

Why Cities Matter—Or, Why Do We Need That Extra Layer Of Government, Anyway?

I love the smell of fresh asphalt being applied to a road. I love seeing families in city parks. My heart swells when I pass a police officer doing his job on the streets. I even love to see the city garbage truck going house to house to pick up people's trash and waste – on schedule. City government is important. Let me count the ways cities matter.

Cities matter because they do jobs that matter. I can go off to work knowing that I don't have to arrange to take my trash to a

Gust Rosenfeld knows well how important cities and towns are and their role in delivering vital services. Our attorneys have assisted Arizona municipalities to address their unique issues with innovative solutions since 1921, and we continue to be on the cutting edge of new ideas. Our experienced attorneys are available to assist in all aspects of municipal law, including land use, real estate, bond and finance, improvement districts, contracts, construction law, elections, annexations, civil rights, code enforcement and employment law.

dump. Someone will do that for me, and I can focus on my work, my family, my other interests. Someone else will see that the pothole will be fixed and that the park I visit will be there. Code compliance will deal with that barking dog. My city government does these things so I don't have to.

Cities matter because I can have an impact on things I care about that I would not have at the state or federal level. People vote for their neighbors,

colleagues, and friends to govern them. Councilmembers attend local festivals and mingle with their constituents. Constituents talk to them about their grievances or pat them on the back and tell them what a good job they are doing. People volunteer for committees, boards, or commissions dealing with issues that matter to them. At council meetings people can have their say and watch their council struggle to make the right decision on controversial issues, balancing conflicting interests. It may be raucous and messy, but it usually results in a reasonable decision, and people move on, having been heard. Is it perfect? No. But when decisions are made locally, solutions to the problems are more likely to address the unique situations in the community.

Cities matter because we are not all the same. The laws in Litchfield Park are not

SEE **CITIES** INSIDE

Ride-sharing: Who is Liable and When?

When we drive our personal cars, our personal insurance covers accidents on the road. But what happens when our personal car is used for business purposes, like ride-sharing?

Ride-sharing companies like Uber and Lyft can be found all over the world. Drivers who work for the companies use their own vehicles and are connected to riders through an app. Riders simply need to download the appropriate app and input their credit card information to request a ride. Once both parties have what they need, riders and drivers can connect and be on their way in a matter of minutes. With the continued rise and use of ride-sharing, it is important to understand what happens and who pays when things go bad.

It can be difficult to understand when a driver's private insurance is responsible and when the insurance of Uber or Lyft is

responsible because drivers use their own cars and create their own schedules. To address this, ride-sharing apps have identified three different stages of driving to determine which insurance policy applies and what policy limits apply. The stages are as follows:

1. Driving for personal use: The driver is not working, and the app is turned off. In this stage, the driver's personal insurance is responsible for any accidents that may occur. The ride-sharing companies do not provide the driver with any coverage.

2. Logged on to the app: During this period the ride-sharing company's insurance applies but only provides drivers with minimal coverage. In this stage, both Uber and Lyft provide drivers with bodily injury liability limits of \$50,000 per person, \$100,000 per accident and \$25,000 in property damage liability.

SEE **RIDE-SHARING** INSIDE

NEW FACES



Krizia Verplancke (Phoenix Office)

Krizia's practice focuses on commercial and general litigation. She represents clients in state and federal courts and alternative dispute resolution proceedings. She handles corporate, commercial, insurance defense, and civil litigation matters.

During law school, Krizia clerked for Judge Daniel Kiley of the Maricopa County Superior Court as a judicial intern and was an extern for Judge David Duncan of the U.S. District Court, District of Arizona. She also provided legal representation for clients in Superior Court proceedings.

Krizia was named an Arizona State University College of Law Pedrick Scholar in the spring and fall of 2016 and the spring of 2017. She was named the 2016-2017 Gold 'n Gavel Scholar for her achievements in the Sports Law Program. She was a Finalist in the Spritzer Oral Argument Competition.



Heather L. Bohnke (Tucson Office)

Heather's practice focuses on health care and general litigation with an emphasis on insurance defense and coverage, medical malpractice, personal injury, and wrongful death. She also has experience with vulnerable adult abuse claims asserted against health care facilities and providers. She brings more than 16 years of medical malpractice litigation experience before joining Gust Rosenfeld.

Previously, Heather was in-house counsel for a major insurance company, representing the company in first-party insurance contract cases and the company's insureds in various property and casualty cases.

Whitney M. Harvey (Phoenix Office)

Whitney's practice focuses on municipal liability, insurance defense and general civil litigation. She has handled a broad range of civil litigation matters involving wrongful death, personal injury, commercial and business litigation, and dram shop and social host



liability. Whitney is experienced in managing litigation matters in both state and federal court, including leading jury trials to verdict.

Previously, Whitney was in-house counsel for a major insurance company, supervising outside counsel on all aspects of civil litigation involving policyholders, in five western states.

Super Lawyers® designated Whitney as one of its Southwest Rising Stars from 2014 to 2016.



Samantha Winter McAlpin (Phoenix Office)

Samantha advises clients in the area of estate planning, including wills, trusts, probate administration, trust administration, guardianships, conservatorships, and taxation. She also litigates claims involving trustees, personal representatives, beneficiaries, and the exploitation of vulnerable adults.

Samantha received an LL.M. in Taxation from the University of San Diego after earning her J.D. from Notre Dame Law School. She graduated summa cum laude, Phi Beta Kappa from Barrett, the Honors College at Arizona State University, with degrees in English Literature, Spanish, and History.



Kyle A. Mabe (Phoenix Office)

Kyle's practice focuses on the areas of employment law and education law. Kyle has experience with labor and employment litigation matters including wage and hour class actions. He has represented clients in alternative dispute resolution in various types of employment matters and labor arbitrations.

Kyle earned his J.D. from Golden Gate University School of Law. He was awarded the Witkin Award and CALI award while in law school. He also served as the Executive Comments Editor for the Golden Gate University Law Review.

RIDE-SHARING FROM FRONT PAGE

3. Driver is on the way to pick up a rider or a rider is in the car: In this stage, a ride has been requested by a rider and the driver is en route to pick them up or has already picked them up and is on the way to drop them off. At this stage, Uber and Lyft both provide drivers with coverage with a \$1 million per accident limit. The policy covers a driver's liability to a passenger, to a third party, and for injuries due to an uninsured or underinsured motorist. Additionally, both Uber and Lyft provide drivers with collision and comprehensive coverage if they have similar

coverage with their personal insurance. The collision and comprehensive coverage provided is up to the actual cash value of the driver's car and has a deductible that the driver has to meet.

It is important to note that many personal insurance plans exclude coverage when a driver is working through a ride-sharing app. However, some companies are beginning to offer specific coverage for drivers who wish to have their personal insurance cover them while they are driving for a ride-sharing company. It is important to check the terms of your

personal policy to make certain you are covered if you are considering driving for a ride-sharing company.

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Wendy is a litigator who practices in various areas including construction, catastrophic injury, breach of contract, and commercial law. Krizia is a litigator who handles corporate, commercial, insurance defense and civil matters.

Graif, Kalvestran Add to Firm's Insurance Practice



Gust Rosenfeld adds **Jay R. Graif** and **Jennifer C. Kalvestran** to its growing insurance coverage and defense practice.

Jay and Jennifer bring impressive insurance coverage and litigation experience.

With their addition, Gust Rosenfeld increases its ability to service Nevada clients with its Las Vegas office. The firm now also can service clients in California with its Los Angeles office, where Jennifer has been and will continue to work full time.

Jay focuses his practice on insurance coverage analysis, bad faith and commercial litigation. He has more than 20 years of experience litigating complex commercial cases, with particular emphasis on the trial and appeal of insurance coverage disputes, including breach of contract, declaratory judgment and bad faith actions.

He has handled to resolution complex insurance matters in virtually every western state. Also, he advises many local construction and real estate businesses on risk management and other areas of the law. He is an active member of many national and local organizations, including Claims and Litigation Management Alliance and Defense Research Institute, as well as many other local organizations.

Jay has been regularly included in the Southwest Super Lawyers® list and is AV® Preeminent™ rated by Martindale-Hubbell®, representing the highest rating in legal ability and ethical standards.

Jennifer's practice focuses on insurance coverage analysis, bad faith and litigation. With more than 17 years of experience, she has handled insurance coverage matters and other various complex commercial litigation matters, including the defense of real estate, financial and medical services institutions.

Jennifer is involved in all aspects of litigation, including trial practice, mediations and depositions, and she brings a practical perspective to planning and executing these dispute resolution and litigation strategies. She has also successfully represented her clients in numerous matters on appeal before the California Appellate Court and Ninth Circuit.



Dockless Bikes Abound

Dockless bike-share companies recently started operations in several valley cities. These companies are currently operating in Scottsdale, Tempe, Phoenix and Mesa. At times it seems that these orange, green or yellow bicycles have been abandoned in piles in the middle of the sidewalk, at bus stops, in the front yards of private residences and other public locations.

Members of the public and elected officials have expressed frustration with the bicycles and the proper procedures for riders, with one Phoenix councilmember advising constituents in a (now deleted) Facebook post to just throw the bikes in the trash. On the other hand, members of the public and elected officials have also expressed excitement about visitors and residents exploring the cities via bicycle and the potential reduction in traffic during the spring training season.

The bicycles are owned by the private companies ofo, LimeBike, and Spin. The bikes are tracked via GPS and can be rented via a smartphone app. A rider uses an app to find a bike, pays to rent it (approximately \$1.00 for a 30 minute ride), and then leaves the bicycle when done riding. The bikes are not supported by municipal revenues, which is different from the GR:D bicycles that have designated parking locations in Phoenix, Mesa, Tempe, and Scottsdale. Nevertheless, Scottsdale police have received 911 calls to report bikes parked in front yards or blocking sidewalks.

Each bicycle has a label that tells how to contact the company to have it removed from your property. LimeBike and ofo state they have ground crews that retrieve bikes within 24 hours of being reported.

From a public law perspective, Scottsdale and Phoenix have conducted City Council study sessions regarding better management of the bikes. The municipalities have expressed concern to the private bicycle companies regarding obstructed sidewalks that prevent ADA access. Some cities are considering additional ordinances to impose fines on the bike share companies for bikes parked in an unruly manner.

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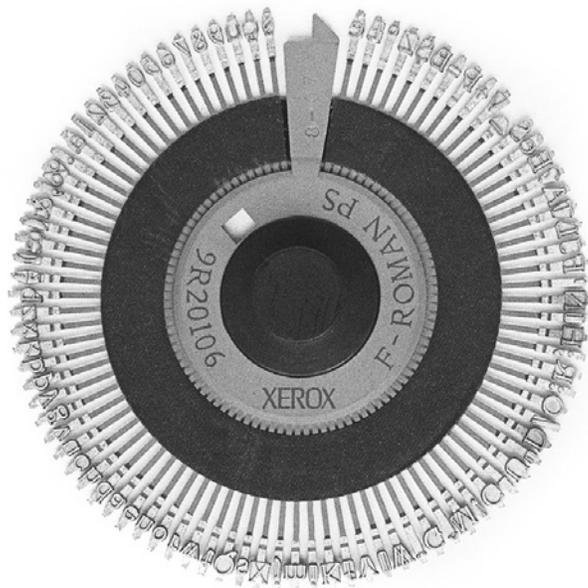
Zach focuses his practice in the area of public finance. He specializes in advising municipalities and community facilities districts.

CITIES FROM FRONT PAGE

the same as the laws in Buckeye, Wickenburg, Paradise Valley and other cities and towns because people are different. What if the people of Quartzsite feel passionately that their RV parks are a valuable economic benefit to the Town, while the people of Paradise Valley do not want RV parks in their community at all? What if the people of Wickenburg want their beloved downtown to keep its Old West feel, and the people of Gilbert want their hip downtown to feel modern? What if the people of Chino Valley want to keep their excellent local police department instead of contracting with the county sheriff? We elect city councils that reflect our values and how we want to live, and we don't all want the same things.

Cities matter because they provide a layer of government that is more responsive and concerned about local needs than a more centralized, far-away government ever could. Cities matter because local decisions matter on local issues. I love cities.

*Susan D. Goodwin | 602.257.7671 | sgoodwin@gustlaw.com
Susan works closely with City and Town Managers, councils and staff to address a large variety of issues confronting Arizona cities and towns.*



From the Archives: New computer will boost output

[Editor's note: In our second ever newsletter published in November 1984, we announced that Gust Rosenfeld was on the cutting edge of technology. What a difference 34 years make! Today, a typical smart phone has at least 8GB of storage – about 66 times more storage than what we thought was great in 1984.]

After two years of study, Gust, Rosenfeld, Divelbess & Henderson recently acquired a sophisticated word processing system manufactured by NBI of Boulder, Colo. The new computer system will produce documents, internal reports, mailing lists and accounting documents more quickly and efficiently than the outgoing word processors.

Forms, pleadings and other documents will be fed into the computer by means of an optical character scanner capable of reading several common typefaces. Advanced programming features spot typographical errors and allow easy corrections, as well as extensive revisions. Marjorie Combs, firm administrator, estimates the new system, with its high-speed printer, will greatly increase word processing productivity.

Three terminals, or work stations, were installed initially, with seven more added in late October. In addition to the terminals, laser printer and optical scanner, the equipment includes a memory unit with a storage capacity of 120 megabytes and three daisy wheel printers. The word processing department is supervised by Lee Ritter.

To date, 13 members of the firm's staff are using the system. These include secretaries, word processing operators and a billing clerk. Later, those working in accounting and some lawyers will have access to terminals.

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The Importance of Cities

The Latin word for "city" was "urbs," and those who inhabited urbs were "urbanus." They were also "civitas" or citizens. The modern "city" comes from the Old French "cite," recognizing that this is a place citizens inhabit in numbers. The Old English term was "burh" or borough, with the most important boroughs being the cathedral burhs. Eventually, these more important establishments became known as "cities," adopting the Norman French term (think William the Conqueror).

*Richard B. Hood | 602.257.7470 | rbhood@gustlaw.com
Rick, our etymologist, practices in the areas of commercial law and litigation.*





Barry M. Markson and wife **Lori Markson** were the chairs for the Desert Stages Theatre Gala in March. Gust Rosenfeld was proud to honor Barry and Lori's commitment and be a sponsor for the event. The event raised \$70,000 for Desert Stages; the money will help the organization after it was forced to move to a new location and to purchase much needed equipment.

Shelby Exposito is transitioning into the Public Finance group. During the transition, she will continue to work with education law clients on general matters, as well as public finance.

Christina Noyes and **Charles Wirken** were recognized among the Top 100 Lawyers in Arizona for 2018 by Az Business magazine. They were selected from a pool of nearly 2,000 of the state's most talented and successful attorneys by the magazine's editorial team in collaboration with industry experts. Selections were based on each lawyer's professional success and ratings, impact on his or her law firm, impact on the communities she/he serves and impact on the legal profession.

Wirken Receives Award from Mesa Rotary Club



Gust Rosenfeld is pleased to announce that **Charles (Chas) Wirken** was presented with the Ike W. Parrish Service Above Self Award at the 97th Anniversary of the Mesa Rotary Club in February.

The award is named in honor of Ike Parrish, who was a Director on the Rotary International Board before retiring to Mesa. The award is presented each year to someone who lives the motto of Rotary: "Service Above Self." Chas has been a member of the Mesa Rotary Club for 40 years and is a past president of the club.

In addition to service through his Rotary club, Chas has given hundreds of hours of service over the last year to *pro bono* clients as a Delegate to the American Bar Association House of Delegates and as Chairman of the Board of Trustees of the State Bar's Client Protection Fund.

Wirken's extensive appellate experience coupled with his expertise has earned the respect of his peers and appellate judges. That respect is indicated by his election as a Fellow in the American Academy of Appellate Lawyers, inclusion in Best Lawyers in America® in the Appellate Law category, and listings in the Appellate practice category of Southwest Super Lawyers® and among Arizona's Finest Lawyers.

The other focus of Chas' practice is the resolution of business disputes. He has a national reputation for the litigation of cases involving franchises, dealers, distributors and licensors. Chas was recently named among the Top 100 Lawyers in Arizona and as the Best Lawyers® 2016 Franchise Law Lawyer of the Year for Phoenix.

Keep it or Shred it?

People always ask lawyers what documents and information should they keep and what they can shred. Here is a handy list of what to keep safe and available.

- List of assets with dates of acquisition and cost or other basis
- Wills, trusts, financial (durable) powers of attorney and health care powers and living wills
- Intellectual property accounts and passwords
- Insurance policies of all kinds (current)
- Income tax returns for at least three years, all gift tax returns and estate tax returns of benefactors (relatives, such as parents)
- Names of lawyer, accountant, financial advisor, primary doctor, insurance agent
- Event documents
 - Naturalization papers
 - Birth and death certificates
 - Adoption papers
 - Marriage licenses and divorce or dissolution decrees
- Social Security and Medicare papers
- For younger readers: location of reproductive substances in custodial care
- For seniors: funeral and burial provider (desired or prearranged) and draft of obituary

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Gust Rosenfeld Attorneys Recognized by Super Lawyers® 2018

Gust Rosenfeld is pleased to announce that ten of the firm's attorneys were selected for inclusion in the 2017 Southwest Super Lawyers® publication. Super Lawyers is a national rating agency that evaluates lawyers from more than 70 practice areas. The honor recognizes attorneys who have attained a high degree of peer recognition and professional achievement. The rigorous selection process is multi-phased and includes independent research, peer nominations and peer evaluations.

Kent E. Cammack (Business Litigation)

Peter Collins, Jr. (Insurance Coverage)

Jay R. Graif (Insurance Coverage)

Craig A. McCarthy (Personal Injury General: Defense)

Christopher M. McNichol (Real Estate)

Mina C. O'Boyle (Real Estate, Rising Stars)

Séan P. O'Brien (Bankruptcy: Business)

Trish Stuhan (State, Local & Municipal, Rising Stars)

Samantha Winter McAlpin (Estate Planning & Probate, Rising Stars)

Charles W. Wirken (Appellate)



Gust Rosenfeld Super Lawyers® 2018: Front Row (L to R) Mina O'Boyle, Samantha Winter McAlpin, Trish Stuhan. Back Row (L to R) Kent Cammack, Chas Wirken, Jay Graif, Chris McNichol, Craig McCarthy, Peter Collins, Séan O'Brien.

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