



MULTNOMAH LAWYER

MULTNOMAH BAR ASSOCIATION
1906

Lawyers associated for justice, service, professionalism, education and leadership for our members and our community. June 2005 Volume 51, Number 6



President's Message

By Sylvia Stevens, MBA President.

This is my last "President's Message," and I herewith relinquish the "bully pulpit" to my able successor, Kelly Hagan. I hope he will continue, as I have, to use these columns to share his views about the important role we lawyers play in shaping our profession and in maintaining our system of justice. What I have written here over the past year reflects only my own opinions. I am sure I have gored someone's ox from time to time; I didn't expect everyone to agree with me, but I hope I have made you think.

Serving as your MBA president is an experience for which I will be forever grateful. It has been a pleasure to make so many new acquaintances and to get to know others of you better. I am inspired by the enormous amounts of time, energy and money that our members so generously contribute to the good of the profession and to our community. I am tremendously honored to have been able to represent the MBA and to share with our members and the public the great things we do.

We have had many successes over the past year. We continued our tradition of hosting a variety of networking socials including, most recently, our annual dinner. MBA members were extremely generous in supporting CourtCare, the program in which we partner with Volunteers of America Oregon to provide child care in the courthouse. The Public Outreach Program launched with a successful editorial tour that resulted in requests for articles from a variety of local publications. We worked closely with the court's Judicial Outreach Committee to identify speaking opportunities and themes. We met with a delegation of Russian lawyers to share our practical experience with the rule of law and our legal system. We worked with members of the legislature to encourage their support of adequate funding for our courts. We successfully encouraged the Multnomah County Commission to support the construction of new courthouse facilities, including the East County Justice Center. Looking ahead, we are well underway in our plans for the MBA's 100th Anniversary celebration in 2006.

Our many hard-working committees also had an excellent year. The CLE Committee schedule included more than 30 programs covering a wide range of topics. The Equality Committee continues to fine-tune its mission to emphasize coordination between the several organizations working on diversity initiatives. The Court Liaison Committee has continued to work on bench/bar communication and to streamline court processes. The Judicial Screening Committee provided carefully-considered recommendations to the governor for two judicial vacancies and made recommendations to the presiding court for several pro-tem positions. The Professionalism Committee evaluated nominees and made recommendations to the board for the Professionalism Award that was presented to Walter Grebe. The Golf Committee organized five outings, including the annual tournament that raises funds for Legal Aid.

I cannot say enough thanks to my fellow board members for their unflagging support and encouragement during the year, nor can I adequately express my gratitude to Judy and the rest of the MBA staff who get all the credit for making me look like I knew what I was doing most of the time. I also want to thank the OSB Board of Governors for their support and accommodation of the MBA's demands on my time. Working together, we have enhanced the development of a strong and positive relationship between the two organizations.

I will end where I began. In my first column, I mentioned that my year as MBA president coincided with my son's first year at college. Over the year, we have each met new people, had new experiences, and learned valuable lessons along the way. We have both survived, far better for the experience. Thank you again.

New MBA and YLS Directors Announced

The following members have been elected to the position of Director on the MBA and YLS Boards.

MBA Board

- J. Michael Dwyer**
Dwyer & Miller
- David A. Ernst**
Bullivant Houser Bailey
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YLS Board

- John W. Belknap**
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- Emily M. Nazarov**
Judicial Clerk to The Honorable Donald Ashmanskas
- Cally Warfield**
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MBA CLE

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

June

Thursday, June 9
ERISA Litigation: What Every Insurance Litigator Should Know
Hon. Janice Stewart
Andrew Altschul
Megan Glor
Katherine Somervell

Thursday, June 16
LexisNexis Presents Practice and Time Management
Julie Rotz

Tuesday, June 21
Meeting in the Middle: Mediation in Family Law Litigation
Eric Larson
Ingrid Slezak

Wednesday, June 22
The New Bankruptcy Law: How the Rules of Engagement Have Changed
Daniel Vidas
Howard Levine

Thursday, June 23
How to Help Your Clients Give Away Their Money
Penny Serrurier
Melissa Berndt
Al Zimmerman

Wednesday, June 29
Ticket Tactics: Traffic Court Tips
Ref. Steve Todd
Ben Johnston
Officer Michael Villanti

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Wine for the dinner was underwritten by LexisNexis and Naegeli Reporting Corporation.

Dessert was underwritten by Bank of the Cascades.

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DEADLINE for copy: The 10th of the month*

DEADLINE for ads: The 12th of the month*

*or the preceding Friday, if on a weekend.

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Letter to the Editor

RE: "Polishing Our Image," *Multnomah Lawyer*, March 2005

Dear Editor:

Thank you for Sylvia Stevens' recent article, "Polishing Our Image," calling us to action to help with the problem of misinformed public perceptions. I write to respectfully suggest that we need to coordinate various bar efforts in this important area, and that the focus of those activities should be on the more fundamental problem of protecting the civil justice system and the right to jury trial.

On the first point, there are many different groups with overlapping public education programs. For just a few examples, the OSB Board recently honored jurors during Juror Appreciation Week; the American Board of Trial Advocates (ABOTA) has as part of its central mission the protection of the right to jury trial; the Oregon Trial Lawyers Association (OTLA) has been active in this area; the Oregon Jury Project has in the past sponsored public service announcements about jury service and the benefits of the jury system. It would be helpful if the various efforts could be coordinated and also directed towards a clearly defined common goal.

On the second point, the common goal should be support and protection of the jury-based civil justice system. Juries, and our civil justice system, have been under relentless attack for years. Critics contend that juries are out of control, when the statistical evidence is to the contrary. According to the popular press, special interests have spent vast sums to undermine the civil justice system. Opponents of juries want to reduce or eliminate their power, shifting decisions away from what is the most democratic institution in our system of government. Instead of polishing the image of our profession, which would be a desirable goal under more favorable circumstances, our profession's immediate responsibility is to educate the public about the importance and benefits of the jury system.

Sincerely,
Don Corson



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NEW ON THE SHELF

By Jacque Jurkins, Multnomah County Law Librarian.

FINANCIAL MODERNIZATION AFTER GRAMM-LEACH-BLILEY edited by Patricia A. McCoy. Published by LexisNexis, 2002. (KF 974 M33)

EVICTION COURT: The vexing issues. Course material from the March 11, 2005 Oregon law Institute in Portland, OR. (*KF 590 O7O73ec)

ROAD MAP TO AN ENTERPRISE SECURITY PROGRAM edited by Jody R. Westby. Published by the ABA Section of Science & Technology Law, 2005. (KF 390.5 C8 R63)

THE ABCs OF THE UCC, AMENDED ARTICLE 2A: Leases by Amelia H. Boss and Stephen T. Whelan. Published by the ABA Section of Business Law, 2005. (KF 912.5 A1 A23)

MASTERING VOIR DIRE AND JURY SELECTION: Gain an edge in questioning and selecting your jury, 2d ed. by Jeffrey T. Frederick. Published by

the ABA General Practice, Solo and Small Firm Section, 2005. (KF 8979 F74)

FUNDAMENTALS OF INTELLECTUAL PROPERTY VALUATION: A primer for identifying and determining value, by Weston Anson. Published by the ABA Section of Intellectual Property Law, 2005. (KF 2979 F85)

DISCOVERY PROBLEMS AND THEIR SOLUTIONS by Paul W. Grimm, Charles S. Fax and Paul Mark Sandler. Published by the ABA, 2005. (KF 8900 G75)

GUIDE TO FIXED-PRICES SUPPLY SUBCONTRACT TERMS AND CONDITIONS, 4th ed. A project of ABA Section of Public Contract Law, Strategic Alliances, Teaming and Subcontracting Committee, 2005. (KF 849 G85)

FAMILY AND COMMUNITY LAW HANDBOOK: Rules, statutes, and mandatory domestic regulations forms by

Scott Hornstein. Published by Thomson/West, 2005. (KF 397 W3 W37)

MODEL JURY INSTRUCTIONS: Patent litigation edited by Denise Loring. Published by ABA Section of Litigation, 2005. (KF 3155 M63)

CROSS-EXAMINATION: Science and techniques by Larry S. Pozner and Roger J. Dodd, 2d ed. Published by LexisNexis, 2004. (KF 8920 P68)

THE RESTATEMENT OF SURETYSHIP & GUARANTY: A translation for the practitioner edited by T. Scott Leo and Daniel Mungall. Published by the ABA Tort Trial and Insurance Practice Section, Fidelity and Surety Law Committee, 2005. (KF 1045 R45)

TESTIMONIAL PRIVILEGES, 3d ed. by David M. Greenwald, Edward F. Malone and Robert R. Stauffer. Published by Thomson/West, 2005. (KF 8958 T47)

CALENDAR

For a complete MBA calendar, please visit www.mbabar.org.

June

7 Tuesday, MBA Board meeting

9 Thursday, MBA CLE – ERISA Litigation
See insert or register at www.mbabar.org

10 Friday, Multnomah Lawyer deadline

Friday, Anniversary Celebration, Juvenile Court
See Announcements for details.

11 Saturday, YLS Board retreat

14 Tuesday, MBA Golf Outing at Riverside Country Club
See insert or register at www.mbabar.org.

16 MBA CLE – LexisNexis Presents Practice and Time Management
See insert to register.

17-18 Friday-Saturday, MBA Board retreat

21 Tuesday, MBA CLE – Family Law Mediation
See insert or register at www.mbabar.org.

Tuesday, OMLA Auction
Visit www.omla.homestead.com for details.

23 Thursday, MBA CLE – Charitable Giving
See insert or register at www.mbabar.org.

25 Saturday, SALC Walk for Justice
Visit www.salcgroup.org for details.

29 Wednesday, MBA CLE – Ticket Tactics: Traffic Court
See insert or register at www.mbabar.org.

July

4 Monday, Independence Day MBA closed

14 Thursday, MBA Golf Outing at OGA Members Course at Tukwila
See insert or register at www.mbabar.org.

21 Thursday, Portland Business Alliance Small Business Meeting, 4 - 6:15 p.m.
See details at www.mbabar.org.

August

10 Wednesday, Multnomah Lawyer deadline

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Panel members will travel throughout Oregon and Southwest Washington

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Ethics Focus

By Mark J. Fucile, Stoel Rives.



Good Help: Lawyers' Responsibilities for Staff Conduct

For many of us, we couldn't do our jobs as lawyers without the great support we get from our nonlawyer staff. We as lawyers have long been responsible for the ethical conduct of our nonlawyer staff or other assistants. For example, the Oregon Supreme Court in *In re Osites*, 333 Or 366, 40 P3d 500 (2002), disciplined a lawyer when his investigator misrepresented his identity during a witness interview. The new Oregon Rules of Professional Conduct now make that duty explicit.

RPC 5.3(a) requires that "a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer." RPC 5.3(b), in turn, provides that "a lawyer shall be responsible for conduct of... [nonlawyer staff]...that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if: (1) the lawyer orders, or with the knowledge of the specific conduct, ratifies the conduct involved; or (2) the lawyer is a partner or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action." The official commentary to the analogous ABA Model Rules emphasizes that it is the lawyer's responsibility to both train staff in the professional obligations that we must all observe and then to supervise staff to ensure compliance.

Let's look at three areas in particular that illustrate both the importance of training and obligation to supervise.

Confidentiality. Our confidential communications with clients are often channeled through our staff and our staff is frequently privy to confidential client information. The Evidence Code recognizes this reality by incorporating staff within the attorney-client privilege through

OEC 503(1)(e)'s definition of "representative of the lawyer" as "One employed to assist the lawyer in the rendition of professional legal services." If I relay my legal advice to a client through my secretary or paralegal, therefore, it should fall within the attorney-client privilege just as if I had spoken to the client myself, provided that the requisite confidentiality is maintained in those communications. It is on this last point that the lawyer's obligation to train staff is underscored: we need to provide staff with the requisite training so that they maintain the attorney-client privilege and the related confidentiality obligations under RPC 1.6. Just as a lawyer shouldn't reveal confidential client information while chatting on the sidelines of a child's soccer game, so, too, with staff who are privy to that same information.

Contacts with Witnesses. Paralegals and other staff are often key players in locating and interviewing witnesses. Lawyers need to ensure that staff are familiar with RPCs 4.1 (truthfulness in statements to others), 4.2 (communications with represented parties) and 4.3 (dealing with unrepresented persons). RPC 4.2 highlights the importance of training in this area because it holds the lawyer liable for an unauthorized contact with a represented party both if the lawyer does it directly or if the lawyer "cause[s] another to communicate" in a prohibited manner.

Billing. The OSB has issued a number of ethics opinions that touch on various aspects of timekeeping and billing practices. They are all framed around the description that the Oregon Supreme Court gave of the attorney-client relationship in *In re Howard*, 304 Or 193, 210, 743 P2d 719 (1987): "one of special trust and confidence" that "must be characterized by fairness, honesty and good faith." Just as lawyers must make sure that their own time entries are fair and accurate, they must also make sure their staff timekeepers know and observe the appropriate standards.

ANNOUNCEMENTS

June 10 is Juvenile Court 100th Anniversary

On June 10, 1905, Oliver B. was found within the jurisdiction of the juvenile court of Multnomah County for being "a truant and a bad boy." With that case, Multnomah County joined Cook County, Illinois, and other jurisdictions across the nation in recognizing that children in our communities needed to be treated differently than adults within our legal system. On June 10, 2005, Multnomah County Family Court Judges will welcome the community to a celebration of 100 years of service dedicated to improved outcomes for at-risk youth and dependent children. Please join us at the Juvenile Justice Complex (at 68th and Halsey) at 3 p.m. for an afternoon commemorating the past and welcoming the future.

Oregon Lawyers Against Hunger

OLAH will conduct its ninth annual fundraiser from September 26 to October 7. If you are interested in learning more about OLAH or getting involved, please contact Kathy Dent at 503.778.5338. Information about the Oregon Food Bank is available at www.oregonfoodbank.org.

Oregon Minority Lawyers Auction

Please join us for the Oregon Minority Lawyers 6th Annual Summer Social and Fundraiser (an Auction & Raffle), Tuesday, June 21 at 5:30, Portland World Trade Center, 21 SW Salmon St, Portland. Proceeds apply toward OMLA Oregon Bar Exam preparation scholarships and OMLA Scholarship Endowment.

Providing legal services today in many ways isn't all that different than when my mother was a legal secretary 50 years ago. It's a team effort and some of the most important members of the team are our nonlawyer staff. We owe it to our clients and to our staff to make sure that our staff has the training to both do their jobs well and in keeping with the RPCs. And, in the final analysis, it's our licenses and reputations as lawyers that are on the line if we haven't taken the time to properly train staff and something goes wrong.

Noon-time Rides

Multnomah Bar Association noon-time bike rides - short fast rides with hills. Meet at SW Yamhill and Broadway between noon and 12:10 p.m. on Mondays and Thursdays. Contact Ray Thomas at 503.228.5222 with questions, or meet at the start.

Walk or Run "Five Miles for Justice"

Mark your calendars - St. Andrew Legal Clinic's annual walk and run takes place Saturday, June 25 at 10 a.m. Registration begins at Amnesia Brewing on 3638 N Mississippi at 9 a.m. Call 503.281.1500 ext. 24 or visit www.salcgroup.org for more info.

Criminal Defense Lawyers' Annual Conference

The Oregon Criminal Defense Lawyers Association's annual conference is June 16-18, at The Inn of the Seventh Mountain in Bend. The program is open to anyone involved in the defense function. Visit www.ocdla.org for more information.

United States District Court Public Notice

Reappointment of a full-time United States Magistrate Judge in Portland, Oregon.

On December 31, 2005, the current term of office of United States Magistrate Judge Dennis J. Hubel will expire. The US District Court is required by law to establish a panel of citizens to consider the reappointment of the magistrate judge to a new eight-year term.

The duties of the position are demanding and wide-ranging and will include the conduct of most preliminary proceedings in criminal cases; trial and

disposition of misdemeanor cases; and conduct of various pretrial matters and evidentiary proceedings on delegation from the judges of the district court; and trial of civil cases with consent of the parties. The basic jurisdiction of the United States magistrate judge is specified in 28 U.S.C. §636.

Comments from members of the bar and public are invited as to whether United States Magistrate Judge Hubel should be recommended by the panel for reappointment by the court. Comments should be directed to: Donald M. Cinnamond, Clerk of Court United States District Court for the District of Oregon 740 Mark O Hatfield Courthouse 1000 SW 3rd Ave Portland OR 97204 REAPPOINTMENT OF MAGISTRATE JUDGE HUBEL

Comments must be received by the clerk no later than close of business on June 30, 2005.

Multnomah County Family Law Group

This group meets monthly, from noon to 1:30 p.m. at Jake's Grill for lunch, networking and discussion. The next meeting is Tuesday, June 14. The speaker will be the Hon. Jack Landau, Chief Judge, Oregon Court of Appeals. If you have questions you would like the judge to address, please email mark@kramer-associates.com.

Reservations are required. Please provide David Bean (dib@meyerwyse.com) with your fax number if you wish to be placed on the mailing list.

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Trust No One

By Judy A.C. Edwards, MBA Executive Director.



Well, perhaps not no one...the title was written to get your attention.

It might be silly to even think that lawyers need to be cautioned about trusting people. After all, questioning evidence and being cautious about what people tell them is part of lawyers' training and practice. However, I want to write about two areas where lawyers are vulnerable – especially in situations where trust has previously been established. The cautions I would make are: 1. Be careful about who handles your money and particularly how it is handled at your firm.

2. Take steps at the beginning of a client relationship to ensure you get paid.

On the first caution, a law firm with two partners, both members of the MBA, recently discovered that a long-time, loyal and trusted employee had embezzled about \$100,000 from them. And the worst part of it, they tell me, is that they are \$50,000 into their credit line because they did not know that payments had actually been received – and thus should have avoided use of the credit line in the first place. How could this have happened to smart people like lawyers, you're wondering. It's because embezzlement is difficult to discover and easy to do in a small office where separation of duties is difficult to achieve.

Keeping honest people honest is the purpose behind internal accounting controls. If you haven't set them in place, you may want to consider doing so.

You would be shocked at all the ways in which professional service firms have been victimized by embezzlement. Here are just three scenarios that come to mind immediately, and they are real stories. First example, the trustworthy

payroll, in-house staffer prepares the pay period's tax deposit and adds in several hundred dollars each time it is made. These additional taxes that are paid go on their own W-2 form and he or she gets a big refund from the IRS – all at your expense. In another scenario, the receptionist who opens the mail also opens something else, an account at another bank. The name on the second account has a name that is similar, or perhaps an acronym of the firm name and every so often a check goes there instead of into the firm's account. In the final example, an account is opened at a new supply store and numerous orders are placed. The trouble is, the office makes purchases from so many different places that it's difficult to track them all and you're a busy person and that's what makes you vulnerable. The person who sets out to steal from you counts on the fact that you're busy and that you trust him or her. It can easily go unnoticed that the firm is generously supplying all types of household items to that trusted employee.

I know you're thinking, none of those scenarios, nor other clever embezzlement tricks could happen to you. Be careful

with that thinking. People with embezzlement in their hearts are extremely creative. The good news is that there are many ways to foil these people. Setting up processes on how your money is handled will protect your firm. If you want specifics, please contact me about a sampling of accounting controls others have put in place to protect themselves, or better yet, contact your accountants for their advice.

On the second caution, take steps at the beginning of a client relationship to ensure you get paid, please read Margaret Graham Tebo's article for helpful tips on how to avoid "getting stiffed." It appeared in the May *ABA Journal* article, "Paid, Not Played." Briefly, she cites a few strategies to use, such as avoiding suing the client for unpaid fees because you are likely to get sued for malpractice. Instead, she suggests taking steps at the beginning of the relationship. Tebo provides tactics that solo and small firms have used successfully to get paid in full. They include upfront estimates for the total cost of the representation at the first visit and a "large portion of the estimated fee as a retainer. Clients are rarely unhappy with this approach... because they know he's being forthright with them...it's much

easier to get paid when they need you." She ends with, "Value your services and, most of the time, the client will, too."

In closing, yes we have to and want to trust people and you have many very trustworthy people working for you. Just be careful about how they handle your money. And lastly, be brave about sharing your financial expectations with new clients.

Have a great summer.

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.

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Second Annual CourtCare Campaign a Success!

At press time, the Multnomah CourtCare campaign has raised over \$87,000 this year, with your help, for the free daycare at the Multnomah County Courthouse. The total amount raised includes donations from the successful second annual *A Jungle Gym in the Jungle* campaign, currently at more than \$70,000 and proceeds from the MBA WinterSmash bowling party of \$16,661.

Final donations will be reported in the July/August issue of the newsletter, along with recognition of all donors.

After months of planning by the CourtCare Fundraising Committee, chaired by Mike Greene and Jeff Matthews, the campaign kicked off on April 25 and concluded on May 6. Nearly 60 firms and organizations, including several nonprofit agencies, raised money using a variety of methods, including a Karaoke party at the DA's office.

In keeping with its long history of public service, the Portland metro area's legal community came through for CourtCare with generosity, spirit and hard work.

Multnomah CourtCare, which is operated by Volunteers of America Oregon, receives \$50,000 every year from Multnomah County and the Oregon Judicial Department. However, CourtCare is free to its users, and private sector contributions and grants are crucial in order to cover the balance of its approximately \$125,000 annual budget.



In keeping with the *A Jungle Gym in the Jungle* theme, our winners are:

The Proudest Pride Award for the firm making the largest donation, for the second year in a row, goes to Davis Wright Tremaine, which contributed \$7,633. They were followed by Bullivant Houser et al at \$5,000, Williams Love et al at \$3,600 and Multnomah County Judges at \$3,260.

The Loftiest Leap Award, for the most per capita donation, for the second year in a row goes to Williams Love et al at \$211.76 per person. They are followed by Yates Matthews at \$154.17 per person, Rosenthal & Greene at \$144 and McKanna Bishop at \$76.

We thank the many people who worked on the campaign over the past weeks and months.

Jeff Matthews and Mike Greene were inspiring and energetic committee co-chairs, leading a team that included:

John Connors, Metropolitan Public Defenders
 Jeff Schick, Davis Wright Tremaine
 Marshal Spector, Gevurtz, Menashe et al
 Jose Cienfuegos, Multnomah Co. DA's Office
 Dana Sullivan, McKanna Bishop et al
 Hon. Katherine Tennyson, Multnomah Circuit Court
 Susan Marmaduke, Harrang Long et al
 Mary Louis McClintock
 Robin Selig, Oregon Law Center
 Monica Molina, VOA Oregon
 JoLynne Zimmerman, Williams Love et al
 Judy Edwards, MBA

A final thank you to the entire Multnomah Bar for its continued support of Multnomah CourtCare. This program, which protects children, improves courthouse operations and enhances equal access to justice, would not exist without the support of the legal community.

The Corner Office

How often have you encountered a client who says something like, "I want you to be my zealous advocate and stand for my rights? Do not give that **** any quarter. Make this as difficult for her as possible. I don't care what the cost."

Unlike the former disciplinary rules, if you search the recently adopted Oregon Rules of Professional Conduct (ORPC), you will not find a specific reference to "zealous" representation. The ABA Model Rules of Professional Conduct in the Preamble and Scope does mention the term when it states: "As a representative of clients, a lawyer performs various functions. As advisor, a lawyer provides a client with an informed understanding of the client's legal rights and obligations and explains their practical implications. As advocate, a lawyer zealously asserts the client's position under the rules of the adversary system. As negotiator, a lawyer seeks a result advantageous to the client but consistent with the requirements of honest dealings with others. As an evaluator, a lawyer acts by examining a client's legal affairs and reporting about them to the client or others."

However, when the Oregon Supreme Court adopted Oregon's version of the model rules, the court specifically declined to adopt the preamble and scope provisions of the model rules.

Nonetheless, there can be no doubt that zealous representation is a cornerstone of our duty to our clients. The question becomes what limitations, if any, are placed on this duty by the concept of professionalism.

Returning to the first paragraph of this article, assume that just prior to the time that her answer is due, defendant's counsel calls and asks for a two week extension of time in which to file the answer. Keeping in mind your client's instructions, what do you do?

ORPC 1.2 may provide some assistance. That rule speaks to the scope of representation and allocation of authority between a client and the lawyer. There was no counterpart in the Oregon code, but 1.2 only requires that a lawyer abide by a client's decision concerning the objectives of representation and consult with the client as to the means by which they [the objectives of representation] are to be pursued.

Whether to grant an extension of time does not concern the objectives of representation. This is where the concept of professionalism impacts the lawyer's duty of zealous representation. The granting of a reasonable extension of time, under these circumstances, is certainly warranted, as no court would deny a reasonable motion for an extension of time to appear. In this case, there does not appear to be any reasonable basis to deny the request.

Of course, you need to inform your client of the extension and, if necessary, explain that it was only reasonable and professional to do so. You can then explain to your client that any court would have granted such a request and note that there was no need to antagonize the court by forcing the defendant to move for a reasonable extension of time to appear. While the client may be irritated, you have certainly retained your reputation for professionalism with your peers.

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

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AROUND THE BAR

METROPOLITAN PUBLIC DEFENDER

Robert Hamilton has rejoined the Metropolitan Public Defender and will be working in the Washington County Office.



Carmen Calzacorta

SCHWABE WILLIAMSON & WYATT

Schwabe, Williamson & Wyatt shareholder **Carmen Calzacorta** was one of 25 women to be honored with the *Portland Business Journal's* coveted "Orchid Award," the publication's



Nancy Erfle

annual recognition of women executives who have shown extraordinary business and civic leadership over the past year.

Attorney **Nancy Erfle** was recently named a sustaining member by the Product Liability Advisory Council (PLAC). The recognition is a premier acknowledgement of her leadership and expertise in product liability law.

PLAC is a nonprofit association representing a broad cross-section

of American and international product manufacturers seeking to improve and reform laws governing manufacturers and products.



Craig D. Bachman

LANE POWELL

Craig D. Bachman, shareholder at the firm, has been elected Chairman of the Japan-America Society of Oregon (JASO).

With corporate and individual members, JASO is the largest and oldest Japan-related organization in the State of Oregon and sponsors a variety of business, educational and cultural programs each month.

PRESTON GATES & ELLIS

Barbara Jacobson has joined the firm as a partner, where her practice will focus on complex real estate and finance transactions. Jacobson has over 20 years of experience in a broad range of real estate law matters, including real estate development, leasing, purchase and sales, foreclosure work, and a variety of land use, zoning, permitting, environmental/brownfields and related financing issues.



Tara Hendison

TARA M. HENDISON

Tara Hendison, a vice president and trust officer for Allen Trust Company, was recently named to the board of the Albertina Kerr Centers, where she will serve a three-year term.



Heather Van Meter

WILLIAMS KASTNER & GIBBS

Heather Van Meter, an associate in the firm, has been elected to the board of directors for OWLS. Van Meter's practice focuses on litigation with an emphasis on medical malpractice, drug and medical device, product liability, and catastrophic injury cases.



Barbara Jacobson

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Tips from the Bench

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

Questions from Jurors to Witnesses During Trial

Trial lawyers in both civil and criminal litigation should be prepared for questions from jurors directed to witnesses during trial. It is very common for lawyers to be surprised at the beginning of a trial to learn that the trial judge permits jurors to ask questions.

Juror questions to witnesses had its genesis in Multnomah County years ago in the Court of the late Judge Robert P. Jones. Judge Jones felt strongly that the opportunity for jurors to ask questions during trial was important to help the jurors understand the evidence. This idea has gained momentum in recent years both in Oregon and nationally. Don't be caught by surprise about it.

In 2001, ORCP 57B was amended to include a new ORCP 57B(9), which provides as follows: "With the court's consent, jurors shall be permitted to submit to the court written questions directed to witnesses or to the court. The court shall afford the parties an opportunity to object to such questions outside of the presence of the jury."

Trial judges are not of "one mind" about allowing jurors to ask questions. Some judges allow juror questions in civil cases only, and some allow juror questions in both civil and criminal cases. Some judges do not allow juror questions at all. For those judges who allow juror questions, procedures for receiving and allowing juror questions vary widely.

You should obtain from the MBA a copy of the 2005 *Judicial Practices Survey* prepared by the MBA Court Liaison Committee. The survey, completed by each judge in Multnomah County, is a treasure-trove of useful information about the practices and preferences of each of our 38 circuit judges. Included in the survey is a section about the practices of each judge regarding juror questions.

Expressions (facial and otherwise) of Disagreement with Rulings

Have you ever seen adverse counsel make an obvious facial



expression or body-language expression of disagreement or disgust with a judge's ruling? Have you ever done this yourself? Has your client or an adverse litigant done this in your presence? You might not see this, but judges see it all too often.

It seems obvious that lawyers and their clients should never telegraph their disagreement with a ruling after it is made. While lawyers have a legal obligation to make their record and advocate for their clients, after the judge rules, professionalism requires that you never evidence your disagreement by your expression or body language.

UTC 3.150 requires all persons in the courtroom to "refrain from visibly or audibly reacting to the verdict in a manner which disrupts the dignity of the courtroom. UTC 3.040 requires lawyers to "advise their clients and witnesses of the formalities of the court..."

Depositions - Judicial Help with Problems

During depositions if you believe adverse counsel is asking inappropriate questions, you should not hesitate to appropriately assert your position. As a last resort, if your best efforts to resolve the situation are not successful, you should seek an immediate ruling from a judge. In Multnomah County, just telephone the Presiding Judge's office (503.988.3846) and tell Judge Koch's Judicial Assistant or Clerk that you need a ruling on a deposition question. If Judge Koch is not available, his staff will try to locate a judge for you immediately.



By Leslie Kay, Legal Aid Services of Oregon and Court Liaison Committee member.

Judicial Practices Brown Bag Lunch

Judges Kantor, Maurer and Wittmayer held a very successful brown bag lunch discussion of trial practices on April 22 at noon. Over 35 people attended. The next brown bag will be in September and announced in the *Multnomah Lawyer*.

Jury Verdict Project

Doug Bray and Leslie Kay continue to work on the expanded format for the reports that will include more information.

Clackamas County Bar Association

Michael Dwyer attended the Clackamas County equivalent of the Court Liaison Committee in April. The meeting is not primarily a bar-bench meeting but rather a meeting of "problem solvers," including representatives from the jail, indigent defense, the court

administrator, presiding judge, etc. Tom Kranovich is on the committee by virtue of being the bar association president this year.

Kranovich reported that the court also held a juror appreciation event with the hope that this type of event would increase public knowledge of the courts.

The bar association is undertaking the judicial screening process for the replacement of retiring Judge Gilroy.

Judicial Feedback

The program has been dormant and is being reviewed to see if it is still useful. There is some evidence that members of the bar may be simply unaware of the existence of the program even though it has been extensively publicized in the *Multnomah Lawyer*. When the committee reconvenes in September, the future of the program will be discussed further.

CourtCare

Judy Edwards reported that the annual CourtCare Campaign is coming to an end and to please contribute. Contributions are welcome all year. Checks may be sent to the MBA, made payable to Volunteers of America Oregon, Multnomah CourtCare.

Jury Appreciation

Judy Edwards reported that a successful juror appreciation event was held at the Justice Center. Judge Ancer Haggerty, Judge Dale Koch, OSB President Nena Cook, Sylvia Stevens and Todd Cleek addressed the participants. Five jurors also spoke, including a 94-year-old juror and a hearing-impaired juror.

Juvenile Court 100th Anniversary

The juvenile court will be celebrating its 100th anniversary on June 10. Please see the Announcements for details.

List of Most Qualified Judicial Candidates Announced

The MBA has announced the results of its Judicial Screening Committee's (JSC) review of the applicants for the Multnomah County Circuit Court judicial vacancy created by the retirement of Judge Kimberly Frankel. The MBA sent a list of the applicants deemed "most qualified" by the JSC, to Governor Kulongoski.

The MBA's letter to the governor stated, "As you are aware, the MBA takes its responsibility in this arena very seriously and has served many governors over the decades. We appoint a diverse, respected committee of practitioners who conduct a confidential and thorough assessment of candidates by objective criteria. At your request our Committee did not reconsider individuals who submitted applications for the last judicial vacancy in Multnomah County. Thus, the following list of "most qualified" candidates is in addition to the list previously submitted to you."

In alphabetical order, the additional applicants identified as "most qualified" by the MBA are: Eric Bergstrom, Lane Borg, Jerry Hodson, Robert Thuemmel.

The previous list sent to the Governor for the position, formerly held by Judge Dorothy Baker, included Scott Asphaug Steven Bushong, Kathleen Dailey, Frank Moscato and Kathleen Payne.

The JSC is comprised of 21 members, three of whom are public members. The committee conducts background checks and makes its recommendations based upon written criteria that have been adopted to assure merit selection.

The following is a brief description of the JSC and its process.

Multnomah Bar Association Judicial Screening Process Re: Recommendations to the Governor

Each year, the MBA president, with assistance from MBA board members, appoints approximately one-third of the 21-member MBA Judicial Screening Committee (one-third "retires" and the president appoints replacements). The president also appoints a chair and vice chair. The committee is appointed with great attention to diverse backgrounds, experience and practice types and it is comprised of respected attorneys as well as three public members. The time commitment is significant.

The committee follows carefully designed procedures, and applies consistent criteria, to assist the governor with his or her selections to the local bench. The MBA president forwards the final list of the "most qualified" candidates to the governor's office, on the bar's behalf, after which it is made public.

Cont. on p. 9

SUPPORT THE OREGON LAW FOUNDATION THROUGH THE MBA AND WELLS FARGO

The MBA's partnership with Wells Fargo means that MBA members pay no fees on IOLTA and lawyers' trust accounts. In addition, Wells Fargo pays a consistently high interest rate on IOLTA accounts to the Oregon Law Foundation. To take advantage of this member benefit and support the Oregon Law Foundation, MBA members who bank with Wells Fargo must identify themselves as MBA members. For more information, call Michael Giavanti of Wells Fargo Bank at 503.886.1446.

Profile: Judge Virginia Linder, Oregon Court of Appeals

By Catherine N. Carroll, Attorney at Law, Court Liaison Committee member.

During several conversations with Court of Appeals Judge Virginia Linder as we worked out scheduling our interview for this profile, I thought several times about how I might begin the article.

I had given her several previous MBA judicial profiles so that she could think about what she might want to see about herself in print; and, when I asked if there would be anything in particular that she felt people might be interested in about her, she responded in her quiet way, "No, I really don't think so."

Then one morning she called to ask if it would be convenient to get together following a scheduled meeting a few days later at the State Bar office. "And I'm hoping to have time to stop at a couple of stores along Highway 217," she said. Thinking she meant Washington Square, or maybe Powell's or Borders, I asked her about that. "Well, there are a couple of woodworking stores where I can get tools I just can't find in Salem," she said.

Woodworking tools?

Judge Linder builds kayaks. There are four of them in her tidy garage, all of them handmade by Judge Linder herself, all of them beautiful, and all of them used

regularly. She finds relaxation and enjoyment in the tangible, detailed, precise work of building her kayaks; and her affinity for detailed, precise work is apparent also in her approach to her work on the Oregon Court of Appeals.

It's also true that Judge Linder has been the first person around to do lots of things, and she's never let that slow her down a bit.

Raised in a household of teachers, Judge Linder spent her early childhood years in Colorado, and grew up in Carmichael, California, not far from Sacramento. She is known to family and friends as 'Gini' or 'Gin,' as in her toddler nephew's question on walking into a new neighbor's house, "Where's your Gin?" She and her partner of 18 years, Colleen, live a short distance outside Salem with their dog, Toby.

She describes happy childhood memories of all-summer-long road trips back to Colorado with her parents and sister. Last summer, Judge Linder, her parents, and Colleen re-created those family trips with a four-week car trip to Colorado, re-visiting former family homes and favorite haunts, staying happily at the champagne-style accommodations of Breckenridge and other resorts at beer budget summer prices, and visiting the

mountain places they had so enjoyed many years before.

Unemployed after graduation from Southern Oregon College (now University), Judge Linder's sister and brother-in-law invited her to live with them and their baby son in Virginia, on the theory that you might as well be out of a job with us here as alone back in Oregon.

After two years, it was time to transition back, and Judge Linder applied to Willamette Law School because...Because...Well...She didn't know any lawyers, and didn't know what it would be like to practice law, and she'd never heard of a woman being a lawyer. A teacher of civics and American government had sparked her interest, making the court system seem vital and important and exciting; and sparking in the young Gini Linder lasting interest in the value of the court system as a means of dispute resolution, and in children's rights.

She found law school less than full-time enthralling, and took a part-time job clerking in the Appellate Division of the Attorney General's Office. "I found my place in the law right then and there," she says, recalling that the office was the kind of place where a young, green law student was allowed to tackle any project she could

handle, so that, by the time she was ready to graduate from law school, she had worked on perhaps as many as 50 appeals.

Judge Linder also recalls that, of the 12 lawyers in the office at that time, four were women - an unusually high percentage in those days. She remembers that her very first case was argued by then-assistant attorney general, now retired Court of Appeals Judge, Mary Deits - because young Gini Linder, who had prepared the case, wasn't licensed as a lawyer yet. The case was argued on the other side by a young attorney from Medford named Rebecca Orf - now also a judge.

Speaking with Judge Linder, one remarks that she always noticed, and still remembers, whether there were women lawyers and how many.

On graduation from law school, she accepted a position in her beloved appellate division when Chris VanDyke's departure to run for District Attorney in Marion County created a vacancy. She stayed with the Appellate Division for 17 years, working under 5 attorneys general, and serving as Oregon's Solicitor General for 11 of those years. Gov. John Kitzhaber appointed Judge Linder to the Court of Appeals in 1997.



Judge Virginia Linder

Judge Linder describes the Court's 10 judges as working together as a real group, with a strong sense of collegiality and a work ethic which she says can best be described as "indefatigable." She speaks of the judges' deep awareness of the importance of their decisions to the litigants; and of the Court's innovative programs, including an exchange program in which appellate judges trade places with trial judges, so that each gains an appreciation for the other's realities; and the "Courtroom on Wheels," which presents appellate arguments in schools around the state.

Judge Linder has the matter-of-fact outlook and low-key, forthright courage of the pioneer that she's been throughout her career. She loves what she does, enjoying the wide range of cases, the case load, and her co-workers. As she says, "That's about as good as it gets."

Circuit Court to Require Arbitrator Training

By K. William Gibson, Gibson & Duffy.

For a decade or more, most civil and family law cases in Multnomah County have been decided by an arbitrator, rather than by a judge or jury. Often the arbitrator is one chosen from among those lawyers who have volunteered to serve on the Multnomah County arbitrator's list. The Multnomah County Arbitration Commission, which oversees the process, has recently recommended, and the circuit court has implemented, a rule requiring those who serve on the panel to participate in periodic training on all aspects of the arbitration process.

Under the new rule, lawyers seeking to be added to the list will have to certify that they have obtained the required training before they will be eligible to be added to the list, and arbitrators already on the list will be required to obtain periodic training before they can be recertified. Arbitrators will have until August 1, 2006 to complete the required training and provide proof of compliance.

The training will cover the statutes, rules, case law and

ethical issues that apply to arbitrators in court-annexed arbitration. Training is scheduled to begin in October, 2005 and will initially consist of a two-hour CLE program co-sponsored by the court, the arbitration commission and the MBA.

The arbitration commission is a five-member body appointed by the circuit court and its members include Judge Edward Jones, attorney/arbitrators Lisa Almasy Miller, Nancie Potter, Eric Neiman, Richard Dobbins and K. William Gibson. Judge Kristena LaMar serves as Chair of the Commission, and Judge Dale Koch and Court Administrator Douglas Bray serve as advisory members.

According to Judge LaMar, the number of cases going through court mandated arbitration has increased dramatically in the decade since the arbitration limits were raised from \$25,000 to the present \$50,000. As a result of this experience with court arbitration at the higher level, Judge LaMar points out that "We have moved into a second generation of arbitration and

the commission wants to make sure that the arbitration process delivers the highest quality service possible to litigants and the public." She also points out the responsibilities of arbitrators have increased and the process has become more complex.

Judge Edward Jones echoes Judge LaMar's desire to deliver quality service and to have arbitration be a satisfactory experience for litigants. "Arbitration was designed to be an economic alternative to jury trials," Judge Jones points out. "For many litigants, arbitration will be their only 'trial' experience. We want them to feel that the process was fair and efficient and that they had an opportunity to be heard. Having arbitrators who are familiar with the arbitration statutes, the Uniform Trial Court Rules and local rules and procedures, as well as the code of judicial responsibility, will improve the arbitration process."

According to circuit court staff, the arbitrators' list includes arbitrators ranging from those who handle a lot of cases to those who never handle a case, as well

as a large number who handle only a few cases every year. "We get a lot of calls from arbitrators about arbitration procedures," says Court Administrator Douglas Bray. "This training program should answer most of those questions and help arbitrators become more familiar with the process."

The training program will be designed for both the experienced and the occasional arbitrator. The training will cover a variety of topics, including: rules and procedures on arbitrator selection and scheduling of hearings; role of the arbitrator in pre-hearing matters, such as summary judgment and dispositive motions; fee issues, including dealing with *pro se* litigants; conducting the hearing, including procedure, evidence and decorum; and post-hearing rules and procedures, including rules and procedures for filing of arbitration awards.

Additional information and a CLE schedule will appear in upcoming issues of the *Multnomah Lawyer*.

Judicial Candidates Announced

Cont. from p. 14

While the deliberations/discussions of the committee are confidential, its procedures are not. It is important to understand that: (i.) the MBA does not rank applicants but rather submits a list in alphabetical order and (ii.) the fact that a candidate is not included among the final list of "most qualified" candidates does not mean that he or she is not qualified. Instead, it reflects upon the comparative qualifications of the pool of applicants. The MBA process and short list should also not be confused with the American Bar Association rating system of qualified versus not qualified.

The MBA annually publishes the process and encourages all members to read it.

What Partners Want from Associates

Intellectual initiative and creative problem-solving

Fifth Part of a Series

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

Beyond the academic and experiential “pedigree” lies an area of law practice that very well may help distinguish you in working with your supervising attorneys. Largely esoteric but perhaps not unteachable, the attorneys interviewed for this series almost uniformly remarked on the almost-intangible quality of associate “intellectual curiosity.”

Intellectual Curiosity

Precision, a fascination with words and ideas, an intense need for mental stimulation, even perfectionism may fairly be considered aspects of one’s definition of “intellectual curiosity.” What it really comes down to, though, in the law practice context, is a bona fide pleasure of learning.

Timothy S. DeJong oversees hiring and associate matters and is a shareholder at business litigation boutique Stoll Stoll Berne Lokting & Shlachter. He seeks this career-driving force in Stoll Stoll associates and believes it is an apt indicator of career success.

“For our firm, the more unique characteristic for success is curiosity and a real desire to investigate and learn about things that we may know nothing about.”

Jonathan Norling of energy law specialists Lovinger Norling Kaufmann expands on this notion. To complete a project satisfactorily, an “associate must demonstrate that he or she has examined all of the relevant research paths,” he says.

“The best work products are the ones that show independent thought, indicating that the associate understands the issue well enough to ask and answer questions related to the subject. Often, this ability comes from hands-on experience in or with the [particular] industry.”

Curiosity in other fields can often itself lead to imaginative legal analysis.

Jeffrey P. Foote, who runs his own downtown, two-attorney plaintiffs operation says, “An active mind with an interest and willingness to learn new things” will serve an associate well.

He explains, “The nature of my practice is that I handle product liability, medical malpractice and other personal injury claims. Generally, we need to delve into some issue of engineering, medicine or other technical field.... So, the ability to research [these] technical areas and apply that knowledge to the specifics of the case is important,” Foote concludes.

How then to come by this skill? Perhaps it is best to consider the ways you actually think. Very generally, both critical and creative thinking are necessary to solve problems. Lawyers tend to be predisposed to the former, but successful lawyers master both.

Central to creative thinking is the willingness to take risks, to experiment and even to make a mistake. Lawyers, however, tend to be risk-averse. To challenge yourself in this capacity, consider the simple task of reading a non-law book outside of a preferred genre. Explore something historical, scientific or reflective.

Take on work (with appropriate guidance) in an unfamiliar practice area and attend the relevant CLEs. Create a “knowledge network” of peers and others outside your intellectual comfort zone. “Salons” are in; start talking with others you respect and admire.

In all things, focus on recognizing the clichés, stereotypes, easy thinking, bias, emotional factors, semantic slanting and unstated assumptions. Be something other than an “idea consumer.”

Relatedly, seek and effect change outside your law practice. You likely have something more to offer besides legal counsel, so use your abilities and volunteer



in the community: help build a neighborhood garden, coach Special Olympics or fill food boxes at the Oregon Food Bank. The experience will invigorate you beyond the good it contributes, and you may be surprised at what you learn.

On this same point, forsake the expert, the consultant, the technical super-being and the guru. Create your personal solution to the busted pipe, the clutter in your garage, the home computer DSL modem, and a new exercise regimen.

Intellectual property lawyer Ramon A. Klitzke II of Klarquist Sparkman states that at his firm, “Creativity is number one. A lot of lawyers have strong educational and writing skills, but in addition to these skills, we seek a creative bent toward problem-solving.”

By solving the problem yourself, you create an expression on the product of your work that cannot be erased, and you just may create a more efficient solution than those who have gone before you.

For many supervising attorneys, this is exactly what they seek in an associate. Jerome Lidz, a partner in the Portland office of mid-sized Harrang Long Gary Rudnick perhaps summarized it best: “I want the associate to be thoughtful about the project, so that I have someone to help me think about those big picture issues.”

The sixth and next part of this series will discuss being passionate for the law.



Imprint Program

By Klarice Kolb, Abbott & Prange and YLS Service to the Public Committee Chair.

The YLS Service to the Public Committee recently completed its first installment of the Imprint Program and it was a huge success. The Imprint Program brings middle school students together with



Theresa Hollis (left) with her pen pal.

volunteer attorneys and gives them the opportunity to read the same novel and correspond through letters over a six to eight week period. This year, Stacey Kottke’s 8th grade enrichment class at

Parkrose Middle School participated in the program. There were 30 students in the class and we had 30 very enthusiastic volunteers participate. Each student was paired with a volunteer. The pen pals were able to develop friendships and mentor relationships through their letters.

The volunteers and students read *The Giver* by Lois Lowry. The science fiction novel involved themes of free will, utopia and touched on several common problems that plague modern society. While the book presented heavy and complicated topics, the students and volunteers were able to discuss the themes at ease with one another. One volunteer commented that she was surprised by the “sophisticated thought process and ideas that come from young people.” Most volunteers felt that it was a rewarding and easy way to

participate in their community.



David Elkanich (right) with his pen pal.

The volunteers were surprised by how open and honest the students were with them. They were also surprised by how enthusiastic the students were about the program. The

students were eager to learn more about their pen pals and I think that we even succeeded in showing them that attorneys are actually kind and caring people, despite what others may have told them.

At the end of the program, we hosted an informal luncheon at the middle school so all of the volunteers and students could meet. Because the students and volunteers already knew so much about each other through their letters, it was easy for them to pick up where their letters left off. Both volunteers and students agreed that the best part of the program was finally meeting their pen pals.

The YLS Service to the Public Committee is thrilled with the outcome of this new program. We hope to expand the program to two or three more classrooms next year. If you are interested in volunteering next year, please contact Klarice Kolbe at kkolbe@abbottprange.com and keep your eyes open for an announcement in the *Multnomah Lawyer* this fall.

April Social a Success

On Thursday, April 21, the YLS Membership Committee hosted the annual *Meet the Judges Drop-in Social* at Fernando’s Hideaway. This year’s event was a great success, as many attorneys and judges were in attendance. Young lawyers had an opportunity to meet judges from all levels of state and federal court in a relaxed setting. Both the bench and the bar welcomed

the opportunity to speak with one another in a collegial atmosphere and gain from each other’s experiences.

This year’s social also featured a raffle drawing, the proceeds from which went to the CourtCare program. Thank you to all of the sponsors who generously donated items to the raffle. These sponsors include: Kimberly Kaminski, Judge Kristena LaMar, Pumpkin Ridge Golf Club, Judge Nan Waller, Judge

Clifford Freeman, Judge Paula Kurshner, Judge Kristena LaMar, Judge Janice Wilson, Judge Michael McShane and Judge Ellen Rosenblum. The YLS Membership Committee would also like to thank the MBA’s Kathy Maloney and Noëlle Saint-Cyr for their help in making the event a success. Thank you to all who participated. We look forward to seeing you again next year!

Community Law Week a Success

By Katie A. Lane, Assistant County Attorney, Multnomah County Attorney's Office

Once again, the members of the YLS combined their efforts to host a week of excellent educational events for the community. From May 2-7, over 50 judges, attorneys and paralegals donated their time to help educate the community about the legal system and celebrate the American Jury.

Justin Leonard of Parsons, Farnell & Grein, acted as this year's PR and fundraising guru, securing enough funding to purchase 40 street banners that swathed the area around the Multnomah County Circuit and Federal courthouses. The banners can be used for many Community Law Weeks to come and are a welcome addition to our publicity efforts. Justin also increased the number of firms that support Community Law Week events, involving a wider breadth of Multnomah County's legal community in CLW. Additionally, this year CLW benefited from the support of the Program on Law & Society of the Open Society Institute and the League of Women Voters of Oregon, who donated three advertisements of CLW events, one each in the *Portland Tribune*, *Willamette Week* and *The Oregonian*.

Jeff Schick of Davis Wright Tremaine organized this year's Legal Information Centers, involving 23 attorneys at 12 locations throughout Multnomah County. The centers provided citizens with 30 hours of valuable information on myriad legal topics, including wills, criminal records and, rather popular this year, advanced directives. Jeff did an excellent job of ensuring that the centers were located in diverse areas to serve the needs of a wide variety of Multnomah County citizens.



Judge Nan Waller at the Tell it to the Judge booth

Craig Gabriel of Ransom Blackman corralled eight judges from Multnomah County Circuit Court to meet with the public and answer questions for *Tell it to the Judge!*, held Saturday, May 7 at the Lloyd Center Mall. There was heavy traffic at the event and Craig did a wonderful job of encouraging members of the public to interact with the judges and learn about the judicial system. There was also a calligrapher on hand to create and present certificates for individuals who had served as jurors.

Tiffany Minus-Martinez of Stahancyk Gearing Rackner & Kent and **Marja Selmann** of Martin Bischoff Templeton Langset & Hoffman successfully organized a clothing drive for *Dress for Success*, a local nonprofit that helps women get back on their feet and prepare for the workforce. This year we had 14 "Law Firm Captains" who encouraged their colleagues to donate clothing, accessories, shoes, make-up and other items to *Dress for Success* where women can earn the items as they receive interviews, jobs and attend life skills classes. Tiffany and Marja even managed to have clothing pick-up services donated by Stahancyk Gearing Rackner & Kent.

Deanna Franco of Smith and Davis helped to organize a *Juror Appreciation Day* event with Judges Koch and Rosenblum of the Multnomah County Circuit Court. The event was held on Wednesday, May 4 and included Chief Justice Carson, Chief Judge Haggerty, City of Portland Commissioners and the County Chair as participants.

Community Law Week also included a Grand Jury Symposium that was attended by a small but interested audience, which left knowing more about how grand juries operate than most non-criminal lawyers do.

Finally, I was lucky enough to author a resolution that was passed by the Oregon House and Senate, and signed as a proclamation by Governor Kulongoski and Chief Justice Carson, recognizing May 2-8, 2005, as Jury Appreciation Week in Oregon. The resolution and proclamations brought more attention to MBA events and encouraged other jurisdictions to hold jury appreciation events. MBA President Sylvia Stevens joined me at the signing ceremony along with members of the OSB and Rep. Brad Avakian, who carried the resolution on the House floor.

Thanks to everyone who participated in Community Law Week and a special thanks to our sponsors: Ater Wynne, Barran Liebman, Cosgrave Vergeer Kester, Davis Wright Tremaine, Foster Pepper Tooze, Hoffman Hart & Wagner, Lane Powell, Meyer & Wyse, Parsons Farnell & Grein, Perkins Coie, Stael Rives, Tonkon Torp, and banner sponsors Barran Liebman and Cosgrave Vergeer Kester.

CLW Volunteers

Legal Information Centers

- Gretchen Barnes
- Carmel Bender
- Maya Crawford
- Bob Bouneff
- Marinus Damm
- Lainie Dillon
- Owen Dukelow
- Angela Engstrom

Cont. on p. 12

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.

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| Brad Brown | Amy Joseph Pedersen |
| Richard Brownstein | Michael Petersen |
| Laurie Cantelon | Marilyn Podemski |
| Bob Carlton | Charles Pruitt |
| Brett Carson | JoAnn Reynolds |
| Paul Conable | Katherine Rosenbaum |
| Craig Cowley | Kathy Saitas |
| Kristianne Cox | Jill Schneider |
| Betty Crofoot | Robin Selig |
| E. Joseph Dean | Maryhelen Sherrett |
| Dick Deich | Ellyn Stier |
| Keith Dubanevich | Scott Strahm |
| Hon. Randall Dunn | Ray Streinz |
| Jon Fritzler | Bruce Towsley |
| Dick Gleason | Todd Trierweiler |
| Mike Greene | Roslyn Tucker |
| Amanda Hill Guldager | John Tujo |
| Charlie Harrell | Lee Tyler |
| Leah Johnson | Alan Unkeles |
| Sam Justice | Evans Van Buren |
| Chris Kane | Bart Wachsteter |
| Karen Knauerhase | Ian Wallace |
| Elizabeth Knight | Dan Webert |
| Bill Knox | Richard Weill |
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| David Malcolm | Mark Williams |
| Clay McCaslin | Terry Wright |
| Charles McCord | |



Judge Maureen McKnight at the Tell it to the Judge booth



Governor Kulongoski signs the proclamation naming May 2-8 Jury Appreciation Week



Attorney Marinus Damm at the Lloyd Center Mall Legal Information Booth



Referee Chris Larsen at the Tell it to the Judge booth at Lloyd Center Mall

MBA Receives ABA Subgrant to Improve Juror Experience

By Katie Lane, Assistant County Attorney, Multnomah County Attorney's Office.

When ABA President Robert Grey took office, he devoted his term to creating better justice through better juries via the American Jury Initiative. To that end, there have been numerous ABA programs designed to educate communities about juries and jury service and encourage the legal profession to improve the jury experience. The MBA has done a great deal of work in response to President Grey's challenge and at the mid-year ABA meeting in Salt Lake City, the MBA was recognized for its efforts.

This year, the ABA Judicial Division Judges Network sponsored subgrants designed to assist state and local bars, judges, courts and court administrators to work collaboratively to develop and implement programs that improve the American jury system or promote the importance, relevance and vitality of the American jury system. In February, at the judicial division reception, the MBA received one of these subgrants for \$620 to work with the Multnomah County Circuit Court in creating an informational brochure for summoned jurors. The MBA was chosen from 38 applicants, representing 14 states and was one of 9 recipients of subgrants from the judges network. Other recipients include the Skagit County, Washington Superior and District Court, the Rhode Island Supreme Court, the New

York State Unified Court 8th Judicial District and the Sonoma County Bar Association.

The brochure, *Yes, I Will Serve! A Practical Guide for Multnomah County Jurors*, is the brainchild of the Judicial Outreach Committee, with which MBA Executive Director Judy Edwards and Immediate Past President Robert Neuberger are both involved. Judge Ellen Rosenblum brought the availability of the subgrant to the attention of the group and Katie Lane, this year's YLS Community Law Week Chair, authored the grant application.

Yes, I Will Serve! will include information on courthouse security policies, transportation and parking options, the pace of an average juror's day and where jurors can grab a bite to eat or cup of coffee within walking distance of the courthouse. The MBA and the court hope that the brochure will increase citizen response to jury summonses and make jurors feel that jury service is an exciting opportunity to participate in government, rather than an interruption in their daily lives. The brochure will be complete by July 15 and will be provided regularly to summoned jurors shortly thereafter.

If you're interested in participating in the creation of the brochure, please contact Katie Lane at katie.a.lane@co.multnomah.or.us.

Community Law Week a Success

Cont. from p. 11

CLW Volunteers

Legal Information Centers (continued)

Caitlin Glass
Marisa James
Marc Jolin
Cathy Keenan
Karen Knauerhase
Bret Knewton
Sharnel Korala
Justin Leonard
Jeff Lindberg
Clay McCaslin
Lee Meadowcroft
Bill Miner
Rita Molina
Marie Morley
Doug Palmer
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Katy Dent
Dina Glassman
Sarah Greenley
Sandra Hatch
Lindsay Kandra
Cathy Keenan
Poppy Meadows
Laura Ruffolo
Andrew M. Schpak
Stephanie Tate
Megge Van Valkenburg
Wendy Vierra
Jacqueline Weber

Tell it to the Judge

Hon. Linda Bergman
Hon. Terry Hannon
Hon. Linda Hughes
Hon. Chris Larsen
Hon. Maureen McKnight
Hon. Julia Philbrook
Hon. Tom Ryan
Hon. Nan Waller
John Belknap
Todd Cleek
Sandra Hatch
Marc Jolin
Santia Papachristopoulos
Cheryl Richardson
Linda Roth
Iaysha Smith

Grand Jury Symposium

Hon. Julie Frantz, Multnomah County Criminal Court
Chuck French, Multnomah County District Attorney's Office
Martha Spinhirne, Metro Public Defender

Community Law Week Committee

Katie Lane, Chair
Justin Leonard, PR & Fundraising
Jeff Schick, Legal Information Centers
Craig Gabriel, Tell it to the Judge
Tiffany Minus-Martinez, Dress for Success
Marja Selmann, Dress for Success
Deanna Franco, Juror Appreciation Day event

Why Advertise with the MBA?

The *Multnomah Lawyer* is the official publication and newsletter of the Multnomah Bar Association (MBA) and is a timely and well-read source of information for the entire Portland metropolitan region legal community. Nearly 75% of the lawyers in the metro area are members of the MBA. Our membership includes several hundred suburban lawyers and some Willamette Valley lawyers as well. All new lawyers in Oregon are offered a first-year, free membership in the MBA, which includes a complimentary subscription to the *Multnomah Lawyer*. For more information, please visit www.mbabar.org.

Circulation

The newsletter has a circulation of more than 4,000 lawyers, judges and other legal professionals in the Multnomah, Clackamas, Washington and Clark counties.

Interested in Writing Articles?

The MBA is looking for writers and article ideas for the newsletter. If you are interested and/or have an idea for a story, please call or email Judy Edwards, Executive Director, 503.222.3275 or judy@mbabar.org. We are currently recruiting articles related to practice areas, human interest stories or profiles of individuals in the law. Members tell us that they especially enjoy reading profiles of members, analyses of trends in law, tips on points of law and essays on issues in the profession. We also invite letters to the Editor.

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

Magic Markers in Our Courtrooms

By Ronault LS Catalani, Community Legal Services.

I am involved in a small tragedy. There are bigger ones. Our precious planet sorrows from violence, aches from neglect. All over. But I want to tell you about just a little one.

Now, the good thing about our problem – unlike that monster Sumatra Tsunami, unlike that bankrupt Pyongyang dictator, we suffer silently back home – our little American tragedy can be tidily cleaned up. We have the resources. We need only a bit of mindfulness, and for that we need only glance at our Constitution.

Let me tell you what I saw the other day.

It was 10 in the morning, second floor of our grand old courthouse. There were 32 Asian uncles and aunties shoulder to shoulder in that courtroom. Three local media men squinted into viewfinders, three more leaned forward with long black mics. Another six fussed with the same hardware out in the hall. All white. All of them.

There's more.

Taking the stand, a Caucasian county corrections officer. Across from him: two earnest Anglo DDAs. On the bench sat a white circuit court judge.

Now, before my learned colleagues leap for their Professional Responsibility Codes, before my brown buds curse me for what looks like pulling the old OJ race-card, let me hasten to say: *this* is not *that*. They (those journalists, that corrections officer, his honor) were not bigots. And, they (those family and community folk) do not think of themselves as victims of racial discrimination. None of that.

Certainly, Side A was Anglo America. And just as surely, Side B was not. And definitely, a line as dark, as an indelible Magic Marker was dividing our two worlds. But this is not a Black/white issue. These are not the kind of bitter blues issued out of our legal system's ugly history with African America.

No. This is about *our* problem. Asian America's problem. It's about what disables mainstream America's Constitutional values from reaching Portland's 25 immigrant enclaves.

Let me be more specific. That morning I observed no Anglo reporters approaching any Asians – except of course, for the orange jail-suited defendant when he shuffled by. Ankles chinkling.

After two tense hours of watching local media simply incapable of crossing that thick Magic Marker line, my cool lapsed and I lashed out at an obviously unprepared radio guy with something like

“Aduh’illah dude, don’t you boys talk to brown folks?” He looked shell-shocked. Hapless. I felt bad. Sorry.

I eased up. “What I mean is, why don’t you interview one of our nice Asian aunties?” He got more rigid, so I immaculately avoided all reference to non-white-nicity. “Go ahead, pick an elder uncle. Go on – I’ll help you. Go ahead –”

“Well, we’re trying,” he mumbled.

“Apa (what!)” I said, a bit sharp.

“Well, we’re try-ying to be mo-ore...” he whined, even more miserable. I got more agitated. Our divide got no narrower.

“...judges and journalists, prosecutors and cops, who don’t see the profound distinctions between Anglo and Asian, between Hmong and Maya, between Cubanos and Kosovars...are hurting us. Our families hurt. Democracy is hurt.”

Deeep breath. “No-no,” I said soft. “I didn’t mean, you’re not *trying*. I only meant to ask *how*, how are you trying?” He answered with a look like the one our Lab Rio makes when you ask him about the puddle on our kitchen floor. This was going nowhere.

I backed off.

Court was on.

On the stand, that beefy Community Corrections officer solemnly swore that our accused was not a good bet for release to “the community.”

Now, I don’t know for sure to whom he spoke in our Asian community, but I’ll bet you my son’s big black dog that this deputy did not talk to this defendant’s family’s MAA (mutual assistance association).

What’s more, I’ll wager Rio’s cedar chip mattress that no one in that Sheriff’s office spoke to any of the defendant’s community elders. Indeed, I’ll bet his stainless steel water bowl that the state’s witness cannot name one local Buddha temple, a single Muslim mosque, or any Asian Christian church.

What “community” had he talked to? What community are we talking about? Are we talking?

About our judge. With respect, sincerely so: many otherwise super-duper Oregon jurists still believe that being “color-blind” makes justice equal. That is an important point. It was an essential step, an era ago. But color-blindness – “I don’t see black or white. I only

see litigants” – is an artifact from America’s awful slave trade. That particular tragedy was not in play on this morning, not in that courtroom.

Judges and journalists, prosecutors and cops, who don’t see profound distinctions between Anglo and Asian, between Hmong and Maya, between Cubanos and Kosovars, then don’t talk specifically to our differences, are hurting us. Our families hurt. Democracy is hurt.

Talk to us.

Not counting our boy’s Labrador, none of us has left bite-marks on none of you. Not lately.

The gavel slammed. Our judge rose. I dashed out. I got physical.



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Several companies offer MBA members discounts and benefits on the services they provide. The following is a summary of the member benefits from each affinity partner, as well as the contact at each company.

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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.

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Interested persons must submit a City application, cover letter and resume. Those applicants deemed most qualified will



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Cont. on p. 15

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Russian Delegation Visits MBA

Ten members of the Russian delegation of lawyers and judges, sponsored by the World Affairs Council of Oregon, visited with MBA members recently. Our representatives included Sylvia Stevens (not pictured), Peter Glade, Thom Brown, Eric Waxler and Jack Walsh.



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