



WEDNESDAY ■ JAN. 23
1:30-4 PM (Lunch Included)

Legal Decision-Making and Parenting Time: Big Deal or Hyperbole?

SPONSORED BY: Family Law Section
2.5 hours CLE credit available

You’ve heard about the custody laws changing on January 1, 2013, but what does that really mean for your clients and your practice? This CLE will go beyond the basic overview of the changed statute numbers and language and delve into specific case studies with a multi-disciplinary panel to examine the difference in the law and what you need to know.

- PRESENTERS:
- Thomas Alongi, Community Legal Services
 - Norma Izzo Milner, Jennings, Strouss & Salmon, PLC
 - Leslie Satterlee, Gregg R. Woodnick, PLLC
 - Hon. Christopher Whitten, Maricopa County Superior Court
 - Dr. David Weinstock, Forensic Counseling & Evaluations
- COST:
- MCBA members: \$87.50
 - MCBA Family Law Section members: \$75
 - MCBA Paralegal & Public Lawyer Division members: \$50
 - MCBA Student members: Free
 - Non-members: \$142.50

Invitation for Public Comment
Judicial Reappointment

The Glendale Judicial Selection Advisory Board (JSAB) is considering the reappointment of Judge Elizabeth R. Finn to a two-year term as Presiding City Judge in the Glendale City Court.

All interested parties are invited to offer comments to the JSAB regarding Judge Finn’s judicial performance to serve another term as Presiding City Judge at the following hearing:

6 p.m., Monday, January 28, 2013
Glendale City Hall
5850 W. Glendale Avenue, Glendale, AZ
Room B-3

Signed, written comments received by Friday, January 25, 2013 will also be considered by the JSAB.

• • • • •

Send comments to:

Katie Douglas
City of Glendale Human Resources Dept.
5850 W. Glendale Avenue
Glendale, AZ 85301

• • • • •

The Judicial Selection Advisory Board will consider public comments and other relevant factors in making a recommendation to the Glendale City Council regarding the reappointment application of Judge Finn.

BOOK REVIEW
The Partisan: The Life of William Rehnquist

By John A. Jenkins
Reviewer: Hon. George J. Anagnost

With its descriptions of people and places in Phoenix after World War II, John Jenkins’s new biography of William Rehnquist is first and foremost an Arizona story that should be of interest to the local bench and bar.

In 1953, Maricopa County boasted lots of sunshine, open land, opportunity, and all of 400 practicing attorneys. Primarily because his in-laws were from Phoenix, after completing a clerkship with U.S. Supreme Court Justice Robert Jackson, a young William Rehnquist joined what was then a “large” law firm of eight attorneys at a salary of \$300 a month.

An ardent Republican who befriended others with his conservative viewpoints, he was soon a key player in the presidential campaign of Barry Goldwater and later a faithful legal advisor to President Richard Nixon.

At the outset, a “spoiler alert” may be in order. Rehnquist’s career and life experiences involved clerking for the Court when it considered the Rosenberg treason trial, desegregation, his political involvement with Nixon during the Watergate crisis, and his long tenure on the Court when it debated the death penalty, affirmative action, states’ rights, and *Roe v. Wade*.

Jenkins’s biography is not an encomium of Rehnquist’s achievements; like the title of the book, both Rehnquist and the author are “partisans” in their viewpoints and treatment of their particular subject matter. In the final analysis, the challenge for the reader is to decide if Jenkins’s presentation and references adequately validate his portrayal of a justice that was highly political and opinionated. On that score, time will tell.

The Partisan: The Life of William Rehnquist offers up a highly readable, penetrating, and challenging re-examination of the U.S. Supreme Court’s sixteenth chief justice and succeeds with its concise summarization of Rehnquist’s conservative judicial views while using newly available sources to look at his private life and formative experiences.

In the process, Jenkins takes the reader to the doorway of a deeply profound question on how America’s Constitution works: to what extent is a justice appointed on the basis of legal merit in a democratically transparent process versus a selection shrouded mostly in politics and private bargaining.

In the case of William Rehnquist, Jenkins’s portrayal is the duality of a private, even quirky individual fearful of failure or exposure whose academic record provided access to the highest levels of judicial and political activity. Rehnquist’s career was a curious mix of circumstance, ego, a fierce commitment to states’ rights politics, and scenarios in which appearances could be deceiving.

On the personal side, there are interesting sidelights as when we learn that, due to his mother being told by a numerologist that the letter “H” connoted success, Rehnquist changed his middle name to that of a family relative, Hubbs, when applying for the U.S. Army. (His real middle name was Donald.)

As to his ascension to the Court, Jenkins describes the curious chain of events whereby Rehnquist went from fifth to first.

In 1971, the resignations of justices Hugo Black and John Marshall Harlan created two vacancies on the Court. President Nixon’s “southern strategy” included appointing pro-states’ rights justices to bolster his political base.

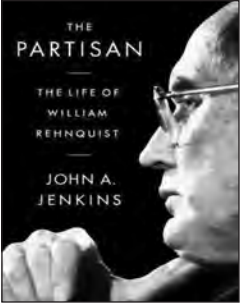
Nixon’s first two selections, G. Harold Carswell and Clement F. Haynsworth, Jr., were rejected due to perceived racial biases. The third choice, Virginian Richard F. Poff, withdrew for personal reasons before formal nomination. Nixon then instructed his Attorney General, John Mitchell, to press hard for Tennessee Senator Howard Baker.

As Baker waived, Nixon told Mitchell to push the position’s health insurance and retirement benefits as well as the opportunity to supplement income from speeches and book writing. When Baker declined, “Rehnhcburg,” as Nixon first referred to Rehnquist, became the nominee.

Regarding the well-known chevrons that appeared on his robe when he replaced Warren Burger as chief justice, they were supposedly modeled after the robe worn by the Lord Chancellor in Gilbert and Sullivan’s *Iolanthe*. His dissent in *Richmond Newspaper v. Virginia* opened with a quote from the comic opera, “The Law is the true embodiment of everything that’s excellent. It has no kind of fault or flaw, and I, my Lords, embody the Law.”

From a jurist’s perspective, Rehnquist saw himself as an outsider whose mission included bringing the rest of the Court to his way of thinking. (His clerks once gave him a Lone Ranger doll as a symbol of his sense of isolation.)

It was in the Rehnquist era that the conservative side of the Court reduced the



scope of the interstate commerce power clause, limited the scope of *Miranda’s* exclusionary rule, began to redefine federalism, curtailed habeas corpus relief, and re-examined the right of privacy.

The last few pages of *The Partisan* include the author’s interview with Prof. Paul Bender at the Sandra Day O’Connor School of Law at Arizona State. As Bender commented, in

retrospect, Rehnquist’s “fragile majorities” ushered in a conservative philosophy that has been extended with the arrival of Chief Justice John G. Roberts (himself a former Rehnquist clerk) and Justice Samuel Alito.

William H. Rehnquist was the Court’s first true conservative justice. His withdrawn and private personality aside, Rehnquist’s judicial beliefs, his characterization of the Tenth Amendment and states’ rights, and the current direction of the Court still demonstrate that his views have support in American society.

As a young man, Rehnquist developed a deep respect for Felix Frankfurter’s sense of judicial restraint and scholarship, a respect that endured even after a liberally-inclined Frankfurter joined in the opinion in *Brown v. Board of Education*.

In his last days, as he battled thyroid cancer, Rehnquist let his family know that they could send emails to a new address. Although his son at first questioned him, Rehnquist said it was correct: the family could keep in touch at “felix@sc-us.gov.” Perhaps William Rehnquist knew that “felix” is from the Latin and that one of its meanings is “lucky.” ■

Hon. George J. Anagnost is the presiding judge of the City of Peoria Municipal Court.



MARICOPA COUNTY
BAR FOUNDATION
SINCE 1983

DONORS

Saguaro Level (\$5,000 and Above)

Case Huff & Associates
Snell & Wilmer, LLP

Cholla Level (\$1,000 and Above)

Alvarez & Gilbert, PLLC
Berk & Moskowitz, PC
BMO Harris Bank
Bryan Cave, LLP
Fennemore Craig, PC
Glendale Center
Nussbaum Gillis & Dinner, PC
Pivot Building Services
Ted F. Warner

Prickly Pear Level (\$500 and Above)

Case Huff & DeRito Retail
John L. Hay
Kevin D. Quigley
Warner Angle Hallam Jackson
& Formanek, PLC

Barrel Level (\$100 and Above)

Bradley J. Glass
Robert F. Kethcart
Megan Lennox
Roberto Pulver
Hon. Brian Rees
The Shely Firm, PC

THANK YOU ALL
FOR YOUR GENEROUS SUPPORT!

LAWYERS
REALLY DO
CARE