ARIZONA HOUSE OF REPRESENTATIVES
Fifty-second Legislature – First Regular Session

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10-19-15

HOUSE AD HOC STUDY COMMITTEE ON MANDATORY BAR ASSOCIATIONS

Report of Interim Meeting
Monday, October 19, 2015
House Hearing Room 1 -- 2:00 p.m.

Convened 2:07 p.m.
Recessed 3:53 p.m.
Reconvened 4:00 p.m.
Adjourned 4:43 p.m.

Members Present
Representative Randall Friese
Paul Avelar
Mauricio Hernandez
Eleanor Miller
Representative Anthony Kern, Chairman

Members Absent
Representative Eddie Farnsworth (excused)
Clint Bolick (excused)

Agenda
Attachment 1

Request to Speak
Attachment 2

Presentations
Overview of State Bar of Arizona

Name	Organization	Attachments (Handouts)
John Phelps	State Bar of Arizona	3

Abby Selvey, Chairman Assistant
October 19, 2015

(Original attachments on file in the Office of the Chief Clerk; video archives available at http://www.azleg.gov)

Interim agendas can be obtained via the Internet at http://www.azleg.state.az.us/InterimCommittees.asp

ARIZONA HOUSE OF REPRESENTATIVES

Conv: 2:07pm
Rec: 3:53pm
ReConv: 4:00pm
adj: 4:43pm

INTERIM MEETING NOTICE
OPEN TO THE PUBLIC

HOUSE AD HOC STUDY COMMITTEE ON MANDATORY BAR ASSOCIATIONS

Date: Monday, October 19, 2015

Time: 2:00 P.M.

Place: HHR 1

AGENDA

1. Call to Order
2. Introduction of Committee Members
3. Purpose of Ad Hoc Study Committee
4. Presentation
   - Overview of State Bar of Arizona - John Phelps, Executive Director of the State Bar of Arizona
5. Discussion
6. Public Comment
7. Announcement of Next Meeting: 10/26/25, ~~9:00~~ AM 9:30a.m.
8. Adjourn

Members:

Representative Anthony Kern, Chair
Representative Eddie Farnsworth
Representative Randall Friese
Paul Avelar
Clint Bolick
Mauricio Hernandez
Eleanor Miller

10/15/15
JY

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ATTACHMENT 1

Information Registered on the Request to Speak System

House House Ad Hoc Study Committee on Mandatory Bar Associations (10/19/2015)

6, Public Comment

Oppose:

Beverly Hall, representing self
Jane Ross, representing self
Wesley Harris, representing self
Jack Levine, representing self
Terry Rapp, representing self
Beth Hallgren, representing self
Michele Flick, representing self
Cody Whitaker, representing self
Chad Gammage, representing self
Vicki Alger, representing self
David Alger, representing self

All Comments:

Beverly Hall, Self: The reason the Legislature sunsetted the State Bar was because of the Bar's refusal to submit its books for review, and the Legislature's position was that the Bar used the membership's funds inappropriately.

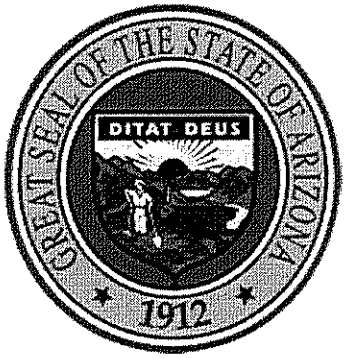
ATTACHMENT 2

State Bar of Arizona Overview

John Phelps
CEO/Executive Director

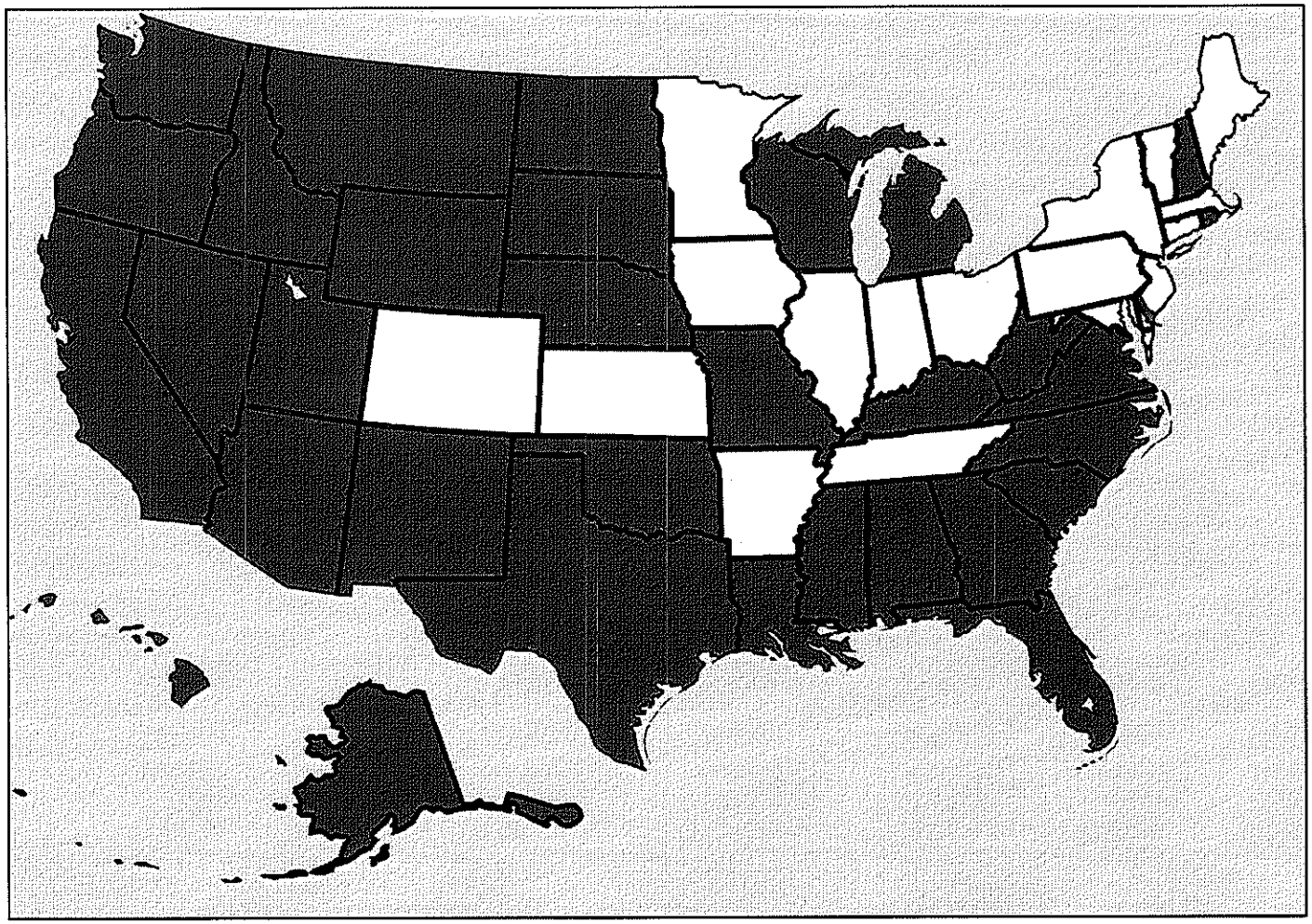
ATTACHMENT 3

History of Integrated Bar in Arizona

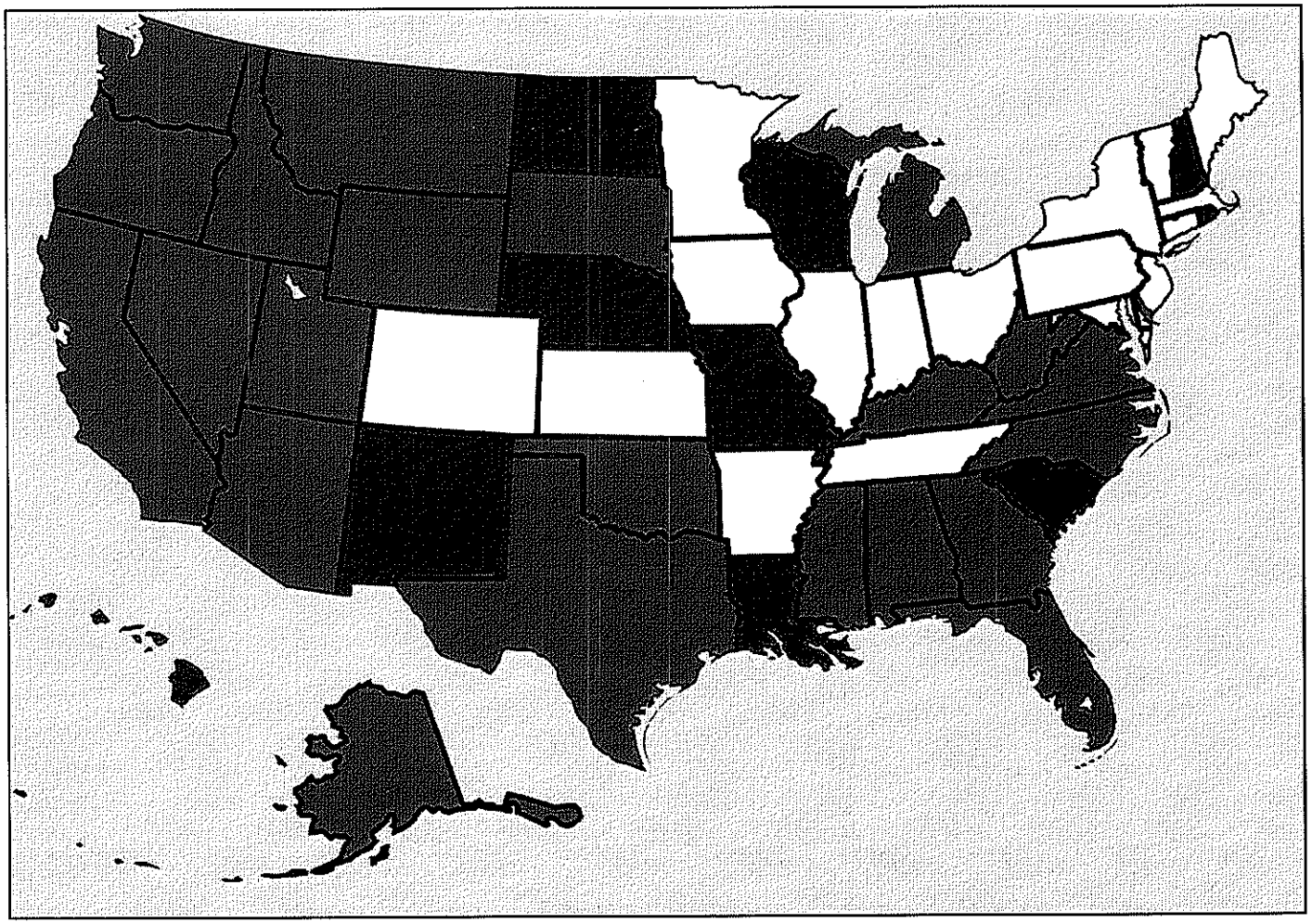


- Statehood (1912)
  - 1933 State Bar Act
  - 1973 Bar integrated under Supreme Court rules
  - Act expired in 1985
  - Today: Rules 31, 32

States with Mandatory Bar



Mandatory Bars and Regulation



Why Does the Bar Exist?

Rule 32

Why Does the Bar Exist?

Rule 32

...advance the administration of justice...

...regulation and discipline of persons engaged in the practice of law...

...a forum for the discussion of subjects pertaining to the practice of law...

...carry on a continuing program of legal research...

Why Does the Bar Exist?

Rule 32

"...responsibility of the legal profession and individual members thereof may be more effectively and efficiently discharged in the public interest..."

Mission Statement

The State Bar of Arizona serves the public and enhances the legal profession by promoting the competency, ethics and professionalism of its members and enhancing the administration of and access to justice

Board of Governors

Board of Governors

31 Board Members

Rule 32: 26 voting members

- 18 lawyers elected from districts
- 1 lawyer elected from YLD
- 4 public appointed by Board
- 3 appointed by Court

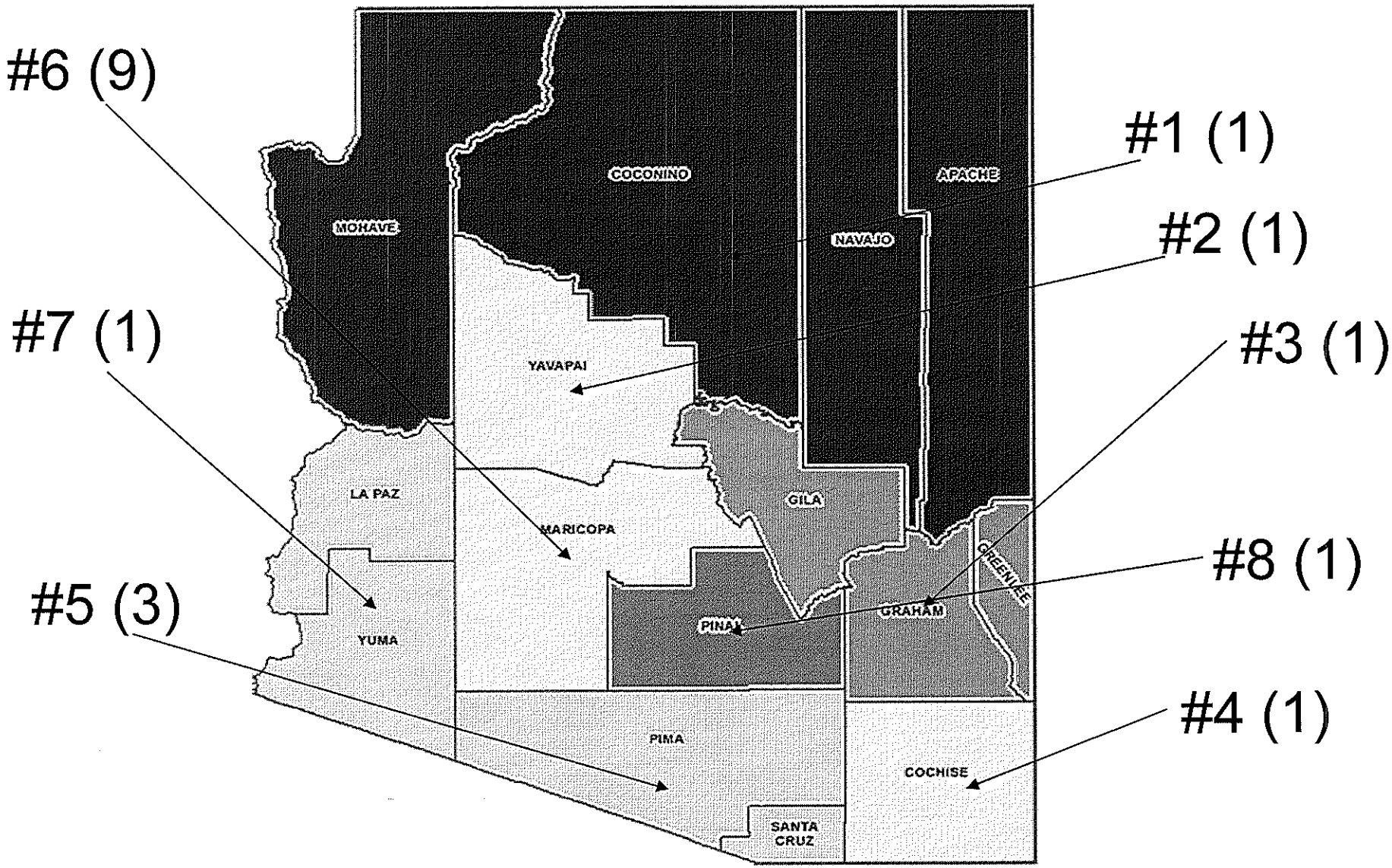
Practice & Policy: 4 nonvoting and 1 Court Liaison

- 3 law school deans
- Past president
- Junior justice

Board of Governors

5 Large Firm
5 Small Firm
6 Solo
1 Government
(1 Vacant Seat)

Electoral Districts and Representation



Member Snapshot

- Total membership: 23,527
- Active: 18,207
- Judicial: 504
- In-House: 254
- Inactive: 3625
- Retired: 937

*August 2015

Organization Facts

2015 Budget: $15.1 Million

- Dues Revenue: $9.2 Million
- CLE Revenue: $1.9 Million
- Other Income: $3.9 Million

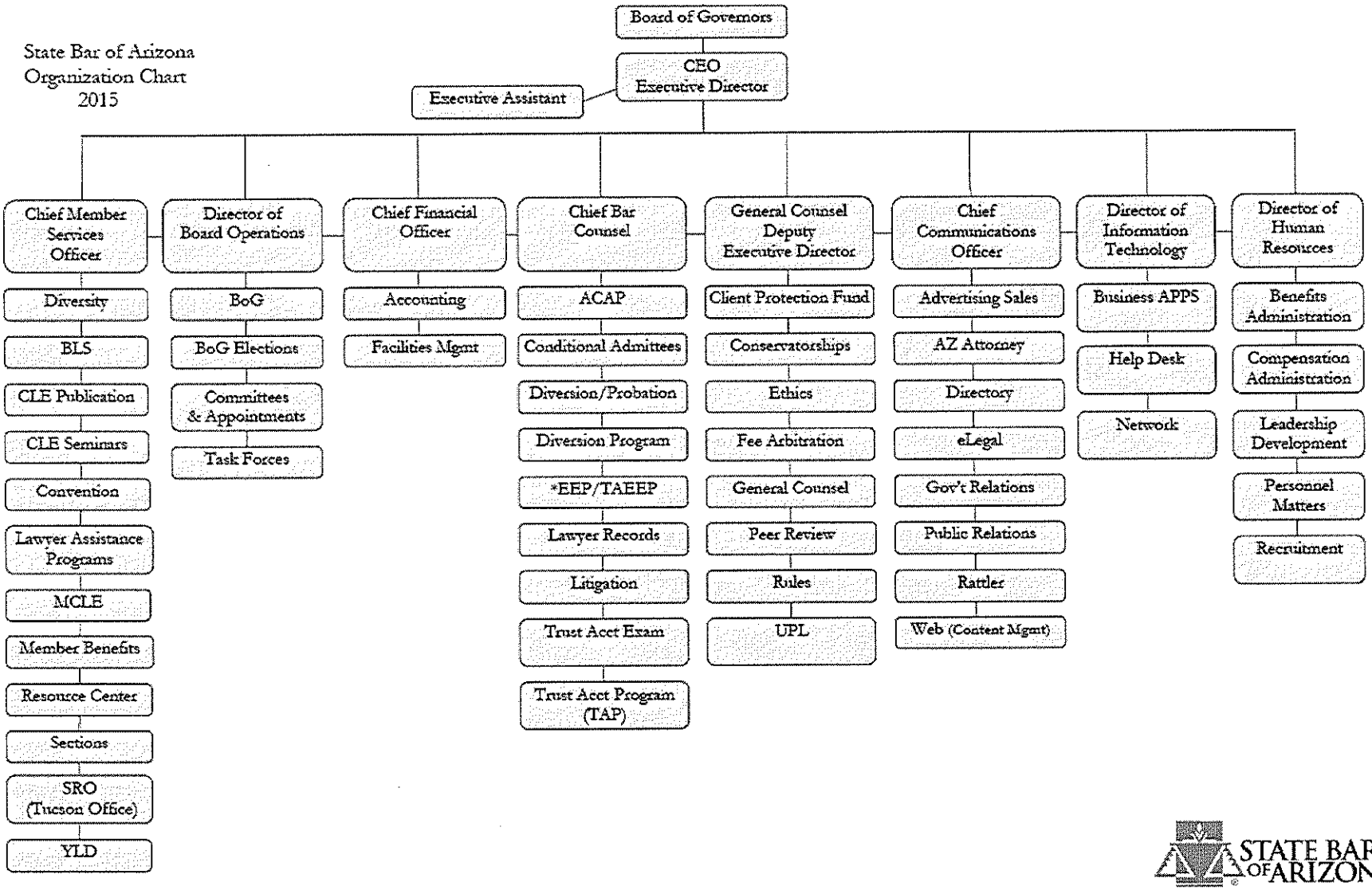
Staff: 98

Active dues: $475

- (will increase $15/yr 2015-18)

Reserve Policy

Organization Facts



STATE BAR OF ARIZONA

Mandatory Bar Functions

- Lawyer Regulation
- MCLE
- Client Protection Fund
- Conservatorships
- Judicial Nominating Committees
- Unauthorized Practice of Law
- Board of Legal Specialization

Discretionary Bar Functions

- Ethics Hotline
- Fee Arbitration
- Trust Account Hotline
- Law Office Management Assistance
- Member Assistance
- Sections
- Committees
- Rules
- Mentor Program

Discretionary Bar Functions

- Access to Justice
- Arizona Attorney
- Fastcase
- Bar Leadership
- Convention
- Resource Center
- Tucson Office
- Young Lawyer Division
- State Bar Meeting Rooms

Lobbying Restrictions

Keller vs. State Bar of California

Legislation

2014

SB1353 - Arizona Entity Restructuring Act

2013

SB 1232 - Trusts and Estates

SB 1233 - Limited Liability Companies: Ownership Interests

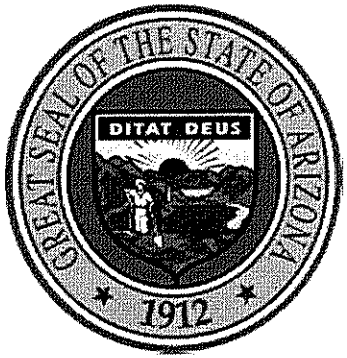
2012

HB 2532 - Court Ordered Treatment

Combined Vote: 334-0

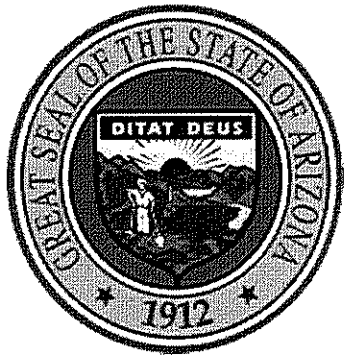
Merit Selection

Article 6 Sections 36, 37 and 41



- Currently 4 Commissions
- 5 lawyers, 10 non-lawyers, Chief Justice
- State Bar constitutional role

Judicial Nominating Committees



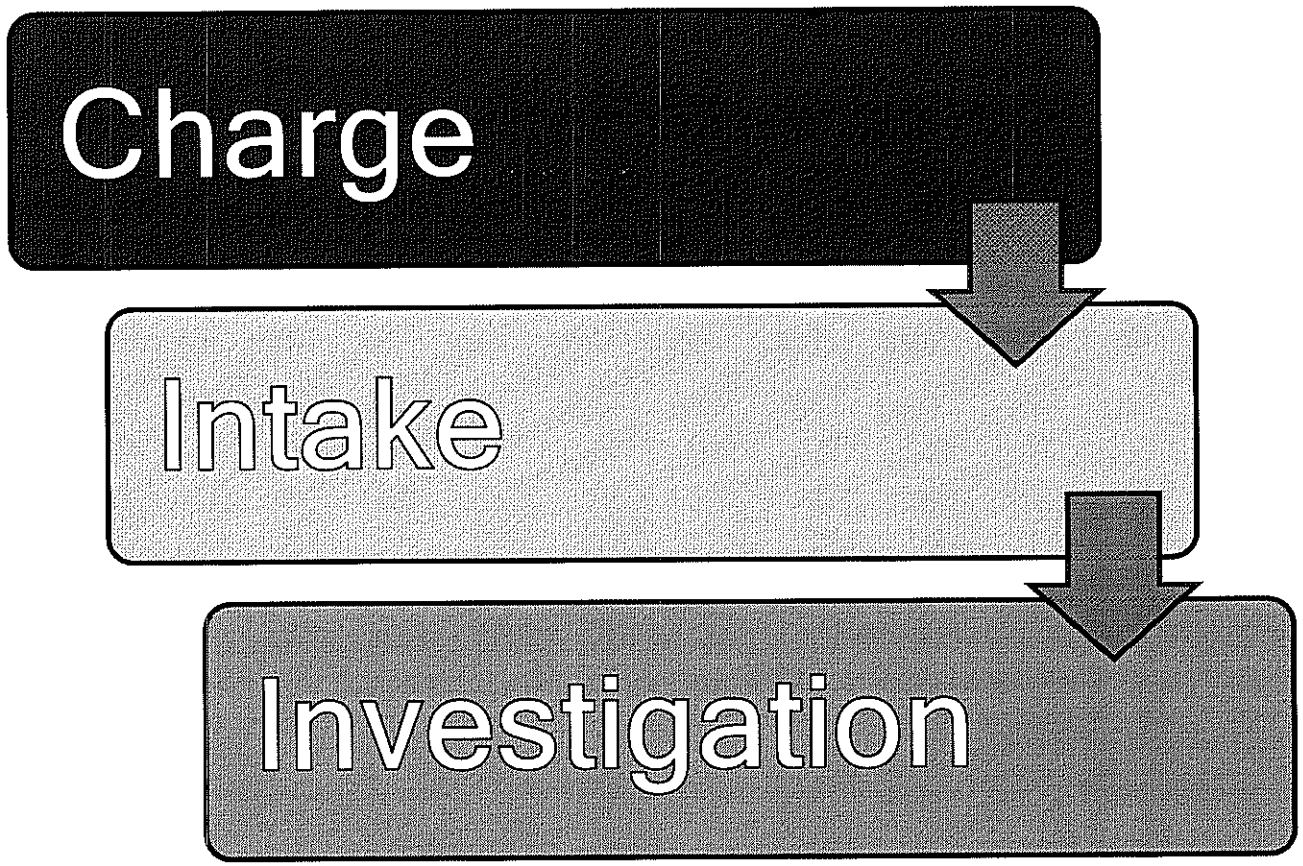
Lawyer Regulation

2014

3,549 Inquiries and Charges

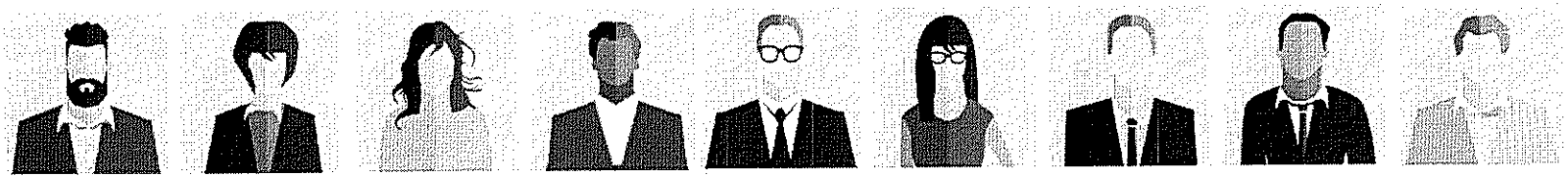
- 751 Investigations conducted
- 13 Lawyers disbarred
- 38 Lawyers suspended
- 18 Lawyers reprimanded
- 39 Informal sanctions
- 73 Diversion orders/Agreements
- 202 Instructional Comments

Lawyer Regulation



Lawyer Regulation

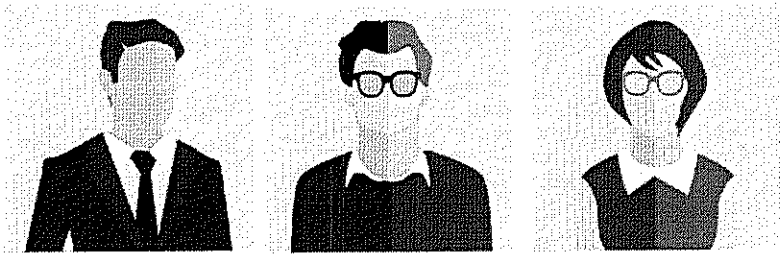
Probable Cause Panel



6 Volunteer Attorneys

3 Public Volunteers

Disciplinary Panel



Presiding Disciplinary Judge
Attorney Volunteer
Public Volunteer

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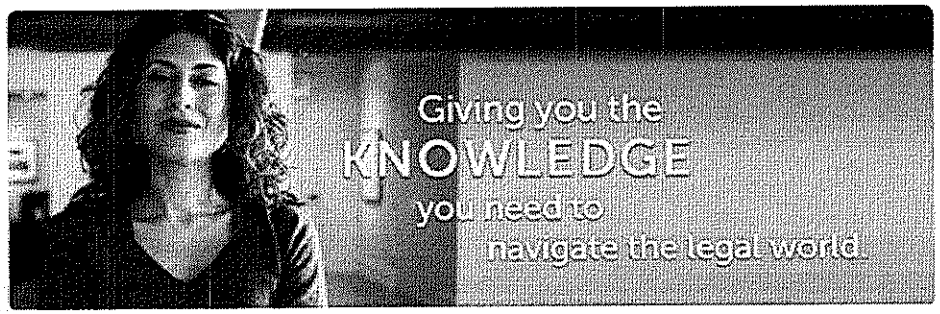

Find A Lawyer

Name or Firm:

Focus, Specialty or Keyword:

SEARCH Advanced Search

How the State Bar Can Help You:

The State Bar of Arizona serves the public and enhances the legal profession by promoting the competency, ethics and professionalism of its members and enhancing the administration of and access to justice.

- How can I protect myself from a non-lawyer?
- How to talk to your lawyer
- Alternatives to trial
- Client Protection Fund
- Certified Specialist: what that means
- Quick and easy tips for legal help

More Topics ▸

Have Concerns About Your Lawyer?

- Frequently asked questions
- Fee disputes
- How to file a dispute with your lawyer
- Overview of the discipline process

Legal Help & Education

12 NEWS

What is Lawyers on Call?
Volunteer attorneys answer your questions on the State Bar of Arizona, 12 News, and azcentral.com's Lawyers on Call public service program. You can discuss your legal issues with them for free from 5 to 7 p.m. according to the program schedule.

Stay tuned for upcoming programs.

Read more ▸

Legalese Dictionary

Are You Unhappy With a Lawyer?

The following information will assist you if you are having problems with an Arizona lawyer. Please read all of the information before contacting the State Bar with your charge.

Please read "How the Lawyer Discipline Process Works" before contacting the State Bar.

Information about disputes with lawyers

All Arizona lawyers must follow the Rules of the Arizona Supreme Court, including the Rules of Professional Conduct contained in Rule 42. The Attorney/Consumer Assistance Program (A/CAP) acts as a central intake office for all inquiries concerning the conduct of lawyers in Arizona. At times, A/CAP can help to quickly resolve some disputes with lawyers. Other more serious matters are referred for investigation.

Here are a few examples of the kinds of conduct the State Bar has authority to investigate:

- A lawyer does not keep promises or does not perform work in a timely way.
- A lawyer continually fails to respond to inquiries about the case, to tell you about court dates or to appear in court.
- A lawyer lies or advises you or someone else to lie in the course of a case.
- A lawyer represents you as well as another person whose interests conflict with yours.
- A lawyer will not give you money being held on your behalf or will not give you a full written accounting.

You should also be aware of what the State Bar cannot do.

- The State Bar cannot investigate charges of malpractice or resolve legal issues.
- The State Bar does not investigate charges against judges. Allegations of misconduct against Arizona judges should

Discipline Process

- Attorney/Consumer Assistance
  - Charge Against a Lawyer
- FAQs
- Unhappy With a Lawyer?
- Reports of Lawyer Discipline

What is Lawyers on Call?
Volunteer attorneys answer your questions on the State Bar of Arizona, 12 News, and azcentral.com's Lawyers on Call public service program. You can discuss your legal issues with them for free from 5 to 7 p.m. according to the program schedule.

Stay tuned for upcoming programs.

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Mr. Mauricio Ramon Hernandez

Status: Active

Board Certified Specialization: None

Areas of Focus: Business Law, Corporate Counsel, Elder Law

Section Membership: Animal Law Section

Other Jurisdictions: Nevada

Other Languages: Spanish

Professional Liability Insurance: Yes

Discipline: None

Hernandez Law Office
PO Box 7347
Goodyear, AZ 85338-0640
Maricopa County

623.363.2649

Email

More About Mr. Mauricio Ramon Hernandez

Educated at Western State, admitted to practice in 1999, admitted to the State Bar of Arizona December 15, 2000.

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Phoenix, AZ 85016-6266

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Ms. Lisa M Aubuchon

Status: Disbarred

Board Certified Specialization: None

Areas of Focus: None

Section Membership: None

Other Jurisdictions: None

Other Languages: None

Professional Liability Insurance: No

Discipline:

Date	Activity	Detail
08/31/12	Disbarment	Case: 09-2296, Charges: 5

This website does not display all lawyer sanctions, such as admonitions/informal reprimands, or any pending formal proceedings. Contact the State Bar of Arizona at 602.340.7384 or use the **lawyer history form** to confirm the lawyer's entire record.

623.229.3843

Email

More About Ms. Lisa M Aubuchon

Educated at Arizona State, admitted to practice in 1990, admitted to the State Bar of Arizona October 27, 1990.

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azbar.org/FindALawyer?name=lisa+aubuchon&keyword=#&&qF2E+JZ739taxpuiPU2hN8e4zutlmek56L00V3onXhYKP6vsFxDSB3AA2a3SJqGyQK2

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Ms. Lisa M Aubuch

Status: Disbarred

Board Certified Specialization: None

Areas of Focus: None

Section Membership: None

Other Jurisdictions: None

Other Languages: None

Professional Liability Insurance: No

Discipline:

Date	Activity	Detail
08/31/12	Disbarment	Case: 09-2296, Charges: 5

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09-2296 Disposition Summary

Respondent: Lisa M. Aubuchon

Bar No. 013141

State Bar File No.: 09-2296

PDJ No.: PDJ 2011-9002

Sup. Ct. No.: SB-12-0035-AP

By Arizona Supreme Court opinion dated September 17, 2013, Lisa M. Aubuchon, Phoenix, was disbarred. The Supreme Court affirmed the findings of fact and conclusions of law issued by a disciplinary panel.

Ms. Aubuchon joined the Maricopa County Attorney's Office ("MCAO") in 1996, where she served as a prosecutor until 2004 when she was promoted and served as chief of the pretrial division until she left in 2010.

In 2006, the MCAO was involved in a number of well-publicized disputes, lawsuits, investigations and criminal prosecutions involving members of the Maricopa County Board of Supervisors, Maricopa County Superior Court judges and others. The disciplinary proceedings focused on Ms. Aubuchon's role in certain criminal investigations, prosecutions and a federal civil racketeering ("RICO") lawsuit.

More About Ms. Lisa M Aubuchon

Educated at Arizona State, admitted to practice in 1990, admitted to the State Bar of Arizona October 27, 1990.

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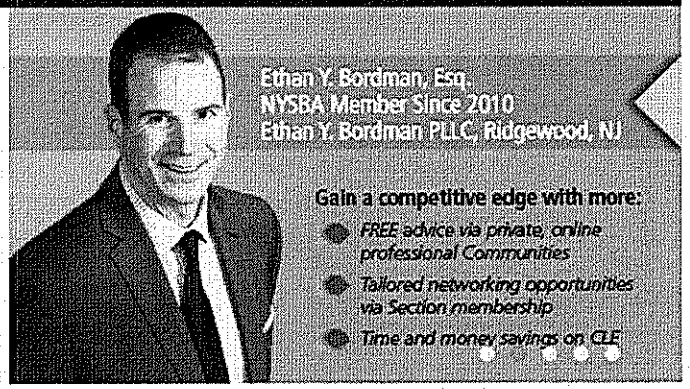

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EVENTS

CLE Events

20 OCT — The ABCs of Ethics - Live and Webcast

20 OCT — Using Personal & Business Tax Returns To Develop EDLCase-LI

21 OCT — Nuts & Bolts of Handling a DWI Case ALB Live & Webcast

Section Events

QUICKLINKS

SPOTLIGHT

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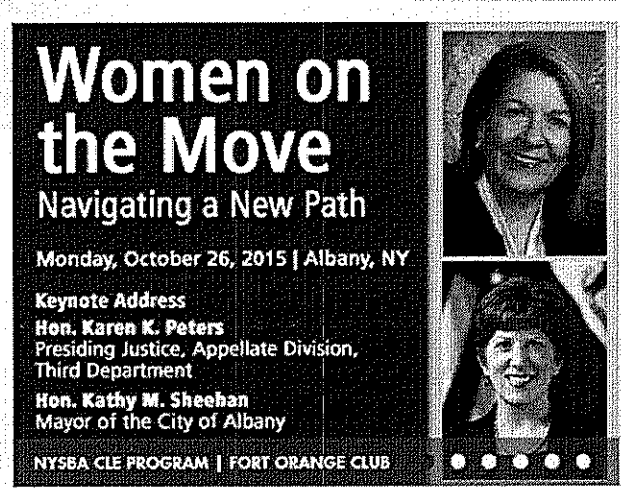

NEWS, NOTES & NOTICES

October 2, 2015: Association Joins Call for Congress to Reverse Restrictions on Gun Violence Data

September 29, 2015: New York State Bar Association Unveils Radio Spots on Potential Constitutional Convention and Voting Rights

September 24, 2015: New York State Bar Association President David P. Miranda Calls on U.S. Senate to Reject the Lawsuit Abuse Reduction Act

September 23, 2015: U.S. Senate Should Act on 13 Judicial Vacancies, Says New

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Planning for LGBT Couples

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- Client Rights and Responsibilities
- Free Legal Assistance
- Judicial Election Information
- Resolving Conflict with a New York Attorney
- When Mass Disaster Strikes
- Law, Youth and Citizenship Program
- Mock Trial

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- CLE on DVD
- CLE Coursebooks
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Casemaker

CBA FIND A LAWYER

The Colorado LEGAL DIRECTORY

LEGAL PROFESSIONALISM MONTH

Stratum

Moderate Income

TCL This Month | Featured CBA News | CBA Calendar

Oct 18, 2015

The Colorado Lawyer - ***October 2015 - Vol. 44, Issue 10***

Special Issue: Education Law

Introduction: The Law and Education
Ben Echeverria, Jennifer Wunsch, Jenna Zerylnick

The Judiciary's Role in Colorado's School Finance System,
Kenzo Kawanabe, Terry R. Miller

Gun Violence on Campus,
Ben Echeverria

Overview of General Liability, Workers' Compensation, and Employment Law Issues in K-12 Educational Institutions,
Frank Cavanaugh, Jenna Zerylnick

October 2015

Full Issue

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CBA Calendar

Today's News Feeds | From the Courts

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CBA CLE Legal Connection
Connecting you to the latest in Colorado Law

CBA CLE Legal Connection

- Judicial Performance Commission Appointments Announced
- Tenth Circuit: Witness Improperly Usurped Role of Jury by Opining on Lawfulness of Conduct

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Published by the Colorado Bar Association. This blog is designed and intended to build an online community of Colorado solo and small firm attorneys.

- Employment Law 101
- Call for Applications: Judicial District and Supreme Court Nominating Commissions

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LEGAL PROFESSIONALISM MONTH

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For the Public

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- I need a Lawyer
- In Case of a Dispute
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- Legal Resource Directories (English/Spanish)
- Legal Assistance Programs
- Self Help Centers
- Media Resources
- Seniors:
  - Senior Law Day
  - Senior Law Handbook
- Advance Medical Directive Information
- FAQs
- Opinions/Rules/Statutes
- Colorado Courts Website
- Our Courts Colorado
- Employment Opportunities in the Legal Community
- Other Websites
- The IRS and the Colorado Revenue Department

LEGAL PROFESSIONALISM MONTH

Stratum

Moderate Income

Pro Bono / Volunteer Opportunities

In Case of Dispute

Information on what to do if you are unable to come to an agreement with your Colorado attorney or have a complaint about a Colorado attorney or judge or magistrate.

Colorado Supreme Court Office of Attorney Regulation Counsel
Call 303-457-5801 or 1-877-888-1370 to have your complaints against a Colorado lawyer considered and investigated.

To file complaints alleging misconduct by a Judge (other than a magistrate or municipal court judge) please contact the Commission on Judicial Discipline at 303-457-5131. Complaints alleging misconduct by a magistrate or municipal court judge are filed with the Office of Attorney Regulation Counsel.

CBA Legal Fee Arbitration

A free service provided to attorneys and clients in dispute over attorney's fees. Click the link above for more information or click here to start the arbitration process.

Legal Resource Directories

Denver Bar Association Legal Resource Directory *(pdf format)*
This directory is published by the Denver Bar Association. Its intended users are residents of the Denver area but it should also be useful for other Colorado residents.

Traduccion de Legal Resource Directory

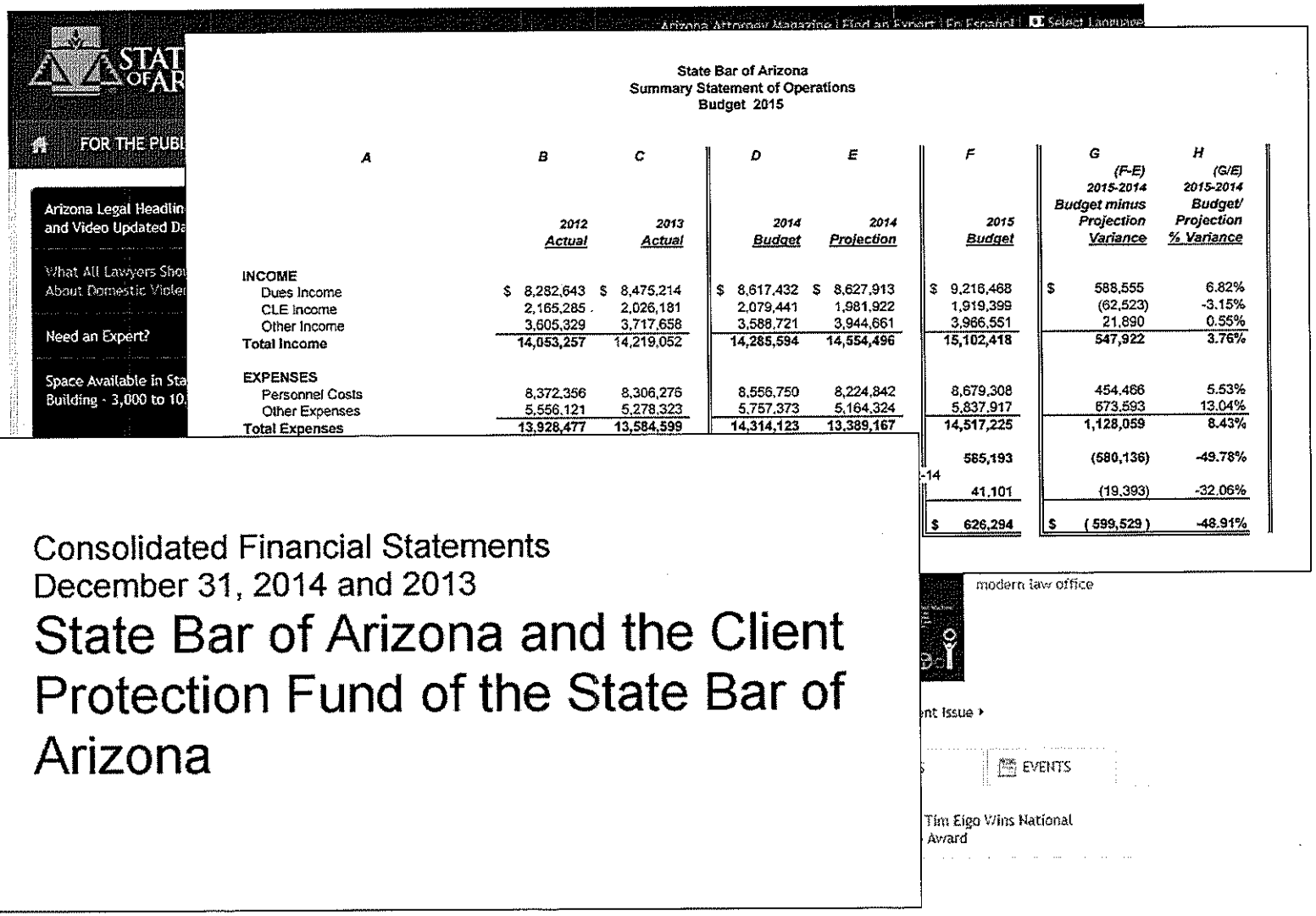
A Guide to Colorado Legal Resources for Native Americans
This guide is put together by the American Indian Law Clinic at the University of Colorado School of Law.

Free or Low-Fee Legal Assistance Programs

Colorado Legal Aid Directory
Legal Aid organizations and pro bono programs in Colorado

CBA's Appellate Pro Bono Program
The Colorado Bar Association's (CBA) Appellate Pro Bono Program may help you obtain a lawyer to assist with your appeal in the Colorado Court of Appeals and the Colorado Supreme Court. If you cannot afford a lawyer you may qualify for this program.
The program **applies only to civil cases.** In the Court of Appeals, **it does not apply to unemployment, prison discipline, or criminal cases.** In the Colorado Supreme Court, a civil matter for the purposes of this program does not include criminal cases or cases involving post criminal conviction relief, prison discipline, habeas corpus appeals, ballot title appeals or election appeals.
Download the application from the link above or call (303)860-1115.

www.azbar.org



State Bar of Arizona
Summary Statement of Operations
Budget 2015

A	B	C	D	E	F	G	H
	2012 Actual	2013 Actual	2014 Budget	2014 Projection	2015 Budget	(F-E) 2015-2014 Budget minus Projection Variance	(G/E) 2015-2014 Budget/ Projection % Variance
INCOME							
Dues Income	$ 8,282,643	$ 8,475,214	$ 8,617,432	$ 8,627,913	$ 9,216,468	$ 588,555	6.82%
CLE Income	2,165,285	2,026,181	2,079,441	1,981,922	1,919,399	(62,523)	-3.15%
Other Income	3,605,329	3,717,658	3,588,721	3,944,661	3,966,551	21,890	0.55%
Total Income	14,053,257	14,219,052	14,285,594	14,554,496	15,102,418	547,922	3.76%
EXPENSES							
Personnel Costs	8,372,356	8,306,276	8,556,750	8,224,842	8,679,308	454,466	5.53%
Other Expenses	5,556,121	5,278,323	5,757,373	5,164,324	5,837,917	673,593	13.04%
Total Expenses	13,928,477	13,584,599	14,314,123	13,389,167	14,517,225	1,128,059	8.43%
					565,193	(580,136)	-49.78%
					41,101	(19,393)	-32.06%
					$ 626,294	$ (599,529)	-48.91%

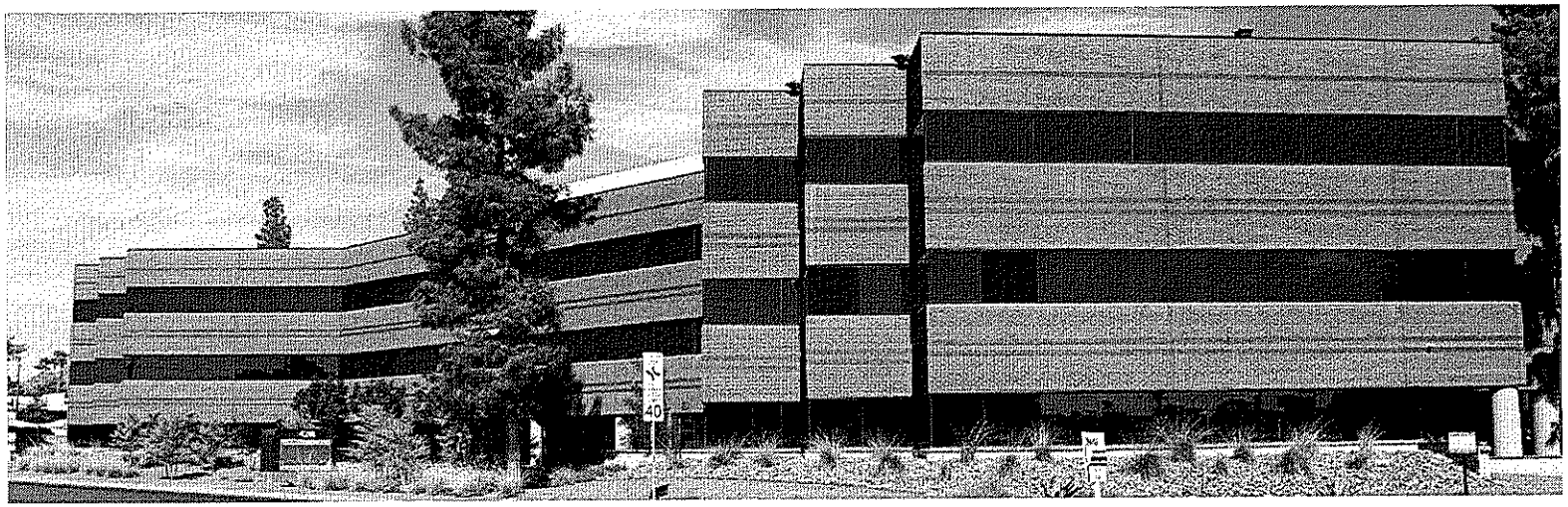
Consolidated Financial Statements
December 31, 2014 and 2013

State Bar of Arizona and the Client Protection Fund of the State Bar of Arizona

QUESTIONS?

Misconceptions

Unrented Building?



Current Occupancy - 87%

Metro Phoenix Occupancy - 79%

Sq. Ft. Cost = $9.50

Misconceptions

Profiting From Lawyer Discipline?

Average $120k per year

Point at Which Matter Terminates	Assessment of General Administrative Expenses[1]
Attorney Discipline Probable Cause Committee imposed orders	$600 per order imposing admonition, probation, restitution, or any other sanction consented to by the respondent lawyer
Matter settled with consent agreement without contested hearing	$1,200*
After default in answering formal complaint	$2,000*
After contested hearing with no appeal	$4,000*
Appeal to Supreme Court	$6,000*
Consent to disbarment	Assessment is based on the stage at which the consent is filed (see above)
Interim suspension	$1,200*
Reciprocal discipline proceedings Uncontested Contested	 $1,200* Same schedule as for formal proceedings (see above)
Transfer to disability	$1,200
Summary suspension	$1,200

Misconceptions

Overpaid Staff

CEO Salary = National Bar Average

Bar Counsel - $81,151 - $97,377

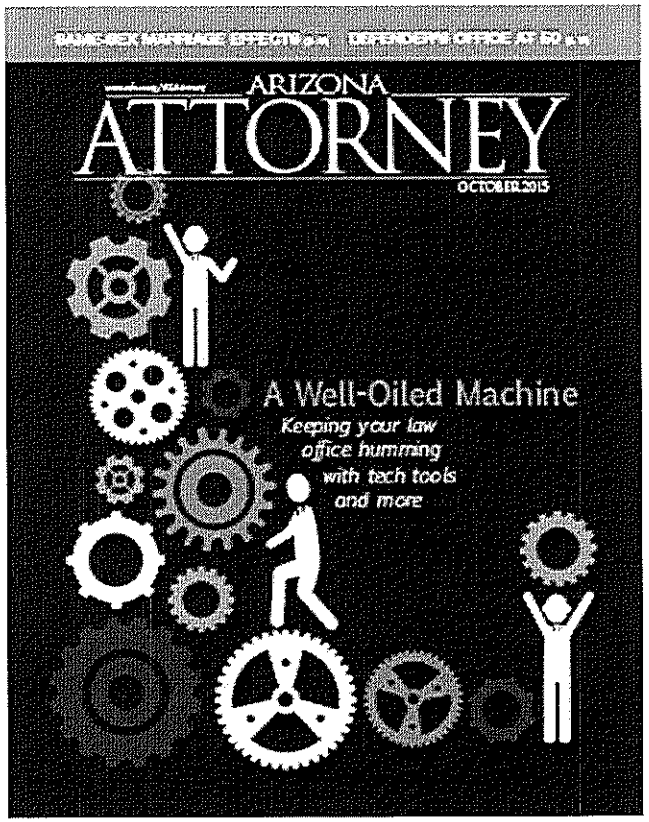
Mar. Co. Attorney - $61,484 - $126,939

Consultant Evaluates Salaries

Misconceptions

Expensive Magazine?

Revenue:	$790,912
Cost:	$780,724
Revenue:	$10,188



Misconceptions

Admissions?

Rule 34. Application for Admission
Arizona Revised Statutes Annotated
Rules of the Supreme Court of Arizona

ed
rizona (Refs & Annos)
of Law
Law (Refs & Annos)

A.R.S. Sup.Ct.Rules, Rule 34

Rule 34. Application for Admission

Currentness

Admissions Handled by Arizona Supreme Court

Misconceptions

Overpaid
Makes money from discipline (We average $120k in cost recovery per year)
Swanky Convention
Unrented space - Phoenix occupancy rate is 80% - ours is 87%
CLE - Why is CLE mandatory?
Bloated budget?
Expensive Magazine
Violate the spirit of Arizona's Right to Work laws
Political Positions
Mandatory bar associations violate the First Amendment and are a form of compelled speech. - Strict Scrutiny
The bar has too much influence in the selection of judges.
Run by big firm lawyers
Lawyer regulation targets small firm and solo attorneys
Bar counsel have quotas.
We're not open with facts and financial statements
Lack of transparency - open records?
Lack of oversight - Unregulated