



MULTNOMAH LAWYER

MULTNOMAH BAR ASSOCIATION
1906

Lawyers associated for justice, service, professionalism, education and leadership for our members and our community. March 2005 Volume 51, Number 3



Polishing Our Image

By Sylvia Stevens, MBA President.

When lawyers are asked what their bar associations should be doing, a common answer is "improving the image of lawyers." It is not exactly news that the public considers the legal profession to be one of the least reputable institutions in America, somewhere below the media.

Some lawyers believe that attempts to change that public perception are futile, that the public perception of lawyers is out of our control. They cite authorities from before Shakespeare's time for the proposition that lawyer bashing has been around as long as there have been lawyers. That may be true, but it seems that the image of lawyers and the profession has become increasingly negative during the last two or three decades.

The problem, I think, is that the public impression of lawyers is largely the product of the fictionalized portrayals of lawyers that are staples of the entertainment industry. *Perry Mason* is perhaps the most well-known fictional lawyer of modern times, who almost never lost a case and always outsmarted the police and the prosecution. More often, however, lawyers are portrayed in books, movies, and television as greedy, manipulative, corrupt or just plain foolish. Think of the murdering partners in *The Firm*, the scheming insurance lawyers in *Runaway Jury*, the marginally ethical or personally foolish in *The Practice* and *L.A. Law*. And my personal favorite, *Ally McBeal*.

Lawyers in the news sometimes contribute to these fictional notions of the profession. There is widespread belief that wealthy, high-profile citizens avoid civil and criminal liability because of legal technicalities and the clever maneuvering of their high-powered, highly-compensated lawyers. Every network and cable television station has at least one legal pundit who is as much a celebrity as a purveyor of reliable information.

Entertainment and news media is the only exposure most Americans have to the legal profession. If the "entertainment model" is the public face of the profession, it is no wonder there is such a profound misunderstanding of who we are, what we do, and why we do it.

It does not help that the specialized knowledge and skill that enables us to serve our clients sets us apart from other citizens. We have connections with politics, the judiciary, government, big business and law enforcement that is perceived as enabling us not only to play the system but to shape it to our own purposes. Our knowledge is something that can be used for or against people's interests. And we profit from our ability to resolve the problems of people in crisis. We are perceived as not policing ourselves well and bar associations are viewed not as protectors of the public but as clubs that protect the interests of lawyers.

The inaccurate portrayal of lawyers in fiction and as celebrities which fuels much of the negative public perception is more than just disappointing and frustrating. It is dangerous to our way of life.

Society suffers when lawyers are collectively and unfairly demonized and demeaned. The public image of lawyers affects the public's belief in our justice system and the rule of law on which it is premised.

There is good news, however. The very survey respondents who report a negative perception of lawyers generally have quite different views about their personal experiences with a lawyer. Whether or not they believe justice was done in their cases, survey respondents indicate a high degree of satisfaction with their own lawyer's knowledge, handling of the case, and sensitivity to the client's concerns. Even more interesting, a majority of people surveyed also express the belief that law is a good and even respectable profession for their children.

So what can we do to close the gap between the public's perception of us and reality? The answer lies in education. When asked what can be done to improve the reputation of lawyers and the legal profession in society, survey respondents mention communication and information. The MBA Public Outreach Committee's overtures to the media have been well received and we are working together to develop articles that will enhance public understanding of the rule of law, the legal system, the need for an independent judiciary, and the need for adequate court funding and facilities. We are also working on articles that will provide general information about substantive legal issues.

Individual lawyers can play a vital role in this public outreach as well. Remember that the law and the legal system is a mystery even to some of our more sophisticated clients. The most common complaint clients have is that their lawyers don't communicate well or often enough. We all know the importance of clear and realistic explanations about fees and possible outcomes, and regular communication as the matter progresses. We should also take advantage of opportunities to explain the bigger picture to clients, to help them put their personal legal matter in a larger context that will aid their understanding of our system of dispute resolution. Every interaction with the legal system is a learning experience for clients; we can help to assure that clients learn the truth and don't merely reinforce the media stereotypes.

Don't limit your outreach to clients. Talk to your friends, relatives and neighbors about legal issues facing the community and our society at large; help them understand, for instance, why judicial campaigns must be non-partisan and what they should look for in a judicial candidate. Explain the rule of law, separation of powers and other basic concepts of our system they may have forgotten or never learned. Help them understand why society must provide legal services to indigent citizens, particularly criminal defendants. Laugh at lawyer jokes if you must, but use them as tools for education.

Improving the image of lawyers and the legal profession by dispelling myths and stereotypes is our responsibility. In the words of some 1960's sage, if we aren't part of the solution, we are part of the problem. Start polishing today.

MBA CLE

To register for a CLE, please see the inserts in this issue or go to www.mbabar.org.

March

Monday, March 21
YLS Commercial Litigation CLE Series begins

Monday, March 28
YLS Commercial Litigation CLE Series continues

Wednesday, March 30
New Residential Construction Defects: Scraping off the Mold
Dean Aldrich
Robert Muth
Susan Whitney

Thursday, March 31
Direct and Cross Examination – Keeping it Simple and Getting it Right
Hon. Michael McShane
Linda Rudnick

April

Monday, April 4
YLS Commercial Litigation CLE Series continues

Wednesday, April 6
Multnomah County Judges Trial Practices: Judicial Perspectives on Communicating with the Trier of Fact
Hon. Katherine Tennyson
Hon. John Wittmayer
Hon. Janice Wilson

Monday, April 11
YLS Commercial Litigation CLE Series continues

Thursday, April 14
Clark County Practice and Procedure
Hon. Robert Harris

Monday, April 18
YLS Commercial Litigation CLE Series continues

In This Issue

New on the Shelf.....	p. 3
Announcements.....	p. 4
Ethics Focus.....	p. 4
Around the Bar.....	p. 7
Tips From the Bench.....	p. 8
News from the Courthouse.....	p. 8
Profile - Judge Landau.....	p. 9
YLS.....	p. 10
Classifieds.....	p. 14
Dress for Success.....	p. 16

MULTNOMAH BAR ASSOCIATION
620 SW 5TH AVE SUITE 1220
PORTLAND, OREGON 97204
503.222.3275
FAX 503.243.1881
WWW.MBABAR.ORG

MULTNOMAH BAR ASSOCIATION
620 SW FIFTH AVE., SUITE 1220
PORTLAND, OREGON 97204

PRSRST STD
U.S. POSTAGE
PAID
PORTLAND, OR
PERMIT NO. 00082

MULTnomah Bar Association Annual Dinner

Wednesday, May 18

Portland Marriott Downtown
1401 SW Naito Parkway

Please mark your calendar!

BOARD OF DIRECTORS

MBA Board of Directors

President
Sylvia E. Stevens

President-Elect
Kelly T. Hagan

Secretary
Agnes Sowle

Treasurer
Peter H. Glade

Past President
Robert J. Neuberger

Directors

W. Todd Cleek
YLS President

Lori E. Deveny
ABA Delegate

Jeffrey S. Matthews

Kathryn L. Villa-Smith

Simeon D. Rapoport

Helen T. Smith

Diana I. Stuart

Michael H. Bloom

Thomas W. Brown

Nancie K. Potter

Executive Director
Judy A.C. Edwards

Director, Member Services
Guy Walden

Director, Events and Programs
Kathy Maloney

Administrator, Member Services and Events
Noëlle Saint-Cyr

Administrator, Accounting and Office
Renee "Max" Maxwell

Executive Assistant
Carol Hawkins

THE MULTNOMAH LAWYER is published 11 times per year by the Multnomah Bar Association, 620 SW Fifth Ave. Ste. 1220, Portland, OR 97204 503.222.3275

An annual subscription is included in member dues or may be purchased for \$20. Letters, award and news items, and announcements are welcome. Articles by members are accepted. All submissions may be edited for length, clarity and style, are published on a space available basis, and at the editor's discretion. Views expressed in articles represent the authors' opinion, not necessarily the MBA's. The publication does not purport to offer legal advice.

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.

NEWSLETTER STAFF CONTACTS

Display Advertisement:
Renee "Max" Maxwell

Copy and Classified Advertisement:
Carol Hawkins

Design: Cyrano Marketing Solutions

www.mbar.org

www.heintzberger.com

The Heintzberger Company

Consultants, Actuaries & Administrators

for

Retirement Plans and Trusts

(503) 228-6390

1600 SW Fourth Ave, Suite 960

Portland, Oregon 97201

BARKER

ARBITRATION & MEDIATION

— John Barker —

Mediation that works
Arbitration by the rules

1000 SW Broadway, Suite 1700, Portland, OR 97205
503-227-6300/fax 503-220-4224
Email JB@barkerlaw.us

Now you can schedule online at www.barkerlaw.us

Asher Portfolio Advisors, Inc.
Over 20 years of experience working with Qualified Retirement Plans

See what can happen when you
remove financial bias from the
fund selection process.

Services provided on a flat fee or hourly basis.

Steve Mehlig

asherport@comcast.net . (503) 524-4230

Fire Loss Claims?

- 18 years experience as a General Contractor.
- Experienced fire and casualty insurance adjuster.
- Available to represent the insured party in maximizing recovery from the insurer.
- Fees contingent on increased recovery.



FRED MILLARD
ATTORNEY AT LAW

503 721-0140

621 SW Alder Street, Suite 621, Portland, Oregon 97205

Admitted to practice in Oregon and Washington

BANKRUPTCY ATTORNEYS

Need Help?
Staff overwhelmed?

Expert document preparation services
17 years experience
Fast turn-around
Attention to detail

Chapter 7 and 13

Independent Paralegal Svcs.
Call today!

503-228-0316

katekindred@aol.com

Your complete satisfaction is our business!

www.bkprep4you.com



MET WILSON

503.778.2131

wilsonm@lanepowell.com

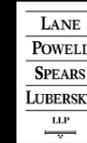
- Call or e-mail for resume and references
- Conference room space available in Portland and Seattle
- Will travel

Efficient Dispute Resolution

Mediation and Arbitration of Business and Commercial Disputes.

- Banking/Finance
- Contracts
- Real Estate
- Securities
- Transportation

601 S.W. Second Ave.
Suite 2100
Portland, OR
97204 - 3158
503.778.2100
www.lanepowell.com



YOUR PACIFIC NORTHWEST LAW FIRM®

Washington Personal Injury Trials

Vancouver attorney Don Jacobs announces his availability for the trial of Washington Personal Injury cases.



Attorney Don Jacobs

- 25 Years of Trial Work
- Association or Referral Fees shared according to Washington RPC 1.5(e)(2)
- All case expenses advanced
- WSTLA Eagle since 1986
- WSTLA Board of Governors 1993-2000
- Oregon State Bar since 1990
- Oregon Trial Lawyers Association Board of Governors since 2000
- OTLA President's Circle Member
- Member TLPJ and ATLA

Vancouver 360-695-1624 • Portland 503-222-7757
Toll-free 1-866-660-1624
www.nwinjurylawcenter.com

NEW ON THE SHELF

By Jacque Jurkins, Multnomah County Law Librarian.

OREGON UNIFORM CRIMINAL JURY INSTRUCTIONS, 2004
Supplement prepared by the Oregon State Bar Committee on Uniform Jury Instructions, William A. Meyer, Chair, including 37 new instructions, and 14 revised instructions. Published by the OSB, 2004 (*KF O7O74)

COMMERCIAL CRIME POLICY 2d ed. co-edited by Randall I. Marmor and John J. Atomaine. Published by the ABA Tort Trial and Insurance Practice Section, 2005. (KF 1225 C65)

CYBERCRIME: The investigation, prosecution and defense of a computer-related crime edited by Ralph D. Clifford. Published by the Academic Pr, 2001. (KF 390.5 C6 C92)

INTERNATIONAL GUIDE TO CYBER SECURITY edited by Jody R. Westby. Published by the ABA Section of Science and Technology Law, Privacy & Computer Crime Committee, 2004. (KF 390.5 C6 I5)

ANNOTATED MODEL CODE OF JUDICIAL CONDUCT. Published by the ABA Center for Professional Responsibility, Judicial Division, 2004. (KF 8779 A96)

ADR HANDBOOK FOR JUDGES, edited by Donna Stienstra and Susan M. Yates. Published by the ABA Section of Dispute Resolution, 2004. (KF 9084 A92)

CONSUMER ARBITRATION AGREEMENTS: Enforceability and other topics 4th ed. by F. Paul Bland. Published by the National Consumer Law Center, 2004. (KF 1040C62)

THE LAWYER'S GUIDE TO STRATEGIC PLANNING: Defining, setting, and achieving your firm's goals by Thomas C. Grella and Michael L. Hudkins. Published by the ABA Law Practice Management Section, 2004. (KF 300 G76)

THE PATENT GUIDEBOOK by John T. Pienkos. Published by the ABA Section of Business Law, 2004. (KF 3114.6 P54)

SINCLAIR ON FEDERAL CIVIL PRACTICE, 4th ed. by Kent Sinclair. Published by the Practising Law Institute, 2004 (KF 8870 S56)

LEGAL GUIDE TO MICRO-ENTERPRISE DEVELOPMENT by Susan R. Jones. Published by the ABA Section of Business Law, 2004. (KF 1659 J66)

THE ABC'S OF THE UCC: Article 3, Negotiable instruments. Article 4: Bank deposits and collections, 2d ed. by Stephen C. Veltri. Published by the ABA Section of Business Law, 2004. (KF 912.5 A1A23)

UNFAIR AND DECEPTIVE ACTS AND PRACTICES, 6th ed. by Jonathan Sheldon and

Carolyn L. Carter. Published by the National Consumer Law Center, 2004. (KF 1040 C62)

CONSUMER BANKRUPTCY LAW AND PRACTICE, 7th ed. by Henry J. Sommer. Published by the National Consumer Law Center, 2004. (KF 1040 C62)

ACCESS TO UTILITY SERVICES: Regulated, deregulated and unregulated utilities, deliverable fuels, and telecommunications, 3d ed. by Charles Harak and Olivia Bae Wein. Published by the National Consumer Law Center, 2004. (KF 1040 C62)

AMERICAN JOBS CREATION ACT OF 2004: Law, explanation, and analysis. Published by Commerce Clearing House, 2004. (Tax KF 6276.57 2004 A54)

WORKING FAMILIES TAX RELIEF ACT OF 2004: Law, explanation, and analysis. Published by Commerce Clearing House, 2004. (Tax LF 6276.57 2004 W67a)

WORKING FAMILIES TAX RELIEF ACT OF 2004 h.r. 1308: Text of H.R. 1308, as passes by the House and the Senate on September 23, 2004. Conference Report as released on September 23, 2004. Published by Commerce clearing House, 2004. (Tax KF 6276.57 2004 W67)

CALENDAR

For a longer version of the MBA calendar, please visit www.mbabar.org.

March

1 Tuesday, MBA Board meeting

8 Tuesday, YLS Board meeting

9 Wednesday, MBA CLE – Land Use Landmines and Real Estate Sinkholes
Register at www.mbabar.org.

10 Thursday, Multnomah Lawyer deadline

Thursday, Pro Bono Fair
See Announcements for details.

11 Friday, OCDLA Post Conviction Relief Seminar
Visit www.ocdla.org for details.

12 Saturday, OCDLA Forensics Seminar
Visit www.ocdla.org for details.

21 Monday, YLS CLE - Commercial Litigation Series begins
See insert or register at www.mbabar.org.

24 Thursday, YLS Drop In Social
See details on p. 10.

28 Monday, YLS CLE - Commercial Litigation Series continues
See insert or register at www.mbabar.org.

30 Wednesday, MBA CLE – New Residential Construction Defects: Scraping off the Mold
See insert or register at www.mbabar.org.

31 Thursday, MBA CLE – Direct and Cross Examination: Keeping it Simple and Getting it Right
See insert or register at www.mbabar.org.

April

4 Monday, YLS CLE - Commercial Litigation Series continues
See insert or register at www.mbabar.org.

5 Tuesday, MBA Board meeting

6 Wednesday, MBA CLE – Multnomah County Judges Trial Practices
See insert or register at www.mbabar.org.

8 Friday, Multnomah Lawyer deadline

11 Monday, YLS CLE - Commercial Litigation Series continues
See insert or register at www.mbabar.org.

12 Tuesday, YLS Board meeting

14 Thursday, MBA CLE – Clark County Practice and Procedure
See insert or register at www.mbabar.org.

18 Monday, YLS CLE - Commercial Litigation Series continues
See insert or register at www.mbabar.org.

19 Tuesday, MBA CLE – Voir Dire: Do You Know Who is in the Jury Box?
See insert or register at www.mbabar.org.

21 YLS Drop In Social with Judges

25 Monday, YLS CLE - Commercial Litigation Series continues
See insert or register at www.mbabar.org.

April 25 – May 6 Monday-Friday, CourtCare Campaign: A Jungle Gym in the Jungle
See p. 5 for details.

26 Tuesday, MBA CLE – Advanced Real Estate Transactions: The New Oregon Opinion Letter Accord
See insert or register at www.mbabar.org.

28 Thursday, MBA CLE – Full Court Press: Advice on Dealing with the Media
See insert or register at www.mbabar.org.

May

2 Monday, YLS CLE – Commercial Litigation Series continues
See insert or register at www.mbabar.org.

3 Tuesday, MBA Board meeting

Tuesday, MBA CLE – Current Developments in Small Business Tax
See insert or register at www.mbabar.org.

5 Thursday, MBA CLE – Annual Probate and Guardianship Update
See insert or register at www.mbabar.org.

9 Monday, YLS CLE - Commercial Litigation Series ends
See insert or register at www.mbabar.org.

TSONGAS LITIGATION CONSULTING INC.
STRATEGIC PARTNERS IN TRIAL PREPARATION

Providing a Competitive Advantage to Attorneys Since 1978

STRATEGY · RESEARCH · GRAPHICS

Case Strategy

Witness Preparation

Focus Group Research

Community Attitude Survey

Case Evaluation



Litigation Graphics

Mock Trial Research

Jury Selection

Pre Trial Issue Interviews

CLE Programs

Portland, Oregon, Telephone: (503) 225-0321 Fax: (503) 225-0382
Seattle, Washington, Telephone: (206) 382-2121 Fax: (206) 224-3705
Toll Free: (888) 452-8019

info@tsongas.com www.tsongas.com

Ethics Focus

By Mark Fucile, Stoel Rives.



The New Rules: What's Inside the Box? Part 4 - Multijurisdictional Practice

In this final installment of our look at the new rules, we'll examine the new multijurisdictional practice rule. The old rule on licensing was DR 3-101. It prohibited the unauthorized practice of law by both non-lawyers and lawyers who were not licensed here or otherwise specially admitted. The new rule is RPC 5.5. It retains the prohibitions against unauthorized practice found in DR 3-101. RPC 5.5 then authorizes several specific categories of temporary practice here by out-of-state lawyers.

Before we turn to the specifics, let's start with a little history for context. Lawyers have been traveling across jurisdictional boundaries for a long time. Litigators, for example, have long been able to get temporarily admitted in another state to handle an individual case under *pro hac vice* rules. More recently, many states - including Oregon - have adopted varying reciprocal admission rules to accommodate lawyers who routinely practice in more than one jurisdiction. But, lawyers who only occasionally handled matters in other states and who didn't have the *pro hac vice* mechanism available to authorize their presence were in somewhat of a limbo. Most often it was business lawyers who were in another state handling a transaction for a "home state" client. Even litigators, though, ran into this problem when a case was being arbitrated rather than handled in court because many states don't have *pro hac vice* rules beyond formal judicial proceedings.

Although virtually all states have regulations or statutes preventing the unauthorized practice of law, the risk to lawyers wasn't typically from regulatory authorities. Rather, it came from their own clients, who, disappointed with the result in a matter, might argue that they had no duty to pay their lawyers because the lawyers were engaged in the unauthorized practice of law by providing the services involved in a jurisdiction in which the lawyers weren't licensed. Sound far-fetched? Many lawyers thought so until the California Supreme Court voided a fee agreement on exactly that theory in *Birbrower*,

Montalbano, Condon & Frank, P.C. v. Superior Court, 17 Cal 4th 119, 949 P2d 1, 70 Cal Rptr 2d 304 (1998), and effectively denied over \$one-million in fees to a New York law firm because its lawyers providing services to a California client were not licensed there. In the wake of *Birbrower*, the ABA appointed a special commission to examine multijurisdictional practice issues and eventually adopted a temporary practice rule that became the model for Oregon RPC 5.5 and similar regulations nationwide.

Oregon's version creates six categories of authorized multijurisdictional practice.

First, out-of-state lawyers are allowed to handle a matter here in association with an Oregon-licensed lawyer. For example, a Washington lawyer from a firm's Seattle office can assist on a matter its Portland office is handling.

Second, out-of-state lawyers are permitted to work on matters here if they have been admitted *pro hac vice* or expect to be so once the case is filed. This covers not only traditional *pro hac vice* admission, but also work such as investigations before a case is filed.

Third, out-of-state lawyers are authorized to handle arbitrations and mediations here that are related to their "home state" and for which formal *pro hac vice* rules do not exist. For example, a Seattle lawyer could arbitrate or mediate a case in Portland for a Washington client.

Fourth, out-of-state lawyers are permitted to handle matters here that are related to their "home state" practice. To continue our Seattle lawyer example, the lawyer could negotiate a business transaction in Portland for a Washington client.

Fifth, out-of-state corporate counsel are allowed to provide temporary services here to their corporate employers. This provision supplements Oregon's in-house counsel admission rule by allowing temporary practice here by in-house lawyers. For example, a Seattle-based in-house lawyer could handle a matter for the company's Portland office.

ANNOUNCEMENTS

MBA Judicial Feedback

The Board and Court Liaison Committee request member input about this program. Please see the details on p. 9.

CourtCare Fundraising Campaign

The 2005 CourtCare Campaign: *A Jungle Gym in the Jungle*, is just around the corner. This year, it runs from April 25-May 6. The campaign will soon be calling on you for donations. Please consider giving generously to this worthy cause. More details are available on p. 5.

Pro Bono Fair

The OSB New Lawyers Division and the MBA Young Lawyers Section present a *Pro Bono Fair* on Thursday, March 10 at the downtown Marriott. There are two CLE courses provided and a

reception, followed by an awards ceremony. To register for the CLE courses, email Diane Campbell at dcampbell@osbar.org. All events are free of charge, and there is no need to register for the reception.

MBA Bicycle Rides

Noontime bicycle rides - short and fast, with hills. Meet at the corner of Yamhill and Broadway between noon and 12:10 p.m. Mondays and Thursdays. Contact Ray Thomas at 503.228.5222 with questions, or meet at the start.

Post Conviction and Forensics Seminars Slated

Oregon Criminal Defense Lawyers Association (OCDLA) holds a half-day seminar on post-conviction relief on Friday, March 11 and a one-day forensics seminar on Saturday, March 12 at the Valley River Inn in Eugene.

Visit <http://www.ocdla.org/seminars.html> for information.

FBA April 6 Annual Judges Appreciation Dinner

This year, the Federal Bar Association's Annual Judges Appreciation Dinner will honor the district's bankruptcy judges. Most of the bankruptcy judges - as well as many other federal judges - will be attending. Retired Judge Polly Higdon and attorney Ward Greene will be making remarks honoring the bankruptcy judges. Please mark your calendar for Wednesday, April 6, 5:30 p.m. at the Hilton Hotel in downtown Portland. To register or purchase a table sponsorship, please call Jean Crown at Stoel Rives, 503.294.9692 or email at jecrowni@stoel.com.

The Fine Print

By Jonathan Fine, Miller Nash.

Too Much Such

A *Fine Print* reader writes: "I have a question about the use of 'as such' in contexts like this one: *Betsy rearended Pat's car. As such, Betsy was negligent.* I can't stand this usage, but I don't know why. Can you tell me whether this usage is proper, or in the alternative give me some well-grounded ammunition to buttress my disdain for the phrase?"

Reader, I'll do more than give you ammunition - I'll join you in the trenches. Be cautioned, though: picking a fight with *such* is somewhat risky, as Alfred Ayres learned long ago. In his 1881 book *The Verbalist*, Ayres railed against an idiomatic usage of *such*, citing this sentence: *I have never before seen such a large ox.* The proper construction, Ayres insisted, was *so large an ox.* But his colleagues were generally indifferent on the matter, having concluded that

getting out of the ox's way was a more pressing concern. Ayres's protest stalled, and the scorned usage - which was, in fact, already a few hundred years old - became standard.

Such has plenty of good uses. As a demonstrative adjective, for example, *such* is a fine word when referring to a previously mentioned category of people or things. For example, a sentence about breach-of-contract claims can be followed by examples of *such claims*. But *such* should not be used in place of *the, this, that, these, or those*. If a specific claim is mentioned in one sentence, it should be referred to in the next as *that claim*, not *such claim*. The contracts that your clients faxed to you were signed by *those clients*, not *such clients*. Try to be aware of when you're using *such* because it is the right word, and when you're using it as "merely a starchy substitute." H. W. Fowler, *Modern English Usage* at 602 (2d ed 1965).

Fowler's advice applies doubly to the unfortunate construction that has so distressed our reader: *as such*. This is not an inherently bad phrase. When it has a clear antecedent, in fact, it's a perfectly good one. For example: *Bill will soon be a senator. As such, he'll have many new responsibilities.* (The antecedent of *such* is *senator*.) Alas, this usage is somewhat exotic, rarely seen outside of reference books. Misuses, on the other hand, are all too common. Fowler offered this example: *There is no objection to the sale of houses as such.* "As such," he wrote, "is liable to be used in curious ways, so curious sometimes that the writer's meaning can only be guessed...[C]ontext suggests that the writer meant there was no objection in principle to the sale of houses; if so he chose an absurd way of saying it." Fowler, *supra*, at 603.

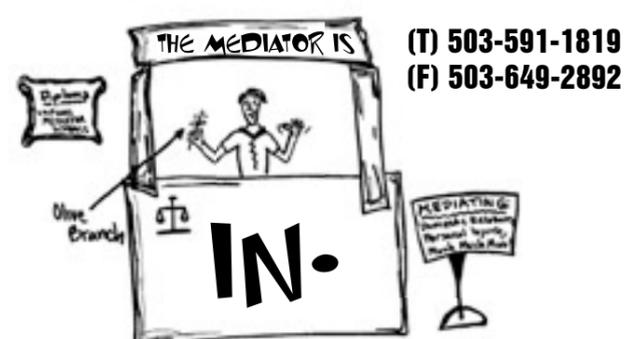
Cont. on p. 6

Sixth, out-of-state lawyers who are authorized to practice here by federal law may do so. For example, a military lawyer from Fort Lewis could handle a court-martial here.

When it adopted the RPCs, the Supreme Court limited the new multijurisdictional practice rules to a three-year trial period. Unless extended by further order of the court, they will sunset at the end of 2007. Given the nature of practice today and the frequency with which lawyers cross interstate borders in both directions, these very practical rules will hopefully have proven their merit to the court long before then.

LAUREN PAULSON

MEDIATOR EXTRAORDINAIRE



(T) 503-591-1819
(F) 503-649-2892

YOUR WASHINGTON COUNTY CONNECTION

2005 CourtCare Campaign A Jungle Gym in the Jungle (April 25-May 6)

The second annual spring campaign to raise operating funds for Multnomah CourtCare will be held April 25 – May 6. Once again, Mike Greene, Rosenthal & Greene and Jeff Matthews, Yates Matthews & Assoc. are generously donating their time to co-chair the fundraising campaign. The 2005 campaign goal is \$85,000 for the 2005-2006 operating year.

Firms will compete for awards acknowledging the largest total contributions, *CourtCare Proudest Pride*, and largest per capita contributions, *CourtCare Loftiest Leap*. Last year's awards went to Davis Wright Tremaine with a total contribution of \$7,500 and Williams Love et al with \$173 per capita in contributions. All firms that contribute will be recognized in the *Multnomah Lawyer*.

Individual donors giving \$500 or more will be designated *CourtCare Lions* and those giving \$150-499 will receive the *CourtCare Tiger* designation. All individuals donating \$150 and above will be recognized in the *Multnomah Lawyer* and at the culminating event celebration.

Multnomah CourtCare is a collaborative project between



the Volunteers of America Oregon (VOA), MBA, Oregon Judicial Department and Multnomah County. It aims to provide a compassionate way to protect young children from unpleasant courtroom situations.

A converted Multnomah County Courthouse jury room serves as a fully-staffed and certified drop-in childcare center for children and infants. CourtCare offers games, toys, art supplies, and books for up to 100 children a month in a safe and nurturing place to play while parents or guardians tend to court business. Since opening its doors in 2001, over 3,500 children ages six weeks to five years have visited the daycare center.

CourtCare Campaign fundraising committee members include co-founders Robin Selig and Mary Louise McClintock

and Susan Marmaduke, JoLynne Zimmerman, Marshal Spector, Jeff Schick, Dana Sullivan, John Connors, The Hon. Katherine

Tennyson, Monica Molina of VOA Oregon, Jose Cienfuegos and Judy Edwards.

CVK
COSGRAVE VERGEER KESTER LLP
ATTORNEYS

*We're pleased to announce
the following associates of the firm have been named partners:*

CHRISTINE COERS-MITCHELL

Christine joined the firm in 2001. Her practice focuses on defense litigation in the areas of legal malpractice, creditors' rights and products liability. She participates in Debtor/Creditor and Litigation sections of the Bar and on the Unlawful Practice of Law Committee.

WENDY M. MARGOLIS

Wendy joined the firm in 1995. Her practice focuses on civil appeals in state and federal courts, general litigation support and professional liability defense. She is admitted to practice in Oregon and Washington and currently serves on the Oregon State Bar Appellate Practice Section Executive Committee.

MICHAEL K. WALTON

Mike joined the firm in 1999. He practices in the fields of railroad, products liability and environmental law in both state and federal courts in Oregon, Washington and California. He is a member of the National Association of Railroad Trial Attorneys, the Oregon Association of Defense Counsel and the Defense Research Institute.

805 SW Broadway • 8th Floor • Portland, Oregon 97205
(503) 323-9000 • Vancouver (360) 993-1188 • Fax (503) 323-9019 • www.cvklaw.com



**WELLS
FARGO**

**We've been in the business of
building relationships since 1852.**

And, we plan to continue that tradition by supporting the business needs of Multnomah Bar Association Members.

Contact Michael Giavanti to find out about the exclusive benefits for Multnomah Bar Association Members.



Michael Giavanti, VP & Relationship Manager
1300 SW 5th Avenue, 6th Floor
Portland, OR 97201
Phone: 503.886.1446
Fax: 503.886.1430
michael.j.giavanti@wellsfargo.com

From the Executive Director

By Judy A. C. Edwards, Executive Director.



100th Anniversary Update A Century of Service

Planning is well underway for the MBA's 100th anniversary. Thirty-one people serve on at least one of the six committees. If you are interested in participating, either by being on a committee or simply helping out with research or planning, please give me a call at 503.222.3275.

The U.S. District Court Historical Society recorded oral histories of a long list of Oregon lawyers and the 100th Anniversary History Subcommittee is looking for assistance from law firms to transcribe a lawyer's set of tapes. Lane Powell and Schwabe Williamson & Wyatt have already stepped forward – please consider volunteering to do one set. Contact either Don Marmaduke at 503.802.2003 or me.

2005 CourtCare Campaign

The second annual spring campaign to raise operating funds for Multnomah CourtCare will be April 25 – May 6. Once again, Mike Greene, Rosenthal & Greene and Jeff Matthews, Yates Mathews & Assoc. are generously donating their time to co-chair the fundraising campaign. The 2005 campaign goal is \$85,000 for the 2005-2006 operating year. Please see details on p. 5.

The daycare's current annual operating budget is \$125,000. Because parents are not charged for the child care, the program is entirely dependent on public funds and private donations. Multnomah County and the Oregon Judicial Department

annually contribute \$25,000 each, for a total of \$50,000 in public funds. The balance must be raised in donations from law firms, organizations, individuals and foundations.

We don't do litigation, why should we donate?

You have clients who may find themselves involved in courtroom litigation and having children in the courtroom disrupts court business. Plus, we all need to promote reasonable access to justice and smooth courthouse operations.

Multnomah CourtCare is operated by Volunteers of America Oregon, which is a charitable non-profit, with 501(c)3 status. All contributions are tax deductible as a charitable donation.

Public Outreach Update

The goal of this program is to increase awareness and understanding of the importance of a fair and impartial judicial system, its impact on our daily lives and its value to the community. MBA representatives have introduced our key messages to and have met with four editors and reporters at *The Oregonian*, two editors at *Oregon Business* magazine, the managing editor at *The Business Journal*, the publisher and editor at the *Daily Journal of Commerce* and representatives of the Portland Business Alliance and Metro Business Association. We also continue to support the Judicial Outreach Committee with their legislative open houses and speakers bureau.

Objectives:

Create understanding of the rule of law as the cornerstone of our legal system and of the importance of a fair and impartial judiciary to support it. Increase understanding of the need for adequate resources for the judicial system. Increase awareness of the need to maintain safe and up-to-date court facilities.

Key messages:

- The cornerstone of our democracy is a legal system that considers everyone equal under the law, regardless of income, race or beliefs.
- Fair and equal protection for all citizens requires a judicial system that is impartial and free from external influence.
- Like all public service, fire, police and education, the survival of our judicial system requires adequate public funding.
- Our local court facilities must safely accommodate the rising demand for the services provided by our judicial system.

How can you help spread the word?

When you speak with clients, friends, relatives, neighbors and colleagues at civic, community or charitable organizations, share the key messages with them. Weave them into a 30 minute elevator conversation. And, consider volunteering to write articles on practice areas of interest to business groups. Please contact me for more information.

MBA Web site

If you haven't gone to the MBA Web site in the last six months, you've missed a lot of information. Both the maneuvering and content of the site have greatly improved. Past newsletters and other popular publications are now available for download, the calendar is updated frequently and it includes major events of other law-related organizations as well as upcoming CLE seminars. The newest feature is the MBA Membership Directory. Please check out your listing to see if our information is current. Future phases to expand the directory information, including photos, are in the planning.

Mentor Program Kicks Off

The 2005 Mentor Program kickoff reception was held on January 24 at the Fifth Avenue Suites Hotel. The program, which is in its 13th year, pairs experienced lawyers with MBA Young Lawyers Section members. Mentors assist with general procedural practice issues, particularly with ethics and professionalism questions, and situational advice about the practice of law. Mentors and mentees are encouraged to meet at least monthly during the six-month term of the program. They are also encouraged to attend a special CLE program organized by the MBA, and attend at least one MBA function together.

A special "thank you" to those who are donating their time to mentor a young lawyer this year
Ellen Bachman
Cynthia Barrett
Carol J. Bernick
Patrick M. Birmingham
Lane Borg
Steve Brischetto
Gregory W. Byrne
Ann Chapman
John J. Connors
William Conwell
Dianne K. Dailey
Lori E. Deveny
Jeffrey Druckman
Michael Dwyer
Richard M. Glick



Mentor Lori Deveny with her mentee Joshua Shulman

Phillip E. Grillo
Jan Kitchel
Frank Lagesen
Frederick Lenzser
Linda Love
Alan McCollom
Hollis McMilan
Gregory Mowe
Karen O'Connor
Katherine O'Neil
Turid L. Owren
Ruth Pekelder
Mark A. Porter
Nancie K. Potter
JoAnn B. Reynolds
Lois Rosenbaum
Diana I. Stuart
Walter H. Sweek
Stuart I. Teicher
Thomas H. Tongue
Karen M. Vickers
Kathryn L. Villa-Smith
Mark R. Wada



YLS Board member Tamara Russell and mentee Charles Curtin with his mentor Mark Wada

The Fine Print

Cont. from p. 4

Finally, we come to our reader's specific grievance: the jargony use of *as such* to mean "thus" or "therefore." *The car won't start. As such, we'll have to take the bus. I love you. As such, let's get married.* Remember: *such* needs a clear antecedent in this context. Once you have typed the letters *s-u-c-h*, a tension is created that can be resolved only by linking *such* with a word that came before it. Look again at our reader's example: *Betsy rear-ended Pat's car. As such, Betsy was negligent.* Here, *such* has nothing to link to. Avoiding this mistake in your own writing is easy enough; making others do the same is another challenge entirely. But *such* is life.

Jonathan Fine is a legal editor at Miller Nash. He welcomes your questions, comments, and suggestions for future columns. Please send them to jonathan.fine@millernash.com.



SUSAN K. EGGUM, P.C.

ATTORNEYS AT LAW

Is pleased to announce that

Catherine D. Lawson
has joined the Firm as an Associate

and

Stephen D. Leggatt
has become Of Counsel to the Firm.

Susan K. Eggum, P.C. will continue to emphasize employment litigation, construction defect litigation, and the defense of legal malpractice litigation

621 SW Alder, Suite 600
Portland, Oregon 97205
503-228-9607
www.eggum.com

AROUND THE BAR

TONKON TORP

The firm has awarded Lewis & Clark Law School student **Phaedra Gutowski** with its annual Moe M. Tonkon and Frederick Torp Scholarship.

After earning a Masters Degree in engineering from Michigan State University and working in prosthetic design, Gutowski saw first-hand how hard designers worked to improve the quality of life of prosthesis patients and the difficulty of protecting their original ideas.

"I felt compelled to try to make the system better," said Gutowski, "and as a lawyer I hope I can do just that. Winning the Tonkon Torp scholarship is a great honor and will help me to achieve my goal of becoming an intellectual property lawyer."

The firm established the Tonkon scholarship in 1987 in memory of Moe Tonkon, who died in 1984 at the age of 78. Tonkon was an alumnus of Lewis & Clark Law School and received numerous awards for his civic and professional activities. In December 2003, the firm enhanced the scholarship to also honor Frederick Torp, who died that year at the age of 89. A leading tax and corporate attorney, Torp joined Tonkon and six others in forming the firm in 1974. He earned his L.L.B. from Columbia University Law School.

Brent Renison has been elected to join the firm's partnership. His practice focuses on U.S. immigration law on behalf of individual and business clients throughout the world.

Twelve firm partners were recognized in Woodward/White Inc.'s *The Best Lawyers in America*® 2005-2006: **Brian G. Booth, Ronald L. Greenman, George C. Spencer, Kenneth D. Stephens, Bruce G. Berning, Carol Dey Hibbs, Albert N. Kennedy, William F. Martson Jr., Turid L. Owren, Michael M. Morgan, Joseph S. Voboril and John H. Rosenfeld.**

SCHWABE, WILLIAMSON & WYATT

Julie Zola, director of client relations and marketing for the firm, was elected to the board of the Legal Marketing Association's Seattle Chapter, whose membership spans the Northwest. Zola has 15 years of experience leading strategic marketing efforts in legal, telecommunications and real estate industries. She serves on the MBA's Communications Task Force and on the Oregon Public Broadcasting Business Partner Steering Committee.

RANSOM BLACKMAN

Kendra Matthews has become a partner in the firm, where she will continue to focus on the representation of individuals

and entities at odds with the authorities at all levels of state and federal courts.



Carol McCoog



Ann L. Sherman



Philip S. Van Der Weele

PRESTON GATES & ELLIS

The firm has named **Carol McCoog** a new partner in the public and tax credit finance practice of the Portland office. Her practice focuses on assisting in financing for public entities including cities, counties, school districts, fire districts, urban renewal agencies and state agencies. **Ann L. Sherman** and **Harvey P. Spigal** have been elected office managing partners. Spigal and Sherman will replace **Timothy J. Sercombe**, who is stepping down after serving in the position for four years. Sherman is a partner in the firm's public and tax credit finance group. Spigal, a member of the firm's energy and utilities group, has a practice focused on transactional matters such as power resource development, facility purchases and sales, power purchases and sales, and transmission, power scheduling, and power system reliability agreements. Sercombe, a member of the firm's appellate, constitutional and governmental practice group, resumes full-time work in his growing municipal, public utility and litigation

practice. **Philip S. Van Der Weele** was elected to a three-year term as a member of the firm's executive committee. Van Der Weele is a business litigator with extensive experience in both antitrust and trade regulation matters.



Bruce Rubin

MILLER NASH

Bruce Rubin, a partner of the firm, has been appointed as a member to the Steering Committee for the Judicial Independence Index Project. This committee is part of the Judicial Division's Standing Committee on Judicial Independence of the ABA. He also serves as a member on the ABA's Task Force on the Judiciary and co-chair of the Legal Ethics Subcommittee of the ABA Litigation Section Committee on Corporate Counsel. Rubin represents clients in litigation involving shareholder, real estate, employment, ERISA, insurance, securities, and general commercial law. Rubin serves as the pro bono practice coordinator at Miller Nash.

MARGER JOHNSON & MCCOLLOM

Graciela Cowger, a shareholder with the intellectual property law firm, has been named president of the Oregon Patent Law Association for 2005.

Brian Forrest, whose practice focuses on patent preparation, prosecution and licensing, and **James Hilsenteger**, who has been promoted from patent agent are new associates of the firm. The new patent agent is **Brian Wichener**.

LANE POWELL

Robert E. Maloney, partner at the firm, has been appointed as chairman of the presidential advisory council for the College of Arts and Sciences at the University of Portland.

GEVURTZ MENASHE

Of the ten family law attorneys from Oregon included in the 2005-06 *Best Lawyers in America*, three are with Gevurtz Menashe. **Albert A. Menashe, Eric C. Larson, and William J. Howe III**, all shareholders with the firm, were chosen by their peers to be included in the recently released book.

GARVEY SCHUBERT BARER Attorneys **Richard Baroway, Stephen J. Connolly** and **Eric A. Lindenaue**r have been elected to serve as the management committee of the firm's Portland office. Connolly and **Keith S. Dubanevich** continue their positions on GSB's firm-wide executive committee.

Robert C. Weaver will continue to serve as chair of the firm's Portland litigation group and **Larry J. Brant** will maintain his position as chair of the firm's Portland business group.

Brant has also been appointed to the University Club of Portland membership committee for 2005.

Baroway's practice focuses on nonprofit and tax-exempt organizations, commercial and real estate. Connolly's practice is business, corporate and real estate. Lindenaue's practice is concentrated in litigation, healthcare and labor & employment. Dubanevich's focus is litigation, healthcare and antitrust. Weaver's practice centers on business litigation and white-collar criminal defense. Brant's practice is focused on taxation, business and mergers and acquisitions.

DUNN CARNEY

Partner **Jack Hoffman** has been elected chair of the METRO Policy Advisory Committee (MPAC) for 2005. Hoffman, a Lake Oswego City Councilor, has been a member or alternate member of MPAC for five years. Hoffman is a litigator and land use attorney at Dunn Carney.

Todd Cleek has been elected to a three-year term on the Board of Directors for Mount Hood Habitat for Humanity. Cleek's practice focuses on estate planning and business transactions.



Thomas S. Smith

DAVIS WRIGHT TREMAINE **Thomas S. Smith** has joined Davis Wright Tremaine as Of Counsel, where his practice will focus on commercial real estate and general business matters.

BULLIVANT HOUSER BAILEY New firm shareholder **Margaret Van Valkenburg** concentrates her practice exclusively on the resolution of insurance coverage issues. She has experience handling first and third-party coverage issues, surety claims and environmental matters.



Margaret Van Valkenburg

BATEMAN SEIDEL ET AL

Randy Bateman, Steve Seidel, Greg Miner, Doug Blomgren, Mike Chellis, Chresten Gram, Stan Samuels, Kathleen Sieler, Chris Campbell and **John "Tre" Kennedy** moved their practices to a new law firm. The new firm will emphasize real estate, affordable housing, business, tax and litigation. Bateman, Seidel, Miner, Blomgren, Chellis and Gram are shareholders of the firm. Samuels joins the firm as Of Counsel. The firm address is 888 SW 5th Ave Ste 1150, Portland OR 97204. Phone number is 503.972.9920 and fax number is 503.972.9921. Web site is www.batemanseidel.com.

ATER WYNNE

Ernest Bootsma is a new partner in the firms emerging business and intellectual property group. He represents emerging growth and public and private companies in mergers and acquisitions, formation, financing, corporate governance, intellectual property and transactional matters.

Wallace Glausi is also a new partner in the emerging business and corporate finance groups and counsels emerging growth companies, as well as investment funds, on issues related to formation, financing, growth, portfolio investments and liquidity. He provides strategic counsel on positioning, business model and revenue generation issues, mergers and acquisitions, tax planning and transactional matters.

Alice Cuprill-Comas has been named partner in the firm's corporate finance and emerging business groups. She focuses on corporate finance, securities, and mergers and acquisitions.

ALLEMAN HALL ET AL

Mark Alleman, Christopher Tuttle, Matthew Hall, Anna McCoy and **John Russell** announce the formation of their new firm, which specializes in patent, trademark, and copyright prosecution, licensing, and enforcement. They are located in the historic Jackson Tower. Further details about the five founding members can be found at www.ahmrt.com.

Tips from the Bench

By Judge John A. Wittmayer,
Multnomah County Circuit Court.



ADR for civil cases

Multnomah County Supplementary Local Rule 7.075(2) requires that the parties...sign and file, within 270 days from the filing of the first complaint or petition in the action, a certificate...indicating that the parties have participated in...ADR....As a case ages, Presiding Judge Dale Koch will not set-over a trial date that puts the new trial date over a year after the case is filed unless the parties have complied with this rule. Please note that SLR 7.75(2) requires that the certificate must say that you "have" (past tense) participated in ADR. This does not mean that you are planning to do it, or that you have discussed it. Tip: Do not file your ADR certificate until ADR has actually occurred.

Read the rules annually

We have many layers of rules that govern litigation: the Oregon Rules of Civil Procedure, the Uniform Trial Court Rules and the Multnomah County Supplementary Local Rules. And these rules change from time to time.

There are amazing things in the rules - just waiting to be discovered and used by the lawyer who reads the rules. You should read through them at least annually, just to refresh your recollection and to discover changes.

Is your client or witness in the custody of the sheriff?

It is not unusual in criminal cases for litigants or witnesses to be in custody. The DDAs and the criminal defense lawyers routinely deal with getting these people to the courtroom, and dressed in non-jail clothes, if necessary. But it happens in civil cases, too. And the civil bar is not used to handling this. Tip: when this happens in your case, call a criminal defense lawyer and find out how to accomplish it.

Because the sheriff does not house many prisoners here in the courthouse, your in-custody

person needs to be transported. To do this, he/she must be on the sheriff's "transport list." Call your judge's judicial assistant to get this done - and the earlier you call, the more apt it is to get done in time.

It takes a court order for the sheriff to allow your in-custody person to change from jail clothes to regular attire for court. Just present a "clothing order" to your judge *ex parte* the day before you need the person in court. Take the signed "clothing order" and the clothes to the jail facility in the courthouse and the sheriff will take care of the rest. You are responsible for providing the clothing.

Exhibits - get them organized ahead of time

It is nothing new that judges want lawyers to pre-mark their exhibits before trial. You should all be doing this. You should also show your exhibits to opposing counsel well in advance and identify those exhibits about which there are objections.

There is no reason to establish a foundation making an exhibit admissible if there is not going to be an objection to the exhibit. It is a waste of time for all of us. Exhibits about which there will be no objection can then be received into evidence on stipulation at the beginning of the trial. We can then spend our time on issues about which there may be some controversy.

And while you are talking to each other to identify which exhibits can be admitted on stipulation, you can make sure you are not both going to be offering the exact same document. This happens a lot in family law trials, when both sides offer the income tax returns and other financial documents.



By Candace Weatherby, Mitchell Lang & Smith and Court Liaison Committee.

Presiding Court Update

Judge Kimberly Frankel submitted her resignation, effective February 28.

Multnomah County Supplemental Local Rules, effective February 1, can be found on the court's Web site, www.ojd.state.or.us/mul (in Adobe format). The Multnomah County Attorney Reference Manual was available as part of the materials for the MBA's Presiding Court Criminal Court Update CLE on February 17, and also will be available on the court's Web site.

Hearings on the next biennium's judicial budget began February 15. The Senate Judiciary Committee visited Multnomah County on January 28 and received an extensive report from the three metro area presiding judges. The MBA hosted a lunch for the committee members and the three presiding judges.

Judge Koch advised that the Gresham courthouse facility was on track and could open as early as the end of 2007. It will contain four courtrooms and the Multnomah County Sheriff's office headquarters. Depending upon location, the new building may also contain the Gresham Police Department's West Precinct.

Judge Koch reminded attorneys that the lawyer who signs the initial civil pleading is considered the counsel of record for a case, unless changed by a pleading. The

fact another lawyer is designated as "trial attorney" after the initial pleading is filed does not mean that lawyer will receive notices from the court, as the OJIN system allows for only one lawyer per party. Therefore, it is necessary for lawyers to keep the court advised (via a substitution) any time there is a change of counsel, even if it's only within the attorney's law firm.

Jury Verdicts

A program is being written which would identify the date and amount of any judgment and the party to whom it was awarded. The first run of the program showed less than two percent of all civil cases terminated in 2004 in Multnomah County had a jury verdict. There is some interest in creating a searchable database which would allow attorneys to go to OJIN to determine verdict ranges for types of cases. However, the clerks who code the case types are limited to what appears in the case caption. If attorneys are more specific about what is inserted in that caption ("personal injury - auto" rather than the generic "complaint for damages"), the system will be able to produce better information. Judge LaMar is also working on this issue. Eventually, it's hoped it can be implemented statewide.

Email Notice of Court Events

Michael Merchant reported for the subcommittee assigned to evaluate a new feature in OJIN; a system to notify lawyers of scheduled case events via

email. The subcommittee met and defined some minimum requirements that such an electronic notice system should have, including: that each law firm designate a particular person and/or mailbox within the firm to receive notices; that attorneys be able to update the email address; and, that more than one email address be permitted to be active. Before finalizing the system, the subcommittee will meet with court staff regarding system capabilities and consult with OTLA, OADC and the OSB litigation section.

Judicial Feedback

The Judicial Feedback Program has produced only 13 responses in the three years of its existence. The MBA Board feels this program offers a worthwhile service to attorneys and to the court, but would like to hear from MBA members as to how it could become more helpful.

The updated Judicial Practices Survey will be available at the April 6 Multnomah County Judges Trial Practices CLE.

CourtCare

The CourtCare Program is proving very useful. A fundraiser was held in February at Valley Lanes. Another of the CourtCare needs that was discussed is for clean children's clothes, so that those caring for the children can change those who have had "accidents" and send them home in clean clothes.

Renewing Your Membership? Don't Forget VLP....

The MBA thanks the following members, who gave more than the \$20 "check off" suggested donation to the Volunteer Lawyers' Project (VLP).

Judith Armatta
Cynthia Barrett

Please remember to look for the check off box on your membership renewal form, and be as generous as possible when donating to VLP.

MBA Board of Directors slate announced

The MBA Nominating Committee announces the slate of new directors for the term of July 1, 2005 - June 30, 2009.

J. Michael Dwyer, Dwyer & Miller
Christine M. Meadows, Jordan Schrader
David A. Ernst, Bullivant Houser Bailey

Watch for ballots in the April issue of the *Multnomah Lawyer*.

Profile: Presiding Judge Landau Oregon Court of Appeals

By Tom Cleary, Multnomah County DA's office and Court Liaison Committee.

He moved all over the country as a child, attending more than 20 schools before graduating from Franklin High and making Oregon his home. **Presiding Judge Jack Landau** of the Oregon Court of Appeals brings to the bench a strong work ethic that he developed from his experiences as a young man.

Attending Lewis & Clark College, he obtained undergraduate degrees in history and psychology. In the process, he developed a passion for learning that over the course of his career would bring him back to the classroom, both as a student and as a teacher. After college, Judge Landau took time off to indulge another passion - music. He played guitar in a bluegrass band and indicates that the group met with some success, in that they actually "had some paid gigs." "Don't be too impressed, though," he cautions. "Sometimes we played for audiences of six people, and that was counting our girlfriends."

Wanting to take on a new challenge, Judge Landau entered law school at Lewis & Clark. He enjoyed his law school experience, especially classes in environmental law and - he notes with some hesitation - legal research and writing. He was Editor-in-Chief of the law review and while a student published several articles on environmental and natural resources law.

Upon graduation, Judge Landau followed his interest in teaching and writing and accepted a position as a legal writing instructor at the law school. It was during that year of teaching that Judge Landau developed an interest in clerking for a judge. "Actually, it wasn't my idea. The director of student employment, whose office was right next to mine, pretty much insisted that I apply for a federal court clerkship." That led to an interview with U.S. District Court Judge Robert Belloni. It proved an uncomfortable interview. "One of the case notes that I had published the previous year was fairly critical of Judge

Belloni's famous Indian treaty fishing rights decisions," Judge Landau explains. "I had hoped that he didn't know anything about the article but, much to my chagrin, I saw that he had a copy of it right on his desk. I figured I was toast at that point." What followed was a "spirited" discussion of the case. Much to Judge Landau's surprise, at the end of the discussion, Judge Belloni said that he had enjoyed the experience so much that he wanted to offer Landau the job. Judge Landau says that he thoroughly enjoyed working for Judge Belloni for two years and that working for the judge caused him to dream of someday becoming a judge himself.

Judge Landau joined the firm of Lindsay Hart, where he practiced in both the trial and the appellate courts. He spent six and one-half years with the firm and ultimately became a partner. In 1989, then-Attorney General Dave Frohnmayer hired him to lead a Special Litigation Unit within the Trial Division of the Oregon Department of Justice. In

1990, Frohnmayer appointed him to be Oregon's Deputy Attorney General, a position he also served under Attorney General Charles Crookham. In December 1992, Governor Barbara Roberts appointed Judge Landau to the Court of Appeals.

When asked what makes a good appellate judge, Judge Landau replied that, first and foremost, the judge must be fair and impartial. "The Court of Appeals," he noted, "is not a good place for anyone with an agenda." In addition, he suggested that the judge must be prepared to work extremely hard and, in particular, to read a lot of briefs. Judge Landau said that, in his 12 years on the bench, he has read a stack of briefs more than 20 stories tall. He said that it also is indispensable to be collegial. According to Judge Landau, "appellate courts work in panels. So you must be able to get along well with your colleagues, even in the face of vigorous disagreement. Otherwise," he explained, "you'll end up spending all your time



Judge Jack Landau

writing nothing but dissents." He also said that a good appellate judge must have a "passion for the law" and must love to write. Judge Landau says that one of the things he enjoys most about his job is writing his own opinions and that one of his goals is that "whether or not you agree with it, you only have to read the opinion once to understand it."

In the meantime, Judge Landau has not lost his passion for learning or teaching. Despite his busy schedule at the Court of Appeals, he returned to the classroom to obtain an advanced law degree from the University of Virginia. And, for the past 13 years, he has been sharing his knowledge and experience as a visiting professor at Willamette University College of Law.

Give "Credit" Where "Credit" is Due: Include Pro Bono Contributions When Measuring Lawyer Billings

By Greg Dallaire and Cinda Fernald.

Originally published in March/April 2000 Issue of *What's New in Law Firm Pro Bono*. Greg Dallaire was Managing Director of Garvey Schubert Barer when the article originally appeared and has since retired. Cinda Fernald, now the firm's Executive Director, provided substantial assistance in preparing this article.

In this column of the November/December 1988 issue of *What's New in Law Firm Pro Bono*, Scott Oostdyk of McGuire, Woods, Battle & Booth (Richmond, Virginia) offered seven tips for promoting *pro bono* work in private law firms. The tips were excellent and comprehensive. I can think of only one suggestion to add: give "credit" for *pro bono* work.

I am not referring to "credit" in the sense of publicity within or outside the firm, although such recognition is certainly important to building a culture of commitment to *pro bono* work. I am referring instead to giving "credit" in the various ways a law firm measures the production of its lawyers - especially "credit" toward billing goals. If this seems a formidable task, consider my firm's experience of the last 15 years.

Garvey, Schubert & Barer encourages each lawyer to devote 10% of his or her time to *pro bono* legal work, with a goal of devoting 5% of the firm's overall resources to the public good. Since at least 1978, the

firm has given credit toward the chargeable hour goal for hours worked on *pro bono* matters, up to 10% of a lawyer's chargeable hour goal. For example, a full-time associate with a goal of 1800 chargeable hours receives chargeable hour credit for her first 180 hours of public service.

Until 1985 our policy went no further. Because *pro bono* work did not result in billings, lawyers who undertook *pro bono* matters had to work more hours to meet their billing goals than lawyers who worked only for paying clients.

When I came to the firm in 1985 to become the firm's chief administrator, I convinced the other members of the firm's Executive Committee that giving credit for hours, but not billings, did not truly create an incentive to perform *pro bono* legal work. Unless we extended credit to billings, the firm's policy of encouraging its lawyers to devote 10% of their time to public service was merely a statement, not a commitment.

In putting this new approach in place, we customized our billing system to give billing credit for the hours spent on *pro bono* legal work, up to 10% of the chargeable hour goal. We have customized two more systems since then, most recently the CMS Open billing software. For every production report, our

system translates each lawyer's public service hours into billings at his or her standard rate and treats those billings as cash receipts.

When our Associate Committee reviews production data for purposes of setting associate bonuses, the members do not know what portion of an associate's chargeable hours were devoted to public service. There is no differentiation between an associate who worked 180 hours on a political asylum case and billed 1620 hours to paying clients and an associate who billed out all 1800 hours.

The same is true when our Executive Committee reviews production data for purposes of setting owner compensation. Our standard reports do not distinguish between cash receipts actually received from publicly held companies, for example, and "cash receipts" attributed to charitable organizations.

We understand, of course, that public service work doesn't pay the rent. In developing the revenue side of our budget, we make provisions for public service in the same way we make provisions for pre-billing adjustments and write-offs.

By incorporating public service into our practice this way, *pro bono* legal work has truly become

Cont. on p. 11

Feedback Needed for Judicial Feedback Program

By Theresa L. (Terry) Wright, Lewis & Clark Legal Clinic and Court Liaison Committee.

For approximately three years, the MBA has sponsored a judicial feedback process, a method by which attorneys can give anonymous feedback to judges in front of whom the attorneys appear. The feedback process begins with the attorney completing a form provided by the MBA and posted on the MBA's Web site (go to News and scroll down to the second paragraph). The form is sent to the MBA, who then passes it along to the Presiding Judge, who provides it to the specific judge. The process is designed to be entirely anonymous, hence the number of steps taken between completion of the form and its receipt by the named judge.

The Court Liaison Committee, which originally developed the program, regularly monitors the project. Recently, the committee learned that over the last three years, approximately thirteen forms have been returned, despite extensive advertising of the program. Obviously, we have no way of knowing why there has been such a dearth of responses. As a

result of the low usage, the committee is considering recommending to the MBA Board of Directors that this program be discontinued. Before doing so, the committee and board would like feedback from members as to why more lawyers are not availing themselves of the program, what suggestions Bar members have for increasing program usage, and, ultimately, whether the program should be discontinued. The committee is also interested in knowing whether the new Oregon Rules of Professional Conduct will have any impact on lawyers' use of the judicial feedback forms. (The new rules require a lawyer to report a judge who may be violating the Oregon Code of Judicial Conduct if the lawyer believes the misconduct raises questions about the judge's fitness for office, 8.3(b).)

The committee is very interested in the opinions of the Bar. Please help us out by taking a few minutes to tell us what you think. You may send your comments to mba@mbabar.org. Thank you in advance for your help.

What Partners Want from Associates Second Part of a Series

By Gregory C. MacCrone, Attorney at Law and YLS Secretary.

“Making it Easy”

Situation: You have just exited a client meeting with your supervising attorney and the client.

Question: What do you do now?

If you are an associate at Lane Powell with long-term intentions, you will return to your office and get to work on an “action list.” You will lay out the relevant issues, map out a plan to attack them, suggest responsibility for who will handle each issue and then get that list to your supervising attorney.

Especially if that attorney is Lewis Horowitz.

Horowitz has practiced federal and state business tax law for more than 18 years, and he is actively involved in hiring and firing policies at Lane Powell.

“The associate who gets that list to me and then follows up a short time later has just proved he is invaluable to me and the client and has almost guaranteed he will be in on every future client meeting,” Horowitz stated.

There are two ways, according to Horowitz, to “making it easy” for the partner and, therefore, to the client. The first is being available. “Some associates

are always available, even at the uncomfortable hour of five on a Friday afternoon. Don’t make me beg and grovel for your attention. This is what [partners] do for clients, and associates do it for partners. I need you to be available to give me a helping hand.”

The second way is to “assume your supervising partner is overburdened by schedule and paperwork. Know that I have tight time frames, a ton of work, and may have misplaced some of my materials. Stick your head in my office and offer any follow up you can.”

Horowitz makes clear the client is not the only object of our service profession; associates must tend to their partners, too. In taking the initiative and allowing your supervising attorney this “wiggly room,” you act as his or her safety net. “By demonstrating these skills and helping me help the client, you show me that you won’t drop the ball,” he says.

Ability to Work Independently... But Not Exclusively

Barry Groce emphasizes commercial leasing, contracts and commercial litigation in his practice. He has been a partner at McEwen Gisvold LLP for ten years and offered up the firm’s perspective on what it takes to be a successful associate.



“To succeed in our firm, an associate must possess the ability to work independently without a great deal of supervision. While we have an ‘open door’ policy where an associate (or partner, for that matter) can drop by and seek advice or ask a question of other attorneys, it is not our practice to engage in a lot of hand-holding or to provide much in the way of structured training.”

This is not to say that partners do not want to be bothered by inquiring associates. To the contrary, Groce says, “A successful associate must also possess the good judgment to know when he or she needs to seek out the assistance of a more senior attorney in the office.”

Jonathan Norling of Lovinger Norling Kaufmann LLP, an energy law boutique in the Lloyd District, echoes this sentiment. “There is nothing worse than having an associate run off and

Cont. on p. 11



Multnomah County Animal Services and YLS Service to the Public Committee

By Leah Wade, Attorney at Law and YLS Service to the Public Committee.

Did you ever wonder what happens when an animal is reported as neglected or when repeated complaints are made about a barking or loose dog? In Multnomah County, Animal Services enforces the county code pertaining to the care and control of companion animals through a notice and hearings process. Members of the MBA play an integral role in this process by acting as hearings officers for the county.

In a typical instance, a case goes to hearing in the following manner: an allegation of violation is made by a citizen; Animal Services then investigates the alleged violation. If their investigation provides sufficient evidence, they issue a Notice of Infraction (NOI), identifying the infraction under Multnomah County Code. Multnomah County Animal Services issued 3,240 notices of infraction in 2004. After an infraction is issued the citizen can either pay the fine or request a hearing on an infraction. Hearings are held twice a month and are adjudicated by hearings officers.

Every hearings officer must manage their hearings, determining whether an infraction occurred, and make findings of fact. All the hearings officers are volunteer attorneys who donate their time, bringing years of experience to the

hearings process when they step into the roll of a judge. Hearings officers do not issue a position or decision for Multnomah County; but are independent, impartial triers of fact, charged with determining if the allegation occurred. For the past 15 years, the YLS Service to the Public Committee has coordinated and administered the hearings officers for the county. The committee recruits the hearings officers, schedules them for hearings and provides training and education. The MBA plays an essential role for the county and allows the Animal Services employees to dedicate their time and effort to other issues. Currently, a proposed mediation option is being explored by the hearings officers and Animal Services with the goal of resolving cases that would benefit from mediation. Cooperation between the MBA and the county allows bar members to execute innovative programs and to serve their community.

For more information about Multnomah County Animal Services you can go to their Web site, <http://www.co.multnomah.or.us/dbcs/pets/> or call them at 503.988.PETS (7387). For more information about the committee’s role in the hearings process, you can contact Leah Frances Wade at attorneylfwade@comcast.net.

YLS Board of Directors Slate Announced

The MBA YLS Executive Committee announces the slate of new directors for the term of July 1, 2005 - June 30, 2008.

John Belknap, Multnomah County Court

Emily Nazarov, Markowitz Herbold Glade & Mehlhaf

Cally Warfield, Hoffman Hart & Wagner

Watch for ballots in the April issue of the *Multnomah Lawyer*.

YLS Drop-in Social

The January 20th YLS Drop-in Social at Echo Restaurant was quite a hit. Old and new faces showed up to mingle with fellow MBA young lawyers, drink fabulous vintage cocktails mixed by TK Krawczuk and eat superb appetizers created by Craig Baker. TK and Craig are the spouses of Jennifer Baker and Dana Krawczuk (Lewis & Clark Law School alumni).



Dana Krawczuk, Jennifer Baker and Jennifer’s son Will at the January 20 YLS Drop-in Social.

celebrate march madness!

Meet other young lawyers!

The Multnomah Bar Association Young Lawyers Section Membership Committee is holding a Drop-in Social at Champion Sports Bar (in the Portland Marriott Downtown, 1401 SW Naito Parkway) from 5:30 to 7 p.m. on Thursday, March 24.

This is a casual get-together to enjoy some basketball and good conversation. If you have questions or comments, please call Brenna Tanzosh at 503.224.7077. We’ll see you there!

“Credit” Where It’s Due

Cont. from p. 9

part of our work as lawyers. It is not something our lawyers perform in addition to their “real” work.

Moreover, the policy gives our *pro bono* clients access to all of the firm’s resources. Senior lawyers contribute their special expertise. Appropriate tasks are delegated to paralegals. Our librarian offers her valuable knowledge and efficiency.

This policy has been in effect for 15 years – long enough that it would be a formidable challenge to assemble “before” and “after” statistics demonstrating its effect on our lawyers’ involvement in *pro bono* legal work. However, a number of observations can be made without the benefit of statistics:

- The policy allowed lawyers who performed public service work under the old policy to continue their work without taking a “hit” in their billing statistics as they approached partnership and became subject to our owner compensation system.
- The policy has encouraged a broader level of participation among our lawyers, from the most junior to very senior lawyers.
- The policy has allowed us to accept a wider range of *pro*

bono matters, including large cases and long-term projects.

- The policy has appealed greatly to law students, many of whom place greater emphasis on balancing work with family and community than their counterparts a generation ago.

A few examples of specific matters that we have handled in recent years will illustrate these points more effectively than general observations.

We served as co-counsel with Columbia Legal Services in planning and litigating a six-year class action lawsuit filed on behalf of homeless children in Washington State. Our team persuaded the trial court and the Washington State Supreme Court that Washington’s Department of Social and Health Services had a duty to implement a comprehensive plan for providing services to homeless children and to provide housing assistance in cases where homelessness was a primary factor in the decision to place or keep a child in foster care.

The Muckleshoot and Suquamish tribes sought our firm’s assistance in structuring and documenting a complex settlement of a dispute regarding the construction of a multi-million dollar marina. One of our most senior business lawyers, who had not previously participated

in our public service program to a significant degree, devoted many hours to the project.

We enjoy a wide participation rate among our litigators – including owners and Of Counsel as well as associates – in a project with Multnomah County Legal Aid Service that involves representing indigent victims of domestic violence in contested court hearings.

The most senior and most junior litigators in our Portland office are collaborating on a precedent-setting lawsuit with the Oregon Advocacy Center and Legal Aid Services of Oregon. The plaintiffs are six developmentally disabled and mentally retarded citizens who have languished for years – one since 1983 – on waiting lists for residential services. The suit seeks to force the State of Oregon to comply with the requirements of the Medicaid Act, the Americans with Disabilities Act, and other federal laws.

A law firm’s budget reflects its priorities as well as the costs of doing business. Billing credit for *pro bono* legal work can be incorporated into law firm economics along with firm retreats, pre-billing adjustments, holiday parties, insurance premiums, and new computers.

What Partners Want

Cont. from p. 10

research all of the wrong points simply because he or she did not want to ask questions for fear of looking stupid. The ability to be a self-starter,” Norling adds, “must be qualified by the associate not being afraid to ask questions.”

Groce concurs: “We want the associate to complete the task in a reasonable amount of time. If the associate goes down the wrong path in trying to complete the assignment, or spins their wheels trying to figure out what the senior attorney wants, this ends up frustrating the associate and results in billable hours being written off by the firm.”

The advice is relevant not just to specific assignments but also to a more general understanding of your firm’s operating requirements and expectations. One way to ensure your grasp of projects and policies is to find someone who can act as your mentor.

Whether your firm has a formal mentoring structure or you find such a person on your own, your path to career satisfaction and success can more easily be blazed with someone you respect and who is familiar with your firm’s professional, procedural and political workings.

In the alternative, the MBA YLS, OSB New Lawyers Division, and OTLA New Lawyers Section (to name a few) have programs designed to assist new lawyers in their transition from law school to a successful legal career. These programs pair young attorneys with more experienced lawyers in their local communities and practice areas. The volunteer lawyers answer questions and give advice about the practical and substantive aspects of practicing law and can be an invaluable resource in your career development.

But be aware: though you must be assertive in getting advice – letting it be known what you need to know – from mentors and picking their brain, you are advised to be sensitive to their invariably busy schedules.

For information on the MBA mentor program, contact Kathy Maloney at the MBA.

Teamwork

Perhaps the single most significant aspect of your early months and years as an associate will be the working relationships you form. The partners and senior associates with whom you work will play a huge role in setting the professional tone of your career.

Sarah H. Minifie, an attorney and Boston-based attorney recruiter, writes in the *Massachusetts Lawyer Weekly*, “Law practice is a service business in which you have two sets of clients. The first is the firm’s clients, and the second is the people you work for in the firm. Both should get the highest service.”

As Lane Powell’s Horowitz implied, it is exactly because the law is a service industry that you must be willing to meet your clients’ needs by helping out your colleagues when the occasion arises. The motivated associate will seek out work no matter how busy he or she is, barring certain extremes. Working late with (or for) an assigning partner without complaint and doing the work in a competent manner will speak volumes on your behalf.

The importance of not just getting along with your coworkers, but also setting yourself up to profit professionally from them, cannot be overemphasized. As Ramon A. Klitzke II at the 50-attorney Klarquist Sparkman, LLP, intellectual property firm says, “Being able to adeptly handle and work with other

PRO BONO VOLUNTEERS

Thanks to the following lawyers, who recently donated their Pro Bono services via the Volunteer Lawyers Project, the Senior Law Project, Community Development Law Center, law firm clinics, the Oregon Law Center, the Nonprofit Project and Attorneys for Youth. To learn about pro bono opportunities in Multnomah County, check out the Pro Bono Opportunities Handbook available at www.mbabar.org/docs/ProBonoGuide.pdf.

To volunteer, please call Maya Crawford at 503.224.4086.

Cleve Abbe
Jason Ayres
Richard Biggs
Andrew Bobzien
Carson Bowler
Jeff Brecht
Brad Brown
Hon. Trish Brown
David Canary
Howard Carsman
Brett Carson
James Church
Todd Cleek
Caroline Harris Crowne
Penny Davis
Kathryn Eaton
Jeff Evans
Tim Felling
Eric Friedman
Jon Fritzler
David Gannett
Chip Gazzola
Gene Grant
Amanda Hill Guldager
Kari Smith Haight
Michael Hallinan
Janis Hardman
Theresa Hollis
George Hoselton
Celia Howes
Michael Jordan
Sam Justice
Emily Karr
Jack Kennedy
Robert Kline Jr.
Karen Knauerhase
Elizabeth Lemoine

Matt Larson
Sally Leisure
Peter Livingston
David Low
Dave Malcolm
Carol McCaulley
Tim McNeil
Carl Neil
Robert Nelson
Carol Noonan
Jennifer Oetter
Beverly Pearman
David Petersen
Michael Petersen
Raylyna Peterson
Robyn Ridler
Shawn Ryan
Robert Scherzer
Andrew M. Schpak
Richard Slottee
Ellyn Stier
Sandra Stone
Scott Strahm
Diana Stuart
Margaret Toole
Bruce Towsley
John Tujo
Lee Tyler
Evans Van Buren
Richard Vangelisti
Bart Wachsteter
Brian Wheeler
Dennis Westlind
Mark Williams
Charlie Williamson
Terry Wright

personalities, be they your fellow associates, reviewing partners, or clients, will be crucial to your professional success.”

It’s not always easy, though. We were taught in law school to apply cool, dispassionate analysis to solving a legal problem. Like language, so it is with the practice of law: we learn by imitation. Effective working relationships, dissimilarly, involve something more than unemotional appraisal.

Since humans don’t always comport themselves according to *stare decisis*, successful personal interaction must include an awareness of human concerns. If we are to succeed in our relationships, we need to accept paradox and inconsistency in others as a result of these feelings and emotions. In this sense, we must content ourselves with something other than a zero-sum mindset; dealings with colleagues should not be confined to a win-lose model. Work on the relationships first

- the professionalism and comity among colleagues - and personal success will follow.

Next issue: Staying client-focused, being intellectually curious, and honing that “can-do” attitude.

WILLIAM F. SCHULTE

Mediation Settlement Conferences Reference Judge

Bill Schulte is now focusing his practice on mediation, reference judging and conducting settlement conferences in family law matters. Bill has been an active litigator since 1966. He has been recognized as one of the “Best Lawyers in America” since the first edition in 1983. Bill is a member of the American Academy of Matrimonial Lawyers and a frequent contributor to legal education programs.

For scheduling or references:
(503) 223-4131
FAX: (503) 223-1346
wschulte@schulte-law.com

Endangered No More Legal Implications of Life after the List

By Tim Sullivan, Schwabe, Williamson & Wyatt.



The Endangered Species Act (ESA) grabs more headlines than nearly any other federal environmental law. Perhaps this is rightfully so. The U.S. Supreme Court has described the ESA as “the most comprehensive legislation for the preservation of endangered species ever enacted by any nation.”

The Act prohibits any person from killing, or even harming, an endangered species or significantly altering the habitat that the species requires for survival, and it imposes civil and criminal penalties to enforce these prohibitions. The federal government must also ensure that its actions will not jeopardize the continued existence of any species protected by the Act – an often expensive and lengthy process.

With supporters trumpeting its virtues and necessity, and opponents decrying its regulatory heavy hand, strong opinions about the ESA show up regularly in op-ed columns and on

television and radio talk shows. One aspect of the ESA that has grabbed headlines recently is the process and consequences of taking species off the ESA’s list of threatened and endangered species, or “de-listing.” Whether by judicial fiat or through agency processes, de-listing decisions seldom lack controversy. From bald eagles to salmon to wolves, strong feelings pop up on all sides of the issue.

However, what actually happens when a species is de-listed? What protections remain in place when a species is no longer considered threatened or endangered under the ESA? The answers to these questions depend, in part, on the species involved and where they are found.

First, no matter which species is involved or where its habitat, the ESA continues to require the U.S. Fish and Wildlife Service and the National Oceanic and Atmospheric Administration (NOAA) Fisheries to protect these species and take steps to ensure their continued recovery. Specifically, the ESA requires these agencies to monitor the species for at least five years in order to assess its ability to sustain itself without ESA protections. If not, then it may return to the list.

Next, in some instances, other federal laws will continue to provide protection to de-listed species. The level of this protection will vary from species to species.

In the case of salmon, the Clean Water Act and Magnuson-Stevens Fishery Conservation and Management Act would continue to apply, even after de-listing. The Clean Water Act would still require states to develop water quality standards that protect salmon, and the Magnuson Act would still require federal agencies to determine how their actions will affect Essential Fish Habitat.

If the federal government ever acts on the 1999 proposal to de-list bald eagles, at least two federal laws would continue to protect our national bird. Both the Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act would continue to prohibit individuals from killing or possessing bald eagles, at least without a permit.

Finally, state endangered species laws may still apply. For instance, until recently, it seemed likely that gray wolves might lose their protected status as a threatened species under the ESA. A federal judge in Portland ruled in February, however, that the U.S. Fish and Wildlife Service erred when it downgraded the wolf from endangered to threatened status. Thus, de-listing of the gray wolf seems like a more remote possibility than it did earlier this year.

Although it may not happen as soon as many expected, if gray wolves are removed from the list of species protected under the

federal ESA, they would remain endangered under the Oregon Endangered Species Act. To that end, the state’s Wolf Advisory Group has been working on a plan “to ensure the long-term survival and conservation of gray wolves as required by Oregon law while minimizing conflicts with humans, primary land uses and other Oregon wildlife.” If adopted, the plan will amend state law to enhance resource management flexibility to address conflicts related to human-wolf interactions.

When headlines announce a de-listing, it is important to dig

deeper to determine the legal and practical impacts of that decision. To assume that removal from the ESA list equals removal of all federal and state regulation regarding these species is to take a dangerous risk. Removal from the ESA list is not an automatic license to parade about in a wolf pelt, fashion a quill pen from a bald eagle feather, or cook up a wild Oregon Coastal Coho salmon on the grill. Individuals, and the attorneys who represent them, need to be aware of the panoply of laws that exist to protect species following de-listing under the ESA.

K. William Gibson Arbitration/Mediation Statewide

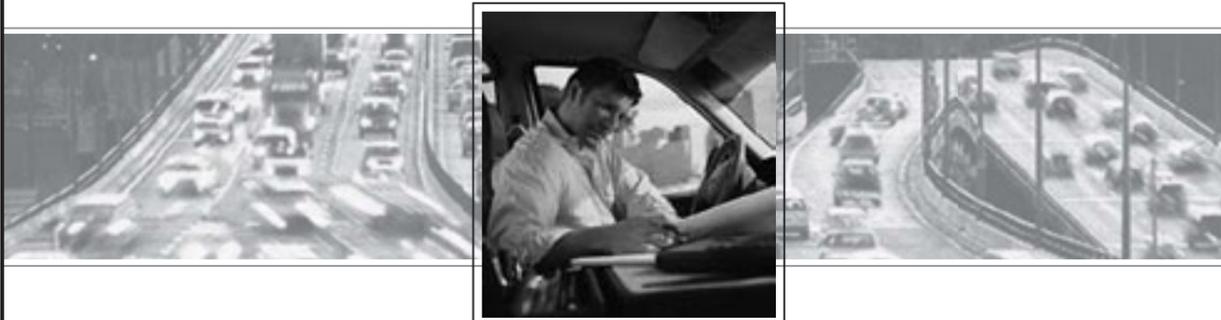


When you need someone to get to your office fast
...no matter where you are in the Northwest.

Available for single arbitrator court cases or panels.
Personal injury, insurance disputes, contract
disputes, employment and business disputes.

Tel. 503-659-6187 Email kgibson@cnnw.net

REVIEW DEPOSITIONS IN YOUR CAR OR HOME!



NAEGELI REPORTING CORPORATION

Serving all of Oregon, Washington, Idaho and the Nation
24 Hours a day / 7 days a week

National
(800) 528-3335

Portland, OR
(503) 227-1544

Seattle, WA
(206) 622-3376

Spokane, WA
(509) 838-6000

Coeur d’Alene, ID
(208) 667-1163

www.naegelireporting.com

Turn driving hours . . . into client hours

Use your billable time more effectively with Naegeli Reporting’s new *Personal Audio CD*. Formatted for any standard CD or MP3 player, this technology allows you to listen on the plane, in the car, at home, or on the treadmill. Anytime. Anywhere. Look for the free *Personal Audio CD* in each one of our transcripts. Another first in powerful discovery tools from the Northwest’s leader in litigation technology.

A Professional Partner with the



Mention your MBA membership
to receive a Premium Discount!

Mediation & Arbitration
 Serving Oregon and SW Washington since 1989



Janis Sue Porter, *Executive Director*
 1000 SW Broadway, Suite 1710
 Portland, Oregon 97205
 Phone (503) 223-2671
 Email USAM@usam-oregon.com
 visit us at our web site www.usam-oregon.com

PANEL

E. Richard Bodyfelt
 Edward Brunet
 Ralph Cobb
 Thomas E Cooney
 Hon. Laurence Cushing
 Allan deSchweinitz
 Barbara Diamond
 Arnold Gray
 Douglas Green
 Arlen Gregorio
 Charles Holloway

John H. Holmes
 Thomas Howes
 William King
 Hon. James Ladley
 Sidney Lezak
 Norman Lindstedt
 Noreen McGraw
 Frank Moscato
 Luella Nelson
 Marvin Nepom
 Daniel O'Leary

Katherine O'Neil
 William Replogle
 Joe Richards
 Hon. Betty Roberts
 Ken Shiroishi
 Michael Silvey
 Hon. John Skimas
 Jeffrey Spere
 Ralph Spooner
 Hon. George Van Hoomissen
 Hon. Stephen Walker

Panel members will travel throughout Oregon and Southwest Washington



Employment
 Business/ Commercial
 Personal injury/ medical malpractice
 Debtor/ Creditor/ Bankruptcy
 Real estate
 Organizations

Charles R. Williamson
 Mediation and Arbitration



520 SW Yamhill St.,
 Suite 600
 Portland OR 97203
 phone 503.248.1854
 fax 503.227.2980
 charlie@kelrun.com
 www.kelrun.com

**Health Savings Accounts
 Now Available!**

**I picked
 Providence!**

Providence Health Plan

For group health coverage
 call your agent for a quote today,
 or call us at 1-877-245-4077.

www.providence.org/healthplans



Providence | Health Plan

A caring difference you can feel



Sal Kadri, President
 ValueCAD

RICHARD G. SPIER
ARBITRATOR & MEDIATOR

Highly experienced,
 full-time neutral

Business & commercial;
 personal injury; employment;
 real estate & construction

Effective mediator of
 large, complex and
 difficult cases

503-284-2511
Fax 503-284-2519

rspier@spier-mediate.com

LARRY T. COADY
Arbitrator/Mediator

— Experienced, effective
 full-time neutral —

*Active Private Judge Pro-Tem
 For 14 Years*

American Arbitration Assoc.
 Arbitration Service of Portland
 NASD Mediator/ Arbitrator
 Court-Mandated Cases
 PMAR Mediator
 State Agency Mediator Roster
 ADA Mediation Roster
 Better Business Bureau
 Direct Engagements

Phone: (503) 227-7357
 Fax: (503) 697-9567
 Email: ltcoady@aol.com

CLASSIFIEDS

space

DOWNTOWN PORTLAND MORGAN BUILDING

Window offices available in well-appointed suite with five existing attorneys. Congenial atmosphere. Share receptionist, conference room, copier, fax and kitchen. Space for secretary/legal assistant. Walking distance to courthouse. Call David at 503.295.3025.

TWO OFFICES AVAILABLE

In recently remodeled 1900's vintage house in Lair Hill, just south of downtown. Share space with three experienced plaintiff's attorneys and one business and real estate transaction attorney. Small basement office, 9 x 12, \$300 per month; medium second floor office, 11 x 15, \$500 per month. Receptionist, fax, copier, conference room, law library, kitchen, parking included. Contact Chuck at 503.222.3529 or Dave at 503.227.1690.

JOHNS LANDING 14'x14' EXECUTIVE OFFICE

\$1,100 month includes private patio, view of the west hills, secretarial workstation, library conference room, fitness center, and free parking. Class A riverfront building. Share space with three established lawyers. Possible overflow. Call Rick 503.226.3221.

CONGENIAL GROUP OF BEAVERTON ATTORNEYS

Looking for one or two attorneys to share space. Great location, ample parking, receptionist and two conference rooms. Rod or John at 503.644.2146.

positions Available

LITIGATION ASSOCIATE POSITION

A-rated, nine-attorney firm seeks civil litigation associate with a minimum of three years' experience. Strong academic credentials required. Admission to practice in Oregon is required. Admission in Washington is a plus. Primary areas of practice are personal injury defense, construction defect, professional liability and commercial litigation. Salary DOE. Health insurance, 401(k), and on-site parking provided. Please email or send resume and references to: Susan E. Chaffee, schaffee@kilmerlaw.com, Kilmer Voorhees & Laurick, 732 NW 19th Ave, Portland OR 97209.

LITIGATION ASSOCIATE
Harrang Long Gary Rudnick P.C. seeks two experienced (three+ year) associate

attorneys to join the Insurance and Professional Liability defense practice in its Portland office. This is an excellent opportunity to work with one of Portland's more seasoned and successful litigators. Candidates must have prior hands-on litigation experience in private law firm setting, including trial and deposition experience. Must also possess proven analytical, writing and oral communication skills. We are a dynamic, growing regional law firm with a commitment to professionalism, client service and collegiality. Qualified candidates should email resume and cover letter to Jerry Lidz at jerome.s.lidz@harrang.com or send to 360 E 10th Ave Ste 300, Eugene OR 97401. EOE.

BLACK HELTERLINE LLP

An established 27-attorney Portland business law firm is seeking an associate attorney with two-four years of experience in corporate/LLC, tax, commercial and securities law. Must have strong academic credentials, experience or background in business transactions, excellent writing and communication skills, and the initiative and inclination to develop own work. The ideal candidate will possess a business perspective, with the ability to independently draft complex agreements. Membership in Oregon Bar required and Washington Bar desired. Black Helterline offers competitive compensation and benefits and sophisticated practice opportunity. Please submit resumes in confidence to Kara Jordan, Firm Administrator, Black Helterline LLP, 805 SW Broadway Ste 1900, Portland OR 97205 or kaj@bhlaw.com. Equal Opportunity Employer. Visit our Web site at www.bhlaw.com.

SEATTLE LAW FIRM SEEKS CONSTRUCTION ATTORNEY

Short Cressman & Burgess is seeking an experienced attorney for its Construction Industry Practice Section. Candidates should be energetic, highly-motivated team players ready to assume responsibility for excellent service to clients in a well-respected mid-size firm. Candidates should have at least five years of experience in construction litigation in a private law firm setting. Excellent writing and verbal skills and a demonstrated desire to succeed are essential. Send resumes to: Lateral Hiring Committee, 999 Third Ave, Ste 3000, Seattle WA 98104, or email bbell@scblaw.com. All inquires will be kept confidential. We offer competitive salaries and

benefits, and the opportunity to join a creative legal team. EOE.

LANDERHOLM, MEMOVICH, LANSVERK & WHITESIDES, P.S., ATTORNEYS AT LAW

We are seeking two senior business attorneys. The first position is for a senior business attorney with at least ten years of business experience, to manage client relationships for small to medium size companies, and to assist in the representation of financial institutions. The second position is for a senior business attorney with at least five years of business experience to manage projects for small to medium size companies. Ideal candidates will have a strong desire to excel and be committed to community involvement. The Landerholm Law Firm is a 16-attorney firm with a sophisticated business practice. From our offices in Vancouver, Washington, we serve clients in both Southwest Washington and Northern Oregon. Established in 1948, the firm represents clients in a diverse cross section of industries. Please correspond in confidence to Rhonda Kates, Director of Operations at rhonda.kates@landerholm.com, or call 360.816.2451 (direct) or 360.816.2452 (fax) to either obtain a copy of the position job description or to transmit your cover letter and resume. We are an Equal Opportunity Employer and we would like to hear from you.

services

CONTRACT ATTORNEY

Seventeen years' civil litigation experience. Research, pleadings, motions and trial prep. Portland area office. PLF insured. Lisa Day 503.722.9040.

CONTRACT ATTORNEY

Experienced attorney available for motions, briefs, trials, and project work. Practice areas include civil litigation, products liability, real estate, and probate. WA/OR Bar Associations. Vernon Finley 206.856.6842 vernfinley@gmail.com.

ATTENTION, OVERWORKING ATTORNEYS

Contract attorney drafts your pleadings, motions, responses, legal research, trial prep. Over 15 years' experience, over 600 projects fed and state. Excellent references. Katherine Foldes kfoldes@easystreet.com or 503.641.7010.

COMPUTER EXPERTS FOR ATTORNEYS

Onsite computer service since 1995. Specializing in networks

JOHN H. HOLMES MEDIATOR & ARBITRATOR

Experienced • Impartial • Effective



One Southwest Columbia
Suite 1600
Portland, Oregon 97258
(503) 226-6400
fax (503) 227-8629
mediatejh@msn.com

Member USA&M of Oregon Panel

A full time neutral with practice limited to mediations and arbitrations

Paralegals
Legal Secretaries
Receptionists
Project Assistants
File Clerks

TEMPORARY & PERMANENT PLACEMENT LEGAL NORTHWEST STAFFING SPECIALISTS

Tel 503-242-2514
Fax 503-274-7895
www.legalnw.com
333 SW 5th Ave, STE 250
Portland, Oregon 97204

OVER 300 LAW FIRMS RELY ON US
STAFFING PARTNER TO THE



M U L T N O M A H B A R A S S O C I A T I O N

1906

of 5-25 PCs. MG Consulting Inc, www.mgc-inc.com, 503.579.2031.

CONTINUING LEGAL EDUCATION - MEDIATION TRAINING

Basic^{Plus} Mediation Skills, May 11-12-13, 16-17, 2005, approved in the past for 36

CLE credits (2 Diversity, 1.5 Ethics). Advanced Workplace Mediation, October 27-28, 2005. Trainers: Mary C. Forst, JD, and Laurel Singer, MS, LPC. Confluence Center for Mediation & Training - Mary Forst Associates. 503.243.2290, http://www.ConfluenceCenter.com.

Are you using
the MBA's medical
plans for your
law firm?

If not, take a look...



Law firms of all sizes are eligible to enroll from solo to practitioners to large law firms.

Maximizes employee satisfaction by allowing each employee to select a plan from a menu of 9 different plans.

Easy administration. The law firm receives **one** bill and makes out **one** check for the premium, regardless of the number of different plans employees select.

No health statements to complete.

New High Deductible HSA Plan, qualifies for Health Savings Account.

4 EPO plans do not require a primary care physician. Office visit copay as low as \$15.

2 PPO plans allows use of any provider with a higher benefit when using a preferred provider.

No limitation for pre-existing conditions when transferring from other coverage.

Dental and vision benefits can be added to any of the medical plans.

Discounted fees for Section 125 flexible spending accounts.

Come to the Open Enrollment open house

Wednesday, March 9th, 11:30 to 1:30,

Hilton Executive Tower, 545 S.W. Taylor, Salon 3, Portland, Oregon

For information contact:

503-284-1331 1-800-284-1331

Check website at www.nwebi.com, click on "benefits login"

Password is: MBA (all caps)

One-stop resource.

Placing temporary and full-time employees with clients in the legal, business and IT fields.

Staffing Solutions is a complete, one-stop resource for clients needing temporary and full-time employees and applicants looking for a perfect assignment to match their skills. We provide services to both applicants and clients to maintain a high standard of performance and professionalism. Headquartered in Portland and locally owned, we have grown to be one of the most respected and best known staffing leaders in the legal, business and IT fields. Staffing Solutions is WBE certified in the State of Oregon.

Legal

- Attorney
- Manager/Administrator
- Paralegal
- Legal Secretary
- Help Desk & Software Trainer
- Office Support

Business Services

- Office Manager
- Administrative Assistant
- Secretary
- Word Processing Operator
- Data Entry Clerk
- Records Specialist
- Receptionist
- Accounting Clerk
- Human Resources Clerk
- Customer Service Clerk

Information Technology

- PC & Desktop Support
- Networking & Systems Specialist
- Database Development
- Applications Development
- Software Engineer
- Software QA
- Website Design

STAFFING SOLUTIONS



Staffing Solutions, LLC / K-Counsel®
www.staffingsolutionsllc.com

610 SW Broadway, Suite 500 • Portland, OR 97205 • T: 503.295.9948 • F: 503.295.9977 • E: admin@staffingsolutionsllc.com

Divorce? Two words:
"Best Lawyers"

The 2005-06 edition of "Best Lawyers in America" lists only seven family law attorneys in Portland. We have three of them: Albert A. Menashe, Eric C. Larson, and William J. Howe III.

GEVURTZ Attorneys at Law
♦ **MENASHE**

Portland, 503.227.1515
OregonDivorceLawyers.com

The firm you want on your side

K N O L L M E D I A T I O N

Mediation & Arbitration

- Experience
- Integrity
- Solutions

James L. Knoll, P.C.

ATTORNEY AT LAW
503.222.9000

1500 SW Taylor Street • Portland, OR 97205
fax 503.222.9003 e-mail jim@knollmediation.com
www.knollmediation.com



TIME OUT!

...When you take time away from trial preparation, you expect that it won't be wasted.

BANNON MEDIATION, LLC

EXPERIENCED IN
simple & complex business,
personal injury & employment cases.

503-382-0722

Dress for Success

By Tiffany Minus-Martinez, Stahancyk, Gearing et al and YLS Service to the Public Committee.

Do you have suits in your closet that you never seem to wear? The YLS is planning a clothing drive to benefit Dress for Success as part of this May's Community Law Week. Dress for Success is a group that helps low-income women move into the workplace by providing them with professional clothing

and accessories. We are currently looking for people who are willing to coordinate the collection of clothes and accessories within their firms. The donations would then be picked up and delivered to Dress for Success.

In addition to clothing, Dress for Success provides

professional support and mentoring. There is a range of volunteer opportunities available, from dedicating four hours a month to mentor a woman in the program to sponsoring a meal for one of the group's meetings. Dress for Success welcomes volunteers who are willing to share their legal expertise,

whether it be through sharing their knowledge of the legal system at a meeting or providing pro bono work.

If you are interested in helping coordinate clothing donations, please contact Tiffany Minus-Martinez of Stahancyk, Gearing et al at 503.222.9115 or tiffany@stahancyk.com.

If you are interested in other volunteer opportunities, please contact Pamela Mason of Dress for Success at 503.643.5936 or pamela.mason@comcast.net.

LexisNexis and the Multnomah Bar Association Working Together To Support the Legal Profession

The LexisNexis® Bar Association Member Benefit Program is designed with many offerings to fit the customized needs of Multnomah Bar Association members.

From the new attorney building a practice to the established attorney who wants expanded research offerings, LexisNexis® provides unique solutions as business needs change. Choose from quality legal research sources including *Shepard's*®, Michie™, Mealey's, and Matthew Bender®, exclusively on the LexisNexis® Total Research System at www.lexis.com.

Find the exclusive benefits that are right for you!
Call For Details: 866-836-8116
Mention code 202370 when calling.

