defendant provided a copy of the formula for the 1994 Sun Flex material applied to plaintiff's pool. It consisted of 860 pounds of Fiberglass resin and fill to which 50 pounds of Micro Fiber, ground up, flower size former fiberglass was added yet advertised as "Fiberglass Coating." Before and after 1994 and 1995 the defendant pool company used Fiberglass Mat in the fiberglass interior pool resurfacing as used by the rest of the industry in the area. Mr. Thurston represented the company for over eight years and knew the product applied to plaintiff's pool was fiberglass resins with no long fiber to prevent cracking and peeling, he knew that much of the evidence he objected to related to the Rule 11(a) Motion and in a fraud case hearsay and other acts of fraud by the defendant are admissible.)

Ariz Rep Jan 2, 1972

reaction

Arizona: right or wrong?

The Editor:

One convenience of living in the desert appears to be the ease with which one can hide his head in the sand. If James Cook was at all serious when he wrote, "Why Are All Those Departing Moving Vans Empty?" November 21. This amateur poll taker has concluded that the bulk of the families, including retirees, came to Arizona because science has yet to find a cure for lung disorders or arthritis.

The balance is divided between those who came involuntarily because their employer sent them, others search for opportunity. Most find competition keen. A lot of previously successful persons go through their life savings and then sell out.

Still, there are those who discourage efforts to increase economic opportunities by attracting new business. A lot of these people are in non-productive occupations, putting more burden on the productive segment. Some economic critics want to eliminate population increase or limit use of automobiles without realizing that construction of new homes and buildings and sale of autos support the economy, provide the tax base and investment opportunities.

These same critics approve of taxing a building before it is ready for use and taxing an auto each time that it is sold plus imposing the tax once a year. I pay \$62 a year school tax on my travel trailer that I use twice a year. Of course, this is not taxation, without representation. There are elections of one sort or another every month. I don't often know the candidates or what the issue is but at least the lines at the polls are short.

Mr. Cook suggested that we support our local environmentalist. I didn't know that I had any,

they all seem so interested in what is going on out in the wilderness. Nobody seems to care that most new buildings have no setback line. These walled courtyards and dark alleys should improve the opportunities for muggers, car thieves and burglars, so I really can't say that there is not going to be some improvement in employment. Auto body shops should do well also.

We do have some open space in Phoenix but that won't last long. With local and government environmentalists interested in crowding the city so that mass transit will be feasible, we will look like Manhattan soon, except that it at least has Central Park.

Cook's humorous remark about our government being 30 years ahead of its time may mean that it will take 30 years before the courts can interpret some of our laws. We apparently have a legislature that can write. They add laws that conflict with others.

Maybe Mr. Cook was referring to the court system which is about as modern and efficient as a stagecoach with balloon tires and an automatic transmission. We have judges doing clerks' jobs and no local intermediate court system which could process most disputes quickly and economically. Then he talks about our cleaner than other states government. A housewife is never sure if her wash is the cleanest in the neighborhood unless she hangs it out on the line. Our governmental affairs are seldom aired, just fluff-dried in a controlled temperature dryer.

Cook also talked about people being less combative, more accommodating. He must walk to work. There is a definite lack of courtesy on our roadways, except for the friendly traffic cop who will pull you over to talk at the change of a traffic light.

Richard T. Tracy
Phoenix

I HOPE THAT YOU HAVE FOUND THIS COLLECTION OF ARTICLES INFORMATIVE. I APOLOGIZE FOR SO MUCH REPETITION.

WHILE THERE ARE SOME WHO WILL CLAIM THAT COURT REFORM IS MY MISSION BECAUSE OF MY REMOVAL AS A CITY COURT JUDGE.

THERE ARE ALSO PEOPLE WHO KNOW THAT I WAS REMOVED BECAUSE OF MY BELIEF THAT THE LEGAL SYSTEM, AS IT EXISTED THEN AND NOW IS NOT OPEN AND FAIR TO THE INJURED, THE TAXPAYERS AND MOST OF THE LEGAL PROFESSION.

AFTER 29 YEARS IS THERE ANY ONE WHO CAN SAY I WAS WRONG, I KNOW OF NO PERFECT LEGAL SYSTEM, BUT THERE ARE FORCES HERE WHO PREVENT EFFORTS TO SHARE THEIR CONTROL WITH THE COMMUNITY AND DEVELOP A TRUE JUSTICE SYSTEM THAT WOULD RESPOND TO THE PUBLIC NEEDS. EACH OF YOU CAN HELP YOUR SELF AND YOUR FAMILY BY INSISTING THAT THE THREE BRANCHES OF GOVERNMENT ACCEPT RESPONSIBILITY TO PROPERLY FUND AND OPERATE A COURT SYSTEM THAT WILL PROVIDE THE LIBERTY TO ARIZONA'S CITIZENS PROMISED IN OUR CONSTITUTION.

RICHARD T. TRACY, SR.
2238 S. COTTONWOOD ST.
MESA, AZ 85202

Richard T. Tracy Sr.

Former Judge Questions Efficiency Of Justices

By RICK LANNING
Gazette Reporter

Ever since Richard T. Tracy Sr. was ousted as a city court judge in 1976, he has been trying to make judges — all judges — more responsible to the public for their actions.

At a meeting of the Maricopa County Board of Supervisors Monday, Tracy, now an attorney who practices law in Ohio, appeared as an ordinary citizen to question \$84,000 allocated by the supervisors to help set up a computerized judicial system.

TRACY CAN'T understand why such a system couldn't be used to give citizens a better idea of how judges spend or misuse their time on the bench.

"Spending \$84,000 for computerizing the system would be worthwhile only if it would enable the public to have the information needed to rate the judges," insists Tracy.

He told of a judge who didn't decide a case for five years.

"These aren't judges' cases," he declared. "These are cases that belong to the people who are supporting and paying for the system."

The supervisors approved the \$84,000 contract with Arthur Young & Co. to complete the first phase of a project which would study how to add the civil and domestic relations divisions of the court system into a computerized system.

MICHAEL Griffin, director of information systems and services, described the system as a "first," and said it is aimed at reducing the amount of paperwork that goes through the courts.

Tracy told the supervisors, "We have people sitting in jail waiting two to three times as long as the national average to go to court. Yet none of

this information is available to the public as to why these delays take place.

"The public needs to know what kind of work was done, who did it, and how they did it."

The supervisors have authorized \$250,000 in federal revenue-sharing funds to be used for the computerization this fiscal year. Arthur Young & Co. will give an estimate later as to how much more money will be needed to complete the project.

IN 1976, Tracy, 54, was not recommended for another term as city court judge by the City Judicial Selection Committee. He filed suit, claiming the committee heard damaging testimony during private meetings and gave him no chance to defend himself.

Since then, Tracy has been practicing law in Ohio. His family lives in Phoenix.

After Monday's meeting, the former judge said, "The courts in Arizona need to be surveyed by an independent agency. There is no check or balance system.

"I resented the fact that the supervisors called for a time to discuss the expenditures of public funds and that I had no real opportunity to question what the purpose of this expenditure would be."

He claimed the Maricopa County Superior Court system doesn't have a realistic probation department and lacks mental health facilities for people who are a problem but who aren't criminal lawbreakers.

Asked why he had to practice law in Ohio, he said, "I can't practice law in Phoenix any more. I'm on the ... list of too many judges here because I challenged the system."

Tracy said he is concerned about judges who aren't giving taxpayers their money's worth.

7-5-2000 FRIB

Inefficient, archaic court system plagues Arizona

I am appalled at the apathetic attitude of the public in regard to the operation of their courts and willingness to accept excuses from those able to convince the public that a court system designed for the Arizona of 1912 can do the job today.

I will not dispute that some communities in Arizona have not changed and the demands on their courts may best be handled by a justice of the peace who has little legal training. The citizens of that community can act as a check and balance on the friend and neighbor they elect as their judicial officer. But is that true of Maricopa and Pima County with their three million population and more than 300 judges?

Arizona adopted the Model Modern Courts Amendment while Morris Udall was still in law school. He wrote an excellent article about how our courts could run more efficiently and economically. There are more judges in Maricopa County and Pima County than would be needed for a well-run court system. But because it is like a "crap shoot," with results seldom reported, and those who abuse the system clog the court, everything and anything gets filed. Eighty-five percent of the civil cases in Maricopa County are sent out the back door to attorney arbitrators and non-attorney mediators who are not interested, not paid, often not impartial, unqualified, or very fair. No effort is made to monitor the results and corporate interests are favored in the appeal process if they are not satisfied. Maricopa County is larger than some states. Many of Arizona's cities are more populated than most counties throughout the country that have modern courts. Local intermediate courts with local officials and residents involved in election and retention of legally trained judges who could handle civil



My turn

Richard Tracy

cases up to \$50,000 would provide accountability and consistency.

Los Angeles courts proved that bigger is not better. Juvenile and minor criminal cases also are more effective with consistent local attention.

We have a poor system by retaining the present justice of the peace courts as a foundation and pile Superior Court divisions one on top of the other like building blocks with no internal communication system. Several judges can be working on the same problem over and over and come up with different results.

Millions of dollars have been wasted on a proposed computer network that will preserve the remoteness of the courts instead of providing information to a self-supporting legal newspaper, which would give those interested an idea of how judges spend or misuse their time. It's no wonder our courts can be regarded as "casinos" and the wealthy have the odds in their favor.

It is false economy to believe that our court system can properly function with the same system that existed 70 years ago. Updating the system means more than adding computers; we are not talking about something as simple as auto registration. Close attention to

people and problems is not possible in a remote revolving-door system, but close attention is what is needed.

Good court systems save the community money. Some of our cities have the highest insurance rates in the country, the state is fourth in rate of crime, among the first in auto theft and rate of incarceration, all with various related expenses and personal suffering.

The Legislature already had the power to require any new candidate in Pima and Maricopa counties to meet the requirements of the Constitution for courts not of record and to fund commissioner and municipal court judges rather than create any new costly Superior Court divisions in those counties.

There are many good lawyers who would seek those positions if they were upgraded, even if it paid half what a Superior Court judge earns.

Our population is expected to again double. Shouldn't we put history behind us and plan for a better future in our larger cities and counties? Court reform and accountability should rank with education as an issue in the coming election, even if it only affects a small portion of the population at any one time. Next year it may involve you or your family.

Remember, "Ask not for whom the bell tolls."

Would there have been a Waco or Ruby Ridge if there was an old-fashioned belief in and respect for the rule of law and a court summons?

Phoenix attorney Richard Tracy was on U.S. Supreme Court Justice O'Connor's Joint Committee on Court Reform. He is a former municipal court judge and administrative law judge and graduate of the Academy of Judicial Education and National Judicial College.

Jason Stephens

From: Jerry Spellman [jspellman4@cox.net]
Sent: Tuesday, October 13, 2009 3:26 PM
To: Jason Stephens
Cc: Christopher Perkins
Subject: October 13 Public Meeting Input
Attachments: NASA and Unimodal Partner PRESS RELEASE - 090209.pdf

Dear Mr. Stephens:

Since I won't be able to attend tonight's Public Input Meeting on the Regional Transportation Plan, I'm sending this e-mail. Please share it, if possible, with the Policy Committee members this evening.

My company, Unimodal Systems LLC, is the developer of SkyTran -- An Automated, Aerial "Passive" Maglev Personal Rapid Transit (PRT) System (www.skytran.net). Recently, Unimodal Systems entered into an historic agreement with the National Aeronautics and Space Administration (NASA) to commercialize the SkyTran technology (see attached), with NASA to provide SkyTran's automated vehicle computer command and control software, and component reliability and system safety testing.

The U.S. Department of Transportation provided the initial funding for SkyTran's MagLev components' development, resulting in the system's current vehicle and guideway prototype demonstration at NASA's Ames Research Center in California. Unimodal Systems, in partnership with St. Tammany Parish Government in New Orleans and a host of other local science, education, medical and community organizations, including NASA's Center for Advanced Manufacturing, recently applied for \$75 million in Federal Stimulus funding under the Transportation Investments Generating Economic Recovery (TIGER) discretionary grant program administered by the Secretary of Transportation. If funding for this St. Tammany Parish SkyTran demonstration is approved, there soon will be no good reason (as if there were ever any) for MAG to continue to ignore the reality that SkyTran transit technology is a cost effective alternative to light rail, streetcar and bus rapid transit modes. Despite Unimodal's repeated attempts over the past decade to inform and interest Arizona's and Maricopa County's transportation planners and decision makers in assisting in demonstrating the SkyTran technology, all of our attempts have fallen on deaf ears.

Now that the Regional Transportation Plan is in dire funding straits, with Prop 400 anticipated revenues down significantly and the prospects of many transportation projects being scaled back or eliminated looming, MAG's leaders would be wise to take a fresh look at the SkyTran technology, how it is progressing, and how it could very well change this transportation gloom and doom scenario into one of opportunity, innovation and progress for Arizona over the coming decades. At a capital cost of approximately \$15 million per mile, as opposed to the \$70 million cost per mile for light rail, SkyTran could help salvage the 57-mile "high-capacity" rail transit plan promised to taxpayers in Prop. 400. Not only could SkyTran build the 57-mile rail system much more affordably, but build it faster and safer, and eliminate the taxpayer subsidies now required for ongoing operations and maintenance. In fact, SkyTran could even attract the kind of private investment to lessen the burden on taxpayers for capital construction, just like privately financed toll roads.

In short, if MAG is serious about cutting long-range transit system infrastructure development and operating costs it need look no further than SkyTran's ability to provide on-demand, no-wait, high-speed, express passenger and lite-freight rail service 24/7 throughout the Valley and all of Arizona for a fraction of the costs of light rail, commuter rail and high-speed (150 mph) intercity rail (Phoenix to Tucson, for example). If Arizona wants to be a leader in high-tech job creation and manufacturing, it need look no further than SkyTran. Every 100 miles of Arizona SkyTran guideway under construction and vehicles in production means 1,200 good-paying jobs for Arizonans. It means Arizona will be exporting "Made in USA" SkyTran systems rather than importing rail system components manufactured in Japan, or Germany, or China.

As always, Unimodal Systems is just asking MAG and Arizona leaders to take a good look at the SkyTran rail alternative and the technology's development progress over the past decade. When NASA's top

scientists endorse SkyTran's development and demonstration, and commit to partner with and assist in SkyTran's commercialization, it should be a signal to Maricopa County and Arizona decision makers that all of that past "friends of transit" propaganda about SkyTran being a "pie in the sky" transit system, or "pipe dream," should be ignored. SkyTran technology is for real. Now, MAG's leaders need to get real.

Jerry Spellman

Arizona Coordinator
Unimodal Systems/SkyTran
(480) 834-1769
jspellman4@cox.net

NASA News

National Aeronautics and
Space Administration

Ames Research Center
Moffett Field, California 94035-1000



Ruth Dasso Marlaire
Ames Research Center, Moffett Field, Calif.
650.604.4709
ruth.marlaire@nasa.gov

Sep. 2, 2009

RELEASE: 09-112AR

NASA PARTNERS TO REVOLUTIONIZE PERSONAL TRANSPORTATION

MOFFETT FIELD, Calif. -- The morning commute may never be the same.

NASA officials have signed an agreement with Unimodal Systems, LLC to collaborate on the use of NASA-developed control software and human factors techniques to evaluate acceleration, jerk and vibration of an advanced transportation vehicle system. The control software was originally designed to control robots and other applications. The collaboration will help NASA better understand the softwares usefulness, human performance and safety.

This collaborative effort is anticipated to help NASA with its aeronautics and space activities, while Unimodal gets to develop the next generation high-speed transportation system, said Jeffery Smith, deputy chief of the Entrepreneurial Initiatives Division at NASA Ames Research Center, Moffett Field, Calif. NASA will receive valuable feedback from our systems software usage.

Per the agreement, Unimodal will contribute its SkyTran vehicle, currently located at NASA Research Park, and its advanced transportation technology; NASA will provide its Plan Execution Interchange Language (PLEXIL) and Universal Executive (UE) software to control the vehicle.

In the future, SkyTran will use small vehicles running on elevated, magnetically levitated (maglev) guideways, which distinguishes it from other railed systems. The vehicles are lightweight, personal compartments that can transport up to three passengers. Travelers board the pod-like vehicles and type their destinations into a small computer. Using intelligent control system software, SkyTran will run non-stop point-to-point service without interrupting the flow of traffic.

These vehicles will eventually travel up to 150 mph and move 14,000 people per hour, both locally and regionally. SkyTran will serve as a feeder system to other transit systems, such as BART and high-speed rail.

- more -

"SkyTrans personal rapid transit has generated serious interest with local, regional and state transportation leaders who are considering funding the building of the Unimodal maglev PRT system in the NASA Research Park, said Michael Marlaire, director of NASA Research Park at Ames. This construction and new R&D partnership may usher a new green technology maglev PRT system into Silicon Valley."

Were working with NASA and aerospace engineers to ensure aerospace-level standards that exceed the safety records of current transportation systems, explained Christopher Perkins, chief executive officer of Unimodal Systems, LLC, based in NASA Research Park.

Both organizations will mutually benefit. NASA will receive feedback on its softwares usefulness in ground-based propulsion systems, while Unimodal will develop a transportation system designed to eliminate traffic congestion, mitigate greenhouse gases and reduce dependence on foreign oil.

For cities across the nation, SkyTran will create greentech jobs and launch a new era of public-private partnerships that will make public transit affordable to install, and profitable to operate," said Perkins.

For more information about Unimodal SkyTran, visit:

<http://www.unimodal.com/>

For more information about NASA's Innovative Partnerships Program, and NASA technology infusion activities, visit:

<http://ipp.nasa.gov>

-end-

To receive Ames news releases, send an e-mail with the word "subscribe" in the subject line to: ames-releases-request@lists.arc.nasa.gov. To unsubscribe, send an e-mail to the same address with "unsubscribe" in the subject line. Also, the NASA Ames News homepage at URL, <http://www.nasa.gov/centers/ames/news/index.html> includes news releases and JPEG images in AP Leaf Desk format minus embedded captions.

Jason Stephens

From: Ian Eskey [dvrenaissance@gmail.com]
Sent: Tuesday, October 13, 2009 2:47 PM
To: Jason Stephens
Subject: Tonight's Transportation Planning Meeting

Jason Stephens

MAG Public Involvement Planner

jstephens@mag.maricopa.gov

Thank you for this opportunity to provide input to the transportation planning meeting. I would be grateful if you would share the following points:

We Need To Get Cars Off The Roads

MAG needs to focus the money available on where it will do the most good. Building more freeways will not help move traffic around Maricopa County any faster. We need to get cars off the roads.

We Need Smarter Bus Routes

We have a lot of bus routes that do not go anywhere. Our current bus route system is designed to deliver people to other bus routes which lead to other bus routes. We need smarter bus routes, ones designed to deliver passengers to destinations and not to other routes.

An example of this is the current bus routes on Stapley Drive and Mesa Drive. The Stapley bus route travels north and south on Stapley Drive. Passengers who board are required to transfer to another bus route to make any east or west progress. This route, and the one on Mesa Drive, goes nowhere. A solution to this would be to make the routes a circular, one north of Main and one South of Main Street, and lead people to Downtown Mesa. These routes would then increase in traffic and lead passengers to Downtown Mesa and to the Light Rail. (A plan for this is available upon request).

We Need Bus Rapid Transit

Buses are stuck in the same traffic jams as the automobiles. Why would commuters take a public traffic option that goes the same rate as they can go in their own car. We need a faster option. We need Bus Rapid Transit.

Bus Rapid Transit, Like Metro Link current running on Main Street in Mesa, is bus service with a maximum of one stop per mile, or less in most cases, and allows the bus to travel as speeds closer to an automobile. However, unlike Metro Link, bus rapid transit has a dedicated lane similar to the light rail. A dedicated bus lane for bus rapid transit would allow the bus to avoid traffic jams that slow traffic in Maricopa County.

Tempe is looking towards bus rapid transit for a light rail connection from the light rail down Rural Road into South Tempe. Chandler is looking toward bus rapid transit up Arizona Avenue from

Downtown Chandler to the future light rail station at Country Club Road in Mesa. If MAG approved, Valley Metro could have a dedicated Bus Rapid Transit System with dedicated bus lanes, covering the entire metropolitan area, within two years. (A plan for this is available upon request).

We Need Commuter Rail

Commuter Rail, in addition to the light rail and bus rapid transit, will provide the Valley of the Sun a complete transit system, similar to New York and Salt Lake City. With these three mass transit systems in place, commuters will be encouraged to abandon their cars and use public transportation.

The Arizona Rail Passengers Association has a very detailed plan to bring commuter rail to Maricopa County.

We Need Fewer Freeways and More Expressways

MAG needs to postpone work on new freeways and focus their work on projects already in progress.

There are two freeways that do need MAG's attention and work needs to accelerate on these projects:

- The Phoenix Bypass Route, from I-10 and I-8 to 1-10 and AZ 85. Completing this route will help lower the amount of traffic stuck in the Metro Area on I-10.
- US 60 in the West Valley; Grand Avenue should turn into the Grand Freeway similar to the Superstition Freeway in the East Valley.

The Metropolitan Area has a strong freeway system. Now we need to build better methods to lead cars to and from the freeways in more efficient manner. To do that, we need expressways.

Expressways are very limited access roads with speed limits of 55 miles per hour. Around the metropolitan area, there are many arterial roads that could easily be converted into expressways allowing for a greater flow of traffic around the Valley. (A list of suggested routes is available upon request).

Thank you for your time and effort and for this opportunity to have my ideas presented to MAG. I am available to answer any questions or to further explain these ideas.

Sincerely,

Ian Eskey

Jason Stephens

From: Ruth Harrison [ruthah@TheStarCenters.org]
Sent: Tuesday, October 13, 2009 8:37 AM
To: Jason Stephens
Subject: two money saving ideas for public transit

Hi, I will be at the meeting tonight but I wanted to give you these ideas in case the talk is focused on highways.

The cost of monthly passes could be greatly reduced if a yearly pass was offered as another option. I get my pass by mail. Every month I get a letter with a bill and a newly made pass. A yearly pass would save the cost of printing both the letter and the new pass, franking, and personnel time. If 1M people use the busses and light rail and 50% buy a yearly pass, how much would that save?

Secondly, would it be feasible for the city to lease the school busses when they are not in use with the stipulation that the schools do the maintenance? The schools desperately need the money and the busses just sit there except for twice a day. Would doing away with the cost of maintenance be cost effective?

Sincerely, Ruth Harrison

Jason Stephens

From: pmather [cycleaz@cox.net]
Sent: Wednesday, October 07, 2009 5:18 PM
To: Jason Stephens
Subject: MAG plans

What I am looking for specifically is the detailed 20-30 page individual description of all the projects.

Peter Mather

From: pmather [mailto:cycleaz@cox.net]
Sent: Wednesday, October 07, 2009 4:09 PM
To: 'jstephens@mag.maricopa.gov'
Subject: MAG Update

I will be coming to the meeting on October 13. I would like to be sent via-email the updated version of the MAG Transportation Plan.

Peter Mather
Coalition of Arizona Cyclists

Jason Stephens

From: Bob Beane [marco3@cox.net]
Sent: Friday, October 09, 2009 11:33 AM
To: Jason Stephens
Cc: cazbike@cazbike.org
Subject: RE: Preparation/Advance Comments for Transportation Public Meeting on 10/13

Jason,

Thank you for providing this link so that we have a chance to preview the MAG slides for next Tuesday's meeting. As I'm sure MAG will understand, it is quite difficult to discern the complete thinking of MAG leadership and staff from these slides without hearing and questioning the presentation that will take place. Never-the-less, the Coalition of Arizona Bicyclists would like to submit the following advance comments:

- CAzB would oppose any lessening of bicycle accommodation in areas of opportunities for public input, design policy/procedure and/or construction policies and practices. Rather, given the current economic climate and future expectations for gasoline prices and sub-par employment, the CAzB believes that bicycle accommodation, as an alternative means of transportation, should be increased in weighting in transportation policy decisions.
- CAzB can generally support, as a means to meet budget constraints, project spending *delays* that correspond to reduced land development, population expansion and new construction that were previously anticipated to be needed, but are not now occurring at expected levels.
- CAzB believes that land and construction cost estimates for the same time and scope, today, are lower than previously expected, given the economic downturn and recent bid results. CAzB believes that these changed conditions should be fully taken into account before eliminating bicycle accommodation in any project.
- CAzB believes that any project delays/reductions that affect cycling-related accommodation spending should be, as a percentage, less than, and certainly no more than proportionate to total spending delays/reductions. CAzB believes that, if anything, current economic conditions, the "green" movement, higher expected gasoline prices and climate change and general health considerations support *retaining* alternative transportation projects, specifically those that are bicycle and pedestrian oriented, as more citizens are being economically forced to bicycle and walk in their commutes to work.
- CAzB club members and individual cyclists are significant users of Pecos Road in Ahwatukee and a route around South Mountain via Maricopa Road, Beltline Road and 51st Avenue to Laveen. CAzB members are predominately opposed to replacing Pecos Road in Ahwatukee with an extension of Hwy 202 west and north around South Mountain, especially without specific accommodation of cyclists who live, commute and train in those areas. CAzB supports an alternative alignment of Hwy 202 south of Pecos Road in such a way that a bicycle route around South Mountain and the use of Pecos Road by cyclists are both preserved.
- CAzB would support major arterial road improvements, such as Pima Road in Scottsdale, provided that appropriate bicycle accommodation (e.g. bike lanes) remains part of the scope of those projects.

Thank you for accepting these advance comments. We will have representatives in attendance at the Tuesday meeting to answer any questions regarding these comments and to represent the bicycling community, in general.

Best regards,

Robert Beane
President, Coalition of Arizona Bicyclists

10/13/2009

From: Jason Stephens [mailto:jstephens@mag.maricopa.gov]
Sent: Wednesday, October 07, 2009 11:15 AM
To: Bob Beane
Subject: RE: Preparation/Advance Comments for Transportation Public Meeting on 10/13

<http://www.mag.maricopa.gov/event.cms?item=10709>

Bob -

I'm waiting for Valley Metro's presentation, but here are the two MAG presentations (under the "Resources" section). Please feel free to check them out and provide any comment you wish. If you have any questions, please let me know and I can try and help.

Thank you!

Jason (602) 452-5004

From: Bob Beane [mailto:marco3@cox.net]
Sent: Wednesday, October 07, 2009 9:29 AM
To: Jason Stephens
Subject: Preparation/Advance Comments for Transportation Public Meeting on 10/13

Jason,

The Coalition of Arizona Bicyclists would like to provide advance comments and prepare for the meeting next week. In visiting the MAG web site, I found a presentation from June 2009 related to the budget gap and potential project delays, etc., but would like to see the most recent publicly-available proposals that will be discussed at this meeting.

Where can I find the most current subject matter and proposals so that we may provide feedback as requested in your press release?

Thanks!

Robert Beane
President, Coalition of Arizona Bicyclists