



How Firms Can Help Retain & Promote Lawyer Parents

by Jeanne Sinnott
MBA YLS President

As women rise in the ranks of law firms within the MBA, it is critically important that they are provided with opportunities to thrive, succeed, and lead, irrespective of their family-planning decisions. From my personal experience, I am optimistic that those opportunities are becoming more attainable.

During my involvement with the MBA YLS, three of five YLS presidents have been women. Each of those women (including myself) was on maternity leave at some point during her tenure as president. At my law firm, 13 out of 14 new partners in the last two years were women. Of the new partners, more than half are parents of children under the age of three. Two made partner while on parental leave, two made partner in the same year that they had taken leave, and another two had taken leave in the three years leading up to partnership.

Following last year's partner announcement (which - tellingly - made national news because it was so extraordinary that a partner class would comprise all women), quite a few people asked me how my firm ended up with so many new female partners. To me, the more interesting question was how the firm ended up with so many new partners with very young children. To do so, the firm had to retain and promote the attorneys during the time when they were learning to balance their burgeoning families with their burgeoning practices. Although this list is not exhaustive, the following practices can help firms within the MBA retain and promote such attorneys:

- **Offer meaningful time for parental leave for both parents and encourage attorneys to take the time.**

It has been widely reported that the attrition rate at Google for women post-maternity leave was *cut in half* when Google extended their paid parental leave from 12 to 18 weeks. Anyone who is familiar with babies and the post partum period can attest that those extra six weeks are a crucial turning point in the process. My firm offers up to 24 weeks of leave, and, depending on how much vacation time and sick time the attorney has saved, more than 20 weeks of that time can be paid. With both of my children, I was encouraged to take the entire time. For some, the ability to take nearly six months off for bonding and recuperation makes the difference between returning to work and taking a permanent break. Men are also afforded two months of paid leave, and my hope is that as the stigma against men taking parental leave continues to decrease, more men will take advantage of the benefit. Parental leave for men helps retain women by reinforcing the idea that men and women should equally share parenting responsibilities.

Parental leave for men helps retain women by reinforcing the idea that men and women should equally share parenting responsibilities.

- **Offer reduced schedules and do not remove attorneys from partnership consideration for working reduced schedules.**

Firms that offer reduced schedules to all attorneys don't necessarily open the floodgates for reduced schedules because many are unwilling to trade time for money. A reduced schedule, however, can greatly reduce the pressure associated with returning to work after having a child. I worked a reduced schedule for six months after returning from leave with my first child, which significantly alleviated the anxiety I felt in spending time away from him. It also reduced the pressure I felt to bill hours while learning to juggle work and a baby. Reduced schedules are not only important for a woman returning to work after having a baby, but also for any attorney who must give temporary precedence to his or her personal life, whether it be for an illness, family issue, or other reason.

- **Permit attorneys to work from home when their practice allows.**

For some, the single most challenging part of being a working lawyer parent is that there are not enough hours in the day to accomplish both work tasks and home tasks. Working from home can free up valuable time spent getting dressed and commuting to work, which means more time to bill hours and do laundry. Furthermore, current research shows that autonomy is a significant motivating force for people in any profession. A motivated workforce is a better workforce.

A reduced schedule ... can greatly reduce the pressure associated with returning to work after having a child.

- **Take the long view, even if the long view requires overlooking a few years of lower productivity.**

Obviously, the women who were promoted to partner at my firm while on leave or in the year they had taken leave were not able to bill as many hours as they would have done if they had not taken leave. If firms make concessions for their attorneys while they are unable to work (whether it be for parental leave or other reasons), they will ensure that many deserving and talented attorneys are promoted while building loyalty and appreciation. The lower productivity is only temporary, and the talent retained by ignoring the years of lower productivity will pay back in spades.

- **Include in firm leadership people who understand the challenges that parents of young children face.**

Ideas regarding family dynamics continue to change and evolve. More and more, both parents share parenting and household responsibilities. These men and women are now rising in the ranks as firm leaders (and business leaders), and their perceptions are reflected in the decisions about whom to promote and why. At my firm, many of our firm leaders are parents, many with young children. Their evolving perspectives have been critical driving forces behind why so many women have succeeded despite taking leave.

The above-mentioned practices are not new ideas - for decades firms have been trying to devise policies to better retain and promote women attorneys. Nevertheless, it appears that these practices are finally taking hold. And based on my personal experience, they work.

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FEBRUARY

2.5 Thursday
15 Labor & Employment Updates for 2015

Rick Liebman

2.17 Tuesday
International Law Issues in Domestic Litigation

Chris Helmer

George Foster

2.19 Thursday
Preparing Clients for Depositions

Chris Kent
Laura Salerno Owens

2.24 Tuesday
An Update on the Affordable Care Act

Bruce Howell

2.25 Tuesday
Multnomah County Presiding Court Update 2015

Presiding Judge Nan Waller

MARCH

3.11 Wednesday
Family Law Update

Judge Maureen McKnight
Tom Bittner
Gary Zimmer

3.18 Wednesday
Presenting Expert Witnesses at Trial

Judge Karin Immergut
Bonnie Richardson
Renee Rothauge

3.19 Thursday
Artificial Reproductive Technology Law for Practitioners

Robin Pope
Beth Wolfsong

In This Issue

Calendar	2
CLE Schedule	3
Announcements	6
Ethics Focus	7
Around the Bar	8
News From the Courthouse	10
Tips from the Bench	10
Multnomah Bar Foundation	11
YLS	12
Classifieds	16
Pro Bono Thanks	18

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Calendar

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

FEBRUARY

7 Saturday
WinterSmash

16 Monday
Presidents' Day Holiday

18 Wednesday
CEJ Awards Luncheon
www.cej-oregon.org

20 Friday
Lewis & Clark PILP Auction
<http://law.lclark.edu>

27 Friday
OHBA Annual Awards Dinner
www.oregonhispanicbar.org

ACLU Liberty Dinner
www.aclu-or.org

MARCH

13 Friday
OWLS Roberts-Deiz
Awards Dinner
www.oregonwomenlawyers.org

APRIL

23 Thursday
CLP Legal Citizen of the
Year Dinner
www.classroomlaw.org

29 Wednesday
Administrative Professionals
Day

MAY

7 Thursday
MBA Annual Meeting & Dinner
Portland Marriott Downtown
Waterfront

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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.

15 for '15: The Top 15 Labor and Employment Updates for 2015

Thursday, February 5, 2015
3:00-5:00 p.m.

World Trade Center
Mezzanine Room
26 SW Salmon, Portland
Members \$55
Non-members \$85

As always seems to be the case, the past year has produced some monumental changes in the area of labor and employment law. Oregon lawyers will once again need to adapt their practices to deal with the changes. Come to this presentation to learn the top 15 things that have changed or will be changing for 2015, including a case law update, new statutes and regulations, and other national and local trends on the horizon for labor and employment lawyers. This informative class will be taught by **Rick Liebman**, a partner at Barran Liebman LLP.

For more information:

Call Sean Ray, Barran Liebman LLP at 503.276.2135. For registration questions, call the MBA at 503.222.3275.

International Law Issues in Domestic Litigation

Tuesday, February 17, 2015
3:00-5:00 p.m.

World Trade Center
Mezzanine Room
26 SW Salmon, Portland
Members \$55
Non-members \$85

When do U.S. courts have jurisdiction over foreign parties? How do you serve a foreign defendant abroad? When does foreign law apply to a party's claim and how do you prove what that foreign law is? How can you obtain discovery from a foreign non-party? Join **Chris Helmer**, of Miller Nash, and **Professor George Foster**, of Lewis & Clark Law School, for a presentation designed to give lawyers not experienced in these and other cross-border dispute resolution issues enough information to competently handle those issues or at least know enough to recognize they need help!

For more information:

Call Call Keil Mueller, Stoll Berne at 503.227.1600. For registration questions, call the MBA at 503.222.3275.

Preparing Clients for Deposition

Thursday, February 19, 2015
3:00-5:00 p.m.

World Trade Center
Mezzanine Room
26 SW Salmon, Portland
Members \$55
Non-members \$85

As the saying goes, cases are won or lost in deposition. A client's poor performance in a deposition can destroy your case, while an excellent one can devastate your opponent's. The stakes are usually high, and even the most accomplished executive can feel anxiety when being deposed.

Chris Kent of Kent & Johnson, LLP and **Laura Salerno Owens** of Markowitz Herbold PC, will discuss simple, tactical approaches to preparing your client for deposition. These include:

- Structuring pre-deposition meetings with your client
- Explaining the deposition process
- Explaining the goals of the deposition
- Instructing your client on how to be a great witness
- Training your client to understand the meaning of your objections
- Preparing your client for a video deposition

For more information:

Call Kevin Sali, Kevin Sali LLC at 503.329.3598. For registration questions, call the MBA at 503.222.3275.

An Update on the Status of the Affordable Care Act and its Impact on Practitioners

Tuesday, February 24, 2015
3:00-5:00 p.m.

World Trade Center
Mezzanine Room
26 SW Salmon, Portland
Members \$55
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The Patient Protection and Affordable Care Act is five years old this March. Challenges to the Act continue and, indeed, one of the most important challenges will be heard by the United States Supreme Court on March 4, 2015. However the Court rules, the vast majority of the Act is and will remain with us, and it is the practitioner's responsibility to understand the basics of this legislation.

On February 24, join **Bruce Howell**, Schwabe Williamson & Wyatt, for a discussion of the judicial changes that may affect the Act in the future along with the practical effect of the Act on every lawyer's practice. Not since the enactment of the Employee Retirement Income and Security Act of 1974 has a piece of legislation created a new world which affects the practice of just as about every lawyer.

For more information:

Call Jeff Mutnick, Attorney at Law at 503.595.1033. For registration questions, call the MBA at 503.222.3275.

Multnomah County Presiding Court Update 2015

Wednesday, February 25, 2015
3:00-5:00 p.m.

World Trade Center
Auditorium
26 SW Salmon, Portland
Members \$55
Non-members \$85

Note: *This class was originally scheduled for January 29 and had to be rescheduled for the new February 25 date.*

In this update session, the Multnomah County **Presiding Judge Nan Waller** and court staff will discuss the Supplemental Local Rules for Multnomah County Circuit Court and other issues unique to practicing in Multnomah County.

This seminar is designed for attorneys at all levels of experience and questions are strongly encouraged.

For more information:

For more information, call the MBA at 503.222.3275.

Annual Family Law Update

Wednesday, March 11, 2015
3:00-5:00 p.m.

World Trade Center
Auditorium
26 SW Salmon, Portland
Members \$55
Non-members \$85

On March 11 the MBA will hold its annual two-hour Family Law Update. **Chief Family Court Judge Maureen McKnight**, the Chief Family Court Judge for Multnomah County, will be joined by **Thomas Bittner** of Schulte, Anderson, Downes, Aronson & Bittner and **Gary Zimmer** of Zimmer Family Law.

Our speakers will provide family law practitioners with information on changes to Multnomah County Circuit Court procedures well as valuable updates on appellate case law.

For more information:

Call Sarah Brown, Holtey Law LLC at 503.224.9878. For registration questions, call the MBA at 503.222.3275.

Presenting Expert Witnesses at Trial

Wednesday, March 18, 2015
3:00-5:00 p.m.

World Trade Center
Plaza Room
26 SW Salmon, Portland
Members \$55
Non-members \$85

The MBA presents a two-hour "how-to" program on expert witnesses at trial. Our panelists will discuss how to prepare an expert for trial, how to effectively present expert testimony to a jury, and how to cross-examine even the most experienced expert. All trial attorneys should attend this program, which will feature both plaintiff and defense perspectives as well as judicial views and pointers. The program will cover both federal and state-court practice and rules. Our dynamic panel will be **Judge Karin Immergut**, Multnomah County Circuit Court; **Renee Rothauge**, Markowitz Herbold; and **Bonnie Richardson**, Folawn, Alterman & Richardson.

For more information:

Call Seth Row, Parson Farnell & Grein at 503.222.1812. For registration questions, call the MBA at 503.222.3275.

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.

Artificial Reproductive Technology Law for Practitioners

Thursday, March 19, 2015
3:00-5:00 p.m.

World Trade Center
Plaza Room
26 SW Salmon, Portland
Members \$55
Non-members \$85

Expose yourself to a growing area of law: Come learn the basics about family formation law. It is an emerging, collaborative area of law fraught with interesting legal issues. The rights and obligations of intended parents, surrogates and donors need to be weighed and balanced. **Beth Wolfsong**, Wolfsong Law PC, and **Robin Pope**, Attorney at Law, will provide you with the basics to learn the sources of the relevant law, how to protect clients in the process, ensure the fairness of the process and create agreements that help the parties work together to create a life.

For more information:

Call Michael Hallas, McKinley Irvin at 503.953.1032. For registration questions, call the MBA at 503.222.3275.

Animal Law - Are Neglected Animals Personal Property or "Victims"?

Tuesday, March 31, 2015
3:00-5:00 p.m.

World Trade Center
Mezzanine Room
26 SW Salmon, Portland
Members \$55
Non-members \$85

Historically, criminal law written to protect animals from abuse and impose punishments for such conduct has treated this as a crime against public policy and the public generally. Following developments elsewhere, with the 2014 decision by the Oregon Supreme Court in State v. Nix, animals in Oregon may be "victims" of crimes. This CLE will provide a survey of the intersection between animal law and criminal law at the state and federal level, with reports on recent Oregon cases and a discussion of the shift from animal as the property of the owner to a being with its own rights. Where should we draw the line...?

Speaker **Denise Lukins** is a private practice attorney of 20 years' experience, an accomplished horsewoman and dog trainer, and is also the hearings examiner for the Clark County and City of Vancouver Animal Control Hearings. As a Deputy District Attorney in Washington County, speaker **Andrew Freeman** has been prosecuting animal abuse and neglect cases for several years. He now serves as co-chair of the Washington County Animal Protection Multi-Disciplinary Team, a community collaboration among regional law enforcement and other government agencies and non-profits organized to address the interaction between animal abuse and other kinds of violence. The MDT has had substantial success investigating and prosecuting animal abuse crimes.

For more information:

Call Leslie Johnson, Kent & Johnson at 503.220.0717. For registration questions, call the MBA at 503.222.3275.

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Reduced fees for unemployed members are available and are assessed on a case-by-case basis.

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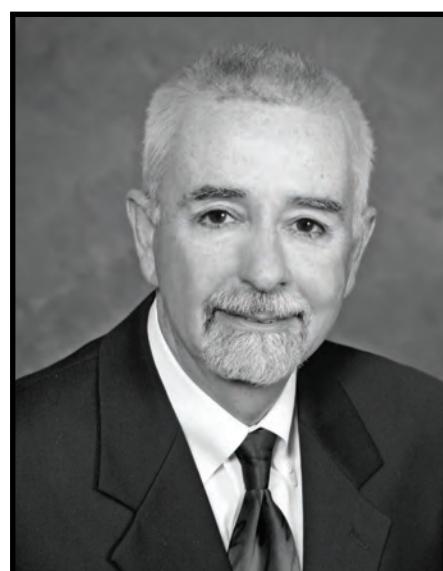
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Class Actions Still in Action

by Steve Larson
Stoll Berne



Although recent U.S. Supreme Court opinions appear to have created roadblocks for class actions, under the right circumstances, class actions are still a viable way to challenge widespread corporate wrongdoing.

One line of cases began with *Dukes v. Walmart*, 131 S.Ct. 2541 (2011), which reversed a trial court's ruling certifying a class of 1.5 million female employees who alleged that the corporation's policies allowed for widespread sex discrimination. Many suggested that *Dukes* raised the bar for class certification, but its holding has been largely confined to disparate impact cases.

In addition, the U.S. Supreme Court's invitation to trial courts to consider the merits of a case at class certification has actually helped plaintiffs. Prior to *Dukes*, corporations were often able to bifurcate discovery and avoid producing documents relating to the merits until much later in the case. Now, plaintiffs are able to get such production in time to assist at the class certification stage. Many of the other class action decisions recently issued by the U.S. Supreme Court are similarly limited to the type of case at issue. For example, the holding in *Comcast v. Behrend*, 133 S. Ct. 1426 (2013), concerns the use of regression analyses in antitrust cases, and does not have much application to other areas of law.

Opinions on the enforceability of arbitration clauses and class action waivers are more problematic. *AT&T Mobility v. Concepcion*, 131 S. Ct. 1740 (2011), and *American Express v. Italian Colors*, 133 S. Ct. 2304 (2013), upheld mandatory arbitration clauses in adhesion contracts on the grounds that any law rendering them unenforceable is preempted by the Federal Arbitration Act (FAA). It is doubtful that congress ever intended the FAA to coerce the arbitration of consumer disputes, and these

decisions may not be the last word. State and federal courts are now looking more closely at the issue of consumer consent. See e.g., *Nguyen v. Barnes & Noble, Inc.*, 673 F.3d 1171 (9th Cir. 2014).

The Arbitration Fairness Act, pending in Congress, would undo *Concepcion* and *American Express* entirely. And on December 12, 2013, the Consumer Financial Protection Bureau issued a preliminary study finding that mandatory arbitration deprives consumers of the right to effectively resolve disputes they have with corporations. Those findings could lead to consumer-friendly rulemaking. In the interim, it may be difficult to bring claims subject to arbitration as class actions, barring unique circumstances.

Although class action claimants now face more obstacles, we have found that trial courts recognize that some cases are best resolved through the class action procedure, and they continue to certify class actions and approve class settlements. For example, the Oregon federal district court recently certified a class action we filed on behalf of people diagnosed with autism who were members of an ERISA health benefit plan issued in Oregon by Providence Health Plan. *A.F. et al. v. Providence Health Plan*, 3:13-cv-00776-SI (D. Or.). We also settled a class action recently on behalf of health care providers for \$11.3 million. In *Chehalem Physical Therapy v. Coventry*, 3:09-cv-00320-HU (D. Or.), our clients alleged that a Preferred Provider Organization improperly calculated deductions for reimbursement of healthcare services. The court certified an injunctive class, and the case settled shortly before trial.

In *Arnett v. Bank of America*, 3:11-cv-1372-SI (D. Or.), we represented consumers alleging that the "force-placed" flood insurance the servicer required them to purchase was a scheme to benefit the servicer. After certification, the case settled for \$31 million.

These cases show that, used with care, the class action remains an effective mechanism for obtaining relief for large groups of consumers.

Steve Larson is a shareholder with Stoll Berne. He spearheads the firm's class action litigation practice.

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Free CLE Webcast to MBA Members

The video webcast of the seminar entitled "Privilege and Ethics Related to In-House General Counsel within a Small or Mid-sized Law Firm" is now available in the Members Center at www.mbabar.org. The seminar is worth two hours of ethics OSB MCLE credit.

MBA members receive access to a rotating selection of six different CLE seminars each year – a \$300 value. The free webcast content is refreshed every two months, so stay tuned!

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The recently revised MBA professionalism statement is available for MBA members to order and display in their offices. The statement is printed on quality 11x14" parchment paper and is suitable for framing. Reconfirm your commitment to professionalism; order at: www.mbabar.org/assets/documents/resources/freq-requested/profcertorder.pdf.

ALA Oregon Hosting Managing Partner Event

The Oregon Chapter of the Association of Legal Administrators (ALA) announces its upcoming Annual Managing Partner Event, on Thursday, February 12, from 4-7 p.m. at The Arlington Club. Legal professionals and their managing partners are invited to attend and take part in the program, which includes networking, recognition of Dee Crocker as she prepares to retire from the Professional Liability Fund, and a keynote on "The Science of Leadership" by Vanessa Van Edwards that will entertain and explore practical leadership skills for managers, team members, and partners. Cocktails and hors d'oeuvres will also be served. If you have any questions or would like to register, please contact the meeting planners: Gloria Martin (gmartin@cosgravelaw.com), Steven Seguin (sseguin@sussmanshank.com), Darla Pierce (dpierce@gevurtzmenashe.com) or Traci Ray (tray@baran.com). More details can be found by visiting www.oregonala.org.



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Ethics Focus

Voir Dire Ethically Investigating Potential Jurors

by Mark Fucile
Fucile & Reising



This past fall, I was involved in a multi-party civil trial in Multnomah County Circuit Court. The trial was expected to take two to three weeks, and, as a result, a pool of over 50 jurors was summoned for voir dire. Time constraints at the outset of the trial precluded use of a background questionnaire. Instead, the lawyers had to rely on each potential juror reciting answers to relatively standard questions before launching into individual voir dire. The questions weren't exactly "name, rank and serial number," but they weren't the most illuminating either for a case involving several million dollars in claimed damages.

The defendants used a jury consultant and huddled over the lunch break to review the results. In surprisingly short order, the consultant's firm had unearthed an impressive trove of information on each potential juror that helped frame the questioning that followed.

in the afternoon. Virtually all of the information was the result of web-based searches of public data. It included property ownership records, political party registration and similar demographic data. More revealing were business websites for some of the jurors and public social media pages for others.

The jury consultant's quick and efficient work underscored both the scope and volume of public information available today on all of us - including a wealth of data that we ourselves post. It also illustrated the interplay between the court rules and the professional rules in gathering information about potential jurors from electronic sources. In this column, we'll look at both.

The Court Rules

UTCR 3.120(1) and its Oregon federal district court counterpart, LR 48-2, provide the context for permissible jury research under the RPCs. Both are very clear that lawyers (and those working for them) cannot "initiate contact" with any potential juror. The prohibition under both rules attaches at the point jurors are initially sworn prior to voir dire and continues (absent a court order) after they have rendered a verdict.

The Professional Rules

RPC 3.5(b), in turn, reflects the interplay between the court rules and the RPCs by prohibiting ex parte communication with a juror "during the proceeding" (again, absent a court order). RPC 3.5(c) then extends the prohibition (again, absent a court order) post-verdict if such contact is otherwise prohibited by the accompanying court rule. Oregon's professional rule mirrors

the corresponding ABA Model Rule and OSB Formal Ethics Opinion 2005-143 discusses the post-verdict period in detail.

With online research of prospective jurors, the key phrase in the Oregon court rules is "initiate contact." OSB Formal Ethics Opinion 2013-189 addresses investigations through electronic social media generally and draws a distinction between simply viewing public information about potential jurors available on the internet and contacting potential jurors to obtain access to online material.

Formal Ethics Opinion 2013-189 concludes that lawyers and those working with them (either at their firms or outside consultants) are free to gather public information that is available online about potential jurors. In doing so, Formal Ethics Opinion 2013-189 applies to social media the same reasoning that the OSB used with a party opponent's website in Formal Ethics Opinion 2005-164: such electronic information is no different conceptually than reading similarly public information in paper form such as a book or a magazine. Formal Ethics Opinion 2013-189 also echoes the ABA's conclusion on this point in Formal Ethics Opinion 466 (2014).

At the same time, Formal Ethics Opinion 2013-189 notes that communication with jurors is generally prohibited by the court rules and corresponding professional rule discussed earlier. Focusing on the phrase "initiate contact," the OSB concluded (at 578 n.2) that "a lawyer may not send a request to a juror to access non-public personal information on a social networking website, nor may a lawyer ask an agent to ... do so." The wording in Formal Ethics

Continued on page 14

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Around the Bar



Ryan Bledsoe



Andy Burns



Marco Materazzi



Jeanette Schuster

Tonkon Torp

The firm has elected **Ryan Bledsoe**, **Marco Materazzi** and **Jeanette Schuster** to the partnership.

A trial lawyer, Bledsoe handles a variety of cases in federal and state courts including shareholder oppression, trust, securities, antitrust and environmental matters. He chairs the OSB's Antitrust and Trade Regulation Section Executive Committee.

Materazzi is a general business lawyer with a practice focused on emerging growth companies, mergers and acquisitions, corporate finance and a range of other business matters. He played an active role in crafting the Oregon Benefit Company legislation that took effect in 2014, and he serves on the OSB's Securities Regulation Section Executive Committee.

Schuster is a member of the environment and natural resources practice groups. She provides advice and practical solutions on environmental compliance and enforcement matters and on commercial and real estate transactions for clients in diverse industries.

Cosgrave Vergeer Kester

Partner **Andy Burns** is now the firm's managing partner. Burns takes the reins from **Jill Laney**, who has served as managing partner since 2010.

In his current practice, Burns represents contractors and developers as the head of the firm's Construction Law Practice Group, handling complicated construction issues and defect

disputes. His practice history includes successful defense work in matters of personal injury, products liability and premises liability litigation.



Niccole Nowlin

Niccole Nowlin has been named partner of the firm. During her 12 years of law practice, she has focused on cases involving insurance coverage, personal injury, and professional liability.



Megan Evans

Megan Evans has returned to the firm as a member of the construction law practice group. She spent the last two and a half years as a member of Mentor Graphics Corporation's in-house legal team. Her work there dealt with end-user software licensing, her current representation of general contractors, developers and subcontractors focuses on complex construction litigation.



Peter C. McKittrick

McKittrick Leonard/Leonard Law Group

Peter C. McKittrick has been selected by the U.S. Court of Appeals for the Ninth Circuit as the new U.S. Bankruptcy Judge for the District of Oregon, replacing



Justin D. Leonard



Holly C. Hayman

the Hon. Elizabeth L. Perris. **Justin D. Leonard** will continue their commercial bankruptcy firm as "Leonard Law Group LLC."

Holly C. Hayman joined the firm as an associate attorney last November. Holly's primary areas of practice are commercial bankruptcy and debtor-creditor litigation. She currently chairs the MBA YLS Membership Committee.



Sheri Osher and Sherisa Davis-Larry

Legal Aid Services of Oregon

Sheri Osher and **Sherisa Davis-Larry** have joined the Portland Regional Office of Legal Aid Services of Oregon (LASO). Osher previously practiced at the Victim Rights Law Center and at the LASO office in Oregon City before it was closed. She will help coordinate the pro bono work of the Portland office and provide substantive advice to volunteer attorneys in addition to representation of domestic violence survivors. Davis-Larry is a recent graduate of the University of Oregon School of Law who volunteered for St. Andrew Legal Clinic immediately upon graduating from law school. She also has a degree in Alternative Dispute Resolution. She will focus her practice on family law, domestic violence, housing discrimination and public benefits cases. Both attorneys bring a strong commitment to working with underserved communities and the mission of legal aid.



With nearly 160 attorneys and offices in Washington, Oregon and California, the combined firm offers business and public-sector clients broadened capabilities with a national reach.



Heather A. Bowman

Bodyfelt Mount

Heather A. Bowman has become a partner with the firm. Her practice focuses on employment litigation, professional malpractice defense and insurance coverage.



Jennifer Franks

Schwabe, Williamson & Wyatt

Jennifer Franks now chairs the Executive Committee of the OSB's Health Law Section. Franks has been actively involved with the Health Law Section since 2012. She focuses her corporate practice on healthcare regulation, counseling a variety of clients, including healthcare providers, insurers, and laboratories. Franks helps clients navigate the myriad of federal and state regulations facing the healthcare sector, including the areas of fraud and abuse (Stark, Anti-Kickback), insurance, provider contracting, corporate governance, Medicare and Medicaid reimbursement, privacy, and data security. She also guides clients through state laws regulating the corporate practice of medicine, physician fee splitting, and concierge or retainer medical practices. She is admitted to practice in both Oregon and Washington.

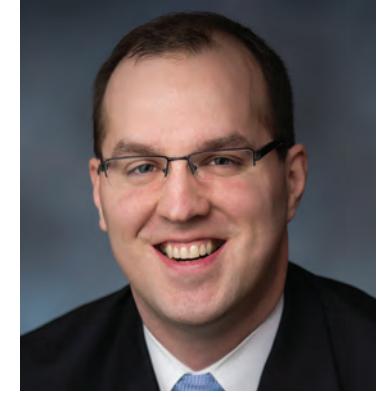


Marisol Ricoy McAllister

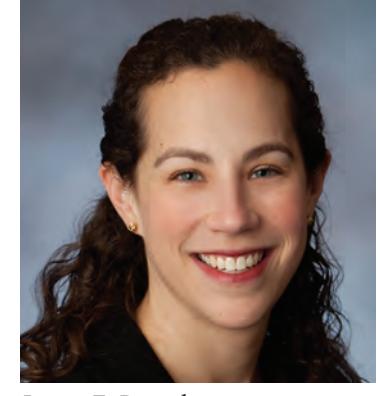
Farleigh Wada Witt

Marisol Ricoy McAllister is now a shareholder of the firm. Her practice emphasizes real estate and business law. She works with investors, developers, lenders, and small and mid-sized businesses doing complex real estate transactions and development,

loan documentation, leasing, foreclosures and construction.



Adam H. Dittman



Laura E. Rosenbaum

Stoel Rives

New partners were elected.

Adam H. Dittman counsels businesses in several industries on a wide range of legal matters, including mergers and acquisitions, corporate structuring and governance, commercial contracts, financing transactions and natural resource matters. He dedicates a substantial portion of his practice to representing timberland owners and forest products manufacturing businesses in connection with many aspects of their operations and is also experienced representing businesses and individuals in real estate transactions and real property matters.

Laura E. Rosenbaum represents clients in employment-related litigation in court and before administrative agencies. Her experience includes defending employers against a variety of employment claims relating to employment discrimination, harassment and retaliation; medical leave laws; disability accommodation; wage and hour disputes; and workplace torts, as well as litigating non-competition agreements. Her practice also involves counseling employers on employment-related issues; conducting internal investigations; and preparing employee contracts, handbooks and policies.



Kathy Dent

Davis Wright Tremaine

Kathy Dent, a highly experienced employment attorney and former assistant general counsel for PacifiCorp, has rejoined the firm. She was previously a partner in DWT's employment practice, and returns after a decade of experience working in-house.



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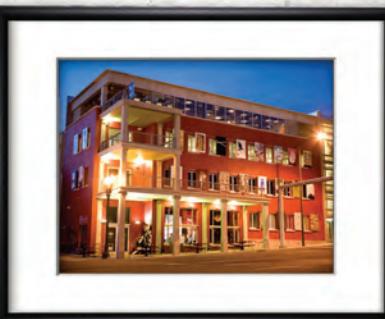
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Tips From the Bench

MCJRP Revamps Pre-Trial Negotiations

by Judge Cheryl Albrecht
Multnomah County Circuit Court

Officials estimate a new Oregon prison would cost about \$600 million, almost a third of the state's entire general fund budget. Faced with those daunting numbers, the legislature passed HB 3194, which changed sentencing laws to reduce prison population. The bill also created the Justice Reinvestment Grant Program, which funneled those savings to counties in the form of grants to develop evidence-based sentencing practices and increase community supervision resources. The idea is to reduce future prison growth while holding offenders accountable, protecting public safety and reducing recidivism. Following a year of multi-agency planning, the Multnomah County Justice Reinvestment Project (MCJRP) launched as a pilot project this summer.

The program targets likely prison candidates and provides a comprehensive assessment to identify risks and needs and to match people with the most effective programming, whether it be in prison or in intensive community supervision. The funding comes with a caveat: A coordinated data team must collaborate, share data and review outcomes to compile a thorough cost-benefit analysis.

As a practical matter, MCJRP significantly changes pre-trial negotiations. The biggest change shifts the timing of the assessments from post-sentencing to pre-trial in order to facilitate more focused negotiations and provide lawyers, judges and defendants the information they need to make important sentencing decisions. Another key difference is a bigger role for the Department of Community Justice (DCJ). DCJ officers assigned to MCJRP conduct the assessments, participate during settlement negotiations and are present at the time of sentencing, building a greater supervision relationship, which in turn contributes to accountability.

Phase One – Preparation
The District Attorney's office flags eligible cases on the charging instrument. Unlike other counties, Multnomah includes some lower-level Measure 11 crimes in the mix. Ineligible crimes are the more serious person felonies, domestic violence offenses, any case involving a death, cases involving child victims under age 14, and sex-related offenses.

The court orders an assessment interview to be completed within 28 days of arraignment. Defense attorneys discuss the program and potential outcomes with their



clients and schedule an interview with the defense coordinator. It is an "opt out" program, so the defense attorney must give notice of intent to opt out within 28 days. Opting "in" does not mean a defendant relinquishes trial rights or ability to negotiate sentencing. It may, however, require a waiver or good cause extension of 60-day trial rights for custody defendants. If a defendant opts out, any existing interviews or reports are sealed.

After the opt out date, DCJ completes the assessment. The report is not a sentencing recommendation but reviews public safety risks and sets forth a comprehensive plan if the defendant is ultimately sentenced to probation. Assessments are not a public court record and are considered to fall under the negotiations exclusion of OEC 408. Assessments include information about a person's LS/CMI score (a validated risk and needs assessment tool); challenges to supervision success such as transportation concerns, cognitive deficits or language barriers; recommended programming to reduce risk factors, such as anti-social patterns or drug and alcohol addictions; personal strengths; and criminal and supervision history. Funding is available for psychological exams in appropriate cases.

DCJ submits reports no sooner than 51 days and no later than 61 days after arraignment. The DA's office must submit notice of sentencing enhancement factors no later than 50 days following arraignment. The DDA also gathers victim input and restitution information. In the meantime, defense attorneys compile additional mitigation information, including determining eligibility for specialty treatment courts. After consulting with the DA, defense attorneys may, but are not required to, schedule a settlement conference with one of the judges assigned to those cases. Settlement conferences must be scheduled by the 77th day following arraignment and must be held by the 100th day.

Phase Two - Negotiations

With the report in hand, attorneys begin discussions. Defense attorneys used to controlling their clients' narratives are confronting the uncomfortable reality of having a brighter spotlight on their clients. However, the report addresses factors already

Continued on page 11



News from the Courthouse

by Marshal Spector
Court Liaison Committee

Presiding Judge's Report and Courthouse Update

Judge Waller once again introduced Barbara Marcille, the new trial court administrator following Doug Bray's retirement. Barbara will serve as the trial court administrator in an interim capacity; later this year the court will restart the formal recruitment process to select a permanent replacement.

During this interim period, the court will be looking at how departments can be restructured to make the trial court administrator position more manageable. This will likely entail reorganizing the hierarchical structure of the court and creating some additional management positions. For example, the court plans to create a public information analyst position within the court administration office. This will be a point person for communication with the public and with the bar, and will work to identify and resolve communication gaps. Waiting to reinitiate the recruiting process will allow time for these changes to be made and evaluated.

Judge Waller asked for patience in these transitions - it is a great challenge to replace Doug's 42 years of experience with the Oregon Judicial Department as well as his commitment to working 80 hours per week. Judge Waller acknowledged Doug's dedication and many contributions to the MBA and to the circuit court, and also expressed gratitude to Barbara for all that she is doing to help the court through this huge change.

Courthouse Planning

The county has announced that the best site for the new courthouse is at the foot of the Hawthorne Bridge. Judge Waller indicated that the court supports that location. There are many reasons to keep it downtown and in the "center" of the community, in a prominent location near city hall and the federal courthouse, as the courthouse is a traditional symbol of the foundation of our government. Most importantly, proximity to the Justice Center is critical due to the number of inmates transported for court proceedings on a daily basis. Another key advantage of the Hawthorne Bridge site is that the county owns the lot. The alternate choice site is the parking lot space between the KOIN tower and the Marriott.

On December 18, the Multnomah County Board of County Commissioners unanimously approved the county-owned Hawthorne bridgehead as the 'preferred' site for the new downtown courthouse and the block between the Marriot Hotel and the Koin Tower as the alternate site. The site selection process was extensive and considered multiple factors including access to transit, suitability of each site as a courthouse, proximity to the Justice Center and the regulatory and land-use process to secure the site. Judge Waller thanked the MBA for its involvement and leadership on the courthouse project.

The county scheduled two open houses for the public to provide further input on the courthouse project. One was in January in the board room of the Multnomah Building, and one on February 5 at 5:30 p.m. at the downtown courthouse in the main jury assembly room. The Board of County Commissioners will finalize site selection in the next few months. The County will be seeking approval of an additional \$17 million in state funding in the upcoming session for the project. In December

the legislature's Emergency Board approved sale of the \$15 million of the bonds previously authorized.

The courthouse project team will begin the work to select an architect this spring with a goal of starting design work for the project by late summer. It is anticipated that ground breaking for the courthouse will occur by late 2016 and that new courthouse will be open for business in the spring of 2020.

eCourt

After successfully implementing eCourt in May of 2014, the court has continued to refine its practices and efficiencies. eFiling became mandatory in all Odyssey courts in December. The feedback from the bar has been primarily positive. Out-of-cycle SLRs have been approved to clarify what ex parte matters can be eFiled and what must be brought to ex parte in hard copy. The new SLRs can be found on the court's webpage.

Law Library

The PSU study regarding transformation of the law library into a legal center for self-represented litigants has been completed. The study, commissioned by the county and the court, was prompted by recognition that lawyers no longer rely on the law library for the majority of their legal research and that self-represented litigants need assistance in navigating the legal system. In addition, the new courthouse will not have room for the current collection. With completion of the PSU study, meetings will be set up between the county, the court and the Law Library Board to discuss the future of the law library and the needs of the community.

Miscellaneous

Over the course of 2014, even with implementation of eCourt, the court was able to maintain its commitment to get cases to trial on the assigned trial date.

Multnomah Bar Foundation

MBF Announces Officers, Directors

by Pamela Hubbs
Office and Foundation Administrator

The Multnomah Bar Foundation is pleased to announce its new slate of officers and directors for 2015.



Bonnie Richardson

Bonnie Richardson, Folawn Alterman & Richardson, President, speaking about the year ahead, "I am really looking forward to a great year with an outstanding Board of Directors. For all of us who have benefited from our involvement with the MBA, the MBF is an excellent way to give back through donations to and volunteering for our local community groups and programs."



Timothy R. Volpert

Timothy R. Volpert, Attorney at Law, Immediate Past President, on the importance of civic education: "Attorneys have a vested interest in advancing civic education and engagement in their communities. The Multnomah Bar Foundation seeks out the most deserving organizations that foster civic engagement, and provides much-needed and greatly-appreciated financial support. I sincerely hope that every member of the MBA recognizes the importance of the foundation's mission and donates generously to the Civic Education Fund."

New directors are **Hon. Cheryl A. Albrecht**, Multnomah County Circuit Court; **Tyler E. Anderson**, Oregon Department of Justice; **J. Matthew Donohue**, Markowitz Herbold PC; **Susan D. Marmaduke**, Harrang Long Gary Rudnick PC; and **Mary Jo N. Miller**, Stoel Rives LLP, who is finishing Brad Tellam's term.

Continuing board members include **Scott T. Downing**, Scott Downing PC; **Melvin Oden-Orr**, Oden-Orr Law; and **Charles S. Tauman**, Charles S. Tauman PC. **Amber A. Hollister**, OSB, is the current MBA Board Liaison.

Amy L. Angel

Amy L. Angel, Barran Liebman LLP, is Vice President. From Amy, "I am honored to be selected as the Vice President of the MBF Board and to help lead an organization with such a valuable mission. I look forward to a successful year promoting civic education and supporting the improvement of the administration of the legal system through our key programs - the Civic Education Fund and CourtCare."



Dana S. Scheele

Dana S. Scheele, Cambia Health Solutions, is Secretary Treasurer. When asked why civic education

Frequently Asked Questions About Plans for a New Downtown Courthouse

by Guy Walden
Executive Director



the deliberations over site selection could not have been made public without damaging the county's ability to negotiate over the potential sites.

Will there be additional chances for the public and the legal community to weigh in on these decisions?

There will be several additional opportunities to provide feedback. The next open house meeting on the courthouse will be hosted by the Board of Commissioners on Thursday, February 5 from 5:30 p.m. to 7 p.m. in the main jury room of the courthouse: 1021 SW 4th Avenue, #130.

The designated backup site is a full city block. Why is the smaller primary site considered a better choice?

The backup site is not in fact a full city block that is unencumbered. There is a structure on that site that contains the entrance to the parking garage of the neighboring office building. This structure takes up roughly a quarter of the site, and is on top of a parking garage that the county cannot control, which raises a number of security concerns. In addition, underground infrastructure would prevent the construction of a tunnel to the Justice Center at this site, whereas a tunnel could be built between the Justice Center and the preferred site. The hope is that a tunnel will reduce the cost and complexity of prisoner transport.

Why was there so little time between the public announcement of the two proposed sites and the County Commissioners vote on site selection?

For a large capital project like this one, it is important that the county have all of the leverage it can in considering possible locations. The commissioners looked at several options, some downtown, and others on the east side. The two final sites were chosen with a number of criteria in mind, but

Tips From the Bench

Continued from page 10

considered in negotiations and in formulating supervision plans following conviction. MCJRP is not a wholesale shift to probation, but uses validated assessments to identify those who can best benefit from a downward durational or dispositional departure without increasing public safety risk. Assessments can also help determine whether one of the specialty treatment courts is an option instead of MCJRP. For defendants likely to receive probation offers anyway, the plan helps increase success on probation and can reduce the likelihood of revocation down the road.

The judicial settlement conferences aren't dramatically different, but with more information, participants hone in more quickly and precisely on a defendant's needs and strengths.

Prosecutors gain tangible reasons to justify departure sentences. The DCJ officer confirms available programming and answers the types of questions that typically arise during negotiations.

Judges can weigh in on suitable programming and can assist the attorney in explaining to the client obligations on supervision and the realistic chances for probation versus prison.

Though in its early stages, MCJRP appears to be increasing somewhat the number of probation sentences and reducing the total time of some prison sentences.

Phase Three – Post-Conviction Supervision

Upon being sentenced to probation with MCJRP conditions, a defendant enters into a 120-day intensive supervision that involves four or more contacts with the probation officer and one home visit within the first 30 days.

Why not build the new courthouse where the current courthouse stands, and find temporary space while the new courthouse is being built?

This option was also considered. The costs associated with moving the day-to-day operations of the courthouse during construction, including prisoner transportation and security considerations, were prohibitive. Also, the current courthouse, while no longer able to efficiently and safely house court operations, is a county-owned building with historic preservation status. While demolishing the building may be possible, the process for having the historic status removed would require more time than we have, and may not be possible or desirable.

What is planned for the existing courthouse?

No decisions have been made yet. Our immediate focus is on maintaining the progress toward a new courthouse. The future of the existing courthouse is an important conversation that will take into account all stakeholders.

Will the new courthouse include parking?

It is generally considered a security threat to have a parking garage in a modern courthouse, so no. But the good news is that there is a private parking garage across the street from the site, which will be an improvement to the current parking situation.

What's next?

The approval of the site selection recommendation directs the project team to perform a deeper geotechnical analysis of the preferred, county-owned Hawthorne bridgehead south block site. And, in addition, to analyze Block 128, the parking lot between the KOIN Tower and the Marriott Hotel, as an alternative. Results will be shared with the Board of County Commissioners this spring before a final decision is made. A final courthouse site is slated for approval in the spring. Groundbreaking is tentatively scheduled for late 2016. A new, safe and efficient courthouse is tentatively slated to open in 2020.

DCJ officers assess and assign appropriate wraparound services, including mental health services, housing, job development and peer-mentor support. Probationers are on strict compliance and administrative sanctions are "swift and sure." Law enforcement agencies assist DCJ by facilitating contacts, serving warrants and enforcing court orders. Clients who make sufficient progress are eligible to graduate to a less intensive supervision. As of the press deadline, program participants were eagerly awaiting 120-day progress reports for the first batch of MCJRP probationers.

More developments are expected as MCJRP grows. MCJRP Court Navigator Joel Bruhn welcomes your call or email for additional program and contact information. He can be reached at 503.988.5225 or at joel.i.bruhn@ojd.state.or.us.



Ask the Partner

Dear Partner,
My supervising attorney has a personal habit that really bothers me. Every time she comes into my office, she cracks her knuckles really loudly. She does the same thing in our practice group meetings. No one else seems to mind, or if they do, they say nothing about it. The sound of cracking knuckles has always particularly irked me. As a new lawyer, I didn't want to start my relationship with my supervising attorney off on the wrong foot, so I never said anything to her when I first started my job. Now that several months have gone by, though, it's driving me crazy! What should I do?

Associate

Dear Associate,
 This is a sticky situation, especially since you failed to assert yourself early on. Although it certainly may have been possible to politely and respectfully ask your supervising attorney to refrain from cracking her knuckles in your office without personally offending her, she may now be perplexed if you bring up the issue at this point. Even if you're able to tactfully get her to understand how disconcerting her habit is to you, she may wonder what other things - big or small - you have not been immediately candid or completely honest about over the last several months. Your delay in speaking up may turn what should have been a small, insignificant matter into a much larger issue. At this point, it may be easier to stay the course you are on and simply keep your feelings to yourself.

Everyone has at least one personal habit that another person could potentially find gross or annoying. You may have one yourself, such as coughing without covering your mouth, biting your nails, making noise with your teeth, or chewing

on pens. Part of working in a communal environment is tolerating others and, in return, being tolerated. Perhaps there may even be a medical reason as to why your supervising attorney cracks her knuckles frequently. Regardless, you should find a way to tolerate or ignore any such noise that is unpleasant to you.

Think of this noise that bothers you like an alarm that periodically goes off outside the building, over which you have no control. Despite the outside distraction, you would still have to find a way to get your work done. Perhaps you can devise a mantra to repeat to yourself every time you hear the noise. "I am impervious to outside distractions," or "I accept all that my environment has to offer," etc., can help turn the challenge of tolerating the noise into an opportunity for self-empowerment.

You could certainly choose to speak up to your supervising attorney directly. I would caution you, however, as this will inevitably create (or exacerbate) the tension and discomfort in your relationship with her. Regardless of how this tactic may turn out, the other partners and I are not likely to consider assigning you to a different supervising attorney for this reason, as this strikes me as a fairly insignificant complaint.

We expect a certain level of maturity from all of our attorneys, associates and partners alike. Thus it is your responsibility to timely request what you need for success in your work environment. Since you did not immediately address this issue as it came up, you must now accept the consequences of that inaction. Take this as a lesson for the future: Identify your own needs sooner, rather than later, and seize appropriate opportunities to express them.

Holly Hayman YLS Member Spotlight

by Tyler Bellis
YLS Board Director

By the midway point of her college career, Holly Hayman (U of O '11) knew she wanted to be a lawyer. She just never imagined that she'd end up a bankruptcy and commercial litigator.

The daughter of a Montessori school teacher, Holly grew up in Boise, Idaho wanting to serve the public good. After working full time through college and graduating from Boise State University with a degree in Political Science and Sociology, Holly set her sights on a law school with a strong environmental law program and a reputation for public service. When she was accepted by the U of O School of Law, it was a no-brainer that she would continue school in the Pacific Northwest with an eye toward settling in Portland.

In law school, Holly initially gravitated toward environmental and constitutional law classes; however, she quickly realized that her strengths lay in contract and commercial law. Soon after she focused her studies on bankruptcy and commercial law, and began volunteering with the Creditor Abuse Resistance Education program (CARE), where she gave presentations to local high school students about credit and financial education. By the time Holly finished law

school, she had externed for the Office of the United States Trustee and Portland Bankruptcy Judge Trish Brown, and saw that bankruptcy was her calling.

But when she graduated in 2011, the Portland job market was not on the same page with Holly's vision. Work was hard to come by even for experienced attorneys, and most new lawyers could not afford to be picky. Fortunately, Holly was able to land a job as a paralegal fresh out of law school at Portland creditors' rights firm, RCO Legal. Within a short time, she was promoted to an associate attorney position within the firm's litigation department where she developed practical skills and gained first-chair experience in court.

After honing her craft for a couple years, Holly finally got the opportunity she had been waiting for when she was offered a chance to work with Justin Leonard of Leonard Law Group LLC after Leonard's former partner, Peter McKittrick, was appointed to become a new bankruptcy judge for the U.S. Bankruptcy Court for the District of Oregon, Portland Division. At Leonard Law Group, Holly focuses her practice on all facets of bankruptcy law with

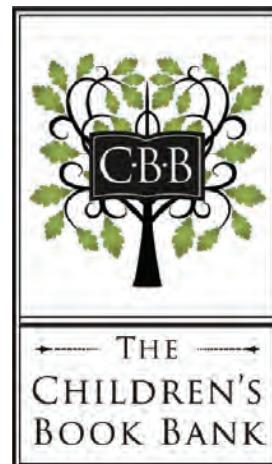


Holly Hayman

an emphasis on representing trustees. When she is not practicing law, Holly still enjoys serving the public good by volunteering her time for the Campaign for Equal Justice, the OSB Debtor-Creditor Section, the Legal Aid Pro Bono Bankruptcy Clinic, OWLS and the MBA Young Lawyers Section.

Indeed, early in her legal career Holly committed to becoming heavily involved in the MBA YLS by attending networking events and joining the YLS Membership Committee, a committee she now chairs and that is a natural fit given Holly's proclivity for planning events. In her time on the Membership Committee and as a member of the MBA YLS, Holly has "made a number of close friends and established a professional network that includes young lawyers from solo and small firms as well as medium and large firms here in the Portland Metro area."

YLS Volunteer Opportunities



YLS Community Service Day
 With The Children's Book Bank
 Saturday, February 7
 9:30-11:30 a.m.

The YLS Service to the Public Committee invites you to volunteer at The Children's Book Bank, 1728 NE Glisan St., on Saturday, February 7 from 9:30-11:30 a.m. The book bank seeks to improve the literacy skills of low-income children by collecting, repairing and distributing used books to families in need. Volunteers will primarily be cleaning and sprucing up donated books. Children ages six and up are invited to participate, though parents are expected to volunteer alongside their children. This event is limited to 14 volunteers.

To sign up or for more information, contact Kirsten Rush at krush@busseandhunt.com.



Wills for Heroes
 Saturday, February 28
 11 a.m.-1 p.m.

The YLS Pro Bono Committee will hold a Wills for Heroes clinic for Portland Police Bureau Central Precinct officers at Ball Janik LLP. Wills for Heroes is a national program that provides free wills and other estate planning documents to first responders and their spouses or domestic partners. Volunteers are needed for shifts between 10 a.m. to 2 p.m. to welcome the first responders and their families, serve as witnesses, review documents, and other tasks.

To volunteer or for more information, contact the program organizers at willsforheroes@mbabar.org. For more information about the Wills for Heroes Foundation, visit www.willsforheroes.org.

MBA & YLS Board Elections

The MBA bylaws provide for nominations for the MBA and YLS Board positions from the membership at large. YLS members may self-nominate for the YLS Board, and MBA members for the MBA Board. MBA and YLS Board nominating petitions must be endorsed by the nominee and at least 10 other MBA or YLS members, respectively. **Petitions must be received by 5 p.m. on Friday, February 27.** New MBA and YLS Board members will be announced at the MBA Annual Meeting on Thursday, May 7.

YLS Entrepreneur Academy

The YLS Entrepreneur Committee is now accepting applications for its Entrepreneur Academy. The academy is intended as an introduction to the business aspects of opening a solo or small law office and will provide a peer support network to benefit new attorneys. Regular Wednesday sessions will feature guest speakers and chronologically progress through the different stages of establishing a solo or small practice:

Getting Started – Wednesday, Feb. 18

Speaker: Erika Huebschman, Yanchar Huebschman LLC

Business Planning – Wednesday, Feb. 25

Speakers: Jeremy Babener, Lane Powell PC and Ginger Skinner, Skinner Law

Technology – Wednesday, Mar. 11

Speaker: Hong Dao, OSB Professional Liability Fund

Preparing for Clients – Wednesday, Mar. 18

Speaker: Levi Gatov Johnston, Intelekia Law Group LLC

Meeting with Clients – Wednesday, Mar. 25

Speaker: Violet Nazari, Attorney at Law

Ethics – Wednesday, Apr. 8

Speaker: Paul Neese, Neese Law Office LLC

The Practice – Wednesday, Apr. 15

Speaker: Raife Neuman, Intelekia Law Group LLC

Marketing – Wednesday, Apr. 22

Speakers: Traci Ray, Barran Liebman LLP; Yumi O'Neil, Moda Health; Holly Miller, Gevurtz Menashe and Katie Moesche, Farleigh Wada Witt

Building the Cohort – Wednesday, Apr. 29

Speaker: Cindy Gaddis, Law Offices of Daniel Snyder

Enrollment space is limited, and a \$30 registration fee will be collected. Enrollees must be current members of the MBA Young Lawyers Section. Download a copy of the application today at www.mbabar.org.



Warren Binford Pro Bono Spotlight

by Kirsten Larson
YLS Pro Bono Committee

Throughout the career of Willamette University professor Warren Binford, helping children in crisis has been a central focus. She currently directs Willamette's Clinical Law Program, including the Child and Family Advocacy Clinic. She has been on Willamette's law faculty since 2005. In 2012, she was selected as a Fulbright Scholar and spent six months in South Africa working on children's rights issues.

Prior to attending law school at Harvard University, Warren was a teacher in the inner cities of Los Angeles, Boston, and London. Her commitment to children has continued since her days of teaching. Fifteen years ago, she started working with children in foster care when she became a Court Appointed Special Advocate. Warren was "blown away" by the difficulty of these children's lives, both at home and in foster care. Today, she treasures the knowledge that some of her CASA children continue to stay in touch with her. "Advocacy for children in foster care is potentially a 'high impact' role where one person can really make a difference in another person's life," she says.

Warren's most recent pro bono work was advising the Office of the Prosecutor of the International Criminal Court on policies for children who become involved in the international criminal justice system. "This opportunity intrigued me because I know that children, including child victims of war, are resilient, but can be re-traumatized by the justice system, and so we need to design and manage justice systems in 'child-friendly' ways."

Upon leaving eight years of corporate practice with Pillsbury Winthrop Shaw Pittman LLP, Warren considered jobs both at nonprofits and law schools that would allow her to do pro bono work supporting children and families. She proposed a children's rights project for the Southern Poverty Law Center, and was struck by the high level of security both at the SPLC office and the attorneys' homes. Warren realized that some attorneys' lives are forever at risk because of their dedication to promoting justice. Attorneys like Morris Dees inspire her to "be bold and committed and eternally grateful for the freedom I have to serve without fear," she says.



Warren Binford

Although Warren believes that the legal profession at its core is one based on service, she worries that our profession is losing the "service" aspect of our shared identity. She believes that "both performing and promoting pro bono work helps us to remind ourselves and the public that, ultimately, we are here to serve."

Warren strongly encourages new lawyers to embrace pro bono work. "There is nothing more rewarding than changing the course of a person's life for the better for no other reason than that it was the right thing to do." Oregon's strong pro bono ethic and tradition is one of the reasons that Oregon lawyers are happier than many other lawyers nationwide, she believes. "My hope is that Oregon lawyers will continue to perform a substantial amount of pro bono work, and it will continue to bring us joy and advance our community, which is so unique."

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Contact the MBA for details and availability at **503.222.3275**.

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Ethics Focus

Continued from page 7

Opinion 2013-189 is sufficiently broad to include auto-generated permission requests.

Summing Up

Oregon's court rules draw a bright line prohibiting lawyers and those assisting them from initiating contact with prospective jurors. That unequivocal prohibition carries over to RPC 3.5(b), which is explicitly linked to the corresponding court rules. Nonetheless, as Formal Ethics Opinion 2013-189 explains, information about prospective jurors that is available on public websites and social media pages may be used as long as the lawyers and those working with them do not "initiate contact" with the prospective jurors to gain access. Formal Ethics Opinion 2013-189 reflects a practical approach that in most cases will fully arm lawyers with a broad spectrum of public information to effectively and ethically select jurors.



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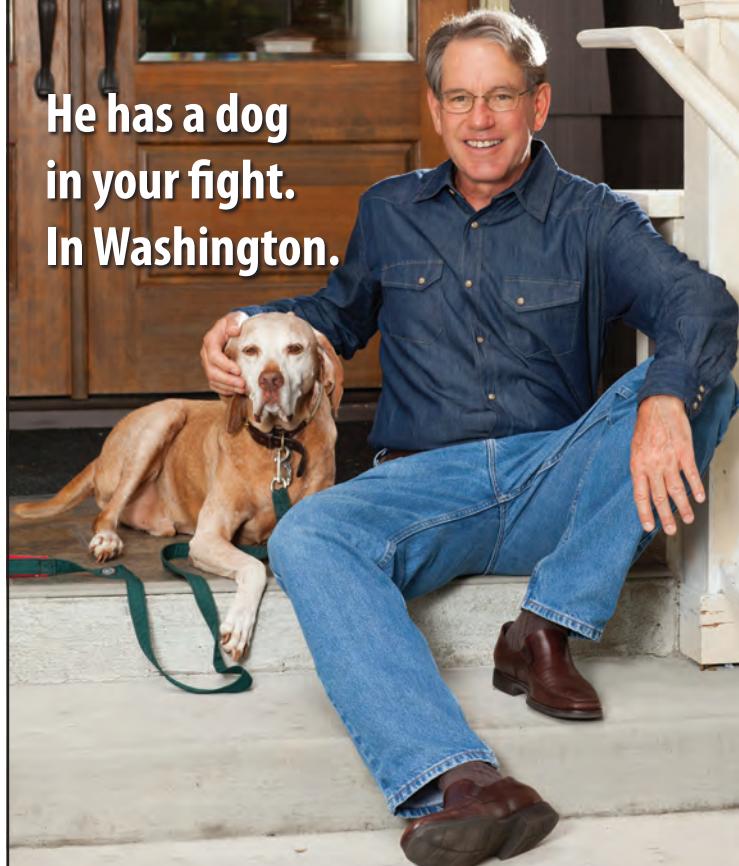
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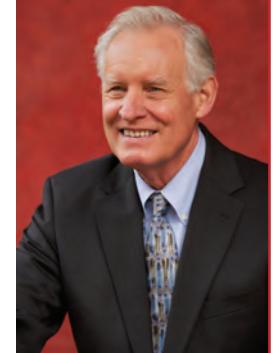
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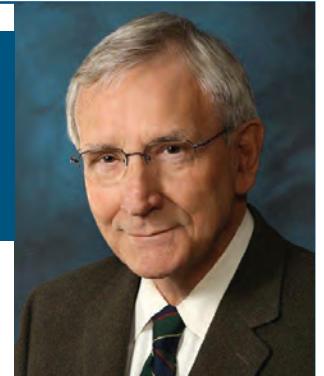
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A Resolution: "Never reject, for any personal consideration, the cause of the defenseless or the oppressed." ORS 9.460(4)

I've never been a big fan of New Year's Eve. Staying home and watching an old movie and falling asleep on the couch suits me fine. Resolutions, on the other hand, I've always liked. After all, any excuse for self-reflection and self-betterment can't be all that bad, even if success is often found by setting a very low bar for attainment. For example, last year's resolution - "This year I will eat more ramen" - I found easier to attain than past years.

I came across the statute almost by accident. ORS 9.460 is titled the "Duties of Attorneys" and sets forth the four core duties for every Oregon attorney. The first three of the four you are likely familiar with even if you, like I, had never read the statute before. The first duty seems innocuous enough and relates to supporting the constitution and laws of the state. ORS 9.460(1). Who could disagree with that? The second and third are, at the risk of oversimplifying, to obey the Rules of Professional Conduct including, specifically, to not lie or mislead and to maintain confidentiality. ORS 9.460(2)-(3). While this can

be a little more complex in its application than the first duty, the fact that this is a duty for a lawyer is uncontroversial.

The fourth duty is extraordinary. I had to read it a few times, and "Shepardize" it to make sure it was still "good law." By a plain reading of the statute the fourth duty appears just as important as the other three. It says:

An Attorney shall never reject, for any personal consideration, the cause of the defenseless or the oppressed. ORS 9.460(4).

No, really. That's what it says. So, there you go. Uphold the constitution? Check. Not make

false statements? I can handle that. Maintain confidentiality? No problem. *Never reject, for any personal consideration, the cause of the defenseless or the oppressed?* Um....

A lot of states don't have this rule. They have adopted ABA model rule 6.2, which permits an attorney to avoid doing pro bono work on matters if, for example, it would result in an "unreasonable financial burden on the lawyer" or in other circumstances. But Oregon does have this rule and has eschewed the model rule. Perhaps it is because, as the ninth circuit has acknowledged, lawyers are professionals, not tradespeople.

The practice of law is a profession - not a business or skilled trade. While the elements of gain and service are present in both, the difference between a business and a profession is essentially that while the chief end of a trade or business is personal gain, the chief end of a profession is public service. *Bradshaw v. U.S. Dist. Court for S. Dist. of California*, 742 F.2d 515, 518 (9th Cir. 1984)

But what does this all mean? My guess is it means that, at the very least, pro bono work is not optional - especially for those of us who have not dedicated our profession to assisting those who are disadvantaged. After all, if it was optional, the rule would mean next to nothing. It must mean something more.

We hear a lot about how professional Oregon attorneys are. We pride ourselves on our collective collegiality. As a practical manner, we often think a professional attorney is someone who is not a jerk - who "plays nice with others" - and who is trustworthy and a woman or man of integrity. We don't think, first and foremost, about their propensity to champion the cause of the defenseless or the oppressed. But, we should.

After all, we have a duty - a statutory duty - to pivot professionalism toward attorneys who serve the defenseless or the oppressed. For legal aid attorneys, this is a no brainer. For the rest of us, it takes more thought. To be blunt, for the rest of us, it takes less greed and a redefinition of what it means to practice law. Too often new law firm associates get credit

solely for how profitable they are for the partners, not for their dedication to the defenseless or the oppressed, even though it is a core duty of every attorney. Partners are evaluated the same ways - by how much money they make for other partners - not for their attention to ORS 9.460(4), or whether they know it exists. Law firms can evaluate themselves in meaningful ways on their pro bono hours, not just their "billable hours." Solo attorneys, likewise, evaluate themselves on dollars and cents and claim to be too busy managing their business to focus their practice on the defenseless or the oppressed.

We all need to remember that the chief end of the profession, as referenced by the ninth circuit, must be public service, not private profit. A focus on the latter, at the expense of the former, is bad for the profession. A focus on the latter is why many people, justifiably, don't like lawyers.

This year, we should resolve to explore what ORS 9.460(4) means for our practice, both individually and, if we operate or manage law firms, institutionally. Obviously, what that means to you is up to you. Private profit and public service are not mutually exclusive - but not doing pro bono work - assuming you work outside of public interest law - cannot be an option, and pretending the statute doesn't exist cannot be an option, either.

Let's redefine professionalism to include what it means to be part of a profession to begin with - a commitment to public service. Let's call it a resolution.



The Corner Office is a recurring feature of the Multnomah Lawyer and is intended to promote the discussion of professionalism taking place among lawyers in our community and elsewhere.

While The Corner Office cannot promise to answer every question submitted, its intent is to respond to questions that raise interesting professionalism concerns and issues. Please send your questions to mba@mbabar.org and indicate that you would like The Corner Office to answer our question. Questions may be submitted anonymously.



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General Counsel to the University

The University of Oregon (UO) President's Office seeks applications for General Counsel to the University. The General Counsel to the University (GC) is the chief legal officer for the University of Oregon. The GC is responsible for managing the university's legal affairs and overseeing the office's provision of legal services to the university and the UO Board of Trustees. The General Counsel works closely with other executive officers, university units, and student government, and is authorized to accept legal process on behalf of the university. The General Counsel supervises the office budget and staff, including five other attorneys.

The General Counsel is one of four officers of the university as outlined in the UO's bylaws. Thus, the position has a dual reporting requirement to the university president and the Board of Trustees, and serves as a member of the president's executive leadership team. The GC participates in all meetings of the Board of Trustees or its committees, and works closely with the University Secretary on issues relating to public meetings, Board actions and resolutions, and UO policies. EO/AAs/ADA institution committed to cultural diversity. The University encourages all qualified individuals to apply, and does not discriminate on the basis of any protected status, including veteran and disability status.

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associate with a minimum of 5-7 years' experience in commercial, business and real estate litigation. The ideal candidate will have superior writing and analytical skills, the ability to attract and retain new clients, and be a self-starter who can work independently as the primary attorney handling litigation matters. The successful candidate will have deposition and courtroom experience; prior trial or arbitration work a plus but not required. This position offers the opportunity to grow one's practice in a collaborative working environment while gaining invaluable experience managing active cases to completion. To achieve a better work-life balance we employ a less demanding billable requirement. We also employ a bonus structure that incentivizes and rewards hard work and client generation. Qualified applicants should submit a resume and cover letter to resumes@buckley-law.com. Inquiries will be kept confidential upon request.

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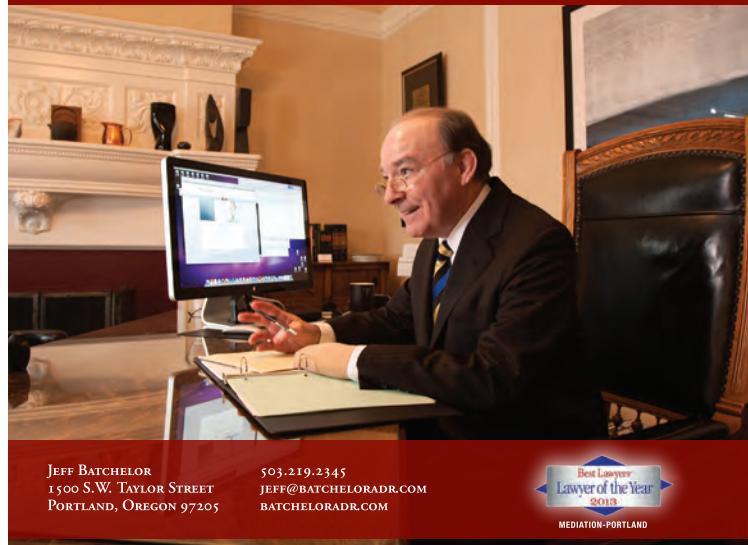
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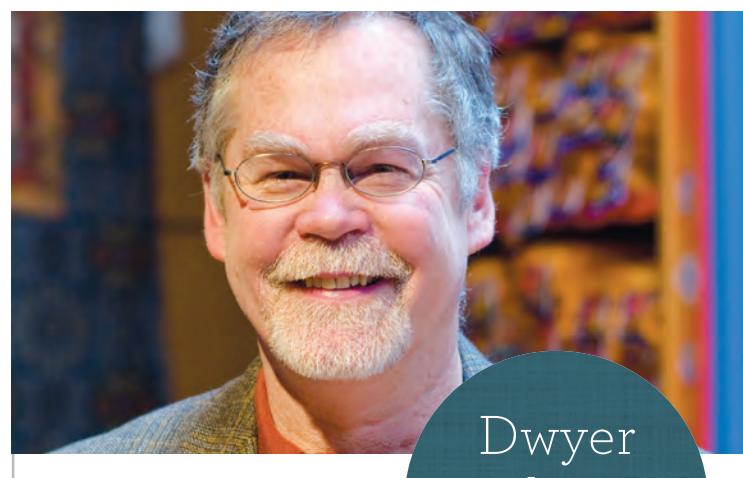
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ed 12/01/06.
Paragraph (b)(6) amended to substitute "information relating to the representation of a client" for "confidences and secrets."
Amended 1/20/09.
Paragraph (b)(7) added.

Rule 1.7 Conflict of Interest: Current or Former Client

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a current conflict of interest. A conflict of interest exists if:

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MBA 2015 Mentor Program Kicks Off

The MBA Mentor Program, administered by the MBA Professionalism Committee, kicked off the year with a reception on January 12. Thirty-

four pairs are participating in this year's program, which matches YLS members with esteemed and experienced MBA members for a six-

month period. The mentors and mentees attended brief orientations before meeting each other and hearing words of wisdom from Mark Johnson Roberts, the 2014 MBA Professionalism Award recipient.

Once again this year, the MBA Professionalism and CLE committees are teaming up to offer two-for-one registration at MBA CLE classes for mentor pairs. Mentors who sign up for an MBA CLE can bring their mentee for free. Contact the MBA for more information.



Kristin Jordan and Xin Xu



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