



# MULTNOMAH LAWYER

MULTNOMAH BAR ASSOCIATION

1906

Lawyers associated for justice, service, professionalism, education and leadership for our members and our community. September 2004 Volume 50, Number 8

## Stewardship of Our Justice System

By Sylvia Stevens, MBA President.

Are you proud to be a lawyer? Are lawyers respected? Is there respect for the judicial system?

Those questions were asked of me and a handful of other MBA representatives by a group of Russians (three lawyers, a newspaper editor and a university professor) visiting the United States to study the rule of law and the operation of the American legal system. Our guests were curious about many aspects of law practice in the US and about the role of bar associations, both mandatory and voluntary, in educating and training lawyers and promoting desirable practice standards. They asked many questions about the provision of pro bono service and organized representation of the poor. But their questions about the public perception of lawyers and the judicial system were the most thought-provoking for me.

Our visitors explained that Russia's constitution is only about 10 years old and citizens who have known nothing but authoritarian rule are only gradually adjusting to a system based on the rule of law. There is widespread mistrust and skepticism of the government structures and its officials. I didn't have the heart to tell our visitors that we suffer from some of that here too, even after 200+ years under the rule of law. All too often we take the virtues of our system for granted. Many American citizens are complacent, cynical and largely uninformed about our legal system. Critics of the American judicial system tend to fall into three categories: those who don't know, those who don't care, and those who don't believe.

As insiders, we lawyers know that the justice system, although not perfect, works pretty well. We also know that it works as well as it does because of the efforts of many individual lawyers and groups who nurture and maintain it; that many of the protections that Americans enjoy are the result of lawyers' activism in the face of strong opposition; and that lawyers are rightfully proud of their profession.

Unfortunately, that view is not widely shared by people outside the profession. Perhaps because our legal system is adversarial, outsiders tend to focus on the wins and losses, the perceived injustices, and what appears to be partisan bickering. Recent years have brought continual attacks on and challenges to the system. The challenges are not just ballot measures that would alter the way we select our judges and the defunding of our courts and indigent defense providers. Challenges come in smaller, more subtle ways, too. I, for one, rarely find a lot of humor in lawyer jokes that portray us as money-grubbing, liars, or worse. On more than one recent occasion I have heard judges, including those on our state Supreme Court, referred to as "elites." Characterizing the judicial resolution of disputes as elitism prevailing over the will of the people is disingenuous at best, and serves only to diminish respect for the legal system.



Stewardship of the justice system is a core mission of the MBA. The creation and implementation of our public outreach program is intended to further that mission by enhancing public understanding of the rule of law and its vital importance to our American way of life. It is designed to be a kind of "Civics 101," a program MBA representatives can take to schools, businesses and community groups.

The same message can be relayed in informal, one-on-one settings as well and I hope that every one of you will take advantage of opportunities that arise in your daily lives to spread the message of the outreach program. Additional details about the public outreach program, including the themes and key messages, can be found in the Annual Report contained in this issue of the *Multnomah Lawyer*.



Joining the Russian delegation at the MBA office were Sylvia Stevens, Peter Glade, Hollis McMilan, the Hon. Paul DeMuniz, Todd Cleek and Judy Edwards

## Russians Visit to Learn About America's Legal System

The International Visitor Program of the World Affairs Council of Oregon brought another Russian delegation to Portland recently to learn more about the "Rule of Law" and America's legal and judicial systems.

Participants included Ms. Lydmila Yuryevna Golikova, a lawyer with "Mother's Right," which is an interregional charitable social foundation based in Moscow. The nonprofit provides assistance with criminal and official offenses and human rights violations in the Russian army. Other members of the delegation were Mr. Vladimir Kikhaylovich Gorbachev, General Director, Editor-in-Chief for "Media-Saratov" LLC, "Bogatey" newspaper in Saratov Oblast; Mr. Nikita Borisovich Kolomiyets, an attorney in private practice in Krasnodar Krai; Ms. Svetlana Vladimirovna Zhuravleva, Coordinator of Educational and Scientific Saratov Regional NGO "Center to Promote the Legal Reform Programs Project" in Saratov Oblast; and Mr. Vyacheslav Vasilyevich Buzhinskiy, an English professor and the group facilitator, from Kursk Oblast.

## MBA CLE

To register for a CLE, please see the insert in this issue or go to [www.mbabar.org](http://www.mbabar.org).

### September

**Monday, September 20**

**YLS Employment Law Fundamentals CLE Series begins**

**Wednesday, September 22**

**Washington and Clackamas Presiding Court Update**

**Hon. Marco Hernandez  
Hon. Robert Selandar**

### October

**Tuesday, October 5**

**The Dark Side of Revocable Living Trusts**

**James Cartwright  
Sam Friedenberg**

**Friday, October 15**

**Intellectual Property and the World Wide Web**

**OSB Annual Convention at the Portland Convention Center**

**Tuesday, October 26**

**Child Abuse Reporting Requirements**

**Sylvia Stevens  
Jonathan Richmond**

### November

**Tuesday, November 2**

**Diversity in the Workplace**

**Steve Hanamura**

**Thursday, November 4**

**Multnomah County Evidence Update**

**Hon. Edward Jones  
Hon. Michael McShane  
Roy Pulvers**

**Tuesday, November 9**

**New Ethics Rules**

**Sylvia Stevens  
Steve Moore  
Mark Fucile**

### December

**Thursday, December 2**

**Mandatory Arbitration Act**

**Victor Kisch  
Carl Neil**

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Advertising is accepted; advertisers(ments) are not necessarily endorsed by the MBA. The editor reserves the right to reject any advertisement.

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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**Copy and Classified Advertisement:**

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**Design:** Cyrano Marketing Solutions

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**To volunteer or for more information, contact:**

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# NEW ON THE SHELF

By Jacque Jurkins, Multnomah County Law Librarian.

**HOW TO START & BUILD A LAW PRACTICE. PLATINUM,** 5th ed. by Jay G. Foonberg. Published by the ABA Law Practice Management Section, 2004. (KF 300 F65)

**O'NEAL & THOMPSON'S OPPRESSION OF MINORITY SHAREHOLDERS AND LLC MEMBERS:** Protecting minority rights in squeeze-outs and other intracorporate conflicts, rev. 2nd ed. by F. Hodge O'Neal and Robert B. Thompson. Published by Thomson /West, 2004. (KF 1448 O54)

**THE E-BUSINESS LEGAL ARSENAL:** Practitioner agreements and checklists by Ruth Hill Bro. Published by ABA Section of Science & Technology Law, 2004. (KF 889.3 B76)

**THE ABCs OF THE UCC REVISED ARTICLE 2:** Sales by Henry D. Gabriel and Linda J. Rusch. Published by the ABA Section of Business Law, 2004. (KF 912.5 A1 A23)

**FREQUENTLY ASKED ANTITRUST QUESTIONS:** Common antitrust questions asked and answered. Published by the ABA Section of Antitrust Law, 2004. (KF 1649 F74)

**ANTITRUST HEALTH CARE HANDBOOK,** 3rd ed. Published by the ABA Section of Antitrust Law, 2004. (KF 3825 A93hc)

**IMMIGRATION LAW SERVICE,** 2nd ed. edited by Anna Marie Gallagher. Published by Thomson/West, 2004. (KF 4815 G35)

**NEIGHBOR LAW:** Fences, trees, boundaries and noise, 4th ed. by Cora Jordan. Published by Nolo Press, 2002. (KF 639 Z9 J67)

**DOG LAW,** 4th ed. by Mary Randolph. Published by Nolo Press, 2001. (KF 390.5 D6 R35)

**PLANNING TO WIN:** Effective preparation by Roger Haydock and John Sonsteng. Published by West, 1994. (KF 8915 H37)

**OPENING AND CLOSING:** How to present a case by Roger Haydock and John Sonsteng. Published by West, 1994. (KF 8915 H37)

**EXAMINING WITNESSES:** Direct, cross, and expert examination by Roger Haydock and John Sonsteng. Published by West, 1994. (KF 8915 H37)

**EVIDENCE, OBJECTIONS, AND EXHIBITS** by Roger Haydock and John Sonsteng. Published by West, 1994. (KF 8915 H37)

**JURY TRIALS** by Roger Haydock and John Sonsteng. Published by West, 1994. (KF 8915 H37)

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# CALENDAR

To register for CLEs, please see inserts inside this issue.

## September

**6 Monday, Labor Day Holiday**  
MBA office closed.

**7 Tuesday, MBA Board Meeting**

**10 Friday, LAF-OFF at Oregon Convention Center - CEJ Fundraiser**  
Register at www.laf-off.org

**14 Tuesday, YLS Board Meeting**

**Tuesday, MBA Golf Championship at Pumpkin Ridge**  
Register at www.mbar.org

**20 Monday, YLS Employment Law Fundamentals CLE Series begins**  
See insert or register at www.mbar.org.

**22 Wednesday, MBA CLE - Washington and Clackamas Presiding Courts Update**  
See insert or register at www.mbar.org.

**27 - October 8 Monday - Friday, OLAH Drive**  
(See article on p. 9)

## October

**5 Tuesday, MBA Board Meeting**

**Tuesday, MBA CLE - The Dark Side of Revocable Living Trusts**  
See insert or register at www.mbar.org.

**Tuesday, MBA "Absolutely Social - The Grape Escape" at the Benson Hotel.**  
See insert to register.

**12 Tuesday, YLS Board Meeting**

**15 Friday, MBA/OSB CLE Intellectual Property and the World Wide Web**  
OSB Annual Convention at the Oregon Convention Center. Register through OSB.

**26 Tuesday, MBA CLE - Child Abuse Reporting Requirements**  
See insert or register at www.mbar.org.

## November

**2 Tuesday, MBA CLE - Diversity in the Workplace**  
See insert or register at www.mbar.org.

**Tuesday, MBA Board Meeting**

**4 Thursday, MBA CLE Multnomah County Evidence Update**  
See insert or register at www.mbar.org.

**9 Tuesday, YLS Board Meeting**

**Tuesday, MBA CLE - New Ethics Rules**  
See insert or register at www.mbar.org.

## December

**2 Thursday, MBA CLE - Mandatory Arbitration Act**  
See insert or register at www.mbar.org.

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# Ethics Focus

By Mark Fucile, Stoel Rives.



## Conflicts Part 3: Eliminating Conflicts in the First Place

This month we conclude our three-part series on conflicts. In the first, we looked at why conflicts matter. In the second, we examined the key ingredients for a conflict waiver. This month, we'll talk about how to structure a representation to eliminate conflicts in the first place.

We've discussed in past columns why defining the scope of a representation at the outset is important — including confirming who your client will be and what you will be responsible for. But, there is another potentially significant reason to define the scope of a

representation: you may be able to eliminate potential conflicts before they ever appear on the horizon.

DR 5-105 defines multiple current client conflicts here in Oregon and a relatively recent OSB ethics opinion — 2000-158 — walks through the steps in analyzing whether a multiple current client conflict exists. (They are available at [www.osbar.org](http://www.osbar.org).) Both begin with the touchstone that there has to be *adversity* in the legal positions of multiple clients for there to be a conflict. Eliminate the adversity (or the potential

for adversity in the matter the lawyer is handling) and the potential conflicts will likely be eliminated, too. Adversity can be eliminated by structuring the representation at the outset to handle only those aspects of a matter where the positions of multiple clients are in concert.

Although this technique can be used in some instances to eliminate multiple client conflicts in different matters, it is most commonly employed in situations where a single lawyer is handling a single matter jointly for multiple clients. Two examples from my other practice areas illustrate how this works in the joint representation context.

In products liability cases, it is common for dealers to tender the defense of a case to the manufacturer and for both to want to use the same lawyer to defend them. But, what about the possibility of “liability shifting” defenses or outright cross-claims between the manufacturer and the dealer for modifications

of the product by the dealer which would create a conflict for the defense lawyer? If the manufacturer has accepted the tender without reservation, then it has effectively eliminated that defense from the case and, as a result, the defense lawyer has no conflict. Similarly, if the manufacturer and the dealer have agreed (without the defense lawyer acting as a broker between them) to reserve any claims and other liability-shifting issues between them to a later proceeding with other counsel, then, again, the lawyer has no conflict in defending them in the primary action against the plaintiff.

In condemnation cases, it is also common for multiple interest holders in a property to use the same lawyer. Under Oregon law, condemnation trials are bifurcated by statute — the first phase is to a jury with the sole focus being the overall value of the property interests involved and the second phase is to the court for dividing the overall

total among the various interest holders. If there is a preexisting agreement between the property owner and, for example, tenants, on how condemnation proceeds are to be divided, then they have effectively eliminated that issue from the case and, as a result, a single lawyer has no conflict. Similarly, if the various interest holders agree (again without the lawyer acting as a broker between them) to arbitrate their respective claims to the overall “pot” in a separate proceeding with other counsel, then, again, the single lawyer has no conflict in representing them jointly in the primary action against the public agency.

Structuring or limiting representations won't eliminate all conflicts and can have other practical constraints if the resulting scope is too narrow to represent the clients effectively. In many situations, however, it can be a very useful tool for managing conflicts.

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## ANNOUNCEMENTS

### MBA East County Breakfast

If you live or work in East County, the MBA hopes you will join us for an East County Breakfast. This meet-and-greet event will take place at Heidi's of Gresham, 1230 NE Cleveland, on Wednesday, September 1 at 8 a.m. It is a great opportunity to meet other East County members, share ideas and just enjoy yourself. The breakfast is \$12. If you would like to RSVP for this event, please call 503.222.3275 or email Noëlle at [noelle@mbabar.org](mailto:noelle@mbabar.org). The next East County Social is scheduled for December 1 after work.

### Oregon Criminal Defense Lawyers Association (OCDLA) Seminar

A *Search and Seizure Seminar* will be held in Newport on Friday-Saturday, September 17-18, at the Agate Beach Inn in Newport. Hot topics include suppression issues, crossing law enforcement and

updates on state and federal search and seizure law. The program is open to anyone involved in the defense function. To register, visit [www.ocdla.org](http://www.ocdla.org).

### OSB Professional Liability Fund Presents Seminar

Are you just getting started in private practice? The OSB PLF is sponsoring a practical skills seminar, *Learning the Ropes*, for new admittees and lawyers entering private practice. The workshop includes information on developing a successful practice and avoiding legal malpractice, professionalism/ethics workshop, practical tips from judges and lawyers and presentations on setting up effective office systems.

The workshop will be held November 10-12 at the DoubleTree Hotel Lloyd Center in Portland. The \$50 registration fee includes the entire workshop

and lunch on November 10 and 11. Register early — the deadline is November 1. For a registration flyer, visit the PLF website, [www.osbplf.org](http://www.osbplf.org), or contact Karen Neese, PLF, PO Box 1600, Lake Oswego OR 97035. Fax: 503.684.7250, email: [karenn@osbplf.org](mailto:karenn@osbplf.org).

### OWLS Luncheon

On September 14, Pam Jacklin of Stoel Rives, OWLS' 2004 recipient of the Mercedes Diez award for her outstanding volunteerism and service to the community, will speak on *Giving Back to the Community*. The luncheon is 11:45 a.m.–1 p.m. at Fernando's Hideaway and cost is \$12. Reservations are not required. For more information, please call Kimberly Kaminski at 503.281.2022, [kaminski\\_law@msn.com](mailto:kaminski_law@msn.com) or Shari R. Gregory at 503.226.1057, ext. 14, [sharig@oaap.org](mailto:sharig@oaap.org).

# From the Executive Director

By Judy A.C. Edwards



more intuitively, we hope that the new structure will assist you in finding information that you want more quickly and efficiently. It is a work in progress as we update and expand content and improve its technical capabilities. Please send us your comments and suggestions.

#### 100<sup>th</sup> Anniversary Celebration

The MBA will celebrate its 100<sup>th</sup> anniversary in 2006 and plans are already underway to commemorate the milestone. A committee has been formed and you will be hearing more about its work and how you can contribute information and photographs to the commemoration. If you already have ideas, please send them to me at [judy@mbabar.org](mailto:judy@mbabar.org). Thank you!

#### It is Your Organization

Please remember that the MBA is your organization and we are here to serve you. There are many ways to get involved with the organization and meet and get acquainted with a wide range

of colleagues. They include seminars, events, committees and task forces. If you aren't already taking advantage of these networking opportunities, please take a close look at the inserts for CLE offerings, the annual report and a flyer about the "Absolutely Social — The Grape Escape."

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## CourtCare Spreads the Cheer



Judge Kristena LaMar, a longtime Multnomah CourtCare supporter, recently caught sight of a display of stuffed animals at the “Doodle Pad,” a shop in downtown Portland. Knowing that CourtCare gives every child who comes to the center either a book or a stuffed animal, she inquired about whether the toys ever went on sale. The clerk referred her to the store’s owner, Sue Ann Parks. Parks, a member of the Alpha Upsilon Chapter of the Epsilon Sigma Alpha International Sorority, spoke to the others in the local group about CourtCare and the children it serves. As a result, the chapter donated over 100 animals to the program. Many of the animals have already found their way home with happy, appreciative CourtCare kids! Many thanks to Judge LaMar for thinking of CourtCare and to the members of Alpha Upsilon for their generosity.

## Multnomah CourtCare Donors

The following people donated to the recent CourtCare fundraising campaign, but were omitted from the list in last month’s issue. We apologize for this oversight.

### COURTCARE LIONS: (\$500 or more)

Beovich Walter & Friend  
Ruth Beyer  
Barbara Brainard  
Doug Bray  
Clackamas County Family Law Group  
Davis Wright Tremaine  
Dave Ernst  
Mike Greene  
Martha Hodgkinson  
Multnomah County District Attorney’s Office  
Leslie O’Leary  
Williams Dailey O’Leary Craine & Love

### COURTCARE TIGERS: (\$150-\$499)

Valerie Auerbach  
Jeffrey Austin  
Jim Beall  
John Bishop  
Richard H. Braun  
Bob Carey  
Beth and Tom Cupani  
Dianne Dailey  
Kristin Eaton  
Valerie Fisher

Garvey Schubert Barer  
William Gary  
Peter Glade  
Gersham Goldstein  
Ronald Grossmann  
Karin Guenther  
Mark Hackett  
Edwin Harnden  
Jim and Laury Hennings  
Henry Hewitt  
Steve Janik  
Kelly Johnson  
William Kabeiseman  
Lisa Kaner  
Emily Kaufmann  
Cathy Keenan  
Kell Alterman & Runstein  
Michelle Kerin  
Hon. Dale Koch  
Elizabeth Knight  
Suzanne Lacampagne  
Hon. Jerome LaBarre  
Hon. Kristena A. LaMar  
Dan and Janet Larsen  
Robert J. Lee  
Rodney Lewis  
Laurie Loudon  
Linda Love  
Hon. Michael Marcus  
Susan Marmaduke in Honor of Krista Shipsey  
Susan Marmaduke  
Jeff Matthews  
Elizabeth McKanna  
Mitchell Lang & Smith  
Margarita Molina  
Jenna Mooney

Greg Mowe  
John F. Neupert  
Bob and Melinda Newell  
Karen O’Connor  
Katherine O’Neil  
Oregon State Bar  
J. Randolph Pickett  
Professional Liability Fund  
Ramis Crew Corrigan & Bachrach  
JoAnn Reynolds  
Sarah Ryan  
Robert & Gail Sanders  
Karen Saul  
Robin Selig & Harrison Latto  
Jeffrey Schick  
Jens Schmidt  
Robert Shlachter  
Marshal Spector  
Robert and Lynn Stafford  
Ryan Steen  
Charles (Bob) Steringer  
Stoll Stoll Berne Lokting & Shlachter  
Dana Sullivan  
Hon. Susan Svetkey  
Brad Tellam  
Hon. Katherine Tennyson  
Heather J. Van Meter  
Tim Volpert  
Mark Wada  
Elizabeth N. Wakefield  
Shaun Wardinsky  
Hon. L. Randall Weisberg  
Hon. John Wittmayer  
Michael Yates

## WE’RE PLEASED TO ANNOUNCE

### The litigation attorneys of Portland’s Duden Neiman law firm



Paul Duden



Eric Neiman



George Pitcher



Skip Frank



Erika George



David Ryan



Ellen Voss



Thomas Ped



Sharon Peters



Alex Wylie



Heather Van Meter

### have joined the Portland office of Williams, Kastner & Gibbs PLLC.



Richard Urrutia



Amy Carlton



Marc Carlton

- Appellate
- Business
- Collections
- Construction
- Corporate Governance
- Environmental Law
- Family Law
- Health Care
- Insurance
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- Litigation
- Product Liability
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## Karaoke for CourtCare

On May 27, the Multnomah County District Attorney’s Office raised over \$1100 for Multnomah CourtCare with a karaoke party at the Grand Café. The event was the brainchild of Deputy District Attorney Jose Cienfuegos who wanted to bring folks together for

a good time and a good cause. Well over 80 people attended, mostly deputy district attorneys and staff of the District Attorney’s Office. Mike Schrunck, Multnomah County District Attorney, made an appearance, as did a few “interested” members of the defense bar! The food and drink together with the opportunity to belt out a few tunes with friends added up to a great evening.

The (Frank Peters) Grand Café donated food and beverages, and Tickets West donated the cost of creating and printing the tickets. Jose reports that “Karaoke for CourtCare” will be repeated next year as part of the Annual CourtCare Campaign, and he expects an even bigger and better event!

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# Around the Bar

DAVIS WRIGHT TREMAINE Announces the appointment of the following Portland partners to the firm's executive committee: **Everett Jack** and **Ben Wolff** were each elected to three-year terms, and **Patricia McGuire** was elected to a two-year term.

Everett Jack has handled a wide range of litigation matters including commercial business and tort cases, environmental, insurance and construction. During his career, Jack has tried or arbitrated over 50 cases through to verdict or decision, a diverse representative case list includes litigation of complex commercial cases, including those in the international arbitration arena. Jack also serves on the firm's hiring and strategic growth committees, and is a vice-chair of the firm's litigation department.

Benjamin G. Wolff maintains offices part-time in both Seattle and Portland and focuses his practice on a variety of corporate finance matters including mergers and acquisitions, venture finance, joint ventures, private equity transactions, corporate governance, and strategic partnering agreements and acquisitions. His list of accomplishments include recently being named to *The American Lawyer's* "45 Under Forty-Five" list in 2003 and *The Business Journal's* "Forty Under 40" Award in 2002.

Patricia McGuire is a litigation partner. Her extensive trial and arbitration practice includes matters regarding intellectual property, product liability, life sciences and construction defect suits. McGuire's practice also includes complex contract cases and employment disputes, including pursuit of embezzling employees, and she also has substantial experience in First Amendment cases. McGuire also serves on the firm's hiring and diversity committees.



J. David Zehntbauer

DUNN CARNEY ET AL **Susan C. Glen**, a partner with the firm, has been elected to the OSB House of Delegates. Her term ends in April 2007. Glen joined the firm in 1996 and practices in the real estate and general business areas assisting buyers, sellers, landlords, tenants, developers and lenders with acquisitions, sales, exchanges, development, financing and

leasing of commercial property. She also represents clients in a variety of business transactions.

Real estate attorney **J. David Zehntbauer** has joined the firm as of counsel to support its growing real estate and land use practice. Zehntbauer will focus on real estate as well as corporate law. He joins the Dunn Carney Real Estate and Land Use Practice group of eight attorneys who specialize in real estate and land use law and represent purchasers, sellers, owners, developers, tenants and lenders.



Jeff Nudelman

GARVEY SCHUBERT BARER **Jeff Nudelman**, an owner in the Portland office of the law firm, was elected president of the Portland chapter of the American Jewish Committee, the nation's oldest human rights organization, at the Chapter's 25th Annual Meeting. He was also named president-elect of the University of Oregon Alumni Association, and in June, was named to the Mittleman Jewish Community Center Board of Directors.

GEVURTZ MENASHE ET AL Governor Ted Kulongoski has named **Marshal Spector**, a shareholder with the firm, to the Oregon Commission on Children and Families.

Spector is active in numerous professional and community organizations, and is a frequent speaker at continuing legal education seminars on divorce, custody and ethics.

HERGERT & ASSOCIATES **Steffany Jastak** has re-joined the Oregon City firm. Jastak was a domestic relations attorney with the firm from 1994 through 1999. She has worked as a CPA for the last four years, first in the tax division at Moss Adams in Portland and then as the Trust Tax Manager of Pioneer Trust Bank in Salem. She specializes in family law, as well as trust, estate, and individual taxation.

LANE POWELL ET AL The firm announces **Neil Kimmelfield** has joined as partner in the tax group. He has 25 years of tax law experience, including business entity tax issues and tax controversies of large corporations. He has previously litigated tax cases in several federal courts and has helped to structure numerous



Neil Kimmelfield

real estate and business transactions. He regularly advises clients on tax issues.



Trung D. Tu

MCEWEN GISVOLD **Trung D. Tu**, a litigation associate at the firm, was recently elected to a three-year term as Chairperson of the Board of Directors of the Asian Pacific Alumni of Notre Dame, and to a three-year term on the Board of Directors of the Notre Dame Alumni Association. He graduated from the University of Notre Dame in 1995 with a BA in government and international studies, and concentration certificates in Asian studies and peace studies. Trung also currently serves on the OSB's Affirmative Action Committee.

METROPOLITAN PUBLIC DEFENDER (MPD) **Steve Houze** has been appointed Chair of the MPD Board of Trustees. He has served as a member of the board since 1994. Houze is an attorney in Portland and was appointed by the OSB.

**Paul DeBast** retired from the MPD Board June 30 after serving for 24 years. He served as Chair of the Board from 2001 to the present. DeBast is an attorney in Hillsboro and was appointed by the Washington County Commissioner's Office.

The Washington County Commissioner's office has appointed **Kris Olson** to replace the Washington County membership position. Olson recently retired as US Attorney for the District of Oregon and is currently serving as Senior Policy Advisor to Congressman Earl Blumenauer, working on Native American, environmental and terrorism issues.

Professor **Susan Mandiberg** has been appointed by the

MPD Board of Trustees as its representative. Mandiberg served on the board in the early 1980's.



Maresa Elmquist

MILLER NASH The firm has received a platinum ranking for its Website from the *Internet Marketing Attorney*.

Company directors have selected Miller Nash as one of the top two law firms to do business with in Portland, according to a survey of readers of *Corporate Board Member* magazine, which published the results of its fourth annual survey in the July/August cover story: "America's Best Corporate Lawyers."

**Maresa Elmquist** has joined the firm's Portland and Seattle offices, where she is an associate in the business department. Elmquist concentrates her practice primarily on health and hospital law. She advises hospitals, physicians, and other health-care entities in matters involving state and federal regulatory compliance, policy development and review, patient care, confidentiality, administrative investigations, contracting matters, and general business transactions. Elmquist also has experience in general business, commercial and bankruptcy law, energy law and tax-exempt regulations.

RICKLES LAW FIRM The firm added a new associate, **Gil Hodgson**. Hodgson is admitted to practice in Oregon and Washington. The firm continues to emphasize the defense of civil litigation.

SCHWABE WILLIAMSON & WYATT For the fourth year in a row, the firm ranked among the top five most admired law firms in the Portland metropolitan area, according to a national survey of more than 2,000 directors of public corporations conducted by *Corporate Board Member* magazine.

Schwabe also recently ranked seventh out of the 50 companies recognized in the large company category, among the "100 Best Companies to Work for in Oregon in 2004" by *Oregon Business* magazine.

Firm shareholder **Thomas M. Triplett** spoke on antitrust law at the American Health Lawyers Association's June annual meeting in New York.

Triplett is nationally recognized for his expertise in the areas of antitrust and labor law, having

argued cases in front of the US Supreme Court and represented clients before the National Labor Relations Board.

TONKON TORP The firm announces that seven of its attorneys have been included in the *Chambers USA America's Leading Lawyers for Business - 2004 Edition* directory as "Leaders in their Field."

This year's group of honorees are: **Brian G. Booth**, **Ronald L. Greenman** and **Kenneth D. Stephens** - Corporate/M&A law; **Victor J. Kisch** - Employment; Defendant law; **William F. Martson Jr.** and **Daniel H. Skerritt** - Litigation: General Commercial; and **Joseph S. Voboril** - Real Estate law.

WILLIAMS KASTNER & GIBBS **Heather Van Meter** has joined the firm as an associate, where her practice will focus on litigation, with an emphasis on construction defect, asbestos, and medical malpractice.

THE ANIMAL LAW PRACTICE **Geordie Duckler** is now operating under the new name of The Animal Law Practice, where he and **Laura Ireland Moore** will continue to specialize in handling all animal related legal issues state-wide, including veterinary malpractice, ownership disputes, nuisance claims, animal control violations, breeding contracts, equine claims and the loss or harm to companion animals. Both Duckler and Ireland Moore are adjunct professors of animal law courses at Lewis & Clark Law School, and Ireland Moore is also the executive director of the National Center for Animal Law. For more information on The Animal Law Practice, please visit [www.animallawpractice.com](http://www.animallawpractice.com) or call 503.546.8052.

JANIS L. HARDMAN After a two-year leave of absence, **Janis Hardman** has rejoined the Board of Directors of Portland Habilitation Center, a facility for the training and employment of disabled workers. She continues to practice family law in Portland as well as serving as a mediator in family law cases.

KLINE LAW OFFICES **Rob Kline** announces the opening of his solo law practice, where he focuses on personal injury, employment disputes and business litigation. Kline may be reached at 522 SW 5<sup>th</sup> Ave. Ste. 1100, Portland OR 97204. Phone is 503.224.6246 and email is [rob@klinelawpc.com](mailto:rob@klinelawpc.com).

RICHARD MAIZELS **Richard Maizels** has moved his office to 621 SW Morrison Ste. 1300, Portland OR 97205. His phone number remains 503.223.2126 and his fax number is 503.273.9135. He continues to offer arbitration and mediation services.

# Profile - Thomas A. Balmer, Associate Justice, Oregon Supreme Court

By Chris McCracken, Davis Wright Tremaine and Court Liaison Committee member.

*“The practice of law could — not necessarily would, but could — be a starting point for the lawyer to seek to understand the larger forces of society and history.”*

So wrote **Thomas Balmer** in 1992. Balmer is now an Associate Justice on the Oregon Supreme Court. When he wrote that line, Balmer was a partner with Ater Wynne — and on sabbatical. Most lawyers on sabbatical take a dream vacation and get far away from the practice of law. Tom Balmer did escape to Scotland and Europe with his wife, Mary Louise McClintock, and their two children, but his mind continued to wrestle with what it means to be a lawyer.

Balmer spent part of his sabbatical studying Oliver Wendell Holmes Jr., and writing a law review article, *Holmes on Law as a Business and as a Profession*, 42 J. of Legal Educ. 591 (1992). The article discusses Holmes’ views on the tension between the law as a *business* — timesheets, marketing, and billing — and the law as a *profession* where hopefully, wrote Balmer, a lawyer “might strive for something greater than oneself.”

Holmes believed that the law as a profession offered the opportunity to “live greatly,” to connect with the bigger questions of life. And — given that he spent part of his sabbatical writing about the legal profession — so does Justice Balmer.

Balmer grew up in Portland and graduated from Jackson High. He graduated from Oberlin College in 1974 and from the University of Chicago Law School in 1977. Since law school, Justice Balmer’s career has involved both private practice and public sector practice.

In 1977, Balmer began his career in private practice with Choate, Hall & Stewart in Boston. In 1979, Balmer left Boston for Washington D.C. and spent a year as a trial attorney for the US Department of Justice, in the Antitrust Division. At DOJ he focused on energy policy and began his career-long interest in antitrust law.

In 1980, Justice Balmer returned to private practice in D.C. with Wald, Harkrader & Ross, continuing to focus on antitrust issues. Balmer began writing articles on antitrust law, perhaps seeking what Holmes would describe as the *profession* of law — something more meaningful than the daily *business* of law offered to an associate at a D.C. law firm.

In 1982, Justice Balmer returned to Portland and joined Lindsay, Hart, Neil & Wagner, becoming a partner in 1986. In 1990, with the split in the Lindsay Hart firm, Balmer became a partner with Ater Wynne. In private practice in Portland, Justice Balmer emphasized public and government law. He litigated employment, antitrust, and energy cases, including several energy cases before FERC. He also continued to publish on antitrust law and related topics.

In 1993, Balmer returned to the public sector to serve as the Oregon Deputy Attorney General, the number two position in the Oregon Department of Justice. There, Balmer supervised legal advice and litigation for the State, advised agency heads and elected officials, and represented Oregon in trial and appellate court proceedings.

While at Oregon DOJ, Justice Balmer argued before the US Supreme Court in a commerce clause case, *Oregon Waste Systems v. Department of Environmental Quality*, 511 U.S. 93 (1994). As for the outcome, Justice Balmer is quick to point out that the two most ideologically divergent members of the Court, Justices Rehnquist and Blackmun, both agreed with him. Unfortunately, the majority did not.

Balmer achieved better success for Oregon arguing before the Ninth Circuit in the initial constitutional challenge to Oregon’s Death with Dignity Act in *Lee v. State of Oregon*, 107 F.3d 1382 (9<sup>th</sup> Cir. 1997). Regardless of one’s personal views on physician assisted suicide, the *Lee* case undeniably presented Balmer — and all who worked on the case — an opportunity Holmes would have cherished, an

opportunity to “live greatly,” to connect the practice of law with the bigger questions of life.

In 1997 Justice Balmer returned to private practice at Ater Wynne. He became Ater Wynne’s managing partner in 1998. As managing partner Balmer took satisfaction in the business of the law and enjoyed helping Ater Wynne define and achieve its business goals.

Balmer also found time for the profession. While at Ater Wynne he was a board member, and later the chair, of Multnomah County Legal Service, Inc. He was and remains a board member of the Classroom Law Project and Chamber Music Northwest. Justice Balmer also serves on the Advisory Committee of the Campaign for Equal Justice.

In 2001, Governor Kitzhaber appointed Balmer to the Oregon Supreme Court.

Justice Balmer is a good addition to the Court. He brings geographic diversity to the Court, having practiced in Washington D.C. and on both the East and West Coasts. Justice Balmer’s background as a civil litigator in private practice compliments the experiences of the other Justices, such as the trial judge experiences of Chief Justice Carson and Justice Riggs, the extensive criminal law practice of Justice De Muniz, and the background of several members of the Court as former Court of Appeals judges. Justice Balmer considers himself “very fortunate” to be on the Court. The position reaffirms his belief in the value of an independent judiciary, the rule of law, and the judicial system as a “public good.”

Were he alive, Oliver Wendell Holmes would add that the job of Associate Justice also provides ample opportunity to “live greatly” or, as Justice Balmer would say, the opportunity to strive “for something greater than oneself.”

Given his track record to date, Justice Balmer seems up to the task.

## Tips from the Bench It’s Back...

By Judge John Wittmayer, Multnomah County Circuit Court.

After a hiatus of about four years, *Tips from the Bench* returns to the *Multnomah Lawyer*. Circuit Judge Robert P. Jones wrote this column for several years, up until 2000. Since Judge Jones’ retirement, the column has not appeared. Judge Jones practiced law in Portland for 27 years before he became a judge in 1979. He was a trial judge for 22 years after that. I cannot hope to fill the large void left when Judge Jones was no longer able to write this column, but I hope that the bar finds some useful tips in this new version of *Tips from the Bench*.



I have been a trial judge for eight and one-half years. I practiced law for 23 years before that. My practice included criminal, family law, and civil litigation. I represented both plaintiffs and defendants in tort litigation.

When Judge Jones wrote *Tips from the Bench*, he included tips about litigation generally, with a special emphasis on civil litigation. Because the bulk of the litigation in this Courthouse is not civil litigation, I intend to touch on criminal law and family law as well as civil law.

### Be here on time and ready to go

Your motion or trial is scheduled for a specific time, not “about 9 a.m.” The judge will appreciate it if you are here on time and ready to go. If you need time to talk to opposing counsel about stipulations or settlement, get here early. If you are going to be late for some unavoidable reason, call and let the trial judge know what the problem is. I remember fondly the lawyers who are courteous enough to call if they are going to be late.

And if you need your client or your witnesses to be here, they too need to be here on time. Please remind your clients and witnesses that early in the morning and early in the afternoon the lines to pass through Courthouse security are pretty long. They should allow enough time to be in the courtroom on time.

### Identify yourself for the record in court

Sure you know the judge, and sure, the judge knows you. You have appeared before her/him lots of times. But sometimes names “escape” us, even for people we know. Set the judge at ease by saying your name. Even if the judge knows your name, the “record” does not. We use electronic recording for the record, and if you don’t tell the recording who you are, no one else will. And if you thought the matter deserved to be recorded (and you paid the fee), then you should also tell the record the name of the case and the subject of the court hearing, e.g., motion to dismiss, trial, etc. The deputy district attorneys are trained to do this every time, but the civil and family law lawyers do not do it very often. It is always helpful to the judge.

### Written submissions for motions

Why do you prepare written memoranda for the trial judge? Why do you use your valuable time and your client’s money to prepare written submissions? The only reason to do so is to convince the judge of the merits of your issue.

So, if your goal is to convince the judge, why do you submit written materials at the last minute? Why do you FAX long memoranda to the judge late enough in the day that you know it will arrive here after 5 p.m. or bring written materials to court with you at the time set for the hearing?

If you want to give your memoranda the best chance to be effective, get it to the judge early enough to make a difference.

### The judge’s staff is important to the judge

I selected the people I work with. I value them, and I like them. They are very useful to me. You, too, should see them as useful to you. When you act inconsiderately to the judge’s staff, you should expect the judge to learn about it. It would be inappropriate for me to say that I hold it against lawyers who are rude to my staff — I hope I don’t — but judges are only human.

## Judge Roosevelt Robinson — A True Man of the People

By Charles Tauman, Attorney at Law.

Last month the citizens of Oregon lost a great man. **Roosevelt Robinson**, a Multnomah County Judge since 1990, served the people of this state and this county and, in particular, the litigants that appeared in his courtroom, with quiet dignity, gentle humor and uncommon common sense. He was much beloved by fellow judges and lawyers alike. He will be missed.

Roosevelt's biography is familiar to most Multnomah County lawyers as it is a source of inspiration for all who knew him or knew of him. Born and raised in rural Georgia by his great-grandmother after his mother was murdered, Roosevelt persevered through poverty and injustice to become high school valedictorian. After earning a theology degree at Southwestern Christian College in Terrell, Texas, Roosevelt came to Oregon in 1962 where he earned a degree in sociology at the University of Portland while working at the Nabisco bakery in north Portland (starting as a janitor and ending as a foreman) and ministering to a North Portland congregation.

In 1972, he enrolled in Northwestern School of Law as an evening student while keeping his job at Nabisco. After his graduation in 1976, Roosevelt was in private practice for a short time before joining the Multnomah County District Attorney's office in 1977. After a distinguished career as a prosecutor, he was appointed to the Oregon Parole Board in 1987 and, in 1990, to the Multnomah County bench.

As a judge, Roosevelt was in charge of the S.T.O.P. drug offenders' program for two years and, as a volunteer, handled the night court aspect of that program for another six months. He served with distinction in civil and criminal cases until his disability retirement in January 2003.

While Judge Robinson rose from demonstrably modest beginnings to the heights of his chosen profession, he never forgot his roots or those who faced the same struggles.

He was a founding member of the Oregon Minority Lawyers Association and mentored many young African-American law graduates before "mentoring" was cool. He served on the Oregon Domestic Violence Council, the Regional Drug Initiative Task Force and the Joint Bench/Bar Commission on Professionalism. His work in the African-American community and public service were recognized with the University of Portland Distinguished Alumni Award, the Mental Health Association of Oregon Meritorious Service Award, Multnomah County Volunteer Award, OSB President's Affirmative Action Award and, in 2001, the Northwestern School of Law Distinguished Alumni Award.

Roosevelt Robinson was a man known for giving from the heart. Almost as if he gave too much from his heart, beginning a few years ago, he began to suffer a progressive heart condition which worsened in 2002. He persevered with increasing pain and disability through the year but was forced to retire in January 2003. As news of his deteriorating health became known, his friends and colleagues responded with an outpouring of good wishes and prayers. He was placed on hospice care in the fall of 2003 and, at that time, began to plan for his legacy for a life of public service and compassion. He decided to devote what energy he had left to a scholarship fund at his alma mater law school for minority students. Through the support of Multnomah County judges and lawyers — and others — the Roosevelt Robinson Minority Scholarship Fund was established in late 2003 and partially endowed in early 2004. The first annual scholarship was awarded in February 2004 in a ceremony at the Multnomah County Courthouse over which Roosevelt proudly presided.

From a personal point of view, I knew Roosevelt Robinson as a law school classmate, as a public figure, as a judge presiding over a major trial, as a family man and as a friend. His calm and good-humored approach to life — and to judging — could not completely disguise a discerning intellect, rapier wit and strong sense of morality. He was a philosophical but a realist, a man who valued his privacy yet gave relentlessly to his community; self-effacing but fiercely proud. A



man of real heart, a man of the people. I was proud to call him my friend. We will miss him.

*Note: The Robinson family has requested that contributions in his memory be made to the Roosevelt Robinson Minority Scholarship Fund, Lewis & Clark Law School, 10015 SW Terwilliger Blvd. Portland, OR 97219.*

## A Letter from OSB President-Elect Nena Cook

As many of you know, my goal as President-Elect of the OSB this year and as President next year is to increase the leadership roles of women and racial and ethnic minorities in the OSB to 50% by the end of 2005. To that end, I have been working with OWLS, OMLA, the MBA Equality Committee, and the OSB CLE Department to organize a list of lawyers who may be interested in either speaking at OSB-sponsored seminars and events or attending workshops specifically designed to enhance speaking and public presentation skills.

If you are interested in either of these opportunities, please send an email as soon as possible to [cle@osbar.org](mailto:cle@osbar.org) with the subject line "CLE Questionnaire." Include in the email your contact information and a brief description of your practice area. Once the Bar receives your email, it will then send out a very brief questionnaire designed to match your interests with the available opportunities. We would like the questionnaires returned by September 17.

Our goal is to have the list compiled by October 1, so interested people will have an opportunity to engage in meaningful training, and the OSB CLE planners will have a list of qualified and experienced attorneys from which to select their CLE speakers for the upcoming year and beyond.

Thank you all in advance for your assistance. If you have any questions, please contact me at [nenas@sussmanshank.com](mailto:nenas@sussmanshank.com).

## Fundraiser to Benefit Oregon Food Bank Begins September 27

By Chris Garrett, Perkins Coie.

Oregon Lawyers Against Hunger (OLAH) launches its eighth annual fundraiser to benefit the Oregon Food Bank (OFB) on September 27.

Since its inception in 1997, OLAH, a non-profit organization comprised of legal professionals in Oregon, has raised over \$500,000 for OFB, enabling it to collect and distribute 5.5 million pounds of food. OLAH's 2003 drive raised a record high of more than \$115,000 from over 50 law firms and hundreds of individual attorneys.

Many Portland-area firms participate in OLAH's annual fundraiser. Again this year, firms will compete for the *Golden Can* award (highest contribution per capita) and *Silver Barrel* award (highest total contribution). Heller Ehrman et al ran away with the 2003 *Golden Can* with a per capita donation of \$273. Lane Powell et al continued its seven-year dominance of the *Silver Barrel* award, sharing the 2003 award with Bullivant Houser Bailey. Each firm raised more than \$21,000. OLAH and OFB also give special recognition to individual donors; last year, 136 lawyers joined the *Give a Ton* club by donating \$222 or more (\$222 enables OFB to distribute 2000 pounds of food). 123 more lawyers donated \$111, enough for 1000 pounds of food.

Each dollar contributed allows the OFB to collect and distribute approximately \$10 worth of food to needy Oregonians. In recent years, Oregon has ranked at or near the top in a national comparison of states with prevalent hunger. For the year ending June 30, 2003, OFB distributed emergency food boxes to an estimated 780,000 people in Oregon and Clark County, Washington. Forty percent were children under 18.

OFB is the hub of a network of 832 hunger-relief agencies throughout Oregon and Clark County, Washington. OFB distributes food to 20 regional food banks across Oregon, including two in the Portland area. For the fourth consecutive year, OFB received a rating of four stars (out of four possible) from Charity Navigator, America's largest independent evaluator of charities, for excellence in fiscal management.

OLAH's two-week drive begins September 27 and ends on October 8. Lawyers who believe their firms are not already participating and who would like to participate, or who would like more general information about OLAH, may contact Megge Van Valkenburg at 503.228.6351. Information about the Oregon Food Bank is available at [www.oregonfoodbank.org](http://www.oregonfoodbank.org).

# Can't Get No Satisfaction

By W. Todd Cleek, YLS President, Dunn Carney et al.



If you've spent any time with me at MBA functions over the last several months you've heard me crow about how pleased I am with the high participation in the recent YLS survey. Several YLS Board members and MBA staff went above and beyond to develop smart, helpful questions and get the word out on the street. More remarkably, almost half of YLS members took a few moments to tell us about themselves and what they want from the bar. Over the upcoming months you'll be hearing more about those results and I'm going to start the ball rolling with a subject dear to my heart...career satisfaction.

To get to the meat of the matter we asked, "If you could do it all over would you: a) become a lawyer without hesitation, b) think twice, or c) run screaming (actually we said "choose another career"). The survey allowed us to sort answers by gender, practice environment and compensation. The results surprised me. Given

the opportunity, almost half of you would think twice about becoming a lawyer again. Almost 15% wouldn't come back.

The results did not seem to change dramatically based upon demographics. Men appear to be only about 5% more likely to be satisfied with the profession than women. Making top dollar makes it less likely you would never try law again, but even then, over half of those making over \$120k a year would think twice. The biggest standout figure was that those of you in sole practices are least likely (3%) to give up the profession altogether.

After all the time and money we as a group have put into preparing ourselves for this career, I had hoped for better news. It saddened me that so many of you had second thoughts. Our goal in developing the survey was to learn about things we could improve on. I've been racking my brain as to how we as a bar can improve the statistics from the "career satisfaction question." Unfortunately, it's not a problem that lends itself to a silver bullet solution.

I myself came down squarely on the "glad to be a lawyer" side of the equation so what I will tell you are a few principles that have worked for me. **Perception.** Although it sounds a bit hokey,

try to maintain a positive outlook. When evaluating people and situations try to go with the "glass half full" mentality. **Balance.** If you work your butt off, be sure to offset it with some solid fun or creative activity. Be aware that the work day doesn't end only when all the work is done. **Support.** You spend a third of your life in the office, so surround yourself with people you like. Emulate older attorneys who are interesting and respectful. Develop friendships with your peers that will last your whole career. **Contribute.** If the work you do doesn't satisfy you, many pro bono opportunities offer interesting work for people who will appreciate your efforts because they need help badly. If your firm doesn't overtly support you, do it anyway! I have yet to hear from anyone expressly forbidden to take on a pro bono project and it's hard for a supervising partner to argue with the goodwill and publicity associated with doing good acts for the community.

When all else fails, take a tip from the great entertainer, "If you're happy in what you're doing, you'll like yourself, you'll have inner peace. And if you have that, along with physical health, you will have had more success than you could possibly have imagined." *Johnny Carson*

## 2003 Annual Compensation, including bonuses

	1 Year	2 Years	3 Years	4 Years	5 Years	6 Years	6+ Years
Less than \$20K	24%	6%	0%	3%	0%	7%	1%
\$20-39K	29%	10%	14%	3%	0%	3%	5%
\$40-59K	30%	29%	44%	30%	33%	7%	12%
\$60-79K	9%	8%	18%	28%	13%	29%	19%
\$80-99K	8%	39%	20%	23%	33%	32%	32%
\$100-119K	0%	8%	1%	10%	13%	19%	16%
\$120-139K	0%	0%	1%	5%	7%	3%	5%
\$140K	0%	0%	1%	0%	0%	0%	11%

Note: Percentages have been rounded up.

## Would you become a lawyer again?

Without hesitation	Think twice	Choose another profession
38%	49%	13%

## Kick off fall with the YLS

The Multnomah Bar Association Young Lawyers Section is holding a Drop-in Social in the lounge at RiverPlace Hotel's Three Degrees Restaurant and Bar (1510 SW Harbor Way) from 5:30 to 7 p.m. on Thursday, September 23. This is a casual get-together and great opportunity to meet other young lawyers. Grab your friends and co-workers and head down to the river!

We'll see you there!



## YLS Committees

### YLS CLE Committee

Chair: Cally Warfield, Hoffman Hart & Wagner, 503.222.4499  
This committee plans and holds 27 CLE classes a year, which are specifically designed to cater to the needs of new attorneys. The classes are structured into three series: the fall Employment Law Fundamentals series, the winter Young Litigators Forum series and a spring series on a topic to be determined.

### YLS Membership Committee

Chair: Kristin Sterling, Attorney at Law, 503.284.2216  
The purpose of the membership committee is to assist in recruitment and involvement of MBA young lawyer members, to improve member participation in the YLS and produce a variety of activities to increase the professional and personal interaction of YLS members.

### YLS Pro Bono Committee

Chair: Sherilyn Waxler, Miller Nash, 503.205.2480  
The committee coordinates several pro bono projects including the Nonprofit Project and Attorneys for Youth program and works on getting lawyers involved in pro bono activities. The committee publishes and distributes the *Pro Bono Volunteer Opportunities* handbook, *Domestic Violence* handbook and *Juvenile Rights* handbook.

### YLS Professional Development Committee

Chair: Kristine Lambert, Shahari & Lambert, 503.243.4545  
The purpose of the Professional Development Committee is to assist young lawyers in career development and law practice management. The committee will plan at least five presentations during the year.

### YLS Service to the Public Committee

Chair: Marc Jolin, Oregon Law Center, 503.295.2760  
The committee's projects give lawyers opportunities to become involved in the community. Some of their projects are: Community Law Week, dropout prevention video presentations at local schools, Dress for Success and coordinating volunteer hearings officers for Multnomah County Animal Control.



Cally Warfield



Kristin Sterling



Sherilyn Waxler



Kristine Lambert



Marc Jolin

# 2004-2005 MBA Committees



Scott Howard

## Continuing Legal Education (CLE)

Chair: Scott Howard, Dunn Carney et al  
503.778.5233  
Plans, conducts and evaluates approximately 27 CLE seminars a year geared toward attorneys in practice ten years or more and that reflect areas in which MBA members practice.



Sheila Hawkins Potter

## Court Liaison

Michael Dwyer, Dwyer & Miller  
503.241.9456  
Serves as the MBA's interface with the court; fosters dialogue between the MBA membership, the judiciary and the court administrator; and provides constructive feedback to the judiciary.



Michael Dwyer

## Equality

Lisa Umscheid, Office of Metro Attorney  
503.797.1544 Ext 3128  
Promotes equality in the profession and identifies ways that the MBA can promote diversity in the practice of law through outreach to racial minorities.



Lisa Umscheid

## Group Health Insurance

Chair: Jeff Crawford, PLF  
503.639.6911  
Monitors quality, low-cost health insurance options for MBA members and surveys their satisfaction with the insurance program.



Jeff Crawford

## Judicial Screening

Carol Bernick, Davis Wright Tremaine  
503.778.5233  
Confidentially screens judicial appointment candidates in accordance with the MBA's process.



Carol Bernick

## Professionalism

Sheila Hawkins Potter, Bullivant Houser Bailey  
503.499.4475  
Manages activities that promote professionalism in the legal community and assists with the nomination and selection process for the professionalism award.

## Golf

Paul Havel, Miller Nash  
503.205.2596  
Plans, publicizes and conducts approximately six golf tournaments between April and September, including the MBA Members Championship Tournament benefiting the Volunteer Lawyers Project at LASO.



Paul Havel

# Lawyers to Face-off in LAF-OFF Comedy Competition

## 2004 Campaign for Equal Justice Benefit Humor to fund a legal aid attorney for a year

For the first-time ever, business leaders, attorneys and legal professionals in Oregon are banding together to support the first-annual 2004 LAF-OFF Comedy Competition and use humor to raise awareness for legal aid. The event will feature ten Oregon attorneys in a head-to-head stand-up comedy competition.

Taking place September 10 at 6:30 p.m. at the Oregon Convention Center, the competition will be judged by a panel straight from the bench. The goal is to raise enough money to fund a legal aid attorney for a year and serve as the kick-off for the annual fundraising drive by The Campaign for Equal Justice. The 2004 annual fund goal is \$850,000.

Lawyers competing with other lawyers to be funny is a whole new idea. This year's competition will feature the headliner, Mark Katz, President Clinton's former speech writer and author of *Clinton & Me*, and emcee, Kerry Tymchuk, state director for Senator Gordon Smith.

Competitors include Jack Bogdanski, Lewis and Clark Law School; Mark Turner, Ater Wynne; Ira Zarov, PLF; Jim Egan, OTLA; Bernie Thurber,

## PRO BONO VOLUNTEERS

### PRO BONO DOERS!

Thanks to the following lawyers, who recently donated their Pro Bono services via the Volunteer Lawyers Project, the Senior Law Project, law firm clinics and the Oregon Law Center. To volunteer, please call Maya Crawford at 503.224.4086.

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Conrad Yunker  
Karen Zumwalt

Davis Wright Tremaine; Lori Deveny, OWLS; Mitra Shahri, OTLA; Darien Stanford, Stoel Rives; and the "Mystery" D.A.

Brown, U.S. District Court; and Hon. Julie Frantz, Multnomah County Court.

The judges' panel includes Hon. Thomas A. Balmer, Oregon Supreme Court; Hon. Anna J.

Musicians in the LAF-OFF band will feature Tom Grant, Phil Baker and Ron Steen. Tickets are available at Ticketmaster.



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*Open Enrollment months are March and September of each year. New MBA members can enroll themselves and employees within 30 days of joining the MBA.*

# MBA Health Insurance Plans

By Jeff Crawford, Group Insurance Chair and OSB PLF

September is an open enrollment period for MBA members and their firms who wish to join the MBA's health insurance. As chair of the MBA committee charged with negotiating the agreements with the insurers which provide coverage through the MBA, I wanted to share some thoughts about the MBA's offerings and health insurance purchasing decisions in general.

While health insurance is indispensable, long gone are the days when its cost was an incidental expense. Driven by ongoing inflation in the cost of medical services and drugs, the cost of coverage has risen steeply over the past few years. Faced with this predicament, the committee seeks answers to questions, such as, how do you go about securing coverage with decent benefits at an affordable price? How does the MBA's program fit into these considerations?

In today's market, local lawyers and firms have three options: buying through a broker, establishing a self-insured plan or participating in a group purchasing pool such as the MBA's program. For those who are at very low risk for claims, the best deals might be found through a broker. However, plan design options may be limited and it may be necessary to change between carriers from year-to-year in order to keep premium costs down.

For larger firms, self-insured plans are an option. Instead of buying coverage through an insurance carrier, monies that would otherwise be used to pay premiums are set aside to pay claims and purchase stop-loss coverage for very large claims. A third-party administrator is hired to pay claims out of these premium funds. If claims costs are low, the firms may realize a savings; if claims costs are high, the firm will have to contribute additional amounts to the premium fund. In addition to the inherent risk of the self-insured plan, a firm contemplating this option must also take into account the additional administrative overhead and employee relations difficulties if claims are disputed.

In most parts of the country, lawyers and law firms do not have a satisfactory group purchasing option. This makes the MBA's program unique in terms of cost, stability and breadth of offerings. Because of its size, long track record and strong support from the MBA membership, it has remained viable in a very volatile marketplace.

Part of our strength lies in the expertise developed by MBA staff and the Group Insurance Committee. This expertise allows the MBA to fulfill two important objectives: design plans that effectively balance premium cost and quality of benefits, and maintain plans with access to all

of the major healthcare networks in Oregon. Not only has the MBA become a shrewd customer when negotiating with the insurance carriers but it saves our members the time and effort involved in securing coverage themselves.

In addition to hard bargaining with the carriers, the MBA has introduced other cost-cutting measures. These include access to flexible spending accounts and Health Savings Account eligible plans. Both of these are methods of using pre-tax monies to pay for health insurance premiums and costs.

If you are looking for health insurance, consider the MBA's program. We offer nine medical plans through three different insurers in addition to dental and vision coverage. For more information please contact our plan administrator, Northwest Employee Benefits. They can be reached at 503.284.1331 or check their website, [www.nwebi.com](http://www.nwebi.com). The MBA's Group Insurance Committee welcomes your suggestions. Please call the MBA's Member Services Director, Guy Walden, at 503.222.3275.

*Jeff Crawford is chair of the MBA Group Insurance Committee. He is Director of Administration and Excess Coverage Programs for the OSB PLF. He may be reached at 503.639.6911.*

# Lawyers by Day, Musicians by Night

By Lori Foleen, Lane Powell et al.

They work their day gigs at Lane Powell et al and in the courtrooms, but at night they assume their secret identities — musicians.

Pilar French, one of Lane Powell's commercial litigators, started singing at age five and playing guitar at 12. During college, she fell in love with blues and funk music, performed in local venues, and eventually opened for the Spin Doctors. Pilar currently sings and plays guitar for the band Ginger Lovely ([www.gingerlovely.com](http://www.gingerlovely.com)), which performs locally. Pilar and bandmate, Kate Mann, write all of their own music, a blend of blues, funk, country and grunge. The band plans to record its first album this summer and has recently been offered an opportunity to make a music video in Los Angeles. Pilar is thankful to be at a firm that encourages her music career. "When firm members discovered my passion for music, they encouraged me to play and have consistently supported me at my gigs," said French.

On May 10, Pilar joined Lane Powell's Seattle office band, The Big Lubersky, in the second annual Lawyerpalooza™ in Seattle, a fundraiser in which local law firm bands battle one another to benefit music instruction in Seattle schools. Lane Powell's band won again, and the event raised approximately \$27,000.

Pilar is not the only resident musician/attorney in Lane Powell's Portland office. Paul Ostroff, a partner in the firm's labor and employment department, started playing keyboards at age seven. While in college, his rock band opened for the Youngbloods. Paul helped fund his first year of law school playing piano at a now defunct bar on Irving Street in San Francisco that was called "Grant's Tomb." His preference is now jazz music.

Steven Ungar, a partner who focuses on white-collar criminal defense and regulatory compliance, has played drums since he was three - it helped that his father was a professional big band drummer. His passion is jazz, but over the years he has played blues, funk, rock and country. In the 1970s, his jazz group opened for nearly every jazz artist playing at the time, including Grover Washington, Freddie Hubbard, Joe Henderson and McCoy Tyner. Steven has been in many bands over the years. In 1975, he played for two weeks with Sly and the Family Stone, and about 30 years ago he played a New Year's Eve gig with the Monkees, just to name a few.

Chris Cline, an estate planning partner, began playing guitar when he was 18. He played guitar and bass professionally before law school, playing jazz, top 40, country and anything else he could get paid for. His most bizarre musical experience was playing in front of 5,000 Taiwanese servicemen in an amphitheater dynamited out of a cave on the island of Kinmen, the closest point in Taiwan to the Chinese mainland. "That was a little unnerving," said Cline. "We flew out to the island in a military transport and I kept waiting to be shot down."

When it's time for holiday parties and events, Lane Powell need not look far for a band; it's literally down the hall.

*Lori Foleen is the Client relations Manager at Lane Powell et al.*



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### COMMERCIAL LITIGATION ASSOCIATE

Tonkon Torp LLP is seeking a litigation associate to fill an immediate vacancy. Applicants must demonstrate two to four years' background in general commercial litigation, which includes experience in discovery, case management, and motion practice. Federal court and deposition experience preferred, but not required. Excellent academic credentials and strong written and oral communication skills are required. Tonkon Torp offers an excellent salary and benefits package, and the opportunity to work with experienced practitioners in a collegial atmosphere. At your earliest convenience, please send a cover letter, resumé and law school transcripts, which will be handled in strictest confidence, to: Recruiting Manager, Tonkon Torp LLP, 888 SW 5th Ave Ste 1600, Portland OR 97204; fax: 503.972.3760; email: loreed@tonkon.com.

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## Golf Tournament Results

Eight groups played in an MBA Golf Tournament at the OGA Members Course at Tukwila in Woodburn on July 14. The first place team was **David White, Brian Posewitz, David Streicher** and **Steve Ford**. There was a tie for second place: **Evans Van Buren, Stan Rotenberg, Paul Lodine, Randy Weatherhead** made up

one team and **Bill Stiles, John Bassett, Stan Samuels, Nelson Atkin** comprised the other. The closest to the pin winner on hole number eight was **Stan Rotenberg**. He also won long drive on hole number five. Closest to the pin on hole number 17 was **Steve Cyr**. Long Drive on number 11 was **Brian Posewitz**.

### 7<sup>th</sup> Annual Members Golf Championship and Awards Luncheon

pumpkin ridge golf club  
September 14, 2004  
shotgun start at 7:45 a.m.

Proceeds benefit the Volunteer Lawyers Project at Legal Aid Services of Oregon.

Space is limited to the first 32 teams, so sign up today!  
For more information and a registration form, go to [www.mbar.org](http://www.mbar.org).

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