

NAVIGATING PROBATE

When, why +
practical
considerations
for handling a
decedent's
out of state
property

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ANNOUNCEMENTS

MOVING UP

Firm Promotes Associates to Shareholders

SHAINE T. ALLEMAN was promoted to Shareholder in May 2019. Shaine represents property owners, home-builders, developers, and large corporations in zoning and land use entitlement actions in Arizona. This includes providing innovative solutions for all aspects of land use and zoning processing, executing strategies for public and government relations, obtaining successful economic incentive agreements, facilitating real estate transactions, drafting zoning code standards, and site development planning.



Shaine T. Alleman

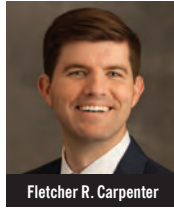
TODD T. LENCZYCKI was promoted to Shareholder in April 2019. Todd is a litigator focusing on civil and commercial litigation, particularly business divorces, and also has a background in securities law. Specifically, because Todd is also a licensed CPA, he is adept at handling financial cases and investigating fraud. His background allows for those financial cases to be handled more efficiently and at a lower cost. Financial numbers and assets are always a driving force behind all business litigation, which makes Todd a genuine asset to the firm.



Todd T. Lenczycki

In addition, Todd consults on emerging opportunity-zone tax incentives. The deferment of prior capital gains and the growth of new investments capital-gain free are some of the aspects of this new tax incentive, which is intended to spur economic growth in cities and towns throughout the country. This exciting new area of the tax code provides unrivaled opportunity to minimize taxes while also helping the community.

NEW FACES



Fletcher R. Carpenter

FLETCHER R. CARPENTER joined the firm in June 2019. Fletcher practices business, commercial and securities litigation.

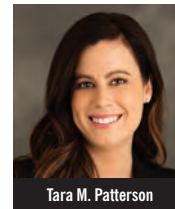
He received his Bachelor of Science in accounting from Arizona State University and his Juris Doctor from the UCLA School of Law. Fletcher is licensed to practice in Arizona and New Mexico (currently inactive).

NATHANIEL A. LENKE joined the firm's New Mexico office in June 2019. Nathaniel is a graduate of the University of New Mexico School of Law. Prior to law school, Nathaniel received his Master of Arts in diplomacy and international relations from Seton Hall University. Nathaniel practices in the area of creditors' rights, representing creditors in residential foreclosure litigation and related matters.

KRISTA J. NIELSON joined the firm's Nevada office in July 2019. Krista concentrates her practice in the areas of commercial litigation and bankruptcy. Krista received her Bachelor of Arts from the University of Michigan in 2002, her Master of Arts from Uniwersytet Jagiellonski in Krakow, Poland in 2004, and her Juris Doctor from Case Western Reserve

University School of Law in 2007. While in law school, Krista served as an executive editor of the *Canada-United States Law Journal*. Krista is licensed to practice in Nevada's state and federal courts, as well as the 9th U.S. Circuit Court of Appeals and the Supreme Court of the United States.

TARA M. PATTERSON joined the firm in May 2019. Tara practices primarily in civil and commercial litigation, including construction law. Tara



Tara M. Patterson

earned her Bachelor of Arts, magna cum laude, in Psychology from Arizona State University and her Juris Doctor from

University of Idaho College of Law. During law school, Tara served as a managing editor of the *Idaho Law Review* and was hired as a legal research and writing teaching assistant. Upon graduation, Tara clerked for Judge Candy W. Dale at the United States District Court, District of Idaho for two years. After her clerkship, Tara was eager to flee the Idaho winters and return home to her Arizona roots. In her free time, Tara enjoys rooting for ASU's football and basketball teams (*Go Devils!*), exploring new restaurants around town, and hiking with her dogs Barley and Brew.

RECOGNITION

Leading Attorneys and 'Rising Stars' Named

Super Lawyers, a listing of outstanding attorneys who have attained a high degree of peer recognition and professional achievement, selected the following Shareholders for 2018: David L. Case, Estate Planning & Probate; Alisa J. Gray, Estate & Trust Litigation; John A. Hink, Real Estate; Leonard J. Mark, Family Law; Robert D. Mitchell, Securities Litigation; and Robert A. Royal, Business Litigation.

Super Lawyers' "Rising Stars" list consists of attorneys who are 40 years old or younger or have practiced 10 or fewer years. For 2018, the following Shareholders and Associates were recognized: Lance R. Broberg, Business Litigation; Nora L. Jones, Estate & Trust Litigation; May Lu, Mergers & Acquisitions; and Gaya Shanmuganatha, Business Litigation.

ANNOUNCEMENTS

GOOD WORKS

T&B Staff Community Involvement Heats Up Over Summer



Tiffany & Bosco continues its longstanding tradition of serving the community and helping to make a lasting, positive impact through action benefitting various worthwhile programs and initiatives.

In March, T&B joined forces with The Salvation Army Phoenix Metro to help bring Easter joy to children in the Valley by participating in an Easter basket drive. The campaign led to the donation of 11 boxes of Easter basket supplies as well as monetary donations amounting to \$243. Since its local Arizona founding in 1893, The Salvation Army Phoenix Metro has brought help and healing to the hungry and hurting. They give a hand up, not a hand out, and help us to serve our neighbors in need without discrimination or judgment.

In April, the Staff Committee invited attorneys and staff members to make crib blankets for babies, which were donated to Maggie's Place. That effort led to 11 blankets being made, with additional efforts scheduled for the near future. Founded in 2000, Maggie's Place provides life-changing programs and services for pregnant



and parenting women and their children by offering a warm and welcoming community, a safe place to live and learn, and on-going services to help them become self-sufficient.

In June, T&B participated in the Phoenix Rescue Mission: Code Red Water Drive! The firm raised \$612, which was matched by the Phoenix Rescue Mission for a total of \$1,224. Founded in 1952, the Phoenix Rescue Mission provides food, shelter, chapel, and recovery services to homeless men, women, and children, and the working poor.

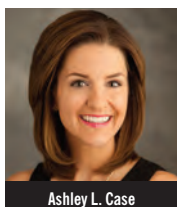
In July, T&B again supported The Salvation Army by collecting school supplies and raising money for their annual Backpack SOS (Support our Students) school supply drive. Employees of the firm donated 10 boxes full of items such as backpacks, binders, and other essential school supplies. In addition, the firm collected \$315 in monetary donations, contributing to a drive that helped over 15,000 children in the Valley during 2018!

Also in July, T&B employees supported Blue Star Moms of the Southwest Valley, which provides care packages for active-duty and veteran service members of the U.S. Armed Forces. T&B employees signed more than 30 cards for the organization and added personalized messages thanking service members for their hard work and dedication.

Additionally, T&B Financial Services proudly sponsored The Boys and Girls Club of Greater Scottsdale's back to school shopping event, which involved the Desert Ridge Kohl's opening its doors early to allow over 440 children to go back-to-school shopping. Nearly 400 volunteers, including several T&B staff members, served 346 youth participants, while the teen Boys and Girls Club members shopped on their own. It was a record-breaking turn out for the Club!

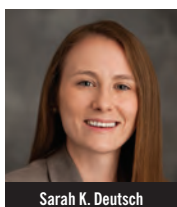
ANNOUNCEMENTS

PROFESSIONAL AND PERSONAL ACHIEVEMENT



ASHLEY L. CASE received her LL.M. in taxation from Boston University School of Law with a concentration in estate planning. The Graduate

Tax Program at Boston University offers one of the most comprehensive curricula for tax studies in the country.



SARAH K. DEUTSCH was elected a member at large on the State Bar of Arizona Securities Regulation Executive Council for 2019-2022.



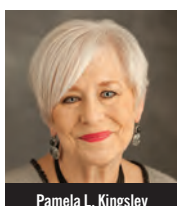
ALISA J. GRAY was elected to the State Bar of Arizona's Alternative Dispute Resolution Section, which promotes resolution methods other than

litigation. Alisa has been active in ADR both as a participating attorney and as a mediator, arbitrator, or neutral, and looks forward to her time on the Section.

NORA L. JONES and **ALISA J. GRAY** were appointed as judges pro tempore by Maricopa County Superior Court Presiding Judge Janet E. Barton. Nora and Alisa will perform the duties of a judge on probate and probate alternative dispute resolution assignments.

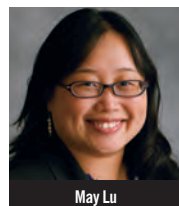
NORA L. JONES was featured on ABC15 Arizona to bring attention to financial exploitation, including warning signs and the options families should consider if they believe a loved one is victimized.

PAMELA L. KINGSLEY highlighted ways sexual harassment claims have injured companies in recent high profile cases, and discussed how attorneys can draft executive employment

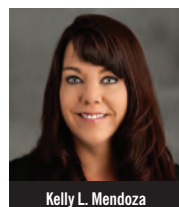


agreements to minimize the consequences as part of the presentation, "The '#Me Too' Movement's Impact on Publicly Traded Corporations and Related Employment Law Issues," given at the 86th Annual State Bar Convention in late June.

MAY LU presented to the Accounting & Financial Women's Alliance – Phoenix Chapter on August 15 the seminar "Operating Agreements: 'Prenups' for Business Owners and the New LLC Act."



KELLY L. MENDOZA was re-appointed as chair for the Arizona State Bar Family Law Practice and Procedure Committee



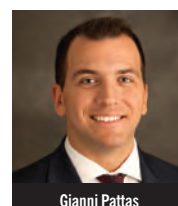
and as a judge pro tempore for Maricopa County Superior Court. Kelly also received a Lead Counsel Rating in family law from Lead Counsel, a peer-rated organization. Kelly presented at the Maricopa County Association of Family Mediators regarding the revisions to the Family Court rules.

JAMES P. O'SULLIVAN and **MAY LU** co-presented with Melinda Nelson, CPA the seminar, "Ready, Set, Go!—Choosing the Right Business Entity for Your New Law Practice" for the Arizona State Bar on May 20.

JAMES P. O'SULLIVAN received the 2019 Diversity and Inclusion Leadership Award from the State Bar of Arizona. This award is presented by the Board of Governors to those that significantly advance diversity and

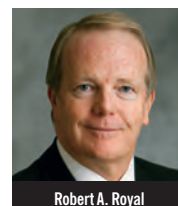


inclusion in the Arizona legal community. Jim is honored to share this award with Judge Randall M. Howe of the Arizona Court of Appeals. Jim also continued his role as one of the editors for the *Arizona Corporate Practice Treatise*.

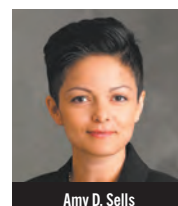


GIANNI PATTAS was appointed to a one-year term with the Arizona State Bar's Ethics Advisory Group. The group's purpose is to provide

assistance to the State Bar and its members in the resolution of questions of professional ethics arising from time to time. In addition, the group provides non-binding ethical guidance to and for the benefit of Arizona attorneys.



ROBERT A. ROYAL continued his role as the litigation editor for the *Arizona Corporate Practice Treatise*, submitting supplemental materials for the upcoming seventh edition.



AMY D. SELLS was appointed the chair of the *Arizona Attorney Magazine* editorial board for the 2019-2020 year. Amy also chaired, moderated,

and presented a seminar to lawyers, co-sponsored by the State Bar of Arizona and the Arizona Black Bar, titled "A Judge, A Professor and An Appellate Attorney Walk Into a Bar—Honing the Craft of Legal Briefing." Drawing from her appellate practice experience, Amy collaborated with Maricopa County Superior Court Judge Randall Warner and Sandra Day O'Connor College of Law Professor Ann Ching to teach persuasive legal writing fundamentals to Bar members.

MICHAEL A. WRAPP was a presenter at a CLE seminar titled "VRBO, Airbnb, and Other Short-Term Rentals." Michael became the president-elect of the Notre Dame Club of Phoenix, which serves over 4,000 alumni, current students, family, and friends of the University of Notre Dame. Additionally, Michael became a co-chair of the Professional Development Committee of Suns Charities 88.

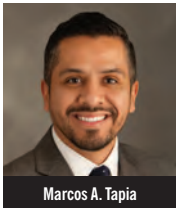
BUSINESS LAW

Good Faith & Fair Dealing

Common law fiduciary duties for members and managers of LLCs

BY MARCOS A. TAPIA

In a recent decision, the Arizona Supreme Court determined that managers and certain members of limited liability companies (LLCs) must adhere to fiduciary duties. See *In re Sky Harbor Hotel Properties, LLC*, 246 Ariz. 531 (2019). A fiduciary duty is the legal obligation of one party to act in the best interest of another. Although Arizona was among the first states to enact a Limited



Marcos A. Tapia

Liability Company Act in 1992, no fiduciary duties for managers were created at that time.

In December 2018, the United States Bankruptcy Court for the District of Arizona held that the Act did not expressly impose fiduciary duties and, by default, LLC members and managers did not owe fiduciary duties. *In re Swift Air, LLC*, No. 2:12-BK-14362-DPC, 2018 WL 6445191, at *1 (Bankr. D. Ariz. Dec. 7, 2018). Thereafter, the Arizona Supreme Court held that Arizona common law imposes a default fiduciary duty on LLC members and managers under principles of agency. See *In re Sky Harbor Hotel Properties, LLC*, 246 Ariz. at 531. Specifically, the Arizona Supreme Court held that:

1. Managers have a common law fiduciary duty to an LLC;
2. Members have a common law fiduciary duty to an LLC if it is a member-managed LLC or if the member acts as an agent of a manager-managed LLC; and



PRAZIS/DREAMTIME

3. An LLC's operating agreement can eliminate fiduciary duties, but cannot eliminate or limit the implied covenant of good faith and fair dealing, which will always apply.

As it stands, the Arizona Supreme Court's ruling applies to all LLCs (and their constituent members) under the version of the Act that is currently in effect, which means it applies to all currently existing LLCs until August 31, 2020. The ruling imposes common law fiduciary duties on members and managers of the LLC via principles of agency. Consequently, there may be an increase in the number of claims regarding breaches of fiduciary duties by managers and members of LLCs based on principles of agency.

However, after August 31, 2020, Arizona's new LLC Act will apply to all Arizona LLCs. The new LLC Act utilizes a slightly different definition of fiduciary duty. The relevant section, A.R.S. § 29-3409, sets out standards of conduct for LLC members and managers and default definitions of the duty of loyalty and the duty of care. Members of member-managed LLCs

and managers of manager-managed LLCs are required to discharge these duties consistent with the contractual obligation of good faith and fair dealing.

An operating agreement for an Arizona LLC can eliminate or limit the duties of loyalty and care and can eliminate or limit liability in relation to a breach of a fiduciary duty. Thus, the ability to control the extent to which a member or manager can be sued for a breach of a fiduciary duty is an important consideration when drafting an operating agreement.

If there is no operating agreement or the operating agreement is silent on the issue, the default rules of the new LLC Act will apply. These default rules may also lead to an increase in the number of lawsuits arising from breaches of fiduciary duty.

FIND AN ATTORNEY

See the directory on the back page of this newsletter or visit us online at tblaw.com.

NAVIGATING PROBATE FROM AFAR

Practical considerations for handling a decedent's real property in another state

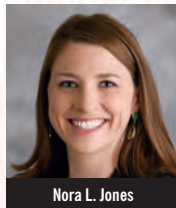
BY NORA L. JONES

With our sunny skies, world-class attractions, and warm weather, Arizona is a great place to vacation or retire. Many people take advantage of our enviable locale by buying a second home in our great state for rental income or as a retirement destination. But what happens when someone dies owning real property located in a state other than the one in which he or she resides?

Generally, a personal representative or executor is appointed to serve in the state where the decedent resided at the time of death (i.e., the “home” state) as a part of the probate process. The authority of that personal representative to control, manage or sell the decedent’s real property is limited to property

located in the state where the probate was opened.

Real property located outside of the “home” state can cause headaches for the personal representative, who has not been appointed to control, manage or sell real property out of state. In this scenario, some attorneys may advise the personal representative to open an “ancillary probate” in the other state where the property is located.



Nora L. Jones

An ancillary probate requires the personal representative to apply or petition for appointment as personal representative in the other state(s). An ancillary probate can double the fees and costs of administering the decedent’s estate because the personal representative is then required to follow all probate procedures in

both states, which may include hiring two attorneys, attending multiple hearings, filing an inventory in both states, publishing notice to creditors in two newspapers, and more.

A thoughtful probate practitioner may suggest another option—filing what is known as a “Proof of Authority” in the other state(s). A Proof of Authority will limit fees, costs, and aggravation for the out-of-state (“foreign”) personal representative. Arizona and many other states have enacted statutes permitting a Proof of Authority as a streamlined way to handle probate issues in multiple states.

To enact the personal representative’s authority to proceed in this expedited fashion, a foreign personal representative must file a certified copy of his or her appointment order

PROBATE

with the Proof of Authority and post any required bond with the county court in which the decedent's real property is located. These actions prove the personal representative's authority to act in the foreign state. A local probate attorney can help the foreign personal representative complete this process without incurring the additional expense an ancillary probate may require.

After completing the Proof of Authority process, the foreign personal representative is afforded all the powers of a local personal representative and may control, manage, and sell the real property located in that state. This authority includes maintaining the property, managing any existing rental agreements, and commencing or defending against an action or proceeding related to the property.

Under limited circumstances, an ancillary probate may still be desirable if, for instance, there are complicated creditor claims in the foreign state. However, most personal representatives can avoid this additional expense and annoyance by using the simplified Proof of Authority process.

HAVE QUESTIONS?

A high-quality probate attorney, like those at Tiffany & Bosco, P.A., can advise clients about their options and help determine whether an ancillary probate or Proof of Authority is more appropriate given the facts and circumstances of each particular matter.

Estate Administration 101: *What is probate and when is it required?*

BY JUSTIN P. NELSON

The task of administering a decedent's estate can be daunting, especially when thrust upon someone still grieving the loss of a loved one. The possibility of having to open a probate can generate even more stress. Understanding basic probate concepts can help alleviate that stress and ensure proper administration of the estate.

Put simply, probate is the judicial procedure used to properly settle a decedent's debts and distribute any remaining assets to the proper recipients. One of the initial steps in administering the decedent's estate is determining whether a probate is necessary. This requires an understanding of what assets the decedent owned at the time of death and the value of those assets.

When Probate Is Required

In Arizona, a probate is required if, at the time of death, the decedent owned personal property valued at more than \$75,000 or real property valued at more than \$100,000. In situations where the combined asset values fall below these amounts, the assets may be transferred to the proper heirs or devisees using what is called a "small estate affidavit."

If there is a lien or encumbrance against an asset owned by the decedent at the time of death, the amount of the obligation owed is deducted from the full cash value of the asset. For example, if a decedent owned a vehicle valued at \$80,000 but still owed \$40,000 to a lender, the value of the asset would be \$40,000 for the purpose of determining whether a probate is necessary.

Non-Probate Transfers

Some assets such as bank accounts, insurance policies, retirement accounts, and deeds to real property may contain

provisions that transfer title to a beneficiary without requiring probate. For example, if two people owned real estate as joint tenants with a right of survivorship and one of the owners died, title to the decedent's ownership share would

automatically transfer to the survivor.

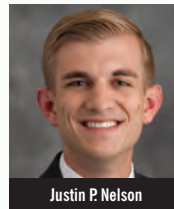
These kinds of ownership transfers are called non-probate transfers. Regardless of the asset's value, non-probate transfers do exactly as described—avoid probate. However, an asset passing via non-probate transfer may still be subject to creditors' claims.

Funded Trusts

Some decedents have estate plans that also make probate unnecessary. If a trust is executed during the decedent's lifetime and all assets are retitled to make the assets trust property—a process commonly referred to as "funding the trust"—no probate will be required. If all assets were not transferred to the trust, a probate may be necessary.

Appointment of Personal Representative

If probate is necessary, a person who is qualified and has priority to serve as personal representative can take the next step of opening the probate. This step gives rise to a host of requirements and duties the personal representative must satisfy. Even if a probate is not required, there are steps that should be taken to ensure the proper administration of the decedent's estate.



Justin P. Nelson



REAL ESTATE



No 'FDCPA' in Foreclosure

*Non-judicial
foreclosure is not
debt collection
under the Fair
Debt Collection
Practices Act*

BY MICHAEL A. WRAPP

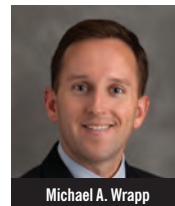
Earlier this year, the Supreme Court of the United States held that, with limited exception, a business engaged in no more than non-judicial foreclosure proceedings is not considered a "debt collector" as that term is generally defined in the Fair Debt Collection Practices Act (FDCPA).

The case, *Obduskey v. McCarthy & Holthus LLP*, 139 S.Ct. 1029 (2019), involved a non-judicial foreclosure on a Colorado home owned by Dennis Obduskey. Wells Fargo Bank,

N.A. hired a law firm to conduct the non-judicial foreclosure in Colorado, and the firm initiated the process by mailing a statutory notice to Mr.

Obduskey. Mr. Obduskey responded to the notice with a letter invoking the FDCPA's requirement that if a consumer disputes the amount of a debt, a debt collector must verify the debt before continuing its collection efforts.

Mr. Obduskey eventually filed a federal lawsuit alleging that the law firm had violated the FDCPA by, among other things, failing to properly verify



Michael A. Wrapp

the debt at issue. The U.S. District Court for the District of Colorado dismissed the lawsuit, finding the firm's activities were outside the scope of the FDCPA. The 10th U.S. Circuit Court of Appeals affirmed that decision.

Although the 9th Circuit Court, which includes California, Nevada and Arizona, was aligned with the 10th, because other U.S. Circuit Courts of Appeals (such as the 3rd and 6th) had differing views, when Mr. Obduskey filed a petition for a writ of certiorari, the Supreme Court of the United States decided to resolve the split by granting certiorari on this somewhat technical issue.

Affirming the actions of the district court and the 10th Circuit Court, the Supreme Court highlighted the distinction between the FDCPA's primary and limited-purpose definitions of the term "debt collector."

The primary definition of "debt collector" includes "any person...in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or asserted to be owed or due another." 15 U.S.C. § 1692a(6).

The limited-purpose definition states: "For the purpose of section 1692f(6) [the] term [debt collector] also includes any person...in any business the principal purpose of which is the enforcement of security interests." 15 U.S.C. § 1692a(6).

The limited-purpose definition is significant because its application imposes specific restrictions on those enforcing security interests.

The limited-purpose definition specifically refers to FDCPA's § 1692f(6), which prohibits a "debt collector" from taking or threatening to take any non-judicial action to "effect dispossession or disablement of property" if "(A)



STAY COMPLIANT

If you have questions about the implications of the Supreme Court's decision in *Obduskey v. McCarthy & Holthus LLP*, or need help with compliance with the law, the attorneys at Tiffany & Bosco are ready and able to provide knowledgeable assistance.

there is no present right to possession of the property...; (B) there is no present intention to take possession of the property; or (C) the property is exempt by law from such dispossession or disablement." 15 U.S.C. § 1692f(6).

Violation of that prohibition results in civil liability for any actual damage sustained by the affected individual, as well as additional damages—not to exceed \$1,000—as permitted by the court. 15 U.S.C. § 1692k(a)(1)–(2).

In the case of a class action lawsuit, each named plaintiff may recover damages not exceeding \$1,000, and the court may allow all class members to recover a maximum of the lesser of \$500,000 or 1% of the debt collector's net worth. 15 U.S.C. § 1692k(a)(2)(B). Individuals or members of a class action lawsuit may also recover their attorneys' fees and costs associated with a successful lawsuit. 15 U.S.C. § 1692k(a)(3).

The Supreme Court concluded that non-judicial foreclosure trustees fall within the FDCPA's limited-purpose definition of "debt collector," but are not included within the primary definition of that term, for three reasons:

1. The court noted that the limited-purpose definition states that a debt collector "also includes" a business with the principal purpose of enforcing security interests, strongly suggesting that such a business does not fall within the scope of the FDCPA's primary definition.
2. The court reasoned that when drafting the FDCPA, Congress likely

chose to treat the enforcement of security interests differently than ordinary debt collection activity to avoid conflicts with state laws governing non-judicial foreclosures.

3. Legislative history suggests that Congress arrived at a compromise under which the prohibitions of subsection 1692f(6) of the FDCPA would apply to those enforcing security interests, while the other "debt collector" provisions would not.

Ultimately, the court concluded that with the exception of subsection 1692f(6), those who engage in only non-judicial foreclosure proceedings are not debt collectors as generally defined in the FDCPA.

In other words, the court determined that only the specific prohibitions in subsection 1692f(6) of the FDCPA apply to those whose conduct is limited to non-judicial foreclosure proceedings. Numerous other FDCPA requirements governing "debt collectors" do not.

It is important to note, however, that the court specifically declined to determine precisely what conduct by a non-judicial foreclosure trustee would run afoul of subsection 1692f(6). The court also declined to determine whether those who judicially foreclose may be considered debt collectors as generally defined in the FDCPA.

But so long as those who are foreclosing non-judicially limit their conduct to what is required by their states' non-judicial foreclosure statutes, their only concern relative to the FDCPA should be ensuring compliance with subsection 1692f(6).

A previous version of this article was published in the Arizona Trustee Association's Spring/Summer 2019 *Trustee Times* newsletter.

GET TO KNOW US



HIDDEN Talents

*The artistic pursuits and interests
of Tiffany & Bosco*

COMPILED BY KELLY L. MENDOZA

Outside of the office, Tiffany & Bosco's attorneys engage in a variety of artistic pursuits that are just as diverse as the areas of law in which they practice. To learn more about those pursuits, we asked a number of the firm's attorneys, as well as its chief operating officer, about their experiences and talents.

ALISA GRAY: Like many attorneys, Alisa enjoys writing things unrelated to the law such as essays and memoir-type pieces. She has participated several times in the acclaimed "Mothers Who Write" program, sponsored by the Scottsdale Center for the Arts and Changing Hands Bookstore, and has publicly read several pieces at various events. Alisa has been working on a novel for several years. It is about a probate attorney who is also a private investigator, solving mysterious deaths through hard work, diligence, and just a little bit of help from those who have passed on. In her spare time, Alisa daydreams about which actor will play the lead.

ASHLEY CASE: Ashley started taking ballet when she was 5 years old. Ashley went “en pointe” (on the tips of her toes) at age 11 and continued dancing into her early 20s. Ashley stopped dancing for a few years during law school and while having her three children but then rekindled her passion for ballet and has danced in her ballet studio’s performance of *The Nutcracker* for the past two years (in “Waltz of the Flowers” and as a Snowflake). This past season (December 2018), both of Ashley’s boys were in the performance as well—her older son was a soldier and her younger son was a mouse.

KEVIN NEWELL: Kevin was a trumpet player in the United States Air Force Band, stationed in Los Angeles and then the Philippine Islands. Kevin played for President Ronald Reagan, Queen Elizabeth, and a slew of Hollywood actors and actresses. Kevin also played for Royal Caribbean Cruise Line, Majesty of the Seas, as well as playing trumpet in the 108th Army Guard Band in Phoenix from 2000 to 2003. While playing for the Army Guard Band, Kevin performed for President George W. Bush and other dignitaries.

CHRISTOPHER KAUP:

Christopher is writing a historical novel about James Wilson, a very important but little known and poorly understood founder of the nation, signer of the Declaration and Constitution, and framer of the Constitution, and expanding upon the three political revolutions that surrounded the American Revolution and gave birth to our constitutional framework: (1) The Pennsylvania Revolution in the spring of 1776; (2) a second Pennsylvania Revolution against the extremely democratic Pennsylvania Constitution of 1776, which provided for a unicameral legislature; and (3) the Constitutional Convention in 1787, which included the fundamentally important re-conception of the ultimate source of sovereignty being the People (as opposed to the States, Parliament or a king), and which was one of Wilson’s most important and innovative concepts supported by Madison and several others. It was Wilson who crafted the phrase “We the People...” because he wanted it to be clear that the Constitution was not a union or compact among the States.



DAVID CASE: David worked his way through college playing guitar and singing and writing original songs (music and lyrics) for his musical group, which played in venues around the country, including locally at Gammage, Celebrity Theatre, and Arizona Veterans Memorial Coliseum. His musical group performed as an opening act for popular performers of the time, including Glen Campbell, Jose Feliciano, Bill Medley, The Turtles, and The Checkmates.

David still owns several guitars and pianos, but as he also is still practicing law full speed, and of course wants to spend time with his wife Cindy (together since high school), five children, and growing number of grandchildren, he does not get to play very often. He did recently spend a little time writing and recording a new song—just to see “if it all still works.”

James Fassold



JAMES FASSOLD: James has acted in a variety of plays by Brecht, Lessing, Hasenclever, Edward Bond, Moliere, and Gilbert and Sullivan. James also showed his singing talent by performing a singing role in a Gilbert and Sullivan play. Additionally, James enjoys writing poetry in his rare spare time.

JUSTIN NELSON: Justin has spent a lot of time on a piano bench. Justin taught piano lessons for a few years, occasionally provided background music for public and private events, and performed as an accompanist for singers, instrumentalists, choirs, and bands. He also worked on the set of the television show, *Everwood*, for a season as the piano/hand double for the show’s main character.



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