



Equal Justice & Our Profession

by Richard Vangelisti, MBA President

Let's flash back to law school and consider a hypothetical story. Once upon a time, a single mother and her two children were living in a house in rural Oregon. Let's call her "Tenant." "Landlord" has filed an

action to evict Tenant for failure to pay rent. Tenant earns minimum wage.

Tenant has not paid the rent because she had to use her limited funds to fix a leaky roof and remediate mold. Landlord had refused to pay for the repairs. He argues that the duty of habitability does not apply because he rented the house for "agricultural purposes," namely that Tenant agreed to feed his prize llamas.

Tenant seeks legal help from "Neighbor" who used to be a residential property manager. Neighbor tells her, "Sorry, I cannot give legal advice or represent you in court because Oregon law prohibits me from engaging in the unauthorized practice of law." Neighbor recommends that Tenant seek out a lawyer.

The First Duty of Society is Justice.

Tenant seeks help from legal aid but learns that the local legal aid office closed because of lack of funding. Tenant is also informed that although she qualifies for legal aid because her income is below 125% of the federal poverty level, legal aid does not have enough attorneys to meet her need in any event.

Tenant appears pro se in circuit court for a hearing to fight the eviction. She asks "Judge" for assistance. Judge tells Tenant, "I cannot give you legal advice, but you may want to look at ORS Chapter 90 and the court's ORCPs, UTCRs, and SLRs." When Tenant tells the Judge that she does not understand that "alphabet soup" of laws and rules, the Judge tells her to try to work it out with Landlord's lawyer and come back for another hearing.

Time to spot issues. Is Tenant on an equal playing field with Landlord? Is it efficient for the court to work with the pro se Tenant? Will Tenant and her children receive justice? Will Tenant and her children become homeless? In addition to the grave harm to Tenant and her children if they become homeless, what is the additional cost to society and social services?

Of central concern for this column, who has the duty to ensure that legal services are available to this "hypothetical" family in need? The inscription on the wall in the entry area to our federal courthouse in Portland suggests the start of an answer - "The First Duty of Society is Justice." But who within our society is in the best position to ensure that the most vulnerable Oregonians have access to legal services and in turn "Equal Justice Under Law"?

My opinion is that lawmakers and lawyers are in the best position. Lawmakers enact the law, and the lawmakers exist in large part to provide for the public good for their citizen constituents. Lawyers advise clients on the law and advocate for clients in the courts. Other stakeholders in society have a role to ensure equal access to justice. But lawmakers and lawyers are in privileged positions to accomplish the task.

Specifically, lawmakers - who are duty-bound to provide for the public good of their Oregon constituents - should provide for the necessary funding, however that may be accomplished. Lawyers -

who are licensed and strictly regulated by ethical rules of the Oregon Supreme Court - should strive to provide legal services to all members of the public.

This duty is contained in the OSB Statement of Professionalism, "I will work to ensure access to justice for all segments of society" and "I will support pro bono activities." This duty of "equal justice" defines our "profession" as one established to achieve the common good. This aspect of our profession goes beyond the ethical duty of loyalty to our clients and an obligation to be civil to one another.

Oregon lawyers and the MBA have had a tradition of working to ensure equal justice and performing pro bono service. In the MBA's 100th Anniversary edition of the *Multnomah Lawyer*, Leslie Kay, a past MBA President, explained some of this early history. The MBA and OSB in 1935 established the first program to provide free legal aid in Multnomah County.

Legal aid lawyers, volunteer lawyers and the other members of the bar who have financially supported them continue to make outstanding contributions to low-income Oregonians. These legal services have improved the lives of many Oregonians in countless ways. Our society is better for it.

The Campaign for Equal Justice (CEJ) reports, however, that "[b]etween 2000 and 2011, those eligible for free civil legal services in Oregon (125% of the federal poverty level) increased by 61.5%, the 8th highest rate in the nation." CEJ also reports that "[a]t a time when resources for legal aid have declined, the increase in poverty has been staggering, leaving about 85% of the civil legal needs of the poor unmet."

Nearly 850,000 low-income and elderly Oregonians qualify for the services of legal aid attorneys. Only about 15% of the need is met by the current legal aid services. About 80% of the legal aid's clients are women, most of them with children to support.

The efficiency and effectiveness of the circuit courts have been affected as well. In Multnomah County, of the civil cases (excluding family law cases), at least 23% of the cases have at least one party unrepresented. Of the family law cases, at least 80% of the cases have at least one party unrepresented.

With those statistics trending in the wrong direction, how shall we judge our profession? Should we consult the most recent OSB Economic Survey of the Oregon lawyers? Or, as an alternative, should we consult our community at large for whether the legal needs of vulnerable Oregonians are being met?

I recall an ABA study in which 80% of clients were happy with their lawyers. But I expect that citizens who had to "go-it-alone" when they could not secure legal services would not hold the legal profession and the rule of law in high esteem. Perhaps among these unrepresented people were those who were wrongfully evicted. Perhaps others are those who failed to obtain a restraining order to prevent spousal or child abuse. Perhaps yet others are those who were wrongfully terminated and had no access to the court. These individual and familial harms obviously ripple out to the rest of the community in Oregon.

The Oregon Legislature recently considered but did not enact a "cy pres" statute which would have directed unclaimed funds (in the millions of dollars) from class actions to an endowment fund

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...our profession goes beyond the ethical duty of loyalty to our clients and an obligation to be civil to one another.

...we should continuously act on our duty to ensure access to equal justice.

mba|CLE

To register for a CLE, please see pages 3 & 4 or go to mbabar.org and log in as a member to register at the member rate.

APRIL

4.8 Tuesday Advising Nonprofits & Serving on a Nonprofit Board

Matthew Lowe
Shouka Rezvani
Penny Serrurier

4.16 Wednesday Tax Planning for the Taxable Estate

John Christianson
Helen Pruitt
J. Mack Shively

4.22 Tuesday Washington & Clackamas County Courts Update

Judge Robert Herndon
Judge Kirsten Thompson

4.24 Thursday Non-compete & Trade Secret Litigation

Jeff Edelson
Judy Snyder

MAY

5.6 Tuesday Clark County Presiding Court Update

Judge John Nichols
Don Jacobs

5.21 Wednesday Collecting on Judgments

Nicholas Henderson
John Parsons

5.22 Thursday Multnomah County Trial Practices Seminar & eCourt Presentation

Judge Ed Jones
Judge Judy Matarazzo
Judge David Rees

5.28 Wednesday Appellate Tips for Success

Judge David Schuman

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eCourt is Coming!



Multnomah County Circuit Court's eDay is May 12
Watch a free presentation on eCourt at mbabar.org

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DEADLINE for copy: The 10th of the month*

DEADLINE for ads: The 12th of the month*

*or the preceding Friday, if on a weekend.

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Multnomah Bar Foundation

Keep the Momentum Going

by Pamela Hubbs

Office and Foundation Administrator

Most of us recognize the importance of civic engagement and the consequences of not being informed about our government, the rule of law, our justice system or opportunities for active participation in the community. The MBF strives to fill the void in understanding by funding projects such as a multiple-county high school voting competition and a community leadership program for college students and young adults. Grantees work to educate the public by providing opportunities for students to study a current legal topic and discuss it with community leaders, teaching civic education to older adults and providing them with volunteer opportunities, and presenting comprehensive, nonpartisan voter guides, and candidate and ballot measure forums. The MBF funds projects that teach students about the institutions of American democracy, introduce youth of all ages to civics through the medium of film, and reach the community through the web, radio, and TV with civic engagement PSAs and a public affairs show about the justice system. Students are able to learn about the rule of

law through mock elections and leadership initiatives and teens can serve as peer attorneys and jury members in a restorative justice program. Newly naturalized citizens are taught about the voting system and provided assistance in registering to vote. In addition to these programs, the MBF funded an award recognizing excellence in civic education and engagement.

MBA members established the MBF in 2005 and have generously refilled its coffers each year, continuing its mission to increase public understanding of the justice system through civic education grants, special projects and events. When you support the MBF Civic Education Fund, you are making a difference in the community. You're taking action. This month marks the ninth anniversary of the MBF and a campaign to raise the funds needed to continue supporting civic education and engagement efforts in Multnomah County. Please consider making a donation to the MBF. Let's keep the momentum going.

To make a contribution or to learn more about the MBF, visit mbabar.org or call 503.222.3275.

Equal Justice & Our Profession

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to support legal aid. A version of a cy pres statute supported by the OSB and CEJ, HB 4143, passed in the House (36 to 21) but failed on the Senate floor as HB 4143A, on a split vote of 15 to 15. Whatever and whoever the causes of the failure to enact any cy pres bill, nothing changes the fact that every day, thousands of vulnerable Oregonians are in crisis without legal aid services.

As a legal profession, we should continuously act on our duty to ensure access to equal justice. Without equal justice, vulnerable Oregonians will continue to suffer. Solutions to end the legal aid crisis are available. We must find within each of us - as humans, neighbors and Oregonians - the will to act and make a difference. I am confident that our profession will do so.



2014 Golf Events

- May 15** Golf Clinic & Networking Event
RedTail
- June 17** Golf Outing
Riverside Golf and Country Club
- July 18** Family & Friends
McMenamins Edgefield
- August 18** Lawyers & Law Students
Langdon Farms
- September 22** MBA Championship to Benefit the Volunteer Lawyers Project
Oregon Golf Club

Register at mbabar.org.



Calendar

To add your organization or firm's annual events to the MBA online calendar, contact Carol Hawkins, carol@mbabar.org.

APRIL

4.5 Saturday
MBA WinterSmash
Visit mbabar.org for details

4.23 Wednesday
Administrative Professionals Day

CLP Legal Citizen Dinner
Visit classroomlaw.org for details

4.26-5.2 Saturday-Friday
Community Law Week

4.28 Monday
Oregon Paralegal Association Soiree & CEJ Fundraiser
Visit oregonparalegals.org for details

MAY

5.1 Thursday
YOUTHFILM Screening
Visit mbabar.org for details

5.1-3 Thursday-Saturday
ABA/NLADA Equal Justice Conference
Visit nlada.org/training for details

5.2-3 Friday-Saturday
OAAP/OWLS Women's Wellness Retreat
Visit oaap.org for details

5.5-23 Monday-Friday
CourtCare Fundraising Campaign
Visit mbabar.org for details

5.12 Monday
eCourt goes live in Multnomah County Circuit Court

5.15 Thursday
MBA Golf Clinic & Networking
See insert for details

5.22 Thursday
FBA Oregon Chapter Annual Dinner
Visit oregonfba.org for details

5.26 Monday
Memorial Day Holiday

5.30 Friday
MBA Annual Meeting & Dinner

mba | EVENT

Multnomah Bar Association Annual Meeting, Dinner and Judges Reception

Friday, May 30
Portland Marriott Downtown Waterfront
1401 SW Naito Parkway
5 p.m.

Celebrating the profession and recognizing our colleagues

Professionalism Award Recipient
Mark Johnson Roberts

MBA Awards of Merit
Chief Justice Thomas Balmer
Philip Bentley
Judge Christopher Garrett
Presiding Judge Nan Waller
Representative Jennifer Williamson
Leslie Kay

YLS Awards of Merit
Kelvin Adkins-Heljeson
Shayda Zaerpoor Le

YLS Rookie of the Year
Jacqueline Alarcon

Pro Bono Awards
William Kwitman
Gerard Rowe
Sara Staggs

RSVP by May 19. Invitations will be mailed separately.



Seminars are worth 2 OSB credits unless otherwise noted; 2 Washington MCLE credits may be obtained independently. Registrants who miss the seminar may request the written materials. Substitutions are welcome. Registration fees are non-refundable.

Advising Nonprofits and Serving on a Nonprofit Board Navigating the Rules and Avoiding the Traps

**Tuesday, April 8, 2014
3:00-5:00 p.m.**

World Trade Center
Mezzanine Room
26 SW Salmon, Portland
Members \$55
Non-members \$85

There are an increasing number of rules, regulations, excise taxes and other sanctions that can apply to a tax-exempt entity. Whether you serve on a nonprofit board or advise nonprofits as part of your law practice, it is important to know the rules that apply to various types of nonprofit entities.

Penny Serrurier of Stoel Rives, **Shouka Rezvani** of Tonkon Torp LLP and **Matthew Lowe** of O'Donnell, Clark & Crew LLP will address best practices in the nonprofit area to help advisors, board members, and key staff avoid conflicts of interest and apply sound fiduciary oversight. This presentation will cover private foundations, public charities, trade associations, social clubs, and similar tax exempt entities. The speakers will outline the policies and procedures that help ensure a tax exempt entity is operating in compliance.

For more information:

Call Todd Cleek, Cleek Law Office at 503.706.3730. For registration questions, call the MBA at 503.222.3275.

Tax Planning for the Taxable Estate

**Wednesday, April 16, 2014
3:00-5:00 p.m.**

White Stag Building
Wayne Morse Suite
70 NW Couch St., Portland
Members \$55
Non-members \$85

Note: This class is co-sponsored by UO Law and will be held at the White Stag Building in the Wayne Morse Suite, 70 NW Couch St, Portland.

The CLE will detail how to assess a client's exposure to Federal Estate and Oregon Inheritance Tax regimes, as well as the client's exposure to gift, GST and other transfer taxes. **John Christianson**, Gevurtz Menashe, **Helen Pruitt**, Wyse Kadish and **J. Mack Shively**, Attorney at Law will lead a discussion on common planning techniques, such as the use of different trusts to create tax efficient plans.

For more information:

Call Will Glasson, University of Oregon School of Law at 503.412.0468. For registration questions, call the MBA at 503.222.3275.

Washington and Clackamas County Courts Update

**Tuesday, April 22, 2014
3:00-5:00 p.m.**

World Trade Center
Mezzanine Room
26 SW Salmon, Portland
Members \$55
Non-members \$85

The MBA CLE Committee presents a two-hour CLE focusing on Washington and Clackamas County court updates. This CLE is designed for all attorneys and will provide information and forms for navigating the Washington and Clackamas County courts.

Our panel includes Washington County Presiding **Judge Kirsten Thompson** and Clackamas County Presiding **Judge Robert Herndon**. This class will assist the practitioner in adjusting to court procedures outside of Multnomah County, including court organization, filing and serving your complaint, general calendaring, routine motion practice and scheduling and getting court assistance with trial and pleading issues.

The class will also provide attendees with updates to both Washington and Clackamas County court practices. Printed materials and online resources will be available to provide further assistance to attorneys who may practice in either or both of these counties.

For more information:

Call Courtney Dippel, Folawn Alterman & Richardson LLP at 503.546.4630. For registration questions, call the MBA at 503.222.3275.

Evaluating, Prosecuting and Defending Non-compete and Trade Secret Litigation

**Thursday, April 24, 2014
3:00-5:00 p.m.**

World Trade Center
Plaza Room
26 SW Salmon, Portland
Members \$55
Non-members \$85

Significant changes to Oregon's noncompetition statute, coupled with the growth in electronic communications and social media, now require fresh and creative approaches to evaluating, defending and prosecuting litigation when employees depart to competing companies.

Join **Jeff Edelson**, of Markowitz, Herbold, Glade & Mehlhaf, PC, and **Judy Snyder**, of The Law Offices of Judy Snyder, for a wild ride in the world of emergency TROs, expedited discovery, and hard-drive forensics. Jeff and Judy each bring more than 20 years of experience representing departing employees, jilted employers, and aggressive companies recruiting talent. They will dissect Oregon's unique noncompetition statute, examine the newest developments, offer approaches for advising employees to avoid litigation, explain how and when to pull the litigation trigger, and help navigate you through a noncompete/trade secrets lawsuit.

For more information:

Call Shannon Armstrong, Markowitz Herbold Glade & Mehlhaf at 503.295.3085. For registration questions, call the MBA at 503.222.3275.

Clark County Presiding Court Update

**Tuesday, May 6, 2014
3:00-5:00 p.m.**

World Trade Center
Mezzanine Room
26 SW Salmon, Portland
Members \$55
Non-members \$85

The 2014 Clark County Presiding Court Update will be presented by Clark County Superior Court **Judge John Nichols** and Vancouver civil litigator **Don Jacobs**. This class is designed for anyone who practices in Clark County, whether on a regular basis or only occasionally. Judge Nichols will provide valuable information regarding new practices or changes to existing practices within the Clark County Court system. Mr. Jacobs will focus on the aspects of a civil trial in Clark County and how they may differ from civil trial practices in the Portland metro area. If you currently practice in Clark County, or have been considering practicing in Clark County, this CLE is a must for you. This class is geared toward practitioners with all levels of experience.

For more information:

Call Don Jacobs, Attorney at Law at 360.695.1624. For registration questions, call the MBA at 503.222.3275.

Collecting on Judgments

**Wednesday, May 21, 2014
3:00-5:00 p.m.**

World Trade Center
Mezzanine Room
26 SW Salmon, Portland
Members \$55
Non-members \$85

Judgments are great – but collection is what your client cares about. Learn how to “get it done” efficiently and add to your tool chest of creative techniques while avoiding the minefields. Aimed at the business/commercial litigator as well as consumer-debt practitioners, we'll cover attachment, debtor exams, sheriff's sales, bankruptcy issues, deeds in lieu and everything in between that we can cover in two hours. Our speakers are two experienced litigators: **John Parsons**, Parsons Farnell & Grein LLP, and **Nicholas Henderson**, Motschenbacher & Blattner LLP:

- How to strategically use debtor interrogatories and exams;
- The impact of different practices in various Oregon jurisdictions;
- Techniques to mitigate the impact of bankruptcy on your judgment;
- How to tee up a sheriff's sale or foreclosure.

For more information:

Call Seth Row, Parsons Farnell & Grein LLP at 503.222.1812. For registration questions, call the MBA at 503.222.3275.

Multnomah County Trial Practices Seminar and eCourt Presentation

Thursday, May 22, 2014
3:00-5:00 p.m.

World Trade Center
Mezzanine Room
26 SW Salmon, Portland

Members \$55
Non-members \$85

This year's program will feature presentations by **Judges Ed Jones, Judy Matarazzo** and **David Rees**. Topics will include motion practice, jury selection, briefing, jury instructions, making and arguing objections, managing witnesses and exhibits, handling presentation media and other procedural and practical issues faced by trial lawyers. The panel will also identify and discuss approaches for avoiding significant trial practice mistakes that Multnomah County judges frequently encounter.

The program is designed for attorneys at all levels of experience, and practitioners are strongly encouraged to take advantage of this excellent opportunity to ask questions. Please join us for this informative discussion.

This class will also include a presentation on eFiling using Odyssey File and Serve by **Daniel Parr**, Office of the State Court Administrator. eCourt will go live in Multnomah County on May 12.

For more information:

Call the MBA at 503.222.3275.

Appellate Tips for Success

Wednesday, May 28, 2014
3:00-5:00 p.m.

World Trade Center
Mezzanine Room
26 SW Salmon, Portland

Members \$55
Non-members \$85

The appeals forum is a vastly different world from trial court advocacy. Join us for an informative discussion with veteran Appellate Court **Judge David Schuman** on the techniques that prevail or fail in appellate practice. Learn how to maximize the effectiveness of both your written and oral arguments.

For more information:

Call Helen Tompkins, Law Office of Helen Tompkins PC at 503.534.5020. For registration questions, call the MBA at 503.222.3275.

Free Online CLE for Members

The CLE webcast "How to Start a Firm, Leave a Firm, or Retire From the Practice of Law" is available for free in the Members Center section of the MBA website.

Members receive free access to a rotating schedule of six different CLE webcasts each year.

Annual Probate Court Update and eCourt Presentation

Wednesday, June 4, 2014
2:30-5:00 p.m.

World Trade Center
Auditorium
26 SW Salmon, Portland

Members \$55
Non-members \$85

Note: This class runs 2:30-5 p.m. and will be worth 2.5 hours of OSB MCLE credit.

The MBA presents the 2014 Annual Probate Update, featuring **Judge Katherine Tennyson**, Multnomah County; **Judge Andrew Erwin**, Washington County; and **Judge Robert Herndon**, Clackamas County. The judges and staff will discuss current practices and procedures in the metro area. This CLE is a must for all probate practitioners and/or their staff.

This class will also include a presentation on eFiling using Odyssey File and Serve by **Daniel Parr**, Office of the State Court Administrator. eCourt will go live in Multnomah County on May 12.

For more information:

Call Sarah Brown, Yates Matthews & Eaton PC at 503.224.7077. For registration questions, call the MBA at 503.222.3275.

Photocopy, complete and mail or fax the registration form with payment to the MBA to reserve your space. Or register online and receive a \$5 discount. Self-study materials from past CLE classes may be downloaded at www.mbabar.org.

Registration Form

Receive a \$5 Discount when registering online at www.mbabar.org.

NAME _____	ACCOUNT NUMBER _____
FIRM _____	EXPIRATION DATE AND SECURITY CODE _____
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PHONE _____	_____
OSB# _____	_____

Member Status:

- MBA Member
 Non-Member

Payment Options:

- Check VISA MasterCard
 American Express

Registration forms with payment must be received in the MBA office by 3:00 p.m. the day before the seminar, or the "at the door" registration fee will apply (see fees for each class and fill in the blank on registration form). Registration forms may be mailed or faxed to the address or number below. Accommodations available for persons with disabilities; please call in advance for arrangements.

Photocopy registration and mail or fax with payment to:

Multnomah Bar Association
620 SW Fifth Ave., Suite 1220 ■ Portland, OR 97204
503.222.3275 ■ Fax to: 503.243.1881

Register online and order or download MBA self-study materials at www.mbabar.org.

Reduced fees for unemployed members are available and are assessed on a case-by-case basis. For details, call the MBA at 503.222.3275.

Seminar Selection:

Please select the seminar(s) you wish to attend. Written materials for each class are included with registration. Pre-registration with payment is required to reserve a space; at-the-door registrations are accepted if space is available; an additional \$5 charge will apply.

4/8 Advising Nonprofits and Serving on a Nonprofit Board

- Class Registration Online (\$50 Members/\$80 Non) _____
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 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ _____

4/16 Tax Planning for the Taxable Estate

- Class Registration Online (\$50 Members/\$80 Non) _____
 Class Registration (\$55 Members/\$85 Non) \$ _____
 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ _____

4/22 Washington and Clackamas County Courts Update

- Class Registration Online (\$50 Members/\$80 Non) _____
 Class Registration (\$55 Members/\$85 Non) \$ _____
 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ _____

4/24 Evaluating, Prosecuting and Defending Non-competes and Trade Secret Litigation

- Class Registration Online (\$50 Members/\$80 Non) _____
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 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ _____

5/6 Clark County Presiding Court Update

- Class Registration Online (\$50 Members/\$80 Non) _____
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 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ _____

5/21 Collecting on Judgments

- Class Registration Online (\$50 Members/\$80 Non) _____
 Class Registration (\$55 Members/\$85 Non) \$ _____
 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ _____

5/22 Multnomah County Trial Practices Seminar & eCourt Presentation

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 Class Registration (\$55 Members/\$85 Non) \$ _____
 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ _____

5/28 Appellate Tips for Success

- Class Registration Online (\$50 Members/\$80 Non) _____
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6/4 Annual Probate Court Update and eCourt Presentation

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 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ _____

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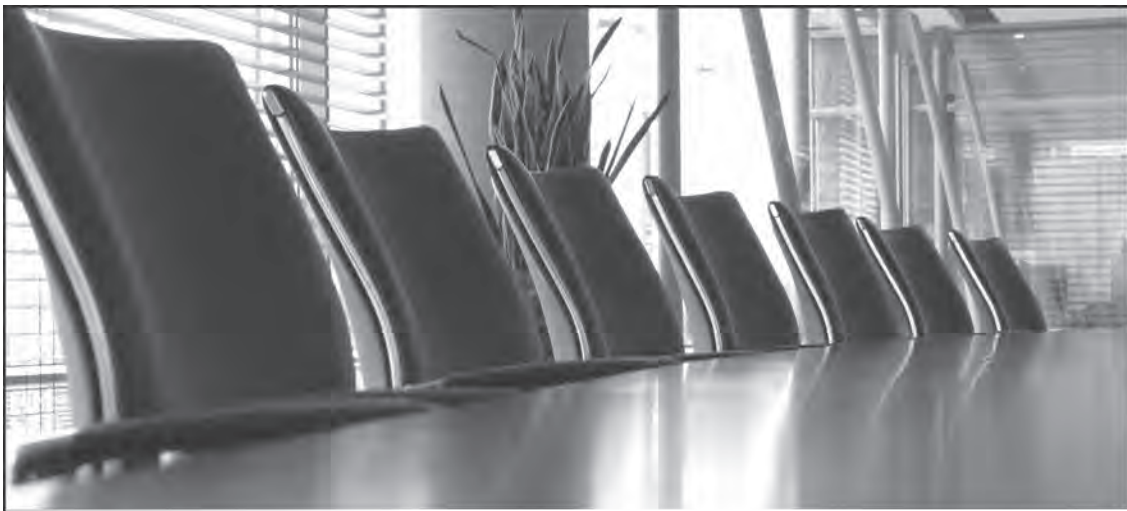
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mba | ANNOUNCEMENTS

MBA Survey Drawing Winners

Congratulations to the winners of the MBA membership survey drawing. **Sean Conner** and **Nigel Vanderford** won tickets to attend the sold-out event “Everybody Reads 2014” with Justice Sonia Sotomayor, presented by Literary Arts. **Sonya Fischer** and **Meg Goldberg** each won an Amazon.com gift card.

MBA Voting Deadline is April 18

In addition to the membership survey, the MBA sent all current members a board election ballot along with another ballot to vote on proposed bylaws changes. The deadline for voting on both ballots is Friday, April 18. If you have questions, please call 503.222.3275.

New Free CLE Content for Members

The video webcast of the seminar entitled “How to Start a Firm, Leave a Firm, or Retire From the Practice of Law” is now available in the Members Center on the MBA website. The seminar is worth two hours of practical skills OSB MCLE credit. MBA members receive access to a rotating selection of six different CLE seminars each year – a \$300 value. The free webcast content is refreshed every two months, so stay tuned!

Take a Matter that Matters

Sign the MBA Pro Bono pledge at mbabar.org/about-us/pro-bono.html and commit to taking at least one pro bono case this year.

Noon Bicycle Rides

Take a noon break for a short, fast ride with hills. Meet at SW Yamhill and Broadway between noon and 12:10 p.m. on Mondays and Thursdays. Contact Ray Thomas at 503.228.5222 with questions, or just meet at the start.

LAWPAY

CREDIT CARD PROCESSING

Why it Pays to Accept Credit Cards

Credit and debit card acceptance is an essential practice management tool that is often overlooked as a means to increase revenue and cash flow. Many clients, including prospective clients, prefer the convenience of paying with credit or debit cards as opposed to checks. Opening a merchant account for your firm is a simple process and immediately gives you more control of your receivables. Why turn away a prospective client who wants to use your law firm’s services and has the means to pay promptly?

Cash Flow 101

Accepting credit cards allows law firms to benefit from immediate cash flow. It helps eliminate “the check is in the mail” and other common delay tactics. With most merchant accounts, credit card payments are available to you within 24-48 hours. Clients depend on your firm for assistance with legal matters, not

a credit line. It makes fiscal sense to let the Visa and MasterCard banks manage credit lines, handle collections and potential late payments. Accepting credit cards saves you time, frustration and energy in order to do what attorneys do best ... practice law and help clients.

Credit Worthiness of Your Clients

Most law firms do not have an ‘underwriting’ process when accepting new clients. Generally, there is no credit check or credit review. As a result, you may not have any insight into your client’s true ability to pay. Every time an invoice goes unpaid or payment is late, your firm is essentially extending credit to clients and putting your receivables at risk. Unfortunately, a legal bill is one of the easiest expenses *not* to pay. Historically, law firms do not report to credit agencies or enforce late fees. It is also tricky to sue a client for unpaid fees.



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The simple fact is that banks do underwriting; attorneys don't. Take advantage of the card bank's underwriting department. If a Visa or MasterCard bank does not take the financial risk on an individual, why would you?

Merchant Account Basics

If you are considering credit card services or already accept credit cards in your firm, make sure the credit card processing company you choose understands the specific needs of a law firm. Most law firms prefer to accept payment in a professional manner. Law firms do not have a check-out lane, do not need high speed systems and find asking clients to enter their pin number into credit card machines is not a professional way to run a law office. As such, there are many custom options available to law firms, which include web-based and specific terminal programs designed for attorneys. You will find fees for a merchant account range from 2-3% of the transaction, depending on the type of card used.

Separating Earned and Unearned Fees

One key feature to consider when opening a merchant account is the ability to separate earned and unearned fees. To stay in compliance with ABA and most state guidelines, your merchant account should prevent co-mingling of funds by correctly depositing any unearned fees or advanced payments directly to your trust account. Most importantly, a compliant merchant account must protect the trust account from any third party withdrawals, including processing fees.

Use Your Website

Consider expanding the use of your website and add a “Pay Invoice” link. This gives clients a convenient way to pay through the click of a button. Encourage clients to pay online. This drives more traffic to your website and increases the visibility of your firm. Not only does this provide a convenience to your clients, it also eliminates the need to collect, store and process payments in your office.

The Bottom Line

A merchant account can be the key to resolving payment and cash flow issues. It provides payment flexibility as well as convenience. In addition, offering credit cards as a payment option has been proven to attract clients and win new business. Now you can spend less time chasing down collections and more time practicing law.

About LawPay

The LawPay program is a custom payment solution designed for attorneys. The LawPay program complies with ABA and state requirements for managing client funds. As a member benefit of the MBA, law firms save up to 20-25% off standard credit card fees. If you are currently accepting credit cards, we encourage you to compare your current processor with LawPay. To learn more, call 866.376.0950 or visit lawpay.com/mbabar.

Ethics Focus

ABA “Ethics 20/20” Amendments (Sort of) Come to Oregon

by Mark J. Fucile
Fucile & Reising



This past fall, the OSB House of Delegates approved and the Oregon Supreme Court adopted a series of amendments to the Rules of Professional Conduct based on the ABA “Ethics 20/20” Commission’s recommendations. The Ethics 20/20 Commission was a multi-year review of the ABA’s influential Model Rules of Professional Conduct that focused primarily on the impact of technology and outsourcing on law practice since the model rules were last comprehensively updated in 2002 and 2003.

The Ethics 20/20 Commission’s reports and recommendations were considered by the ABA House of Delegates in August 2012 and February 2013 and resulted in a number of changes to both the model rules and the accompanying comments. Extensive materials from the commission are at www.americanbar.org/groups/professional_responsibility/aba_commission_on_ethics_20_20.html.

Oregon’s adoption of the Ethics 20/20 amendments is tempered by the fact that we are one of a dwindling handful of states that have not adopted the integrated comments to the ABA Model Rules. Much of the Ethics 20/20 Commission’s work is reflected in the comments rather than in the rules themselves. The impact of the Ethics 20/20 amendments in Oregon, therefore, is comparatively muted. In this column, we’ll survey the amendments as adopted here and where Oregon lawyers can look to for similar guidance on the ethical and risk-management implications of the increasing prominence of both

technology and outsourcing for law firms large and small.

On a side note, the Ethics 20/20 Commission also amended the lawyer marketing component of the ABA Model Rules in several respects. We discussed Oregon’s new advertising rules that reflect both the ABA Model Rules and Oregon’s own unique history in this area in last month’s column.

The 20/20 Amendments

A prime focus of the Ethics 20/20 Commission was on the evolving impact of technology on law practice. Many of the model rule amendments and their Oregon counterparts, therefore, focus on “electronic” issues. RPC 1.0(q), for example, changes the term “email” to “electronic communications” in describing what constitutes a “writing.” Similarly, RPC 4.4(b) was amended to include the phrase “electronically stored information” within the scope of the rule’s treatment of inadvertently sent confidential material and RPC 1.6 was amended to add a new subsection “c” that underscores our duty to protect client confidentiality by making reasonable efforts to avoid inadvertent disclosure or unauthorized access to client confidential information. Most of the Ethics 20/20 changes addressing technology, however, were in the comments and wove together the twin themes of lawyer competence in using new technology and the continuing duty to protect client confidentiality when communicating with clients or storing their files electronically.

Another principal focus of the Ethics 20/20 Commission was on increased outsourcing of both lawyer and nonlawyer services. The disconnect between the ABA Model Rules and the Oregon RPCs due to our lack of comments is fairly stark when it comes to these amendments. The only amendment to the Oregon RPCs on this front is to change the word “assistants” to “assistance” in the title to RPC 5.3, which addresses supervisory

duties over nonlawyers. Again, most of the Ethics 20/20 changes in this area were directed to the comments and include detailed guidance on a lawyer’s responsibilities for both selecting and supervising outsourced lawyer and nonlawyer services.

Oregon Guidance

Although Oregon lawyers do not have the benefit of comments to accompany our RPCs, we do have a relatively comprehensive set of ethics opinions. The difference, of course, is that in most states that have adopted comments, such as Washington, they are “official” in the sense that they are the interpretative guidance being offered by the respective supreme courts. In Oregon, by contrast, even opinions issued by the OSB are “advisory” only under RPC 8.6 and do not preclude prosecution even if followed.

While not a perfect substitute for comments tightly integrated into the ABA Model Rules, OSB Formal Ethics Opinions 2011-187 and 2011-188 are excellent examples of the very helpful guidance available in the areas of technology and outsourcing. These opinions, like the rest of the OSB library, are available at osbar.org. Ironically, many cite the ABA Model Rule comments.

Opinion 2011-187 addresses “metadata” that is embedded within documents transmitted electronically. The opinion examines the duties of both senders and receivers. On the former, Opinion 2011-187 concludes that we must competently use technology so that we will not inadvertently reveal client confidential information. On the latter, Opinion 2011-187 finds that lawyers must follow RPC 4.4(b)’s duty to notify opposing counsel if they receive what appears to be inadvertently sent confidential information within metadata.

Opinion 2011-188, in turn, addresses access and storage of law firm files with third-party “cloud” service providers. The opinion weaves together many of the same themes incorporated into the Ethics 20/20 comments, including the bedrock duties of competence and confidentiality. Opinion 2011-188 notes that lawyers are responsible for understanding the technology they are employing well enough to both choose and supervise third-party vendors that comply with our own duty of confidentiality.



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Around the Bar



Laura Salerno Owens



John Dunbar

Markowitz Herbold et al

Litigator **Laura Salerno Owens** has joined the firm as an associate. Her practice will focus on commercial litigation and employment disputes. Salerno Owens is a trial lawyer with broad experience representing clients in employment-related matters in state and federal courts and before the Bureau of Labor and Industries and Equal Employment Opportunity Commission.

John Dunbar has joined the firm as of counsel. His practice will focus on complex commercial litigation, healthcare, public entities and environmental disputes.



Kimberlee Petrie Volm

Cosgrave Vergeer Kester

Kimberlee Petrie Volm is an associate attorney in the firm's complex torts practice group. Her practice includes business and commercial litigation, and personal injury and property damage liability.

Lemire & Hirano

Megan Lemire announces the opening of her new firm, which handles employment and civil rights litigation, estate planning and administration, and elder law.

Holland & Knight

Five new partners joined the firm. **Peter Jarvis** focuses his practice on legal ethics, risk management and disciplinary defense matters for lawyers, law firms and corporate legal departments. Jarvis is co-author

of Hazard, Hodes and Jarvis' *The Law of Lawyering*, one of the leading national treatises on professional responsibility issues.

Allison Rhodes advises lawyers and law firms on legal ethics and risk management. She also advises both law firms and lawyers in matters involving lawyer mobility, partnership and corporate structuring, lawyer dissociation and lateral hiring. Rhodes is a co-author of the leading treatise, *Legal Malpractice*, in which she authors the discussions pertaining to legal ethics, risk management, fiduciary duty and conflicts of interests.

Roy Pulvers handles appeals for lawyers and law firms, government bodies and officials, and he has been counsel on private-sector appeals that are among the largest personal injury, products liability and class action cases in Oregon.

Dayna Underhill handles the representation of lawyers and law firms in ethics and professional responsibility, risk management and attorney discipline matters. She also represents clients in state and federal court employment matters and securities and commercial litigation.

David Elkanich defends lawyers in attorney discipline matters and disqualification motions as well as other professional responsibility matters. He advises lawyers on how to navigate an "electronic" practice with online issues, metadata mining and social media. He also represents clients in commercial litigation.

Calon Russell assists law firms at the organizational level, assists lawyers with regulatory compliance issues, and defends lawyers accused of misconduct. He also focuses on civil litigation, primarily at the appellate level.



Traci Ray

Barran Liebman

Executive Director **Traci Ray** was honored with the Campaign for Equal Justice (CEJ) Staff Award for exceptional fundraising contributions at the annual luncheon. She served on the CEJ Board from 2011-13 and is currently an advisory member. She is also the MBA YLS President, is a board member with the Oregon Law Foundation and also serves the OWLS Foundation Board as auction co-chair.

Tyler Volm and **Damien Munsinger** have joined the firm as associate attorneys. Both represent employers and management in employment law litigation, and



Tyler Volm & Damien Munsinger

provide advice on a full range of employment law matters. Volm is a YLS Board director and a volunteer attorney with the Lewis & Clark Small Business Legal Clinic. Munsinger was formerly with the Oregon Department of Justice Trial and Civil Enforcement Divisions. He also served as former Attorney General John Kroger's Special Assistant.

Lane Powell

Lane Powell raised more than \$33,000 during the recent Oregon Lawyers Against Hunger food drive, marking a 16th year as the drive's top fundraiser and earning a Silver Barrel Award.



Scott Farleigh

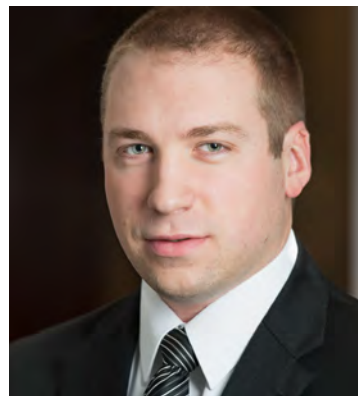
Farleigh Wada Witt

After nearly 40 years of providing practical wisdom and experienced legal counsel to clients, founding shareholder **Scott Farleigh** has decided to retire from the practice of law and enjoy the great outdoors with family and friends.

Farleigh founded the firm in 1981 with the following mission: be easy to get in touch with and provide the highest level of responsive service. He lived these principles on a daily basis and was well respected by clients and fellow attorneys for his quality work and outstanding service.

He saw the firm grow from six attorneys into a full-service, mid-sized firm with a solid reputation for serving the business and financial communities of the Pacific Northwest.

"Scott cares deeply for his clients, his fellow firm shareholders, and employees as well as family and friends," says Hal Scoggins, president of the firm. "This care and concern for others infuses everything Scott does, from his service to clients to his approach to law firm operations, to his work with organizations like the Juvenile Diabetes Research Foundation. Scott will no longer be practicing law with us, but the values he demonstrated and the tone he set will always be part of the firm's culture."



Will Patterson

Folawn Alterman & Richardson

Will Patterson has joined the firm as an associate. His practice includes complex civil litigation, business law, estate planning, as well as general transactional work, such as contract drafting and review.



Scott Snyder

Scott Snyder Arbitration & Mediation

Scott Snyder is now providing alternative dispute resolution services. He has 24 years of business and injury litigation experience and has also arbitrated and mediated many cases both as a litigator and a neutral. He still finds time to play music with other lawyers. Snyder may be reached at scottsnnyderadr@gmail.com, www.scottsnnyderadr.com, and 503.452.7747.



Craig Nichols

Nichols & Associates

Craig Nichols was recently elected Brain Injury Alliance of Oregon President. Nichols' practice includes representation of the Oregon Auto Dealers Association, Metro Portland New Car Dealers Association and Metro Portland RV Dealers Association. In addition to representing local and regional businesses, Nichols' trial practice has, for more than 30 years, included representation of severely injured individuals and their families in both state and federal courts.

Schwabe, Williamson & Wyatt

Gillian Bunker, **Christiane Fife**, **Sara Kobak**, **Peter Ricoy** and **Kelly Walsh** have been named shareholders of the firm.

Bunker is an experienced patent attorney whose practice focuses on the preparation, prosecution and commercialization of U.S. and foreign utility and design patents.

Fife focuses her practice on product liability litigation, representing businesses involved in automotive, pharmaceutical, and medical device cases in federal, state, and multi-district proceedings.

Kobak specializes on appellate litigation. She has significant experience before the Oregon Court of Appeals, the Oregon Supreme Court, and the Ninth Circuit Court of Appeals. She also has assisted with briefing before the U.S. Supreme Court. She is a volunteer attorney with the Ninth Circuit Pro Bono Program and has served on the CEJ Associates Committee. Most recently, she has been serving as pro bono counsel in a death-penalty post-conviction proceeding.

Ricoy focuses his legal practice in health care law, data security and privacy, insurance regulation, and general corporate and business transactions. He works with health plans, physicians, group practices, hospitals, insurers, and employers.

Walsh focuses her practice on the areas of commercial and business litigation, as well as construction law.



Susan Hammer

Susan Hammer

Mediator **Susan Hammer** was selected to serve as a judge and mediator for the International Chamber of Commerce (ICC) Mediation Week in Paris from February 7-12. The ICC competition included over 500 law and business students from 42 countries. The students compete to demonstrate their skills as collaborative problem solvers. Hammer judged or mediated for students from Bulgaria and Bahrain, Germany and Australia, the United States and New Zealand, Israel and Denmark, Singapore and Canada, Russia and France, Ukraine and The Netherlands.

Tonkon Torp

Rachel Atchison has been elected to Portland's Rock'n'Roll Camp for Girls Board of Directors.

Atchison is a member of the firm's business law practice group, where she works on a variety of matters including securities regulation and issues related to the financial services

Continued on page 9

Judicial Code Reflects Commitment to Pro Bono

by Meagan Robbins
OSB Pro Bono Committee



As members of the legal community, we all know the importance and value of pro bono work. Many firms encourage their attorneys to provide pro bono work, and some even allow pro bono hours as a “credit” against the billable hours requirement. Many attorneys do pro bono work simply because they feel it is a duty and honor to share their legal skills to provide access to justice.

Prior to the end of 2013, the Oregon Code of Judicial Conduct was silent on whether judges could solicit or encourage attorneys to provide pro bono services. Fortunately, a recent revision to the code provides the judiciary with some guidance. Rule 4.5(E) reads, “[S]o long as the procedures employed are not coercive, a judge may personally encourage or solicit lawyers to provide publicly available pro bono services.” Rule 4.5 is based in part on Rule 3.7 of the ABA’s Model Code of Judicial Conduct and on current Judicial Rule 3-102.

This revision is a particularly big and important step to proponents of pro bono. The goal of the OSB Pro Bono Committee is to promote and encourage pro bono work statewide, and to have supporters in all areas of the law, including the judiciary. According to Multnomah County Circuit Court Presiding Judge Nan Waller, “One of the biggest challenges that our court and system of justice faces is the increasing numbers of people coming before the court without lawyers. Our justice system is not easily navigated without legal representation. The bench is very grateful for all of the pro bono efforts by lawyers. The change in the judicial code of conduct allows judges to encourage and solicit lawyers to participate in pro bono work without fear of crossing any ethical lines.”

Pro bono services are governed and supported by OSB bylaws, the Statement of Professionalism to which we have all subscribed, and can now be supported by the judiciary as well.

Meagan Robbins practices at Wyse Kadish, focusing on family law and civil litigation. She is a regular volunteer with LASO’s Domestic Violence Project and Clear Transitions PDX, and currently serves as secretary of the OSB Pro Bono Committee and chair of its Events Subcommittee.

Around the Bar

Continued from page 8



Rachel Atchison

industry. An accomplished guitarist and songwriter, she is co-founder of a band that has performed throughout the United States.

Founded in 2001, the Rock ‘n’ Roll Camp for Girls provides

workshops and technical training that builds girls’ self-esteem through music creation and performance. Programs are available for girls and women from the age of eight and up.

The Around the Bar column reports on MBA members’ moves, transitions, promotions and other honors within the profession. The submission deadline is the 10th of the month preceding publication or the prior Friday if that date falls on a weekend. All submissions are edited to fit column format and the information is used on a space-available basis in the order in which it was received. Submissions may be emailed to Carol Hawkins, carol@mbabar.org.



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Tips From the Bench



by Judge Marilyn Litzenberger

Jury Selection – What Works Well

There are many myths about what to do and what not to do during voir dire. The best trial lawyers use this time to build trust with jurors by sincerely listening to what prospective jurors tell them. The worst use of the jury selection process is to use the majority of the time to sell your case. Jurors are suspicious of trial lawyers. They have watched them on TV and in the movies. They come into the courtroom with the perception that lawyers are masters of manipulation. Your primary goal really should be to convince them otherwise. When you oversell your case during voir dire, and the evidence doesn't match the drama that your questions suggested, you validate lay jurors' initial perceptions of lawyers.

One of the best no- or low-cost resources available on how to conduct effective voir dire is a publication written by Washington state trial lawyer Karen Koehler. It is available by searching her blog *The Velvet Hammer* under the heading "Judge Talks About Voir Dire." Read it. If you have a spare 50 minutes, you might also want to listen to Ms. Koehler being interviewed on the subject at: <http://spreecast/events/karen-koehler-the-velvet-hammer>. Ms. Koehler's blog is recognized by the ABA as one of the best lawyer blogs year after year by the ABA. Whether you are a plaintiff's lawyer or defense lawyer, you can learn more than a thing or two from her wit and wisdom. It's fun to read and has practical advice to take to heart.

Visual Learners in the Courtroom – A Perspective on Educating the Trier of Fact

Whether your trier of fact is a group of lay jurors or a judge well versed in the law, do not overlook bringing visual aids into the courtroom. We are all familiar with how graphic design enhances our understanding of written communication. Today, our world of written communication is graphic intensive. People learn from information communicated in ways that underscore the verbal presentation of evidence

that is part of every trial. Unless your trial evidence is nothing more than a witness who relates what they saw and heard, you need to develop techniques that memorialize your witnesses' testimony so the jury will remember it. This can be done with flip charts and by projecting pre-admitted documents (contracts, medical records, repair estimates, balance sheets, etc.) on a screen using a projector and a laptop or iPad. The technology isn't complicated, and with a little bit of preparation and practice you can insure jurors or your judge recall the most salient parts of your presentation or the evidence.

One of the most effective visual aids I recall seeing used during a closing argument was in a trial that lasted several weeks. While the lawyer was discussing the evidence most persuasive to his client's position in the case, he projected photos of the witnesses who had presented that evidence during the trial. Seeing the witness' face was effective in helping the jury recall the testimony, even though some of the witnesses had testified in the first few days of the trial. On the flip side, jurors are not likely to recall a monotonous discussion of a string of email correspondence without a visual complement to that testimony. While the lawyer and the witness are communicating easily with the email string in front of them, the jurors are left in the dark, as though neither the lawyer nor the witness care whether they (the jurors) are eavesdropping on the conversation or not. Finally, foam boards are so '80s - do I have to say any more? Use a projector and a screen if you really want all 12 jurors to understand and recall a fact-intensive testimony derived from interpreting correspondence, a doctor's chart notes, contractual agreement or the like.

Foreclosure Cases – Panel Consensus Statements

If you are wading into the morass of foreclosure litigation or even if you've been entrenched for some time, be sure to familiarize yourself with the Multnomah County Foreclosure Panel Judges' Consensus Statements. They are available on the Multnomah County Circuit Court website, posted to the "documents" link for Judges Chris Marshall, Leslie Roberts and Marilyn Litzenberger.

Editor's Note: Last month's Tips from the Bench sub-headline was incorrect; the column title was incorrectly described as "Updates and Answers from the Family Law Department." The MBA regrets the error.



News from the Courthouse

by Charley Gee
Court Liaison Committee

Presiding Judge's Report & Courthouse Update

Judge Waller & Doug Bray

Legislation

Doug Bray reported that HB 4066, which addresses the question of how to create a revenue flow from Oregon eCourt that can be dedicated to system maintenance and upgrades over the years, was passed by both legislative houses. HB 4066 authorizes the chief justice to set reasonable fees for access to data from electronic case management systems collectively known as Oregon Judicial Case Information Network (OJCIN), with an additional provision requiring the chief justice to give notice prior to adopting or increasing OJCIN fees, along with reasonable time for comment on permanent fee decisions prior to implementation. HB 4066 also repeals the sunsets of the 2013 5% increases for all court fees and the fee revenue dedication from this increase to support court technology. The State Court Technology Fund is expected to accumulate \$1.9 million in 2013-15, and \$3.8 million in 2015-17.

The practical impact of the passage of HB 4066 is that the user fees associated with the eFiling system will continue to be paid from the State Court Technology Fund beyond June 30. Passage also clears the final point of resolution to providing access to court documents via the OJIN OnLine system for members of the OSB; this document access feature will be a part of your subscription expense paid to the Oregon Judicial Department. It is anticipated to be available via Oregon eCourt Case Information (OECI) in May or June.

eCourt - Orientation Sessions For Attorneys and Office Staff on the OECI System

Judge Waller encouraged all attorneys and their legal assistants to attend the orientation sessions that are available; the list is posted on the circuit court's website. She said that these sessions will help offices make a smoother transition from OJIN to the OECI system. While all of the OJIN data will be copied into OECI there will be major differences in look, feel, and, in some cases, the availability of data.

Week without OJIN

Judge Waller reminded the committee that starting the week of May 5, there will be no OJIN access via OJIN OnLine for the outside world after 5:30 p.m. on Monday. Beginning that same time, there will not be the ability to update OJIN by circuit court staff and they will be recording every action on paper to be updated into Odyssey beginning on Saturday, May 10. Judge Waller asked that all attorneys and their staff be extra patient during that time.

eWeek

Monday, May 12, is eDay - all circuit court operations in Multnomah County will be conducted in the OECI system for the first time in an operational setting. At each hearing, if the judge would have a file back in the OJIN world, the file will have been scanned into the system and the judge will have all documents in a digital display system. Lawyers are asked to please extend their patience through this first week of eCourt access.

Judge Waller noted that for OECI users, there will be a continued data blackout possibly running as late as May 27. During that time, parties to cases will receive notices of court action from OECI - such as for hearings set or judgments entered - but will not be able to view the case on the system from the remote location.

eFiling

About six weeks following implementation in Multnomah County, the court will request

one or two law firms to begin eFiling documents into the court. This small start is to give court staff and Tyler Technologies, the Oregon eCourt vendor, an opportunity to be certain the eFiling system and its interface to the case management system are working correctly. Once this system work is verified, and only then, all attorneys will be asked to begin eFiling. Judge Waller asks that attorneys wait for the court's announcement and give court staff and the contractor time to verify the court is ready for full system eFiling.

New Courthouse

Judge Waller reported that the National Center for State Courts' Planning and Space Programming Report is anticipated soon. This report will set the stage for the next critical decision - site selection. The site selection process begins in April, with the development of the criteria for a new courthouse site. In June, the site selection criteria will be announced along with a request for information (RFI) on candidate sites. Responses to the RFI will be screened to create a short list in October, and in December a final site jointly approved by the Board of County Commissioners, the Oregon Department of Administrative Services and the Oregon Judicial Department will be selected. Judge Waller emphasized that the site must be within close walking distance to the downtown Justice Center.

Judge Waller said that as soon as it was possible to do so, she would distribute the National Centers' Planning and Space Programming Report to the MBA.

Civil Case Management System

Judge Waller noted that the revisions to the civil case management system have resolved the backlog of cases in that system and seem to be readily accepted by the civil

Continued on page 16

Judge Michael Greenlick Multnomah County Circuit Court

by Heidee Stoller
Court Liaison Committee

In September 2013, Governor Kitzhaber appointed criminal defense attorney and former public defender Michael Greenlick to the Multnomah County Circuit Court.

Judge Greenlick was born in Detroit, Michigan but raised in Portland and went to Lincoln High School. He attended Pomona College in Claremont, California and graduated in 1981. After graduation, he returned to Portland, earned a law degree from Lewis & Clark Law School in 1985, and has spent his legal career practicing law in Portland.

Judge Greenlick is married to Susie Snyder, a licensed clinical social worker and assistant professor at Portland State University. They have two daughters, Hannah and Jessica. Hannah recently graduated from Pomona College and is working as an environmental organizer. Jessica graduated from Stanford Law School last year and is clerking for Oregon District Court Judge Michael Simon. After her clerkship, Jessica is hoping to follow in her father's footsteps as a public defender.

Judge Greenlick's parents are Mitch and Harriet Greenlick. Mitch is currently serving his sixth term as Oregon House

District 33 Representative. He is professor emeritus and past chair of the Department of Public Health and Preventative Medicine at OHSU, and was the Director of Health Research at Kaiser Foundation Hospitals for more than 30 years.

Judge Greenlick has over 25 years of experience as a criminal defense attorney. He served as a certified law student for the Metropolitan Public Defender (MPD) when he was at Lewis & Clark, and he worked for the MPD for 10 years after receiving his law degree. During his time at the MPD, he trained numerous young defense attorneys as head of the Misdemeanor Unit, and an attorney trainer. In 1995, he went into private practice as a founding partner of Borg, Strom & Greenlick (later Greenlick & Borg). Later, he became a sole practitioner.

While Judge Greenlick's primary practice area has always been criminal defense, he has a broad range of experience that will serve him well as a judge. During his time in private practice, he also represented clients in personal injury and federal civil rights cases. Additionally, a large proportion of his recent criminal cases involved complex federal cases,

and he has significant experience representing corporate directors and officers facing potential criminal liability in connection with investigations and other proceedings against corporations.

One of the first things that Judge Greenlick's colleagues, friends, and family will tell you is that he is truly passionate about the law. Oregon District Court Judge Michael McShane, who worked in MPD's misdemeanor unit when Judge Greenlick was in charge of it, recalls going into his office at the MPD on numerous occasions for a quick answer to a legal question. Judge Greenlick, who usually knew the answer, would ask "what does the statute say," pull out the criminal code, examine the statute, and carefully move forward from there. In some cases, his enthusiasm for the law approached unhealthy levels - for instance, he was the lawyer at the MPD who could be counted on to fully understand Oregon's byzantine traffic code, which is apparently similar to the Internal Revenue Code in its complexity. It may have been this expertise in traffic law that led to his recent decision to no longer jaywalk.

Judge Greenlick is a consummate professional. After a 25 year career practicing law in Oregon, he is greatly respected by defense attorneys and prosecutors alike as someone who embodies the ideals of professionalism that are so important to the practice of law in Oregon. Judge Greenlick always treated clients,

prosecutors, and judges with respect, and he always took the high road, even during very trying circumstances.

One should not be fooled, however, by Judge Greenlick's mild manner. He is described as a zealous advocate for his clients, and as very competitive. He is an avid Winterhawks fan; he was on the cross country team in high school; and in college he played for Pomona's basketball team, when Gregg Popovich was head coach. He is still waiting for Popovich to call him up with an invitation to play for the San Antonio Spurs. According to his former partner and current executive director of the MPD, Lane Borg, Judge Greenlick is also a highly competitive blackjack player, and one Las Vegas casino has informed him that he is no longer welcome to play blackjack there.

Judge Greenlick's competitive nature and enthusiasm for the law have made him the ideal coach for the We the People high school Constitution competition. He has spent thousands of volunteer hours over many years teaching the Bill of Rights to high school students at Lincoln and Grant High Schools. This year, his daughter Jessica joined him as a coach for the Grant Constitution Team. One of his students, Madison Moskowitz, describes him as an energetic and passionate teacher who spent countless hours with them, pushed them hard to read and understand a large number



Judge Michael Greenlick

of complex cases, and gave them the confidence that they needed to perform well in a very intimidating competition.

As a criminal defense attorney, Judge Greenlick recognized that he often saw clients during the most difficult and challenging times in their lives, and he cared about his clients and their lives beyond just the charges they were facing.

This characteristic will serve him well as a judge, as he will continue to see many people who are struggling with significant problems during extremely difficult times in their lives.

At Judge Greenlick's investiture, Judge McShane described him as a modern-day Atticus Finch. Multnomah County is fortunate to have a new judge who embodies the characteristics of Harper Lee's iconic legal protagonist.

Oregon eCourt System Components Overview Timeline to eDay & after for Multnomah County

By the time you read this information, the conversion of the Fourth Judicial District to Oregon eCourt will be just a few weeks away. It is important now to briefly break down what will happen one more time. This begins with the definitions of our systems:

OJIN

The Oregon Judicial Information Network (OJIN) is the original green-screen, COBOL-language case management system developed in the 1980s, and running to this day as the heart of the Oregon Judicial Department's circuit court case management system. Within the scope of OJIN is included the Financial Information and Accounting System, and a later-developed Graphical User Interface (GUI) component to the original OJIN, known as GUI/OJIN. OJIN will run forever, but it will never leave the 1980s, and everyone who knows how to program in COBOL has retired or will soon. On both scores, it is time to move to web-based technology and a person-based system.

OJIN OnLine

OJIN OnLine is the version of OJIN that can be run externally from the Oregon Judicial Department (OJD) network over the web. Using third-party software, users access an image of OJIN. It is a subscriber-based system based on usage. To use the system, offices buy one or more log-on credentials and pay a monthly fee for use. One log on could be used serially by many individuals, one at a time.

In June of 2012, the OJIN OnLine log on changed. There were now two icons on the screen - one for OJIN, and a new one for the Oregon eCourt Case Information (OEI) system.

With the passage of HB 4066, the name OJIN OnLine may soon be replaced with Oregon Judicial Case Information Network (OJCIN). The main change accomplished by HB 4066 is the perpetuation of revenue and fees for access and use of OJCIN systems made up of Appellate Case Management System (ACMS), OJIN, OEI and Oregon eFile and Serve for now. The revenue collected from

these fees is dedicated to the support and maintenance of the OJCIN systems.

OEI

The Oregon eCourt Case Information system is the name given to the new system by the OJD. The entire system comprises components purchased or operated by Tyler Technologies, Inc., the vendor of Odyssey. Odyssey is a "person-based" case, document and revenue management system; it is the heart of the Oregon eCourt. When you hear someone from OJD refer to "Odyssey," they are speaking specifically about this case management component, which holds all the case documents, all the case hearings, all of the case revenue transactions, and all of the related software to permit this system to be the management system for Oregon's circuit courts. About 12 states have selected Tyler Technologies' Odyssey product as a statewide solution for their court systems.

Oregon eFile and Serve

Another product that is a part of Oregon eCourt is the Tyler Technologies' electronic filing software known as File and Serve. This product was acquired by Tyler Technologies and was known formerly as Wiznet eFile and Serve. Tyler now operates this product under its own name. The

financial model for Odyssey eFile and Serve is "software as a service," and there is a fee for each use of the system. In 2013, it was decided that the fee for using the Oregon eFile and Serve system would be covered by a one-time, 5%, across-the-board increase in filing fees dedicated to this purpose. HB 4066 has made that revenue stream, and the fee increase, a permanent part of the structure. The "user" fee for Oregon eFile and Serve will be paid from this source, and not directly by the party using the system.

The schedule leading up to eDay and beyond

Monday, May 5: At 5:30 p.m.

OJIN is locked down and Multnomah County cases can no longer be viewed on OJIN OnLine.

Friday, May 9: All 10 circuit courts currently on OEI

will be offline for this single day. During this time, the two million active cases will be loaded into OEI for Multnomah County.

Monday, May 12: eDay.

The circuit court opens with all processes operating in the OEI system. Court staff have access to all case information, but OJIN OnLine users do not. The court will send notices of hearings, trials and entered judgments electronically to the email address for

the attorney of record in the case. It is the attorney's responsibility to keep the email address accurate and to make arrangements for others to have access to the email if necessary.

Friday, May 16: At 5:30 p.m.,

OEI courts will be offline through the weekend and the remaining eight million inactive cases will be loaded into OEI.

Wednesday, May 21:

Multnomah County Circuit Court will be given access to the inactive cases in OEI. Data review testing must be conducted to verify that the case conversion data is valid.

Tuesday, May 27: OEI

cases and possibly access to documents will be available to OJIN OnLine subscribers.

Late June: The Oregon eFile

and Serve pilot will begin. Two firms will be requested to eFile; a civil-focused firm, and a domestic relations-focused firm. The purpose of the limited use pilot program is to verify the system connections and to train court staff.

Mid to Late July: The Oregon

eFile and Serve system will be ready for all to use. Watch for the announcement.



Young Lawyers Section

The Growth of the Boutique Firm

by Kathryn Walter
YLS Futures Committee



We see it increasingly in the news: successful cadres of specialty attorneys splintering off large law firms - the rise of the boutique law firm. Boutique firms have an appeal for both the consumers of their services and the lawyers that provide them.

A boutique firm is typically small or mid-sized and features a clearly defined niche practice in the legal market. The most common boutique firms specialize in employment, family law, or complex litigation, but can be in any defined practice area. Boutique firms target lawyers who are recognized specialists in a discrete area of law, and these firms focus on providing high quality legal services in that niche.

One of the most attractive benefits is that boutique law firms are true experts in their field and recruit and retain specialists - often attorneys who are recognized as leaders in their field. This expertise often enables clients to realize cost savings and superior results. Boutiques leverage a thorough and nuanced understanding of the particular area of law and an enhanced knowledge of changes in the particular legal niche. This provides efficient identification and resolution of issues. Additionally, by cultivating an area of expertise, boutiques cater to lawyers who desire to specialize in a particular area of law. For many attorneys, this is an ideal practice environment.

Troy Pickard, who runs the boutique law firm Portland Defender and handles criminal and landlord-tenant matters, says the smaller size of boutique firms is advantageous for clients and attorneys. "My clients benefit financially from my firm's low overhead, and they never have to worry about getting passed around through different levels of inter-firm bureaucracy," said Pickard. In many ways, the boutique law firm is the legal community's response to increasing demands from clients to address increasingly complex legal issues while concurrently cutting costs.

Boutique firms also tend to be more agile and flexible than their integrated-firm counterparts. Boutiques can more rapidly leverage new technologies, adapting and taking advantage of the ever-changing technology landscape. There are no technology committees at far-off home offices to consult to adopt new innovations. This is attractive to many attorneys, especially those who are younger and more technology savvy, who expect technology to facilitate their practice. Additionally, the nimbler environments facilitate flexible work practices, including the ability to work remotely. As such, boutique firms are able to attract and retain talented attorneys because many of these firms enable a better work-life balance and provide the structure for experts to excel.

Boutique firms will continue to inhabit a growing presence in the future landscape of the law. For attorneys, the boutique firm may be a place to grow as an expert in a specialized area of law. For clients, the boutique firm may provide the superior legal support at a reasonable price. It is this competitive edge that ensures the future of the boutique firm.

Bruce Rothman Pro Bono Spotlight

by Michael Fuller
YLS Pro Bono Committee

This month's spotlight focuses on pro bono attorney Bruce Rothman and his efforts volunteering with the Legal Aid Services of Oregon Senior Law Project (SLP). For over 20 years, Bruce has tirelessly worked pro bono to help low-income Portland-area consumers solve legal problems. In 2009, he was presented with the MBA Pro Bono Award of Merit, honoring over two decades of pro bono service. He was distinguished as having served more volunteer hours than any other pro bono Legal Aid attorney. In the last five years since receiving the Award of Merit, Rothman's advocacy has continued, primarily with the SLP.

Despite having no lawyers in his immediate family, Bruce was engaged in the law from an early age. "Social justice always interested me," he says. "I thought I could make a contribution."

In his youth, Rothman traveled to Salem as a delegate with the YMCA Legislature. As a high school student in the 1950s, he recalls walking to the courthouse to watch attorneys try cases.

Rothman started his law practice in 1963, after graduating from Lewis & Clark Law School. In the 1970s, he focused

his practice on representing consumers in pharmaceutical litigation related to oral contraception. Bruce started litigating pharmaceutical cases locally, across the table from attorneys including Edwin Peterson and Bruce Spaulding. He eventually became a national advocate for consumers of oral contraception throughout the country.

Rothman formally retired from private practice in 1983, to focus on pro bono consumer protection issues. He became a member of the recently reinstated Oregon Consumer League, which is comprised of Jason Reynolds, Michael Baxter and other top consumer advocates. It represents the interests of Oregonians in matters involving unfair trade practices. Rothman's pro bono work with the league included helping consumers fight arbitration clauses and unconscionable disclaimers hidden in car dealer contracts.

Rothman's current pro bono service with the SLP focuses on obtaining reasonable accommodations for aging Portlanders living in subsidized housing. "It's 10% litigation, 90% problem solving," says Rothman, of his work with the Senior Law Project. "I had a case recently



Bruce Rothman

where we helped accommodate a little old lady whose landlord installed new garbage can lids that she just couldn't lift. In another case, we worked to create a safe place for smokers to congregate outside subsidized housing projects."

"In addition to being a very funny guy, Bruce Rothman's work is the stuff of legend," says Portland attorney David Sugerman. "[Bruce] represented consumers on dangerous drug and product cases in some of the most important public safety work done by trial lawyers. Consumers are fortunate that someone of his skill and ability continues working on pro bono matters. He is an inspiration," says Sugerman.

For more information about the recently reinstated nonprofit Oregon Consumer League, contact Joel Shapiro at joel@joelshapiro.com. For more information about the SLP, or to volunteer, contact supervising attorney Maya Crawford at maya.crawford@lasoregon.org.

Getting "OLD" A Young Lawyer's Transition from the YLS to the "Big" MBA

by Sean Ray
YLS Board



As I sit here on the eve of my 36th birthday, I find myself thinking about what's next for me in the MBA. YLS members "age out" after six years of practice or at age 36, whichever comes later. After achieving this milestone of aging, attorneys once considered "young" move on to the Older Lawyers Division, or "OLD" (of course, the "big" MBA does not have an acronym for "everyone who is not in YLS" and, if they did, I am fairly certain that they would not call it "OLD," but I digress). So what is an attorney to do once he or she reaches this milestone, and how does he or she prepare for it?

Certainly, as I look back, there were signs that this day was coming. Not too long ago, I heard a song I grew up listening to on the "oldies" station. Oldies. Not even "classic rock." Oldies. But that's not all. I noticed that younger attorneys started asking me how to do things. Legal things. I began recognizing everyone at YLS events, because I had been seeing them year after year.

Of course, this change should be welcomed, not lamented. While it is sad to close one chapter in my legal career - that of a "young lawyer" - it is exciting to start the next adventure. There are many positive ways younger - but no longer "young" - attorneys like me can contribute in the "big" MBA. YLS graduates have fresh perspectives and new ideas to infuse into the "big" MBA and, with new and different committees to join, a number of avenues with which to explore those ideas. The MBA has an abundance of committees from which to choose, some of which are complementary to their YLS counterparts, and some which are

completely different, including the Continuing Legal Education Committee, the Court Liaison Committee, the Courthouse/Court Funding Committee, the Equality & Diversity Committee, the Golf Committee, the Judicial Screening Committee, the Membership Committee, the Professionalism Committee and the MBF CourtCare Campaign Committee. In fact, I have found my first "big" MBA calling with the Golf Committee, raising money for the Volunteer Lawyers Project at Legal Aid Services of Oregon (LASO) - a worthy cause indeed - while simultaneously trying to solicit advice from fellow lawyer golfers on how to fix my swing (a client told me my problem was I was standing too close to the ball ... after I hit it).

Because the YLS is so well integrated into the "big" MBA, the transition from "young attorney" to plain, old "attorney" should be fairly seamless, and I look forward to positively contributing where I can, and meeting many of the "big" MBA members the same way I came to know many YLS members so well over the past several years.

So if you find yourself with an uncontrollable urge to yell at that law student intern (read "whippersnapper") to "get off my lawn," know that it is okay. The "big" MBA, and I, will be waiting for you.

Ask the Associate

Dear Awesome Associate,

My first year review is coming up. I did not have enough work to make my billable hours' requirement and I'm worried about my review! Am I going to lose my job? What should I expect for my review meeting and how should I handle this?

Sincerely,
Hoping My First Year
Won't Be My Last

Dear Hoping:

Take a deep breath! Struggling to meet your billable hours' requirement is something many associates go through. You aren't the first, and you won't be the last.

With that said, you need to take stock. It's time to identify why you didn't meet your billable hours goal so you can be prepared to discuss this at your review, and develop a plan for how you will meet your goal next year.

Learning the Ropes: At many firms, it is expected that a first-year associate may not make his billable hours' goal. It takes time to learn how to practice law, learn how to bill your time, and ramp up your caseload so you are at full capacity. Many associates do not meet their monthly billable goals for the first three to six months of practice because they are spending lots of time learning the firm's systems, figuring out how to be a lawyer, and learning how much work they can handle. The important thing is whether your hours improved throughout the year. If your hours show a positive trend - especially if you were meeting or exceeding your monthly goals in the second half of the year - then you may be meeting expectations for a first-year associate at your firm. You can ask other associates in your firm or practice group what their experience is. Also consider talking to other first-year associates, senior associates, and junior partners you trust to get their feedback. Even though you didn't meet your billable hours' goal, you may nevertheless be on track and meeting the firm's expectations for a first-year associate.

Billing All of Your Time:

As a first-year associate, it is very common to think you are spending too much time on a task. Unless otherwise directed, you should still bill all of the time you spend on a project. Don't "discount" your time on the assumption that you should not have spent so much time on something. Let the supervising attorney cut your time from the bill if necessary, but make sure you are getting credit for all of the time you spend working. As an alternative, you can ask your supervising attorney whether you should put down all of the time you spent on a task. If you did discount your time, estimate how much time you cut from your bills and mention this at your review.

Take the Initiative: As a young associate, you need to

think of the attorneys giving you assignments as your "clients." Try to make them happy and think about what your "in-firm clients" need-they need associates to work on their files, who are interested in their work, and who take the initiative. If you were assigned a research task on a discovery issue, offer to draft the discovery request or response. If you drafted the discovery response, offer to review the documents and draft a memo or index of the discovery. Develop a reputation as an associate who will dive in, who will take the initiative, and who will work without a lot of direct supervision. Always offer to do more - but as a new associate, unless directed to do so, don't just start working on the file. Ask, offer, and be eager; let the supervising attorney tell you "yes" or "no" before you start a task you weren't directly assigned. And don't get discouraged if the answer is "no." Continue to demonstrate that you are eager to learn and be involved, and you will find that you are given more responsibility (and more work) on the files on which you work.

Insufficient Work at the Firm or in Your Practice Group: Look around at the other attorneys in your practice group and firm. You mention that you did not have enough billable work to meet your goal. It is time for some honesty. Did others in your firm or practice group (especially other junior associates) not have enough work to meet their hours? Are you working with only a few partners? Were they sufficiently busy this year? Did they give more work to other associates? Were you left out for some reason?

It may be that the partners and senior associates you work with simply had a slow year. If they were pleased with your work and continued to give you projects, that's good. If you took the initiative and did everything you can think of, even better. But, if some of those sources of work dried up, find out if there was a reason. Did you displease those attorneys somehow? Is there something you can do differently next year? Try to figure out what you can do differently to make sure the work keeps flowing and that you're not doing anything to encourage them to send work to other associates.

If the attorneys assigning work to you simply did not have enough work for you, are there other attorneys in your practice group or firm you can ask for work? This may be a delicate situation. You don't want to be perceived as dissatisfied with the attorneys with whom you work or the assignments you receive. You need to look out for yourself, though, and do what you can to make sure you're busy and meeting your billable hour goal. Be respectful and talk to your supervising attorneys if you don't

have enough work - they may have other work for you, or they may suggest other attorneys in the firm who are busy and need help. At the very least, you will demonstrate that you are eager and want to stay busy, and if you ask and are told not to seek work from other sources, you can mention this in your review.

Adding Value to the Firm:

Are there other ways you added value this year that are not reflected in your billable hours? Did you handle pro bono matters or engage in community service? Did you help partners prepare presentations or assist with marketing activities? Did you serve on a committee through the MBA YLS or the OSB ONLD? Did you write articles or blog posts for your firm? Did you market the firm's services to your network? Did you bring some new clients to the firm? Some firms give credit for these types of activities or at least consider them as part of an associate's overall development. Take time to identify the non-billable activities that added value to the firm or the legal community and try to quantify the amount of time you spent on these activities during the year.

Preparing for Your Review:

Once you have identified why you did not meet your billable hours this year, and the other non-billable ways you added value to the firm, think about the next year. Develop a concrete plan for meeting your billable hours' goal next year and identify the additional ways you can add value to the firm next year. If you have good reasons for not meeting your goal, have done good work on the assignments you received, can identify concrete ways to increase your hours next year, and have a plan for adding in non-billable work that adds value to the firm if you fall short again, you will show the firm that you want to continue to work there and you will likely survive your first-year review.

One last note. Be an advocate for yourself. Think of your first-year review as an opportunity to receive feedback, learn from your mistakes, and own your mistakes. You should also think of your review as an opportunity to market yourself to the firm. Don't assume that the people conducting your review know about all of your accomplishments this year or the reasons you did not meet your billable hours goal. Listen and be humble, but also explain and show the firm that you want to stay there and have a plan to do better next year. And remember - breathe! You aren't the first associate to not make her billable hours' goal, and you won't be the last. Show them that you are the same talented, mature, thoughtful attorney they hired a year ago, and that it is worth it for the firm to continue investing in you.

Yours truly,
Awesome Associate

Send your questions to Awesome Associate at mba@mbabar.org.

YOUthFILM Project's 8th Annual Screening & Awards Ceremony

Join us on Thursday, May 1st

Mark your calendars! Come enjoy a night of popcorn, the Chief Justice, students from our local schools and some short films that will be sure to entertain. On May 1 at 6:30 p.m., the YOUthFILM Project hosts its 8th annual film screening event at the Hollywood Theatre as part of Community Law Week. There will be a reception following the screening. Everyone is invited!

The YOUthFILM Project is the capstone of the YLS Service to the Public Committee's Community Law Week events. The YOUthFILM Project is an exciting forum for elementary through high school students from Oregon and SW Washington to show off their creativity, knowledge and skills by producing short films on

civics issues. The filmmaking teams of up to five students must incorporate this year's ABA Law Day theme, "American Democracy and the Rule of Law: Why Every Vote Matters."



Top films will be screened for the public at the Hollywood Theatre in Northeast Portland during Community Law Week. Honored guest Oregon Supreme Court Chief Justice Thomas A. Balmer will award prizes. We anticipate an exciting and entertaining event. We hope to see everyone there! For more information, please visit theyouthfilmproject.org.

YLS Community Service Day

On March 15, members of the MBA participated in the Baltimore Woods Planting Day organized by SOLVE and Friends of Baltimore Woods. SOLVE is a nonprofit organization that brings together Oregonians to improve the environment and to build a legacy of stewardship. Friends of Baltimore Woods is an organization dedicated to preserving the 30-acre Baltimore Woods Connectivity Corridor which is a unique urban greenway, recognized for its special habitat value to plants and wildlife. The participants planted native trees and shrubs, removed invasive species and cleaned litter in an effort to restore critical habitat for native plants and wildlife.



Nathan Morales, Devon Howard, Abby Miller, Chris Allnatt. Not pictured Tracy Hooper and Emily Sitton

mba yls | EVENT

YLS Community Service Day with Oregon Humane Society
Tuesday, April 29
1-3 p.m.

Please join the YLS Service to the Public Committee at the Oregon Humane Society on Tuesday, April 29 from 1-3 p.m. All MBA members, family, friends, and children over the age of 12 are welcome to participate. Our volunteer sessions will give the animals the attention they need and the social skills to help them find new homes.

To sign up or for more information contact Lisa P. Shevlin at lisa.pex@gmail.com.



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Experiential Learning

One student's non-traditional path through law school

by Ayla Geller



When I first decided to attend Northeastern School of Law in Boston, Massachusetts, I had no idea if I was making the right move. It meant leaving my hometown of Portland, relocating across the country, acclimating to New England winters, and not knowing a single person. But even more nerve-racking was the professional risk; attending law school in a region where I likely didn't intend to practice. Was I making a mistake attending a school that, while readily recognized and respected on the eastern seaboard, was relatively unheard of on the West Coast? In the end, I decided to make the move and take the risk, in large part because of Northeastern's forward thinking Co-op Program that promised to combine my education with experience – something I found extremely appealing.

The Co-op Program is a defining characteristic of the Northeastern legal curriculum and distinguishes the school from nearly every other law school in the nation. The JD program is

still three years; we still take all the traditional podium courses, and we still study *Palsgraf* in torts, but the 2L and 3L years look very different. Each class is split into two rotations. One rotation is taking the standard legal courses and, when you are not in class you are "out on co-op" for the other rotation. Co-ops are, for all practical purposes, short full-time internships in a legal practice area, and over the course of my law-school tenure, I will have the opportunity to complete four co-ops. This means an opportunity to experience four distinct legal practice areas, to build a broad base of practical skills, to develop an extensive professional network, and to really know what I want and don't want out of my post-graduate position in the legal field.

Out on Co-op

My first co-op position was with the Multnomah County Courthouse, under the supervision of Judge Kelly Skye and several amazingly talented law clerks. I had the opportunity to write memoranda for many members of the bench and my legal research, analysis, and writing improved in leaps and bounds. I observed several full trials, both criminal and civil, and got to see a wide range of litigation styles. I was also fortunate enough to meet countless members of the OSB, including the MBA YLS President Traci Ray, who

would become a mentor, friend, and future co-op employer. The courthouse was the ideal first co-op as it provided a broad introduction to the legal profession and allowed me to build skills necessary to excel in my future co-ops and employment.

For my next co-op, I knew I wanted to work in the private sector. I applied for and was accepted to the legal department at BJ's Wholesale Club Inc., a membership-only, warehouse-style retailer with 200+ stores on the East Coast. At BJ's I was introduced to the multitude of widely varied issues that come through a corporate legal department. I assisted in a lease negotiation for a new club, helped to draft and review service and retail contracts for new products, reviewed marketing campaigns and advertising for potential legal concerns, advised on compliance and best practices in various departments, and merged or dissolved several corporate subsidiaries. I even had the opportunity to write an Equal Employment Opportunity Commission position statement. This co-op position was an opportunity to explore my interest in in-house work, get a better understanding of the issues facing a large corporate body, and hone my legal issue spotting skills.

Last week marked the start of my third co-op - this time with Barran Liebman, back in our beautiful Rose City. I am excited to round out my courthouse, in-house and now private practice experiences. The idea of complementing my law studies with hands-on experience has proven to work well for me, and I feel fortunate that the

Portland legal community has welcomed me back (twice now!) even though I am studying in Boston. I am also so appreciative that the MBA YLS provides so many networking and educational opportunities allowing me to meet, learn from, and connect with numerous Portland attorneys. In the end, I look forward to hopefully practicing in Portland and will

forever remain a proponent and advocate of experiential education for law students.

Ayla Geller is a 2L at Northeastern School of Law and an intern with Barran Liebman LLP. The firm focuses on employment, labor and benefits law.

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Positions

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News From the Courthouse

Continued from page 10

bar. She added that there are only two judges conducting Trial Readiness Conferences, and that is all that is needed at the present time. She concluded that all civil cases are proceeding through this system and setting of trial dates and the assignment of motion judges is going as planned.

Justice Re-investment Will Bring Changes to Felony Criminal Case Processing

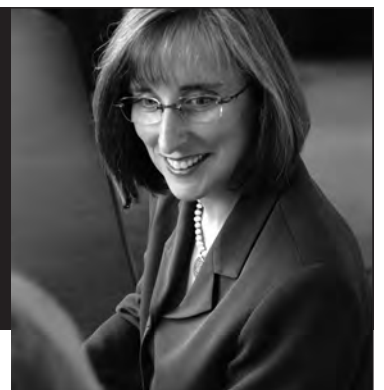
Judge Waller told that committee that she and Chief Criminal Judge Julie Frantz are working with District Attorney Rod Underhill, Sheriff Dan Stanton, Director of the Department of Community Justice Scott Taylor, and the Citizens Crime Commission's Executive Director Suzann Hayden, and others, in creating a systematic increase in the early use of "evidence-based decision-making" in the prosecution and disposition of felony criminal offenses. The point of this exercise is to try to resolve appropriate cases earlier

and to impose dispositions that are directed at the individual and the risk the individual presents to public safety. The goal of this work is the reduction of the use of prison sentences and an increase in the use of community-based sanctions and programs when public safety is not in jeopardy by that individual remaining in the community. This work is funded by money made available by the legislature in the passage of HB 3194 (2013).

Settled a Civil Action? Give Presiding Court a Call

In closing, Judge Waller requested of parties in civil actions where there is a settlement reached, that they contact her office to let the court know. It is helpful to cancel the future call date for the case. When a case is not reported settled by the parties, it takes up time at the call proceeding when the case is called and everyone waits for one of the lawyers to address the court; and then afterward, to contact the attorneys' offices to determine why there was a failure to appear at the call proceeding.

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The Corner Office PROFESSIONALISM

I call it the "say-it-out-loud" test: If you ever doubt the professionalism of a potential action then, before acting, explain your options - out loud - to a neutral person and ask his or her advice.

Here's a real world example: Last week one of my partners walked into my office. She needed advice on a case she was handling. She had two options. Option One was straightforward and consistent with her client's goals. Option Two held the promise of an even better result for the client, but she felt it carried an element of (arguable) deception of her opponent. Both options complied with the rules of professional responsibility.

My partner started explaining her choices. She was still explaining Option Two as she started to sit down in my office chair, for a full

discussion. But before she touched down on the chair, she straightened and stood up.

"Never mind," she said. "I got it. Option One it is. Thanks for listening." And she left.

The mere act of saying it out loud - to another person - convinced her that Option Two, the arguably deceptive option, was a bad idea. Option Two failed the test. My partner could not state the option out loud without concluding it was a bad idea. The "say-it-out-loud" test is often self-executing. In this example, my partner did all the talking. I did not say a word. She concluded Option Two was the wrong choice, just from the sound of, and hesitancy in her own voice as she tried unsuccessfully to justify it.

No test of professionalism can *always* be self-executing. Lawyers face many questions of professionalism and ethics. Some are easy, but many are not clear cut and warrant a full discussion. The "say-it-out-loud" test still works - even with the toughest questions - because if the test doesn't self-execute, it will lead to a dialogue about doing the right thing.

Discussing an ethical or professional dilemma with a neutral colleague is the best way to work through the bramble. Don't go it alone. The old adage that a lawyer that represents himself "has a fool for a client" is never more accurate than when the lawyer faces a test of his or her professionalism. How should I respond to this inflammatory email from opposing counsel? Should I disclose this potentially

damaging fact or document, even though not directly called for by a specific request from the other side?

The answer is not easy. So ask your partner. Ask your associate. Ask your mentor. Ask your assistant. Or, without revealing confidences, ask a friend. In short, when you suspect you may be about to practice outside the boundaries of professional conduct, talk it through with someone else - before acting.

Either the mere act of trying to "say-it-out-loud" to another person will show you the light, or your friend or colleague will help point you in the right direction. In either event, our profession will be stronger.

The Corner Office is a recurring feature of the Multnomah Lawyer and is intended to promote the discussion of professionalism taking place among lawyers in our community and elsewhere. While The Corner Office cannot promise to answer every question submitted, its intent is to respond to questions that raise interesting professionalism concerns and issues. Please send your questions to mba@mbabar.org and indicate that you would like The Corner Office to answer our question. Questions may be submitted anonymously.

Cooperative Courts Exemplify Professionalism

by Keith Dozier
Wm. Keith Dozier LLC



On December 2, 2013, a two-week trial in a complex medical malpractice case commenced in Judge Kathleen Dailey's courtroom in the Multnomah County Circuit Courthouse. Mark Bocci and I represented the plaintiff opposite John Hart and Troy Bundy. This trial was the culmination of more than two years of litigation. It involved great effort and expense by the parties, lawyers, support staff, and experts involved.

By Friday, December 6, a jury had been chosen and the plaintiff had presented the testimony of eight expert witnesses, among them five board-certified physicians. Six of our witnesses had traveled from out of town to testify. With no alternate jurors left, those who remained had suffered through winter weather commutes and cold security lines to diligently appear each day and perform their duty.

Late on the evening of Sunday, December 8, news broke that the Multnomah County Circuit Courthouse was without power due to an electrical fire and would not open for business the next day. Public notice was sent out stating that all proceedings in

the courthouse would have to be rescheduled. It appeared that after huge effort and expense by all, a mistrial in our case was imminent.

Behind the scenes, however, Judge Dailey and Presiding Judge Nan Waller immediately set about trying to find an alternate location for our trial and to formulate a plan for contacting our jurors. With the assistance of Chief District Court Judge Ann Aiken, arrangements were made for our trial to be transferred to Judge Robert E. Jones' courtroom in the Oregon District Court. Quickly, the case had found a new home.

By Monday morning, the voluminous trial exhibits and case materials were retrieved from the Circuit Courthouse. The parties gathered and anxiously awaited news about whether the jurors could be contacted and summoned to the District Courthouse. We had already lost time due to the adverse weather the week before and scheduling had become a serious problem.

Numerous expert witnesses from out of town were scheduled to testify in the following days. The plaintiff, an elderly paraplegic, was to be driven in by medical transport from Eastern Washington to give his testimony. A bigger problem was that the jury had only been asked to serve through the end of the week. Time was running very short.

The cooperation between Judge Dailey's staff and that of the District Courthouse was prompt and seamless, however. Their efficient efforts resulted in the loss of less than a half a trial day, as our entire jury was contacted and reported to the District Courthouse by late morning. The accommodations afforded us by Judge Jones, Chief District Court Judge Ann Aiken, and the District Courthouse staff saved the trial.

Then, additional unforeseen challenges presented themselves.

Among them - having gone without heat for some time, the pipes had frozen in the Multnomah County Circuit Courthouse. It was unclear when they would thaw and what damage the freeze had caused. What began as a need for one day's use of Judge Jones' courtroom saw our trial needing a home through conclusion. We were kindly invited to stay.


The parties and their counsel cooperated to make accommodation for the remaining witnesses and the case proceeded to verdict without further disruption. All got their long-awaited day in court and avoided the huge expense of a mistrial. A jury that had put aside their normal lives for two weeks completed their service and saw the case to its end.

I understand that at least one other Circuit Court civil trial, presided over by Judge David Rees, also avoided mistrial and was conducted in the District Courthouse during the week of December 8 due to the closure of the Multnomah County Circuit Courthouse. It too was a complex case that had been litigated for some time.

It is comforting to know that we practice in a legal community where professionalism is not just admired, but is to be expected. It is a pleasure and relief to see those in positions of power - from judges to jurors - so dedicated to making our civil justice system function well, even during difficult circumstances.

On behalf of our client and my co-counsel, I want to offer a public and sincere "thank you" to all involved. Those not yet mentioned by name include Judge Dailey's Judicial Clerk, Rosalia Radich, and Judge Henry Kantor.


Hopefully, this story will serve as a reminder that we are lucky to live and practice law where we do.



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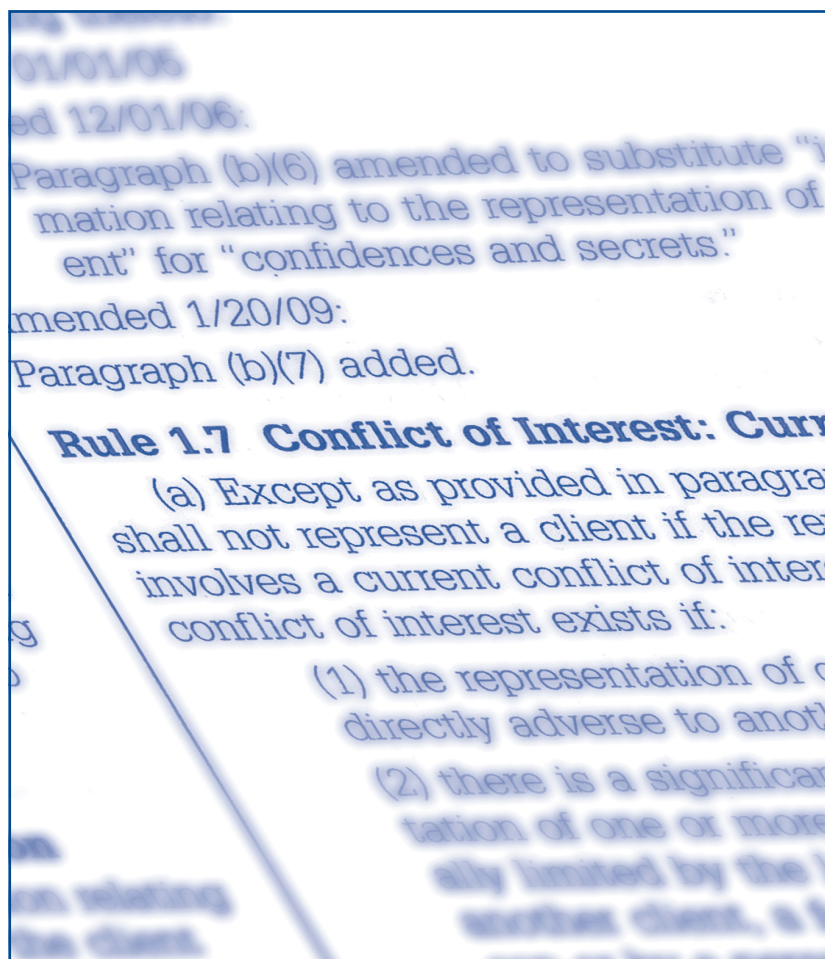
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Celebrating Diversity & Connection at the Inaugural “Tillicum Gathering”

by Heather Decker
Equality & Diversity Committee

On March 6, diversity/specialty bar leaders together with the MBA and representatives of the OSB enjoyed an inaugural social event to exchange ideas, learn about the ways in which groups can support each other and work together to promote diversity in the bar and connections with each other. The event was generously and graciously hosted by Davis Wright Tremaine LLP. Officers and board members of the following groups attended: Oregon Asian Pacific American Bar Association; OGALLA - The

LGBT Bar Association of Oregon; Oregon Hispanic Bar Association; Oregon Minority Lawyers Association; National Bar Association - Oregon Chapter; Oregon Women Lawyers; MBA and MBA YLS; and the Diversity Section and Diversity & Inclusion Office of the OSB.

Participants submitted and voted on entries for an enduring event name using a “crowdsourcing” platform. Bob Steringer, MBA Board member and partner with Harrang Long Gary Rudnick PC, submitted

the winning entry of “Tillicum Gathering” and became the proud recipient of a lovely MBA logo umbrella. “Tillicum” is the “Chinook jargon word for ‘people’ or ‘family’” and was inspired by another entry, “The Family Feast” which referred to the different “families” of bar groups coming together in a spirit of mutual friendship and support.

Inspiration of a different sort was shared by representatives of each of the organizations as to how and why their organizations

work with each other in support of diversity. Kevin Clonts, OGALLA Co-Chair and partner with Rizzo Mattingly Bosworth PC, spoke movingly of the importance of ethnic, racial, and sexual minority legal professionals as role models for teens and young adults who may struggle with isolation or even be at risk of suicide. Every diverse judge or leader is a powerful reminder of the possibilities open to historically underrepresented groups. He

lauded the National Hispanic Bar Association’s decision to relocate its 40th annual national convention away from Arizona in response to proposed legislation allowing businesses to deny service to LGBT people as an important showing of solidarity. This same sense of community and common purpose is felt and demonstrated by Oregon’s specialty and diversity bar associations.

The leaders of the MBA and other bar organizations look forward to celebrating diversity in the legal community and the importance of connection annually at the “Tillicum Gathering” as we continue working together to promote and strengthen each group’s mission and the legal community’s greater commitment to diversity.



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