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MULTNOMAH LAWYER

MULTNOMAH BAR ASSOCIATION

100TH ANNIVERSARY

Lawyers associated for justice, service, professionalism, education and leadership for our members and our community.

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February 2006 Volume 52, Number 2



A New Courthouse – The Time is Now

By Kelly Hagan, MBA President and Schwabe Williamson & Wyatt.

132.440 (1) At least once yearly, a grand jury shall inquire into the condition and management of every correctional facility and youth correction facility as defined in ORS 162.135 in the county. (2) The grand jury is entitled to free access at all reasonable times

to such correctional facilities and juvenile facilities, and, without charge, to all public records in the county pertaining thereto.

Our firm's library manager stuck her head into my office the first week of January and asked me out to lunch the following week. At the appointed time, however, she suggested that instead of lunch I might enjoy a little tour of the courthouse. I was thinking pastrami at Higgins, but I went along. This column is inspired by that tour.

Our county courthouse is unsafe and must be replaced. On that there is little room for disagreement. The more relevant question is when, and where, a new courthouse will be sited. The county's decades of delay in securing a site on Government Square means that the new courthouse (there must be one eventually) is more and more likely to be built someplace other than downtown. That outcome would not serve the membership or the public.

As it happens, our librarian served on last year's corrections grand jury, and she had a hand in evaluating the condition of our county's six operating correctional facilities. The grand jury heard from 90 sworn witnesses, toured all six facilities, including the Multnomah County Courthouse Jail and issued a 20-page report on December 16, 2005. The report is an impressive example of citizenship in action. It includes the following passage:

We do not feel safe in ... the Multnomah County Courthouse Jail. We do not feel threatened by inmates; we do feel threatened by the physical conditions of the facilities. Based on the testimony of numerous witnesses, we do not believe inmates are safe....

The report references testimony on seismic tolerances, likely system and structural failures in the event of either fire or earthquake and the absence, if not impossibility, of an effective evacuation plan.

But I digress; back to the tour. We went first to floor 6A, which does not appear on your elevator panel. It is a mechanical mezzanine between the sixth and seventh floors. Even though I worked in the building during the early 1980s, I had no idea it was there.

Believe me, ignorance is bliss. The mechanical, electrical and ventilation systems laid out on 6A are a Rube Goldberg affair of exposed 90-year old wiring, thousand pound HVAC fixtures suspended by wire over sixth floor offices and courtrooms and combustible material stored within spitting distance of potential heat sources.

Then we visited the basement, another first for me. From an archeological perspective, it was fascinating. Some of the original foundation is still there: 95-year old brick and rough hewn timber. More recent engineering marvels include thousand gallon oil tanks within about 50 feet of the gas furnaces that heat the building.

I understand that, on the strength of the building's sprinkler system, the fire marshal has not red tagged the courthouse. But if an earthquake fractured a water main, or if a fire surged through the central and rear stairwells, I wouldn't want to be in the courthouse, sprinklers or no. I hasten to admit that I don't have any technical expertise about fire risks or the efficacy of the building's safeguards. But, like the grand jury, I do know I don't feel safe there.

I could go on, but the point has been made again and again by every blue ribbon panel that has studied the issue in the past 30-years. We need a new courthouse, and we need it before there is a serious loss of life. Putting aside the operational inadequacy of this grand old dame, the Multnomah County Courthouse is a disaster waiting to happen.

Inaction also carries a further risk: the potential courthouse sites in and around Government Square are disappearing. Two Main Place was purchased last year for development as an office tower. It is an ideal courthouse site: a surface lot close enough to other justice facilities to make prisoner transport by tunnel feasible. The other preferred site, the Lotus Café block, is reportedly not for sale. Westside sites further away from Government Square do not offer significant transportation, safety or operational advantages over a site somewhere along the MAX line on the east side. And the land costs may be significantly less, if not already in the county inventory.

No further study is needed. No further delay should be tolerated. Condemnation should be considered if necessary to keep the courthouse downtown. Please join me in urging the county commission to act and act now to acquire a site for a new courthouse on Government Square.

MBA Board Elections

The MBA bylaws provide for a slate of candidates to be presented to the membership at least 60 days prior to the annual meeting. This slate will appear in an upcoming issue of the *Multnomah Lawyer*.

The bylaws also provide for nominations from the membership at large. A nominating petition, endorsed by the nominee and at least 10 other MBA members, **must be received by 5 p.m. on Friday, February 24, in the MBA office.** Ballots will be included with the April newsletter; they will be due in the MBA office by 5 p.m. on Friday, April 28. Winners will be officially "announced" at the MBA 100th Anniversary event and Annual Meeting on Saturday, May 13.

MBA CLE

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

February

Wednesday, February 1
Separate Property Litigation after Kunze: "What's Mine is MINE!"
Bill Howe
Don Tarlow

Tuesday, February 28
Off-Site Escapades: Employment Issues Relating to Out-of-the-Workplace Behavior
Courtney Angeli
Scott Hunt

March

Wednesday, March 1
Annual Family Law Update
Hon. Elizabeth Welch
Gary Zimmer
Bill Schulte

Wednesday, March 8
Annual Presiding Court Update
Hon. Dale Koch
Hon. Marilyn Litzenberger

Thursday, March 16
Oregon Supreme Court Update
Keith Garza
Paul Levy
Wendy Margolis

Tuesday, March 21
A New Perspective on Jury Selection
Bob Wagner

Thursday, March 23
Clark County Presiding Court Update
Hon. Robert Harris

April

Wednesday, April 5
Annual Judges' Trial Practices Update
Hon. Kathleen Dailey
Hon. Nan Waller
Hon. Janice Wilson

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

DEADLINE for copy: The 10th of the month*

DEADLINE for ads: The 12th of the month*

*or the preceding Friday, if on a weekend.

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NEW ON THE SHELF

By Jacque Jurkins, Multnomah County Law Librarian.

CREATIVE PROBLEM SOLVER'S HANDBOOK FOR NEGOTIATORS AND MEDIATORS: A pracademic approach by John W. Cooley. Published by the ABA Section of Dispute Resolution, 2005. (KF 9084 C66)

SERVING JUSTICE: A history of the Oregon State Bar, 1890-2000, by Gordon B. Dodds and Cathy Croghan Alzner. Published by the Oregon State Bar, 2004. (KF 332 O7 D64)

GOLDSTEIN ON COPYRIGHT, 3 d ed. by Paul Goldstein. Published by Aspen Pubs., 2005. (KF 2994 G65 2005)

ALTERNATIVE DISPUTE RESOLUTION, 3d ed. by Jay E. Grenig. Published by Thomson/West, 2005. (KF 9085 G74 2005)

CLEAN WATER ACT by Joel M. Gross and Lynn Dodge. Published by the ABA Section of Environment, Energy and Resources, 2005. (KF 3790 G76)

HANDLING FIDELITY BOND CLAIMS, 2d ed. edited by Michael Keeley and Sean Duffy. Published by the ABA Tort Trial & Insurance Practice Section of the Fidelity and Surety Law Committee, 2005. (KF 1223 H35 2005)

HANDLING RESIDENTIAL LANDLORD, TENANT ISSUES IN OREGON. Published by the Oregon State Bar Committee on Continuing Legal Education, 2005 (*KF 590 O7O74)

OREGON FORMAL ETHICS OPINIONS, 2005 Revision. Updated and revised to conform to the new Oregon Rules of Professional Conduct. Published by the Oregon State Bar Legal Ethics Committee, 2005. (*KF 306 O7O74o 2005)

THE COMMERCIAL LITIGATOR'S JOB: A survival guide by Cristen Sikes Rose. Published by the ABA General Practice, Solo & Small Firm Section, 2005. (KF 8925 C55 R67)

THE COMPLETE GUIDE TO DESIGNING YOUR LAW OFFICE by Suzette S. Schultz and Jon S. Schultz. Published by ABA Law Practice Management Section, 2005. (KF 318 S38)

PLI'S GUIDE TO THE SECURITIES OFFERING REFORMS by Leslie N. Silverman and Jeffery D. Karpf. Published by the Practising Law Institute, 2005. (KF 1439 S55)

LETTERS FOR BANKRUPTCY LAWYERS: Essential communications for clients, creditors, opposing counsel and others by Marc S. Stern and Joel Pelofsky. Published by the ABA General Practice, Solo & Small Firm Section, 2005. (KF 1527 S74)

ANNUAL FRANCHISE AND DISTRIBUTION LAW DEVELOPMENTS, by May Beth Trice and Michael K. Lindsey. Published by the ABA, 2003-date. (KF 2023 A95)

CALENDAR

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

February

1 Wednesday, MBA CLE Separately Acquired Property
See insert or register at www.mbabar.org.

3 Friday, YLS Young Litigators' Forum Continues (through March 10)
Register at www.mbabar.org.

7 Tuesday, MBA Board meeting

10 Friday, March Multnomah Lawyer deadline

14 YLS Board meeting

20 Monday, Presidents Day MBA closed

22 Wednesday, Multnomah Bar Foundation Board meeting

Wednesday, Campaign for Equal Justice Awards Luncheon at Governor Hotel

25 Saturday, MBA 4th Annual WinterSmash at 20th Century Lanes
See details on pp. 6 and 16.

28 Tuesday, MBA CLE – Off-Site Escapades: Employment Law
See insert or register at www.mbabar.org.

March

1 Wednesday, MBA CLE Annual Family Law Update
See insert or register at www.mbabar.org.

7 Tuesday, MBA Board meeting

8 Wednesday, MBA CLE Annual Presiding Court Update
See insert or register at www.mbabar.org.

10 Friday, April Multnomah Lawyer deadline

11 ACLU 50th Anniversary Party
TBD

14 Tuesday, YLS Board meeting

16 Thursday, MBA CLE – Oregon Supreme Court Update
See insert or register at www.mbabar.org.

17 OWLS Roberts Deiz Award Dinner at the Governor Hotel
Visit www.oregonwomenlawyers.com for details.

21 Tuesday, MBA CLE – New Perspective on Jury Selection
See insert or register at www.mbabar.org.

22 Wednesday, Multnomah Bar Foundation Board meeting

23 Thursday, MBA CLE – Clark County Presiding Court Update
See insert or register at www.mbabar.org.

30 Thursday, YLS Employment Law CLE series begins
See insert or register at www.mbabar.org.

30 Thursday, ABA/NLADA Equal Justice Conference
Visit www.abanet.org/legal services/ejc for details.

April

4 Tuesday, MBA Board meeting

5 Wednesday, MBA CLE – Annual Judges Trial Practices Update
See insert or register at www.mbabar.org.

6 Thursday, Pro Bono Fair

10 Monday, May Multnomah Lawyer deadline

11 Tuesday, YLS Board meeting

13 Thursday, FBA Annual Appreciation Dinner at Hilton
Visit www.fedbar.org/oregon for details.

April 24-May 5 Monday-Friday, CourtCare Campaign

Save the date!
Saturday, May 13, MBA 100th Anniversary Celebration at Portland Art Museum



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Ethics Focus

By Mark J. Fucile, Fucile & Reising.

Inadvertent Production Revisited



Two years ago this month, I wrote a column on inadvertent production. I noted at the time that for a variety of reasons, the pendulum had swung from one that essentially rewarded the recipient of inadvertently produced confidential material to one that posed a disqualification risk to the recipient if the material involved wasn't returned and potential privilege waiver wasn't litigated promptly. With the new Oregon Rules of Professional Conduct (RPC) that were adopted last year, there has been a slight swing back in the pendulum - but disqualification risk still remains if inadvertently produced material isn't handled with care.

When inadvertent production occurs, four key questions usually follow for the recipient: (1) do I need to notify my opponent? (2) do I need to return the document involved? (3) has privilege been waived? and (4) if I don't litigate privilege waiver before I use the document, will bad things happen to me?

Notice
Before the RPCs were adopted last year, the principal guidance in Oregon on these questions was OSB Formal Ethics Opinion 1998-150. That opinion, in turn, drew heavily from an ABA ethics opinion on the same subject - Formal Opinion 92-368. 1998-150 counseled that a recipient of inadvertently produced confidential material had to both notify his or her opponent and follow the opponent's instructions pending a decision by the court on whether privilege had been waived.

This past year saw the adoption of a new Oregon rule specifically addressing inadvertent production, a new accompanying Oregon ethics opinion and the withdrawal of ABA Formal Opinion 92-368. Oregon RPC 4.4(b) creates a duty to notify an opponent: "A lawyer who receives a document relating to the representation of the lawyer's client and knows or reasonably should know that the document was inadvertently sent shall promptly notify the sender."

Return
At the same time, RPC 4.4(b) does not create a rule of ethics on whether a recipient must return inadvertently produced confidential information. Rather, the new ethics opinion, 2005-150, casts that decision as turning on the substantive law of evidence:

"By its express terms, Oregon RPC 4.4(b) does not require the recipient of the document to return the original nor does it prohibit the recipient from openly claiming and litigating the right to retain the document if there is a nonfrivolous basis on which to do so. The purpose of the rule is to permit the sender to take protective measures; whether the recipient lawyer is required to return the documents or take other measures is a matter of law beyond the scope of the Oregon RPC, as is the question of whether the privileged status of such documents has been waived."

Waiver
On the question of privilege waiver, *Goldsborough v. Eagle Crest Partners*, 314 Or 336, 838 P2d 1069 (1992), and *In re Sause Brothers Ocean Towing*, 144 FRD 111 (D Or 1991), are the leading cases in Oregon. Although the state and federal formulations vary somewhat, they generally look at the following case-specific factors to determine whether privilege has been waived through inadvertence: the reasonableness of the precautions taken against disclosure; the time taken to raise the error; the overall scope of discovery; the extent of the inadvertent production; and fairness to both sides.

Recipient Risk
Are there risks if you conclude on your own that privilege has been waived and use the documents without either telling your opponent or first litigating privilege waiver? The short answer is "yes." Formal Ethics Opinion 2005-150 cites a federal case from Seattle that illustrates the risk. *Richards v. Jain*, 168 F Supp 2d 1195 (WD Wash 2001), was not a true "inadvertent" production case because the plaintiffs' law firm received the privileged documents directly from its client who had secretly taken them with him when he left his job with the defendants. Rather than notify their opponents and litigate the waiver issue up front, the law firm simply used the documents in formulating its case strategy. When the defendants found out, they moved to disqualify the plaintiffs' firm. The court agreed - holding that because there was no other way to "unring the bell" to erase the law firm's knowledge of the confidential information, disqualification was an appropriate sanction.

ANNOUNCEMENTS

MBA Exhibits Art

The MBA Board room continues to be adorned with rotating art exhibits from Galerie d'Art Sylvie Platini on SW Broadway. The current exhibit comprises original miniature paintings by Phaedon Constantinidis, who was born in Istanbul. He studied Fine Arts and Photography in Australia and is a professional painter and photographer with 20 years of experience in publishing and graphic design in addition to studio art.

MBA Noon Bicycle Ride

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

Campaign for Equal Justice Awards Luncheon

The awards luncheon will be Wednesday, February 22 at the Governor Hotel. Invitations will be mailed soon.

Queens Bench News

2006 Board Elected
President: Barbara Smythe; Immediate Past President: Shari Gregory; Vice President: Nicole DeFever; Secretary: Camille Tourje; Treasurer: Marja Selmann; OWLS Board Representative: Dana Forman. Members at Large: Traci Kirkpatrick, Sarah Krick, Kristin Sterling, Ref. Julia Philbrook and Barbara Fredericks.

Luncheon

Tuesday, February 14, join Queen's Bench for lunch with Oregon Court of Appeals Judge Virginia Linder. Queen's Bench luncheons take place on the second Tuesday of each month from 11:45 a.m. - 1 p.m. at Jax Restaurant. The cost is \$12. For more information, please contact Barbara Smythe, 503.595.5300, barbara.smythe@klarquist.com or Nicole DeFever, 503.735.5323, nicole@defever.com.

Multnomah County Family Law Group Schedule

To be added to the email schedule notification list, contact David Bean at dib@meyerwyse.com.

On March 27, Judith Swinny from "Parents Beyond Conflict" will address the group. April 24, Zvi Strassberg, Ph.D. will speak regarding psychological testing in custody evaluations. On May 22, Judge Paula Kurshner will address "ORCP 68 Attorney Fee Petitions." June 19, the topic will be "Obtaining, registering and enforcing FAPAs and Stalking Orders."

For information regarding the Multnomah County Family Law Group or to work with the organizing committee, contact Mark Kramer at mark@kramer-associates.com.

Criminal Defense Lawyers' Seminar

Oregon Criminal Defense Lawyers Association presents its seminar, "A Vigorous Constitution" at the Eugene Hilton March 10-11. Nine general credits are being sought. To register, visit www.ocdla.org.

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).

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

Bruce Brewer
Deborah Hewitt
Stanley Horak
Kathleen Moore
Richard Wyman

Although disqualification is only one possible remedy, *Richards* drives home the risk of what can happen if a recipient of inadvertently produced confidential information uses the material involved without first litigating privilege waiver and obtaining a ruling from the court.

MBA Offers New Group Life and Disability Programs

By Steven C. Doty, Northwest Employee Benefits, Inc.

Most people maintain insurance coverage that will cover the replacement of lost or stolen assets. However, most individuals fail to adequately protect their most valuable asset, their ability to produce income.

Effective this month, the MBA will be able to offer group Life, Short Term and Long Term Disability plans to MBA members and their full-time employees. The coverage is underwritten by Fort Dearborn Life based in Illinois. Fort Dearborn has an A+ rating from A.M. Best Company and is ranked # 1 nationally in terms of total number of group life contracts in force and 14th in terms of group life volume.

Each employer group will be able to select the level and type of coverage they desire in

purchasing either Life, Short Term Disability or Long Term Disability insurance. The advantage of offering a group contract to MBA members is that we are able to offer certain minimum levels of coverage on a guaranteed issue basis as shown in the table below.

Larger amounts of life insurance are available, subject to health underwriting. Since these plans are "group" plans, every eligible employee at the law firm must enroll.

If you are interested in obtaining a proposal for this new coverage, please contact Steve Doty at Northwest Employee Benefits, Inc., at 503.284.1331 or dotynebi@aol.com.

Guarantee Issue Amounts

| Firm Size | Life Insurance | Short Term Disability | Long Term Disability |
|------------|----------------------------------|-----------------------|-------------------------|
| 1 | \$20,000 (\$10,000 60 and older) | Not Available | Not Available |
| 2-5 | \$35,000 | Up to \$750 per week | Up to \$6,000 per month |
| 6-9 | \$50,000 | Up to \$750 per week | Up to \$6,000 per month |
| 10 or more | \$100,000 | Up to \$750 per week | Up to \$6,000 per month |

Don't Throw Your Employees to the Wolves!

By Laurie Hager, Sussman Shank.

This summer, the Ninth Circuit ruled that an Oregon employee had a valid Title VII claim against her employer based on the conduct of the employer's customers and other third-parties. Without proper precautions, this result can happen to other Oregon employers.

In *Galdamez v. Potter*, 415 F.3d 1015 (9th Cir., July 15, 2005), Arlene Galdamez was the Postmaster of the Willamina office of the United States Postal Service (USPS). Galdamez was born in Honduras and had a noticeable accent. As Postmaster, Galdamez made controversial policy changes that were met with disapproval by customers and subordinates, as well as negative publicity in the local media. Galdamez became the victim of harassment, vandalism, racial comments and other hostilities. Galdamez believed she was being harassed due to her national origin and accent and reported these observations and events to her supervisors.

After the local community began an organized effort to remove Galdamez from her position as Postmaster, her supervisors ordered her to take an administrative leave and issued a formal warning that she might be suspended. Galdamez then complained that her leave and discipline were discriminatory based on her national origin and accent. In response, the USPS claimed that Galdamez was scrutinized and disciplined because her actions as Postmaster were improper and non-customer friendly.

Galdamez filed a lawsuit in the District Court of Oregon based on discrimination under Title VII of the Civil Rights Act of 1964. After the District Court ruled in the USPS's favor, Galdamez appealed to the Ninth Circuit on several theories. One theory was that the District Court erred when it held that the USPS was not liable for the discriminatory behavior of customers and other third-parties.

The Ninth Circuit agreed with Galdamez and held that the USPS could be liable for the customer, media and public

harassment because the USPS (1) knew or should have known of the conduct; and (2) failed to investigate and remedy the problem. The Court found that the USPS's inaction after Galdamez complained was tantamount to condoning the harassment and that the circumstances could support a claim for hostile work environment or employer liability for discrimination, if other facts were also present.

What does this mean for Oregon employers?

In many industries, third parties, such as customers, clients, or consultants become part of an employee's work environment. Employers should put policies in place, in their handbook or otherwise, that not only prevent harassment from supervisors and co-workers, but also from third parties. These policies should include notice to third parties that harassment will not be tolerated. These policies should also include a mechanism for dealing with employee

complaints about third-party harassment. *Galdamez* makes it clear that once an employer knows or has reason to know that an employee has been harassed by third parties, the employer must take steps to investigate and remedy the problem.

Laurie Hager is an attorney in the Employment Group of Sussman Shank, where she may be reached at 503.227.1111 or at laurie@sussmanshank.com.

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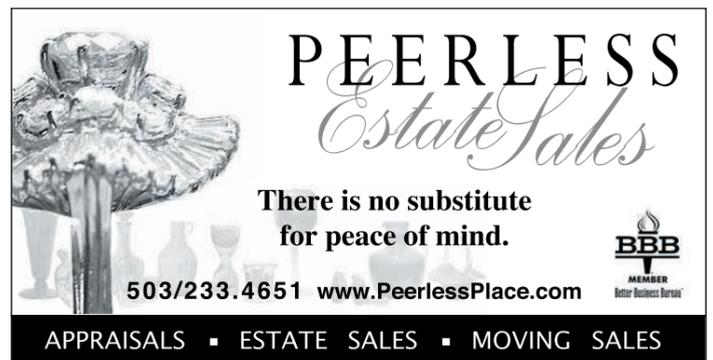
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Multnomah CourtCare and the MBA WinterSmash 2006

February 25

Polish up those bowling balls and dig out the loudest bowling shirts from your closets: WinterSmash 2006 is here! The Portland legal community's favorite bowling event is set for **Saturday, February 25**. The evening is geared toward people of all ages and will be a great way to have fun with your colleagues, kids, family and friends.

Funds raised from WinterSmash 2006 will benefit CourtCare, a collaborative childcare project between the MBA, Multnomah County and the Volunteers of America-Oregon.

CourtCare is a certified drop-in childcare facility located in a converted jury room in the Multnomah County Courthouse. The program serves families involved in legal proceedings at the Multnomah County Courthouse and the US District Courthouse who are without access to other childcare options. The service is offered free of charge. CourtCare can accommodate up to six children at any one time. Infants and children up to five years of age are eligible for the childcare services.

Children are generally at CourtCare from one to four hours at a time. During that time, the children can play with building blocks and board games, draw or paint, listen to stories, take a nap



At CourtCare, children such as Lexani, age 17 months, are provided with a safe and fun environment in which to wait for their parents who are attending to business at the Multnomah County Court or the U.S. Federal District Court.

or engage in a number of other developmentally appropriate activities. When leaving, each child is encouraged to choose a stuffed animal to take home. The program provides families with a safe environment in which to leave their children, giving parents the ability to then concentrate on their court business.

Before CourtCare was established, these families would have to either bring their children into legal proceedings, or leave them waiting in the hallway. Often these children would witness traumatizing scenes while waiting for their parent, such as seeing a family member or other defendants restrained or hearing disturbing testimony. Other children experienced substantial

separation anxiety or simply became bored and acted out. In some cases, such as proceedings for domestic violence, the very presence of affected or related children in the courtroom may be a violation of law.

Judge Dale R. Koch, Multnomah County Circuit Court Presiding Judge, points out that the presence of children in mediation or court settings can significantly distract a parent from paying full attention to the proceedings. When people are coming to the courthouse, they are generally there to resolve or address a problem. One common problem, said Judge Koch, is obtaining or enforcing a restraining order. "These people are experiencing an emotional time in their lives; they

are simply trying to cope," said Judge Koch. He added that having children present only serves to add to their level of stress.

CourtCare has provided childcare services for over 4,420 children and infants since it first opened its doors

in December 2001. Space and budget limitations keep the CourtCare program from accommodating all families in need of that assistance. Currently, the program does not provide childcare for older children, or for the children of court staff or people appearing for jury service.

**How fragile
is your nest egg?**



Contact Mary Osborn, CLTC with MasterCare Solutions at 503.473.8815 or Mary@LTCexperts.com to learn about the long-term care insurance plans and premium discounts for MBA members.

Divorce?

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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.

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AROUND THE BAR



Charles (Chip) Paternoster

MARKOWITZ HERBOLD ET AL Associate **Charles (Chip) Paternoster**, who handles complex commercial litigation and employment law, has joined the Board of Directors of Young Audiences of Oregon & SW Washington for a two-year term. Young Audiences is the oldest and largest arts in education organization in the Northwest and provides yearly educational arts programming to over 380,000 children in Oregon and southwest Washington.

DAVIS WRIGHT TREMAINE **Rodney E. Lewis Jr.** is now Partner-in-Charge. Lewis, who served in that capacity from 1995 – 2002, takes over for **Michael H. Schmeer**, who agreed to serve in this position for three years. Schmeer resumed his full-time practice.

METROPOLITAN PUBLIC DEFENDER **Katelyn Booth Randall** joined the Metropolitan Public Defender, where she will be working in the Multnomah County office.



Stephen J. Connolly



Keith S. Dubanevich

GARVEY SCHUBERT BARER Attorneys **Stephen J. Connolly**, **Keith S. Dubanevich** and **Eric A. Lindenauer** have been elected to serve on the 2006 Management Committee. Connolly serves as

Managing Director. Dubanevich and attorney **Christine P. Brown** have been elected to serve on GSB's firm-wide Executive Committee. **Robert C. Weaver** will continue to serve as chair of the litigation group and **Larry J. Brant** will maintain his position as chair of the business group. Brant has also been elected to the Executive Committee of the OSB Tax Section.

Connolly's practice focuses on business, mergers and acquisitions and real estate. Lindenauer's practice is in litigation, healthcare and employment. Dubanevich's practice is in litigation, including antitrust, business and commercial and product liability. Brown's practice focuses on estate planning and probate. Weaver's practice centers on business litigation and white-collar criminal defense. Brant's practice focuses on taxation, business and mergers and acquisitions.



Eric A. Lindenauer



Christine P. Brown



Robert C. Weaver



Larry J. Brant

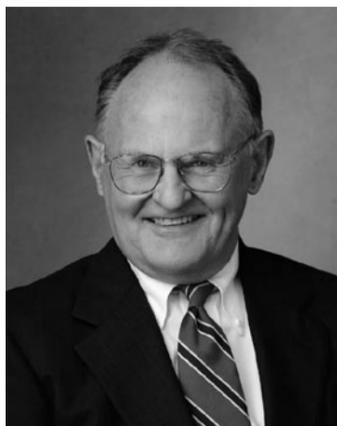


Rick Pope

KIRKLIN FOLAWN **Rick Pope** has joined the firm as a partner. An experienced trial lawyer. Pope has represented businesses and individuals in commercial and complex business disputes, including business tort, intellectual property and product liability litigation as well as insurance coverage actions for policyholders. His joining enables the firm to expand its practice of representing plaintiffs in legal malpractice cases.



Aukjen T. Ingraham



Walter Sweek



Thomas Brown

COSGRAVE VERGEER KESTER **Aukjen T. Ingraham**, a firm associate, has been appointed to the Board of the Oregon Hispanic Bar Association.

Walter Sweek and **Thomas Brown** have been selected by their peers for inclusion in the 2006 edition of *The Best Lawyers in America*. Sweek is in the personal injury litigation section. Brown is included in the appellate law section.



John Motley



Mary Hull



Jim Kearney

STOEL RIVES The firm has five new principals. They include **Mary Hull**, **Jim Kearney**, **John Motley** and **Kevin Pearson**.

Hull practices in the firm's corporate section and is a member of the technology ventures group. She has a general corporate and securities law practice and represents emerging-growth companies.



Kevin Pearson

Kearney practices in the firm's corporate section. He represents and advises public and private company clients on general corporate matters, corporate governance and Sarbanes-Oxley Act compliance, mergers and acquisitions, federal and state securities regulation and general business transactions.

Motley practices in the firm's intellectual property and technology section. His practice involves technology licensing, product distribution, e-commerce and trademark and copyright registration and enforcement.

Pearson practices in the firm's tax section. He focuses principally on federal income tax law, including both transactional matters and tax controversy matters. As part of his transactional practice, Pearson advises clients on all aspects of corporate taxation.

A Century of Service

MULTNOMAH BAR ASSOCIATION
100TH ANNIVERSARY
1906 - 2006

MBA 100th Anniversary Community Gift Fund

Benefits Still Available

The Multnomah Bar Association has established the MBA 100th Anniversary Community Gift Fund to promote civic education and participation in Portland, and we would like to ask for your support. To thank you for your tax-deductible contribution, the MBA has created several opportunities for you or your firm to gain visibility. Depending upon amount, benefits include:

- Your name or the name of your firm listed on a permanent plaque at the Multnomah County Courthouse;
- Tickets to the MBA's 100th Anniversary celebration at the Portland Art Museum on May 13;
- Recognition in multiple issues of the Multnomah Lawyer; and
- Other benefits and opportunities to gain visibility for your firm; see enclosed insert or www.mbar.org for detailed information.

Over 20 individuals have contributed to the fund at various levels so far. In addition, the MBA would like to thank the following firms for their commitments to support the fund: Miller Nash (\$20,000); Schwabe Williamson & Wyatt (\$20,000); Bullivant Houser Bailey (\$20,000); Davis Wright Tremaine (\$10,000); Ater Wynne (\$5,000); Cosgrave Vergeer Kester (\$5,000); Harrang Long Gary Rudnick (\$5,000); Markowitz Herbold Glade & Mehlhaf (\$5,000) and Stoel Rives (\$5,000).

Tips from the Bench

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



Civil Motions - How are judges assigned to hear your motions?

The circuit court in Multnomah County operates a “central docket system,” i.e., cases are not assigned to individual judges when the case is filed. In some counties in Oregon, and in federal court here in Oregon, cases are assigned to individual judges for all purposes upon filing.

A few cases are assigned by the presiding judge sometime after filing to an individual judge, either for pre-trial motions only, or for motions and trial. If your case has such an assignment, and an order from the presiding judge to that effect, then you do all motion scheduling with that assigned judge. If your case does not have an order assigning it to an individual judge, then you must follow the procedure below for setting a civil motion for hearing.

In civil cases, there are generally three categories of motions that are most common: “short motions,” i.e. motions that will need 30 minutes or less of hearing time; “long motions,” which need more than 30 minutes of hearing time; and Motions for Summary Judgment.

Most civil motions in Multnomah County are heard by a group of judges who “volunteer” to do this work. These judges hear almost all of the short and long motions. The judges plan their availability for civil motion assignments and notify the court’s civil calendaring unit of their availability.

When you have prepared for filing a short or long civil motion in Multnomah County on a case that has not been specially assigned to a judge, you are to telephone civil calendaring at 503.988.3168. Tell civil calendaring the case number and how much time you expect the hearing will take. If there have been previous motions in the case, tell civil calendaring which judge has heard the previous motion(s). If this is the first motion, civil calendaring will assign your motion to a judge who is available five weeks in the future. This five-week period will give you time to file and serve the motion, time for the other side to respond to it, and time for you to reply to the response, all before the hearing date.

If there have been previous motions heard by a judge, civil calendaring will assign your motion to that judge if that judge has indicated to civil calendaring that he/she

is available for motion hearings about 35 days out from your telephone call. If civil calendaring is not showing that judge to be available when your motion needs to be heard, you will be invited by civil calendaring to contact that judge’s office directly to see if that judge can make some time available, despite that judge’s other responsibilities and schedule. It is the policy of the court in Multnomah County to keep subsequent motions with judges who have previously made ruling on short motions in the case, if at all possible. We call this the “fly-paper rule.” The “fly-paper rule” does not apply if the previous motions were either expedited motions or long motions. If that judge can make time available, your motion will be scheduled directly with that judge’s office. If that judge cannot make time available, you will once again call civil calendaring to be assigned to the next available judge.

Note: you are not to contact a judge’s office directly to schedule a civil motion unless the presiding judge has signed an order assigning the case to that judge, or unless civil calendaring tells you to do so.

A few years ago, the court instituted a procedure to permit litigants to request expedited hearings on civil motions, when the litigant filing the motion believes it needs to be heard before the five-week waiting period involved with most civil motions. A judge is available each day at 11:30 a.m. to hear your requests for expedited hearings. Of course, you must notify the other litigants of your intention to appear and request an expedited hearing, and you must have sufficient reasons for this special handling. If the judge hearing your request for an expedited hearing thinks your request is well-founded, he/she will assign your motion to a judge. You are to then immediately contact that judge’s office and schedule the expedited hearing with that judge.

Practice tip: In the words of one judge, “your failure to plan does not justify an expedited hearing.” If you could have filed the motion early enough to have it set for hearing in the ordinary course, you will not likely have your request for an expedited hearing granted.

Currently, through the end of March, 2006 Judge Ronald Cinniger is handling these requests. You may contact presiding court at 503.988.3846 if you have questions about which judge is handling expedited motion hearing requests.

Motions for Summary Judgment are assigned for hearing differently than routine short and long civil motions. Absent an order from the presiding judge assigning the case to a judge, civil calendaring will generally assign your Motion for Summary Judgment to a pro tem judge for hearing. If you want an elected/appointed judge to hear your Motion for Summary Judgment, you must



By Marc Abrams, Oregon Department of Justice and Court Liaison Committee member.

Presiding Judge Report

Judge Koch reported that he has appointed an Advisory Committee on Court Security and Emergency Preparedness, as required by an amendment to ORS 1.180. Judge Katherine Tennyson will serve as chair of the committee. The committee membership includes the MBA President or his designee. One issue within the new committee’s jurisdiction is courthouse access and determining which individuals entering a court facility may bypass the security screening. Currently, the court facility access identity cards are available to attorneys to bypass screening. In addition, all court and county staff and law enforcement officers are able to avoid security screening using their employee identity cards. Judge Koch said that the newest national recommendations on court house security recommend that all individuals submit to security screening, including individuals who work in the court facility. As Judge Tennyson’s committee reviews the current practices, MBA representation will be very important. Cuts in the Sheriff’s budget, and the trade offs to access screening and building security due to reduced

funding are an additional and related concern that will be before the committee. Doug Bray reported that he has asked his staff to determine if it is possible to establish a relationship with the OSB to use the bar’s address list to keep current the circuit court’s OJIN attorney address list. This circuit court effort, if it can be done, would be a pilot to determine the benefits and the problems of such a change. While it has been discussed over the years, it has not been done by any circuit court.

Judicial Profiles

There was discussion of posting the profiles on the MBA Web site. The discussion moved on to the issue of the judicial practices publication. The Judicial Practices Subcommittee (Hagan, Chicoine, Meyer, Abrams) is reviewing questions for a new survey and will develop ideas on dissemination of the new publication and judges’ profiles.

A Century of Service Update

Judy Edwards reported on the collective effort that is going into both the pullouts in the *Multnomah Lawyer* and the law focus section in the *Business Journal*.

Jury Verdict Report Subcommittee

Leslie Kay showed the committee the latest results of how data that does not require staff time beyond doing an OJIN run can be displayed. The committee discussed what additional fields (counsel names, defendant names, etc.) might be useful. There was also discussion as to how a more precise identification of type of case might be accomplished.

MBA Brown Bag with Judge Wilson

Julia Hagan reported that eight judges (Wilson, Wittmayer, Koch, Beckman, McShane, Maurer, Wyatt and Albrecht) and 45 attorneys attended. The response was very positive. Another brown bag will probably be scheduled for May and there appears to be sentiment that semi-annual brown bags are worthwhile.

New Business

Julia Hagan reported on her meeting with the President of the Clackamas Bar.

first get an order at Ex Parte from the presiding judge allowing this assignment. Presiding court has a form of order for you to use to accomplish this. A broader list of judges handles Motions for Summary Judgment than handle routine short and long civil motions. It is common that your Motion for Summary Judgment will not be heard by the judge who has heard previous short or long motions.

We know this motion scheduling procedure is complex, and there is much misunderstanding about it. Civil calendaring (503.988.3168) welcomes calls with any questions about scheduling motions. Lawyers are urged to share this information with legal assistants and secretaries.

MBA Brown Bag with Judge Wilson

Judge Janice Wilson held a brown bag session for members of the Multnomah Bar in her courtroom on December 14, 2005. Forty-five attorneys, including criminal and civil litigators, had a chance for an informal discussion with eight members of our county’s bench: Wilson, Wittmayer, Koch, Beckman, McShane, Maurer, Wyatt and Albrecht. The conversation ranged from matters of personal judicial preference on courtroom formality, to security in the building, to whether we will ever see a new courthouse constructed. Both the bench and the bar found the meeting fun and informative and there are plans to continue the practice, with the next lunch planned for sometime in May.

Profile: Referee Terry Hannon Multnomah County Circuit Court

By Stephen Madkour, Madkour & Mottram and Court Liaison Committee member.

If you have ever appeared at night court or at the FED court, you have likely met **Judge Terry Hannon**. Terry Hannon, judge *pro tem*, is a Multnomah County Referee. Referees are actually Judicial Department employees working under the direction of the presiding judge. As a referee, Judge Hannon serves as the night court judge in east Multnomah County, where he presides over violation arraignments. "I think I'm the only night court judge who doesn't have his own TV show. I like to think of myself as a kinder, gentler Judge Judy."

Judge Hannon holds court each evening from about 4-7 p.m. During his tenure as referee in the night court, Judge Hannon has established a successful Spanish language driving education program for Hispanic defendants involved in driving infractions. Judge Hannon reports that the program has been remarkably successful in educating individuals on the rules of the road and the necessity of keeping your license and maintaining insurance coverage. The defendants who have gone through the classes have very low recidivism rates.

In the mornings he sits at the Multnomah County Courthouse, where he serves in various

referee courts, FED, traffic trials, stalking petitions, small claims and occasionally sits at the Justice Center. After two years in the landlord/tenant court, Hannon says that has to be his favorite court. "It's a fascinating, action-oriented court with approximately 800 new cases a month." The judge continues, "Professionally, the landlord/tenant court is very satisfying, however, it's a very sad job that has to be done with courtesy and respect for the people involved."

Judge Hannon received his undergraduate degree in business administration from the University of Oregon. He then did a tour in the Army at McChord Air Force Base near Tacoma. After his service, he attended law school on the GI Bill, enrolling at Northwestern School of Law and attending night classes at the old downtown Portland classrooms. He reflects on the great instructors because all the courses were taught by active members of the bar, including several lawyers who later became respected jurists such as Bill Dale and Thomas Tongue III, who taught evidence.

During law school, Judge Hannon was a Vice President at First National Bank of Oregon.

Throughout his professional career, Judge Hannon has blended his business skills and acumen with his legal training. After 10 years as a trial attorney in the areas of business and commercial litigation, Judge Hannon served as in-house counsel for a number of local investment firms, where he dealt primarily with insurance, trust and securities law. Judge Hannon is recognized for his level of expertise on Taft-Hartley pension plans.

Throughout his career, Judge Hannon devoted his time to community service. For example, he has served the community through his volunteer efforts as chairman of the Parkrose School Board, President of the Gresham Chamber of Commerce and President of the Gresham Rotary. He was also a founding member of the Portland Society of Financial Analysts.

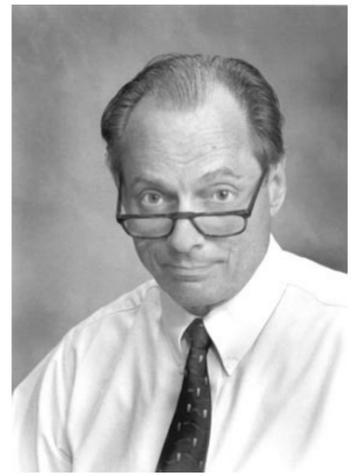
After his four sons left home, Judge Hannon started Oregon Gourmet Crab, a fresh seafood packing and shipping company located in Garibaldi. Once again blending business with his legal training, Judge Hannon was appointed by then Governor Kitzhaber to be Justice of the Peace for Tillamook County. In that capacity, he presided over traffic violations, fish and game

violations, FEDs, small claims and performed lots of marriages. Shortly afterward, the Supreme Court appointed him as a judge *pro tem* and he became the county's first night court judge.

Judge Hannon remains active, both mentally and physically. He grew up hunting and fishing and later focused more on boating and his golf game. "My wife still beats me in golf," he sheepishly admits. Judge Hannon also started the "Tin Man Triathlon" competition, a truncated triathlon of sorts for those 50 and over that is a play on the more severe "Iron Man" competition. In 1995 the judge was crowned champion in the 55-60 age-group, "probably because I was the only entrant in that age group."

Judge Hannon is a native Oregonian. He was born in Portland and raised in Klamath Falls. He currently resides in Portland with Fran, his wife of over 46 years. The Hannon family has four sons.

Again, continuing with the life-long theme, Judge Hannon currently operates, along with his son Mike, Solidarity Investment Consulting, Inc. Together they publish an online investment



Judge Terry Hannon

newsletter for 401k participants called "TurtleRabbitInvesting.com." He confides, "I'm the turtle; slow and steady, concentrating on the fundamentals and Mike is the computer-driven, high-tech guy."

Judge Hannon believes that as attorneys, we should devote our skills and expertise to serve the community. True to his philosophy and at a time when most lawyers are enjoying retirement, Judge Hannon continues with a full workload. "I'm a workaholic, he admits. "I enjoy the work and view it as an opportunity to stay mentally and professionally active while serving my community and the profession." In closing, the judge reflects, "I feel so honored to serve the state and my community in this capacity."

The Widow's Defense An immigration lawyer fights for those left behind

By Rebecca Koffman

Reprinted, with author's permission, from the Oregon Business magazine.

Brent Renison has none of the flash or overweening confidence of a television courtroom lawyer. He is 37, a soft-spoken man with an open, earnest manner. Despite his unassuming demeanor, he has been at the center of two recent high-profile deportation cases in Portland.

At the heart of both cases is a law that denies legal status to immigrants whose U.S. citizen spouses die within two years of the marriage. Renison calls it the "widow penalty" and he has been fighting to change it, in the courthouse and in Congress, for the past two years.

Renison is an immigration lawyer and partner at Portland's Tonkon Torp. He has a thriving corporate and individual immigration practice that logs 1,800 billable hours per year. But it is his pro bono work on the widow penalty that is his driving passion. He estimates he spends about 300 of his 400 yearly pro bono hours on widow penalty court work and advocacy. This is a whopping total. The Oregon State Bar Legal Services Department recommends 80 hours of pro bono work yearly.

It started when Carla Mantia, a 22-year-old South African woman,

arrived in Chicago in 1999 to work as an au pair. She met and fell in love with Robert Freeman and they married in 2001. Eleven months after their wedding, Robert was killed in a car accident on the way to work.

After her husband's death, Freeman moved to the Pacific Northwest to be closer to his family. In May 2004, Renison says Freeman was asked to report to immigration authorities in Portland where she was held for seven hours until he secured her supervised release and got a stay on her deportation order until her case could be heard in district court.

Renison had no luck persuading the immigration judge in that court to interpret the law in Freeman's favor. By that point, Renison says he had learned of five other widows in similar situations: "I thought, there's something going on here. This is such an inflexible law with such harsh consequences. It seemed like it was ripe for judicial review."

Tonkon Torp, Renison and Freeman have decided to fight the case to the end. Along the way, the widow penalty has garnered national and international press attention and Renison now works pro bono on behalf of 38 widows around the country. Recently he

represented Rose-Marie Barbeau-Quinn, the owner of Portland's Vat and Tonsure restaurant and a Canadian national, in an unsuccessful 11th hour attempt to stave off deportation. She is now in Vancouver, BC.

Renison also has taken the battle beyond the courthouse by spearheading a national campaign to lobby Congress to abolish the widow penalty. The work is emotionally trying. Talking in his office about the photos his clients showed him of their dead husbands, he is visibly moved.

"I've often put myself in the client's shoes, I've looked at all those pictures," he says, his voice faltering. He spins on his chair to look out of the window. After a pause he says, "Sometimes I have dreams about the people who have passed away. It pains me to think that someone can be left so alone."

"Brent has really made this a crusade," says Marshall Fitz, director of advocacy at the American Immigration Lawyers Association in Washington, D.C. "He's a poster child for legislative advocacy. He's done a great job working both sides

of the aisle, both chambers, and getting this fix included in a variety of legislative vehicles."

That fix is a provision that Renison drafted that is included in the McCain-Kennedy immigration reform bill. It would waive the two-year requirement for people who have entered good faith marriages and whose spouses die before their applications for permanent residency are approved. The McCain-Kennedy bill is up against two competing immigration bills so Sen. Arlen Specter, (R-Pa.), chair of the Senate Judiciary Committee, has cobbled together those portions of the three bills that he thinks have a good chance of passing, which Renison says includes a partial version of the widow penalty fix. A vote is expected on the bill early this year.

"My focus now," says Renison, "is on pestering the Judiciary Committee folks to include a more comprehensive fix in the bill."

Would he ever abandon his fight against the widow penalty? "It's funny you should ask," he says. "I've been having morbid thoughts lately and so I made an agreement with Turid Owren (his partner in Tonkon Torp's immigration department) that she would carry

on with this fight if anything happens to me."

In September, Renison presented oral arguments on behalf of Carla Freeman to the U.S. Court of Appeals for the Ninth Circuit. With his wife, Kariman, a Palestinian national, in the audience, Renison stood rigidly in Portland's Ceremonial Courtroom to speak for his client, who was not in the courtroom. His voice shook slightly as he answered rapid-fire questions from three judges. Freeman had returned to South Africa in December 2004 to be with her sick father and will not be allowed to return to the United States for 10 years unless the appeals court rules in her favor. Renison says it takes three to 12 months for the court to rule on a case.

"At 10 a.m., the decisions are published on the (court) website. I check it every day," says Renison.

He also admits that he's addicted to checking the American Immigration Lawyers' site, monitoring it obsessively for postings about new regulations.

"You've got to keep up," he says. "If you make a mistake it's somebody's life."

Building Your Base of Contacts

By Elizabeth A. Davis, Assistant Dean for Career Services, Lewis & Clark Law School.

So, you've graduated from law school and have a job. Your career is underway and now all you have to do is keep your head down and work hard, right? Well, maybe, but if your goals include moving up the ladder and/or having the flexibility to move to another employment setting at some point, then you should give some serious consideration to building your base of contacts. What does that mean? Well, it usually means engaging in some form of networking. Not surprisingly, few words invoke the kind of dread that networking does. But, for many lawyers, ongoing networking is an important part of long-term career development - by building a professional network, you may be creating options.

But how, you ask, can a new lawyer find time to network? The billable requirements, balanced with having a personal life, leave little time to go out and cultivate contacts.

Here are a few ideas to consider: (1) Reconnect with the people you already know, like law school classmates and attorneys you met when you were job searching. These are people you've already made the effort to get to know and keeping in touch should be non-threatening. Have lunch or coffee with one old contact every week or so. Some of the best networkers

I know (who I am confident will move up the ladder into positions they aspire to) have lunch with attorneys they already know on a constant basis. That ongoing contact makes it much easier to call or email to ask for inside information on a particular firm or for support when running for positions within legal organizations of some kind.

(2) Attend CLE seminars and conferences in areas of law that you either work in and/or areas of law you have a long-term interest in. Attorneys often start their careers in areas of law they do not intend to practice long term. CLE classes are one way to keep your knowledge base current in other areas of law and they give you easy access to attorneys who practice in an area you would like to eventually move into. If you do go to CLE seminars, be sure you sit next to attorneys you don't know and introduce yourself. Ask questions of your neighbors during the breaks - ask about their work, how satisfied they are with their practice, advice they have for another attorney wanting to break into that area, etc.

(3) Volunteer for a committee or active organization - one that you have a genuine interest in - so that when you have to stay downtown until 7 p.m. to attend a meeting (and miss dinner with your family) you won't be resentful of the time. Committee work can be fun and productive - it also gives you non-

threatening networking access to other attorneys who share common interests with you (after all, they agreed to be on the committee too). If you do join a committee, be prepared to really commit to being an active member.

(4) Offer to write an article for a bar section newsletter and contact other attorney experts to help you with the research for the article. The article will give you a great reason to contact attorneys who are well known in a particular practice area and can serve as another non-threatening way to network. If the article is published, your name is also out there for other attorneys to see and they may contact you for more information on the topic when they are doing research.

Even though many of us think of networking as either individual meetings over coffee or attending social receptions (which can be really good ways to network!), there is no one right way to network. Find a method, or combination of methods, to build your contact base that fits you and doesn't stretch your comfort zone too much. The key is to make networking an ongoing part of your professional development and, realistically, you will only do that if you employ methods that fit your individual style.

Trung Tu: A Young Lawyer on the Move

By Catherine B. Brinkman, YLS President-Elect and Schwabe Williamson & Wyatt.

"Everything begins with choice," said Morpheus in *The Matrix: Reloaded*. Although Portland attorney Trung Tu believes his scenes as an extra in that film landed on the cutting room floor, the line resonates just the same.

Trung's choices are many, and he executes them with an indefatigable joie de vie. He maintains a successful litigation and appellate practice at McEwen Gisvold, effectively, lovingly and single-handedly parents his eleven-year-old brother and contributes to the community through public service and pro bono work.

Like many young lawyers, Trung's choices are motivated by his desire to contribute to the community that has helped him achieve his goals, and by a commitment to help the less fortunate. "I believe being a lawyer is a privilege, and that privilege comes with responsibilities, including giving back to the community," reflects Trung. Fortunate for the rest of us, Trung is also inspired to improve the community's opinion of lawyers. Fortunate for the community, Trung thrives on a hectic schedule and a healthy dose of stress.

Choices, indeed.

In a climate where the new generation of lawyers values

life balance, Trung finds balance in keeping a very precise calendar. Trung is proud of his work coaching the Jefferson High School Mock Trial Team. A more dedicated alumnus would be hard to find - Trung is a board member of the Notre Dame Alumni Association, the chairperson of the Asian Pacific Alumni of Notre Dame Board of Directors and a member of the Notre Dame Asian Studies Advisory Board. Notwithstanding the substantial time commitment required of these positions, he has also been elected to the OSB House of Delegates, and is a member of the Owen M. Panner Inn of Court, the Oregon Minority Lawyers Association, the OSB's Affirmative Action Committee and the Portland Area Business Association. He also provides pro bono legal services to the Q Center, a new community center for Portland's LGTBQ Community. From time to time, he mentors minority students from Oregon's three law schools.

And, proving that it's never too late to get involved in the YLS, Trung recently found time to contribute to the work of the YLS Service to Public Committee. It seems a perfect match. Committee Chairperson Katie Lane remarks, "He is always on the lookout for community service projects in which the YLS can participate. He is creative, respectful and hard working. He's a great lawyer and a great guy. I'm thrilled he's on my committee."



Trung Tu

Amazingly, in the midst of his public service and pro bono contributions, Trung has found time to develop a vibrant and varied legal career. Before joining McEwen Gisvold, Trung was a senior staff attorney for the US Court of Appeals for the Ninth Circuit in San Francisco, clerked at the Oregon Department of Justice and for an Oregon Supreme Court Justice and was a certified law student intern at the Multnomah County District Attorney's Office.

In a world of competing obligations, Trung has chosen to commit, contribute, participate and inspire. And if you don't bump into Trung racing through downtown on his way to another



YLS Socializes and Provides Toys for Tots

On December 14, 2005, the YLS held its annual Holiday Drop-in Social at Aura. Attendance was good and spirits were high as the holiday season kicked into high gear. The festive atmosphere was perfect for YLS members connecting for the last time in 2005. More importantly, the social marked the culmination of the annual toy drive in conjunction with the US Marine Corps Toys for Tots program. Toys for Tots has been helping children during the holidays since 1947, and all donated toys stay in the local community. The event was a resounding success. Sergeant Rowley and Lance Corporal Walker, recently returned from seven months in Iraq, attended on behalf of Toys for Tots and found themselves loaded with toys. Thanks to the overwhelming generosity of MBA members, the Marines could barely fit all the toys in their vehicle. But this was only half of the story, as the heart of the toy drive was the internal collection by numerous Portland law firms. The YLS gives special thanks to Barran Liebman, Brownstein Rask, Cosgrave Vergeer Kester, Foster Pepper, Gevurtz Menashe, Miller Nash, Perkins Coie, Schwabe Williamson & Wyatt, Stoel Rives, Tonkon Torp, Yates Matthews & Associates and Zipse Elkins & Mitchell for their incredible support and generosity. This has been a challenging year for many families, and thanks to these firms and MBA YLS members, many local families experienced the joy of the holiday season with the gift of toys for their children.



Brenna Tanzosh with a donated bear at the holiday social



Lance Corporal Walker and Nicholle Winters at the holiday social

meeting, you might catch a glimpse of him as an extra in *The Matrix: Revolutions* or the *Incredible Hulk*, or in whitewater, climbing a rock, camping or hiking. In the words of the

Matrix's Merovingian, "Who has time? But then if we do not ever take time, how can we ever have time?" Trung chooses to make the time.

The Corner Office

As the time for nominations for the MBA's Annual Professionalism Award draws near, the MBA Professionalism Committee thought it might be interesting to review some of the remarks of two of the past recipients of this award to help put into context the importance not only of the award, but of the practice of professionalism. We all know we are bound by the Rules of Professional Conduct and recognize those rules set the minimum level of conduct and if we fall below that level, we also know we will be subject to discipline. "Professionalism" on the other hand is a much higher expectation of practice. Those of us who believe in this concept may define it in varying terms but we know it when we see it.

2004 Professionalism Award recipient Robert Weaver put it like this:

"If, like me, your practice takes you to courtrooms and deposition rooms in other cities, you don't need to be told how precious and fragile Portland's tradition of professionalism is. Increasingly, the way we do things distinguishes us from other lawyers throughout this country. It is our gold standard and the measure by which we all judge each other.

"For us, professionalism requires that we practice with respect for each other, that we discourage our members who tend to make differences between our clients personal to them and that we resist as best we can the urge to respond to personal attacks in kind. While this is all easy to say, it is hard to do. It is also a tradition that would be very easy to lose. The pressure put on us to be other than professional that comes from our clients, other lawyers and the culture in which we practice is enormous. Doing the right thing often goes unrecognized. Perhaps the most valuable aspect of a night like this is that it invites us all to again recognize this precious tradition, to embrace it and to be ever vigilant in protecting it."

Mark Wada, the 2002 recipient, had these thoughts about professionalism:

"A little over 10 years ago, our firm was selected from a few firms here in Portland to represent a growing company. One of the first projects they wanted us to do was a large public debt offering. I participated in the first conference call with the underwriter, auditors and the President and CFO of the client. After the call, my partner and I talked about whether we should take on the project, because it was clear this was going to be a long and difficult offering to do. To make matters worse, we were already working on another client's IPO. Fearful that by refusing this project, the client would have second thoughts about whether it should have picked a larger firm, we called the client back the same day and told them why we would not take on the project. The client's response was that our decision only served to reinforce their belief that we were the right firm for them, because another firm in our situation may have simply worked on the project, billed lots of fees and then left them in the lurch down the road. They came back to us for lots of other work, and we did probably around 100 acquisitions for them over the next 10 years. By the way, the NY firm that handled the public debt offering billed around one million in fees and it took so long to do the offering that the client did not want to use them again.

"Doing the 'right thing' was the best thing for our relationship with the client. Instead of hurting our relationship, the client knew we could be trusted to do what was in the client's best interests, even if that wasn't in our short-term interest.

"We are fortunate to practice in an area where we see some of the same lawyers over and over again in our careers - where reputations matter, including reputations

relating to professionalism. When I talk with lawyers in larger cities, there is clearly more of a problem with professionalism when they work on a case against a lawyer and do not expect to see that lawyer again in their career.

"Some years ago, after a difficult employment law case, the lawyer representing the employees told me that I behaved just like the book on me said I would. Having not written an autobiography, I wondered what the book on me said. When the lawyer told me about my reputation in the legal community, it impressed on me how much our reputation for professionalism, honesty and integrity matter in this community and how other lawyers may handle cases differently, depending on who is on the other side. And if that reputation is positive, I think our clients are better served and the practice of law is more satisfying."

As Weaver said, this is all easy to talk about, but it is difficult to do. Let the challenge for the New Year be to strive to carry out the fine tradition of professionalism that the MBA recognizes each year. Let us take the time to instill this tradition in every member of the bar by being an example of the essence of professionalism as each of us defines that concept. It's a culture worth cultivating.

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.

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 more about pro bono opportunities in Multnomah County, check out the *Pro Bono Opportunities in Oregon* handbook, available at www.mbabar.org/docs/ProBonoGuide.pdf.

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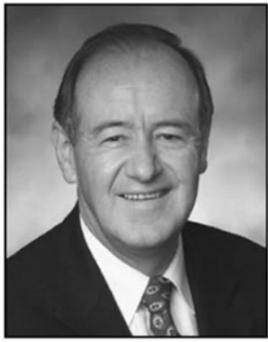
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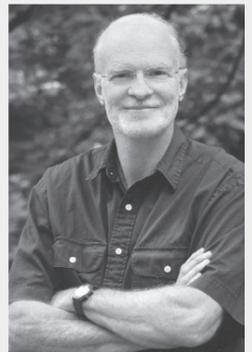
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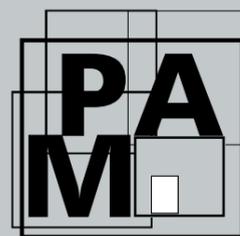
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WinterSmash is February 25

WinterSmash 2006, set for February 25, 6-9 p.m. at AMF 20th Century Lanes, 3550 SE 92nd Ave, in Portland, will raise funds to help CourtCare operate for another year. So bring your family and friends to WinterSmash 2006 for a little good-natured competition, low-impact exercise, good food, drinks and a whole lot of fun. Your participation will not only add to the festivities, it will directly benefit CourtCare and indirectly benefit the Portland legal community and the community as a whole.



Advance tickets are \$35 for adults (\$40 at the door) and \$10 for kids 3-12 years old. Price includes food, 2 drinks, shoes, bowling balls, lane time and the pleasure of knowing that you are helping CourtCare. You can register using the insert in this issue of the *Multnomah Lawyer*.

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