



## What the YLS Has Meant to Me

by Mary Tollefson  
YLS President

As I am almost half-way through my term as President of the YLS, I find myself reflecting on how I first became involved with the MBA and the YLS. I began

practicing law in Newport, Oregon in 2008. At the time, I had hoped to find a job in Portland, but jobs were scarce, so I accepted my first offer from a firm in Newport and practiced family law on the Oregon coast for almost three years. The legal community was very small in Newport. There were only four judges in the county and I had appeared before all of them in a matter of months. I knew almost every lawyer in town at least by name and had worked with many of them. Although I still longed for the big city life, there were benefits to practicing law in a small community. I got a lot of courtroom experience and was able to build a solid reputation quickly.

After almost three years in Newport, I received a job offer in Portland and was excited to move to the big city. While I was happy with the change, there were times I missed small town practice. I was now practicing in three different counties. None of the judges knew who I was. Every county had different rules and practices. Every case had a new opposing counsel. It was overwhelming at times.

After a few months of practice in Portland, a friend from law school emailed me and asked me if I wanted to join the YOUthFILM Project Committee, which was part of the MBA YLS. He was chairing the committee and was looking for additional members to join. My firm had signed me up for the MBA, but I hadn't really been involved in the organization. It sounded like an interesting opportunity and I told him I would gladly join the committee.

Despite having our committee meetings at 7:30 a.m., I quickly came to appreciate the YLS and the opportunities it provides to young lawyers. Helping to plan a film competition for kids was never something I thought I would be involved in and it was such a fun experience. Seeing children's faces light up as they saw their film on the big screen at the Hollywood Theatre was so memorable and rewarding. I also got to know some really talented and driven local lawyers who were also members of the YLS.

I continued on the YOUthFILM Project Committee and eventually went on to chair it after it had merged with the Service to the Public Committee. I then joined the YLS Board and this year am serving as the president. Although the legal community in Newport was much smaller than the legal community in Portland, through the YLS I found a cohesiveness that I'd never found in Newport. Every time I go to YLS events, I see plenty of familiar faces and I always meet new people. The YLS has become my small town within the big city.

The YLS committees all have talented chairs and members this year and the committees are running smoothly. They continue to provide new lawyers with great opportunities to serve our community and network with each other.

...through the YLS I found a cohesiveness...

The Service to the Public Committee is making some exciting changes this year. With some sadness, we decided to discontinue the YOUthFILM Project. This was a difficult decision, but we felt it was time for a change. The committee has decided to host a poetry slam for students centered around the 2018 Law Day theme "Separation of Powers." We are very excited for this new event.

The Service to the Public Committee is also continuing with the Imprint Program, which pairs volunteer attorneys with students at Parkrose High School. The attorneys and students each read a book and write letters to each other for several months. Then the program ends with the attorneys meeting the students at a reception at the school. While our volunteers loved the program, they had grown tired of reading the same book every year, so we suggested using new books. Our contact at Parkrose told us that she would love to have new books, but the school did not have the funds to purchase them, so the YLS is purchasing several different books for the program. We are happy to support the students of Parkrose and offer new options to our attorney volunteers (see p. 13 for details).

The YLS Pro Bono Committee continues to hold regular Wills for Heroes clinics, which help provide wills and other important estate planning documents to local first responders. The committee has been hosting Wills for Heroes events for several years. They have been tremendously successful and the heroes we have helped have been grateful for our time and effort.

The YLS Membership Committee continues to hold fun social events. They recently hosted their annual new admittee social, where we socialized with newly admitted lawyers and introduced them to the MBA. The committee will also be putting on their annual toy drive, except this year we will be collecting toys and books for CourtCare. We hope that many local firms will be inspired to collect toys and books for this great cause (see p. 13 for details).

The YLS CLE Committee is busy preparing for the 2018 Young Litigators Forum (see insert for details). They are also working on a Spring CLE series along with planning several other CLEs focused on topics that interest new attorneys.

My experience with the MBA YLS has been invaluable. I've gained leadership skills, served the community, and made friends. I really value having my own community of fellow YLS members. I highly encourage all new lawyers to join the YLS and become involved and form their own YLS community.

**My experience with the MBA YLS has been invaluable.**

## mba|CLE

To register for a CLE, please see p. 4 or visit [www.mbabar.org](http://www.mbabar.org) and log in as a member to register at the member rate.

### DECEMBER

#### 12.5 Tuesday Rights of First Refusal, Rights of First Opportunity, and Options

Amy Geerhart  
David Hill  
Jeff Tarr

#### 12.6 Wednesday Immigration for Civil Practitioners - Advocacy, Agency Navigation, and Social Services

Mat dos Santos  
John Herrera  
Margaret Rosenast  
Caroline van der Harten

#### 12.12 Tuesday The Robe as Sword and Shield: Part 2 - Family Law

Judge Diana Stuart

#### 12.14 Thursday Trademark Litigation: Tricks and Traps in Federal Court and the Trademark Trial and Appeal Board

Winston Folmar  
Susan Ford  
Benjamin Okeke

### JANUARY

#### 1.10 Wednesday Top 10 Family Law Electronic Discovery Tips and Ethics

Tom Howe

#### 1.11 Thursday You, Me, and Data Security

David Nijhawan  
Brian Sniffen

#### 1.17 Wednesday Get Proactive! How to Address and Prevent Sexual Harassment in the Workplace

Anthony Kuchulis  
Elizabeth Semler

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## SAVE THE DATE!

### MBA 16th Annual WinterSmash

A Family Friendly Bowling Event

Saturday, February 10

12-3 p.m.

KingPins

3550 SE 92nd Ave  
Portland



A Multnomah CourtCare Fundraiser

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**DEADLINE for copy: The 10th of the month\***

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\*or the preceding Friday, if on a weekend.

### NEWSLETTER STAFF CONTACTS

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## Bench Bar & Bagels

On November 16, members of the MBA and judiciary gathered at Tonkon Torp LLP for the ninth annual Bench Bar & Bagels event. In a relaxed atmosphere, attorneys and judges started their day by catching up with colleagues and making new acquaintances over pastries and coffee.

Bench Bar & Bagels was generously sponsored by Tonkon Torp.



Judge Michael Greenlick and Kirkland Roberts



Judge Steven Powers and Sarah Einowski



Heather Harriman, Erica Glaser and David Bean

Please join us for a seminar on retirement plans and retirement planning.

## Are You Able to Live Well Today and Still Save for Tomorrow?

**Tuesday, January 9**  
**Check-in: 4:30-5 p.m.**  
**Presentation: 5-6:30 p.m.**  
**Social and Informal Q&A: 6:30-7 p.m.**

**Red Star Tavern Club Room**  
**503 SW Alder St., Portland**

During this informative seminar, you'll learn ways to:

- Balance smart decisions about today with planning for tomorrow.
- Plot your journey to retirement into doable steps so it's manageable.
- Maintain financial balance by being prepared for risks and unexpected events.
- Create a meaningful legacy today.

Topics to be covered include:

- Setting retirement planning benchmarks based on age/stage of career.
- Retirement plans for your practice.
- Different types of plans, e.g. 401(k), SEP, Simple IRA, which is right for you?
- Investment choices.
- Active vs passive investing.
- Socially responsible investing.
- How much to save and where.
- Values based discussion.

**Adina Flynn, JD**, Bridge City Advisors/Ameriprise Financial Services, Inc. is our presenter.

Whether you're just out of law school or nearing retirement, this seminar is relevant to you.

The seminar registration fee is \$20 for members and \$60 for non-members.

Register at [www.mbabar.org](http://www.mbabar.org).

# Calendar

## DECEMBER

**7 Thursday**  
**YLS Drop-in Social and Toy Drive for CourtCare**  
 Details on p. 13

**8 Friday**  
 OSB Diversity Section Recognition of Judges

**12 Tuesday**  
 Queen's Bench Luncheon

**15 Friday**  
 Free Lunch and Learn CLE: Procedural Justice and the New Courthouse

**25-26 Monday-Tuesday**  
**Christmas Holiday – MBA Office Closed**

## JANUARY

**1 Monday**  
**New Year's Day – MBA Office Closed**

**18 Thursday**  
**Young Litigators Forum CLE Series begins**  
 See insert for details

FBA Portland Monthly Lunch

**22 Monday**  
 Imprint Program Orientation  
 Details on p. 13

## FEBRUARY

**9 Friday**  
 Blacks in Government Annual Black History Month Banquet

**10 Saturday**  
**WinterSmash**  
 Details on p. 1

**15-17 Thursday-Saturday**  
 NAAC Moot Court Portland Regional

**15 Thursday**  
 FBA Portland Monthly Lunch

**17 Saturday**  
 Lewis & Clark Law School PILP Auction

**16 Friday**  
 OHBA Annual Award Dinner

## CORRECTION

The title of an article that appeared in the YLS section of the November 2017 newsletter contained a typo. The title should have read "Negotiation: An Essential Skill in Life and Law." The MBA regrets the error.

## MBF Invites Letters of Inquiry for 2018 Grants

by Pamela Hubbs  
 Office and Foundation Administrator

Local nonprofits interested in receiving 2018 grant funding for programs that promote understanding of the justice system, the importance of voting, the political process or civic involvement are encouraged to submit a letter of inquiry to the Multnomah Bar Foundation (MBF) by January 19. Grants are awarded to 501(c)(3) organizations whose programs increase civic education and involvement and understanding of the rule of law. Priority is given to new projects that utilize MBA volunteers in the geographic area served by the MBA.

Criteria for letters of inquiry, deadlines, and other information about the grants program may be found at [www.mbabar.org/foundation/grants.html](http://www.mbabar.org/foundation/grants.html). Grant awards will be announced and funded in May.



**Multnomah Bar Foundation**

In 2017, the MBF granted a total of \$47,320 to Bus Project Foundation, City Club of Portland, Elders in Action, League of Women Voters of Oregon, League of Women Voters of Portland, MetroEast Community Media, Northwest Family Services, Oregon Tradeswomen, Inc., Saturday Academy and Sponsors Organized to Assist Refugees.

For more information, please contact Pamela Hubbs (503.222.3275, [pamela@mbabar.org](mailto:pamela@mbabar.org)).





The MBA will apply for 2 hours of general OSB MCLE credits unless otherwise noted; 2 Washington credits may be obtained independently. Registrants who miss the seminar may request the written materials. Substitutions are welcome. Registration fees are non-refundable.

Unless otherwise noted, all classes are held at the World Trade Center, 26 SW Salmon, Portland.

### Rights of First Refusal, Rights of First Opportunity, and Options Tuesday, December 5, 2017 - 3-5 p.m.

World Trade Center, Plaza Conference Room

Members \$60/Non-Members \$95

**Jeff Tarr** and **Amy Geerhart**, business transaction attorneys and members of Sussman Shank LLP's Real Estate and Land Use practice group, will give an overview of various real estate contract rights. **David Hill**, commercial real estate broker at Newmark Knight Frank will also share his insights on the topic.

**For more information:** Contact Kristen Hilton, Sussman Shank at 503.243.1654. For registration questions, contact the MBA at 503.222.3275.

### Immigration for Civil Practitioners - Advocacy, Agency Navigation, and Social Services

Wednesday, December 6, 2017 - 3-5 p.m.

World Trade Center, Plaza Conference Room

Members \$60/Non-Members \$95

Would you like to be more involved in the immigration issues facing our courts today, either as a volunteer or in your practice? Are you interested in learning how you can help clients navigate the United States Customs and Immigration Services (USCIS)? Regardless of your level of expertise, this seminar will provide key information on current issues in civil immigration practice, as well highlight advocacy efforts and social service programs for clients facing immigration hurdles. Our distinguished panel of speakers includes **Mat dos Santos**, Legal Director, ACLU of Oregon; **John Herrera**, Director Immigration Legal Services, Catholic Charities; **Margaret Rosenast**, Acting Director, Portland Field Office, US Citizenship and Immigration Services; and **Caroline van der Harten**, Director of Refugee & Immigrant Ministries/Managing Attorney, SOAR Immigration Legal Services. The panel will be moderated by **Adrian Brown**, US Attorney's Office.

**For more information:** Contact the MBA at 503.222.3275.

### The Robe as Sword and Shield: Part 2 - Family Law

Tuesday, December 12, 2017 - 3-5 p.m.

World Trade Center, Plaza Conference Room

Members \$60/Non-Members \$95

*Note: 2 hours of ethics MCLE credit will be applied for.*

A panel of family law judges committed to advancing professionalism among the bar will discuss the role the bench plays in enforcing professionalism both inside and outside the courtroom. Our panel includes retired **Judge Diana Stuart** and will address their role and the bench's responsibility to enforce civility and professionalism. This is an interactive CLE intended to give family law attorneys an opportunity to hear from and communicate with the bench about issues of professionalism that commonly arise in family law and how the court can be of assistance. The panel will discuss specific scenarios and will take questions from the audience. Both new and experienced family law attorneys are encouraged to attend and contribute.

**For more information:** Call the MBA at 503.222.3275.

### Trademark Litigation: Tricks and Traps in Federal Court and the Trademark Trial and Appeal Board

Thursday, December 14, 2017 - 3-5 p.m.

World Trade Center, Mezzanine

Members \$60/Non-Members \$95

Please join the MBA for a lively, two hour panel presentation on trademark litigation presented by our panelists **Benjamin Okeke**, Interlocutory Attorney, US Patent and Trademark Office, Trademark Trial and Appeal Board (TTAB), and **Susan Ford** and **Winston Folmar** of Res Nova Law. The panelists will address procedures, timing, and evidentiary rules in Federal Court and before the TTAB and how these issues differ in the two venues. Our panelists will discuss what can go wrong in each venue; they will provide practical tips and strategies to successfully navigate a trademark case; and they will discuss the importance of the underlying prosecution history of the trademark at issue.

**For more information:** Contact Ed Carlson, Carlson Law at 971.254.8907. For registration questions, call the MBA at 503.222.3275.

### Top 10 Family Law Electronic Discovery Tips and Ethics Wednesday, January 10, 2018 - 3-5 p.m.

World Trade Center, Mezzanine

Members \$60/Non-Members \$95

*Note: One hour of general credit and one hour of ethics MCLE credit will be applied for.*

Evidence matters! Learn how to collect, review and present electronic evidence in your family law cases regarding custody, support, property division, and business valuation issues. You will see demonstrations and real-world examples showing the use of computer, smartphone, and social media evidence. Learn the top 10 things family law lawyers must know about electronic discovery:

- Updating client intake questionnaires and pleadings to deal with electronic evidence
- Preserving and collecting computer and smartphone evidence defensively.
- Using smartphone (iPhone and Android) evidence in your next case.
- Distinguishing your law firm with e-discovery best practices.
- Culling electronic data based on issues in the case (custody, support, and property division).
- Obtaining social media (e.g. Facebook) and online "cloud" data.
- Understanding the importance of text messages and email.
- Using effective search and sampling strategies for family law cases.
- Performing cost-effective and efficient legal reviews for family law cases.
- Producing electronic evidence to the requesting party.
- Persuading the family law judge with electronic evidence.

Learn the risk of client electronic information and how to protect client confidential communications.

- Protecting client confidential information.
- Computer security of client data.
- The importance of encryption and how to configure it.
- Using effective passwords.
- Backups to prevent loss of data.
- Breach of Attorney-Client Privilege through Electronic Surveillance and Spyware.
- The risk of computer metadata.
- Smartphone security.
- Closed Files: Destruction of Electronic Evidence.

A trial lawyer with a deep technical background, **Tom Howe** has over 25 years of experience in law and technology, and is a member of the Oregon and Washington Bar Associations. He has been referred to in articles as one of the leading e-discovery lawyers in the country, providing legal/technology consulting and expert witness services to some of the largest law firms, corporate legal departments, e-discovery vendors, and the federal government.

**For more information:** Contact the MBA at 503.222.3275.

### You, Me, and Data Security

Thursday, January 11, 2018 - 3-5 p.m.

World Trade Center, Mezzanine

Members \$60/Non-Members \$95

Please join banker and recovering lawyer **David Nijhawan**, Esq., KeyBank, and lawyer **Brian Sniffen**, Miller Nash Graham & Dunn to discuss how data security and data privacy issues affect your clients - and how you can help them navigate those issues. David and Brian will explore topics such as:

- Applicable laws and regulations that may apply,
- Best practices for data security incident preparedness,
- Case studies of cyber-attacks and cyber fraud, and
- Potential legal remedies.

They will also discuss ways lawyers and banks can help mitigate risk in this rapidly changing environment.

**For more information:** Contact Cody Elliott, Miller Nash Graham & Dunn at 503.205.2465. For registration questions, contact the MBA at 503.222.3275.

### Get Proactive! How to Address and Prevent Sexual Harassment in the Workplace

Wednesday, January 17, 2018 - 3-5 p.m.

World Trade Center, Mezzanine

Members \$60/Non-Members \$95

A Sexual Harassment Policy is not enough. Join the MBA for a discussion focused on practical advice on preventing sexual harassment in the workplace including real world guidance on addressing harassment, responding to complaints, imposing discipline and avoiding claims of retaliation. Our speakers are **Anthony Kuchulis**, a partner at Barran Liebman LLP and experienced management side employment litigation attorney, and **Elizabeth Semler**, a partner at Sussman Shank LLP and head of the firm's employment group.

**For more information:** Contact Nicole Elgin, Barran Liebman LLP, at 503.276.2109. For registration questions, contact the MBA at 503.222.3275.

To register for these classes, see page 4.

**Refugee Rights: Where We Are One Year After the First Travel Ban**

Tuesday, January 30, 2018 - 12-1 p.m.

World Trade Center, Mezzanine

Members \$30/Non-Members \$50

*Note: One hour of general credit will be applied for.*

This class will explore the iterations of the travel ban, challenges to it along the way, and where we are now, with a discussion of “who’s in; who’s out.” It will also explore the impact of the travel ban and the related devastating cuts in refugee admissions and how they are affecting refugee resettlement agencies, refugees abroad and refugees who live in Oregon. It will provide personal perspectives on who refugees are, the issues and challenges that refugees in Oregon are facing and what lawyers regardless of practice area can do to help. This class will provide relevant and helpful information to practitioners in refugee and immigration practices, as well as any attorney who may represent a refugee in their regular practice. **Cheryl Coon**, Executive Director and founder of Refugee Disability Benefits Oregon and **Z. Hanah Riley**, Staff Attorney at Refugee Disability Benefits Oregon will present this class.

**For more information:** Contact Jovanna Patrick, Hollander Lebenbaum et al at 503.222.2408. For registration questions, contact the MBA at 503.222.3275.

## CLE Program

Do you have topic or speaker suggestions for the CLE programing? The CLE Committee wants to hear from you. Contact Kathy Modie at the MBA at [kathy@mbabar.org](mailto:kathy@mbabar.org) or 503.222.3275.



# CLE BOGO

**The MBA is pleased to offer its buy-one-get-one CLE policy for participants in the MBA and OSB mentor programs.**

**OSB and MBA mentors: When you register for an MBA CLE, you can register your mentee to attend with you for free.**

**Contact Kathy Modie at 503.222.3275 or [kathy@mbabar.org](mailto:kathy@mbabar.org) to add your mentee to the registration list.**

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*Photocopy, complete and mail or fax the registration form with payment to the MBA to reserve your space. Self-study materials from past CLE classes may be downloaded at [www.mbabar.org](http://www.mbabar.org).*

### CLE Registration Form

NAME	CARD NUMBER
FIRM	EXPIRATION DATE AND SECURITY CODE
ADDRESS	SIGNATURE
CITY STATE ZIP	BILLING ADDRESS FOR CARD (if different)
PHONE	
OSB#	

**Member Status:**

MBA Member

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**Payment Options:**

Check    VISA    MasterCard

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*Registration forms with payment must be received in the MBA office by 3 p.m. the day before the seminar. 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](http://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.*

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 CD-ROM & Written Materials (\$60 Members/\$95 Non) ..\$ \_\_\_\_\_
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 Class Registration (\$60 Members/\$95 Non) .....\$ \_\_\_\_\_  
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 Class Registration (\$60 Members/\$95 Non) .....\$ \_\_\_\_\_  
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 CD-ROM & Written Materials (\$60 Members/\$95 Non) ..\$ \_\_\_\_\_
- 1/11 You, Me, and Data Security**  
 Class Registration (\$60 Members/\$95 Non) .....\$ \_\_\_\_\_  
 CD-ROM & Written Materials (\$60 Members/\$95 Non) ..\$ \_\_\_\_\_
- 1/17 Get Proactive! How to Address and Prevent Sexual Harassment**  
 Class Registration (\$60 Members/\$95 Non) .....\$ \_\_\_\_\_  
 CD-ROM & Written Materials (\$60 Members/\$95 Non) ..\$ \_\_\_\_\_
- 1/30 Refugee Rights: Where We Are One Year After the First Travel Ban**  
 Class Registration (\$30 Members/\$50 Non) .....\$ \_\_\_\_\_  
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## Update Your Directory Listing on the MBA Website

The MBA website includes an online Membership Directory and members may update their photos, include a bio, add links to social networking sites and update practice area information online. To update your listing, login to the Members Center using the email address currently on file in the MBA Directory as your user name. If you do not know your password, you may click on the "forgot password" link to have it emailed to you.



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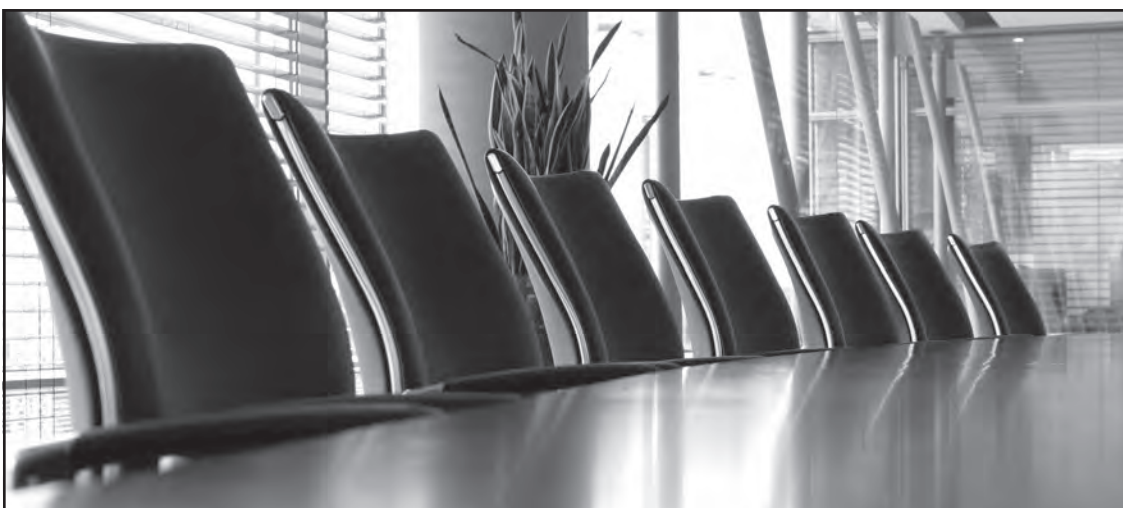
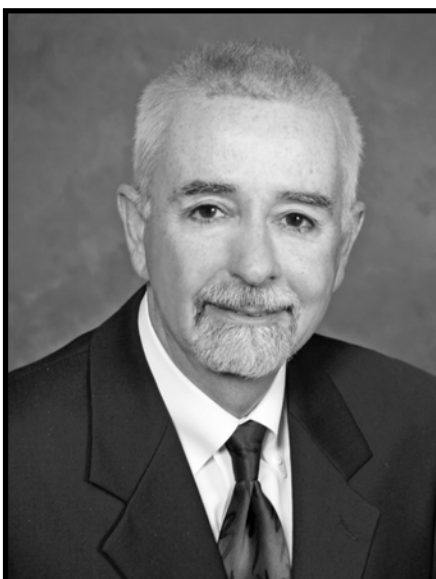
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## mba | ANNOUNCEMENTS

### Free CLE: Procedural Justice and the New Courthouse

Learn about the court's procedural justice initiatives and the efforts to incorporate the principles of procedural justice into the design of the new courthouse. Presented by Judge Nan Waller, Judge Maureen McKnight and attorney Joe Franco. Friday, December 15, 12-1 p.m. in the jury room of the downtown Multnomah County Courthouse. For more information and to register, contact Pamela Hubbs (pamela@mbabar.org).

### Conference Room Available for Reservation

Conveniently located downtown, the MBA conference room is available for reservation by members for client meetings, depositions and other practice-related uses. Contact the MBA for details and availability at 503.222.3275 or mba@mbabar.org.

### Free CLE Webcast for MBA Members

The video webcast of the seminar "Managing Electronic Discovery" is available in the Members Center at [www.mbabar.org](http://www.mbabar.org). The webcast is approved for two hours of general OSB MCLE credit.

MBA members receive access to a rotating selection of six different CLE seminars each year - a \$360 value.

### Statement of Diversity Principles Available to Sign

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### YLS Community Service Day

**Wednesday, December 13**  
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**1915 NE 7th Ave., Portland, OR 97212**  
**6-8 p.m.**

Join the YLS Service to the Public Committee to help "spruce up" gently-used children's books at the Children's Book Bank, a book bank in NE Portland committed to providing books to low-income schoolchildren in the Portland area.

If you are interested in volunteering, please contact Kevin Sasse (Kevin.T.Sasse@gmail.com) to reserve your place. **Please RSVP to Kevin by December 5 at noon – space is limited!**

For more information, visit [www.childrensbookbank.org](http://www.childrensbookbank.org).



## Ethics Focus

### What Can You Say? Responding to Negative Online Reviews

by Mark J. Fucile  
Fucile & Reising LLP



In today's social media and web-centric environment, we've all seen online reviews posted by disgruntled customers for everything from restaurants to flashlights. They usually don't allege outright negligence in the vein of "my soup had a rock in it." Rather, the more typical criticism is along the lines of "my soup was cold and service was slow." So, too, with online reviews of lawyers by former clients. The criticism is rarely "my lawyer committed malpractice." Instead, negative online reviews are more often "my lawyer was lousy and didn't return my calls."

With clients in at least "retail" practice areas like family law and plaintiffs' personal injury increasingly turning to the

#### ...negative online reviews often need to be rebutted.

web to find lawyers, negative online reviews often need to be rebutted. At the same time, there are distinct constraints that limit what lawyers can say. In this column, we'll first survey the constraints and then examine some practical alternatives.

#### The Constraints

The principal constraint affecting what lawyers can say in rebutting negative online reviews is the confidentiality rule - RPC 1.6. The sweep of the rule is broad and encompasses the attorney-client privilege, work product and other confidential information gained during the

course of a representation. Under RPC 1.9(c) and OSB Formal Opinion 2005-23, our duty of confidentiality continues beyond the termination of the attorney-client relationship involved.

Although there is a "self-defense" exception to the confidentiality rule in RPC 1.6(b)(4), it is generally limited by its terms to formal proceedings or the equivalent such as legal malpractice claims or bar complaints. Oregon is not unique in this regard, with our exception patterned generally on the corresponding ABA Model Rule. Lawyers have been disciplined around the country under counterparts to Oregon RPC 1.6 for revealing confidential information when rebutting negative online reviews by former clients with equally public comments also made online by the lawyers (see, e.g., *People v. Isaac*, 2016 WL 6124510 (Colo OPDJ Sept 22, 2016), *In re Skinner*, 758 SE2d 788 (Ga 2014), and *In re Tsamis*, 2013 PR 00095 (IARDC Jan 15, 2014)). In the analogous context of a listserv post, an Oregon lawyer was disciplined in *In re Quillinan*, 20 DB Rptr 288 (2006), for revealing confidential information about a former client.

Additional constraints effectively bar addressing post-representation criticism in the fee agreement. RPC 1.6(a) prohibits waiver of lawyer confidentiality "unless the client gives informed consent[.]" This would almost never be in the client's interest and, therefore, would create an issue from the outset about whether any consent obtained was sufficiently "informed." Further, the Consumer Review Fairness Act of 2016, 15 USC 45b, et seq., generally renders unenforceable provisions in "form contracts" limiting the ability of customers to provide reviews of the products or services involved. With law firms increasingly using standardized terms that likely fall within the definition of "form contracts," this new federal law effectively precludes the use of "non-disparagement" clauses in many lawyer fee agreements.

Lawyers who are disciplined today also face the very real prospect that the fact of their discipline will be quickly picked-up and posted by influential lawyer rating services like AVVO. This can have an even more negative long-term marketing consequence than isolated criticism by a former client. Therefore, lawyers who "fight fire with fire" are likely to get burned.

#### The Practical Alternatives

Consumer review websites typically have terms of use that may be prudent to consult to determine whether there is a basis to ask the service involved to remove a negative post.

If a negative post cannot be removed, lawyers need to assess whether it makes sense to respond. Despite the constraints lawyers face, RPC 1.6 does not prohibit responses altogether. In doing so, however, lawyers should be guided by three practical considerations.

First, be professional. A polite and tempered response can in and of itself undermine the credibility of the former client critic. A response that - without revealing otherwise confidential information - puts the lawyer's firm in context, can potentially turn a negative into a positive by stressing the firm's background, depth and commitment to client service.

Second, be proportionate. An "over the top" response to a mild rebuke will likely only reinforce the impression that the lawyer

#### ...lawyers who "fight fire with fire" are likely to get burned.

is thin-skinned and may indeed have done whatever it is that the former client has alleged.

Third, be honest. Lawyers need to be scrupulously accurate in their responses to avoid an equally serious charge under the "dishonesty rule" - RPC 8.4(a) (3). For the same reason, lawyers should resist the temptation to "balance the scales" by submitting a false positive review under a pseudonym. Although in a different context, a lawyer was disciplined in *In re Carpenter*, 337 Or 226, 95 P3d 203 (2004), for submitting a false posting under a pseudonym to a website for former high school classmates.

#### Summing Up

Lawyers and law firms often focus significant time and funds in creating and maintaining a strong presence in web and social media marketing. When a disgruntled former client leaves a negative online review, there can often be an all-too-human inclination to hit back. Lawyers, however, need to carefully calibrate any response to both stay within the constraints of the RPCs and to effectively address the criticism they are attempting to rebut.



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## Around the Bar

### Rima Ghandour Appointed MBA President-Elect

Rima I. Ghandour, of Ghandour Law LLC, has been appointed MBA President-Elect and will serve as MBA President for the 2018-19 term.

Rima concentrates her work on complex construction defect lawsuits, commercial litigation, real estate disputes, product liability, insurance coverage and personal injury claims in state and federal courts. An accomplished trial lawyer in multiple jurisdictions, Rima has dedicated her time outside of work and family to community service, service in local and state bar associations, and to improving the legal landscape for women and minorities. Rima has served on numerous



YLS and MBA committees over the years, prior to joining the MBA Board in 2015. She presently serves as MBA Board Secretary and incoming president of the Queen's Bench, as well as founding member and outgoing president of the Arab American Cultural Center of Oregon.



Gwen Griffith



Samuel DeBaltzo



Jarell Hunt

### Tonkon Torp

Tax attorney **Gwen Griffith** has been appointed to the City of Portland's Business License Appeals Board.

The Board hears and decides appeals of decisions issued by the City of Portland's Revenue Bureau related to business license, business income tax, and transient lodging tax. To be considered for service, professionals from Portland's accounting and legal communities must have the requisite level of expertise in accounting methods and tax regulation, and be approved by



Deanna Franco



Jay Richardson



Amber Beyer

### Cosgrave Vergeer Kester LLP

The firm is pleased to announce that **Deanna Franco** has joined the Business Practice Group as a partner. Franco is an attorney focusing on the development of comprehensive estate plans of all types and sizes, and real estate transactions.

**Jay Richardson** CPA, CMA, CFM, has joined the Business Practice Group as a partner. Richardson practices law in the business, tax, estate planning and real estate groups. His practice emphasizes taxation, business formation and transactions, estate planning, and employee benefit plan consulting, and tax litigation.

Cosgrave Vergeer Kester LLP is pleased to announce that **Amber A. Beyer** has joined the firm as an associate. Her practice focuses on general litigation and complex torts.

*The Around the Bar column reports on MBA members' moves, transitions, promotions and other honors within the profession. The submission deadline is the 10<sup>th</sup> 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 [mba@mbabar.org](mailto:mba@mbabar.org).*

## Another Successful Absolutely Social

Over 200 lawyers, judges, sponsors and law students gathered at the University Club on October 17 for the fall Absolutely Social - The Grape Escape. The event featured wine tastings selected by Matt Levin and Albert Menashe. Cash and canned food were collected for the Oregon Food Bank. Thanks to all those who contributed!

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## Tips from the Bench: Discovery Disputes

by Judge Stephen K. Bushong  
Multnomah County Circuit Court Judge



*"In the field of opportunity,  
It's plowin' time again."*

When Neil Young wrote the song "Field of Opportunity," he probably wasn't thinking about document discovery in civil litigation. Discovery presents many opportunities, and some litigators spend hours plowing through documents in the hopes of finding a smoking gun. Consider the following tips the next time you go plowin' in this field.

### Avoiding Discovery Disputes

The best way to handle discovery disputes is to avoid having them in the first place. Here's how:

- Remember that discovery is a tool to help you get the information you need for trial; it is not a weapon to be used to bludgeon your opponent into submission.
- Manage your client's expectations and explain the discovery obligations your client may face in litigation. Establish a litigation hold at the outset to prevent spoliation of evidence. Obtain the relevant documents from your client at the earliest possible stage, and consider producing them voluntarily to the other side.
- Confer with your client about discovery requests. Focus on what CAN be produced, not on how broad the requests are and how difficult it might be to fully comply. Never go to court and argue that a request is overly broad or unduly burdensome without conferring with your client.
- Confer with opposing counsel, as required by UTCR 5.010. To confer effectively, pick up the telephone; don't just send an email. Don't email a motion to compel to opposing counsel the day before filing and ask counsel to concede; that is not a "conferral."
- Prepare and produce a privilege log. See *Burlington Northern & Santa Fe Railway Co. v. U.S. District Court*, 408 F3d 1142 (Ninth Cir 2005) ("We hold that boilerplate objections or blanket refusals inserted into a response to a Rule 34 request for production of documents are insufficient to assert a privilege. However, we also reject a *per se* waiver rule that deems a privilege waived if a privilege log is not produced within Rule 34's 30-day time limit.")

### Effectively Managing Discovery Disputes in Court

If you are unable to avoid or resolve your discovery dispute without the court's assistance, then prepare for a hearing. Here are some tips:

- Check the Multnomah County Civil Motion Panel Statement of Consensus. The statement is not binding, but most judges will follow the consensus statement absent a good reason to deviate from it. If you don't have a good reason, just agree to follow the consensus statement and avoid an unnecessary hearing.
- Be reasonable; prepare to narrow the scope of your requests. Focus on what you really need for trial, not what you want or hope to find.
- Don't ask for sanctions every time you file a motion to compel; save sanctions for the most egregious cases.
- Establish that responsive documents exist and are being withheld *before* filing a motion to compel; use deposition testimony to support your motion to compel.
- Follow the MBA deposition guidelines; call the court to resolve disputes that arise during depositions.
- Keep the costs of litigation manageable. Contact your motions judge - or in complex cases, the assigned judge - to resolve disputes informally by conference call or other short appearance, where appropriate.
- Consider asking for a discovery conference to manage discovery, set deadlines for completing discovery, completing ADR, filing dispositive motions, and other tasks where appropriate.
- Be sure to give the motions judge hard copies of your motion and any supporting materials, as required by SLR 5.015(6), unless the judge prefers only electronic copies.
- Take good notes of the judge's ruling, and submit a proposed order promptly after the hearing; be accurate and neutral.

In the song, Neil Young sings, "I've been wrong before, and I'll be there again. I don't have any answers, my friend." During the course of discovery, you might find yourself in a similar predicament. Follow the tips in this article, and you could achieve greater success the next time you find yourself plowing in this field of opportunity.

*Endnote: The song "Field of Opportunity" appears on Neil Young's 1978 album Comes a Time, the Canadian singer/songwriter's 11th solo album. Young previously recorded with the bands Buffalo Springfield and Crosby, Stills, Nash and Young, and has recorded many albums with his longtime backing band, Crazy Horse.*



## News from the Courthouse

by Patrick Angel  
Court Liaison Committee

### Presiding Judge's Report and Courthouse Update - Judge Nan Waller

#### Ninth Circuit "Un-Shackling" Decision

In a Ninth Circuit en banc decision filed May 31, the United States Court of Appeals held that it is unlawful to impose a policy which uniformly requires prisoners to appear in restraints during court proceedings.

Rather, before a defendant may be shackled, the court must make an individualized decision that a compelling government purpose would be served and that shackles are the least restrictive means for maintaining security and order in the courtroom.

As a result of the decision, *United States v Sanchez-Gomez*, Multnomah County Circuit Court has created a new docket for restraint hearings in criminal cases. The day before the scheduled hearing for a defendant in custody, the Multnomah County Sheriff's Office will file a Declaration in Support of Restraints if they are recommending that the inmate be restrained during court due to a risk of disruption in court or a risk of escape. The court rules on those recommendations from the sheriff's office each morning at 8:30 a.m. in presiding court prior to the court's call docket.

#### Preliminary Hearings Replacing Grand Jury

In furtherance of and in connection with the Grand Jury Recordation law recently passed in Oregon, requiring all grand jury proceedings to be recorded for transparency, Multnomah County District Attorney Rod Underhill made the decision that his office will set preliminary hearings in the majority of felony cases. Currently over 3,000 criminal cases a year are presented to a Grand Jury but Mr. Underhill plans to ultimately remove as many as 80 percent of the criminal cases from the Grand Jury process and instead set them for preliminary hearings.

Preliminary hearings will allow defendants to be present and represented by counsel, and for evidence to be submitted to the court including witness testimony.

On November 6, the District Attorney's office began scheduling preliminary hearings for felony drug cases and will expand the use of preliminary hearings to other felony case types in early 2018. Preliminary hearings are open to the public and will be held at the Justice Center.

#### Procedural Justice Initiative

Multnomah County Circuit Court continues its commitment to delivering procedural justice to members of the public having business in the Multnomah County courthouses.

Upcoming workshops for court staff and judges will focus on the concepts of institutional equity and implicit bias, and will examine decision points that can have a positive impact on racial equity in the court. This follows the court's training series in the spring which provided insights into trauma-informed practices, and "lunch and learn" sessions during the summer and fall which have included presenters from a wide variety of cultural and racial perspectives.

#### New Multnomah County Presiding Judge

Congratulations to Judge Stephen Bushong, the new Multnomah County Presiding Judge starting in January.

One of Judge Bushong's first orders of business will be to designate who will be taking over his former role as Chief Civil Judge and who will take over retiring Judge Edward Jones' role as Chief Criminal Judge.

#### New Courthouse

Construction is continuing, and can be viewed via a live-streaming camera from a link on the Oregon Courts website: [www.dwpwebcams.com/mcc/stream.htm](http://www.dwpwebcams.com/mcc/stream.htm).

Progress on the courthouse construction project is on track. The floor levels are being built now and the form of the building will begin to take shape. The basic structure of the building is expected to be completed by next fall, with interiors and finishes completed by mid-2019, and commissioning of the building to take place towards the end of 2019. The court still plans to move into the building during the first quarter of 2020.

#### New Budget Cuts to the Courts

The Oregon State budget of 2017 included another 6.5 percent cut to the Oregon Judicial Department's operating budget. The challenge now is for Multnomah County Circuit Court to maintain service to the public and the legal community while avoiding personnel layoffs.

Multnomah County Circuit Court leaders, Presiding Judge Nan Waller and Trial Court Administrator Barbara Marcille, continue to work towards solutions with a focus on using technology to meet needs and gain efficiencies. Still, reductions in service are inevitable in the face of these continued cuts in funding, which began during the 2008 recession.

Practitioners and parties can expect data entry on case filings to take a little longer. Public service counters at the Central Courthouse, Justice Center, and Juvenile Justice Center will close at 4 p.m., Monday-Friday. Phone service for the Trial Court Administrator's office and court operations units will be available from 8:30-10:30 a.m. and 1:30-4 p.m., Monday-Friday.

#### New State Court Administrator

Long time State Court Administrator Kingsley Click retired in November. Nancy Cozine, who currently serves as the Executive Director for the Office of Public Defense Services took over as State Court Administrator at the end of November. Congratulations to Kingsley Click on a well-deserved retirement and to Nancy Cozine on her new endeavor as administrator for the Oregon Judicial Department.

#### Free Lunch and Learn CLE: Procedural Justice and the New Courthouse - Friday, December 15, 12-1 p.m. at the Courthouse

Join Presiding Judge Nan Waller, Chief Family Law Judge Maureen McKnight, and attorney Joe Franco of Holland & Knight LLP for a free CLE seminar on the Multnomah County Circuit Court's procedural justice initiatives, and the efforts made to incorporate the principles of procedural justice into the design of the new courthouse. Topics will include:

- Ways to narrow the gap between judicial and public

*Continued on page 14*



# The Honorable Ulanda L. Watkins Clackamas County Circuit Court Judge

by Stephanie Engelsman  
Court Liaison Committee

Multnomah Bar Association Board Member Judge Ulanda Watkins is a true Oregonian. Born and raised in Northeast Portland, she went to Wilson High School, Oregon State University and Lewis & Clark Law School (class of 1996). Her husband is a retired military veteran, she has two adult sons in the area and a lot of other family close by. Upon graduating law school, Judge Watkins joined Ernie Warren and now-Judge Kenneth Walker, doing criminal defense work. She left in 2011 to join GEICO's Counsel Office. Working for GEICO allowed Judge Watkins to apply her love for litigation and the courtroom. Governor Kate Brown appointed her to the Clackamas County bench in September.

Judge Watkins joined the MBA Board two years ago. Previously, she served on the Equality & Diversity Committee and the Professionalism Committee. She finds the MBA to be vital to lawyers in Multnomah County. It provides networking and business opportunities, free CLEs, affordable healthcare, and tools that connect lawyers.

Her advice to young lawyers is to always come prepared and to be the best advocate for your client. She also reminds lawyers that a law degree is the only degree that gives you so many options and that the skill set one learns in law school is invaluable.

Judge Watkins loves being on the bench. She wanted to become a judge to make a difference and



Judge Ulanda L. Watkins

feels that she really gets to do so. Clackamas County is a court of general jurisdiction so she gets to do a little bit of everything. She finds the lawyers to be very experienced in their chosen practice area and the whole courthouse runs like "one big team machine." To deal with the stress of the job and to stay grounded, Judge Watkins says "I have my faith and I say 'do the best job that you can do' every day to myself before taking the bench." She strives to let parties feel heard and receive justice. She wants all parties to know that she respects them and values their time, and offers her jury room to those who need a quiet and private place to discuss settlement. "I really love this job. It is the best job ever. I loved practicing and being in litigation ... but I love this 1000 times more."

Proud that her appointment adds diversity to the bench, Judge Watkins is now one of four African-American judges currently sitting in the tri-county area.

## Is Civic Education Still Relevant?



by Tim Resch  
MBF Board Member

The Multnomah Bar Foundation (MBF) was established in 2005, to mark the Centennial Anniversary of the MBA,

*To increase the public's understanding of the legal system; to promote civic education, public participation and respect for the law, and to improve the quality and administration of the legal system.*

It is painfully obvious that in the year since the last election, our nation remains deeply divided. Now, maybe more than ever, civic education and public participation are essential components in a functioning democracy. Our country has been through much turmoil in its history - and it appears that turmoil will continue for some time. What can we, as members of our local bar association, do? We can support the Foundation's mission.

Since 2006, the MBF has awarded grants totaling more than \$360,000 to nonprofit organizations in the Portland metropolitan area with programs dedicated to increasing civic

participation. Programs the MBF has funded span all ages and cover a wide variety of topics. The MBF Grants Committee vets the many applications we receive in order to find appropriate local organizations to support. In order to qualify for a grant, the organization must provide a detailed explanation for a project that is designed to increase the public's understanding of the legal system and promote civic education, public participation and respect for the law.

The MBF has awarded grants to a diverse group of recipients. Northwest Family Services Peer Court received a grant this year to help with their efforts to hold youthful offenders accountable and focus on diversion after first-time, low-level offenses. We also made a grant to Saturday Academy, which puts on speech and debate classes. Saturday Academy also runs a "Kid Lawyer Summer Camp" where middle school-age campers learn about the legal system and put on a full mock trial. These programs, plus other recipients, help to foster a positive spirit of

civic education and community involvement.

MBF Board members serve as liaisons to each of our grant recipients, and have an opportunity to observe first-hand the programs and projects we are funding. The grants we make allow these programs to reach out and serve many facets of our community - youth, elders, traditionally disenfranchised populations, and recent immigrants. Your help - your tax deductible donation - is critical to our efforts to make a difference in our community.

Much has been written about the last presidential election campaign and its impact on civil discourse in our country. We, as members of our local bar, have an opportunity to make a positive contribution to our community through the Civic Education Fund. Many of you have given already, and many more of you can give, and help us do even more to advance the goals set out in our mission statement. Why support the MBF and the Civic Education Fund? To lead the way and do our part to make a difference in our community.

To make a donation, see the insert in this issue, donate online at [www.mbabar.org/Foundation](http://www.mbabar.org/Foundation) or call 503.222.3275.



Damon Vickers, Taylor Lewis, Douglas Watson and Robert Nichols

Senior Judge Keith Meisenheimer, Roscoe Nelson, Rick Saturn and Scott Sorensen-Jolink. The low gross winner was the team of Tom Melville, Matthew Noe, Josh Stellmon and Mike Tooley.

The Moss Adams team of Chad Averill, Eric Balentine, Clay Martin and Michael Smoot won the scramble.

Traveling trophies go to the first place firm teams and to the first place open low net team. Congratulations, all!

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### Topgolf Social

The MBA introduced a new golf event this spring, the Topgolf Social. Golfers and non-golfers enjoyed playing target golf in a fun, casual, festive atmosphere. We were joined by accountants from the Oregon Society of CPAs (OSCPA) and bankers from the Oregon Bankers Association (OBA). With sponsor support, this event raised over \$980 for the VLP.

Thank you to our sponsors and raffle prize donors!

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## MBA Golf Events Raise \$14,600 for Legal Aid

### MBA Golf Championship to Benefit the Volunteer Lawyers Project

The 20<sup>th</sup> Annual MBA Golf Championship was held at The Oregon Golf Club and raised over \$14,600 to help support operations for the Volunteers Lawyers Project (VLP) at Legal Aid Services of Oregon.

Rick Saturn won Men's KP; Mike Tooley won Men's Long Drive. Zeta Rennie won both Women's KP and Women's Long

Drive. Overall Low Gross winner was Tom Melville; overall Low Net winner was Rick Saturn.

In the Firm Division, the low net winning team was Cummins Goodman Denley & Vickers, PC - Taylor Lewis, Robert Nichols, Damon Vickers and Douglas Watson. The low gross winner was Miller Nash Graham & Dunn LLP - John Clarke, Brian Doherty, Tom Sand and Justin Sawyer.

In the Open Division, the low net winner was the team of



Michael Tooley, Matthew Noe, Tom Melville and Josh Stellmon



Topgolf Team Sussman Shank and friends



**mba** | Young Lawyers Section

**What is the YLS?**

An inclusive section of the bar, which includes any MBA member in practice less than six years or under the age of 36. The YLS provides leadership, networking, professional development and service opportunities. And we have fun!

**Ask the Expert**

Dear Expert,

*I've noticed a number of networking events occurring recently and I know it would be a good idea to attend them, but I'm worried I won't know anyone there. Any advice on how I can work the room when I don't know anyone?*

*Aspiring Networker*

Dear Aspiring,

It can be daunting to attend a networking event where you don't know anyone, even for the most extroverted attorney. Don't worry, you're not alone! Every attorney has been in a similar position at some point in their career, and it is very likely that there are others attending the event who don't know anyone there either. Luckily, we have a very friendly and welcoming bar. Here are a few tips to keep in mind:

Consider inviting a friend or colleague to attend the event with you. While you don't want to be joined at the hip with one person all night, especially if it keeps you from meeting new people, it can be helpful to attend with a friend or colleague. This will reduce the anxiety of not knowing anyone, and hopefully the person you bring will know or recognize people at the event and can introduce you.

At the event, keep an eye out for the nametags of other attendees to see if you recognize anyone. A good start would be to look for opposing counsel you have not yet met in person, attorneys who work in the same practice area, and attorneys who you know have a relationship with others in your firm. Also, be on the watch for board members of the hosting organization, as you can be sure they will be happy to talk to you about the organization, their work, and how you can get involved. If you see a face you recognize, perhaps from law school, a CLE, or a different event, strike up a conversation about where you met previously and what they have been up to since.

If you've exhausted all possibilities and you're still at a loss, then approach a person or group confidently and introduce yourself. Another option is to strike up a conversation with a person standing near you while at the bar or refreshment table. Be conscious of your body language, make good eye contact, and maintain a friendly smile, as this will make you appear approachable. You can strike up a conversation about any topic - the event, the organization, the venue, the weather - it is perfectly acceptable to start with small talk! Ask about the other person's involvement in the organization and their practice area, and have your elevator speech prepared along with anything interesting about yourself. Try to ask open-ended questions that foster conversation and show you're interested in what the other person is saying. If you feel comfortable being straightforward, you can even let the person know that you don't know many people at the event and ask for their networking tips or if there is anyone they recommend you talk to at the event. Odds are, they will be happy to introduce you to another attendee they know with similar interests or who works in your practice area.

Don't let the networking end with a handshake and conversation! Bring business cards with you, but don't hand them out to every single person you come in contact with - make them count! Make sure to ask the other person for their card as well. After the event, try to make a note on the card that will help you remember the person you met. Make sure to follow up with a thank you card or email to anyone who introduced you to others at the event. Also, follow up with new colleagues by inviting them to lunch, coffee, or happy hour. As your network and contacts expand, hopefully you won't find yourself in too many situations where you don't know anyone at an event.

**Elizabeth Lemoine**  
**YLS Pro Bono Spotlight**

by Anthony Blake  
YLS Pro Bono Committee

Elizabeth Lemoine is an attorney at Lemoine Legal Services PC with a passion for helping others. She was born and raised in Eugene, Oregon. Staying true to her roots, she became a Double Duck after attending the University of Oregon for both her undergraduate and law degrees. One of her focuses during her time at law school was to gain as much practical experience as her schedule would permit. In addition to interning at the Lane County District Attorney's Office, Elizabeth worked part-time during the school year and full-time during the summers at Jaqua & Wheatley PC in the field of insurance defense.

After graduating from law school, Elizabeth took time off to raise her oldest son, but made an effort to continue seeking volunteer opportunities during her break from the law. In February 2004, Elizabeth passed the OSB exam. It was around this time that she decided to see how she could help individuals in need at Legal Aid Services of Oregon (LASO).

Elizabeth began volunteering with LASO's Senior Law Project (SLP) prior to starting her first paid position as an attorney.

Early on, Elizabeth knew that spending time at the SLP meant being placed in challenging situations that would enable her to constantly improve her lawyering skills. Despite not knowing what to expect initially, Elizabeth grew to love and look forward to her 30-minute appointments at the Hollywood Senior Center.

Thirteen years later, Elizabeth still devotes the morning of every first Friday of the month to six appointments at the SLP. She even travels to the same Northeast Portland location where she started, despite her current firm's location nearly 30 minutes away. Sometimes a client's issue can be resolved in less than the 30 minutes allotted to each appointment, but sometimes a senior citizen walks in with a problem that requires much more time and attention. Elizabeth loves tackling the variety of challenges that come through the door each Friday.

Her explanation for why she devotes so much of her time to pro bono work is simple: "I just like helping people. No matter who you are or what demographic you're helping, helping others is always a good thing." Another reason Elizabeth



Elizabeth Lemoine

enjoys her time with the SLP is the gratitude she receives from the seniors and their families once the appointment is over. They aren't afraid to give her a hug or come back later to express their appreciation.

Overall, the time spent at the SLP has allowed Elizabeth to grow as both a professional and as an individual. She highly recommends the SLP to young attorneys seeking more experience. Whether it's helping a family draft a will or assisting an elderly mother with a domestic dispute, Elizabeth believes that the opportunity for exposure to serious everyday issues at the SLP is great for young attorneys. She likewise thinks time spent at the SLP is good for experienced attorneys seeking a way to reconnect with their local community. No matter the stage of your career, as Elizabeth says, "helping people is always a good thing." Why not spend 30 minutes at the SLP helping seniors near you?

**New Admittee Social**

On November 1, the YLS hosted the annual New Admittee Social at Altabira Tavern. The event gave new OSB admittees

and the YLS leadership an opportunity to mingle in an informal setting. Altabira provided delicious food and the

location made it easy for new bar admittees to attend after having just finished the Learning the Ropes CLE, which took place at the Oregon Convention Center. It was a great way to welcome our new attorneys!



**MBA Visits the Portland Children's Museum**  
**Saturday, February 24, 5:30-7:30 p.m.**

Each year, the YLS Membership Committee reserves the Portland Children's Museum (4015 SW Canyon Road, Portland) for this private networking event. Families will have free reign to explore the museum and complimentary refreshments will be provided for kids and adults. Admission is free.

Please register early as space is limited - submit your party's RSVP list to ryan@mbabar.org.



Sponsorship opportunities available - contact the MBA at 503.222.3275 for details.



## Brent Hamilton Member Spotlight

by Brad Krupicka  
YLS Treasurer

For most young lawyers in their first few years of practice, finding any time to participate in a volunteer activity is a daunting task. Brent Hamilton, of Davis Wright Tremaine, has gone the extra mile by not only giving a considerable amount of time to YLS service, but also helping establish a debate league for middle school students in Oregon.

Brent grew up in Tualatin and participated in policy debate for Tualatin High School. He then attended Gonzaga University where he also competed successfully on the national debate circuit. Brent came back to Oregon and went to law school at the University of Oregon before taking the Oregon Bar.

Based on his love for debate and continued desire to teach critical thinking skills to a new generation, Brent has spent the past five years coaching local middle school students and forming a new local speech and debate league. Many of the students Brent coaches are first-generation Americans, whose parents often speak English as their second language. After some parents reached out to the legal community for guidance, Brent stepped up to volunteer. According to one parent, Dr. Jane Xu, a Computer Architect at Intel, the majority of students from Brent's first year of coaching "joined their high school debate

teams as articulate and eloquent speakers, and competitive debaters. The students not only learned debate skills but more importantly they learned how to think logically and become more confident. [Brent's] passion to teach and build a better community is an inspiration for many parent volunteers who eventually funded the nonprofit Oregon Middle School Speech & Debate League (OMSSDL) this summer to provide free monthly trainings locally and a few tournaments a year for all middle school students across the state from any background."

Brent has been heavily involved in the formation of the OMSSDL, helping with organizational structure, marketing, running tournaments, and other business-type functions as needed. Starting with just 10 students in the first year, the program has grown exponentially. The most recent tournament was held on November 18, at Lake Oswego Junior High School, and over 100 middle school students from across the state attended and competed.

Brent's training in debate has prepared him for a busy litigation practice at Davis Wright Tremaine, which focuses on labor and employment law.

Brent has also served on the YLS Pro Bono Committee for the past two years and currently organizes the Wills for Heroes



Brent Hamilton

events. The Wills for Heroes program provides first responders and their spouses with a free, one-stop session where they receive an updated will, an advance directive, and a power of attorney. The program has continued to grow in recent years and Brent has helped to coordinate the existing events and add additional events. The most recent event, co-hosted with the Oregon Paralegal Association, was another great success, providing pro bono services for 16 heroes from throughout the Willamette Valley.

When he is not splitting his free time between coaching, organizing events, and pro bono service, Brent enjoys the local microbrew scene and has a taste for Belgian beers. His quite impressive cellar beer stash leaves even the most hardcore beer nerds jealous. He also recently traveled to Germany for Oktoberfest.

Anyone interested in more information or volunteering with the OMSSDL or future Wills for Heroes events can contact Brent at BrentHamilton@dwt.com.

## Imprint Program Seeks Volunteers

by Ashley Cole  
YLS Service to the Public Committee

The Imprint Program has returned for another fun year of reading great books and corresponding with local high school students. This popular program is sponsored by the YLS Service to the Public Committee and is a way for high school students to connect with attorneys in their community. The program also provides an opportunity for the students to develop written and analytical skills. Each student in the participating class will be paired with a volunteer attorney, and both will be assigned to read the same novel over a three-month period. The student and attorney will write approximately four letters each, discussing their lives and interests as well as the portion of the novel most recently read. By the end of the program, the student and attorney will have developed a mentoring relationship and will have the chance to meet at an informal gathering celebrating the project.

This year, students and their paired attorneys will be assigned one of the following books:

- *The Last Leaves Falling* by Sarah Benwell
- *Diamond Boy* by Michael Williams
- *A Time to Dance* by Padma Venkatraman
- *Life of Pi* by Yann Martel
- *Bamboo People* by Mitali Perkins

To participate, you must be able to attend one of two program-end parties at Parkrose High School in Northeast Portland. That's right - a top requirement is that you relax and attend a party (and refreshments are included)! Specific party dates and times to be announced.

An orientation meeting for volunteers will be held on Monday, January 22 at the Standard Insurance Building. Attendance at the orientation is not mandatory but is strongly encouraged, especially for first-time volunteers. The first letters will go out in mid-February.

To sign up for the program, contact Deryn Isaac at the MBA at deryn@mbabar.org or 503.222.3275. If you have any questions, contact Amelia Andersen at amelia.andersen@gmail.com or Gabby Hansen at gabhans@gmail.com.

## YLS Community Service Day at the Blanchet House

by Amelia Andersen Hlavaty  
YLS Service to the Public Committee

On October 14, six members of the YLS plated, served, and bussed tables during lunch service at the Blanchet House. Volunteers Noam Amir-Brownstein, Melissa Hopkins, Deryn Isaac, Kevin Sasse, Zac Hlavaty, and Amelia Andersen Hlavaty assisted in serving over 250 people. The Blanchet House is a hospitality-based shelter offering food, shelter and aid



to individuals and families experiencing homelessness. They offer breakfast, lunch, and dinner, six days a week to the community. Thanks to those who volunteered!



## YLS December Drop-in Social and Toy Drive

**Bit House Saloon**

**727 SE Grand Ave, Portland**

**Thursday, December 7**

**5:30-7 p.m.**



by Sheeba Suhaskumar  
YLS Membership Committee

This holiday season, the YLS is partnering with CourtCare to collect toys for children ages six weeks to 10 years. CourtCare is a free childcare program in the downtown and East County courthouses serving approximately 100 to 150 children each month while their parents or guardians are attending to court business. Please bring your donation of unwrapped new or gently-used toys, books or art supplies with you to the social. No RSVP necessary.

Donations will also be accepted at the MBA office between now and Dec. 7.



**MULTNOMAH  
CourtCare**

A project of the Multnomah Bar Foundation, in partnership with Multnomah County, the Oregon Judicial Department, the U.S. District Court Attorney Admission Fund and Volunteers of America Oregon




**News From the Court**

*Continued from page 10*

- perceptions of the justice system;
- Challenges to overcome in improving the experience of the self-represented litigant;
- Why considerations of procedural justice should be

- important to all lawyers who interact with the court;
- How a focus on procedural justice can improve your effectiveness as a lawyer; and
- Aspects of the new courthouse that were planned with procedural justice in mind, including the court's initiative to create a legal

resource center in the new courthouse.  
 The program may qualify for Access to Justice MCLE credit. There is no charge to attend. RSVP to Pamela Hubbs (pamela@mbabar.org).



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## The Corner Office PROFESSIONALISM

The MBA's stated principles related to professionalism, enshrined in a one-page document titled Commitment to Professionalism, includes two aspirational concepts that may appear to conflict with a lawyer's duty of loyalty to his or her client as well as with the responsibility of zealous advocacy.

The two aspirational concepts at issue are: "we will only...engage in conduct, or take positions that have merit" and "we will represent our client's best interests while seeking to resolve matters with a minimum of legal expense to all concerned."

It should be noted that "zealous" representation is not mentioned in the Oregon Rules of Professional Conduct. The word did appear in the ORPC's precursor, The Code of Professional Responsibility, specifically in the lead line of DR 7-101. However, even in that rule, the duty to seek the lawful objectives of the client was tempered in the body of the rule: "A lawyer does not violate ... [DR 7-101] by acceding to reasonable requests of opposing counsel which do not prejudice the rights of the lawyer's client,... [and] by avoiding offensive tactics..." Further, DR 7-101(B) added that "a lawyer may: ... where permissible, exercise the lawyer's professional judgment to waive or fail to assert a right or position of the lawyer's client."

The ORPC carry forward the same moderation of a "never give an inch" and "win at all costs" approach to the practice of law. The duties to represent clients competently and with diligence (Rules 1.1 and 1.3) are balanced by ORPC 3.1: "a lawyer shall not knowingly ...assert a position..., delay a trial, or take other action on behalf of a client, unless there is a basis in law and fact for doing so that is not frivolous..." See also, ORPC 4.4(a): "A lawyer shall not use means that have no substantial purpose other than to embarrass, delay, harass, or burden a third party..." See also, rules 3.3, 3.4, 4.1, 4.2, and 4.3, all of which give direction on a lawyer's treatment of adverse parties and third persons.

So, when a client suggests, or demands, burdensome

discovery to gain advantage over an opposing party, especially an impecunious opponent; or to seek a remedy clearly in excess of what the law and the facts dictate; or even to oppose a continuance - who decides? ORPC 1.2(a) gives us guidance: "a lawyer shall abide by the client's decisions concerning the objectives of representation and...shall consult with the client as to the means by which they are to be pursued." The resolution of the question as to who decides is resolved by analyzing whether the decision relates to the objectives of the representation or the means to those objectives.

Note that the lawyer is required by the rule to consult with the client regarding the available means to be employed. It would clearly be easier to keep the client in the dark as to the various means that are available to the lawyer. And, clearly, a lawyer is not required to discuss in detail every conceivable means that the lawyer can come up with that might help to gain the client's objectives. But, just as clearly, the lawyer must discuss with the client such offensive and unprofessional means to an end that the client raises or is likely to consider. Here is where ORPC 1.4(b) bears on the discussion and the decision: "a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation." Further, ORPC 2.1 admonishes that "a lawyer shall exercise independent professional judgment and render candid advice." The rule goes on to suggest that the lawyer's advice is not limited to a legal analysis but may include "other considerations such as moral, economic, social and political factors that may be relevant..."

Therefore, if the client insists on burdensome discovery, or hindering discovery, discovery is not the objective - it is a means to the objective of the case. After consultation, the decision belongs to the lawyer. Seeking a remedy that is greater than warranted by the facts and the law is a closer question. Some remedy is the objective; is the

unwarranted demand a means to gain so perceived an advantage in settlement? The matter of a request for a continuance seems to be in the means category. If the continuance request is reasonable and will not unduly harm the client, after consultation, the decision belongs with the lawyer.

It is important that clients do not perceive their lawyers as too accommodating, as members of a club that takes care of its members' interests at the expense of their respective clients. The lawyer should take the time to serve the client as the advisor that ORPC 2.1 envisions and give the client the benefit of the lawyer's independent professional judgment, to explain why a more combative position may serve the client poorly. After all, the client retained the lawyer to apply specialized skills, and judgment, that the client does not possess in addressing the matter.

If the client is not satisfied with the lawyer's advice and judgment regarding the means to pursue the client's objective, it is appropriate to suggest to the client that he or she might be more comfortable with another attorney. If the lawyer has undertaken representation, refer to ORPC 1.16 for direction on terminating the representation. If the client and the lawyer have a serious disagreement when it comes to the means to employ in seeking the client's objective, the attorney-client relationship will be challenging and, in the end, the client may likewise be dissatisfied with the results of the representation.

*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 your question. Questions may be submitted anonymously.*

Free Lunch and Learn CLE

### Procedural Justice and the New Courthouse

Friday, December 15  
12-1 p.m.  
Multnomah County Courthouse

Join Presiding Judge Nan Waller, Chief Family Law Judge Maureen McKnight and attorney Joe Franco of Holland & Knight LLP for a free CLE seminar on the Multnomah County Court's procedural justice initiatives, and the efforts made to incorporate the principles of procedural justice into the design of the new courthouse.

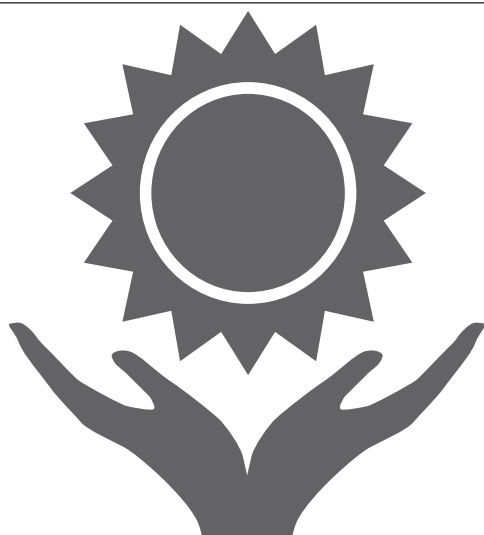
The program may qualify for Access to Justice MCLE credit. There is no charge to attend. RSVP to Pamela Hubbs (pamela@mbabar.org).

## Pro Bono Volunteers

Thank you to the following lawyers and law students who recently donated their pro bono services via the Volunteer Lawyers Project, the Senior Law Project, law firm clinics, the Oregon Law Center, St. Andrew Legal Clinic, Catholic Charities Immigration Legal Services, Lewis & Clark Small Business Legal Clinic, Children's Representation Project, Wills for Heroes and Changing Lives Forever Project. To learn more about pro bono opportunities in Multnomah County, go to [www.mbabar.org](http://www.mbabar.org) and click on "About Us" and "Pro Bono."

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The MBA staff wishes all of you a happy holiday season. In 2017, 631 Oregon law firms, attorneys and non-attorney staff donated to the Multnomah Bar Foundation to benefit CourtCare and the Civic Education Fund. Countless others contributed time and resources to pro bono efforts. We would like to thank the Portland legal community for helping to make our community and our state a better place. We look forward to serving you in 2018.



## Classifieds

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## Member Resource Center

Welcome to the member resource center, where you will find information of importance to MBA members and the legal community at large.

#### Pro Bono Oregon Listserv

Receive a weekly summary of available pro bono volunteer opportunities in your email inbox every Thursday. Listings include the type of case and a brief description of the issue and do not include highly identifying facts or party names. Sign up by sending an email to [probonooregon-subscribe@mail.lawhelp.org](mailto:probonooregon-subscribe@mail.lawhelp.org).

#### Update Your Directory Listing on the MBA Website

The MBA website includes an online Membership Directory and members may update their photos, include a bio, add links to social networking sites and update practice area information online. To update your listing, login to the Members Center where you may use the email address currently on file in the MBA Directory as your user name. If you do not know your password, you may click on the "forgot password" link to have it emailed to you.

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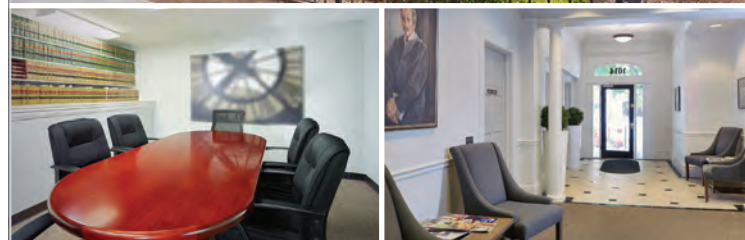
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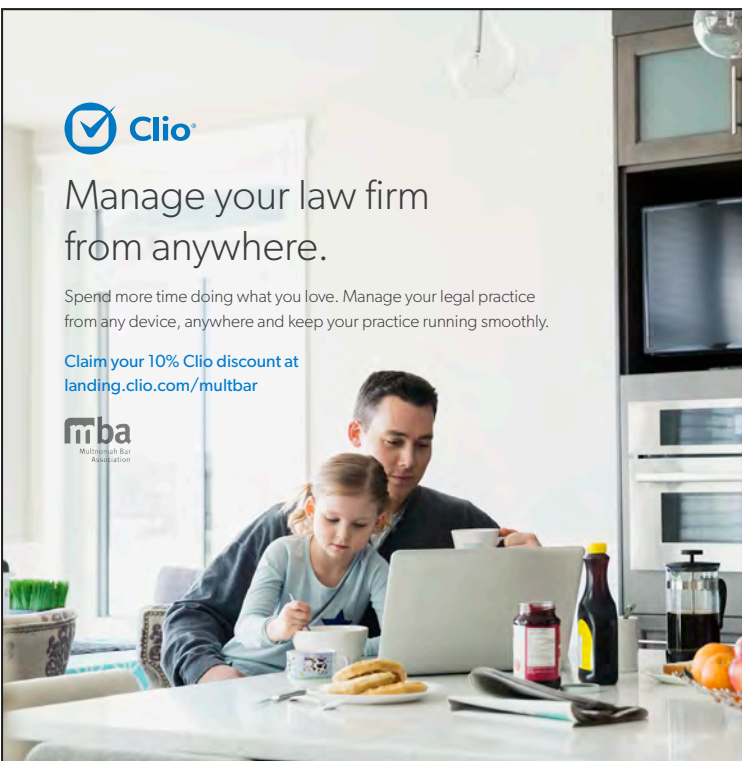
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## 2017 Multnomah CourtCare Campaign and Fundraising Events Raise \$100,000 for Operations

The annual campaign to fund operations at the free childcare program at the downtown and East County courthouses raised over \$83,000. Over \$75,000 was raised from large firms and organizations, and approximately \$8,000 from small firms and individuals. WinterSmash brought in over \$16,000 and Battle of the Lawyer Bands \$1,500.

The MBF wishes to thank all supporters, participants, CourtCare coaches and the MBF CourtCare Campaign Committee. Special thanks to Holly Johnston, MBF Board of Directors, for chairing the campaign.

The **CourtCare Proudest Pride Award** for the largest donation from a firm, lawyers and staff went to **Miller Nash Graham & Dunn LLP**. The **CourtCare Loftiest Leap Award** for the largest donation per capita went to **Buchanan Angeli Altschul & Sullivan LLP**. Firm trophies were awarded at the MBF Social in October.

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Please consider making a tax-deductible, charitable gift to the Civic Education Fund to allow the MBF to continue this important work in 2018. Donors who contribute \$100 or more by December 31 will be acknowledged in the February 2018 *Multnomah Lawyer*. To donate, please use the insert in this issue, visit [www.mbabar.org](http://www.mbabar.org) and click on "Foundation" and "Donate to Civic Education Fund," or contact Pamela Hubbs at 503.222.3275. To learn more about grants funded by the MBF, visit our website and click on "Foundation" and "Grants."

