

## **PLEA Wins Unfair Labor Charge Against City of Phoenix**

The Phoenix Employment Relations Board (PERB) has ordered that the City of Phoenix and the Phoenix Police Department “cease and desist from interfering with public employee rights.” Attorney Mike Napier argued this matter before PERB on March 21, 2006.

PERB found that the City and Police Department violated the Meet and Confer Ordinance when it ordered a PLEA official to answer questions about the association’s internal policies and practices and to identify members who expressed concerns about Police Department operations.

PERB’s order will be conspicuously posted in employee workplaces and remain there for 60 consecutive days. Another victory for the State’s best labor attorney.

## **Michael Napier’s Office Saves Another Career**

Jan Feltz, an attorney in the Law Offices of Michael Napier, prevailed before the Arizona Law Enforcement Merit System Council and reversed the dismissal of a former Department of Public Safety laboratory employee. In its decision, the Council found that the Department of Public Safety failed to prove the allegation of untruthfulness against the sixteen year employee.

The attorneys in the Law Offices of Michael Napier offer the best and most experienced representation when your career is on the line.

## **Law Office of Michael Napier Successfully Defends Officer**

The Law Offices of Michael Napier defended an officer in a civil suit brought for an off-duty automobile transaction. Using his member benefit to a reduced hourly fee, the officer retained Mr. Napier’s office to defend against a \$20,000 claim.

In January, the Arbitrator heard evidence from both parties. He rejected the plaintiff’s claims of fraud and breach of contract and awarded the APA member costs and attorney’s fees. The officer said, “If didn’t have a reduced fee as a part of my legal plan, I would have been sunk.”

Don’t forget to contact your attorneys at the Law Offices of Michael Napier for any legal needs including legal protection and personal injury recovery.

## **Law Offices of Michael Napier Defend Officer in Accident**

Janet Feltz, an attorney in the Law Offices of Michael Napier, recently represented a Maricopa County Sheriff’s deputy in a civil traffic matter before the San Tan Justice

Court. The case involved an accident that took place when the deputy, who was responding to an incident and was using his emergency lights, made a turn and was struck by another vehicle. Although the deputy was cited for an unsafe turn, evidence in the hearing established that the deputy's turn was not unsafe and that the other driver was operating his vehicle significantly in excess of the speed limit at the time of the accident. The deputy was found not responsible for the citation.

The Law Offices of Michael Napier continue to be a police officer's best friend. Whether in court, before the local merit system or recovering for injuries on or off the job, nobody has as much experience in representing Arizona's police officers.

Law Offices of Michael Napier representing cops since 1975.

### **Pension Victory for APA Legal Team**

The Law Offices of Michael Napier have won another victory for public safety by reversing the ruling of the Guadalupe Public Safety Pension Board. The Board had taken away a member's disability pension. Michael Napier's office appealed that ruling to Superior Court where the decision was reversed and the employee was retroactively awarded his disability pension.

Nobody stands up for the rights of public safety like the Law Offices of Michael Napier. If you have any legal needs, call Michael Napier. He has been assisting law enforcement officers with all their legal needs since 1975.

Mr. Napier specializes in employment, labor and personal injury recovery.

### **Legal Victory for Suspended Officer**

Attorney Jan Feltz with the Law Offices of Michael Napier successfully reduced the discipline of an officer accused of inappropriately discussing an upcoming transfer examination. The Department failed to establish that the officer disclosed confidential information and the merit board found under those circumstances the discipline was excessive.

APA members continue to have access to the finest legal representation in the state. Nice job Jan!

### **POST Board Reconsiders Revocation**

Attorneys from the Law Offices of Michael Napier were successful in obtaining reconsideration from the Peace Officers Standards and Training Board on a prior revocation of an officer's certification.

Last year, attorneys in Napier's office reinstated this officer after he was terminated for conduct related to the detention of several suspects for pointing a toy gun at citizens.

After his return to work, and while working uniform patrol, this officer tracked down and arrested a homicide suspect on a sketchy description provided by witnesses. He was named Officer of the Month and recognized by his department for superior work.

In spite of this, POST revoked the officer's certification for the conduct related to the suspect detention described above. Following a motion and arguments, the Board reconsidered its prior decision and rescinded the revocation and instead suspended the officer's certification.

The Law Offices of Michael Napier will again seek to reinstate the officer to his employment with this new victory. Michael Napier has been representing police officers for over thirty years. This experience allows for representation unmatched by any other law firm.

The APA will examine this matter and make decision about the need for legislation directed at the POST process and composition of the Board.

### **Mike Napier's Law Office Saves Another Career**

The cornerstone of APA's success is the superior legal coverage provided by the Law Offices of Michael Napier. Mr. Napier has been representing police officers since 1975. Through many fights and struggles for police labor to gain power and respect in Arizona, Mr. Napier and his firm have been the constant forces behind many of the successes.

Early in 2005, a Phoenix police officer was terminated for alleged untruthful statements during an official investigation. Mike Napier's office, working hand-in-hand with PLEA Representative Danny Boyd, defended this officer before the Phoenix Civil Service Board. Despite the testimony from an internal affairs supervisor and command officer relating their belief this officer lied, the Civil Service Board was unconvinced and cleared the officer on all allegations returning her to continue a career with the Department.

Without the legal expertise of Mike Napier's office and the commitment of the APA leadership, many careers, would reach an untimely end on unsubstantiated and frivolous allegations. APA, through its legal coverage, is committed to protecting each and every officer's career and holding the agencies to their responsibility of honestly investigating allegations of misconduct.

Membership in an APA affiliated association provides you with access to the best and most experienced career defense in the state. The job of police officer is like a mine field, nobody means to step on it, but sometimes you do! You're not alone in finding your way through the pitfalls and challenges presented by working in law enforcement. The APA member associations and a panel of lawyers including Mike Napier are available at moments notice to take up your cause.

## **LDF Wins Another Acquittal for Police Officer**

It was Billings, Montana on Christmas Eve 2004, when eight-year veteran of the police department, Officer Greg Jacobs, riding with a partner, was called to a home on a domestic disturbance call; they had been there before. They walked in on a donnybrook situation-- two generations, men and women, physical altercations, lots of alcohol, probably meth as well. One of the men, about twenty-years-old, was on the fight, and Jacobs handcuffed him in the residence before taking him outside. The fight was on; the suspect in the handcuffs kicked and assaulted Jacobs and other family members, even kicking his sister in the head more than once. Every time he was successfully subdued, he started again. Jacobs called for back up. He finally managed to move the violent suspect to the rear of the patrol car on the top of the embankment away from the house and controlled him into partial submission there while the other officer worked to try to restore order in the residence; radio between the two officers cut out. Jacobs had muddy footprints all over his uniform coat where the suspect had repeatedly kicked him. Jacobs had no leg irons with him. There were too many people in close proximity to use pepper spray. The suspect was bleeding, but not severely, from the head where he had been injured by another man in the residence before the officers' arrival.

Billings police vehicles are equipped with videotape machines and microphones. One of Jacobs' command officers arrived on the scene, facing his vehicle toward Jacobs with the suspect. Although it was necessary continuously to subdue the suspect who continued to fight and squirm against the back of the patrol vehicle, Jacobs directed the command officer to the inside of the house because he didn't know the status of the other officer. Meanwhile, Jacobs had called medical personnel to examine the suspect to clean the blood off of his face and clear him for transport to the jail. Just as the firefighter/medics arrived to clean the suspect's face, two officers from the local county sheriff's office also arrived in response to the back up call. They were standing with Jacobs, who had cleared the scene for safety as the three firefighter/medics arrived. As soon as they were close enough, the suspect aimed a full-force kick at the middle firefighter in the groin area, causing a loud crack to his protective coat as he jumped back. Jacobs, with the two sheriff's deputies at his side, took the suspect to the ground; he hit the ground, still squirming and kicking. Jacobs delivered three strikes to the face, instructing the suspect to quit kicking people, in front of the command officer's vehicle camera. As soon as the command officer returned, Jacobs reported that he had struck the suspect. The command officer was not concerned enough to prevent Jacobs from transporting the suspect to the jail, which he did. But he did order, with visible indignation, that the tape was to be kept for review. The investigation was conducted by the acting chief, during a political turmoil within the department, after which it was expected by all that the acting chief would be made the permanent chief.

Many months went by, with requests for review by state officials, and so forth. Finally, with no one else prosecuting, the county attorney's office hired an experienced trial lawyer who had never previously prosecuted a case. The charges were not brought until the suspect had been shipped from the area by the Army; he was rumored not to remember much about the incident. No charges were ever brought against the suspect.

Nonetheless, hired to prosecute it, the attorney brought two felony charges in the alternative against Jacobs and refused to settle without a guilty plea with a qualification to end Jacobs' law enforcement career; Jacobs declined.

Jacobs made contact with Teresa McCann O'Connor, along the Legal Defense Fund's contract attorney in Montana, in private practice for nearly fifteen years and a prosecutor for eight years before that with experience in nearly every kind of major felony litigation. She viewed the tape; but, while conceding that it showed an officer hitting a handcuffed suspect in the face three times while he was on the ground, it was her opinion that Jacobs made a strong witness and that the case could be won if it was tried optimally to a well-chosen jury.

There were months of ensuing protracted pre-trial litigation.

Finally, at trial the end of January 2006, O'Connor's voir dire consisted of inquiry into whether potential jurors had ever been involved in a fight or observed one. O'Connor reserved her opening. Once the prosecution opened, the tape was shown almost immediately; and the city officers testified, largely against Jacobs. Testimony nonetheless was received that Jacobs was a decorated officer who had served as shop steward for his shift in the police union. The command officer on the scene on that Christmas Eve, and who appeared to be a motivating force behind the drive to charge Jacobs criminally, testified against him. On cross, there was inquiry as to whether he had called Jacobs "union boy" at meetings; he first lied and denied that before finally admitting that it was true. An expert, formerly an instructor from the Montana State Law Enforcement Academy, and who had taught Jacobs, took the stand and testified against Jacobs. The Legal Defense Fund provided a very impressive expert to neutralize that testimony. The state also offered medical expert testimony. The defense attorney decided to neutralize that testimony with cross-examination alone. Officers from the other agencies-- both the firefighters and the sheriff's deputies, as well as medical personnel from the detention center where the suspect was transported-- all testified in support of Jacobs. Finally, Jacobs testified in his own defense. The case was vigorously argued in closing.

The verdict was returned after two ballots-- the first 11-1, and the second the required unanimous verdict for acquittal.

Jacobs and his attorney are both grateful for the support offered by the Legal Defense Fund. The case was tried in three days, but many hours of witness interviews, research into expert backgrounds, legal analysis and briefing were required. In the end, location of and transportation for some key witnesses became an issue and the Legal Defense Fund never balked. They placed their trust and confidence in O'Connor, never interfered, and supported her decisions completely in every way she requested.

The verdict was a happy one for Officer Jacobs, his family and other law enforcement officers in the region-- those neighboring agencies not currently members of the Legal Defense Fund are rumored to be checking into membership at this time!