



CLE by the SEA²⁰²³

July 9-12, 2023 | Hotel del Coronado | Coronado, CA
www.azbar.org/clebythesea



STATE BAR
OF ARIZONA
4201 N. 24th Street • Suite 100
Phoenix, AZ 85016-6266



TRACKS



ETHICS



CIVIL PRACTICE



PROBATE & ESTATE



CRIMINAL



REAL ESTATE



FAMILY



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Get your full MCLE annual requirement! May qualify for up to 15 hours of MCLE including 3.0 hours of Ethics Credit. Tracks may also include up to 12 hours of Specialization in Family Law, Personal Injury and Wrongful Death, Criminal Law, Estate and Trust Law, and Real Estate Law.

Welcome to CLE by the Sea 2023

AZCLE's annual luxury destination CLE experience returns to the beautiful Hotel del Coronado. Coronado, located across and around the San Diego Bay, is a resort city in the shadows of San Diego. This event provides attendees with an entire year's worth of MCLE credit hour requirements, several tracks including specialization credits, and includes at least 3 hours of ethics.

Beyond the breath-taking environment and the MCLE hours, there is also the opportunity to network and mingle with colleagues and faculty, including judges. Our track chairs and faculty are some of the best attorneys in their fields, updating and discussing the critical issues for a contemporary legal practice.

SPONSORS

Top Tier Sponsor



Happy Hour Sponsor

Corporate Sponsors



2023 Room Rates*

Victorian, No view – \$369

Resort, No view (1 King) – \$394

Resort, No view (2 Queen) – \$399



HOTEL DEL CORONADO RESERVATION AND CANCELLATION POLICIES:

In an effort to ensure hotel rooms are available to CLE by the Sea attendees, online room reservation links will be provided after registering. Hotel rooms within the State Bar of Arizona room block are limited to 2 rooms per registrant. Register for CLE by the Sea online or by calling 602-340-7231. Register and reserve your room early, as rooms are expected to sell out.

In the event that a guest requests a different room category upon arrival, a fee may be assessed to their folio. If the change involves an upgrade, the room rate will change commensurate with the room category. Requests for specific room types and bedding are subject to availability at time of arrival. Although the hotel places high priority on meeting our guests' expectations, it is not always possible to accommodate all requests. Reservations must be received by June 7, 2023. If your reservations are not received by this date, the rooms will be available to you on a space available basis at the hotel's published rate, which may be higher than the conference rate. (If room preference is not available, the next available category will be confirmed.)

DEPOSIT: To secure your room, a two-night deposit will be charged to your credit card at the time of reservation. The deposit is refundable if registration is cancelled prior to 30 days of scheduled arrival. Should you fail to arrive as scheduled, a one-night room charge will be billed to your credit card. Departure dates may be changed up to the point of check-in at the hotel. We require a 30 day cancellation notice prior to your arrival date. Check-in time is 4:00 pm, checkout at 11:00 am. The Hotel can arrange to check baggage for those arriving early when rooms are unavailable and for guests attending functions on departure day. Late checkout may not be available.

LATE CHECKOUT CHARGE: Any attendee wishing special consideration for late checkout should inquire at the front desk on the day before departure. Should the Hotel allow for late check-out, it may impose a half day rate. In the event late checkout is not available, attendees can arrange with the hotel to check their luggage.

RESORT CHARGE: In addition to the rates set forth above, there will be a daily resort charge of \$25 per room, per night, plus applicable occupancy taxes, assessment and charge, that will be posted to all guest rooms to cover an array of the guest-only amenities and services, which currently include the following (subject to change without notice): premium high-speed internet connectivity, Wi-Fi access at Del Beach, 800 and local phone calls, daily newspaper available in the lobby, in-room bottled water, Keurig Starbucks coffee and tea, Fitness Center 24-hour access, fitness classes and Coronado Tennis Center court access. As a "per room" charge (versus per person), the Resort Charge covers all registered room guests. In addition to the services listed above, this charge entitles Hotel guests to discounted attraction tickets to San Diego Zoo, Sea World San Diego, Legoland, Safari Park, The Old Town Trolley and Disneyland. Discounts are subject to change. <https://hoteldel.com/stay/reservation-policies/>

CHILD POLICY: Children 17 years of age or younger will stay free of charge in adult's rooms with existing bedding.

***All room rates are subject to prevailing city taxes per room per night and a daily resort charge.**

ETHICS SESSION

Rethinking Resilience: Developing Strategies for Making Ethical Choices in the Real World

Sunday, July 9, 2023 1:00 – 4:45 pm

In today's fast-paced and constantly evolving legal profession, making ethical choices requires more than simply understanding the Rules of Professional Conduct. Rather, we must be capable of making sound decisions in high-pressure environments. This multidisciplinary program features experts in military resilience, leadership, and psychology. Speakers will explain how both our internal thoughts and the external environment can influence our judgment and the choices we make. The panel will then discuss strategies for identifying triggers, inoculating ourselves against stress, and shaping our environments to promote ethical decision making. This interactive program will provide a higher-level way to think about ethics and practical advice for fostering a culture of resilience in your life and in your workplace.

Chair and Moderator:

Ann Ching, *Clinical Professor, Sandra Day O'Connor College of Law, Arizona State University*

Faculty:

Joel England, *CEO, State Bar of Arizona*

William Fischbach, *Tiffany & Bosco PA*

Mariela G. Shibley, *Psy.D., Shibley Psychology*

Kimberly Jung, *Co-Founder, CEO, Blanchard House*

May qualify for up to 3.0 MCLE, including 3.0 Ethics Credit.

CIVIL PRACTICE AND PROCEDURE TRACK

Co-Sponsored by the State Bar of Arizona Trial Practice Section

Law Firm Sponsor: Tiffany & Bosco, P.A. (Gold Tier)

Our esteemed panel seeks to narrow the gap between bench and bar, and remove much of the mystery and uncertainty inherent in modern litigation, by affording the attendees with the opportunity to hear members of the judiciary, paired with experienced attorneys, speak on a wide variety of topics germane to litigation practice and procedure. Divided into three separate four-hour programs, this track offers a comprehensive “real world” view of trial practice, to include an in-depth discussion on the elimination of peremptory challenges in Arizona and its practical effect on voir dire and jury composition, contrasting the differences in state and federal practice, a behind-the-scenes look at the appellate process, and a focused look at several increasingly important stages of trial practice, including dispositive motions, pretrial motions, juror questions, and making on-the-spot tactical shifts during trial.

Monday

July 10, 2023

8:15 am - 12:30 pm

Goodbye Peremptory Challenges: Underlying rationale, experience to date, and strategic considerations

- The history of *Batson* and its progeny, and attempts by courts to implement its holding
- The competing petitions from the State Bar and Judges Swann and McMurdie
- Recent amendments to the Arizona Rules of Civil Procedure as a result of the change
- The use of juror questionnaires
- Practical observations/do's and don'ts for effective voir dire under the rule change
- Preserving your record if a challenge for cause is denied

Tuesday

July 11, 2023

8:15 am - 12:30 pm

Sun Tzu and von Clausewitz in the Courtroom: Shaping the Battlefield Through Dispositive Motions and Realizing that No Battle Plan Survives First Contact with the Enemy

- Motions to Dismiss and for Summary Judgment, *Daubert* Motions, and Motions in Limine
- Shifting and adapting tactics as your trial unfolds
- Dealing with juror questions and the insights they may contain

Wednesday

July 12, 2023

8:15 am - 12:30 pm

“Toto, I’ve a Feeling We’re Not in Superior Court Anymore”: Contrasting State and Federal Trial Practice and How to Avoid Losing your Appeal Before It Starts

- Critical differences between state and federal procedural rules
- Understanding differences in “courtroom culture” and decorum in state and federal forums
- How appellate cases are processed and decided
- What factors influence the grant or denial of petitions for special action review and petitions for review
- How to make effective use of appellate oral argument
- How to make a record for appeal

Program Co-chairs:

William G. Klain, *Lang & Klain PC* and William M. Fischbach, *Tiffany & Bosco PA*

Faculty:

Judge Michael Liburdi, *United States District Court for the District of Arizona*; Vice Chief Justice Ann Timmer, *Arizona Supreme Court*; Chief Justice Scott Bales (ret.), *Arizona Supreme Court*; Judge Peter Swann (ret.), *Arizona Court of Appeals, Division One*; Judge David Gass, *Arizona Court of Appeals, Division One*; Judge Danielle Viola, *Maricopa County Superior Court*; Judge Pamela Gates, *Maricopa County Superior Court*; Judge Christopher Coury, *Maricopa County Superior Court*; Renee Coury, *Campell, Yost, Clare & Norell, P.C.*; Patricia Lee Refo, *Snell & Wilmer. L.L.P.*; David B. Rosenbaum, *Osborn Maledon, P.A.*

May qualify for up to 12 hours MCLE, including 12 hours Injury and Wrongful Death Litigation Specialization credit.

PROBATE & ESTATE TRACK

Co-Sponsored by the State Bar of Arizona Probate and Trust Section

To Be or Not to Be: Capacity Issues in Estate Planning, with Cameos by Guardianships and Conservatorships

Lawyers are increasingly faced with the challenge of working with clients whose capacity is declining due to dementia, mental impairment, addiction, and other causes. If you have a client whose capacity you think is in question, what do you need to look for, what should you do, and what are you ethically allowed to do? Attendees will hear from legal, judicial, and medical practitioners.

Exploring Testamentary Capacity, Guardianships, Conservatorships and Medical/Neuro Evaluations

Monday
July 10, 2023
8:15 am - 12:30 pm

- Review Testamentary Capacity Standards, including the difference between declining and diminished capacity and how to recognize the presence of each; what is "undue influence" and its potential red flags; and testamentary capacity vs. capacity to contract/make a trust.
- Overview of Guardianships and Conservatorships ("GC"), highlighting the GC process, the standards, and the evidence needed to meet those standards; the roles of the various court-appointees; serving as attorney for the alleged incapacitated person and the attorney's responsibilities; and when to seek GCs vs. when to use existing estate planning documents.
- A superior court judge's perspective on meeting your burden of proof in cases of questioned capacity.
- A medical practitioner's perspective on medical and neuro evaluations in estate planning, including to what a medical professional can attest; when might it be a good idea to request an evaluation for estate planning; medical evaluation in GCs, including best practices, when to engage an expert, and what evidence they can provide; and use of cognitive evaluations in other litigation – undue influence, vulnerable adult exploitation, etc.

Ethically Representing Clients with Declining or Diminished Capacity, with a focus on Dementia and Alzheimer's, and Review of Recent AZ Precedent

Tuesday
July 11, 2023
8:15 am - 12:30 pm

- A panel discussion on representing clients with declining or diminished capacity, including helping clients prepare for diminished capacity while they are still competent, whether to prepare estate planning documents and supervise their execution if you suspect your client lacks capacity, and what to do if a third-party or you, their lawyer, believes they would benefit from a guardianship and/or a conservatorship.
- The latest on Dementia and Alzheimer's, and how to ethically and compassionately carry out representation of clients and/or families impacted by Alzheimer's and other dementias.
- A panel discussion reviewing and learning from Arizona precedent involving capacity and undue influence.

Ethically Representing Clients with Declining or Diminished Capacity, with a focus on Mental Health, Addiction, and Special Needs, Plus How to Get Paid for Your Work

Wednesday
July 12, 2023
8:15 am - 12:30 pm

- How to get paid under Arizona's Fee Rules, which an in-depth review of Probate Rule 33, ACJA Rule 3-303, relevant caselaw, and other standards for getting paid from an incapacitated person's estate; and your ethical responsibilities and best practices for meeting those standards.
- A medical practitioner's perspective on mental health and addiction, and how these conditions affect the client, the client's family and friends, and you, their attorney.
- An overview of Special Needs Planning, including SBTs/SNTs; ABLE Accounts; SSDI; and AHCCCS and Medicaid.

Program Co-Chairs:

Shannon Derksen, *Duffield Adamson & Helenbolt, PC*, and Sarah Singer, *Gadarian & Cacy, PLLC*

Faculty:

Honorable Jay Polk, *Maricopa County Superior Court*; Teresa Lancaster, *Bogutz & Gordon, PC*; Afsanieh Rassti, *Frazer Ryan Goldberg & Arnold LLP*; TJ Ryan, *Frazer Ryan Goldberg & Arnold LLP*; Denise Shepherd, *Law Office of Denise R. Shepherd, PC*; Shannon Derksen, *Duffield Adamson & Helenbolt, PC*; Sarah Singer, *Gadarian & Cacy, PLLC*; Alzheimer's Association - San Diego / Imperial Chapter; and Multiple Medical Practitioners

May qualify for up to 12 hours MCLE, including 3 hours ethics and 8.0 hours Trust and Estate Specialization credit.

CRIMINAL TRACK

Criminal Law and Trial Court

The track will begin with an in-depth discussion on Criminal Justice Reform which will be addressed from four very different viewpoints. Criminal justice reform has gotten lots of media attention, but very little detail is ever discussed. This training will focus on real problems and possible reforms to deal with these problems. Day two will explore the ethical and legal considerations in trial practice, as well as to how to present your story most effectively. Day three will focus on the most recent court decisions, new laws and rule changes in criminal law. Learn the rules on how to file a Special Action, along with the judicial perspective of how to get the attention of the court. Practitioners will explore the legal issues when mental health issues are involved, along with treatment alternatives. The track will wrap up with a review of the history of interrogations, along with the methods used by police and possible reforms.

Monday
July 10, 2023
8:15 am - 12:30 pm

Criminal Justice Reforms in Arizona

Our panel will explore real problems and possible practical reforms to address these issues from the Arizona Superior Court, Municipal Courts and defense perspectives. The day will close with information on the common causes of wrongful convictions and practical ways to try to avoid them from a staff attorney at the California Innocence Project.

Moderator: Tim Agan, *Maricopa County Office of the Legal Advocate*

Panelists:

Honorable Alex Navidad, *Phoenix City Court*

Jared Keenan, *ACLU of Arizona*

Audrey McGinn, *Staff Attorney at the California Innocence Project at the California Western Law School*

Kent Volkmer, *Pinal County Attorney's Office*

Tuesday
July 11, 2023
8:15 am - 12:30 pm

Legal and Ethical Considerations in Trial

Experienced practitioners will discuss the effective use of expert witness testimony and cross examination of witnesses, followed by how to successfully make closing arguments. Review the rules of evidence while you engage with the panel in an interactive evidence gameshow.

Panelists:

Tim Agan, *Maricopa County Office of the Legal Advocate*

Honorable Alex Navidad, *Phoenix City Court*

Grace Guisewite, *Maricopa County Office of the Legal Advocate*

Kent Volkmer, *Pinal County Attorney's Office*

Wednesday
July 12, 2023
8:15 am - 12:30 pm

Updates and Key Considerations

Review recent court decisions, new rule and law changes in criminal law. Discuss the rules on how to file a Special Action, along with the judicial perspective of how to get the attention of the court. Practitioners will explore considerations when mental health issues are involved, along with treatment alternatives followed by a review of the history of interrogations, along with the methods used by police and possible reforms.

Panelists:

Honorable Maria Elena Cruz, *Arizona Court of Appeals, Division One*

Tim Agan, *Maricopa County Office of the Legal Advocate*

Grace Guisewite, *Maricopa County Office of the Legal Advocate*

Jared Keenan, *ACLU of Arizona*

Kent Volkmer, *Pinal County Attorney's Office*

Track Chair:

Timothy Agan, *Maricopa County Office of the Legal Advocate*

May qualify for up to 12.0 hours MCLE, including 1.0 hour ethics and 12 hours of Criminal Law Specialization.

REAL ESTATE TRACK

Co-Sponsored by the State Bar of Arizona Real Property Section

Law Firm Sponsors & Association Sponsors: Sacks Tierney (Gold Tier) and Scottsdale Bar Association (Bronze Tier)

Real Estate Rollercoaster:

Strategies in a Turbulent Economy with Fluctuating Resources

The wild ride of the past few years has no end in sight. While there's nothing "amusing" about it, this Track places you in the front seat, proactively collaborating with seasoned and emerging talent to navigate the contours of this dynamic journey. You will disembark well-positioned to advise your real estate clients confidently and strategically, not only on how to survive, but also thrive, in state, federal and tribal transactional, administrative, regulatory, and litigation contexts.

Ascending to the Summit

- Are we in for a wild ride or a walk in the park? Review Arizona real estate statistics, including Commercial and Residential asset classes. Discuss the current market trends and how to work with your clients to strategically plan for the next phases in the market.
- Development and Entitlements: Negotiating and drafting development agreements. The impact of state land use regulation on municipalities and property owners, including short-term rentals and other current zoning regulation issues.
- Examine commercial title insurance as a due diligence tool, including the title examination process and underwriting owner's and loan policy coverages and endorsements.
- How the changes in the new 2021 ALTA Policy Forms will impact commercial transactions.
- Financing residential and commercial transactions with institutional lending.
- Commingled Real Estate Financing and Investment Methods: How to raise funds for development without violating securities laws and going to jail. The peculiarities of commingled real estate investments.

The Breathless Plunge

- What every real estate lawyer needs to know about bankruptcy.
- Legislative update and judicial developments on issues, including homestead/predatory lending, accelerated debt, and statutes of limitations.
- HOA Legal Trends in the era of *Kalway v. Calabria Ranch*.
- Litigation and alternative dispute resolution strategies in real property matters.

The Landing

- Issues facing developers in the area of water law, including assured water supply, Colorado River, Legislative update, and water/sewer due diligence.
- Solar and wind facilities: opportunities, nuances, and challenges.
- Negotiating real estate transactions on Tribal lands.
- Twists and turns: Navigating real estate in Cannabis.

Program Co-Chairs:

David Itzkowitz, *Landmark Title Assurance Agency* and Tricia Schafer, *Vitality Law PLLC*

Faculty:

Mayor Richard Bailey, *City of Coronado*; Laura Bianchi, *Bianchi & Brandt*; Marcia Busching, *Busching Law PLC*; Kent Cammack, *Gust Rosenfeld PLC*; Judith Dworkin, *Sacks Tierney, P.A.*; Alexis Firehawk, *Carpenter Hazlewood Delgado & Bolen*; Mark Lasee, *Kutak Rock LLP*; Marc Lieberman, *Kutak Rock LLP*; Patricio Lopez, *Rusing Lopez & Lizardi PLLC*; Christopher McNichol, *Gust Rosenfeld PLC*; Adam Nach, *Lane & Nach, P.C.*; Randy Nussbaum, *Sacks Tierney, P.A.*; Patricia Premeau, *Nearhood Law Offices PLC*; Charles Price, *Dickinson Wright PLLC*; John Rapasky, *Counsel Mortgage Group LLC*; Glen Roberts, *Stewart Title Guaranty Company*; Eadie Rudder, *Carpenter Hazlewood Delgado & Bolen*; Michele Van Quathem, *Law Offices of Michele Van Quathem PLLC*; Kenneth Witt, *Kutak Rock LLP*; Beth Jo Zeitzer, *ROI Properties*

May qualify for up to 12 hours MCLE credit, including 12 hours Real Estate Specialization credit.

FAMILY TRACK

Law Firm Sponsor: Duenas Eden Cravatta PLC (Bronze Tier)

Alphabet Soup - The Initials that Rule Our Cases, from COBI to PT to SM (with Ethics for good measure!)

Delve into how the Family and Juvenile Courts are intersecting, the many roles of behavioral specialists and their unique titles, as well as judicial perspective on how substance abuse and mental illness are impacting Parenting Time. Learn what to expect with the new spousal maintenance guidelines, the ethical impact of the new Legal Paraprofessionals and how to address referral fees, and what's new from the bench. Finally, explore the ins and outs of appealing cases – from how to best prepare your case for appeal to what to expect.

Monday July 10, 2023 8:15 am - 12:30 pm	<p>Discuss changes in Orders of Protections as well as how substance abuse and mental health issues impact Parenting Time. Followed by a discussion of the intersection of Family and Juvenile Law practices, including BIAs, COBIs, and CAAs.</p> <p>Panel: Carrie Cravatta, <i>Duenas Eden Cravatta PLC</i>; Amy Duenas, <i>Duenas Eden Cravatta PLC</i>; Dori Eden, <i>Duenas Eden Cravatta PLC</i>; Honorable Patricia Green, <i>Pima County Superior Court</i>; Honorable Suzanne Cohen, <i>Maricopa County Superior Court</i></p>
Tuesday July 11, 2023 8:15 am - 12:30 pm	<p>Start the day off with an overview of the new spousal maintenance guidelines and how they will impact your practice. Then hear from Lynda Shely as she offers guidance on working with legal paraprofessionals and navigating referral fees. The day will wrap up with the popular judicial panel where you will hear updates from judges, as well as what they are looking for in case presentation.</p> <p>Panel: Honorable Michael Herrod, <i>Maricopa County Superior Court</i>; David Horowitz, <i>Warner Angle Hallam Jackson & Formanek</i>; Lynda Shely, <i>The Shely Firm PC</i>; Honorable Patricia Green, <i>Pima County Superior Court</i>; Honorable Suzanne Cohen, <i>Maricopa County Superior Court</i></p>
Wednesday July 12, 2023 8:15 am - 12:30 pm	<p>Join our experienced panel to discuss the ins and outs of appealing your case. From what language to include in your pleadings to what deadlines you have to meet, we will give you the starter points to guiding your clients in the appeal process. We will close out the session with our annual rule and case law update.</p> <p>Panel: Erica Leavitt, Esq., <i>Schmillen Law Firm</i>; Kristi Reardon, <i>Berkshire Law Office PLLC</i>; Gloria Cales, <i>Gloria L Cales PC</i></p>

Program Co-Chairs:

Gloria Cales, *Gloria L. Cales PC* and David Horowitz, *Warner Angle Hallam Jackson & Formanek PLC*

May qualify for up to 12.0 hours of MCLE credit, including up to 1.0 hour ethics credit and 12.0 hours of Family Law Specialization credit.



HOTEL DEL CORONADO®

PRIVATE FUNCTION



Oceanfront Happy Hour

Sunday | 4:45 - 6:00 PM

(Reserved for attendees of the Ethics Track*)

Grab a bite to eat and a drink with your colleagues before you head out to dinner. Located on the Windsor Lawn, enjoy breath-taking ocean views while relaxing after a day of CLE. This lovely evening is an opportunity to network and engage with colleagues and friends.

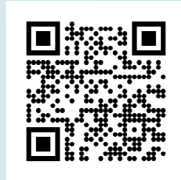
** Attendees of the Ethics Track and one guest are invited to attend at no additional cost. Additional guest tickets may be purchased for \$100 per guest. Guests must be accompanied by an attendee of the Ethics Track. A limited number of tickets for children ages 5-12 are available.*



Rates and Pricing

Register Online

azbar.org/clebythesea



Registration Rates	Regular (by 5:00 pm on June 7th)	Late (5:01 pm on June 7th thru 5:00 pm June 30th)	Walk-in (Starting at 5:01 pm on June 30th)
Full Event (Member)	\$969	\$1089	\$1299
Full Event (Non-Member)	\$1069	\$1189	\$1299
Single Day (Member)	\$389	\$459	\$489
Single Day (Non-Member)	\$419	\$479	\$489

Program materials will be sent electronically to all registrants. Limited WiFi will be available in all conference rooms for your convenience.

Hard copies of the program materials are available, but must be pre-purchased with your registration, at attendee's expense. Please note, printed materials purchased before June 7th are \$100 plus tax per track. If purchased June 8th - June 30th, cost is \$150 plus tax. After June 30th, printed materials will no longer be available for purchase.

Spouse/Guest registration and additional Oceanfront Happy Hour tickets may be available for purchase online.

ONLINE: azbar.org/clebythesea

Pay with check or credit card when you register online.

PHONE: Phoenix 602.340.7231 - or - Tucson 520.623.9944

8:30 am to 5:00 pm Mon.-Fri.

Please register at azbar.org/clebythesea.

Cancellations must be emailed to registrations@staff.azbar.org (include the word "Cancel" in subject line) by 5:00 pm on June 30th, 2023 for refunds. You may choose to receive (1) a voucher in the amount of 100% of the seminar fee paid, **good for a year from the date of cancellation and**, available for use at any upcoming State Bar of Arizona **AZCLE®** seminar; OR (2) a refund of the seminar fee paid, minus a \$50 administrative fee.

NOTE: No refunds or vouchers will be given for cancellations made after 5:00 pm on June 30th, 2023.

To make a request for accommodations for disabilities or diet, please contact registrations@staff.azbar.org or call 602.340.7231.