



MULTNOMAH LAWYER

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

May 2012
Volume 58, Number 5



Judicial Independence

by Steve Blackhurst
MBA President

People frequently ask me if I enjoy being the president of the MBA. I am not sure how to answer this question. The perks of being MBA president are not what I expected. There is no presidential jet at my disposal, no yacht for cruising on the Willamette, no bulletproof

limo to take me across town. I am still waiting for my first overseas junket - my only travel adventure was to Gresham to see the new courthouse. (The new courthouse is very cool. Thank you, Multnomah County Commissioners.)

"The new courthouse is very cool."

I am not complaining, of course, and do not mean to suggest that being president of the MBA is all work and no play. I was one of judges at "Laf Off," a fundraiser for the Campaign for Equal Justice. The lawyers were pretty funny, and the winner, Mitra Shahri, could give up her day job if she wanted to be a stand-up comedian. I was also a judge for the *Daily Journal of Commerce's* Leadership in the Law awards. I am proud that Tom Matsuda, the recently retired head of Legal Aid in Oregon, was this year's winner.

My one real perk, I guess, is the opportunity to write this column. This month I am writing on maintaining an independent judiciary. How can judges who have to campaign to be elected, impartially decide the cases that are brought before them? This topic is timely because there is a contested race to succeed retiring Justice Skip Durham on the Oregon Supreme Court and a contested race to succeed Judge David Brewer on the Oregon Court of Appeals.

In other states that elect their judges we have seen the harm that can result when big money political campaigns try to influence the election of appellate judges. In West Virginia a supreme court judge cast the deciding vote in a case involving the coal company that was his campaign's largest contributor. In Iowa special interest groups mobilized to remove three sitting supreme court judges for upholding the rights of all people to marry.

Some have speculated that it is only a matter of time before these kinds of judicial campaigns happen in Oregon. See Representative Chris Garrett's November 4, 2011 column in *The Oregonian*, "Campaign money and influence: It's time for Oregon to reform judicial selections." Chief Justice De Muniz, sharing Representative Garrett's concern, has asked the Oregon Law Commission to review and evaluate alternatives for the selection of judges in Oregon.

Fortunately, the special interest groups so active elsewhere have not become involved in this year's judicial elections in Oregon. Nonetheless, it is difficult for judges to maintain the appearance of independence and impartiality when they have to campaign for office, seek endorsements from special interest groups and have their supporters raise financial contributions to fund their campaigns. I thought the federal system, where judges are appointed for life, was a much better way to achieve judicial independence.

And then a funny thing happened. The Supreme Court of the United States heard three days of oral arguments on the constitutionality of President Obama's health care reforms. I had not paid particular attention to this litigation as it worked its way through the federal courts, but thought that a Commerce Clause challenge to the constitutionality of health care reforms was a stretch. If anything affected commerce it was health care, where rising costs each year gobble an increasing share of our country's GDP.

Quite frankly I was shocked to read about and to listen to the oral argument before the Supreme Court. Following these arguments, virtually all of the pundits and analysts predicted that the individual mandate would be ruled unconstitutional by a five to four vote, with the five conservative justices appointed by Republican Presidents voting one way, and the four liberal judges appointed by Democratic Presidents voting the other way.

This made me ask two questions: Are appellate court judges truly independent? And, perhaps more importantly, do we really want appellate judges to be completely independent? For the last 50 years or so, it has been the conservatives who have railed against activist judges imposing their own liberal policy views and conjuring up constitutional rights undreamed of by those who wrote the Constitution. In this year's presidential campaign Newt Gingrich suggested abolishing the Ninth Circuit Court of Appeals if it continued to issue opinions that Gingrich found abhorrent. But after the recent oral argument before the Supreme Court on health care reform, it was the liberals who were up in arms about a conservative activist court daring to strike down the health care reforms approved by Congress.

To get some perspective on this I read a short history of the U.S. Supreme Court, *Packing the Court, the Rise of Judicial Power and the Coming Crisis of the Supreme Court*. The author, a liberal political science professor, pointed out that throughout most of its history the Supreme Court has used the power of judicial review to support private property interests against popular reforms. The infamous *Dred Scott* decision, the 1886 opinion holding that corporations were "citizens" with rights under the 14th Amendment, the refusal to enforce the Reconstruction Amendments following the Civil War, the striking down of laws passed during the Progressive Era that limited workers hours and banned child labor, and the decisions in the early 1930s striking down key parts of the New Deal, were all examples of the Supreme Court using the power of judicial review to retard efforts to change this country. Was the complete independence of the justices on the Supreme Court a good thing?

Continued on page 11

mba|EVENT

Multnomah Bar Association Annual Meeting, Dinner and Judges Reception

Monday, May 21
5 p.m.

Marriott Portland Downtown Waterfront
1401 SW Naito Parkway

Celebrating the profession and recognizing our colleagues

Professionalism Award Recipient
Edwin A. Harnden

Thank you sponsors of the MBA Annual meeting

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mba|CLE

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

MAY

5.2 Wednesday

Mandatory Sentencing

Chief Justice Paul De Muniz

5.24 Thursday

Washington and Clackamas Courts Update

Judge Robert Herndon
Judge Kirsten Thompson

5.30 Wednesday

Annual Probate Update

Judge Rita Batz Cobb
Judge Katherine Tennyson
Bryan Marsh
Tim McNeil

5.31 Thursday

Multnomah County Judges Trial Practices Update

Judge Judith H. Matarazzo
Judge Jean Kerr Maurer
Judge John A. Wittmayer

JUNE

6.5 Tuesday

Legislative Update

Chris Garrett
Shawn Lindsay

6.6 Wednesday

Appellate Law Nuts & Bolts for Litigators

Justice Jack Landau
P.K. Runkles-Pearson

6.7 Thursday

HIPAA/HITECH Basics for the Business Lawyer

Leslie Bottomly
Blerina Kotori

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See pp. 3-4 for
CLE schedule and
registration.

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East County Courthouse Opens

The new East County Courthouse opened in style on April 10 with a large turnout from the public and elected officials.

Commissioner Diane McKeel, who represents East Multnomah County on the Board of Commissioners, called it a “huge milestone that means east county residents will finally have the nearby access they deserve for essential court services ... and we’re pleased this project is both on time and on budget.” Other speakers at the grand opening were County Chair Jeff Cogen, Commissioner Judy Shiprack, Chief Justice Paul De Muniz, Presiding Judge

Nan Waller and County District Attorney Mike Schrunk.

The \$19.6 million LEED Gold courthouse construction began in January 2011. The courthouse is on a 4.2 acre lot in the Rockwood neighborhood at SE 185th and Stark. It replaces the current leased Gresham Courthouse.

Justice Tom Balmer described it as “state-of-the-art ... dignified but not opulent. You don’t always see this combination of design, quality and low cost in newer courthouses...very solid, filled with sunlight and beautiful. It is a great representation of what we think courts are all about.”

The architects for the building were LRS Architects, who donated their interior design services for the CourtCare space in the new courthouse. Howard S. Wright was the contractor and Shiels Obletz Johnsen the project manager.



East County Courthouse photo courtesy of LRS Architects Inc.

Mary Rower and Mike Crank Receive 2012 MBA Merit Award

by Judy A. C. Edwards
MBA Executive Director

Generosity and selflessness best describe the people behind the transformation of the CourtCare space at the downtown Multnomah County Courthouse; and it’s doubtful that it would have happened without **Mary Rower**. The project started with the idea to just paint and freshen up the old jury room that has served as the space for 9,000 children to play since late 2001, while their parents had to be in court.



Mary Rower

The “paint and freshen up the CourtCare space” idea started at the Markowitz, Herbold, Glade & Mehlhaf law firm as a way to give back to the community in celebration of their 25th anniversary in 2008. But when Rower, paralegal at the firm, visited the space, she thought, “Oh, we can do a lot more than

paint and freshen up!” Her vision, leadership, dedication and persistence, and the firm’s financial and in-kind support, as well as that of the architects and many contractors, led to a whole new design concept for the room and the completion of a fabulously remodeled space where children love to spend time. Mary’s enduring efforts made the dream a reality.

After years of planning, “It is amazing to see it come together so beautifully, due to the dedication and hard work of companies such as Yost Grube Hall Architects and Howard S. Wright Contractors,” said Mary. “Although this project won the support of and contributions from many community members, the CourtCare remodel would never have been completed without Mary’s hard work and dedication,” stated Peter Glade, Markowitz, Herbold, Glade & Mehlhaf managing shareholder.

Doug Bray, Multnomah County Circuit Court Administrator added, “Mary Rower’s work leading the CourtCare remodel, daily brings happiness and joy to the children who spend time in that room. Her vision, drive and care have turned the MBA’s investment

Calendar

To add your organization or firm’s annual events to the MBA online calendar, contact Carol Hawkins, carol@mbabar.org.

MAY

5.1-5.5 Tuesday-Saturday
Community Law Week
continues
Visit www.mbabar.org/yls for details

5.1-5.18 Tuesday-Friday
CourtCare Fundraising
Campaign continues
Visit www.mbabar.org/foundation/courtcare for details

5.3 Thursday
YOUTHFILM Screening at
Hollywood Theatre
Visit www.mbabar.org/yls for details

5.6 Saturday
YLS Community Service Day at
Potluck in the Park
Visit www.mbabar.org/yls for details

5.16 Wednesday
MBA Lawyers & Law Students
Golf Event at Langdon Farms
Visit www.mbabar.org for details

5.18 Friday
MBA BrownBag at Multnomah
County Presiding Court
Visit www.mbabar.org for details

5.21 Monday
MBA Annual Meeting & Dinner
Visit www.mbabar.org for details

5.25 Friday
Oregon Courts closed

JUNE

6.9 Saturday
YLS Community Service Day at
Oregon Humane Society
Visit www.mbabar.org/yls for details

6.14 Thursday
2nd Annual YLS Summer Social:
J’adore le MBA YLS
Visit www.mbabar.org/yls for details

6.19 Tuesday
MBA Golf Event at Riverside
Golf and Country Club
Visit www.mbabar.org for details

for childcare in the courthouse into a space which provides not just safety, but also delight and comfort to the children it serves.”

The person behind-the-scenes keeping the Multnomah County Courthouse open and running is a quiet, unassuming person who has worked as the County Property Manager since 1998. This responsibility is just part of **Mike Crank’s** larger job, which includes the daily maintenance of 14 county sites; and he assists with backup for jails.



Michael Crank

Crank works with the various tradespeople as a team member. That includes calling upon the engineers’ shop to fabricate the broken parts for the various very old mechanical systems in the courthouse, because the parts are unavailable for purchase. His team also works jointly on capital improvements. “Whatever it takes to keep buildings open,

so there are no shutdowns,” says Crank. He works with trade groups who do the actual physical work on the buildings.

One project he is especially pleased with is the rejuvenation of the presiding judge’s courtroom. The jury chairs were faded and grimy, the gallery benches were rickety with broken pieces and the carpet was old and soiled. Through his ingenuity, and with very little money, he managed to find enough matching benches spread throughout the building to outfit the gallery. Through his planning and orchestration, the courtroom received a complete makeover in one weekend.

We also want to recognize his willingness and eagerness to provide numerous guided tours for elected officials, lawyers, members of the media and the public. That is how we came to know him and his amazing accomplishments.

Doug Bray described Mike Crank as “our courthouse magician; he turns drab, worn and soiled courtrooms into beautiful, functional spaces. The product of his work restores a lost element of dignity to our proceedings. The transformations are magical. But, these changes only happen because he is committed to the importance of the courthouse to all of us and to this community. It is appropriate that his service is being recognized.”

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Join us at the MBA Annual Dinner on May 21 <https://mbabar.org/assets/invite.pdf>



Seminars are worth 2 OSB credits unless otherwise noted; 2 Washington MCLE credits may be obtained independently. Registrants who miss the seminar may request the written materials. Substitutions are welcome. Registration fees are non-refundable.

Washington and Clackamas County Courts Update

Thursday, May 24, 2012
3:00-5:00 p.m.

World Trade Center
Mezzanine Room
26 SW Salmon, Portland

Members \$55
Non-members \$85

The MBA CLE Committee presents a two-hour CLE focusing on Washington and Clackamas County court updates. This CLE is designed for all attorneys and will provide information and forms for navigating the Washington and Clackamas County courts.

Our panel includes Washington County Presiding Judge **Kirsten Thompson** and Clackamas County Presiding Judge **Robert Herndon**. This class will assist the practitioner in adjusting to court procedures outside of Multnomah County, including court organization, filing and serving your complaint, general calendaring, routine motion practice and scheduling and getting court assistance with trial and pleading issues.

The class will also provide attendees with updates to both Washington and Clackamas County court practices, including printed materials and online resources.

For more information:

Call Joe Franco, Markowitz, Herbold, Glade and Mehlhaf at 503.295.3085. With registration questions, call the MBA at 503.222.3275.

Annual Probate Update

Wednesday, May 30, 2012
3:00-5:00 p.m.

World Trade Center
Mezzanine Room
26 SW Salmon, Portland

Members \$55
Non-members \$85

The MBA presents the 2012 Annual Probate Update, featuring the following panel members: **Judge Katherine Tennyson**, Multnomah County; **Judge Rita Batz Cobb**, Washington County; **Bryan Marsh**, Probate Coordinator from Clackamas County; and **Tim McNeil**, Davis Pagnano McNeil et al. Mr. McNeil will provide an update of recent case law and legislation. The judges and staff will discuss current practices and procedures in the tri-county metro area. This CLE is a must for all probate practitioners and/or their staff.

For more information:

Call Aukjen Ingraham of Cosgrave Vergeer Kester at 503.323.9000. For registration questions, call the MBA at 503.222.3275.

Multnomah County Judges Trial Practices Update

Thursday, May 31, 2012
3:00-5:00 p.m.

World Trade Center
Mezzanine Room
26 SW Salmon, Portland

Members \$55
Non-members \$85

NOTE: The written materials for this class will include the recently updated Judges Trial Practices Survey.

This year's program will feature presentations by judges **Judith H. Matarazzo**, **Jean Kerr Maurer** and **John A. Wittmayer**. Topics will include motion practice, jury selection, briefing, jury instructions, making and arguing objections, managing witnesses and exhibits, handling presentation media and other procedural and practical issues faced by trial lawyers. The panel will also identify and discuss approaches for avoiding significant trial practice mistakes that Multnomah County judges frequently encounter. The program is designed for attorneys at all levels of experience, and practitioners are strongly encouraged to take advantage of this excellent opportunity to ask questions. Please join us for this informative discussion.

For more information:

Call Jen Wagner of Stoll Berne at 503.227.1600. With registration questions, call the MBA at 503.222.3275.

Legislative Update

Tuesday, June 5, 2012
12:00-1:00 p.m.

World Trade Center
Plaza Conference Room
26 SW Salmon, Portland

Members \$35
Non-members \$55

NOTE: This class will be worth one general MCLE credit.

Please join two lawyer legislators to learn about the developments that took place during the Oregon State Legislature's 2012 session. This CLE will cover recent changes to criminal and civil laws that may affect your practice or your clients' interests. Panelists include two members of the Oregon House of Representatives: **Chris Garrett**, a litigator at Perkins Coie, and **Shawn Lindsay**, a business and intellectual property attorney at Lane Powell.

For more information:

Call Heidee Stoller, Ater Wynne at 503.226.8616. With registration questions, call the MBA at 503.222.3275.

Appellate Law Nuts and Bolts for Litigators

Wednesday, June 6, 2012
3:00-5:00 p.m.

World Trade Center
Mezzanine Room
26 SW Salmon, Portland

Members \$55
Non-members \$85

You've successfully tried your case, but the other side files a Notice of Appeal. Your client wants you to defend the appeal. This has never happened to you before. What happens next? How do you preserve that victory for your client? Or you lost at trial and your client wants to appeal. How do you go about turning a loss into a win? Is getting the case overturned on appeal realistic?

This CLE is designed for trial lawyers who do not regularly practice in the appellate arena. Topics will include: whether to appeal or defend an appeal, the life of an appeal, general tips and traps, electronic filing and procedural differences between the Court of Appeals and the Supreme Court. This two-hour program will be presented by Oregon Supreme Court Justice **Jack Landau** and **P.K. Runkles-Pearson** of Stoel Rives.

For more information:

Call Melissa Ward of Spooner & Much at 503.517.0777. For registration questions, call the MBA at 503.222.3275.

HIPAA/HITECH Basics for the Business Lawyer

Thursday, June 7, 2012
3:00-5:00 p.m.

World Trade Center
Mezzanine Room
26 SW Salmon, Portland

Members \$55
Non-members \$85

This CLE will address (non-litigation) aspects of HIPAA/HITECH that affect "Covered Entities" (such as doctors, hospitals and health plans), and the service providers (accountants, lawyers, billing companies) that handle health information in the course of providing services to the Covered Entities. **Blerina Kotori** of Tonkon Torp and **Leslie Bottomly** of Ater Wynne will cover:

- What do HIPAA's privacy and security rules require of Covered Entities?
- How do you determine if you are a Covered Entity?
- What does HIPAA require a Covered Entity to do if private health information is accidentally disclosed?
- What is a "Business Associate Agreement" between a Covered Entity and a service provider (accountants, lawyers, billing companies) and which provisions may be negotiated?
- What does HIPAA require of Business Associates?
- Indemnification and insurance issues involving the costs associated with HIPAA violations.

For more information:

Call Heidee Stoller of Ater Wynne at 503.226.8616. For registration questions, call the MBA at 503.222.3275.

**Estate Planning,
Protective Proceedings
and Probate Court
*Tips to Hopefully Avoid,
or if not, Handle
Probate Litigation***

**Tuesday, June 12, 2012
3:00-5:00 p.m.**

World Trade Center
Mezzanine Room
26 SW Salmon, Portland

Members \$55
Non-members \$85

Join veteran elder law litigators **Steve Owen** of Fitzwater & Meyer LLP and **Hilary Newcomb** of HAN Legal for an informative course on how to minimize the chances of finding yourself and your clients in contested probate proceedings and how to best serve your client if they wind up there.

For more information:

Call Todd Cleek of the Cleek Law Office at 503.706.3730. For registration inquiries, call the MBA at 503.222.3275.

**Winning Approaches to
Opening Statements &
Closing Arguments
with Bill Barton and
David Markowitz**

**Wednesday, June 13, 2012
3:00-5:00 p.m.**

World Trade Center
Mezzanine Room
26 SW Salmon, Portland

Members \$55
Non-members \$85

Learn how to craft and deliver persuasive opening statements and closing arguments from two of the most respected trial lawyers in Oregon. Whether you are a new or seasoned lawyer this program will be of interest to you. Topics will include goals, themes, techniques, style and basic structure of openings and closings.

For more information:

Call Joe Franco of Markowitz, Herbold, Glade & Mehlhaf at 503.295.3085. For registration questions, call the MBA at 503.222.3275.

**MBA's First Thursday
Joint Social with Specialty
Bar Associations**

**June 7, 5-7 p.m.
Perkins Coie
1120 NW Couch, 10th floor**

The MBA Membership Committee invites you to a social and celebration of the contributions of diversity and inclusion in the legal profession. Please join us for hosted food and drinks, then take a map of the nearby art galleries and hit the streets to enjoy First Thursday in the Pearl District! Thank you Perkins Coie for hosting the event.

Space is limited, so RSVP to Kathy Modie, kathy@mbabar.org, to reserve a spot.

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Register for the May 16 Lawyers & Law Students Golf Event at Langdon Farms
<https://mbabar.org/assets/golf.pdf>

Photocopy, complete and mail or fax the registration form with payment to the MBA to reserve your space. Or register online and receive a \$5 discount. Self-study materials from past CLE classes may be downloaded at www.mbabar.org.

Registration Form

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Registration forms with payment must be received in the MBA office by 3:00 p.m. the day before the seminar, or the "at the door" registration fee will apply (see fees for each class and fill in the blank on registration form). Registration forms may be mailed or faxed to the address or number below. Accommodations available for persons with disabilities; please call in advance for arrangements.

Photocopy registration and mail or fax with payment to:

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503.222.3275 ■ Fax to: 503.243.1881

Register online and order or download MBA self-study materials at www.mbabar.org.

Reduced fees for unemployed members are available and are assessed on a case-by-case basis. For details, call the MBA at 503.222.3275.

Seminar Selection:

Please select the seminar(s) you wish to attend. Written materials for each class are included with registration. Pre-registration with payment is required to reserve a space; at-the-door registrations are accepted if space is available; an additional \$5 charge will apply.

5/24 Washington and Clackamas County Courts Update

- Class Registration Online (\$50 Members/\$80 Non) _____
- Class Registration (\$55 Members/\$85 Non) \$ _____
- CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ _____

5/30 Annual Probate Update

- Class Registration Online (\$50 Members/\$80 Non) _____
- Class Registration (\$55 Members/\$85 Non) \$ _____
- CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ _____

5/31 Multnomah County Judges Trial Practices Update

- Class Registration Online (\$50 Members/\$80 Non) _____
- Class Registration (\$55 Members/\$85 Non) \$ _____
- CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ _____

6/5 Legislative Update

- Class Registration Online (\$30 Members/\$50 Non) _____
- Class Registration (\$35 Members/\$55 Non) \$ _____
- CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ _____

6/6 Appellate Law Nuts and Bolts for Litigators

- Class Registration Online (\$50 Members/\$80 Non) _____
- Class Registration (\$55 Members/\$85 Non) \$ _____
- CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ _____

6/7 HIPAA/HITECH Basics for the Business Lawyer

- Class Registration Online (\$50 Members/\$80 Non) _____
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- CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ _____

6/12 Estate Planning, Protective Proceedings and Probate Court

- Class Registration Online (\$50 Members/\$80 Non) _____
- Class Registration (\$55 Members/\$85 Non) \$ _____
- CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ _____

6/13 Winning Approaches to Opening Statements & Closing Arguments

- Class Registration Online (\$50 Members/\$80 Non) _____
- Class Registration (\$55 Members/\$85 Non) \$ _____
- CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ _____

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CourtCare's 9th Annual Fundraising Campaign

April 30-May 18

by Amy Angel
CourtCare Fundraising Committee Chair

Going to court can be very intimidating, especially for young children whose families are already stressed to the limit by divorce proceedings, custody battles, eviction proceedings, or criminal charges. In its 10 years of operation, CourtCare has made a difference for countless families, many of whom struggle with violence and poverty. CourtCare has impacted the lives of these children who are welcomed into a cheerful place where they are sheltered from adult issues in court.

Their parents are able to focus on their court business knowing that their children have a safe and happy place to stay. Ask any Multnomah County judge and you will hear that CourtCare has also improved the administration of justice because courts operate more efficiently without having children in the courtrooms and hallways.

CourtCare, a project of the MBA is located in a converted jury room in the downtown

Multnomah County Courthouse. CourtCare has served more than 9,000 children since 2001, by providing free, drop-in childcare for children ages six weeks to five years old, whose families have court business. We look to continue to provide this high level of nurturing, developmentally-appropriate care in the renovated CourtCare room. In addition, the new East County Courthouse will also include a dedicated CourtCare room. CourtCare anticipates funding the operations of this second facility this year.



Two thirds of the annual budget for CourtCare is funded by the efforts and contributions of the legal community. Without the generous financial support of Portland-area lawyers and law firms, CourtCare would not

exist. We thank all the individual lawyers, legal assistants, paralegals, law firms and judges who have generously contributed in the past. Last year, more than 1,000 people and organizations contributed a total of nearly \$100,000. Virtually every Multnomah County Circuit Court judge has contributed to the campaign in the past nine years, a testament to the value placed on the program by those who see it in operation every day.

The 9th Annual CourtCare Campaign will run from April 30 through May 18, with a goal of raising more than \$100,000. Every dollar helps and the campaign will give special recognition to donations at the \$150 and \$500 levels.

The campaign also recognizes the firm or organization with the highest per capita contribution with the Loftiest Leap award and the firm or organization with the largest total contribution to the campaign with the Proudest Pride trophy. Last year, those awards went to Buchanan Angeli Altschul & Sullivan and Davis Wright Tremaine.

To learn more about CourtCare or the campaign, please contact me at aangel@barran.com or 503.228.0500. Also, please see this month's insert to make a donation by mail or visit www.mbar.org to make a donation online or to view a short video about the CourtCare program. Thank you in advance for your continued support of this important program.

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Ethics Focus

Keeping Clients Informed: How Much is Enough?

by Mark J. Fucile
Fucile & Reising



Over the past two years, the Oregon Supreme Court issued a pair of decisions sketching the contours of the duty to communicate with clients. In the first, *In re Snyder*, 348 Or 307, 232 P3d 952 (2010), the Supreme Court found that the level of communication was insufficient and disciplined the lawyer.

In the second, *In re Groom*, 350 Or 113, 249 P3d 976 (2011), the Supreme Court determined that the amount of communication was adequate and dismissed the charges. Each case turned largely on its individual facts. Collectively, however,

“...the two allowed the Supreme Court to explore the duty of communication....”

the two allowed the Supreme Court to explore the duty of communication under RPC 1.4, which did not have an identical predecessor in the former Oregon Disciplinary Rules.

In this column, we'll first look at the Supreme Court's explanation of this important duty. We'll then turn to simple and practical ways that you can meet the standards that the Supreme Court outlined.

The Duty

RPC 1.4 sets out two elements in the duty of communication. First, we have a duty to keep a client reasonably informed. Second, we have a corresponding duty to explain matters in a way that the client will understand so that the client can make informed decisions.

In *Snyder*, the Supreme Court summarized the nub of the duty: “RPC 1.4 requires lawyers to maintain reasonably adequate communication with their clients by keeping clients informed about the status of their matters, by complying with reasonable requests for information, and by explaining matters to the extent reasonably necessary to permit clients to make informed decisions.” 348 Or at 315.

In *Groom*, the Supreme Court cataloged the factors that underpin the duty: “From the text of RPC 1.4 and

from the cases interpreting it and former DR 6-101(B) (diligence), it is clear that deciding whether a lawyer has violated RPC 1.4 requires a careful examination of all of the facts. Factors that are relevant to that inquiry include the length of time between a lawyer's decision and the lawyer's communication of that decision to the client, whether the lawyer failed to respond promptly to reasonable requests for information from the client, and whether the lawyer knew or a reasonable lawyer would have foreseen that a delay in communication would prejudice the client.” 350 Or at 124.

Meeting the Duty

Meeting our duty of communication can have significant practical consequences. A client who understands and participates fully in a strategic decision may be less likely to “second guess” it later. Documenting the client's

“A client who understands and participates fully in a strategic decision may be less likely to ‘second guess’ it later.”

participation in the decision will also provide the lawyer with an important record later if the client expresses disappointment with “how we got here.”

On a practical level, communication turns on a blend of the methods, timing and content. With each, there is no magic formula.

On methods, copying clients on letters and emails is a simple but effective way of providing the client with a running record of case events. Taking the time to write a short status report along with the monthly bill is a great tool to both remind the client of the work recounted in the bill and preview the next steps that you will be taking in the coming month. Finally, a promptly returned phone call can spell the difference between an issue resolved and one left to fester.

On timing, *Groom* in particular noted that although what is “reasonable” will vary with the circumstances,

“...what is ‘reasonable’ will vary with the circumstances....”

information needs to be communicated “sooner rather than later” if a delay puts the client at risk of harm.

On content, lawyers need to balance both the audience and the complexity of the subject. If the lawyer is communicating with the general counsel of a corporate client, the content will likely be different than if the client is a relatively unsophisticated individual. Similarly, complex subjects normally require a fuller explanation than simple ones.

Mark Fucile of Fucile & Reising 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.

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mba | ANNOUNCEMENTS

Committee Appointments

Please consider signing up for an MBA or YLS committee. MBA committee terms begin July 1 and are three years; YLS committee terms are two. To sign up, see the insert in this issue and the article on p. 16.

Friday Court Closures

For judges, the courts are closed for any business which must be on the record on specified Fridays. For all other purposes, including the filing of any document, any payment, or scheduling any matter, the courts are closed and the action must wait for the next day the courts are open. Please see ORS 174.120 regarding a day when courts are closed by Chief Justice Order.

Upcoming Friday closures in 2012 are May 25, August 17, October 19 and November 23. In 2013, courts will be closed January 18, April 19 and May 24.

MBA Judicial BrownBag is May 18

Please join judges of the Multnomah County Circuit Court for a BrownBag discussion on Friday, May 18. This biannual series provides MBA members with an opportunity for an informal discussion with Presiding Judge Waller and judges McKnight and Wittmayer. The judges will be joined by Lisa Norris-Lampe, chair of the group which developed the UTCR. The main topic of discussion for this session will be the implementation of Oregon eCourt, to be deployed initially in the Yamhill County Circuit Court this summer (with Multnomah County Circuit Court to follow next year), and the amendments to the Uniform Trial Court Rules to conform them to the Oregon eCourt system. Questions about other subjects are also welcome. Bring your lunch and questions to presiding court (room 208) on Friday, May 18, from 12-1 p.m.

Statement of Diversity Principles Available for Your Signature

The MBA Equality Committee invites you to sign the Statement of Diversity Principles. Visit <http://mbabar.org/AboutUs/Diversity.html> for details and to sign the statement.

MBA Noon Time Rides

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

Oregon Women Lawyers (OWLS) Seeks Workplace Leader Award Nominations

OWLS' mission is to transform the practice of law by advancing women and minorities in the legal profession. The Workplace Leader Award furthers that mission by recognizing a legal employer for making innovative and effective efforts to promote one or more of the following values: acquiring and maintaining a diverse workforce and leadership; and maximizing opportunities for women and minorities to advance to positions of influence and leadership. The 2012 award recipient will be honored during OWLS' Fall CLE on October 26.

Nominations should include information that will help the award committee evaluate the specific program, policy, or project of the employer; the markers of success for that program, policy, or project; and names of people who can be contacted for further information. Nominations must be received via email by 5 p.m. June 1 and should be sent to OWLS Transformation Committee Chair, Dana Forman, danaformanlaw@gmail.com.



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Around the Bar



Ed Harnden



Devon Newman



Alison Kean Campbell

Metro
Alison Kean Campbell has been appointed the agency's general counsel. Kean Campbell has practiced law for 23 years; 16 of those years with Metro.



Chad Marriott

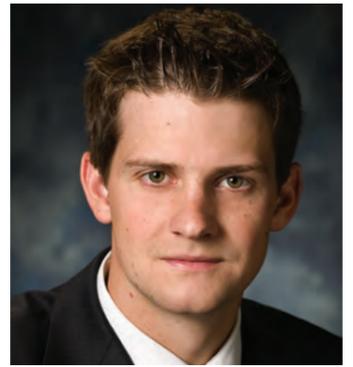
Stoel Rives
Partner **Jim Westwood** received the Legal Citizen of the Year award from the Classroom Law Project, a Portland nonprofit dedicated to teaching students how to become active citizens. Westwood concentrates his practice in state and federal appellate courts.

Gersham Goldstein was honored by the Maimonides Jewish Day School, which provides a Judaic and secular education, for his longstanding support in getting the school started.

Goldstein, a retired partner, serves as of counsel to the firm, specializing in tax matters.

Chad Marriott, an associate, has been appointed to the board of directors for Camp Fire Columbia, a community-based nonprofit organization with a mission to build caring, confident youth and future leaders. Marriott is in the Energy Development group, active in the firm's Ocean and Hydropower, Wind and Solar Energy Initiatives.

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Bradford Miller

Stahancyk Kent & Hook
Bradford Miller has been selected as a shareholder of the family law firm. He has shaped his practice to be results-driven and solution-based advocacy on the behalf of clients in all aspects of family law.

Rachael Robinson joined the firm as a new associate.



Jeffrey Jones

Barran Liebman
Managing Partner **Ed Harnden**, who focuses his practice on employment dispute resolution, arbitration and litigation, has been appointed by the governor and unanimously confirmed by the senate to the Oregon Public Officials Compensation Commission.

Jeffrey Jones, Of Counsel with the firm, has earned tenure as an Associate Professor of Law at Lewis & Clark Law School. He teaches Employment Law, the Disability Law Seminar, Jurisprudence & Property and Legal Elements.



Matt Wilmot



Kelly Hagan

focuses his practice in the areas of construction, commercial litigation, real estate and environmental law.

Dan Eller, **Devon Newman** and **Matt Wilmot** have been named shareholders.

Eller focuses his practice in the areas of tax and business law. He advises clients with both transactional and controversy matters.

Newman is an intellectual property attorney who helps individuals and businesses of all sizes protect their creativity and inventions. She is a registered patent attorney.

Wilmot is an intellectual property attorney focusing his practice on advising business clients on identifying, protecting and enforcing their intellectual property assets.

Kelly Hagan, a shareholder and MBA past president, recently joined the board of directors of Essential Health Clinic, the only no-fee safety-net clinic for Washington County residents. Each year, the organization provides care for 6,000 patients.

Hagan focuses his practice on health care business transactions, including business entity formation, mergers and acquisitions, system affiliations, joint ventures, physician networks and medical staff and peer review disputes.



Jeff Merrick

Jeff Merrick is now available to serve as a mediator. Merrick completed training at The Center for Mediation in Law in Marin County, California; the Oregon Judicial Department for court-connected mediation; a workshop on Mediation Impasse-Breaking and Ethics and independent study. Merrick may be reached at 503.665.4234 or merrick@jeffmerrick.com.



Jeremy Vermilyea



Dan Eller

Schwabe Williamson & Wyatt
Shareholder **Jeremy Vermilyea** recently received the Paul Emerick Training Award from the Associated General Contractors Oregon-Columbia Chapter. The award recognizes the outstanding efforts of a person or company dedicated to education and training at all levels of the construction industry. Vermilyea



Krista Evans

Buckley Law
Krista Evans has been hired as an associate. She will work with the firm's Business and Real Estate Transactions Department, primarily focusing on business law and finance and commercial law.

Bateman Seidel
Christopher Campbell and **Travis Hall** are now shareholders in the firm. Campbell is a member of the Affordable Housing Group and Hall is a member of the Litigation Group.



Jim Westwood

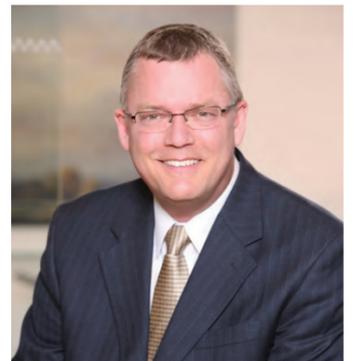


Russell Rotondi

Cosgrave Vergeer Kester
Russell Rotondi joined the firm's construction practice group as an associate. His practice focuses on complex civil litigation, specifically the defense of developers and general contractors and professional liability defense of architects and engineers.



Marshall Stagg



Timothy Calderbank

Landerholm
Attorneys **Marshall Stagg** and **Timothy Calderbank** have joined the firm.

Stagg joined as an associate. His practice focuses on estate planning for business owners, post-death administration of trusts and estates and federal taxation. He is also a Washington Certified Public Accountant.

Calderbank, Of Counsel, maintains an active construction, real estate and hospitality practice providing both business advice and transactional and litigation services for private and public clients.



Lydia Godfrey

Oregon Pet Lawyer
Lydia Godfrey has changed the name of her solo firm from Godfrey Law to Oregon Pet Lawyer, to reflect her shift from a general practice to an estate planning/probate practice emphasizing pet trusts. She may be reached at 503.246.1516, fax 503.790.9000; address 9220

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.

Natalie Hedman Receives Michael E. Haglund Award

by Gabrielle Richards

The 2012 recipient of the Michael E. Haglund Award is **Natalie Hedman**. The Haglund award is presented to a young lawyer who, in the tradition of Michael Haglund, founder of the Volunteer Lawyers Project, has displayed a special commitment to pro bono services.

Hedman began volunteering with Legal Aid Services of Oregon (LASO) soon after being admitted to practice in Oregon in 2009. Motivated by a desire to work in family law and with victims of domestic violence, she has contributed more than 300 hours of her time in representing 45 clients through the LASO Domestic Violence Project and the Pro Se Assistance Project (family law pro se clinic). She also takes direct referrals and has represented clients in various family law matters, including

guardianships, divorce and custody disputes.

Hedman says, "I am really passionate about helping families transition and I actually believe that most transitions, though devastating in the moment, and despite the negative stereotypes of divorce/custody disputes, can be positive changes that are truly for the best in the long run."

Hedman has received many favorable comments from clients, who appreciate her calm and knowledgeable demeanor. The impact a volunteer attorney has on person's life is immensely rewarding and a motivating factor in continuing to do pro bono work. I want persons referred to me to feel like they have a good attorney regardless of whether they pay or not. It's rewarding when the client believes you provided a good service."



Natalie Hedman

She has advice for new attorneys who are interested in doing pro bono work but are reluctant to take on such clients so early in their careers:

"Get a mentor when you are not sure about your skills or knowledge," she said. "Ask some of the nice lawyers at Legal Aid if you are unsure of a form for a motion or a pleading. Go to a mentor group, or utilize listservs. Don't say 'you can't afford it' because if you need experience, there are clients who need attorneys. You can't afford NOT to, really."

Gary DeFrang and Bernard Chamberlain Pro Bono Award of Merit Recipients

by Lori Alton
Oregon Law Center

Gary DeFrang, a partner at Wetzel DeFrang & Sandor and **Bernard Chamberlain** are the recipients of the 2012 MBA Pro Bono Award of Merit. They are being recognized for their outstanding efforts in representing a low-income family involved in a dispute with the Oregon Department of Revenue which led to a trial before the Oregon Tax Court in 2011 and a favorable ruling for their client. DeFrang and Chamberlain worked as a team on this matter, donating 110 hours of their time.

The pro bono clients they assisted had filed a timely 2009 tax return and claimed the husband's ill and elderly parents

agency pursuing people who have very little, if any, means to defend themselves. OLC assisted these attorneys by having Eleanor Morfin, a Spanish-speaking paralegal, interpret and translate for the case as needed.

This was a challenging case because it is a narrow area of the law. It involved clients and witnesses who speak limited English and it required proving the level of support needed for ill and elderly parents who live in another country. The Department of Revenue did not believe that the agency staff should review the copious and uncontroverted oral and written evidence provided by the clients in order to determine the relevant facts. Instead, the department argued that the only way that a taxpayer could prove that he or she was eligible to claim elderly and ill parents as dependents was if the taxpayer could provide independent written verification of the level of support this family needed.

This low-income family, and many low-income families, could not rely upon bank checking account records or credit card statements to prove their story, because their economic reality did not include bank accounts and credit cards. Fortunately, the tax court's written decision held that this is why we have courts and that the taxpayers had presented adequate proof of the support. Chamberlain says "The case was a neat opportunity to benefit worthy clients and work with respected co-counsel, while positively affecting the area of the law in which I work. I hope the outcome of the case leads to a more balanced and efficient administration of the tax law."

We all know how scary it can be when the tax man arrives. Without the help of these two pro bono attorneys, this low-income family, which was doing the right thing in helping their parents survive, would not have received the tax credit for their dependents

"The efforts of these attorneys epitomize the intense dedication that pro bono attorneys exhibit in gaining access to justice for their clients and for low-income persons in Oregon."

that was due to them. The efforts of these attorneys epitomize the intense dedication that pro bono attorneys exhibit in gaining access to justice for their clients and for low-income persons in Oregon.

Chamberlain is currently in private practice focusing on business and tax law, with an emphasis on small business issues. DeFrang works in the areas of business and tax law.

David Canary Receives Pro Bono Award of Merit

by Lisa Lam
Campaign for Equal Justice

David L. Canary of Garvey Schubert Barer is a recipient of the Pro Bono Award of Merit. The award is presented to a lawyer(s) who has set an example for our legal community in his or her dedication to providing pro bono legal services to clients who are unable to afford them.

David has devoted time to his community and to pro bono service since the beginning of his legal career. For the past 12 years, David dedicated hundreds of hours of pro bono service to many organizations through the Community Development Law Center.

One organization is the Willamette Neighborhood Housing Services (WNHS), a nonprofit affordable housing and community development

organization. A property owned by WNHS had been disqualified from a property tax exemption, resulting in raised rents to the families in the affordable housing development. Before the trial began, Benson County Counsel reviewed the materials and recommended a reinstatement of the exemption based on David's work. The impact of his work has been immense - hundreds of families have been able to stay in their homes. When asked about why he is committed to pro bono service, David stated, "As lawyers, it is our obligation to give back to the community."

David exemplifies this award not only through his pro bono work, but his commitment to creating a culture of pro bono. He has devoted countless hours to mentoring less experienced



David L. Canary

attorneys and has educated leaders of community land trusts nationwide. In addition, Canary introduced his partners in the Seattle office of Garvey Schubert Barer to community land trusts in Washington. One of the attorneys mentored by David was Anne Villella. She wrote, "It was refreshing to see a colleague dedicated to pro bono service. He set an example for me - and others - of what it means to serve as a professional within our community."



Bernard Chamberlain

as dependents. When their claims were denied they sought help from Oregon Law Center (OLC), which asked the law firm of Folawn Alterman & Richardson to assist on a pro bono basis. The firm accepted the case, asking Chamberlain to handle the case due to his background in tax law and also asking DeFrang, who handles complex litigation, to join the case with them. Both of these attorneys enthusiastically agreed to handle this case as it involved a large governmental

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Tips From the Bench

Ex Parte in Family Court

by Hon. Maureen McKnight
Multnomah County Circuit Court
Chief Family Court Judge



Evaluation forms from recent MBA CLEs have set out a few questions about ex parte appearances in Family Court. This column highlights selected SLRs in reviewing ex parte practice for domestic relations cases.

What motions can I present at ex parte?

First, distinguish permissible ex parte relief from what is heard at “ex parte time” (8:30 a.m. and 1:30 p.m.). Although the ex parte docket is reserved primarily for matters in which ex parte relief is specifically authorized by statute or for stipulated orders that parties do not want to mail in, as a practical matter ex parte time must also sometimes be used for disputed emergency scheduling or other time-sensitive issues.

What relief is authorized ex parte in family law?

The list is not long but includes alternative service orders, Family Abuse Prevention Act (FAPA) initial and renewal petitions, FAPA motions by the petitioner to dismiss or loosen restraining orders, fee waiver/deferral requests, pre-judgment immediate danger orders, ORCP 79 motions, Orders of Assistance, Orders to Show Cause, proposed orders following the SLR 8.041(4) 14-day objection period and - by court consensus - pre-judgment status quo orders prior to service.

Motions for default don't require notice to the other side but are very seldom signed at ex parte time because neither the judge nor court staff has had a chance to review the proof of service. A similar rule regarding judgments applies: court staff needs to check for missing paperwork and outstanding fees, so presenting even a stipulated judgment (other than regarding dismissal) is likely to result in a referral of paperwork down to room 211.

Stipulated orders are usually fine but for resource gate-keeping reasons, even stipulated requests for Family Services studies are not heard at ex parte time but on a specific docket on Fridays at 8:30 a.m. SLR 8.047(2).

And while ORS 107.139 provides that post-judgment immediate danger motions are permissible ex parte requests, since that statute also requires “a good faith effort to confer with the other party regarding the purpose and time of the court appearance,” notice attempts are required.

What other matters can be heard at ex parte time?

Usually judges entertain only scheduling or emergency matters such as requests for set-overs or telephone testimony in FAPA or other cases in which a very short hearing timeframe precludes use of the SLR 8.041(4) procedure. A request for a special set is also appropriate for ex parte time. Where notice to the other party is required because ex parte relief is not specifically authorized, a “two working days advance notice” rule and certificate is set out in SLR 8.041(3). The local court Web site contains a sample certificate.

How do I know what judges are handling ex parte on a given day?

Their names are posted on the dry erase board in room 211.

Will this ever be available electronically?

We hope so.

Are the ex parte rules different if the case has been retained by a Judge?

Only regarding the retained judge's availability on a given day. If you want paperwork signed while you wait, contact the retained judge's judicial assistant to identify an appropriate time to submit the motion, as the Judge likely has other docket duties at 8:30 and 1:30, or may be sitting at the Juvenile Justice Center. Paperwork that can be left for judicial signature can always be mailed in or left in the judge's box in the mailroom off room 210.

News from the Courthouse

by Karen Moynahan
Court Liaison Committee
member

Presiding Judge's Report

Judge Waller reported on court layoffs and reorganization due to a \$1.5 million reduction in resources. Layoffs have begun and the reduction plan must be completed by May 1. There will be five clerks from judicial staff and 10 administrative staff laid off from the court's permanent positions and 11 temporary employees terminated. With these layoffs, the total permanent staff reductions for the 2011-13 biennium to date are 50.

Because of the reduction of five clerks, judges and the support staff assigned to judges are being reorganized; there will be 11 teams each composed of three judges, three judicial assistants and two clerks, and one four-judge team for the treatment courts with four judicial assistants and three clerks. A pool of clerks has been created as well. The clerk pool is made up of experienced clerks with skills covering all courtroom work.

This entire process is a significant reorganization of the judges and their support staff. The reorganization relies on the probability that not all judges will be in a courtroom every minute of the business day and the team resources with the pool of clerks will be adequate to maintain full judicial productivity.

Judge Waller asked the committee members to assist in quelling rumors regarding the court's reorganization of the judges and judicial support staff, emphasizing that the formation of the teams will not impair the ability of the court to try cases. Clerks and JAs will cross train so all can turn on the audio recording equipment and run the courtroom.

For jury trials and complex non-jury cases, Judge Waller expects that clerks, from the team or the pool, will be in

the courtroom; other types of proceedings may have a JA attend.

Judge Waller was asked how cuts would affect attorneys and she responded that attorneys should get trial memos in early, report number of trial days needed accurately and be patient and helpful with court staff. She also explained that there are two kinds of clerks, judicial clerks (recent law school graduates, usually with bar admission, limited duration) and courtroom clerks (who may or may not be attorneys).

Courtroom clerks can handle FTR (For The Record) equipment, juries, etc. Judicial clerks do a variety of research for the judges. Because the pool is a mix of courtroom and judicial clerks, there will be a team to respond to each judge's needs. Judge McKnight has requested that attorneys bring copies of pleadings to court because there is a filing backlog. Judge Waller agreed, and said that the new procedures are the new baseline, and she doesn't anticipate that the court will go back to previous staffing levels.

Chair Dahlin asked about a rumor he had heard regarding a parade of horrors: trials being cut by one-third because of the reduction in clerks, resulting in no civil cases going out because priority would be given to criminal matters. Judge Waller disagreed, and noted that the National Center for Courts recently conducted a survey regarding courthouse needs, concluding that Multnomah County has a very good reputation for trying civil matters in a timely fashion. In fact, during spring break the court had 15 judges who were away, but still got every case out on time.

It was suggested that the MBA send an email to members explaining anticipated impacts, in part to quell rumors. The MBA Web site will add the list of the chief justice's court closure dates to its calendar and will work with the court to define what a closure means under the chief justice's order; a clear statement of operations that are impacted is needed.

In January 2013, the court will begin implementation of eCourt, and the first case types will be up in June 2013. Judge Waller said that it is important for the legislature to understand that the court has already taken cuts in staff that will be somewhat relieved by eCourt, and that the court should not take additional cuts once eCourt is up and running.

A question was asked about how many civil cases are handled per judge per month in Multnomah County. Doug Bray responded that the general breakdown in all cases is 20-30% civil. The member noted that attorneys sometimes struggle with how much to brief civil matters because they don't know how much time a judge can give to those matters. Judge Waller responded that whatever help an attorney can give to judges is valuable.

The *Attorney Reference Manual* will be updated this year.

East County Courthouse

Judge Waller updated the committee on the new East County Courthouse, which opened in April. She reported that in the last days of the legislative session, it became apparent that there would be no money for technology and furniture for the courthouse, so the legislature passed an amendment to provide to Multnomah County discretion for a one-time expenditure for those items from funds appropriated for the law library. Davis Wright Tremaine donated desks and other furniture left over from a remodel to address most of the furniture issue. Judge Richard Baldwin will be the first judge to sit at the East County Courthouse.

Spring Brownbag

May 18 is the next brownbag, which will cover various topics, including UTCR changes, eCourt and court staffing changes. Judges Waller, McKnight and Wittmayer will be joined by Lisa Norris-Lampe, chair of the group which developed the UTCR.

mba|EVENT

Lawyers & Law Students Golf Event

Wednesday, May 16

Langdon Farms Golf Club, Aurora



Excellent opportunity to meet and network with law students from Willamette, UO and Lewis & Clark. Teams will be made up of lawyers, judges and law students, matching students' interests with lawyers' areas of practice when possible. Langdon Farms Golf Club, Aurora, 1:45 p.m. shotgun. Check in begins at 12 p.m. The printable registration form is available at <https://mbabar.org/assets/golf.pdf>.



Schwabe Williamson & Wyatt presents a check for \$5,000 to the Hispanic National Bar Association-Legal Education Fund Board of Directors. Left to right: Omar Vargas, Global Director of Government Relations, Praxair, Inc. and HNBA-LEF Treasurer; Mark Long, managing shareholder of Schwabe, Williamson & Wyatt; Benny Agosto Jr., National President of the Hispanic National Bar Association; and Román Hernández, shareholder at Schwabe and Chair of the HNBA-LEF board of directors

Thomas A. Balmer Oregon Chief Justice

by Judy A. C. Edwards
MBA Executive Director

On May 1, Justice Tom Balmer changed roles at the Oregon Supreme Court, becoming Chief Justice. Since his admittance to the Oregon Bar in 1982, he has become very well known and respected in the legal community as a colleague, litigator, firm manager and deputy attorney general. In the community at large, he is known as volunteer, nonprofit board leader and coach.

With his new role on the Supreme Court, our questions to him naturally fell toward his priorities for the statewide court system. The word “continuity” rang throughout our discussion as he described long-term planning, implementing new technology and most importantly, the tenuous nature of current court funding, which we hope will not become the new normal, or near normal, for our state courts.

Chief Justice Balmer’s priorities fall into five distinct categories.

1) Accessible and Fully Functioning Court System

Adequate funding to keep courts open and functioning for the community is at the top of his list. “We need to advocate and work with the legislature for the funding that is necessary for a fully functioning court system. We’ll begin with the Emergency Board meeting in May. Legislators tell us that we have a shot at some of the money lost in the last session. We will go in with a proposal.”

The goal is to restore some of the cuts, such as the 3.5% reduction in the budget that

the 2011 legislature previously approved for the courts. “We will try to restore as much of that as possible. Some of it was restored during the February 2012 session and we will try to get more from the E-Board.

“Longer term, we will try to build back some of the capacity lost through the last three sessions since 2007. The fact is that we have reduced hours in many courts, and the courts have been closed entirely on statewide furlough days, although we delayed that as long as we possibly could. These closures have an immediate and dramatic effect on the public. For example, someone seeking a restraining order against an abusive spouse or partner simply can’t get one if the courts are closed, which can put them and others, such as children, at risk. We also are seeing increased delays in getting judgments finalized and entered.

“Without enough people, we are continuously having to balance all the aspects of our service to the public. We need to keep windows open for filings and fine payments and also have support staff process court orders, prepare final documents and judgments and getting them entered.

“The judicial branch has lost its research and analysis capacity.” An entire division within the state court administrator’s office has been eliminated. Court Programs and Services Division (CPSD), was a research and development arm that analyzed how certain cases were processed, looked at ways



Chief Justice Thomas A. Balmer

to achieve greater efficiencies, identified trends in different kinds of cases and helped decide how to shift resources in a large and complex organization.

2) Oregon eCourt

“eCourt is fully implemented at the appellate level and we are going forward with the first circuit court on June 2 in Yamhill County. Most of the heavy lifting has happened already. There are certain to be some bugs which we will figure out. The second set of courts is going live after that, including civil cases in Multnomah County. In the February 2012 session, the legislature gave us the go-ahead for additional bond funding for eCourt and that is a strong signal of support from the legislature that we’re on the right track.

“We signed a contract last year with Tyler Technologies, which has successfully implemented eCourt in entire states like Minnesota and in a number of other large trial court systems such as Dallas and Miami. ePayment is another part of eCourt that is being implemented right now. It allows online payment of fines and fees and has been working very smoothly over the past three months.”

3) Continue Finding and Implementing Efficiencies

“We began an internal

effort in 2009 to squeeze any inefficiencies out of the system. We started by soliciting suggestions and comments from the entire branch, from the Chief Justice to the newest support staff. We got more than a thousand different suggestions and the Court Re-Engineering and Efficiencies Work group (CREW) worked through them and implemented some. They include trying to do more hearings remotely, using email rather than paper notices and filings – in general, leveraging technology to save judge and staff time, but also time and expense for parties, deputy DAs, public defenders, witnesses and private sector lawyers. We are also looking at best practices from different judicial districts and applying them in other judicial districts where they make sense.

4) Judicial Compensation

“The legislature has not approved a pay increase for judges since 2007, except to advance them to a second step in 2008. There have been no inflation adjustments or salary increases since then. The fact is, our state court judges are substantially underpaid compared to lawyers who appear before them, as well as public sector lawyers and judges in other states. We will propose an increase with the legislative package. We know there will be a lot of competing needs for the legislature to evaluate, but we can make a good case for increasing judicial compensation.”

5) Courthouse Facilities

Balmer praised Multnomah County for its new, state-of-the-art East County Courthouse. Most of the money for the building came from federal stimulus funds and some from the sale of county property. “The new East County Courthouse is

dignified but not opulent. You don’t always see this combination of design, quality and low cost in newer courthouses. This one is dignified, very solid, filled with sunlight and beautiful. It is a great representation of what we think courts are all about. When you compare it to the downtown Multnomah County courthouse, with the crowding to get through security and the deferred maintenance, you see how outdated and inadequate that facility is, not to mention the earthquake concerns. Seeing the new courthouse reminded me of what can be accomplished and what we need to continue to work toward in Multnomah County and other judicial districts. The fact that the county was able to use an unexpected source of money, federal stimulus funds, demonstrates that we need to be ready to move quickly if we can identify a funding source.”



One of the encouraging signs Balmer appreciates is the number of newer, lawyer legislators from around the state. “Chris Garrett, Matt Wand, Wally Hicks, Cliff Bentz and Mike McLane deserve a lot of credit for their support. They understand the court system and have been very helpful.”

Chief Justice Balmer will continue his regular job while also running the state court system and developing its budget and working with the legislature. He has a myriad of other responsibilities too, including serving on various boards and commissions and appointing others to commissions and committees.

We congratulate Chief Justice Balmer on his election and pledge our support to him and the statewide court system.

Edwin A. Harnden Receives 2012 MBA Professionalism Award

Edwin A. Harnden, managing partner at Barran Liebman LLP will receive the 2012 MBA Professionalism Award on May 21, at the MBA annual meeting and dinner.

The MBA Professionalism Award, the organization’s highest honor, recognizes lawyers who exemplify, not simply meet, the standards set forth in the MBA Professionalism Statement: *Professionalism goes beyond the observance of the legal profession’s ethical rules and serves the best interests of clients and the public in general; it fosters respect and trust among lawyers and between lawyers and the public, promotes the efficient resolution of disputes, and makes the practice of law more enjoyable and satisfying.*

Harnden has been practicing law for 40 years. His nomination for the Professionalism Award was supported by numerous attorneys, judges, and law students from across the spectrum.

Here are a few of the things his nominators and supporters said about Ed:

- “He retains the charm, eagerness, forthrightness and values of a small-town person, with the skills of an accomplished trial lawyer.”
- “...the epitome of professionalism” “highest rating,” “great guy,” “can’t think of anyone better.”
- A “great family man, great partner and great advocate.”

Opposing counsel were uniformly complimentary of his temperament, his honesty, his no-nonsense approach to discovery and his interest in finding early and low-cost solutions to legal problems.

He is also known for the time he spends mentoring younger attorneys and making himself available to them and law students. He is “always available” for young lawyers’ questions.



Ed’s history of service to the bar is extensive. He is the current president of the Multnomah Bar Foundation and on the board of the Campaign for Equal Justice and served as president of the MBA in 1996-97 and president of the OSB in 2001.

In addition to bar activities, his community and civic activities have included serving on the boards of the Classroom Law Project, Portland Schools Foundation, Babe Ruth Baseball, the Japan-American Society of Oregon and the Lincoln High School Booster Club.

Congratulations to Ed Harnden, a most worthy recipient of the 2012 MBA Professionalism Award.

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To sign up for an MBA or YLS Committee, visit <http://mbabar.org/assets/commvolform2012.pdf>

President’s Column

Continued from page 1

I think that the Supreme Court will uphold the constitutionality of the health care reforms. But if I am wrong, the Supreme Court will give credence to the idea that judicial independence, regardless of how judges are selected, is a myth - judges are really just politicians in black robes. That may or may not be true, but the current debate about the proper role of the Supreme Court should make all of us think about how appellate judges in Oregon should

be selected. Politicized judicial campaigns in Oregon supported by well-funded special interest groups would be awful. But so would appellate courts that are completely out of touch with the will of the people. With the exception of the Jason Lee fiasco in 1974, Oregon voters have done a pretty good job of electing good people to our courts and rejecting candidates backed by special interests pursuing narrow agendas. How long will that last and what are the alternatives? I look forward with interest to the recommendations of the Oregon Law Commission.



Young Lawyers Section

Mackenzie Hogan YLS Award of Merit Recipient

by Nicholas A. Kampars
YLS President

I am pleased to announce the 2012 recipient of the YLS Award of Merit, which will be presented at the MBA Annual Meeting on May 21. This year's recipient is Mackenzie Hogan.

He serves on the YLS Membership Committee, the one that plans networking and other social events. Last year, as a new member on the committee, he conceptualized an event in conjunction with ZooLights, but there wasn't enough time to implement the necessary planning. This year, Mackenzie was determined to pull it off and he did. The event was a huge success and enjoyed by MBA members of all ages and



Mackenzie Hogan

their families. Mackenzie is a reliable, dedicated, hard-working member of the YLS Membership Committee and, in addition to the ZooLights event, has helped plan other YLS events held throughout the year. He is very deserving of this award.

Jane Paulson Pro Bono Spotlight

by Ben Cox
YLS Pro Bono Committee Chair

Even though Jane Paulson has been trying high-level cases for plaintiffs for nearly 20 years at her firm, Paulson Coletti, she has made time to be active with Habitat for Humanity Portland/Metro East, making her a fine example to other attorneys.

Most people know that Habitat builds homes for lower income families, but Jane explains why its mission resonates with her:

"Habitat helps people with a hand up, not a hand out. Families put in 500 'sweat equity' hours to be able to buy a home with a zero-interest mortgage. More generally, I believe there are ways to materially change people's lives and one of them is housing. For instance, children who can avoid frequent moves by having

a stable home have better odds in the world."

In 2005, as president of the OTLA, Jane raised money (\$45,000) and attorney volunteers to build a home, and she has been involved with Habitat ever since. Jane works with her dad (and law partner), Chuck Paulson. For his 79th birthday, the family and law firm volunteered on a build site and recruited other OTLA staff and members to join the fun, building a home in the Lents neighborhood where Chuck grew up.

Jane's memories of doing good are priceless. "Watching homeowners get their keys is the best! You see a family so proud to own a home for the first time in their lives and knowing all the

hard work they put in and how their lives will be forever changed."

Since 2006, Jane has served on Habitat's board, and she says the organization has big plans to celebrate 30



Proud new homeowners, thanks in large part to Jane Paulson

Don't Quit Your Night Job

by Jessica Mason
YLS Futures Committee member



As attorneys we are expected to do one thing almost all day, every day - no, not argue or bill - write. Every lawyer must also be a writer. As it turns out, there are many attorneys for whom the skill and passion for writing that they must bring to the law, spills past the confines of briefs and contracts and into fiction. Does being a lawyer make you a better writer, or do writers perhaps make good lawyers? As an aspiring fiction writer and young attorney, I wanted to find out.

When asked if his experience in the law helped him as a writer, *New York Times* best-selling author, and long-time Portland defense attorney, Phil Margolin noted that the ability to process and accept criticism that is essential for legal writing and the practice of law is a great advantage when writing fiction. However, both Margolin and recently published Portland author and attorney Inara Scott both agree that the skills and techniques used for legal writing are often anathema to fiction. Scott relates that her legal writing is often accomplished with the admonition "adjectives are the tools of weak mind" lurking in the background, whereas her fiction writing often needs more

detail and description than is appropriate in a brief. Personally, I always found my fiction instincts made it difficult to write like a lawyer: it's hard to state your conclusion in the first line and then again and again when you are used to avoiding giving away the ending.

Many things inspire attorneys to turn to fiction. For Margolin, the discovery of material on the infamous Payton-Alan murders inspired him to return to a passion he had nursed since he was young. This led him to author his first published book, *Heartstone*, but like many authors, there were several stories in his drawer and mind that had come before. Just like it's sometimes unlikely that your first legal job will be the one you keep as a career, many authors know it takes quite a few tries before getting your work out to the world. The trick, it seems, is to never think of writing as a job, otherwise you will be sorely disappointed in your success.

Margolin has always regarded writing as doing something that he loves, and not necessarily a job. Similarly, employment attorney and self-published author of the young adult novel *The Unfairytale* (available through amazon.com), Shari Lane states that she has always written and feels that writing is a compulsion, not something she does to relax or de-stress, but because she must. She loves to read and tell stories. As a young attorney and author, this resonated a great deal with me, as I feel writing is something I must do as well. It gives many of us a sense of control,

a way to release feelings and stress, and a satisfying way to create something personal and beautiful. It seems that attorneys don't become authors; authors become attorneys.

Scott, like Margolin and Lane, began her adult writing career after law school, in her case while stranded in Alaska for a lengthy hearing. She too had been a writer long before she became a lawyer. She notes that writing, for her, is a passion and her "outlet for joy and expression" at the end of the day. The attorneys I spoke to did not necessarily look for careers as writers either. Margolin specifically doesn't recommend that anyone actually aspire to become a writer, but that anyone who has the passion and drive to do so should write. For all these attorneys, their experience and stability in their legal career gives them both the discipline and the freedom to follow their passion for words.

It is very hard, at the end of the day, after staring at discovery requests and emails, to sit down and stare at another screen, and write, but it is nonetheless something we do without fail, because the desire to create beauty, to escape or simply because the desire to tell a story is so incredibly strong. It turns out that being a writer is a lot like being left-handed. It's something you are, not something you do. In the end, what is a writer but a person who writes? If one wants to be a writer, then all one has to do is write and keep on writing. And being an attorney is a fine day job to keep while you're doing that.

Jessica Mason is the owner and attorney behind the curtain of St. Johns Family Law. She has completed several novels, the most recent of which is currently seeking publication.

mba yls | EVENT

The 2nd Annual YLS Summer Social: J'adore le MBA YLS

Thursday, June 14

5:00-7:00 p.m.

Brasserie Montmartre - The Atrium
626 SW Park Avenue, Portland

The MBA Young Lawyers Section Board of Directors invites you to The 2nd Annual YLS Summer Social: J'adore le MBA YLS

Join our host for the evening, Sean Ray, the MBA YLS Membership Committee Chair for dinner, signature cocktails and a celebration of the YLS and its service to our community.

Attendance is gratis. Be one of the first 100 to RSVP and receive a free drink ticket. To RSVP, please contact Kathy Modie at kathy@mbabar.org.

Thank you to Davis Wright Tremaine & Barran Liebman for supporting this event.



YLS Member Profile

Sarah Petersen

YLS Treasurer



My work is completely dedicated to helping recent grads with job searches, networking, and getting connected to potential employment opportunities and contract or volunteer work. I also try to make the world a better place by volunteering with the LASO Senior Law Project, my daughters' school and my church. In addition, I always use my turn signals and I recycle whenever possible.

1. Have you had any (embarrassing or otherwise) nicknames throughout your life?

My dad used to call me Sally Mary (for Sarah Marie), Sal or Salamander. Thankfully, none of those caught on. Other than that I never really had a nickname until law school, when some of my friends called me SP - which my daughter pointed out is not really a nickname, just my initials.

2. Where are you originally from?

I was born and grew up in Seattle, and I confess that in my heart I'll always be a Seattleite.

3. Where did you attend college and law school?

Undergrad at Marquette University in Milwaukee, WI and Law School at Lewis & Clark.

4. Other than the MBA YLS, what brought you to Portland?

I had always planned to move back to Seattle after college. After living in the Midwest for a few years, I knew that I wanted to return to the Pacific NW. But, I have a lot of family here in Portland, and being a little bit smaller than Seattle it was more comfortable size-wise for my husband, whom I saved from the Midwest.

5. Tell us about what you are doing right now. How are you making the world a better place?

I'm currently working at Lewis & Clark Law School, with Career Services, as a graduate advisor.

6. Who would win in arm wrestling: Stephen Colbert or Sarah Palin? Who would win at Wheel of Fortune?

Arm wrestling, I think Stephen Colbert would win, but I would never count out Sarah Palin. She's pretty wily. Wheel of Fortune would be a really tough call, because I suspect Stephen Colbert knows more words, but Sarah probably has watched the show more and might understand the strategy better - like going for the prize puzzles and buying vowels. In a fair fight, I think I could beat both of them, but again, never count out Sarah Palin.

7. How did you first get involved with the YLS?

I joined the Futures Committee after hearing my friend and mentor Katie Lane talk about it at the New Admittee Social in November 2008. I really enjoyed my time on the Futures Committee, which was brand new and full of big ideas and possibilities. It's been exciting to see how the committee grows and evolves.

8. What do you like about the YLS?

I love the energy, commitment and willingness to take on all kinds of projects. I'm continually impressed by the number of CLEs the PDE Committee puts together, the great work the Pro Bono and Service to the Public committees do to link

us to the larger community and Membership does an awesome job of planning socials.

I think the YLS is a great way for young lawyers to get to know each other, and joining a committee is a wonderful way to get involved in the Portland legal community. I recommend it to the recent grads which I call "low-impact networking." By working on a committee, you'll meet other young lawyers, without the pressure of "working a room," which not everyone enjoys.

9. What do you think the YLS needs more or less of?

Well, the first thing that comes to mind is the words of the great Elvis Presley: "A little less conversation, a little more action, please." BUT - that doesn't apply to the YLS! I think we can always use more volunteers and new ideas. Less . . . you've stumped me.

10. When and why did you join the YLS Board?

I joined the board in the fall of 2010 because I hoped that I could bring a somewhat different perspective as a slightly older young lawyer. Having been a member of, and later chair of the Futures Committee, I am very interested in the issues that young lawyers face in a different way than lawyers who have been practicing for a while, and some of the issues that affect career satisfaction for young lawyers, like work/life balance, sustainability, and mentorship. It has been an honor and great fun to be a board member.

11. Why is Greenland made of ice and Iceland made of green grass?

These lands were first settled by Norsemen, who are known for their sense of humor, appreciation of irony, and tendency toward whimsy. At least that's what I assume, since some of them were my ancestors.

12. What have you found most surprising about being involved with the YLS?

I've been a bit surprised at the YLS' ability to come up with new

ideas and make them happen. I think as a group we are always looking for ways to make YLS better, and to serve our members, the legal community and the larger Portland community to the best of our ability. YLS members are great for coming up with new service projects and new approaches to old problems, and then acting to make change happen.

13. Has your YLS membership helped with your professional or personal goals?

Most certainly. Being active in the YLS has made me feel more connected to the local legal community, and has kept me up on activities, CLEs and opportunities to be involved. I think the YLS CLEs are great for new lawyers, especially the fall litigation series. YLS can also be a great source of job search leads, because people tend to recommend people they've worked with on a project and trust. When their senior partners ask, I've gotten a number of useful professional contacts from other YLS members.

14. What activities do you like to pursue away from the office?

I love to bake, and I enjoy cooking for friends and family. I love me a dinner party! I also

enjoy many sedentary activities, such as watching old movies, eating cookies and reading. I'm kind of a history buff, and my husband calls me a news junkie.

15. Tell us one thing about yourself that not many people know?

As a middle schooler, I had a huge crush on Tom Brokaw, and dreamed of being his co-host on the *Today Show*.

16. What is your favorite thing about Portland? Favorite restaurant?

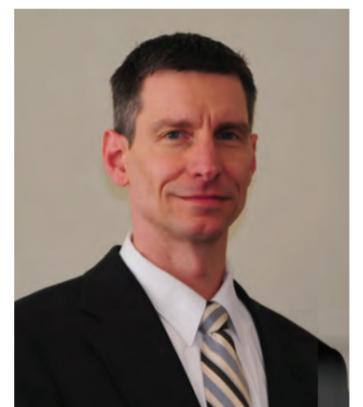
I guess my favorite thing about Portland is that there's a little something for everyone, and both wackiness and civic involvement are encouraged here. My favorite restaurant is probably Pizza Fino, which serves up a dandy fettuccine carbonara. I'm also fond of Acadia, where I enjoy the prix fixe menu and creative cocktails.

17. If you weren't a lawyer, what would you be doing?

I might be executive director for a nonprofit that helps kids or low-income families, which is an area I worked in before law school. I'm a big believer that what's good for kids is good for the world.

Jon Fritzler Senior Law Project Volunteer of the Year Award Recipient

by Cathy Petrecca
Oregon State Bar



Jon Fritzler

"Helping people who would not otherwise have access to an attorney is very rewarding. My services can often help resolve a matter that has been weighing on them heavily and can have a significant impact on their lives." This philosophy is a driving force behind the pro bono work of award-winner **Jon Fritzler**.

Jon is the co-recipient this year of the Senior Law Project (SLP) Volunteer of the Year Award. This award is given annually to someone who volunteers for Legal Aid Services of Oregon's SLP.

Jon is an attorney with The Elder Law Firm, Davis Pagnano McNeil & Vigna LLP. He has volunteered for the SLP since he joined the firm in 2000. He volunteers monthly at the Neighborhood House SW Senior Center, as well as takes direct referrals from LASO. Often his volunteer duties take him to visits with homebound seniors who are unable to make it to a clinic site.

His private practice is primarily estate planning, guardianships and conservatorships, and probate and trust administration. While his paid work is limited to Elder Law, the people who come to Senior Law Project have legal issues in all areas of the law. Landlord/tenant, debtor/creditor, and consumer law issues are the most common areas outside of Elder Law that people come in with. He estimates that half of the people he sees at SLP come in for estate planning.

He urges all lawyers to do pro bono work, and especially encourages new lawyers to jump into pro bono opportunities. He believes that for newer lawyers, doing pro bono work is an opportunity to work on client communication skills and gain practical skills while helping people resolve issues that can have a significant impact on their lives. He has represented enough clients to know full well that pro bono clients are very grateful for assistance.

Jon has found that his most rewarding cases have been those in which he assisted clients with issues that are outside of his usual areas of practice, yet have been simple enough that he felt competent to handle them. For instance, one of his clients was an elderly gentleman whose claim for Elderly Rental Assistance had been denied by the state on the basis that his income was above the eligibility limit. (The Oregon Elderly Rental Assistance program is for low-income

Elizabeth Lemoine Senior Law Project Volunteer of the Year Award Recipient

by Cathy Petrecca
Oregon State Bar

Elizabeth Lemoine likes the feeling of fighting for those less fortunate than she, so she truly enjoys her pro bono work. Elizabeth is the co-recipient this year of the Senior Law Project (SLP) Volunteer of the Year Award, which is given annually to someone who volunteers for LASO's SLP.

Elizabeth urges younger lawyers to remember that personal satisfaction is really important in the practice of law. "Sometimes we get clients who we would rather not represent, or who are fighting just because they can afford to do it. I think we lose sight of how rewarding it is to be in our profession. Pro bono

work reminds us of the ideals we had in law school." She advises newer lawyers to remember that it takes time to get comfortable with pro bono work, and that the longer they do it the more comfortable it becomes. As a new volunteer she relied heavily on attorneys who had been practicing longer than she had. She didn't hesitate to call up attorneys she knew had given CLEs or written books on a subject she was dealing with to ask questions.

When Elizabeth came back to the practice of law after having children, she thought that volunteering with legal aid was a great way to get hands-on experience in a variety of types



Elizabeth Lemoine

of law with people who could use the assistance. At the time, she was thinking about pursuing elder law and so the SLP was a good fit for her.

Up until a couple of years ago, Elizabeth had a solo general practice involving real estate, construction law, contract law, business disputes, consumer protection issues and simple

Continued on page 15

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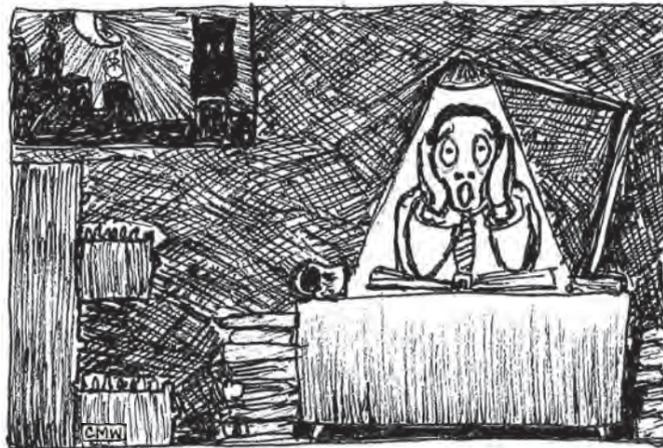


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Pro Bono Volunteers

Thanks to the following lawyers and law students who donated their pro bono services recently 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, go to www.mbabar.org and click on "About Us" and "Pro Bono."

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Elizabeth Lemoine

Continued from page 13

estate planning. In 2010, a former client asked for assistance as local counsel in a non-judicial mortgage foreclosure action and she has since focused her practice heavily on federal and state litigation on behalf of homeowners facing foreclosure. Last November she joined her husband's firm, Makler Lemoine & Goldberg, P.C. as Of Counsel.

Elizabeth finds that her volunteer work enhances her practice by giving her a chance to give back to those who could really use the representation. Her pro bono work has strengthened her litigation and practice skills.



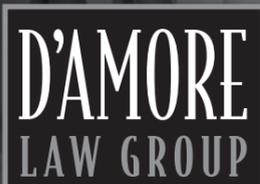
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Please see the insert in this issue or at www.mbabar.org to sign up for an MBA or YLS committee.

Volunteering Rewards

Meeting new people and expanding 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 your colleagues. As you contribute to the work of the committee, you also learn from other members. Together, our volunteers provide valuable service to the legal community.

MBA Committees

Continuing Legal Education

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 Courthouses.

Court Liaison

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

Equality & Diversity

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

Golf

Plans several golf tournaments between April and October, including the MBA Championship, which benefits the Volunteer Lawyers 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 and pro tem candidates and makes recommendations to the presiding judge, chief justice and the governor, in accordance with the MBA process.

Membership

Plans member events, including the annual WinterSmash which benefits CourtCare.

Professionalism

Creates and conducts programs that promote professionalism in the practice of law and assists with the nomination and selection for the MBA 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 other monthly 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 ABA Law Day theme.

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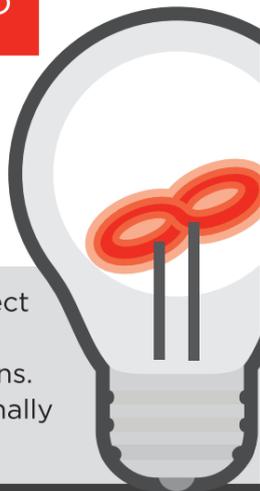
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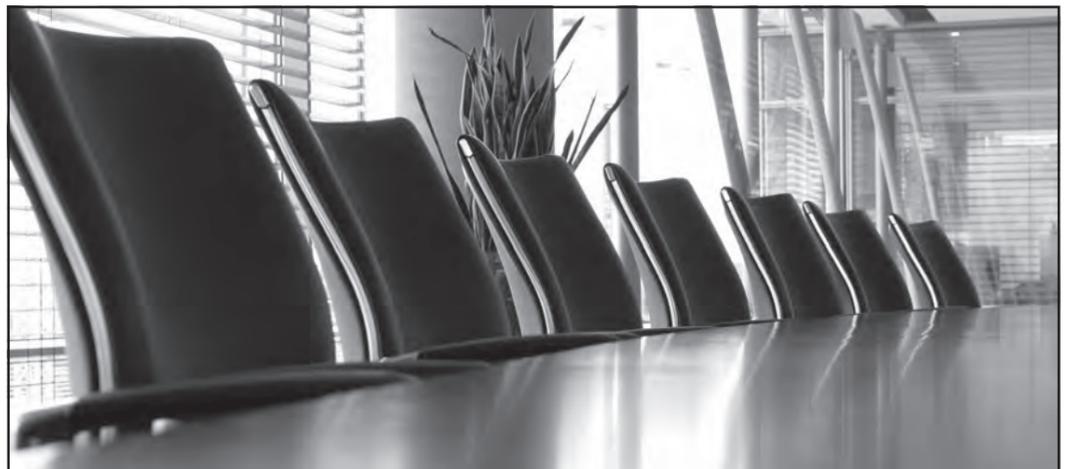
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Jon Fritzier

Continued from page 13

people who rent their home and are age 58 or older.) Jon was unfamiliar with the program, but after researching the matter he was able to determine that the state was counting public benefits that were made to his care providers for in-home care as part of his income, that those payments should not have been counted as income for purposes of the Elderly Rental Assistance program, and that excluding those payments his income was below the eligibility limit. He contacted the Oregon Department of Revenue and was able to get his client qualified for the program.



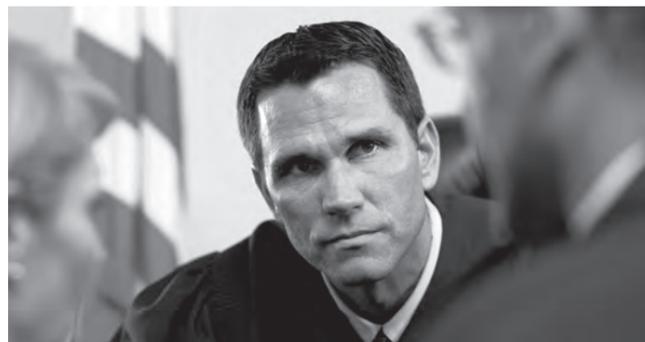
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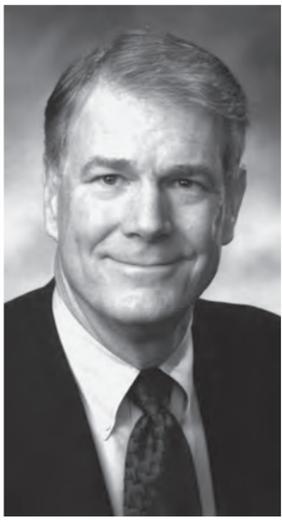
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Brian Booth In Memoriam

With the death of Brian Booth on March 7, Tonkon Torp lost a founding partner, treasured colleague, mentor and friend. The Oregon legal community lost a man who represented the best of our profession, a great lawyer and a great citizen.

Brian had all the credentials expected of one of the state's leading corporate and business attorneys: a law degree from Stanford (Order of Coif), editor of the *Stanford Law Review*, leadership awards from the OSB, and years of being named to *The Best Lawyers of America*® and

Chambers USA America's Leading Lawyers for Business. Following law school, in 1962, Brian joined what is now the Stoel Rives firm, where he was an associate and then a partner. In 1974, he and several colleagues founded Tonkon Torp & Galen, the predecessor to Tonkon Torp LLP. Brian was a daily presence at the firm until the last few weeks of his life.

Over the course of his long corporate and securities practice, Brian represented some of Oregon's most prominent companies: Omark Industries, U.S. Bancorp, Hoffman Construction, Lamb Weston and Will Vinton Productions, to name just a few. He was counsel to Nike, Inc. for its initial public offering, and over the subsequent three decades, he continued to manage the firm's work on behalf of Nike and to mentor the next generation of attorneys. His colleagues say Brian gently used his status as a founding partner to illuminate the firm's values, always leading by example.

Brian was no less active in leadership within our profession. He served as president of the Oregon Securities Law Association and chair of the OSB Securities Section, the Oregon Securities Conference and other bar committees. In 2000, the OSB Business Law Section honored him with the James B. Castles Leadership Award that recognizes outstanding business lawyers who have made significant contributions to the public.

While Brian's legal skills were second to none, he will be remembered most as a Renaissance man with wide-ranging interests and remarkable energy. A fourth-generation Oregonian, born in Roseburg, Brian was tireless in his commitment to preserve and



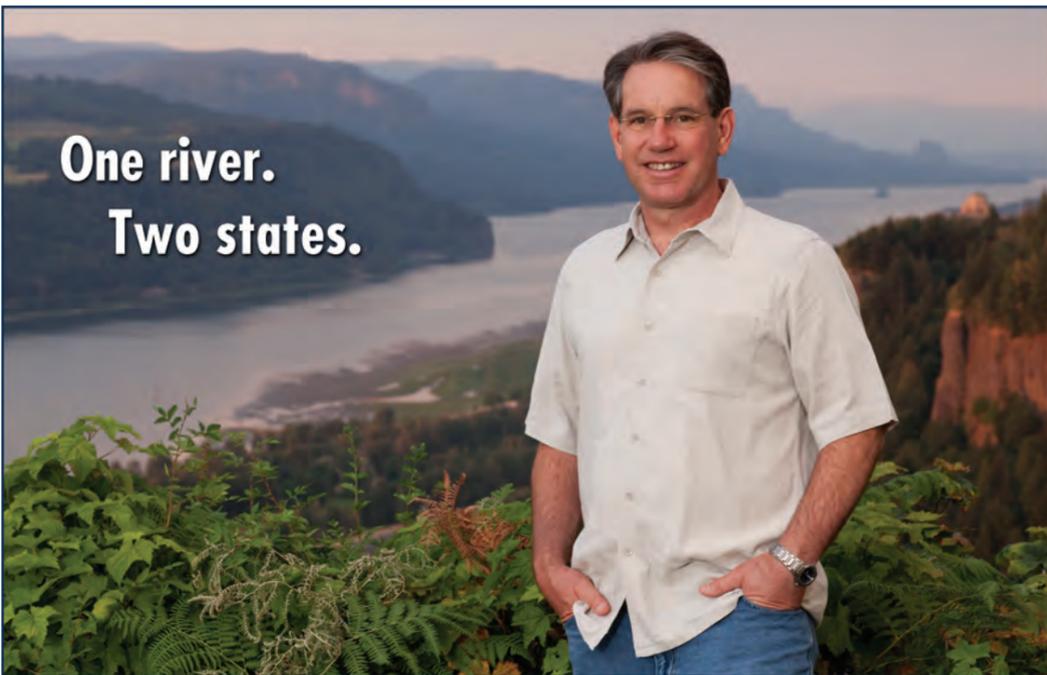
Brian Booth

celebrate our state's natural and cultural heritage. He chaired and served on a number of local and statewide organizations.

These weren't token commitments. Brian was always willing to put in the real work required to grow organizations and help them realize their potential. One example of his commitments was his work on behalf of Oregon beaches and parks. As first chair of the Oregon Parks Commission, from 1989-97, Brian led efforts to obtain adequate funding to keep the beaches public and save and expand Oregon's famous parks system. The commission helped create the public pressure that led the 1997 legislature to increase funding for parks operations after years of cutbacks. In 1998, he co-sponsored and was actively involved in the passage of Measure 66, which provides stable funding for Oregon parks, beaches and salmon recovery.

Brian once said, "One of the purposes of life is to create something, and leave the world with something you helped to create." He co-founded the Oregon Cultural Heritage Commission. He led the creation of book awards and fellowship programs for Oregon writers in what is now part of Oregon Literary Arts. He put his own love of writing to work, editing *Wildmen, Wobblies & Whistle Punks: Stewart Holbrook's Lowbrow Northwest* in 1992. These activities were a reflection of his intellect and his deep love for all things Oregon.

His service to the community and the state is reflected in the awards and honors bestowed on Brian, individually or in conjunction with his wife, Gwyneth. While he appreciated each of these honors, they were incidental to the pleasure he got from leading and motivating and nudging people all around Oregon to cherish the things that make this place special for all of us. That's the legacy he has left, and nothing would make him happier than to know that each of us will try to leave the world with something we have helped to create.



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MetroEast Community Media Presents *The Courts and You | Legal Logic*

by Pamela B. Hubbs
MBA Office and Foundation Administrator

With a \$3,500 grant from the MBF in 2011, MetroEast Community Media is creating two 30-minute public affairs-styled shows that will inform and educate the public about the valuable role the legal system plays in maintaining a safe and peaceful society. Scheduled to air on Comcast and Frontier cable in June and July, the shows will also be heard on KZME radio and available on demand, on

the MetroEast Web site and on a blog created to continue the conversation and sharing of ideas.

The first in a series, "Impartial Judiciary" and "Diversion Courts" include well-researched topics, dynamic guests and field-produced interviews. Judge Janice Wilson, Multnomah County Circuit Court, Susan Mandiberg, Lewis & Clark law professor and MBF Director Jim Westwood,

Stoel Rives, will discuss the importance of an impartial judiciary. The show includes interviews with Justice Paul De Muniz and Judge Jean Kerr Maurer, Multnomah County Circuit Court.

The diversion courts' episode takes a look at the success of specialty courts and their focus on getting people with addiction problems into treatment, giving them an opportunity to remain in society rather than ending up incarcerated with a felony conviction. Guests include Jean Dentinger, Safety Net: Coordinated Diversion Manager and Joel Petersen, Multnomah County Deputy District Attorney. Chris Marshall, former STOP Court Judge and Judith Matarazzo, DISP Court Judge appear in field interviews.



The programs have a great host in Jim Moore, Department of Politics and Government and Director, Tom McCall Center for Policy Innovation at Pacific University. Producer John Lugton says Moore's smart, personable, very media savvy and just as comfortable ad-libbing in front of the camera as he is reading from a prompter - the complete host package.

Visit Legal Logic's blog at <http://legallogicmetroeast.wordpress.com> to view a clip from the series and share ideas that could be incorporated into the on-air discussions. For more information, contact John Lugton, MetroEast Community Media at 503.667.8848, ext. 315 or john@metroeast.org.

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