

*Continuing Legal Education*  
CERTIFICATE OF ATTENDANCE

**Criminal Seminar:  
Perspectives from the Magistrate Bench -  
Practical Tips for Better Motion Practice and  
Evidentiary Hearings**

PRESENTED BY:



**Federal Bar Association**

**William D. Browning Tucson Chapter**

**Monday, March 16, 2026  
12:00 pm – 1:00 pm**

**Evo A. DeConcini Federal Courthouse  
Jury Assembly Room**

**Speakers:**

**Honorable Maria Aguilera, Magistrate Judge and  
Honorable James Marner, Magistrate Judge**

By signing below I certify that I attended the Tucson Chapter of the FBA's 2026 Criminal Seminar on March 16, 2026, at the Evo A. DeConcini Federal Courthouse and am entitled to claim **1.0 hours** of Continuing Legal Education credit and **0.25 hours** of Ethics Continuing Legal Education credit.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Attorney Name and Bar Number (Please Print)

KEEP THIS CERTIFICATE IN YOUR FILE.  
THIS IS NOT AN OFFICIAL DOCUMENT. DO NOT SEND THIS CERTIFICATE TO THE STATE BAR OF ARIZONA.



# **Federal Bar Association**

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**William D. Browning Tucson Chapter**

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**2026 Criminal Seminar:**

**Perspectives from the Magistrate Bench –  
Practical Tips for Better Motion Practice and  
Evidentiary Hearings**

# What Are We Talking About?

- ▶ Practical tips to put yourself in the best position for upcoming oral arguments and/or evidentiary hearings
  - ▶ Pleadings
  - ▶ Scheduling considerations
  - ▶ Witnesses and testimony
  - ▶ Exhibits
  - ▶ Special preparations for media exhibits (audio and video)
  - ▶ Argument

# The Pen is Mightier ...

- ▶ Less is more
  - ▶ “The most important thing in a brief is clarity.” - Supreme Court Justice Elena Kagan
  - ▶ Ensure your contentions have legal and factual support (See Ariz. R. Prof. Conduct 3.1)
- ▶ Legal standard(s)
  - ▶ Burden of production versus burden of persuasion
- ▶ When are you entitled to an evidentiary hearing?
  - ▶ A district court must hold an evidentiary hearing when the motion alleges enough facts “to take the question past the frivolous stage.” *United States v. Oaks*, 508 F.2d 1403, 1404 (9th Cir. 1974).

# Timing (or Rather Scheduling) is Everything

- ▶ Realistic scheduling
  - ▶ Account for the Report and Recommendation Procedure (28 U.S.C. § 636; Fed. R. Crim. P. 59(b))
  - ▶ Be cognizant of upcoming deadlines
  - ▶ Strategy and negotiations versus appearance of delay
- ▶ How much time do you need?
- ▶ Evidentiary Hearing considerations:
  - ▶ Number of witnesses, witness availability, witness accommodations (e.g., translators)
  - ▶ Media evidence - total length and number

# Who's on First. What's on Second...

- ▶ Preliminary and housekeeping matters
- ▶ Know your witness lineup
  - ▶ No deadtime between witnesses
- ▶ Focus of hearing - this is not trial
  - ▶ Number of witnesses you have versus number you need (e.g., eliminate chain-of-custody witnesses through stipulation)
  - ▶ Testimony relevant to issue(s)
  - ▶ This is not discovery
- ▶ Form of questioning

# Everything But the Kitchen Sink?

- ▶ This is not trial
  - ▶ Number of exhibits you have versus number you need
- ▶ Marking exhibits in advance
  - ▶ Instructions are available on the [Court website](#)
  - ▶ In general, contact the Magistrate Courtroom Deputy a week before the hearing to have exhibit numbers assigned
  - ▶ Exhibit stickers (which can be obtained from the Courtroom Deputy or Clerk's Office counter) go on the bottom right corner of exhibits
  - ▶ Provide your completed exhibit and witness lists to the Courtroom Deputy; do not file them before the hearing

# Technology: Man's Best Friend?

- ▶ Contact the Court's systems technology staff to test media in courtroom in advance
  - ▶ Additional information regarding presentation of media is available on the [Court website](#)
- ▶ Bring a laptop to play media
- ▶ What to do if technology fails?
  - ▶ Duplicate or backup copy of exhibit
  - ▶ Have a backup strategy

# Strong Finish: Making Your Argument Count

- ▶ Less is more?
- ▶ Staying within the allotted time for the hearing
- ▶ Argue salient points
- ▶ Do not just reiterate what is in the briefs
- ▶ Questions from bench
- ▶ Supplemental Briefing



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**Questions?**

# **A Lawyer's and Legal Paraprofessional's Creed of Professionalism of the State Bar of Arizona**

## **Preamble**

As a [lawyer/legal paraprofessional], I must strive to make our system of justice work fairly and efficiently. To carry out that responsibility, I will comply with the letter and spirit of the disciplinary standards applicable to all [lawyers/ legal paraprofessionals] and I will conduct myself in accordance with the following Code of Professionalism when dealing with my client, opposing parties, their counsel, tribunals and the general public.

### **A. With respect to my client:**

1. I will be loyal and committed to my client's cause, but I will not permit that loyalty and commitment to interfere with my ability to provide my client with objective and independent advice;
2. I will endeavor to achieve my client's lawful objectives in business transactions and in litigation as expeditiously and economically as possible;
3. In appropriate cases, I will counsel my client with respect to alternative methods of resolving disputes;
4. I will advise my client against pursuing litigation (or any other course of action) that is without merit and I will not engage in tactics that are intended to delay the resolution of a matter or to harass or drain the financial resources of the opposing party;
5. I will advise my client that civility and courtesy are not to be equated with weakness;
6. While I must abide by my client's decision concerning the objectives of the representation, I nevertheless will counsel my client that a willingness to initiate or engage in settlement discussions is consistent with effective and honorable representation.

### **B. With respect to opposing parties and their counsel:**

1. I will be courteous and civil, both in oral and written communication;
2. I will not knowingly make statements of fact or law that are untrue;
3. In litigation proceedings, I will agree to reasonable requests for extensions of time or for waiver of procedural formalities when the substantive interests of my client will not be adversely affected;
4. I will endeavor to consult with opposing counsel before scheduling depositions and meetings and before rescheduling hearings, and I will cooperate with opposing counsel when scheduling changes are requested;

5. I will not utilize litigation or any other course of conduct to harass the opposing party;
6. I will not engage in excessive and abusive discovery; and I will advise my client to comply with all reasonable discovery requests;
7. I will not threaten to seek sanctions against any party lawyer, or legal paraprofessional unless I believe that they have a reasonable basis in fact and law;
8. I will not delay resolution of a matter, unless the delay is incidental to an action reasonably necessary to ensure the fair and efficient resolution of that matter;
9. In depositions and other proceedings, and in negotiations, I will conduct myself with dignity, avoid making groundless objections and not be rude or disrespectful; 10. I will not serve motions and pleadings on the other party or the party's counsel at such a time or in such a manner as will unfairly limit the other party's opportunity to respond;
10. In business transactions I will not quarrel over matters of form or style but will concentrate on matters of substance and content;
11. I will identify clearly, for other counsel or parties, all changes that I have made in the documents submitted to me for review.

**C. With respect to the courts and other tribunals:**

1. I will be an honorable advocate on behalf of my client, recognizing, as an officer of the court, that unprofessional conduct is detrimental to the proper functioning of our system of justice;
2. Where consistent with my client's interests, I will communicate with opposing counsel in an effort to avoid litigation and to resolve litigation that has actually commenced;
3. I will voluntarily withdraw claims or defenses when it becomes apparent that they do not have merit;
4. I will not file frivolous motions;
5. I will make every effort to agree with other counsel, as early as possible, on a voluntary exchange of information and on a plan for discovery;
6. I will attempt to resolve, by agreement, my objections to matters contained in my opponent's pleadings and discovery requests;
7. When scheduled hearings or depositions have to be canceled, I will notify opposing counsel and, if appropriate, the court (or other tribunal) as early as possible;
8. Before dates for hearings or trial are set - or, if that is not feasible, immediately after such dates have been set - I will attempt to verify the availability of key participants and witnesses

that I can promptly notify the court (or other tribunal) and opposing counsel of any likely problem in that regard;

9. In civil matters, I will stipulate to facts as to which there is no genuine dispute;
10. I will endeavor to be punctual in attending court hearings, conferences, and dispositions;
11. I will at all times be candid with, and respectful to, the tribunal.

**D. With respect to the public and our system of justice:**

1. I will remember that, in addition to commitment to my client's cause, my responsibilities as a [lawyer/legal paraprofessional] include a devotion to the public good;
2. I will keep current in the areas in which I practice and, when necessary, will associate with, or refer my client to, counsel knowledgeable in another field or practice;
3. As a member of a self-regulating profession, I will be mindful of my obligations under the Rules of Professional Conduct to report violations of those Rules;
4. I will be mindful of the need to protect the integrity of the legal profession and will be so guided when considering methods and contents of advertising;
5. I will be mindful that the law is a learned profession and that among its desirable goals are devotion to public service, improvement or administration of justice, and the contribution of uncompensated time and civic influence on behalf of those persons who cannot afford adequate legal assistance.