



# MULTNOMAH LAWYER

MULTNOMAH BAR ASSOCIATION

1906

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

May 2009 Volume 55, Number 5



## How We Screen Judicial Applicants

By Michael Dwyer, President, Multnomah Bar Association.

With over 4,300 members, our hardworking staff cannot do it all, and so the MBA relies on its volunteers to carry out its core functions, perhaps the most important of which is to safeguard the administration of justice. We have committees that carry out various

missions – to bridge bench and bar, to promote equality, to bring low-cost, high quality CLE programs to our members, to advance the cause for a new, safe courthouse and to provide legal services to the poor.

One of the most important missions our volunteers undertake is to screen applicants for the judiciary. This is the work of our Judicial Screening Committee (JSC). Its members have the difficult task of investigating, interviewing and ultimately voting on whether a judicial applicant is given the “highly qualified” designation.

Not everyone is acquainted, however, with the workings of the JSC. Because its recommendations are so meaningful, and because by necessity it must conduct its work behind closed doors, a lack of knowledge about the JSC can lead to misimpressions and misinterpretations. If not corrected, this will eventually result in a lack of trust in a committee that provides us a very important service. I thought, therefore, that I would provide a general overview.

Evaluations are conducted by the JSC when there are vacancies on the circuit court, or when applicants wish to serve as pro tem judges. Applicants fill out an extensive questionnaire, which must include a list not only of references but opposing counsel in past cases. The JSC assigns a member to investigate an applicant for the pro tem and the circuit court positions.

The investigation encompasses interviews with the applicant’s references and opposing counsel, and may go further if these sources provide important investigative leads. These interviews must be kept confidential – no one is going to provide helpful and necessary critical feedback if there is a chance that one day that person might have to appear before a judge of whom they were critical - and interviewees are therefore assured that their names, the information they provide, and their opinions will not be discussed outside the committee. As a result, the JSC is able to gather valuable information.

In addition, subcommittees of the JSC conduct personal interviews with applicants for circuit court positions. I know from experience – having once chaired the JSC – that these interviews are critical for applicants. In interviews applicants get the opportunity to demonstrate their passion for service on the bench. No matter the prior reputation or number of court victories, those applicants who are not able to articulate a vision and communicate their passion in these interviews lose an opportunity to impress the JSC with their commitment to the bench.

The MBA expressly prohibits discrimination in its various guises. In evaluating applicants, the JSC is governed by this non-discrimination provision: “Applicants shall be evaluated without regard to race, religion,

color, national origin, sex, age, sexual orientation, marital status, disability, political affiliation, expunged juvenile record, family relationship, or any other non-merit factor.” The committee members of our JSC are made aware of this policy, our process, and the relevant criteria by which all candidates are screened.

The committee then evaluates applicants using the following published criteria, each of which receives equal weight, for evaluating candidates for permanent or pro tem judicial positions: (A) Integrity and character; (B) Judgment and intellectual capacity; (C) Experience including, but not limited to, trial experience; (D) Industry and diligence; (E) Judicial temperament, including whether the candidate would be courteous and considerate of counsel, parties, witnesses and jurors and whether the candidate is even-tempered; (F) Professional ability and knowledge of the law; (G) Non-discriminatory attitude and behavior regarding, but not limited to, race, ethnic origin, gender, age, disability and sexual orientation; (H) Contributions the candidate would make to the quality, character and diverse composition of the judiciary. The term “diverse” refers to a protected class and socio-economic background. It should carry equal, but not elevated, weight when deciding which candidates should be deemed the most qualified applicants; (I) General reputation in the community; (J) Civic and community activities; (K) Any other relevant facts that affect the applicant’s ability to serve competently in a judicial capacity.

In committee meetings JSC investigators will provide a comprehensive oral report of their findings, investigation, and recommendations. For judicial applicants, the JSC votes on whether an applicant is initially “Qualified,” and thereafter, “Highly Qualified.” To receive a Highly Qualified rating, a judicial

Continued on page 4

## MBA CLE

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

### May

**Wednesday, May 6**  
**Nonprofits in Today's Environment**  
Scott Howard  
Jeffery Thede

**Tuesday, May 12**  
**Construction Liens**  
Thomas J. Murphy  
Angela Otto

**Tuesday, May 19**  
**Accounting and Financial Management for Lawyers**  
Mark Clift  
Tom Hooper  
Michelle Kelly  
Todd McConachie

**Thursday, May 28**  
**Multnomah County Judges Trial Practices**  
Judge Michael McShane  
Judge Katherine Tennyson  
Judge Janice Wilson

### June

**Tuesday, June 2**  
**Corporate Counsel's Perspective on Client Relations**  
Jim Carter  
Emi Donis  
Dean Freed  
Kenton Erwin

**Wednesday, June 3**  
**Litigating Trade Secrets**  
David S. Aman  
Thomas R. Johnson

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Photos from the event will appear in the June *Multnomah Lawyer*.

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## In This Issue

New on the Shelf..... p. 3  
The Corner Office..... p. 3  
Calendar..... p. 3  
Announcements..... p. 4  
Ethics Focus..... p. 4  
Around the Bar..... p. 7  
Tips from the Bench..... p. 8  
News from the Court..... p. 8  
YLS..... p. 10  
Classifieds..... p. 14  
Multnomah Bar Foundation...p. 16

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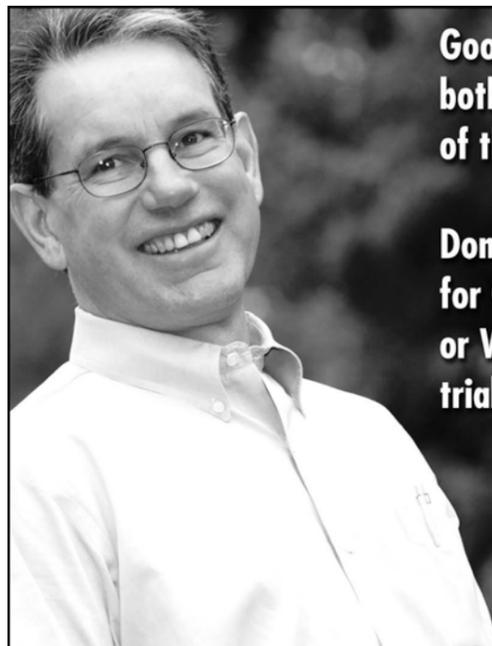


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# NEW ON THE SHELF

By Jacque Jurkins, Multnomah Law Librarian.

## COLLABORATIVE LAW:

Achieving effective resolution in divorce without litigation, 2d ed. by Pauline H. Tesler. Published by the ABA Section of Family Law, 2008. (KF 535 T47 2008)

## FIRST AMENDMENT LAW IN A NUTSHELL, 4<sup>th</sup> ed. by Jerome A. Barron and C. Thomas Dienes.

Published by Thomson/West, 2008. (KF 4770 B37 2008)

## PRODUCTS LIABILITY IN A NUTSHELL, 8<sup>th</sup> ed. by David G. Owen.

Published by Thomson/West, 2008. (KF 1296 O84 2008)

## FUNDAMENTALS OF FRANCHISING, 3d ed edited by Rupert M. Barkoff and Andrew C. Selden.

Published by the ABA Forum on Franchising, 2008. (KF 2023 F86 2008)

## THE CHANGING FACE OF COMMERCIAL LITIGATION.

Course materials from the Oregon Law Institute, September 16, 2008 program in Portland. (\*KF 889 O7 O73e)

## CONSTRUCTION CHECKLISTS: A guide to frequently encountered construction issues edited by Fred

S. Wilshusen. Published by the ABA Forum on the Construction Industry, 2008. (KF 902 C59)

## 2008 WORKERS' COMPENSATION NEWS: The latest from WOLI.

Course materials from the Oregon Law Institute, September 12, 2008 program in Portland. (\*KF 3615 O7 O73t)

## ESTATE PLANNING FOR PROTECTED PERSONS AND PEOPLE WITH DISABILITIES.

Course materials from the Oregon Law Institute, October 24, 2008 program in Portland. (\*KF 750 O7 O73 ep 2008)

## E-DISCOVERY: Twenty questions and answers by John M. Barkett.

Published by the ABA Section of Litigation, 2008. (KF 8902 E42 B37)

**E-DISCOVERY:** Bridging the gap between the law and the technology. Course materials from the Oregon Law Institute, October 10, 2008. (\*KF 8902 O7 O73)

## A PRACTICAL GUIDE TO THE RED FLAG RULES: Identifying and addressing identity theft risks, edited by Christopher Wolf and Kristen J. Mathews.

Published by the Practising Law Institute, 2008. (KF 1040 P76)

## AMERICAN ARBITRATION: Principles and practice by Robert B. Von Mehren, Steven J. Burton and George W. Coombe.

Published by the Practising Law Institute, 2008. (KF 9085 V65)

## WATER LAW IN A NUTSHELL, 4<sup>th</sup> ed. by David H. Getches.

Published by Thomson/West, 2009. (KF5569.3 G48 2009)

## FABER ON MECHANICS OF PATENT CLAIM DRAFTING, 6<sup>th</sup> ed. by Robert C. Faber.

Published by the Practising Law Institute, 2008. (KF 3125 C5 F23 2008)

## THE GLOBALIZED LAWYER: Secret to managing outsourcing, joint ventures, and other cross-border transactions by David A. Steiger.

Published by ABA General Practice, Solo & Small Firm Division, 2008. (KF 299 I5 S74)

**STAYING AT HOME, STAYING IN THE LAW:** A guide to remaining active in the legal profession while pursuing your dreams by Julie Tower-Pierce, 2008. (KF 299 W6 T68)

# CALENDAR

For a complete MBA calendar, please visit [www.mbabar.org](http://www.mbabar.org).

## May

5 **Tuesday, MBA Board meeting**

6 **Wednesday, MBA CLE Helping Nonprofits Cope**  
See insert or register at [www.mbabar.org](http://www.mbabar.org).

7 **Thursday, MBA Annual Dinner**

8 **Friday, June Multnomah Lawyer deadline**

**Friday, MBA Judicial Brown Bag**  
See Announcements on p. 4 for details.

12 **Tuesday, MBA CLE Basics and "Gotchas" of Construction Liens**  
See insert or register at [www.mbabar.org](http://www.mbabar.org).

14 **Thursday, MBA Golf Outing at Camas Meadows**  
See insert to register.

19 **Tuesday, MBA CLE Accounting and Financial Management for Lawyers**  
See insert or register at [www.mbabar.org](http://www.mbabar.org).

**Tuesday, YLS Board meeting**

25 **Monday, Memorial Day MBA closed**

28 **MBA CLE – Multnomah County Judges Trial Practices**  
See insert or register at [www.mbabar.org](http://www.mbabar.org).

## June

2 **Tuesday, MBA CLE Attorney Client Communication**  
See insert or register at [www.mbabar.org](http://www.mbabar.org).

3 **Wednesday, MBA CLE Litigating Trade Secrets**  
See insert or register at [www.mbabar.org](http://www.mbabar.org).

5-6 **MBA Board Retreat**

9 **Tuesday, MBA CLE Employment Law Guidance**  
See insert or register at [www.mbabar.org](http://www.mbabar.org).

10 **Wednesday, July/August Multnomah Lawyer deadline**

**Wednesday, MBA CLE Oregon Tort Claims**  
See insert or register at [www.mbabar.org](http://www.mbabar.org).

12 **Friday, LexisNexis Web Marketing Tips**  
See insert for details or to register.

30 **Tuesday, MBA Golf Outing at Riverside Golf Club**  
See insert to register.

## The Corner Office

### Less Typing, More Dialing

Lawyers should pick up the phone more often and rely less on email. Here's why.

#### Relationships

Whenever I am retained by a new client and there is opposing counsel, I phone to let her know I am on the case. If I don't know her, I will introduce myself and ask her a few questions about herself so we can begin to get to know each other. I avoid discussing the merits of the case. After receiving umpteen letters saying, "I've been retained by Joe Blow, direct all future communication to me, do not take a default without first providing me with 10 days' advance written notice," I have decided the telephone is a better way to proceed. It sets the stage for a more cordial and professional practice. It also helps opposing counsel view you as something other than an adversary. This can prove to be beneficial as negotiations ensue.

#### Efficiency

How many emails does it take to schedule a meeting? Even if it's just lunch, five emails can go back and forth trying to find a mutually agreeable date, followed by a few more emails to decide on a restaurant. By picking up the phone, you will get all this done in a few minutes or less.

#### Avoiding Malpractice Claims

A New York lawyer, in a well-meaning attempt to communicate

with a client by email, mistakenly emailed a columnist for the *New York Times*. It did not bode well for the attorney when the contents of that email, which did not show his client in a good light, were published. A phone call to the client, instead of a mechanical point and click on Outlook, would have saved the attorney and his client a lot of heartache and money.

#### Thoughtfulness

People expect miraculous turnaround times to their email inquiries. This causes a lawyer to react, rather than respond, which is not advantageous to lawyers or their clients. It is perfectly acceptable to respond to an email by suggesting that the sender schedule a time to talk either on the phone or in person. This approach serves two purposes. First, voice inflection and body language facilitate more effective communication. Second, an in-person conversation is more likely to lead to efficient resolution than exchanging emails back and forth.

#### Professionalism

It is unfortunately common for people to express thoughts in emails that they would never express on the phone or in person. Under certain circumstances this can be good, but often it is not. If you are not comfortable saying something to someone's face, you probably shouldn't hide behind your computer when you say it. You will likely see that person soon and what you said in your email may not be deleted from his or her memory just because you hit "delete" on your computer. Further, sometimes what you have said you may not want memorialized.

For the above reasons, direct conversations beat email. As such, I urge you to type less and dial more and I hope you enjoy it.

*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](mailto:mba@mbabar.org) and indicate that you would like The Corner Office to answer your question. The MBA will protect the anonymity of those submitting questions.*



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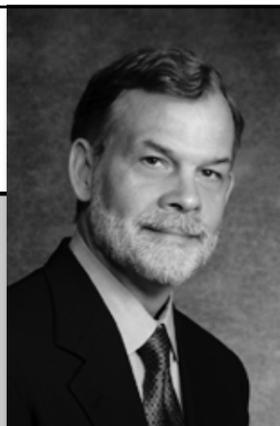
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# Ethics Focus

By Mark J. Fucile, Fucile & Reising.

## Sui Generis: Oregon's Disciplinary System, Part 2



Last month we began our two-part look at Oregon's disciplinary system by focusing on the investigative phase before formal charges are authorized by the system's "grand jury," the State Professional Responsibility Board (SPRB). This month we'll survey the system once formal charges have been authorized. Again like last month, we'll approach our survey from the perspective of three key questions lawyers often ask:

1. What are my odds?
2. What happens?
3. How long does it take?

**What Are My Odds?** As with the investigative phase that we discussed last month, the "odds" in any given case once it reaches the trial phase turn on its own facts. Again as we did last month, however, we can make some statistical generalizations about the trial phase based largely on the disciplinary counsel's annual reports available on the OSB Web site. As we noted last month, roughly one in every 100 Oregon lawyers are formally prosecuted each year. Their statistical odds of winning outright dismissal are long - typically on the order of five percent or less in a given year. "Winning," however, can be as relative in this forum as in other areas of litigation and for that reason many cases settle before trial.

**What Happens?** Once the SPRB authorizes formal charges, proceedings against a lawyer begin to look a lot more like litigation. At the same time, they retain the "sui generis" flavor noted last month and differ in many important respects from either civil or criminal procedure.

The differences begin with the pleadings. The bar files a formal complaint based on the charges authorized by the SPRB. Under BR 4.1(c), the complaint must be sufficiently detailed "to enable the accused to know the nature of the charge" but is not necessarily as specific as Oregon's familiar fact pleading under the ORCP. Answers, by contrast, must be specific (general denials are prohibited) and verified under BR 4.3. Motions against the pleadings are extremely limited by BR 4.4(a) and do not include motions to dismiss.

Discovery is patterned generally on the ORCP under BR 4.5(b) and includes depositions, requests for admission and requests for production. Unlike civil cases where discovery is often oriented around dispositive pretrial motions, however, there is no summary judgment mechanism in bar proceedings. Absent a settlement, therefore, a case must be tried to conclusion.

Trials are heard by a three-member panel of the regional disciplinary board (members of which volunteer and are appointed by the Supreme Court). Two of the trial panel members are lawyers and one is a public member. One member acts as the panel chair. The trial panel members are in some respects jurors and in other respect judges. Perhaps the best, albeit imperfect, analogy is to a three-member arbitration panel. Witnesses typically appear in person. The rules of evidence do not apply. Expert testimony on whether the RPCs were violated is not permitted. Unlike either civil or criminal proceedings, it only takes a two-thirds vote to convict. Although the bar bears the burden of proof by clear and convincing evidence, the bar takes the position that motions to dismiss following its case are prohibited - in other words, it "gets to the jury" regardless.

Trial panels are required under BR 2.4 to issue their decisions in writing on both liability and any sanctions. The latter can range from a public reprimand to disbarment. Either side can appeal and the appeal is directly to the Supreme Court. The Supreme Court's review is *de novo* (based on the factual record developed below).

The bar is usually represented throughout by both an assistant disciplinary counsel and a volunteer prosecutor. Assistant disciplinary counsel are very conversant with both the unique procedure in bar cases and the substantive RPCs involved. The volunteer prosecutor, in turn, is often an experienced litigator. Accused lawyers have no right to appointed counsel but may retain counsel (and it is wise to do so).

**How Long?** Under BR 5.4, trials are to be conducted no more than 182 days after the pleadings

# ANNOUNCEMENTS

## CourtCare Seeks Your Support

Please look for the CourtCare insert inside this issue. The program protects children, increases access to the justice system and improves courthouse operations in a way that benefits the entire legal community.

## May 8 MBA Judicial Brown Bag

Featuring Judges Jones, LaBarre, Matarazzo and You, this brown bag provides MBA members with a discussion forum with our judges. Please bring your lunch, your questions and attend on Friday, May 8 at noon in presiding courtroom 208.

## Volunteer for an MBA Committee

Please consider signing up for a committee. It's a great way to expand your circle of colleagues. Please see details on p. 6.

## MBA Noon Time Rides

Meet at SW Yamhill and Broadway between noon and 12:10 p.m. on Monday and Thursday. Contact Ray Thomas at 503.228.5222 with questions, or meet at the start.

## Oregon Minority Lawyers Association (OMLA) 10<sup>th</sup> Annual Social and Auction

Thursday, July 23, OMLA

will host its annual social and auction at the Portland World Trade Center. OMLA is a 501(c)(3) nonprofit organization dedicated to promoting fair and just treatment of all under the law. As part of its mission, OMLA awards need-based scholarships to minority applicants to help defray the cost of preparing for the OSB examination. The raffle proceeds in 2009 will go toward funding these scholarships as well as to help fund Opportunities for Law in Oregon (OLIO), the OSB program which focuses on retention and recruitment strategies for minority law students.

The deadline for auction donations is Friday, July 17. Contact Heather Weigler at [omla.auction@gmail.com](mailto:omla.auction@gmail.com) for more information.

## OCDLA's 30th Anniversary Annual Conference

This annual conference will be held June 16-18, at Seventh Mountain Resort in Bend. Speakers include Oregon Supreme Court Chief Justice Paul J. De Muniz, Barry Scheck of the Innocence Project, Kobe Bryant defense counsel Pamela Mackey, and Stanford Law Professor Jeffrey Fisher.

In addition to this roundup of speakers will be many of Oregon's own defense attorneys in a three-day CLE. The conference

also features several social gatherings, including a job fair for anyone interested in finding out more about the public defense system and opportunities throughout the state. For complete details, please visit [www.ocdla.org](http://www.ocdla.org).

## Request for Proposals - OSB Alternative Dispute Resolution Section 2009 Fall Conference

Hosted with the Oregon Mediation Association's 23rd Annual Fall Conference, in partnership with the U of O School of Law Appropriate Dispute Resolution Center, the conference is entitled Beyond Heroes and Villains: the Power of Collaboration, and will take place November 6-7 at the U of O, in Eugene.

The ADR Executive Committee seeks presenters of advanced dispute resolutions techniques, strategies, and theories. Each session is 90 or 180 minutes in length with the longer workshops divided into two parts.

For more information or to submit a proposal, please contact Lisa Amato at [lamato@spiritone.com](mailto:lamato@spiritone.com) or 503.789.3262. Proposals are due May 7. If you need more time to submit a proposal, please advise.

are provided to the trial panel chair. But, both because a trial panel is not usually appointed concurrently with the initial pleadings and because it is very difficult to coordinate that many lawyers' schedules (between the trial panel members, bar counsel and accused), trials often take place at the outer edge of that range. If a Supreme Court appeal follows, disciplinary cases are typically reviewed along with all of the other cases the court is handling at any given time.

**Summing Up.** The statistics available from both the ABA and the OSB starkly illustrate how common bar complaints and even bar prosecutions have become in Oregon. Given that, Oregon lawyers are well advised to understand the system that may judge them some day.

*Mark Fucile of Fucile & Reising LLP handles professional responsibility, regulatory and attorney-client privilege matters and law firm related litigation for lawyers, law firms and legal departments throughout the Northwest. His telephone and email are 503.224.4895 and [Mark@frllp.com](mailto:Mark@frllp.com).*

## President's Column

*Continued from page 1*

applicant must receive two-thirds of the votes of those committee members present. For a pro tem applicant, they must receive more than 50 percent of the votes of those present. (The committee must have a quorum in both instances.)

A few years ago the MBA changed its judicial screening process. Formerly, applicants were only deemed Highly Qualified (or not), and the Highly Qualified candidates were voted on to create the Most Qualified list that was sent by the MBA President to the Governor. Under the old process, candidates needed to reapply for each judicial vacancy. Now, all applicants deemed Highly Qualified keep their status for three years and need not undergo further evaluations within that time period when other vacancies arise; nor do they compete among themselves.

The JSC's recommendation for pro tem judges is sent to the Presiding Judge of Multnomah County. Its list of Highly Qualified applicants for circuit court judgeships is sent to the Governor. Both the Governor and Presiding Judge may choose to rely on the recommendations or disregard them. Although it is natural to want to know details of the investigations that led to the JSC's recommendations, the MBA

and JSC maintain confidentiality if questions arise.

We take great care to create a fair and thorough process, and to make sure the JSC, led by the committee chair, possesses and performs its duties with great integrity. The committee's task can be difficult, particularly when the applicants' records and reputations are at stake. Therefore, the MBA makes appointments to the JSC with great care, as the committee must have people of the highest professionalism and integrity from a cross-section of practices areas to make difficult judgment calls and to ensure that the information and opinions they receive are reliable. (The committee also includes three public members who cannot be related to lawyers.)

This year the JSC was faced with a most difficult task - reviewing 63 applicants for three circuit court vacancies. This workload was far more demanding than usual, and required that its members devote many volunteer hours to investigating and evaluating the applicants. Great credit goes to Julia Hagan, our JSC Chair this year. For its dedication, hard work and service, the MBA will present an Award of Merit to Julia and the entire JSC at our annual spring dinner. The JSC has our gratitude.

# Tips for Opening Specialty Probate Accounts

By Elise Bouneff, Senior Vice President, Professional Banking Officer, Bank of the Cascades.



brief overview of each type of account, any unique features and documents or steps involved in getting the account open.

**Trust:** Trust accounts in the probate arena are either revocable or irrevocable and are different than IOLTA or Lawyer Trust Accounts. To open trust accounts, banks will usually ask for a copy of the trust document and will be particularly interested in the section that names the trust and the section that names trustees and successor trustees. Trust accounts ordinarily do not require any special documentation from the court, unless there are special circumstances.

**Conservatorship:** For conservatorship accounts, banks will ask for the Letters of Conservatorship from the probate court, and will need documentation of any court restrictions on funds. Any funds restricted by Multnomah County Circuit Court usually require that the bank holding funds sign a confirmation. While there are some banks that will not sign the document, Bank of the Cascades is comfortable with this process and will accommodate the Court's requirement.

**Estate:** To open estate accounts, most banks will require a copy of the Letters of Testamentary or Letters of Administration from the court naming the personal representative of the estate.

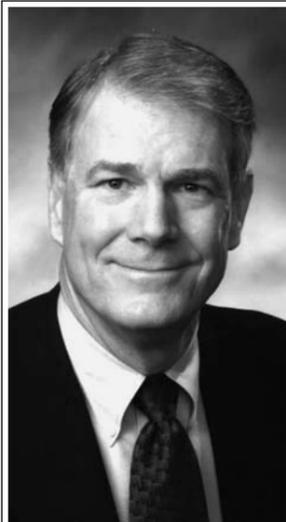
**Court-restricted accounts:** In some probate situations, the court gets involved and requires the restriction of funds in a bank account. Some banks are unwilling to restrict funds in an

account, so a best practice may be to ask your bank and/or banker if they will accommodate court-restricted funds in an account.

To make your job easier, your bank needs to be efficient, flexible and responsive when a specialty account is necessary. Make sure your banker is educated on your needs and can act quickly when the need arises.

The MBA held its annual CLE seminar on probate issues on May 1. This information-packed session reminded me again that attorneys specializing in probate law have their hands full with complex and emotionally charged issues.

I attend as many of these sessions as I can to better understand the challenges attorneys face when handling probate cases. Probate attorneys and bankers intersect when your clients need specific types of independent bank accounts that must be accommodated quickly, such as trust, conservatorship, estate or any other kind of court-restricted account. Following here is a



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## RAISING THE BAR ON LEGAL FINANCIAL SERVICES.

You work for your clients' best interest. So do we. Our team of bankers works hard to make the most of your funds. We offer a unique brand of personalized banking for legal professionals and partner with you to provide solutions that maximize opportunities while minimizing risk. We'd love to learn about your business needs and see how, together, we can take your business to the next level. Stop by, or call—we'll gladly come to you.



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Elise Bouneff  
Vice President  
Professional Banking Manager  
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Diana Burke  
Vice President  
Professional Banking Officer  
(503) 499-5965



## Consider Volunteering for an MBA or YLS Committee

Please see the insert in this issue or at [www.mbabar.org](http://www.mbabar.org) to sign up for an MBA or YLS committee.

### Volunteering Rewards

Meeting new people and expanding personal networks and perspectives are just a few of the reasons members cite for serving on committees. When you join a committee, you become part of a team of colleagues. As you contribute your own particular strengths to the work of the committee, you also learn from other committee members.

### MBA Committees

#### Continuing Legal Education (CLE)

Plans, conducts, and evaluates 30 or more CLE seminars a year. Classes are developed for attorneys in practice 10 years or longer and topics reflect various areas of practice.

#### CourtCare Fundraising Campaign

Plans the annual fundraising campaign for free childcare in the Multnomah County Courthouse.

#### Court Liaison

Serves as the MBA interface with the court; fosters dialogue between membership, the judiciary and the court administrator.

#### Equality

Promotes equality in the profession and justice system and identifies ways in which the MBA can promote diversity in the practice of law.

#### Fun

Plans the annual WinterSmash that benefits Multnomah CourtCare.

#### Golf

Plans several golf tournaments between April and September, including the MBA Championship Tournament benefiting the Volunteer Lawyer Project at Legal Aid Services of Oregon.

#### Group Health Insurance

Monitors quality, low-cost health insurance options for MBA members; negotiates renewal rates with insurance carriers; and explores additional services to be added to the program.

#### Judicial Screening

Screens judicial appointment candidates and makes recommendations to the Presiding Judge, Chief Justice and the Governor, in accordance with the MBA process.

### Professionalism

Creates and conducts programs that promote professionalism in the practice of law and assists with the nomination and selection process for the Professionalism Award.

### YLS Committees

#### Futures

This committee looks at topics affecting the evolving practice of law such as generation gap, sustainability, mentoring, work/life balance, technology, leadership and diversity and develops and implements strategies to address the issues.

#### Membership

Plans drop-in, meet-the-judges, fall new admittee and winter third year law student socials. The committee also publishes the *New Admittee Survival Guide*.

#### Pro Bono

Encourages lawyers to donate their time and legal skills to the poor; publishes handbooks on juvenile rights and domestic violence; coordinates volunteers for at-risk youth programs; and sponsors a nonprofit project pairing volunteer attorneys with nonprofit organizations.

#### Professional Development and Education

Plans and sponsors YLS CLE seminars and sessions that help young lawyers develop their careers. These seminars address the needs of attorneys in their first five years of practice.

#### Service to the Public

Educates and serves the general public with efforts such as Community Law Week, the Dropout Prevention Program and the Imprint Program. The committee also trains and coordinates volunteer attorneys who act as judges in Multnomah County Animal Services hearings.

#### YOUthFILM Project

Organizes the annual filmmaking contest for grades K-12 focusing on the Community Law Week theme.

# Join Bruce in the Pro Bono Effort

By Keith Garza.

And the 2009 Senior Law Project Volunteer of the Year Award goes to ... Bruce Rothman. There can be no question as to entitlement. In 2008, Bruce volunteered at 12 Senior Law Project (SLP) clinics and assisted 47 clients. He reported 161 pro bono hours - the most of any Volunteer Law Project volunteer. Although it is Bruce's efforts in 2008 that the MBA is pleased to acknowledge, it should be noted that Bruce is no one-hit wonder. He helped 23 clients in 2007, logging 188.75 hours along the way. And, he has been volunteering considerable time for a variety of pro bono causes over the years since his retirement from the active practice of law, including the Consumer League and Consumer Justice Alliance, in addition to the SLP.

But it's not just about quantity; it's about quality as well. As Gina Ramson, the Client Services Coordinator for YWCA North Senior Services (one of those who nominated Bruce) was quick to point out, he is thorough, patient and often goes above and beyond the call. In one instance, the client purported to need only

a simple will, but Bruce quickly suspected that the client needed more basic services and he made sure that the client was put on track to receive them. Asking what a client wants is one thing; knowing what a client needs - a holistic approach to the practice of law - is another.

For Bruce, the reason for giving so freely of his considerable professional talents is simple: "I want to put something back into the pot that has been so good to me." But, as with most attorneys who offer their skills to those who otherwise would be required to navigate difficult and often unintelligible legal courses alone, it's not just about giving; there is more than a little getting in return. As Bruce himself conceded, "For me, pro bono work is a very rewarding thing to do personally."

Apart from that observation, however, Bruce did not want this article to be about him. Instead he wanted it to be an invitation to others to share in some of the experiences that pro bono work can provide. I think that offering more than 350 hours to 70 people



Bruce Rothman

over the last two years merits granting that request. Here's Bruce's message, "There is a great need for this work and legal aid offices have been seeing their funding cut. I would encourage the bar to be more involved, whether that be in the form of money or time."

"Send a check," he said after being compelled to sit for the poorly taken head shot that accompanies this short tribute. And he was then quickly off. After all, there are more seniors out there who need help.

# Saving a Family's Home A Profile of Bonnie Richardson and Carl Neil

By Lori Alton, Oregon Law Center.

Bonnie Richardson was admitted to the OSB in 1998 and is a partner at Folawn Alterman & Richardson. She has been an active participant in the Oregon Law Center (OLC) pro bono program, attending the Southeast Legal Clinic annually for many years. Carl Neil was admitted to the OSB in 1958 and is a partner at Lindsay Hart Neil & Weigler. Carl is a recipient of the MBA Professionalism Award and a past recipient of the Pro Bono Award of Merit. He participates in the Southeast Legal Clinic and Senior Law Project Clinic several times a year.

Bonnie and Carl are being recognized for their pro bono work through the OLC on a predatory lending matter. Working together, but representing individual members of the affected family, Bonnie and Carl dedicated two years and hundreds of pro bono hours protecting their pro bono clients' homes, culminating in litigation against multiple defendants.

This case involved a husband and wife with three children who had good credit and had saved for years to purchase their first home. Problems developed later when the husband's brother attempted to refinance his own home only to discover that he was listed as the owner of his brother's home. All three parties



speak Spanish as their primary language and understand only limited English. Through their investigation, Bonnie and Carl determined that loan documents and lender verifications, which had all been prepared on behalf of the husband, wife and brother, contained false information including forged bank signatures and fraudulently altered employer records. The mortgage broker and real estate broker earned substantial fees while the family's life savings went primarily to pay for fees on a house they did not own.

They sued four parties including the lender, the mortgage broker, real estate company and mortgage broker's surety in order to put rightful owners on the deed to the property, release the brother from the deed and the loan, and refinance the subprime loan to an affordable loan so that

the family could keep and stay in their home. The defendants eventually settled with the plaintiffs. As a result of Bonnie and Carl's efforts, and with the dedicated assistance of Eleanor Morfin, a Spanish-speaking paralegal provided by OLC, the members of the family kept both of their homes, regained full rights to their individual properties, maintained their good credit, and had the high interest subprime loan renegotiated to a standard affordable long-term fixed mortgage.

When notified of her award Bonnie said, "I hope our work will encourage others to become more involved with pro bono, especially during these difficult times with so many in need." Carl and Bonnie have already teamed up again to help with a similar pro bono matter.

# AROUND THE BAR

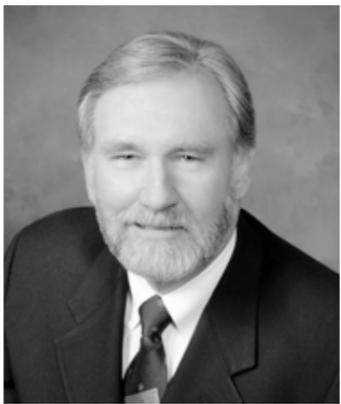


Tate Frederick Justesen

**STAHANCYK, KENT ET AL**  
The firm has won the American Marketing Association of Oregon's MAX Award for creative superiority in the print marketing category.

**Laurel P. Hook** and **Grace Y. Lee** were runners up in the 40 Under 40 Award from the *Portland Business Journal*.

**Tate Frederick Justesen** joined the firm's Portland office.



D. Lawrence Wobbrock

LAWRENCE WOB BROCK *Best Lawyers* has named **D. Lawrence Wobbrock** the Oregon Best Lawyers Personal Injury Litigator of the Year for 2009.

Best Lawyers of the Year have received particularly high ratings in surveys by earning a high level of respect among their peers for their abilities, professionalism and integrity.



Victoria D. Blachly



Jeffrey M. Cheyne

**SAMUELS YOELIN ET AL**  
**Victoria D. Blachly** and **Jeffrey M. Cheyne** have been named partners at the firm.

Blachly works on a wide range of litigation issues, with a primary focus on fiduciary litigation for individual trustees, corporate trustees, beneficiaries, and personal representatives, including trust and estate litigation, will contests, trust disputes, undue influence, capacity cases and financial elder abuse cases.

Cheyne represents individuals and businesses in the areas of estate, tax, business and real estate planning.



William F. ("Rick") Martson Jr.

**TONKON TORP**  
**William F. ("Rick") Martson Jr.**, a senior litigation partner, has been elected president of the International Society of Barristers (ISOB), an honor society of outstanding trial lawyers chosen by their peers on the basis of excellence and integrity in advocacy.

Membership in the society is by invitation only and is limited to 650 active trial lawyers worldwide. Fewer than a dozen Oregon lawyers are members of the ISOB. Martson, who has served on the board for several years, will serve a one-year term as president.

The ISOB seeks to preserve and promote trial by jury, the adversary system and

independence of the judiciary, as well as to promote the practice of law around the world.

## WORKBENCH LAW

The firm was founded in 2008 by **Chris Matthews**. Located at 406 SW 13th Ave. No. 201, Portland OR 97205, the firm works with people on real estate and general business transactional matters. New associates are **J-P Voillequé** and **Tara Costanzo**. The firm's new Web site is [www.workbenchlaw.com](http://www.workbenchlaw.com).



Kevin Kono

**DAVIS WRIGHT TREMAINE**  
**Kevin H. Kono** has been named a partner of the firm, where he specializes in media law, appellate and litigation.

*The Around the Bar column reports on MBA members' moves, transitions, promotions and other honors within the profession. The deadline is the 10th of the month preceding publication or the previous Friday if that date falls on a weekend. All items are edited to fit column format and the information is used on a space-available basis in the order in which it was received. Submissions may be emailed to [carol@mbabar.org](mailto:carol@mbabar.org).*

## Gene Grant - Preserving Affordable Housing in Oregon

By Tad Everhart, Community Development Law Center.

Gene Grant is this year's recipient of the Pro Bono Award of Merit. Gene was admitted to the OSB in 1979 and he is the co-chair of Davis Wright Tremaine's real estate and land use department. Gene is being recognized for his exemplary pro bono assistance to the Community Development Law Center (CDLC).

All business, Gene's voice mail greeting communicates his personality, approach to life, and work ethic: "You've got Gene's machine! Speak at the beep."



Gene Grant

I remember a fairly comical Friday afternoon meeting with Gene and Allison Handler, the Executive Director of the pro bono client - Portland Community Land Trust (PCLT) - that went two or three hours as we poured over an early draft of PCLT's Affordable Housing Covenant (AHC). Gene got so many pages on his vibrating Blackberry that I thought he might shake out of his chair and the conference room. It was clear that many others compete for Gene's time. And he makes a big sacrifice to help us.

He told us a funny story about his love for biking. He admitted that he was a better lawyer than businessman. He started a bike business, but it was a bust except for the fact that through it, he was able to buy the bike of his dreams.

As Allison remarked to me after one meeting with Gene: I can't figure out how the guy has time to be an ace attorney AND bike 17 miles to work each day (and BACK) to and from Happy Valley while ALSO serving as Mayor of Happy Valley and ALSO being a parent.

Thanks to *The Oregonian's* coverage of Gene's mayoral career in Happy Valley, it's no secret that Gene is drawn to public service. What's less known is the pro bono work he fits into his busy real estate practice. Gene has given constant, dependable, invaluable and timely advice to PCLT for six years, since he first helped PCLT resolve a conflict in agreements between itself and a partnering nonprofit. Since then, Gene has worked on at least one pro bono project for PCLT every year.

One of Gene's most important contributions to PCLT is drafting

an AHC, the first of its kind in Oregon - based on a new state statute that only four other states in the US have enacted. Gene has drafted multiple versions to satisfy changing requests for the PCLT staff and board; PDC staff and counsel; the private developer involved in the first project, the developer's counsel; and now, the unit buyers' lenders. This process has dragged on over a year, but it is expected that in the next month, PCLT will help the first low-income households purchase condos that will be perpetually affordable because of the AHC Gene drafted.

Gene has assisted the CDLC in its work for other community development corporations and community action agencies. Gene's genius is that he is so productive; unafraid of challenges and that he has such a comprehensive view. At the National Community Land Trust Conference in Portland in August, 2005, Gene helped CLTs working across the country by presenting an introduction to the law of condominium developments.

Recently, Gene wrote an article for the *PSU Real Estate Quarterly* that explains how local communities can use various legal tools to provide affordable "workplace housing" that is essential for community well-being. Gene strives to be available, and if he isn't, he's great about asking his associates and partners to lend a hand. I suspect it is not easy to "ask" associates to do pro bono work when you, a partner, are too busy. However, Gene not only routinely does that, but he also asks his partners to help. Gene's pro bono assistance has been invaluable to the CDLC and the clients it serves.

## Tips from the Bench

By Judge Stephen K. Bushong, Multnomah County Circuit Court.

### Requests for Admission

Effective use of requests for admission can streamline your case for trial. Ask opposing counsel to admit the authenticity of documents you intend to offer as exhibits at trial, and to admit that medical charges and other items of damages were necessarily incurred and are reasonable in amount.

Use requests for admission to establish background and other facts that are not really in dispute, and summarize the admitted facts in a requested jury instruction. Then you won't need to spend trial time laying the foundation for the admission of evidence or proving facts that have already been admitted. And if the other side fails to admit the truth of the matter without good reason, you may be entitled under ORCP 46 C to recover expenses, including attorney fees, incurred in making the required proof.

### Expedited Motions

The expedited motion hearing process should be used only if there is a true emergency requiring immediate action. Generally, an approaching trial date does not justify an expedited hearing on discovery or other motions that could have been filed earlier in the course of the litigation. To request an expedited hearing on a civil motion, present a Petition for Expedited Motion Hearing (*Attorney Reference Manual*, form 05-28A) to the designated judge for expedited civil motion ex parte matters (currently, expedited hearing requests are heard by Judge Marshall at 11:30 a.m.).

If the request for expedited hearing is allowed, a judge will be assigned to hear the motion on an expedited basis. Counsel must then contact the assigned judge for a hearing date and time. A motion praecipe is required. Copies of the motion and supporting materials should be delivered to the assigned judge's chambers as soon as possible.

### Responses to MBA Member Questions

#### What is the procedure for appointing a guardian ad litem?

Under ORCP 27, a minor or incapacitated person who is a party to a civil action is required to appear by a guardian ad litem appointed by the court if a conservator or guardian has not previously been appointed.

Ordinarily, an order appointing a guardian ad litem should be entered *before* the minor or incapacitated person appears in the action. If uncontested, such an order may be obtained by presenting an ex parte motion for appointment of a guardian ad litem, accompanied by a supporting affidavit and a



proposed order. If the pleading to be filed on behalf of a minor or incapacitated person is the original complaint, counsel will need to explain when requesting an order appointing a guardian ad litem that a case number has not yet been assigned because the complaint has not yet been filed.

#### What is the procedure for obtaining an order to show cause? What do judges expect at a show cause hearing?

An order to show cause - typically, to show cause why a preliminary injunction or provisional process should not issue or a receiver should not be appointed - may be obtained at ex parte. Counsel should present a proposed Order to Show Cause with supporting documents, along with a Motion for a Show Cause Hearing and Order setting the hearing (*Attorney Reference Manual*, form 05-27). Ordinarily, the show cause hearing will be assigned from the Thursday call docket for hearing on Friday.

At show cause hearings in my courtroom, I generally allow each party to make a brief opening statement. I then give the party seeking a preliminary injunction, provisional process or a receiver an opportunity to offer any additional evidence supporting the claim (they do not need to re-submit evidence they previously filed in support of the motion for order to show cause). The party opposing relief may then offer evidence in opposition. Depending on the case, I may allow some limited rebuttal evidence.

Witnesses may testify at the show cause hearing, or parties can submit deposition excerpts or affidavits in lieu of live testimony. The parties will then be given an opportunity for closing argument. Parties are encouraged to streamline their presentations and submit evidence and argument in writing as much as possible to minimize the length of the show cause hearing.



By Sheila Potter, Bullivant Houser Bailey and Court Liaison Committee member.

### Presiding Judge's Report

The meeting began with a discussion of the potential and likely cuts to the courts' budget, resulting from the anticipated shortfall in state revenue. All Oregon agencies were required to submit a plan for up to a 30 percent reduction, in five percent increments for the 2009-11 biennium. The actual cuts will not be determined until after the May 15 revenue forecast is released. When that forecast is released, the Legislature will rebalance the state budget for the 2009-11 biennium, and also may need to make cuts to the last six weeks of the 2007-09 biennium. It is anticipated that the Legislative Assembly would also hold an emergency session in spring 2010 to make adjustments as needed to respond to the quarterly revenue forecasts in the next biennium.

Doug Bray handed out the March 26 memorandum from the Oregon Judicial Department Fiscal Services Manager to the Legislative Fiscal Office, outlining the OJD's plan for reductions up to 30 percent to the OJD budget. The memorandum outlines three areas of the court system's functions and services: important functions, essential functions and core functions. The budget was developed to try to preserve and protect the core functions as best as possible. But every five percent cut means, on average, 117 positions lost statewide, as set out in the Chief Justice's OJD reduction plan.

The reduction plan calls for the elimination of all of the circuit court referees at the 10 percent level of reductions. This hits Multnomah County harder than most, as the circuit court relies heavily on referees. Juvenile court referees, for example, carry about 1700 dependencies. This would mean that sitting judges will have to cover the responsibilities that are currently handled by the 13.5 referees in Multnomah County (juvenile court, traffic court, FED, small claims, justice center matters, probation violations,

community court, stalking court, Gresham and civil commitments, among others); four family court judges and nine judges from the civil-criminal side would have to take over those dockets, rather than being available for the work they are doing now.

The committee discussed the possibility that attorneys might be able to help handle some of those matters on a volunteer basis - although even volunteer pro tem judges would still need court staff to handle the substantial and time-consuming administrative tasks related to those courts.

The Citizen Review Board would also be lost in a 10 percent reduction.

At the 15 percent level of cuts, the reduction plan calls for the circuit courts to cut staff supporting treatment courts; Multnomah County loses staff supporting the STOP court, DSP and DSP courts, mental health court and the domestic violence and child support compliance coordinators. Judge Maurer explained that the matters currently handled by those courts would have to return back to the regular stream of cases and the system would lose the transformational approach that those specialized courts permit.

The status of the Oregon eCourt project was not known at the time of the April committee meeting. Any expansion in e-filing probably won't occur until January 2010, when new bonds may be approved. It is available now in the appellate courts.

The Governor announced in February that he would hold off on filling the three Multnomah County judicial vacancies immediately due to the budget situation in the current biennium, but would do so after July 1. Chief Justice Paul J. De Muniz agreed to this approach. In the meantime, Judges Amiton, Bearden and Koch will continue to sit as senior judges.

Judge Maurer advised that the Chief Justice very much wants courts to be open full-time. Currently, Multnomah County is keeping misdemeanor pre-trials on Thursdays, and is working out a plan for using Fridays for misdemeanor settlement conferences. As presiding judge, Judge Maurer is still sending cases out for trial and assigning trial dates in summer and fall 2009, but she expects that the court may have real trouble accommodating civil trials, if the OJD budget is reduced to the courts' essential and core functions and the referees are lost. The committee discussed the problems this poses for the public's access to justice, especially since civil lawsuit filings are increasing.

Judge Maurer said that one thing lawyers can do is to contact their legislators to help them understand the judicial system, especially the functions that legislators do not see in their own lives. The committee discussed the possibility of an opinion piece in *The Oregonian* or another newspaper, translating the real impact of the anticipated cuts on the public. The committee also discussed, though, the delicate nature of writing such a piece for readers who may be losing their own jobs and homes.

### May Judicial Brown Bag

The spring Brown Bag will be May 8 and will probably be on the topic of budget cuts.

### Clackamas County Report

A new part-time justice of the peace should start in Clackamas County in July; a sort of referee/municipal court position, handling violations and other non-jail issues.

### MBA Update

The MBA Web site member section is up and running and the CourtCare campaign is April 20-May 8.

## Award of Merit Recipients for 2009

Recipients have an enduring commitment to the MBA's mission of promoting justice through service, education or leadership to the MBA, the legal profession and the community.



**Eric Waxler**

Eric is being presented the award for his fundamental role in launching and chairing the MBA Pro Bono Pledge Task Force.



**JoLynne Zimmerman**

JoLynne receives the award for her years of enthusiastic work on the annual CourtCare Fundraising Campaign.



**Judge Jerome LaBarre**

Judge LaBarre was selected for this award for his work founding the Judicial Outreach Committee and its Speakers' Bureau.



**Judge John Wittmayer**

Judge Wittmayer wrote the *Multnomah Lawyer* "Tips from the Bench" column for four years.



**Lisa Naito**

The award is being given to Lisa for her efforts toward a new Multnomah County Courthouse.



**Julia Hagan, MBA Judicial Screening Committee Chair**

### **MBA Judicial Screening Committee**

The 2008-09 MBA Judicial Screening Committee is being presented this award for its screening of an exceptionally large pool of candidates.

## From a New Volunteer to a Mentor in a Year A Profile of Amie Jamieson

By Andreea Szabo, Legal Aid Services of Oregon.

When Amie Jamieson heard that she had been awarded the MBA Michael E. Haglund Pro Bono Award, she was surprised. The 2005 Lewis & Clark School of Law graduate had been volunteering with Legal Aid Services of Oregon (LASO) Night Clinic since the beginning of 2008 and did not believe that her contribution was out of the ordinary. However, over the past year, Amie has become a vital presence at the Night Clinic, staffing more clinics than any other attorney. Amie volunteered at four clinics in 2008 and plans to volunteer for six (out of a possible 12) in 2009. She now helps train future Night Clinic volunteers by allowing them to shadow her as she meets with clients.



**Amie Jamieson**

The Night Clinic, co-sponsored by LASO and Stoel Rives, is held twice a month in downtown Portland from 5:30-7:30 p.m. Stoel Rives attorneys coordinated by partner Charles Hinkle staff the first clinic each month, while pro bono attorneys coordinated by LASO volunteer at the second clinic. Two attorneys meet with four clients each for an initial consultation and provide continuing legal representation to clients with meritorious cases. The clinic volunteers see a range of legal issues, including consumer law, landlord tenant damage claims, small claims advice, criminal record expungements, uncontested guardianships, estate planning, Social Security, uninsured motorist defense and occasional nonprofit corporation issues.

Amie was no stranger to the world of volunteering and credits her parents, Lewis & Clark Law School, and her firm, McDowell & Rackner, for instilling in her the belief that volunteering is a responsibility to the community. In law school, she won the Pro Bono Honors Award for her volunteer work with domestic violence victims at the Portland Women's Crisis Line, where she helped them file restraining order petitions. After graduation, she served on the fundraising committees for the Campaign for Equal Justice and St. Andrew Legal Clinic.

It all started when, in the 2008 January issue of the *Multnomah Lawyer*, dedicated to pro bono resources, Amie read about LASO's pro bono projects, including the Night Clinic. She wanted to provide hands on, direct representation to low-income clients and contacted LASO. The Night Clinic's variety of legal issues gives attorneys the opportunity to learn about new areas of law. While Amie practices energy law by day, at the Night Clinic she advises clients on many civil legal issues because she understands. "The need for free legal services is so high that having access to a lawyer who may not be an expert in an area of law, but who cares enough to work through a problem with the low-income client, allows one more client to be served." Amie's advice to new volunteer attorneys interested in the Night Clinic is to really focus on listening to what the clients need and then to take the cases back to the office for further legal research if necessary.

For information on how to volunteer for the LASO Night Clinic, please contact Andreea Szabo at 503.224.4086 or [andreea.szabo@lasoregon.org](mailto:andreea.szabo@lasoregon.org).

shown in the program, the MBA Professionalism Committee is considering hosting a similar program next year.

This year's program was unique in the fact that it was sponsored by funds received from the settlement of a Professional Liability Fund claim specifically earmarked for professionalism training.

The MBA extends a heartfelt thanks to Schwabe Williamson & Wyatt for providing the space and to the plenary speakers and all of the judges and lawyers who gave generously of their time to make this special event a reality.

## MBA Sponsors Program for the Profession's Newest Members

On Friday, April 3, the MBA held a program for some of its newest members and some of its members-to-be. The program, entitled *What You Didn't Learn in Law School*, introduced newly admitted lawyers and graduating law students to the practical side of professionalism. The program, the first the MBA has sponsored for law students, was held at the offices of Schwabe Williamson & Wyatt. Over 70 judges, lawyers, and students participated in the event.

This program was designed for graduating law students who want to better understand the real expectations of the legal community. The program brought together judges, new lawyers, experienced lawyers, bar officials and students to discuss life as a practicing lawyer.

The first half of the program featured two plenary speakers.

First, US District Court Judge Anna Brown discussed trial practice in the Portland legal community. Judge Brown explained the professionalism expectations of litigation practice and how a new lawyer can establish her reputation as a capable and respected member of the legal community. She noted that the first step to getting along with a judge is to get along with a judge's support staff and the importance of managing one's time. "If you ask for 15 minutes to discuss a motion, and you take 45 minutes, you throw the whole docket off."

Jeff Batchelor, the MBA's Professionalism Award recipient for 2008, also presented. Batchelor spoke movingly about the things he sees other lawyers do that inspired him to be a better lawyer. His sage advice included the urging to give credit to others when things go right and accept responsibility when

things go wrong. He also spoke about the valuable insights he learned from his mentors and encouraged young lawyers to seek the advice of more experienced colleagues.

For the second half of the program, participants broke into smaller groups to discuss the issues raised in the plenary session as well as other issues or their concerns. The smaller groups consisted of a mix of new and experienced lawyers, judges and students. These discussions covered a wide range of topics related to the real world of law practice, including the ins and outs of the billable hour, practical advice about the use of email, phones and letters; and how to deal with unprofessional people in a professional way.

The day concluded with a lively discussion of law practice and professionalism over lunch. Thanks to the strong interest

## Pro Bono Spotlight - Allison Mosher

By Will Glasson, Scarborough, McNeese et al and YLS Pro Bono Committee member.



Allison Mosher

Mention immigration policy and you'll have many people's full attention. Immigration issues provoke complex and often incongruous economic, political and social opinions. Opinions that fuel animated debate, partisanship, even extremism. Yet if immigration, the word, describes a marketplace, the commodities exchanged are people. It is Allison Mosher's focus on people, her clients, that

so distinguishes her pro bono immigration law services.

An attorney with the immigration law firm of Nelson Smith, Allison's practice touches on many contentious immigration issues, such as deportation and removal litigation, asylum projects and work visa applications.

Allison's willingness to confront difficult issues is evident in the pro bono projects she accepts and in her practice. Many of her pro bono activities involve assisting clients who are victims of domestic violence and sexual abuse with U-visa applications.

Created under the Victims of Trafficking and Violence Prevention Act in 2000, the U-visa provides eligible immigrants with temporary authorization to stay and work in the US. To qualify, an individual must show that she or he was the victim of criminal activity resulting in substantial physical or mental harm, and cooperated or is willing to cooperate with the investigation or prosecution of the crime.

Unfortunately, there is no shortage of individuals seeking U-visas. Some pro bono clients begin as regular Nelson Smith clients. Others are referrals from one of the few nonprofit organizations in the Portland metro area providing pro bono immigration services.

U-visa cases are frequently complex and emotionally taxing. For Allison, these challenges are part and parcel with the reward. "It's satisfying [to] see that you made a positive difference in that individual's life," she said.

Allison is a graduate of PSU and the U of O School of Law. An active member of the American Immigration Lawyers Association, Allison is fluent in Spanish. Prior to law school, Allison worked with the Virginia Garcia Health Center Migrant Camp Outreach Program as part of a team that traveled to labor camps to provide screening, medical treatment and health education to migrant and seasonal farm workers.

## Mentoring Makes Sense

By Josh Ross, Stoll Berne and YLS Futures Committee member.

In his 2008 Professionalism Award acceptance speech, Jeff Batchelor shared a list of the traits of lawyers and judges that, throughout his career, had inspired him. At the top of that list, Jeff described the inspiration he felt from seeing lawyers and judges share their time, experience, and wisdom with young lawyers. Jeff, I believe, was speaking of lawyers and judges who are and were great mentors; that he placed mentoring at the top of his list, I am certain, was no accident.

Quality mentoring is unquestionably valuable. Dedicating the time, resources and effort needed to guide a new lawyer to a successful career benefits not only the mentee, but the bar generally and the mentoring lawyer or firm who, in many ways, stands to gain the most from the new lawyer's success. Mentoring helps new lawyers build confidence, boosts efficiency, reduces the risk of malpractice, and sends the invaluable message that the mentoring lawyer or firm wants to invest in its new lawyers. Mentoring helps new lawyers become productive lawyers. Mentoring makes sense.

Those facts, perhaps, are obvious.

And yet are we as a profession, proactively dedicating the time and resources necessary to maintain the high standards of the bar? The 2006 Generation Gap Survey suggests we may have some work to do. Over 50% of responding lawyers said that

they want and would benefit from additional mentoring, training or coaching - and it's worth noting, over 70% of the responding lawyers had been practicing for over seven years. Of greater concern, only 16% of us strongly agreed with the statement "My firm offers sufficient mentoring and/or training to support success." Because mentoring does in fact support success, those statistics should concern us.

At a minimum, there is always room for improvement. To be sure, effective mentoring takes proactive planning, time, and a willingness by the mentee and mentor to make sacrifices (read: forego billable hours). Thus, many lawyers and firms stick to the basic model of pairing new lawyers with willing partners or senior associates. That model, no doubt, provides new lawyers a great resource and helps to develop relationships.

However, a few local firms have developed mentoring programs aimed at teaching skills and providing resources that new lawyers need. At Tonkon Torp, all new lawyers attend weekly discussions of nuts and bolts topics like the firm's internal processes, working with staff and work-life balance. Tonkon also matches new lawyers with an entry-level mentor and, after the new lawyer acclimates to life at the firm, a separate professional mentor is chosen, in part, by the mentee. Tonkon also provides frequent individual evaluations and a weekly forum for dialogue among new lawyers.

In addition to pairing new lawyers with mentors, Gevurtz Menashe requires its new lawyers to complete the "Mentoring Protocol." There, new lawyers must seek out partners who help them complete a substantive training checklist that guides them through the firm's specific practice. For example, new lawyers must read through and discuss all relevant statutes with a partner, sit in on intake meetings and participate in discovery. At Smith Freed & Eberhard, new lawyers have the option to enroll in the "Black Belt Trial Skills Program," in which new lawyers present mock opening statements and receive critiques from partners, watch a series of trial skills videos, and attend classes - taught by acting coaches, and specially designed by the firm - that teach trial skills such as speaking, presentation and body language.

While these programs vary in scope and focus, each aims to provide new lawyers with the skills needed to successfully practice law. As a return on their investment, these firms have seen improved job satisfaction, efficiency and skills, and believe their programs have a direct impact on their ability to retain talent for the long term. The Generation Gap Survey teaches us that, as a profession, we can share more of our time, experience and wisdom with young lawyers. We should make an effort to do so. For ideas on what steps you can take, consider contacting the following people and obtaining a copy of books mentioned.



## YLS and Barran Liebman Host Author Jeff Benedict

The YLS Membership Committee and Barran Liebman teamed up to host Jeff Benedict, author of *Little Pink House: A True Story of Defiance and Courage*, the story of *Kelo v. City of New London*, on March 16. Thank you to Barran Liebman for sponsoring the book reading and reception.



## Community Service Days

The YLS Service to the Public Committee had three fun volunteer events at the Oregon Humane Society in March and April. About 30 animal-loving volunteers socialized and played with the dogs and cats at the Humane Society to give the animals the attention and the social skills necessary to help them find new forever homes. Volunteers had a great time and appreciated the opportunity. Everyone, including the animals, enjoyed themselves.

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## YLS wine tasting event - May 20

The YLS Membership Committee is organizing a Wine Tasting Event at Vino Paradiso (417 NW 10th) in the Pearl District, Wednesday, May 20, 5:30-7 p.m.

FREE to the first 35 members to sign up! Special preference will be given to legal aid attorneys, solo practitioners, judicial clerks, public defenders and individuals who are currently unemployed.

Sign up by emailing Kathy Maloney at [kathy@mbabar.org](mailto:kathy@mbabar.org).

- Loree Devery, Manager of Recruiting & Professional Development at Tonkon Torp [www.tonkon.com](http://www.tonkon.com)
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- Jeff Eberhard, Managing Partner at Smith Freed & Eberhard [www.smithfreed.com](http://www.smithfreed.com)
- Todd Cleek, Chair of the MBA Professionalism Committee [www.k-hlaw.com](http://www.k-hlaw.com)
- *Being an Effective Mentor: 101 Practical Strategies for Success* and *The Lawyer's Guide to Mentoring*, both by Ida Abbott, Esq., and available (with many other resources) at [www.nalp.org](http://www.nalp.org).

# MBA Statement of Diversity Principles

By Linda Meng, MBA Equality Committee Chair.



in the bar - diversity as an encompassing idea, important to all of us.

The OSB has faced some challenges in the past couple of years over issues connected with diversity of the bar. Although the discussions have sometimes been difficult, the bar has faced the challenges and continues to move forward with renewed commitment. This statement is offered as an avenue to encourage a positive demonstration of a commitment to diversity. We hope it will facilitate dialogue about the importance of diversity to the MBA and to the OSB.

Diversity in the legal profession is a goal recognized by attorneys because of the inherent values of equality and fairness that pervade our work. It is also a goal that is valued by our clients. They are looking to the legal community to reflect that value. In the document entitled "A Call to Action: Diversity in the Legal Profession," the chief legal counsels of many major corporations pledged to make decisions regarding which law firms represent their companies "based in

significant part on the diversity performance of the firms." (See [www.cloCallToAction.com](http://www.cloCallToAction.com).) Corporate clients are following through on that pledge and requiring that firms demonstrate a commitment to diversity as part of the engagement process.

In some ways, our clients are out in front of us on diversity issues. This statement is a step toward moving forward as a partner with those clients. Although signing on to this proposal of this Statement of Diversity Principles will be a symbolic action, it must be more than that. It is offered as a step toward bringing together signers to acknowledge the importance of diversity in the legal profession and to share information about best practices.

We urge you to sign on to this Statement of Diversity Principles. You can download the statement from the MBA Web site. When you sign, please forward a copy of your signed statement to the MBA. We will acknowledge signers on the Equality Committee Web site and in the *Multnomah Lawyer*.

The MBA invites you to sign on to the Statement of Diversity Principles printed below. The statement was proposed by the Equality Committee and approved by the board last month. It presents an opportunity for all legal employers - law firms big and small, governments, businesses, nonprofits and everyone else - to publicly acknowledge their commitment to developing the diversity of the legal community in Oregon. The statement is offered as a vehicle to continue and expand upon our conversation about diversity

## Multnomah Bar Association Statement of Diversity Principles

The Multnomah Bar Association and the signatories hereto remain committed to fostering diversity in the legal profession. Diversity is an inclusive concept and encompasses, without limitation, race, color, ethnicity, gender, sexual orientation, gender identity and expression, religion, nationality, age, disability and marital and parental status.

With greater diversity, we can be more creative, effective and just, bringing more varied perspectives, experiences, backgrounds, talents and interests to the practice of law and the administration of justice. A diverse group of talented legal professionals is critically important to the success of every law firm, corporate or government law department, law school, public service organization and every other organization that includes attorneys.

We recognize that achieving diversity is an evolutionary process that requires a continued renewal of our commitment to strategies of inclusion. Diversity is not about quotas or different standards. Rather, the opportunity to increase diversity should be one important consideration in the decision making process. We want to hire, retain and promote our attorneys based on each of our unique criteria, while simultaneously maintaining our commitment to diversity.

We believe that all members of the bar should have the opportunity to participate equally and fully in our profession. To this end, we pledge to facilitate diversity in the hiring, retention and promotion of attorneys and in the elevation of attorneys to leadership positions within our respective organizations.

## Diversity at Davis Wright Tremaine

By Eric L. Dahlin, Davis Wright Tremaine and MBA Equality Committee member.



increasing its number of diverse attorneys and staff. In 2000, we formed PRISM, our firm-wide committee which provides leadership and focus for our diversity efforts. PRISM is chaired by Duane Bosworth, partner in our Portland office. Its membership is itself diverse and includes representatives from among DWT's nine offices.

PRISM adopted a firm-wide mission that includes a commitment to: hiring and retaining diverse lawyers and staff; creating a workplace that is welcoming to diversity; and giving

voice to diverse contributions within the firm. PRISM works in five strategic areas:

### Recruitment

We continue to grow our efforts to hire diverse attorneys and staff. For example:

- We regularly participate in six regional and national minority job fairs, including the national Council on Legal Education Opportunity Career Fair in Detroit, Michigan and the Northwest and Oregon Minority Job Fairs.

### Retention

We provide formal mentoring and professional development programs for all diverse attorneys, and a peer-to-peer program for lateral hires.

Last year we began a program matching senior partners with senior diverse associates and counsel as they approach the partnership consideration process.

We eagerly support diverse lawyers' memberships and participation in diverse and ethnic bar associations and we have a dedicated budget to sponsor events held by those associations.

## PRO BONO VOLUNTEERS

Thanks to the following lawyers and law students, who donated their pro bono services in March via the Volunteer Lawyers Project, the Senior Law Project, Community Development Law Center, law firm clinics, the Oregon Law Center, the Nonprofit Project, St. Andrew Legal Clinic, Catholic Charities Immigration Legal Services, Lewis & Clark's Small Business Legal Clinic, Children's Representation 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.mbar.org/docs/ProBonoGuide.pdf](http://www.mbar.org/docs/ProBonoGuide.pdf).

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- At the law school level, we offer the John M. Davis Diversity Scholarship, which honors our founder and helps ensure diversity among future generations of lawyers. The scholarship fund has grown to nearly \$230,000, including significant donations from our partners. In addition, we offer three national scholarships for diverse first-year law students.
- The firm also regularly sponsors events for minority student organizations, such as the Northwest Regional Black Law Student Association Convention, held in Portland earlier this year.
- When we seek to fill a lateral position, the individual practice group doing the hiring is formally asked about its efforts to identify and interview diverse candidates.

### Cultural Competency

We provide opportunities for our attorneys and staff to enhance their ability and confidence in talking about issues of diversity, including a six-week program called "Understanding Racism" led by Duane Bosworth.

Individual offices sponsor popular diversity-oriented challenges, including entertaining and educational quizzes during Black History Month, with prizes awarded.

We meet periodically with diverse attorneys and staff and firm leadership to discuss issues of special concern or which provide special opportunities for enhancing our diversity.

### Vendor Diversity

The firm has an ongoing commitment to purchase at least five percent of our goods and services from minority-owned business enterprises and at least five percent from woman-owned business enterprises.

### Communication and Visibility

We regularly communicate the results of our efforts through tools such as our firm Managing Partner's Report on Diversity, a diversity section on our newly-

Continued on page 12

## Diversity at DWT

Continued from page 11

launched Web site, and PRISM reports on our internal intranet.

The firm also benefits from the expertise of our own Corporate Diversity Counseling Practice Group, which advises Fortune 500 CEOs, general counsel and other senior executives on diversity matters.

### New Manager of Diversity Initiatives Position

Last year DWT established a new position, manager of diversity initiatives, to develop and promote the firm's diversity programs and strategies. The manager reports to the firm's managing partner and works closely with PRISM, and with our clients, practice group heads, administrative departments, and our recruiting and mentoring committees. The manager, Karen Russell, a Harvard-trained corporate diversity and employment law attorney (and incidentally, daughter of Boston Celtic great Bill Russell) coordinates all efforts to develop diversity best practices and to educate all of us at all levels.

### The "Call to Action"

DWT supports the nationwide Call to Action, an initiative of the national Minority Corporate Counsel Association which reaffirms participating major corporations' commitment to increasing diversity in the legal profession. Dave Baca, our Portland-based, firm-wide managing partner, attended the Call to Action's recent invitation-only summit, which convened corporate general counsels and law firm managing partners to create new strategies for enhancing diversity in the profession. "I returned from the summit even

Continued on page 13



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## Diversity at DWT

*Continued from page 12*

more convinced that we must continue our efforts," said Baca. "We are on the right road."

### The DWT /Microsoft Mentoring Partnership

Microsoft and DWT have recently joined in a unique partnership to advance diversity in our profession. Together we developed a mentoring program in which diverse and woman attorneys from DWT interact with Microsoft lawyers and managers. Through personal meetings and group presentations on social, educational and professional matters, participants address issues of special concern for diverse attorneys. The program, which we believe is one of the first of its kind, is yielding immediate results. Our lawyers are learning a great deal about our clients at Microsoft and we have increased the number of diverse associates working on client matters.

### The Future

Although much work still lies ahead, we are proud that DWT's leadership has long viewed enhanced diversity within our firm as the right thing to do. Along the way, we are also discovering its strategic importance to the firm's long-term success. We look forward to reporting in the future on new developments, new programs and best practices developed by dedicated and creative people in all walks of the firm.



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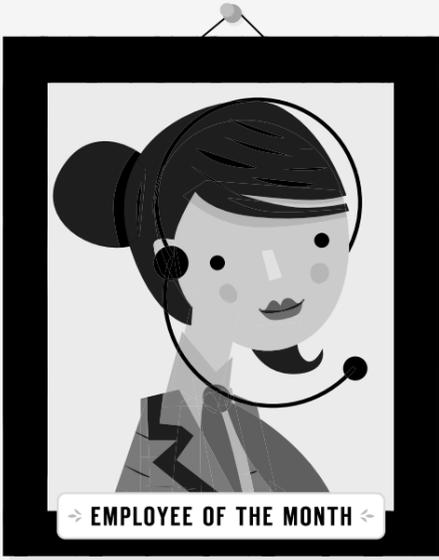


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# “Inspiring Engaged Citizens” Conference

## Working together to increase civics education and participation in our community

By Pamela B. Hubbs, Office and Foundation Administrator.

**“Alone we can do so little; together we can do so much.”**

*Helen Adams Keller (1880-1968), blind and deaf American author, political activist and lecturer*

On May 13, the Multnomah Bar Foundation (MBF) is hosting “Inspiring Engaged Citizens,” a conference to share ideas and explore opportunities to work with other civics-minded organizations to promote civics education. The MBF is eager to build coalitions and expand future giving by investing funds and resources in cutting-edge collaborative civics education programs or projects.

Invited guests include representatives from City Club of Portland, League of Women Voters, Oregon Community Foundation, The Bus Project and Urban League of Portland. The organizations selected include some past MBF grantees and other nonprofits selected for their programming and alignment with the mission of the MBF.

The conference will be facilitated by Judge Adrienne Nelson of the Multnomah County Circuit

Court and MBF President; Michael Greene, Rosenthal & Greene PC, MBF Board director and MBF Development Committee Chair; and Katherine O’Neil, Attorney at Law and MBF Board director.

The MBF is a charitable organization founded in 2005 with the purpose of creating resources to advance community knowledge of and respect for the law. The foundation was created by the MBA to commemorate its

100<sup>th</sup> anniversary and shares the association’s mission to promote justice, service, professionalism, education and leadership for its members and the community.

To learn more about the MBF and the projects it has funded, visit [www.mbar.org/foundation.htm](http://www.mbar.org/foundation.htm) or contact Pamela Hubbs at 503.222.3275 or [pamela@mbabar.org](mailto:pamela@mbabar.org).

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