



Vintage Voices

Senior Lawyers Division

President's Parlane

By Denise Blommel

Hello Friends!

Your **Executive Council and Division** have been busy since our Spring *Vintage Voices*.

The most exciting news is that our Division's efforts to **secure a seat on the State Bar's Board of Governors** passed the test of the Board's Rules Review Committee. Sally Simmons and I go before the entire Board on December 6 to plead our case for a voting member from our Division to join the Board. If the Board approves, the State Bar will carry the petition to the Supreme Court to amend Rule 32 to make this happen. If you have contacts, please use them to support our cause.

The Division is making great progress on all other fronts, including:

The **Drop-In Working Group** (Chair John Messing) has succeeded in having its sessions all being well attended.

March 18: CASA and Foster Care Review Board

May 6: Creating options and purpose in retirement

August 12: Corporate Transparency Act

October 25: Ted Talks: A conversation with the State Bar President

COMING SOON: December 9: What you need to know about AI.

Ideas? Please share them with John.

The **Pretrial Justice Working Group** (Co-Chairs Mary Helen Maley Maynard and Dave Stoller) is now a part of the Arizona Supreme Court's Task Force to address the pretrial issue of representation for defendants at their initial appearance. Only Pima, Pinal, and Coconino County require counsel at this stage of criminal proceedings. Mary Helen and Dave need your help, especially your contacts with decisionmakers in the other 12 counties, to ensure that defendants' Sixth and Fourteenth Amendment rights are protected.

The **Dean Christoffel Pro Bono Working Group** under David Vasquez's leadership has partnered with Step Up to Justice and other groups in identifying pro bono opportunities for Division members. Rule 38, as applied to Division members who are retired or inactive, has been discussed and explained in the Division's Community Board/Digest. There is a great need for pro bono work. Please follow David's posts on the Board/Digest.

Mentorship has flourished under Past President Don Powell's able direction with:

The partnership between our Division and the Young Lawyers Division has been approved by the State Bar. Look for more details to come early next year.

Don's Working Group has met several times with first generation law students at the University of Arizona and will continue the Division's relationship with UA Law.

The Division is working with ASU Law to develop a program, probably for next Fall.

Want to be a mentor? The State Bar has an established formal program.

The **Creative Writers Listserv**, under Gary Stuart's leadership, contains useful information for all of us aspiring authors. Please take a moment to contribute!

Council member Chuck Thomson has joined the State Bar's **Advancement and Improvement Committee**, attended one meeting and has another on November's calendar.

Pop Culture

When you have the time, I am recommending the UA Honors College required reading for this year – *Monica Guzman's I Never Thought Of It That Way*. It is full of great tips for how better to communicate, especially in our divisive times.

My husband, Don Doerres (aka First Gentleman) recommends *The Diplomat*, now streaming on Netflix; *Deadpool and Wolverine* (available on Disney soon); *Slow Horses* on Apple TV+; and *Wolfs* (also on Apple TV+).

The *Senior Lawyer Division* of the Az Bar is chock full of vintage voices. All are "older" at least sixty five. Many are still active practitioners. All are vintage in the classic sense. *Madame Merriam Webster* defines us as "Old, recognized, and enduring interest, importance, or quality : classic." Linguistically, we might be irked at being antique, oldfangled, quaint or retrograde. "Old" like the law itself, has an etymology from middle English, which is an alteration of *vendage*, from the Anglo-French, *vendage*, and from Latin *vindema*, and finally *demere*, meaning to take off. I like the last source—take off. The *Senior Lawyer Division* is full of take-off lawyers. Some of us on jet planes, others in Piper Cubs, and a few in hot air balloons, when they puff themselves up.

This edition of Vintage Voices will mention six famous former senior lawyers. They are vintage.

Sandra Day O'Connor

Wikipedia says she was born on March 26, 1930, in El Paso, Texas. She was an Arizona lawyer and judge who served as an associate justice of the Supreme Court of the United States from 1981 to 2006. Nominated by President Ronald Reagan, O'Connor was the first woman to serve as a U.S. Supreme Court justice. She was a graduate of Stanford Law School and was awarded the Presidential Medal of Freedom. Arizona State University named its law school after her in 2006, becoming the first law school in the nation to be named after a contemporary

female. Justice O'Connor was frequent visitor of the law school, inspiring students to strive for excellence and serve the greater good.¹

Earnest W. McFarland

“A former rural Arizona county judge, Mac was courteous, fair, impartial, and admired – something rarely seen in American politics today. In Washington he was liked and respected by his colleagues on both sides of the aisle. Mac was born on a small farm in Pottawatomie County, Oklahoma in 1894, attended country schools and worked long hours on the family farm. From those humble beginnings, Mac also overcame several personal tragedies, he rose Horatio Alger-like to become one of the most distinguished political figures in Twentieth Century America.”²

“Between 1936 and 1971, Ernest McFarland had the rare distinction across the United States of winning the triple crown of politics. He was elected to the U.S. Senate, where he became the Senate majority leader; Arizona’s Governor, and the state’s Chief Justice of the Supreme Court. He shined in all areas, leading the effort to pass the federal G.I. Bill, the state’s economic and environmental issues, and the court’s Miranda decision to protect the rights of the accused to an attorney. His career certainly ranks him at the top of the many illustrious Arizona politicians of the 20th century.”³

John P. Frank

“John Paul Frank (November 10, 1917 – September 7, 2002) was an American lawyer and scholar involved in landmark civil rights, school desegregation, and criminal procedure cases before the U.S. Supreme Court. He earned degrees from University of Wisconsin in history and law. He clerked for Justice Hugo Black of the U.S. Supreme Court from 1942 to 1943. Frank spent the next two years as the assistant to the Secretary of the Interior and then to the U.S. Attorney General. He studied at Yale Law School and obtained a S.J.D. in 1947. In 1946, he joined the faculty of the Indiana University, Bloomington School of Law. He returned to Yale Law School to teach from 1949 to 1954, when he joined the law firm of Lewis & Roca in Phoenix.”⁴

Mark Wilmer

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<https://law.asu.edu/sdoc#:~:text=ASU%20named%20its%20law%20school,and%20serve%20the%20greater%20good.>

² Marshall Trimble, Arizona State Historian

³ James W. Johnson, Author of "Arizona Politicians: The Noble and the Notorious."

⁴ https://en.wikipedia.org/wiki/John_Paul_Frank

Mark Wilmer, known as the “Dean of Arizona’s Trial Lawyers,” was a founding partner in Arizona’s largest law firm, Snell and Wilmer. He distinguished himself as a litigator at the trial and appellate levels. Mr. Wilmer was the first lawyer in Arizona to be elected to the American College of Trial Lawyers. He was among a very few Arizona trial lawyers to be elected as a fellow of the International Academy of Trial Lawyers and the International Society of Barristers. He also served as a fellow of the American Bar Foundation. Born in East Troy, Wisconsin, in 1903, Mr. Wilmer studied as an undergraduate at Marquette University and graduated from Georgetown Law School. He practiced law in Texas until 1931, when he moved to Mesa, Arizona, later making Phoenix his permanent home.

As chairman of the Arizona State Bar Committee on Examinations and Admissions, Mr. Wilmer was instrumental in adding a separate ethics examination that must be passed before admission to the Arizona Bar. In 1985, he was awarded admission as a Founding Fellow of the Arizona Bar Association. Mr. Wilmer also served as a member of the Arizona State Bar Board of Governors. In 1987, he received that organization’s Walter E. Craig Distinguished Service Award, presented to an attorney who has manifested adherence to the highest principles and traditions of the legal profession, and service to the public and community.⁵

Hazel B. Daniels

“Hayzel Burton Daniels (December 7, 1907 – March 7, 1992)[1] was an American politician, lawyer, and judge who was the first of two African Americans to serve in the Arizona State Legislature. He was elected to the Arizona House of Representatives alongside Carl Sims in 1950 and served through 1952. Daniels subsequently became the state's first Black assistant attorney general and first Black judge. He was born at Fort Clark in Kinney County, Texas, on December 7, 1907. He attended Tucson High School, where he was a star running back on the football team and the state's player of the year in 1925 and 1926. Mopping floors and busing tables at the Old Pueblo Club to pay his way through college, Daniels received his bachelor's degree in social sciences from the University of Arizona in 1939 and his master's degree in education in 1941. He attended the University of Arizona School of Law on the G.I. Bill. Graduating in 1948 and passing the state bar examination later that year, Daniels became Arizona's second Black lawyer and the first Black lawyer to be admitted to the State Bar of Arizona. In 1950, Daniels was elected to the Arizona House of Representatives, running unopposed in his heavily Democratic district of Phoenix. He served a single two-year term, through 1952. Alongside Carl Sims, he was the first African American to serve in the Arizona State Legislature. He served as vice chair of the House Judiciary Committee and as a member of the Public Defense and the Suffrage and Elections committees. As a legislator and lawyer, Daniels led a successful campaign to desegregate Phoenix's public schools, first enacting legislation that weakened the state's school segregation laws and then litigating to have those laws declared unconstitutional. Superior Court judges Fred C. Struckmeyer Jr. and Charles C.

⁵ <https://www.historicalleague.org/historymakers/mark-wilmer>

Bernstein duly struck down the law, and the U.S. Supreme Court, in its *Brown v. Board of Education* decision a few months later, confirmed the state courts' verdicts.”⁶

Lorna Lockwood

“Lorna Elizabeth Lockwood (March 24, 1903 – September 23, 1977) was an American lawyer and judge who served as justice (and at times chief justice) of the Arizona Supreme Court. Born in what was then Arizona Territory, Lockwood was the daughter of Alfred Collins Lockwood, who later served as chief justice of the Arizona Supreme Court. Lockwood attended the University of Arizona and the University of Arizona College of Law before entering private practice and serving several terms in the Arizona House of Representatives. Lockwood spent a decade on the bench of the Arizona Superior Court in Maricopa County, the first woman to serve in that role. In 1960, Lockwood was elected to the Arizona Supreme Court. She served as chief justice from 1965 to 1966 and 1970 to 1971, becoming the first female chief justice of a state supreme court in the United States. She retired from the court in 1975 and died two years later.”⁷

Vintage Laws In Arizona

A few of our senior lawyers might be interested in hearing about our “vintage laws.” Arizona's first set of laws, the *Howell Code*, was created in 1864 and included a ban on abortion. The law stated anyone who caused or administered a miscarriage could be imprisoned for two to five years. The only exception was if a physician deemed it necessary to save the patient's life. The law was in place until the U.S. Supreme Court ruled in *Roe v. Wade* in 1973, which guaranteed the right to an abortion. In 2022, the court reversed *Roe v. Wade*, and in April 2024, the Arizona Supreme Court ruled to enforce the 1864 law.

We have other vintage laws. You must wash your entire body if you're caught stealing soap. It's illegal to ride a horse up the stairs of a county courthouse. Women in Tucson were forbidden to wear pants in public spaces.⁸

“Camels are definitely not native to the Sonoran Desert. However, it is easy to see how one would think they could be uniquely suited for this environment. At least, the United States Army believed so! In the mid-nineteenth century, they experimented with what they called the ‘United States Camel Corps.’ In an operation out of Camp Verde, Texas, they tested the capabilities of camels for military use. Although the animals proved to be both hardy and resilient, the animals never saw live action. The program was scrapped following the civil war, and the camels were all set free. Arizona, being Texas adjacent, thus made it illegal to hunt and

⁶ https://en.wikipedia.org/wiki/Hayzel_Burton_Daniels

⁷ https://en.wikipedia.org/wiki/Lorna_E._Lockwood

⁸ <https://www.google.com/search?q=vintage+law+in+arizona&oq=vintage+law+in+arizona&gs>

kill camels. It is unclear if this law was ever applied. The last sighting of a live camel was made in 1891.”⁹

“Fortune telling is prohibited by law only in Avondale, AZ. Any type of fortune telling, palmistry, or hypnotism is prohibited. Also illegal in Avondale is hypnotism unless performed by a licensed medical professional for legitimate medical reasons. Well, this law seems to have some sort of grounding. Perhaps gypsies were flocking to Avondale during the early years of Arizona. The easiest way to slow growth in a city is a surge of gypsies and nomads. And thus, this law may have been adopted to promote population growth in the cow town that is Avondale.”¹⁰

Vintage Arizona Cases

I hope most SLD members will have their own lists of “vintage” Arizona cases. Some of our members may have been counsel in vintage cases. If so, plug your case to the rest of us. Here is a partial list.

Miranda v. Arizona

"Prior to any questioning, the person must be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed." —Chief Justice Earl Warren. In a 5-4 Supreme Court decision *Miranda v. Arizona* (1966) ruled that an arrested individual is entitled to rights against self-incrimination and to an attorney under the 5th and 6th Amendments of the United States Constitution. *Miranda v. Arizona* (1966) culminated in the famed “Miranda rights” requirement during arrests.¹¹

Arizona v. United States

Arizona v. United States was handed down on June 25, 2012, by the United States Supreme Court holding that states may not implement their own immigration laws. The case concerned Arizona's immigration-related law SB 1070, enacted in 2010. At issue was whether federal immigration law preempts state immigration law. In a 5-3 decision, the court held that federal law preempted three provisions of Arizona's law: The provision making it a state crime to reside in the country without legal permission. The provision making it a state crime to work in the country without legal permission. The provision letting law enforcement officers arrest individuals without a warrant is based on probable cause of unlawful presence. The court ruled that the first provision conflicted with federal provisions already in place, while the second and

⁹ <https://www.hastingsandhastings.com/absurd-arizona-laws/>

¹⁰ <https://www.hastingsandhastings.com/absurd-arizona-laws/>

¹¹ <https://guides.loc.gov/latinx-civil-rights/miranda-v-arizona#:~:text=>

third provisions were preempted because they interfered with federal authority over immigration law.”¹²

Ancient Lawyers

We’re vintage, not ancient. In ancient Athens, ‘orators’ would often plead the case of a friend’s cause. Back then people had to plead their own case or have an ordinary citizen or friend plead their case on their behalf. Tragically, those ancient lawyers were not allowed to take a fee for their service. Thankfully, that didn’t last very long. By the time that Claudius became Rome’s emperor. He legalized the legal fees his lawyers needed. But alas, the fees were very low and limited. There was no such thing as a contingent fee, so few men wanted the job. And to complicate things, Roman law called for two kinds of lawyers—one specialized in law, writ large, and the other in rhetoric. That in due time required some law breakers to hire two lawyers. This early specialization meant that Roman laws became precise. Just like today’s commercial law and trial law.¹³

In Claudendo

In closing, I’ll respectfully remind my fellow vintage lawyers of an ancient story.

“Once early in the morning, when the master was asleep, the books in the law library started to quarrel with each other as to which was the king of the library. The dictionary contended quite angrily that he was the master of the library because without words there would be no communication at all. The science book argued stridently that he was the master for without science there would have been no printing press or any of the other wonders of the world. The poetry book argued claimed he was because he gave surcease and calm to his master when he was troubled. The books of philosophy and economics put their claims in. The clamor in the library was great and the noise was at its height when a small low voice was heard from an old brown book lying in the center of the table. It said, “The Lord is my shepard, I shall not want.” All of the noise in the library ceased and there was a hush in the library, for all of the books knew who the real master of the library was. **Louis Nizer.**” *Ministers of Justice, Tennessee Law Review, Fall 1963.*

Happy Thanksgiving and Holidays,
Gary Stuart

¹² https://ballotpedia.org/Arizona_v._United_States#:~:text=Impact,-Federalism&text=articles%20about%20federalism-,.Arizona%20v.,are%20preempted%20by%20federal%20law.

¹³ <https://www.smokeball.com/blog/brief-guide-to-the-history-of-lawyers#:~>

