

TB LAW

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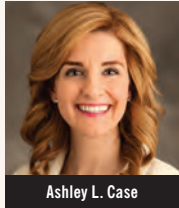
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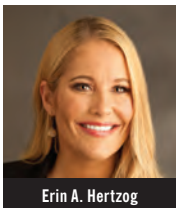


Ashley L. Case

ASHLEY L. CASE was promoted to Shareholder at Tiffany & Bosco in March 2018. Ashley concentrates her practice in the

areas of estate planning, tax, probate, and trust administration. Ashley is experienced in assisting individuals and families in the creation of both simple and complex estate planning documents, and emphasizes client education throughout the process. In addition, Ashley assists her clients with managing the legal processes that follow after the passing of a loved one.

ERIN A. HERTZOG joined the firm in June 2018 as an employment and labor law Associate.



Erin A. Hertzog

In her practice, Erin represents both employers and employees on a broad range of employment protections and issues arising under state and/or federal law, including but not limited to wage and

hour requirements, discrimination, harassment and retaliation, employment and independent contractor agreements, non-competes and other restrictive covenants, disability and leave accommodations, and various other similar issues.

Erin also represents clients in state and federal court litigation and in employment-related disputes before various government agencies such as the Equal Employment Opportunity Commission, National Labor Relations Board, and the U.S. Department of Labor. Erin is recognized as a Super Lawyers Rising Star and a “Top Rated” Employment and Labor Attorney on Avvo.com. She is also a recipient of the Avvo Clients Choice Award, recognizing her for exceptional client representation and consistently superb client reviews.

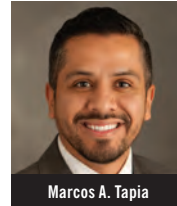
In her free time, Erin enjoys yoga, fly fishing, and adventure travel.

MARCOS A. TAPIA joined the firm in April 2018 as an Associate. Marcos received his Juris Doctor from the Sandra Day O’Connor College of Law at Arizona State University in 2015.

While in law school, Marcos was selected to participate in the prestigious Maricopa County Bar Association’s Diversity Writing Program and placed with one of Arizona’s largest firms. Marcos was also an active member of the Chicano/Latino Law Students Association, where he served as president, and served on the executive board for the *Law Journal for Social Justice*. Marcos also served as a judicial intern for the Honorable Susan R. Bolton at the United States District Court for the District of Arizona, and subsequently as a judicial extern for the Honorable Mary H. Murguia at the United States Court of Appeals for the Ninth Circuit.

Upon graduation from law school, Marcos was awarded the

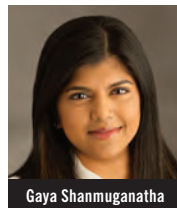
Dean’s Award for outstanding performance and was honored with the highest distinction for *pro bono* hours completed, placing in the top five students in his graduating class.



Marcos A. Tapia

In addition to serving clients on behalf of the firm, Marcos loves making an impact on the general and professional legal community. He is a graduate of the esteemed State Bar of Arizona’s Bar Leadership Institute and of the prestigious Valle Del Sol’s Hispanic Leadership Institute.

Currently, Marcos is an active member of the Board of Directors for the Los Abogados Hispanic Bar Association, where he serves as its current Communications Director, serves as a Deputy Regional President for the Hispanic National Bar Association, and is a board member of Class 39 of the Aguila Leadership Institute, a non-profit organization that assists underprivileged youth with mentorship and resources to get to college.



Gaya Shanmuganatha

GAYA SHANMUGANATHA joined the firm in March 2018 as an Associate. Gaya is a litigator and specializes in business (breach of contract, fiduciary duty, valuation disputes, etc.) and automotive law.

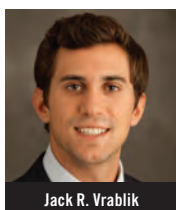
Gaya’s national practice has consisted of preparing and trying cases in Arizona, California, and Nevada; successfully obtaining emergency temporary restraining orders and injunctions in Arizona, Illinois, and Texas; and managing complex commercial cases with extensive electronic discovery, multiple e-discovery vendors, discovery disputes, and court appointed special masters. In addition to being experienced in litigating cases to a verdict, Gaya is also experienced in resolving disputes in mediations, arbitrations, and settlement conferences.

The travel bug bit Gaya when she was invited to compete in Vienna, Austria and Hong Kong, China as part of ASU’s Willem C. Vis International Arbitration team. Gaya is currently working on traveling to 40 countries before she turns 40 years old—or “40 before 40” as she calls it.

ANNOUNCEMENTS

Having started with the firm as a summer law clerk, **JACK R. VRABLIK** became an Associate in 2018 after he had completed all the requirements for becoming licensed.

Jack is originally from New York, where he graduated *magna cum laude* from Fordham University with a B.S. in Business Administration, and worked in the internal audit department of a Wall Street investment bank. Fo-



Jack R. Vrablik

ocused on a legal career practicing business law, Jack moved to Phoenix to complete and graduate with his dual degree Juris Doctor/MBA from Arizona State University's Sandra Day O'Connor College of Law and W.P. Carey School of Business.

Jack gained practical skills while in law school by working with entrepreneurs as part of the law school's Innovation Advancement Clinic, interning in the general counsel's office of a public corporation in Phoenix, and aiding the CEO of a non-profit organization manage relationships with employees and the organization's board of directors.

Jack is also dedicated to serving his community, as evidenced by his donating over 100 hours of *pro bono* time during law school.

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T&B Staff Community Involvement

For many years, Tiffany & Bosco has been making a difference in our community. This year has been no different.

In January, T&B participated in Sweet Cases for Together We Rise, raising money to purchase and decorate "sweet cases" for children going into foster care. As a result of all of the generosity and incredible decorating skills, twenty-five sweet cases were delivered to Onward Hope.

In March, T&B participated in an Easter Basket Drive. We collected Easter baskets, candy, and small toys for the Salvation Army to distribute on Easter. As a result, a \$355 cash donation to the Salvation Army and 53 very full Easter baskets were delivered!

Just in time for the summer heat, in June, T&B participated in a Water Drive for the benefit of St. Mary's Food Bank. We also held "Casual for a Cause" days to collect funds to help St. Mary's Food Bank replenish its water supply.

In July, T&B held a Back to School Supply Drive. We went "Casual for

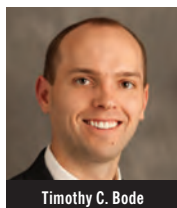
a Cause" to collect various school supplies for the Salvation Army to distribute to students in need. As a result, a representative from the Salvation Army picked up a collection of four bankers boxes full of various school supplies and a stack of backpacks. In addition to the school items collected, T&B was also able to send \$555 to the Salvation Army! The monies will be used to purchase additional school items needed for the children in the program.

In September, we had a number of volunteers meet at the St. Mary's Food Bank distribution center and work together on an assembly line to pack emergency food boxes.

Next, T&B went "Casual for a Cause," collecting dog and cat beds, blankets, food, toys, and monetary donations for the Maricopa County Animal Care and Control (MCACC) centers in the Valley. MCACC rescues over 100 animals per day and as of August 31, 2018, 13,554 animals had been adopted or returned home this year! — *Compiled by Marcos A. Tapia*

ANNOUNCEMENTS

PROFESSIONAL AND PERSONAL ACHIEVEMENT



Timothy C. Bode

TIMOTHY C. BODE was a featured presenter at an all-day continuing legal education course entitled, “How to Get Your Social Media, Email and Text Evidence Admitted (and Keep Theirs Out).”



Mark S. Bosco

MARK S. BOSCO became the chairman of the board of governors of the Boys and Girls Clubs of Greater Scottsdale effective July 1, 2018. The past two years, Mark has served as vice-chair of the club’s external affairs.

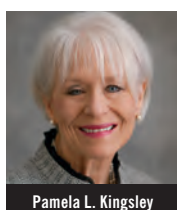


Darren T. Case

DARREN T. CASE presented at the 44th Annual Notre Dame Tax & Estate Planning Institute. His presentation on October 12, 2018,

was titled “Forget the Cold Winters, I’m Moving to Somewhere Warm: Avoiding Unauthorized Practice and Other Ethical and Practical Pitfalls When Your Client Relocates.” Following the presentation, Bloomberg Tax published his materials from the presentation in its Estates, Gifts and Trusts Journal, which has the following citation: Tax Management - Estates, Gifts, and Trusts Journal, Vol. 43, No. 6, p. 279 (Nov. 8, 2018).

PAMELA L. KINGSLEY co-chaired a presentation in September to a roomful of certified HR professionals, providing an update by Department of Homeland Security on the IMAGE (ICE Mutual



Pamela L. Kingsley

Agreement between Government and Employers) program, providing free training in the areas of immigration compliance and

fraudulent document detection, and I-9 requirements; by the Department of Labor on the availability of the PAID (Payroll Audit Independent Determination) program for employers who have not been paying overtime in violation of the law; and by the Equal Employment Opportunity Commission on the impact of the #MeToo movement.

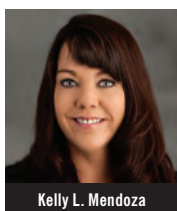
MAY LU was one of four panelists speaking to members of the Corporate and Business Law Society at the Sandra Day O’Connor College of Law at Arizona State University on February 15, 2018, regarding the panelists’



May Lu

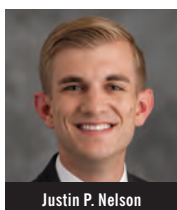
experiences practicing business and corporate law. May was elected as the Vice President of the Arizona Asian American Bar Association in April 2018.

KELLY L. MENDOZA was appointed the chair of the State Bar of Arizona



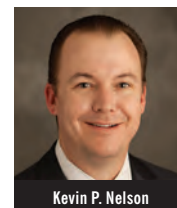
Kelly L. Mendoza

Family Practice and Procedure Committee. The committee’s mission is to “[s]tudy and make recommendations on legislation, proposals and/or issues raised by the Arizona bench, Bar or public, including rules amendments in other areas of practice that directly or indirectly implicate the Arizona Rules of Family Procedure. The committee also initiates new family law rules proposals when necessary or appropriate.”



Justin P. Nelson

JUSTIN P. NELSON was selected to serve on the board of directors of the Maricopa County Bar Association’s Young Lawyers Division.



Kevin P. Nelson

KEVIN P. NELSON published an article concerning a current escrow-fraud epidemic titled “My Money’s Where? – Social

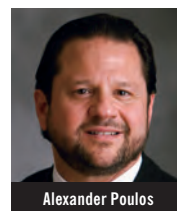
Engineering Fraud and Real Estate Transactions” in the June 2018 edition of *Maricopa Lawyer*. The article was republished on the Arizona Association of Realtors website. Kevin also presented at a two-day CLE entitled “Real Estate Transactions from A to Z” on the topics of structuring real estate purchase agreements to avoid unforeseen consequences, and litigation and commercial real estate financing essentials.



James P. O'Sullivan

JAMES P. O’SULLIVAN and **MAY LU** spoke to law students at the Sandra Day O’Connor College of Law at Arizona

State University regarding owner agreements and a day in the life of business transaction attorneys. Jim and May also presented with Eric Graben of Wyche, P.A. on “The Nuts and Bolts of Mergers & Acquisitions from the Letter of Intent to the Definitive Agreement,” to the State Bar of South Carolina on February 27, 2018. They were panelists at the American Bar Association Business Law Section’s presentation entitled “Introducing the Model Short Stock Purchase Agreement” held on April 12, 2018.



Alexander Poulos

ALEXANDER POULOS, JAMES P. O’SULLIVAN, and **MAY LU** hosted the Global Chamber Phoenix’s second

annual Welcome To The Valley event on July 25, 2018, which gathered and “welcomed” global companies that are new to the Valley.

ANNOUNCEMENTS

RECOGNITION

Leading Attorneys and ‘Rising Stars’ Recognized by Super Lawyers

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, Estate & Trust Litigation; Alisa J. Gray, Estate & Trust Litigation; John A. Hink, Real Estate, Government Contracts, Business/Corporate; Christopher A. LaVoy, Business Litigation, Professional Liability, Intellectual Property Litigation; Leonard J. Mark, Family Law, Personal Injury – General, Personal Injury – Medical Malpractice; Robert D. Mitchell, Securities Litigation, Business Litigation, Real Estate; and Robert A. Royal, Business Litigation, Closely Held Business.

RISING STARS

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, Civil Litigation, Business/Corporate, Appellate; Darren T. Case, Estate Planning & Probate; Sarah K. Deutsch, Securities Litigation; Erin A. Hertzog, Employment Litigation; Nora L. Jones, Estate & Trust Litigation; Todd T. Lenczycki, Securities Litigation, Business Litigation, E-Discovery, Personal Injury – General; and May Lu, Mergers & Acquisitions, Closely Held Business, Business/Corporate.

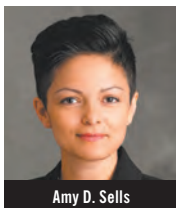


Pontus Edenberg/Dreamstime

We are on the move!

Tiffany & Bosco, P.A. is proud to announce the opening of a new office in Albuquerque, New Mexico. Tiffany & Bosco welcomes New Mexico-based attorneys Karen Bradley, Marisol Garcia, and Deborah Nesbitt, who all have substantial experience representing creditors in residential mortgage foreclosure, bankruptcy, eviction, and real estate related actions. Karen Bradley and Deborah Nesbitt, with a combined 56 years of experience, will serve as local co-managing attorneys of the T&B New Mexico branch. T&B will now serve its clients’ legal needs in Arizona, California, Nevada, and New Mexico.

In addition, Phoenix-based attorneys Lance R. Broberg, Laura L. Wochner, and Michael F. Bosco are now admitted to practice in New Mexico. They join Phoenix-based attorney Rosary A. Hernandez, who also is licensed in New Mexico. Collectively, Tiffany & Bosco is now well-equipped to handle a wide range of legal issues including complex commercial, civil, automotive, and construction litigation for clients doing business in the Land of Enchantment.



Amy D. Sells

AMY D. SELLS was appointed as vice chair of the State Bar of Arizona’s *Arizona Attorney Magazine* editorial board for

the 2018-2019 year.

GAYA SHANMUGANATHA was elected to serve on the Board of Directors of the Arizona State Bar Association’s Young Lawyers Division.

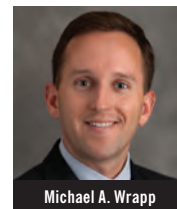
GAYA SHANMUGANATHA and **MICHAEL A. WRAPP** participated in the Arizona College of Trial Advocacy during July and August of 2018. The college is the flagship program of the State Bar of Arizona’s Trial Practice

Section, providing practical, hands-on training for trial lawyers through an intensive, five-day workshop.

MARCOS A. TAPIA, upon his recent graduation as part of Class 39 of Arizona’s Valley Leadership Institute (VLI), was selected as part of the winning team for this year’s team project competition—a competition that promotes VLI participants in creating a project that will have a substantial and long-lasting positive effect in Arizona’s community. Marcos has been selected to join the faculty at Local First Arizona’s “Acelerador de Negocios,” the non-profit organization’s premier business accelerator program. Marcos will be teaching “The Differences Between

Business Entities” and “Avoiding Litigation: Basic Contract Law.”

MICHAEL A. WRAPP joined Suns Charities 88, a group of 88 professionals who work collectively to give back to the community through the philanthropic power of Phoenix Suns Charities, in June 2018. Phoenix



Michael A. Wrapp

Suns Charities was founded in 1988 with the mission of enhancing the lives of Arizona’s children and their families by actively creating and supporting programs in the areas of education, health, human services, the arts, rehabilitation, and sports and recreation.



THE ROAD AHEAD

Arizona takes the lead in Autonomous Vehicles

By J. LAWRENCE MCCORMLEY & LAURA L. WOCHNER

It is becoming more and more common for Arizonans to see autonomous or “self-driving” vehicles on their roads today. The *New York Times* recently proclaimed that Arizona is “where self-driving cars go to learn.”¹

One of the reasons that Arizona has become a pioneer in this area is that it has kept regulations surrounding the Automated Driving Systems (ADS) industry at a minimum and, in so doing, has attracted many in the ADS industry to conduct testing in Arizona. As just one example, Google’s Waymo launched an early rider program in parts of the Phoenix metropolitan area where riders can use self-driving cars to go places and then share their thoughts and experiences.²

Autonomous vehicles operating on public roads are subject to both federal and state jurisdiction. States are beginning to draft legislation to safely deploy emerging

Automated Driving Systems. So far, twenty-nine states have enacted legislation related to autonomous vehicles.

Arizona currently has no state legislation regarding ADS, but in August 2015, Governor Doug Ducey signed Executive Order 2015-09 directing the “Department of Transportation, Department of Public Safety, and all other agencies of the State of Arizona ... [to] undertake any necessary steps to support the testing and operation of self-driving vehicles on public roads within Arizona.” He updated that directive with Executive Order 2018-04 in March 2018, which requires all automated driving systems to be in compliance with all federal and state safety standards.

In October 2018, the Governor signed Executive Order 2018-09, establishing an Institute of Automated Mobility (IAM). The IAM will bring together partners from the private and public sectors to test automated vehicle technology and develop the policies and guidelines needed

HAVE QUESTIONS?

Please contact Tiffany & Bosco if you need assistance in, or have any questions regarding, this practice area.

to fully implement this advancing technology.

The Governor's office has also established a Self-Driving Vehicle Oversight Committee, made up of transportation, public safety, and policy experts, to advise the Arizona Department of Transportation and the Arizona Department of Public Safety on how best to advance the testing and operation of self-driving vehicles on public roads.

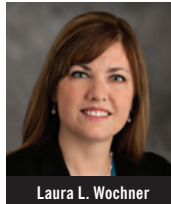
Some of the legal challenges surrounding ADS safety were brought into the national spotlight after a fatal accident involving an Uber self-driving car in Arizona in March of this year.

Today, traffic laws are designed with the assumption that a person is driving. Tomorrow, that may not be the case. Each state's and our nation's future laws will have to address the challenges that will come with fully automated vehicles. For example, should an officer stop a fully automated vehicle or should there be technology that identifies violations?

Autonomous vehicles are likely here to stay and will



J. Lawrence McCormley



Laura L. Wochner

become a significant part of the future of the automotive industry. Andy Cohen, co-CEO of Gensler, said in a recent article that "most experts agree that the automobile as we know it will be largely obsolete by 2030. In its place will be fleets of driverless cars that shuttle people safely and efficiently through our city streets."³ Whether or not that becomes a reality, these innovative automated technologies will come with a vast array of new legal, legislative, and regulatory challenges.

¹ Cecilia Kang, "Where Self-Driving Cars Go to Learn," *New York Times*, Nov. 11, 2017, available at: [https://](https://www.nytimes.com/2017/11/11/technology/arizona-tech-industry-favorite-self-driving-hub.html)

www.nytimes.com/2017/11/11/technology/arizona-tech-industry-favorite-self-driving-hub.html.

² Be An Early Rider, <https://www.waymo.com/apply>.

³ Andy Cohen, Gensler, The Game-Changer for Future Cities: Driverless Cars, available at: <https://www.gensler.com/research-insight/publications/dialogue/30/the-game-changer-for-cities-driverless-cars>.

OUR ATTORNEYS

In our house, practicing law is a family affair

Compiled by ROBERT A. ROYAL

Unique among law firms, Tiffany & Bosco, P.A. has multiple familial relationships among its sixty-plus attorneys. These relationships include a grandfather-father-son trio (Michael A. Bosco, Jr., Mark S. Bosco, and Michael F. Bosco), a father-son-daughter-in-law trio (David L. Case, Darren T. Case, and Ashley L. Case), and a husband and wife team (James A. Fassold and Alisa J. Gray). To learn more about their family dynamics, we asked these attorneys about their experiences practicing law with family members and sought personal anecdotes about their respect for one another, why they chose to work together, and, of course, who in the family is the better or best bocce ball player (as displayed at the firm's annual competition).



Family Trees at

Was it always the plan to work with one another?

Mark S. Bosco: From the time I was in grade school, I wanted to be a lawyer and practice law with my father. I did not have any reservations about practicing together and doing so has provided many fond memories and wonderful opportunities. I was very fortunate.

As a father of two children and given the history of practicing law with my father, starting early on, I always hoped one or both of my children would want to attend law school and possibly practice law together. We are fortunate to have had both our children graduate from University of Notre Dame Law School. Currently, our son Michael practices law as a member of Tiffany & Bosco. Our daughter Abbey recently graduated and passed her Michigan bar exam.

Michael F. Bosco: Yes. Once I quit playing ice hockey, my goal was to become a lawyer and join the firm.

David L. Case: I always had hoped one of our children could practice in the same firm with me. When Darren became interested and was excelling in the same areas of law, we both really knew we wanted to do so, which evolved into my joining Tiffany & Bosco to make it happen.

Darren T. Case: As both of our law practices continued to grow, Ashley and I realized quickly that teaming up would be mutually beneficial for our careers.

Alisa J. Gray: Jim and I never even planned to go to law school, let alone get married and practice together.

Did you have any reservations about working together?

Alisa J. Gray: I maybe hesitated for about 5 minutes. Jim jumped at the option.

Has the family dynamic changed?

Darren T. Case: Ashley and I have been working together side by side for 16 years through college and law school, so not much has changed now with both of us being at Tiffany & Bosco.

Alisa J. Gray: We've been doing it for 21 years so I don't really have a memory of how it was before.

How do you make it work?

Mark S. Bosco: Initially it takes some getting used to, but the key is to focus on the positives surrounding the unique opportunity of working and spending so much time with family. Over time, the opportunity creates a unique bond. I witness this bond between each family working together at Tiffany & Bosco.

Darren T. Case: Communication.

Ashley L. Case: Communication.

Alisa J. Gray: We have utmost respect for each other's skill, judgment, etc. We routinely use each other as a sounding board, especially when dealing with difficult clients, counsel, or knotty

areas of the law. I can't imagine not having Jim's perspective to rely on. Finally, we occasionally spend time teaching mindfulness and time management to lawyers. Those seminars always bring us closer together.

What are the biggest challenges of working with family members?

David L. Case: There will always be some challenges when helping launch another career, but with family, the communication, love and desire for success make it all work well.

James A. Fassold: To stop being colleagues and return to being spouses and parents.

Alisa J. Gray: Taking time to break away from the business and just be "Alisa and Jim."

What are the advantages of working with family members?

Michael F. Bosco: You get the opportunity to spend more time with your family members.

David L. Case: Seeing your son and his wife succeed in the practice is extremely rewarding.

Ashley L. Case: I no longer have to worry about attorney-client privilege. I can give Darren all of the details of a matter I'm working on.

Alisa J. Gray: We don't have to worry

Tiffany & Bosco

OUR ATTORNEYS

about sharing confidential or privileged information so we can discuss difficult situations, problematic cases, etc. without any of those concerns.

Where is the strangest place you have talked about work outside of the office?

Michael F. Bosco: The middle of a lake.

Ashley L. Case: On a playground in Whistler, Canada.

James A. Fassold: On the top of Mount Haleakala, Maui.

Why did you become a lawyer?

Michael F. Bosco: I wanted to follow in my dad's and grandpa's footsteps.

Darren T. Case: Interestingly, I went to law school with the goal of becoming a sports agent, having previously worked in Major League Baseball. However, after getting the top grade in my tax law course and receiving a scholarship to obtain my masters in the laws of taxation, I knew then I wanted to be a tax and estate planning attorney.

What has it been like to have two or three generations practicing at the same law firm?

David L. Case: This has been a very rewarding experience for a father, both from the standpoint of having the opportunity to pass on knowledge and skills to the next generation, but even more so to see Darren excel at such a high level.

Is it difficult to separate legal and personal matters?

David L. Case: Though it would be impossible to completely separate family aspects, in the long run, that is what is most important.

Darren T. Case: It is important to flip the "work switch" off when you leave the office.

James A. Fassold: We talk about cases and firm matters when we have to, but we try to decompress before we get together at home, either with meditation, yoga, or exercise.

What advice would you give to others thinking about working with family members?

Mark S. Bosco: Be patient. Understand developing a strong, positive working relationship is a process that takes time. It doesn't happen overnight. If successful, the end result is well worth the effort. Some of the most rewarding moments and memories arise from the years working with my father and now my son.

David L. Case: Embrace it, enjoy it, and appreciate the opportunity.

Darren T. Case: Really, working with family should be no different than working with non-family members.

Ashley L. Case: Communicate. Have I said that enough yet?

Alisa J. Gray: Be wary of any people or situations that seem to drive any wedge between you. Develop good communication skills and the ability to say things such as: "I don't want to talk shop right now. Can we set a time to do this later?"

What accomplishments of your family members give you the most pride?

Mark S. Bosco: My father's more than 50 years of dedicated, passionate commitment to the practice of law. The work ethic and commitment to our clients my father passed to me and I will pass to my son.

Our families' charitable giving to help others that are less fortunate and often so badly need assistance. We now have three generations dedicating significant time and resources to help

make a difference in the community where we live and work.

Michael A. Bosco, Jr.: Having my son and two grandchildren carry their generations into the practice of law, and, of course, my grandson Michael's choosing Tiffany & Bosco to do so.

James A. Fassold: 50 Most Influential Women; national recognition as an expert on yoga and mindfulness; recognition as perhaps the premier probate litigator in the state.

Alisa J. Gray: People routinely call Jim for his wisdom and experience.

Did you have any choice in joining the firm with your other family members?

Michael F. Bosco: Yes, but Tiffany & Bosco was where I wanted to be.

Who is the most competitive?

David L. Case: Not sure what Darren would say, but I think it is about equal. You have to be somewhat competitive to succeed in life, but it has to have balance.

Who is the best bocce ball player in the family?

Mark S. Bosco: I have been to the Tiffany & Bosco finals at least once, losing a close match to Mike Tiffany and Rob Royal at the Broadmoor, and on several occasions lost in the late rounds to teams that went on to win the Tiffany & Bosco annual tournament.

Darren T. Case: I think my two championships speak for themselves.

Alisa J. Gray: We both suck.

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FAMILY LAW

Parents, Know Your Rights

Arizona's unique 'custody' terminology

By KELLY L. MENDOZA

If it is no longer child “custody” or “visitation,” then what is it?

Parents involved in a family law matter typically need to establish “custody” and have a “visitation” schedule set. However, those terms no longer exist in Arizona because effective January 1, 2013, Arizona legislators decided that the term “custody” would be replaced with “legal decision-making.” (Other states have not made this change and still use the term “custody.”) The legislature also decided not to use the term “visitation” when referring to time spent with a parent and replaced that term with “parenting time.” But what do those terms mean and what is the public policy for determining legal decision-making and parenting time?

Legal decision-making relates only to making the major decisions in a minor child’s life, not day-to-day care decisions such as whether the child may have McDonald’s. Legal decision-making is defined by statute as “the legal right and responsibility to make all nonemergency legal decisions for a child including those regarding education, health care, religious training and personal care decisions.”¹ “Personal care decisions” can be defined as those decisions that can have a significant impact on the child but that do not fall into the other specified categories (e.g., whether a child may get a tattoo).

There are two types of legal decision-making defined in the statute: “joint legal decision-making” and “sole legal decision-making.” Joint legal decision-making “means both parents share decision-making and neither parent’s rights or responsibilities are superior except with respect to specified decisions as set forth by the court or the parents in the final judgment

or order.”² Sole legal decision-making “means one parent has the legal right and responsibility to make major decisions for a child.”³

As noted though, the court is not limited to just ordering one type of legal decision-making or the other in any particular case. The court may order that the parents have joint legal decision-making but one parent has sole legal decision-making for a particular area of the decision-making authority (e.g., both parents have joint decision-making authority for health care, religion, and personal care, but one of the parents has sole decision-making authority over education).

Parenting time is “the schedule of time during which each parent has access to a child at specified times.”⁴

For example, the parents may have an alternating weekly schedule with the child from Friday at 5 p.m. until the following Friday at 5 p.m. The specifics of a parenting time schedule will depend upon the facts of each case. The parent exercising parenting time is responsible for making the routine day-to-day care decisions for the child, such as what the child is wearing to school that day.

Ultimately, the court must con-

sider all facts that are relevant to the child’s well-being, both physical and emotional, as well as all of the factors specifically enumerated in the statute when determining the level of legal decision-making that is in the best interest of the child.⁵

Moreover, under Arizona law it is clear that unless there is evidence to the contrary, it is in a child’s best interest for both parents to participate in decision-making about the child and further that the child have substantial, frequent, meaningful, and continuing time with both parents.⁶

As such, parents should start the process with the thought that joint legal decision-making and equal access parenting time will be considered by the court unless there is some compelling reason that can be shown as to why the parents should not have equal rights in raising their child — because the court’s consideration of all relevant factors remains unchanged despite the changes in the terminology.

¹ A.R.S. §25-401(3).

² A.R.S. §25-401(2).

³ A.R.S. §25-401(6).

⁴ A.R.S. §25-401(5).

⁵ A.R.S. §§ 25-403, et seq.

⁶ A.R.S. §25-103(B).





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