



## Diversity, Inclusion & Equality in the MBA

by Nicole Nowlin  
MBA Equality & Diversity  
Committee Chair

The mission of the MBA Equality & Diversity (E&D) Committee is to foster and expand diversity, inclusion, and equality in the MBA and Multnomah County legal community, and to create and strengthen a relationship of mutual support between the MBA and its diverse lawyers and bar organizations. In simple terms, the E&D Committee works to make Multnomah County - and Oregon as a whole - a welcoming and inclusive place to practice law.

One of the committee's main objectives is to promote legal careers to diverse students and to support diverse law students. We do this by *building relationships*. E&D Committee members visit local middle and high schools with diverse student populations to talk about what we do as attorneys, why we chose this profession, and to encourage students to think about pursuing a career in law. We also collaborate with Portland State University's "Explore the Law" program for undergraduate students. Explore the Law is a pipeline program for diverse PSU students to explore, prepare for, and pursue careers in law through a partnership between PSU, the Oregon State Bar, and the MBA. E&D Committee members routinely provide guidance to Explore the Law students on how to prepare for job shadows, interviews, and law school.

The E&D Committee recognizes the challenges and barriers that many undergraduates face when deciding whether or not to attend law school. In furtherance of the committee's goal to expand diversity, inclusion, and equality in the MBA, the committee established a subcommittee earlier this year to distribute yearly scholarships for LSAT prep courses. The scholarships are awarded to individuals who come from backgrounds traditionally underrepresented in the Multnomah County legal community, who have financial need, who have significant ties to Oregon, and who plan to attend law school and practice law in Oregon. The committee recently awarded 12 scholarships, and it's our sincere hope that the recipients recognize the opportunities for legal careers in our community and return one day to practice law. Again, the goal here is to maintain a pipeline, so-to-speak, between the MBA and future legal professionals.

Another one of the E&D Committee's objectives is to establish and participate in mutually-supportive relationships with diverse bar organizations and attorneys. Our committee "ambassadors" connect with diverse bar organizations to learn about their objectives; attend diverse bar organization events and encourage other MBA representatives to attend as well; share information with diverse bar organizations about and encourage diverse attorneys to apply for MBA committees, leadership positions, and CLE presentations; and encourage diverse attorneys to apply for judicial vacancies.

**One of the committee's main objectives is to promote legal careers to diverse students....**

The committee's ambassador work culminates in the spring with the Tillicum Gathering, a diversity bar leadership social that brings together members of the MBA Board, E&D Committee, and various diversity/specialty bar leaders in order to build relationships, exchange ideas, and learn about ways in which the groups can support each other and work together to promote diversity in the bar. The goal with the E&D Committee's ambassador work is to make sure our specialty and minority bar association members know that their contributions to the MBA and our legal community as a whole are valued and sought after.

Finally, the E&D Committee strives to promote the MBA's Statement of Diversity Principles. The statement was adopted by the MBA Board in 2009 and presents an opportunity for all legal employers to publicly acknowledge their commitment to developing the diversity of the legal community in Oregon. The E&D Committee does an exemplary job promoting diversity in our legal community, but there is still more to be done to promote and advance diversity throughout our ranks. Please consider signing the Statement of Diversity Principles, which can be found on the MBA's website under the "Diversity" tab.

While "diversity" may be difficult to define, I think we can all agree that it's an inclusive concept. I'm pleased to report that the E&D Committee is doing its part to make others in our community feel welcome and valued as we work to move towards a more diverse and inclusive legal profession. To quote the MBA's Statement of Diversity Principles, "[w]ith greater diversity, we can be more creative, effective and just, bringing more varied perspectives, experiences, backgrounds, talents and interests to the practice of law and the administration of justice." That sounds like a win-win for everyone.

**...[w]ith greater diversity, we can be more creative, effective and just, bringing more varied perspectives...to the practice of law....**

## MBA 13th Annual WinterSmash

**A Family Friendly Bowling Event**

**Saturday, February 7  
6-9 p.m.**

**20th Century Lanes  
3350 SE 92nd**

**10 minutes from downtown Portland  
A Multnomah CourtCare fundraiser**

See page 2 for details



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### JANUARY

**1.13 Tuesday  
Oregon Legalized it -  
Now What?**

Bear Wilner-Nugent  
Leland Berger  
David Kopilak

**1.14 Wednesday  
Mandatory Training to  
Become a Multnomah County  
Arbitrator**

Presiding Judge Nan Waller

**1.15 Thursday  
The Challenges and Rewards  
of Representing Non-English  
Speaking Clients**

Judge Oscar Garcia  
Irina Batrakova  
Emery Wang

**1.21 Wednesday  
Strategies for Litigating  
Attorney Fee Petitions**

Judge Jerome LaBarre  
Judge Michael Simon  
David Markowitz

**1.27 Tuesday  
Insurance Coverage for Every  
Practice**

Bob Bonaparte  
Rick Lee  
Seth Row

**1.29 Thursday  
Multnomah County Presiding  
Court Update**

Presiding Judge Nan Waller

### FEBRUARY

**2.3 Tuesday  
Elder Abuse Reporting**

Judge Katherine Tennyson  
Amber Hollister  
Ellen Klem

**2.5 Thursday  
15 Labor & Employment  
Updates for 2015**

Rick Liebman

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## WinterSmash Benefits Multnomah CourtCare

### A Family Friendly Bowling Event

**Saturday, February 7  
6-9 p.m.  
20th Century Lanes  
3350 SE 92nd**

The 13th Annual WinterSmash is slated for Saturday, February 7 from 6-9 p.m. at AMF 20<sup>th</sup> Century Lanes (3550 SE 92<sup>nd</sup> Ave. in Portland).

Lanes will be available exclusively for MBA members and their friends, colleagues and families for an evening of fun and food. Bumper lanes will be set up for children. The event serves as the kickoff of fundraising efforts for Multnomah CourtCare.

CourtCare, a project of the MBF, is operated by the Volunteers of America Oregon (VOA). Tax deductible donations may be made to the Multnomah Bar Foundation. Additional funding comes from the Oregon Judicial Department, Multnomah County and the federal court new admittee fund. The program provides a compassionate way to protect young children from unpleasant courtroom situations.

A converted Multnomah County Courthouse jury room serves as a fully-staffed

and licensed drop-in childcare center for children and infants. CourtCare, which opened in 2001, offers games, toys, art supplies and books for up to 100 children a month in a safe and nurturing place to play while parents or guardians tend to court business.

So, come enjoy the company of your colleagues, some good food, play a game you know you love and support a good cause. Tickets are \$40 for adults and \$15 for kids 3-12 years old. Price includes food, drink, shoes, balls, lane time and the satisfaction of knowing you're supporting CourtCare. Prizes will be awarded for the highest and lowest individual scores, the group with the most participants in attendance and the group with the best bowling shirt. In addition, a trophy will be presented to the group with the highest team score. Raffle tickets will be for sale. The event promises to be a good time; don't miss this opportunity! Register via the insert in this issue or at [www.mbabar.org](http://www.mbabar.org).



### Thank you to the WinterSmash sponsors.

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Contact Kathy Modie at the MBA at 503.222.3275 if you'd like to add your name to the sponsor list or donate a raffle prize.

## Calendar

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

### JANUARY

**1-2 Thursday-Friday  
New Year Holiday**

**19 Monday  
Martin Luther King Jr. Holiday**

**22 Thursday  
OMLA Member Recognition Reception**  
Visit [www.oregonminoritylawyer.org](http://www.oregonminoritylawyer.org) for details

**27 Thursday  
YLS Drop-in Social**  
See p. 13 for details

**18 Wednesday**  
CEJ Awards Luncheon  
Visit [www.cej-oregon.org](http://www.cej-oregon.org) for details

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

**27 Friday**  
OHBA Annual Awards Dinner  
Visit [www.oregonhispanicbar.org](http://www.oregonhispanicbar.org) for details

ACLU Liberty Dinner  
Visit [www.aclu-or.org](http://www.aclu-or.org) for details

### FEBRUARY

**7 Saturday  
WinterSmash**  
See this page for details

**16 Monday  
Presidents' Day Holiday**

### MARCH

**13 Friday**  
OWLS Roberts-Deiz Awards Dinner  
Visit [www.oregonwomenlawyers.org](http://www.oregonwomenlawyers.org) for details

Northwestern School of Law of Lewis & Clark College

## Distinguished Honors Dinner

in recognition of

Margaret D. Kirkpatrick '82 • Distinguished Graduate  
Judge Darleen Ortega • Distinguished Honorary Graduate  
Kasia Eryn Rutledge '07 • Recent Graduate Rising Star  
Jessica Su Johnson Shelton '11 • Recent Graduate Community Spirit

Saturday, January 31, 2015  
Reception at 5:00 p.m. • Dinner at 6:00 p.m.

Castaway Portland, 1900 NW 18th Avenue

Register online at  
[law.lclark.edu/offices/alumni/events/](http://law.lclark.edu/offices/alumni/events/)



## Special Donors

The MBA offers a special "thanks" to the following members for donating more than the suggested check-off amount to the Multnomah Bar Foundation when paying their 2015 dues.

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Gregory Zeuthen



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.

## Oregon Legalized It... Now What?

Tuesday, January 13, 2015  
3:00-5:00 p.m.

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

This CLE explores the planned implementation of Measure 91 legalizing the recreational use of marijuana, the general scheme for the regulation of recreational and medical marijuana producers and distributors, and how to advise Oregon businesses in both the recreational and medical marijuana market. Speakers include - **Bear Wilner-Nugent**, **Leland Berger** and **David Kopilak** - the legal practitioners involved in the drafting of Measure 91 and who have experience advising businesses participating in this new market.

**For more information:**

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

## The Challenges and Rewards of Representing Non-English Speaking Clients

Thursday, January 15, 2015  
3:00-5:00 p.m.

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

**Note: This class is worth 2 hours of access to justice credit.**

Navigating the legal system can be daunting for any client, and even more so for clients who speak limited or no English. Join **Judge Oscar Garcia**, Washington County Circuit Court; **Irina Batrakova**, The Batrakova Law Office; and **Emery Wang**, Law Office of Emery Wang for a panel discussion of the unique challenges faced by attorneys who represent these clients. In addition to providing insights drawn from their own practices, the panel also will suggest resources available to assist attorneys in overcoming those challenges.

**For more information:**

Call Keil Mueller, Stoll Berne at 503.227.1600. Call the MBA at 503.222.3275.

## Insurance Coverage for Every Practice

Tuesday, January 27, 2015  
3:00-5:00 p.m.

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

The MBA presents a two-hour program on insurance coverage. Panelists representing both insurer and policyholder perspectives will discuss basic insurance coverage principles as well as recent developments and current trends. First party property coverage and third party liability coverage issues will be addressed. Any attorney encountering insurance coverage issues - whether frequently or only occasionally - should attend this program.

Our speakers are **Seth Row**, **Rick Lee** and **Bob Bonaparte**. Seth is a partner at Parsons Farnell & Grein representing commercial policyholders including banks, manufacturers, developers and public entities in litigation and negotiation of insurance disputes. Rick is the senior partner at Bodyfelt Mount and has represented carriers in a wide variety of insurance coverage matters for 25 years. Bob is a partner at Shenker & Bonaparte and specializes in representing individuals who have coverage disputes with their insurers. He has practiced law in Oregon for over 25 years.

**For more information:**

Call Sim Rapoport, Attorney at Law at 503.997.6329. For registration questions, call the MBA at 503.222.3275.

## Mandatory Training to Become a Multnomah County Arbitrator

Wednesday, January 14, 2015  
3:00-5:00 p.m.

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

Basic training to qualify for Multnomah County Arbitration Panel. Participation is a requirement for inclusion on the list of court appointed arbitrators.

This program will feature Multnomah County **Presiding Judge Nan Waller** and a panel of experienced arbitrators who will explain and discuss the statutes, rules, case law and ethical issues governing court-annexed arbitration in Multnomah County. The program will provide step-by-step advice on scheduling arbitration hearings and dealing with postponements, resolving pre-hearing evidentiary and discovery disputes, handling summary judgment and other pre-hearing motions, conducting arbitration hearings, dealing with attorney fees and costs and preparing and filing arbitration awards.

**For more information:**

Call John Ostrander of Elliott, Ostrander & Preston at 503.224.7656. For registration questions, call the MBA at 503.222.3275.

## Strategies for Litigating Attorney Fee Petitions

Wednesday, January 21, 2015  
3:00-5:00 p.m.

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

Attorney fee awards can be a hotly litigated issue in state and federal court litigation. In this program, our panelists - **Judge Jerome LaBarre**, **Judge Michael Simon**, and **David Markowitz** - will share tips for how to maximize the award of attorney fees and how to effectively challenge an attorney fee petition in state and federal court.

**For more information:**

Call Shannon Armstrong, Markowitz Herbold Glade & Mehlhaf at 503.295.3085. For registration questions, call the MBA at 503.222.3275.

## Multnomah County Presiding Court Update 2015

Thursday, January 29, 2015  
3:00-5:00 p.m.

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

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:**

Call the MBA at 503.222.3275.

**Register using the form on the next page**

## Elder Abuse Reporting

Tuesday, February 3, 2015  
12:00-1:00 p.m.

World Trade Center  
Mezzanine Room  
26 SW Salmon, Portland

Members \$35  
Non-members \$55

**Note: This class will be worth 1 hour of elder abuse credit.**

**Amber Hollister**, Deputy General Counsel to the Oregon State Bar; **Ellen Klem**, Oregon Department of Justice; and Multnomah County Circuit Court **Judge Katherine Tennyson**, will present this CLE on the new Elder Abuse reporting requirement for attorneys, which took effect on January 1. This program is intended to inform lawyers of their legal responsibilities as mandatory reporters, while maintaining their ethical obligations to clients.

### For more information:

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

## 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.

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.mbar.org](http://www.mbar.org).

## CLE Registration Form

Receive a \$5 discount when registering online at [mbar.org](http://mbar.org).

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### Member Status:

- MBA Member  
 Non-Member

### Payment Options:

- Check  VISA  MasterCard  
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Registration forms with payment must be received in the MBA office by 3 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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620 SW Fifth Ave., Suite 1220 ■ Portland, OR 97204  
503.222.3275 ■ Fax to: 503.243.1881

### Register online and order or download MBA self-study materials at [www.mbar.org](http://www.mbar.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.

#### 1/13 Oregon Legalized It...Now What?

- Class Registration Online (\$50 Members/\$80 Non) \_\_\_\_\_  
 Class Registration (\$55 Members/\$85 Non) ..... \$ \_\_\_\_\_  
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#### 1/14 Mandatory Training to Become a Multnomah County Arbitrator

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#### 1/15 Challenges & Rewards of Representing Non-English Speaking Clients

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 Class Registration (\$55 Members/\$85 Non) ..... \$ \_\_\_\_\_  
 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ \_\_\_\_\_

#### 1/21 Strategies for Litigating Attorney Fee Petitions

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 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ \_\_\_\_\_

#### 1/27 Insurance Coverage for Every Practice

- Class Registration Online (\$50 Members/\$80 Non) \_\_\_\_\_  
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#### 1/29 Multnomah County Presiding Court Update 2015

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 Class Registration (\$55 Members/\$85 Non) ..... \$ \_\_\_\_\_  
 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ \_\_\_\_\_

#### 2/3 Elder Abuse Reporting

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

#### 2/5 15 for '15: The Top 15 Labor & Employment Updates for 2015

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 Class Registration (\$55 Members/\$85 Non) ..... \$ \_\_\_\_\_  
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#### 2/17 International Law Issues in Domestic Litigation

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## Ethics Focus

### Danger Zone Clients Threatening Harm

by Mark Fucile  
Fucile & Reising



Many civil practitioners associate the topic of clients threatening harm with criminal law. Although criminal lawyers do indeed confront this difficult circumstance periodically, civil practitioners do, too. Moreover, unlike their criminal law

#### ...two exceptions to the confidentiality rule may be triggered.

colleagues, civil practitioners who find themselves in this uncomfortable position may never have thought about how to approach it. Examples include:

- A business lawyer with a financially pressed client who tells the lawyer during a particularly tense negotiating session with a bank over the client's credit line that the client plans to kill the bank's credit manager.

- A family lawyer with a distraught client who is in the middle of a bitter custody fight and who is already in therapy receives a call from the client saying that the client is thinking of committing suicide.

- A personal injury lawyer representing a victim of childhood abuse and a history of depression becomes concerned because the client fails to make a key meeting and doesn't answer the lawyer's calls.

#### ...harm is reasonably certain to occur if it will be suffered imminently....

In this column, we'll look at three facets of this always difficult problem. First, we'll survey the exceptions to the confidentiality rule that allow a lawyer to reveal a client's intent to commit a crime or to prevent reasonably certain death or substantial bodily harm. Second, we'll discuss some practical considerations that can come into play in determining a client's intent and in preventing harm. Finally, we'll examine the associated question of whether a lawyer needs to withdraw following a disclosure or other intervention.

#### Exceptions to the Confidentiality Rule

Depending on the circumstances, two exceptions to the confidentiality rule may be triggered.

RPC 1.6(b)(1) allows a lawyer "to disclose the intention of the lawyer's client to commit a crime and the information necessary to prevent the crime[.]" This exception is a carryover from former Oregon DR 4-101(C)(3) and, by applying to any crime, is potentially quite broad. In practice, RPC 1.6(b)(1) focuses

#### ...even the bedrock principles of lawyer confidentiality may give way to "the overriding value of life[.]"

on situations highlighted by our first example, where the financially strapped client tells the business lawyer that he or she intends to kill the bank credit manager.

RPC 1.6(b)(2), in turn, allows a lawyer to reveal otherwise confidential information "to prevent reasonably certain death or substantial bodily harm[.]" This exception is patterned on ABA Model Rule 1.6(b)(1) and came to us when we moved from the old "DRs" to the RPCs in 2005. Although it includes serious crimes as illustrated by our first example, this exception also embraces situations like our two other examples, where the lawyer's own client is the one who is at risk of harm. Comment 6 to ABA Model Rule 1.6 explains that "harm is reasonably certain to occur if it will be suffered imminently or if there is a present and substantial threat that a person will suffer such harm at a later date if the lawyer fails to take action necessary to eliminate the threat."

With both, Oregon's exceptions are permissive ("may") rather than mandatory ("shall"). At the same time,



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Comment 6 to ABA Model Rule 1.6 also notes that even the bedrock principles of lawyer confidentiality may give way to "the overriding value of life[.]"

#### What Do You Do?

These are situations that are inherently fact-specific and, as a result, don't come with a ready-made set of instructions. Two general considerations, however, often come into play.

First, it can be critical in assessing the situation to understand your own client. With the financially-pressed business client, for example, the lawyer may know - or learn - that the client uses that phrase as way of simply "blowing off steam." If you are uncertain, however, the best course is often to have a direct conversation with the client about your concerns.

Second, consider interventions that either don't necessarily reveal confidential information or limit the extent of the disclosure. With the distraught family law client, for example, a call to the client's therapist may be an avenue to communicate the concern to a medical professional who is better equipped to take appropriate action. With the personal injury client, in turn, the lawyer might send the firm's investigator out to check on the client or ask the police to do a welfare check.

#### Do You Need to Withdraw?

In a situation where a lawyer has had to inform a law enforcement agency or other third party of a death threat, the attorney-client relationship will likely have been sufficiently affected that withdrawal is the next step. To return to our first scenario, for example, if the lawyer has determined that the client really intends to kill the bank credit manager and has reported the threat to opposing counsel or the police, withdrawal should likely follow.

Where the concern was only shared with another professional to assist the client or did not actually result in a detailed disclosure to a third party, however, the lawyer will often be able to remain. Our second and third scenarios are examples of situations where the lawyer's concerns were shared or addressed in ways that don't necessarily affect the continued attorney-client relationship, and, therefore, don't necessarily require withdrawal.



Molly Jo Mullen

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## Lewis & Clark Legal Clinic Closes

by Lissa Kaufman  
MBA Board Director



On December 2, members of the Multnomah County legal community gathered in Presiding Judge Nan Waller's courtroom to recognize and bid farewell to a Multnomah County institution. The Lewis & Clark Legal Clinic was founded in 1971 with the mission of "provid[ing] law students with practical skills training in a law office setting ... offer[ing] high quality legal services to the under-represented low income population, and instill[ing] in students the sense of ethics and professionalism necessary to practice law, [and] the values and skills necessary to provide pro bono legal services ... after graduation."

The clinic will close its doors on December 31, 2014. According to Chief

Family Court Judge, Maureen McKnight "The court, bar leadership, and other members of the access to justice community wanted to recognize the significant role the clinic has played for decades in providing both access to the court system for low income people in our community, and in exposing law students to the importance of professionalism and pro bono work." To that end, the MBA, the Campaign for Equal Justice, the Multnomah County Circuit Court, and some current Lewis & Clark law students collaborated to host the gathering. The event was very well attended and included judges, alumni, faculty, students and a host of other clinic supporters spanning the local legal community. As they enjoyed light refreshments, most attendees talked informally about their own experiences with the clinic and the significance it had in their legal careers and as an important vehicle for access to justice.

The event included brief remarks from Judge Nan Waller, Campaign for Equal Justice Executive Director Sandra Hansberger, and Richard

Slottee, the current clinic director. In his comments, Professor Slottee reflected on the clinic's work over the past 43 years. Professor Slottee noted the several hundred cases in the United States District Court and 16 appeals to the 9<sup>th</sup> Circuit - almost all argued by law students. He also noted the hundreds of cases clinic students handled in the Multnomah, Clackamas and Washington County courts. According to Professor Slottee, around 3,400 students have participated in the clinic. For many of these students, the clinic was their initial exposure to the unique legal obstacles faced by the low income community, their first opportunity to counsel a client, manage a case, or appear in court, and their first exposure to providing meaningful access to justice to those who would have otherwise been denied.

MBA President Dana Sullivan commented that the MBA co-sponsored the event in recognition of the clinic's deep ties to the local legal community. "The Lewis & Clark Legal Clinic has long been a partner of the MBA in promoting professionalism, diversity, and pro bono work among our ranks." The hope among all involved with the event was that the legacy of the clinic would continue in the lawyers who were trained there and are now practicing in the region.

## mba | ANNOUNCEMENTS

### New Free CLE Content for Members

The video webcast of the seminar entitled "Investigating Evidence from Both Sides of the Bench" is now available in the Members Center at [www.mbar.org](http://www.mbar.org). The seminar is worth two hours of general 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 check back often.

### Take a Matter that Matters

Sign the MBA Pro Bono pledge at [mbar.org/about-us/pro-bono.html](http://mbar.org/about-us/pro-bono.html) and commit to taking at least one pro bono case this year.

### Noon Bicycle Rides

Take a noon break for a short, fast ride with hills. Meet at SW Yamhill and Broadway between noon and 12:10 p.m. on Mondays and Thursdays. Contact Ray Thomas at 503.228.5222 with questions, or just meet at the start.

### 2015 Sponsorship Opportunities

Would you like to get your name in front of metro area lawyers? MBA event sponsorship can help you do that. Find all MBA 2015 event sponsorship information at [www.mbar.org/assets/documents/resources/sponsorshipreservationform.pdf](http://www.mbar.org/assets/documents/resources/sponsorshipreservationform.pdf).

### Oregon Paralegal Association Election Results

At its annual business meeting last in October 2014, the association elected the following officers and directors: Jeannie Lihs, president; Julie Lyckama, vice president; Julianne Maguire, secretary; Mary VanKleeck, treasurer; Kristen Abram, emeritus representative; Perla Caballero-Hoblit, associate representative; and directors Samantha Blar, Mellissa Middleton and Michele Davis. Mary Ann Ivie is the primary National Federation of Paralegal Associations representative. Linda Odermott continues on the board as a director.

## Member Resource Center

Welcome to the member resource center, where you will find information of importance to MBA members and the legal community at large.

### Pro Bono Oregon Listserv

Receive a weekly summary of available pro bono volunteer opportunities in your email inbox every Thursday. Listings include the type of case and a brief description of the issue and do not include highly identifying facts or party names. Sign up by sending an email to [probonooregon-subscribe@mail.lawhelp.org](mailto:probonooregon-subscribe@mail.lawhelp.org).

### Update Your Directory Listing on the MBA Website

The MBA website includes an expanded online Membership Directory and members may now update their photos, include a bio, add links to social networking sites and update practice area information online. To update your listing, login to the Members Center where you may use the email address currently on file in the MBA Directory as your user name. If you do not know your password, you may click on the "forgot password" link to have it emailed to you.

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## Around the Bar



*Lissa Kaufman*

**Lissa Kaufman**

MBA Board Director **Lissa Kaufman** has opened a solo practice specializing in family law, criminal law, juvenile law, and civil rights.



*Stephanie Davidson*

**Cosgrave Vergeer Kester**

**Stephanie Davidson** has joined the firm's business and commercial litigation group as an associate.



*Neil Kimmelfield*

**Lane Powell**

Shareholder **Neil Kimmelfield** has been named 2014 Mentor of the Year by the OSB Taxation Section's New Tax Lawyer Committee.



*Marcus Reed*

**Miller Nash**

**Marcus Reed** has joined the firm's business practice.

Reed has developed a focus of representing business interests of hospitality and beverage companies, including beer, cider, wine, mead and spirits producers. In 2012, he

cofounded the Beverage Industry Networking Group, dedicated to providing a full range of goods and services to the beverage industries. Reed is also an instructor in PSU's Business of Craft Brewing program.



*Robyn Ridler Aoyagi*



*Lindsay Reynolds*

**Tonkon Torp**

Litigation partner **Robyn Ridler Aoyagi** was elected to the ABA Council of Appellate Lawyers Executive Committee. She practices complex commercial litigation, with an emphasis on appellate litigation and trial court motions practice.

**Lindsay Reynolds** joined the labor & employment practice at the firm, where she will represent employers.



*William Kabeiseman*

**Garvey Schubert Barer**

**William Kabeiseman** was named chair of the Oregon Zoo Bond Citizens' Oversight Committee. The committee's purpose is to review progress on the Oregon Zoo Bond Measure 26-96 project improvements, to monitor spending, and consider and recommend project modifications if inflationary increases in construction costs exceed current budget estimates. The committee reports annually to the Metro Council.



*John Rake*

**Larkins Vacura**

**John Rake** has joined the firm, where he will continue his business litigation practice, along with intellectual property and business counseling and advice.



*Thomas Tongue*

**Schwabe Williamson & Wyatt**

**Thomas Tongue**, practice leader for the firm's business group, was elected to serve on the OSB Business Law Section's Executive Committee.

Tongue's practice focuses on assisting clients with business formation, raising capital, securities offerings, succession planning, and mergers and acquisitions. He also serves as general corporate counsel for Parr Lumber Company, and Leupold & Stevens.



*Samantha Gamboa*

**Gordon & Rees**

**Samantha Gamboa** has joined the firm as senior counsel in the commercial litigation and environmental/toxic tort practice groups. Her practice focuses on complex commercial litigation and she represents clients in product liability, environmental and toxic tort, and commercial litigation cases.



*Jason Poss*

**Hart Wagner**

**Jason Poss** has become an associate. His practice focuses on employment defense, medical malpractice defense, general liability, and products liability.



*Jonathan Bennett*

**Dunn Carney**

Managing Partner **Jonathan Bennett** was elected to the board of Habitat for Humanity Portland Metro/East.

Bennett is a member of the firm's real estate and land use team, as well as the construction and design team. He specializes in real estate agreements involving leases, acquisitions, design, development and construction.



*Jenna Mooney*

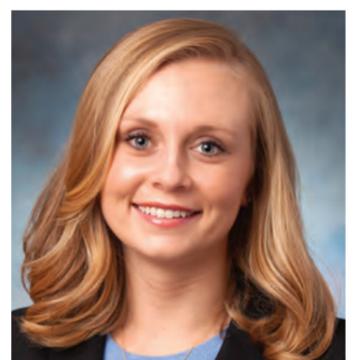
**Davis Wright Tremaine**

Partner **Jenna Mooney** was named a Fellow of the Litigation Counsel of America. Membership in this honorary society is limited to 3,500; less than one-half of 1% of American lawyers.

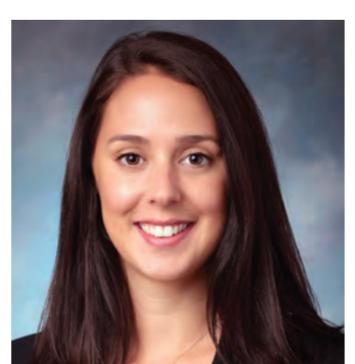
Mooney defends employers in wage and hour, wrongful discharge, and discrimination matters, and litigates trade secret and noncompetition cases.



*Molly Honoré*



*Anna Makowski*



*Kristin Malone*

**Markowitz Herbold**

**Molly Honoré** and **Anna Makowski** have joined the firm as associates, and **Kristin Malone** has joined as a law clerk.

Honoré is a business litigator who advises and represents clients in commercial disputes, including shareholder and contract matters, business tort claims, products liability, professional negligence and real estate litigation.

Makowski is a business litigator and will be an integral part of the firm's cross-border disputes practice.

Malone practiced in Washington, where she maintained a federal and state commercial litigation practice. She will be sitting for the Oregon bar in February.

*The Around the Bar column reports on MBA members' moves, transitions, promotions and other honors within the profession. The submission deadline is the 10<sup>th</sup> of the month preceding publication or the prior Friday if that date falls on a weekend. All submissions 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 Hawkins, carol@mbabar.org.*



## Have You Renewed for 2015?

If you have yet to renew your MBA membership for 2015, please take a few minutes to do so online at [www.mbabar.org](http://www.mbabar.org) or contact the MBA office at 503.222.3275.

Here are a few reasons to continue your membership:

- **Get involved, on your terms:** Many opportunities to network and socialize with your peers - serve on a committee, participate in a volunteer outing, or join us for an after-hours social event.
- **MCLE content, when you want it:** Whether you prefer to ask questions in person at a seminar, attend via webcast or stream to your smartphone, the MBA offers the CLE programming you want, anytime, at a significant discount to members.

- **Stay informed, get connected:** The *Multnomah Lawyer* monthly publication, MBA ENEWS and website keep you up-to-date with news, events and a customizable online profile for members.
  - **Comprehensive member benefits:** Membership provides access to a range of discounted business services so you can focus on practicing law.
- We look forward to serving you in the New Year.



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## Tips From the Bench

### Putting on the Black Robe

#### Case Evaluation - How it Looks Different from the Bench

by Judge Jerome LaBarre  
Multnomah County Circuit Court



While in the courtroom, I went over to counsel table before the start of the trial to say “Hi” to the new attorney. When I shook his hand it was dripping wet. How well I remember being “In the Land of Butterflies & Sweaty Palms.” Thankfully it’s no longer that way for me, since I went on the bench. As a matter of fact, a lot of things look different to me. As a lawyer I had tried over 100 cases and thought I knew a lot about case evaluation. But over the years as a judge, I have revised many of my views.

One of the big changes is how cases look at first glance. This is an important time in the life of a case. As your mother said, “You only get one chance to make a good first impression.” Trial consultants call this “primacy.” Remember that juries and usually even judges and arbitrators are seeing a case at the time of trial for the first time. Even though first impressions have their limitations, they still carry a lot of weight.

Case evaluation technically reduces itself to liability, damages, and of course the overriding consideration of settlement impact. “Is there a case there?” “What is its value?” “What are the selling points?” As a judge doing case evaluation I view the evidence, the people and the law differently than I did as a lawyer.

#### Viewing the Evidence

When I was a lawyer I used to live with big cases for years. More than once I got lost in a thicket of trees and could not see the forest. Judges and neutrals need a presentation which emphasizes the big picture. Important factors concerning the evidence include:

- **Simplicity** - How does the case sound when described in a two minute “elevator speech?” Is it a compelling story?
- **Strength** - Are there “smoking guns?” Is there evidence that can really sway things one way or the other and ties to a theme?
- **Value** - Are the damages readily calculable from objective economic proof? Can non-economic damages be linked to something concrete?

#### Viewing the People

Cases are about people. They involve the heart as well as the head. As a lawyer handling complex business litigation for many years, I tended to forget this. Now every time I go on the bench I am reminded of the human condition. There is

no getting away from the fact that a likeable client with an appealing story makes a big difference. And the opposite is true. Bad behavior can make the trier of fact angry. Neutrals are instructed not to let bias, sympathy or prejudice enter into their decisions. But emotions still enter the courtroom. They are just too powerful to keep out. Positive emotions sell better than negative ones. Some things which come to mind are:

- **Totality** - How will the parties and the case present overall? Is the whole greater than the sum of its parts?
- **Affinity** - How will the kind of people who are jurors relate to the kind of people who are the parties and witnesses?
- **Sincerity** - Will the key players sound sincere? When injuries and disabilities are described, will they be convincing?
- **Soul** - What are the intangibles? By the time the jury or arbitrator goes out to deliberate, will one side or the other seem to have presented a righteous cause?

#### Viewing the Law

Do you remember the story of the tortoise and the hare? As a lawyer, I recall creeping in my legal analysis at the pace of the tortoise. Now as a judge, I need to fly. State court judges must be quick studies. The cases usually come at you fast. You must decide the law and then quickly move on to the next case. Lawyers writing briefs or making oral arguments need to bear this in mind. Some thoughts on this are:

- **Put it Up Front** - Are the most convincing arguments mentioned first?
- **Game Changers** - Is there something dispositive present? (Like a triable issue of fact in a state court summary judgment motion?)
- **Balancing** - Will the motion or other procedure actually be something on which you can prevail? Will it produce more heat than light?

Many things go into case evaluation. Decisions need to be made like “Should I take the case?” “Should I settle it early?” “Should I try it?” Practicing law is both an art and a science. There are no simple answers. All I know is that case evaluation really does look different from the bench.



## News from the Courthouse

by Jason Posner  
Court Liaison Committee

### Presiding Judge’s Report

#### East County Courthouse Meeting Location

The committee met at the East County Courthouse (ECC). The ECC opened in May of 2012 and has 38,821 square feet of usable space, of which 25,514 is assigned to the circuit court for three courtrooms and associated space for judges’ chambers, jury rooms, and a clerk’s office and court support space.

Two of the ECC courtrooms, located on the second floor, are designed for jury trials, and the third, located on the first floor, is a non-jury courtroom. The first floor courtroom is used for traffic and criminal first appearances, and other non-jury matters. The non-jury courtroom is also used for family law hearings when the other two courtrooms are in use.

Judge Waller highlighted some advantages and differences of the ECC. There is free off-street parking. Inside the ECC, the court is state-of-the-art for evidence presentation, using internet-connected video communication and presentation technology. All three courtrooms are spacious and well illuminated. Although no felony offenses or in-custody proceedings permitted to be conducted at the ECC (due to site restrictions agreed with the City of Gresham and the Rockwood Neighborhood Association), the courthouse handles out-of-custody misdemeanor cases and violation offenses which occur east of 122<sup>nd</sup> Avenue.

Judge Waller said that starting in September, 2014, some civil jury trials scheduled to begin on the first Monday of a month have been assigned from the trial readiness calendar to the ECC for trial, upon concurrence of the parties to the ECC location. These cases remain on the presiding judge’s call calendar and are assigned from that calendar on the Friday before the assigned Monday trial start date. A trial

judge is assigned at Friday call to begin the trial in the ECC the following Monday. Jurors are summoned to the ECC for these civil trials and jury selection takes place at the ECC on Monday morning.

Beginning in July, 2014, the family court began hearing Family Abuse Protection Act ex parte petitions every Monday afternoon at the ECC, with video connections to both the downtown courthouse and the Gateway Domestic Violence Program for the judge sitting in the ECC. Also since July, 2014, each Wednesday, a family law judge conducts hearings at the ECC, and holds domestic relations ex parte hearings at 8:30 a.m. and 1:30 p.m. for east county attorneys. And, finally, there is a monthly “Truancy Court” proceeding conducted in cooperation with the east county school districts on one evening each month. The truancy court is intended to increase school attendance, especially for younger students.

Judge Waller concluded by adding that the court will, when there are staffing resources to support it, add small claim and FED proceedings to the ECC’s calendar. If additional staff positions are created by the 2015 legislature, then it will be possible to add these cases to the ECC calendar.

#### The New Multnomah County Courthouse

Judge Waller announced that both the chief justice and the State of Oregon Department of Administrative Services have given written preliminary approval to the new courthouse project for Multnomah County. This is an important step. Under the 2013 legislation, the executive, judicial and legislative branches of state government are partners with the Multnomah County Board of Commissioners in the funding for the new courthouse. A change of mind by any one of these partners puts the construction of a new courthouse at substantial risk.

To maintain political alignment among the state inter-branch decision makers and the

county decision makers, State Senator Chuck Thomsen and State Representative Jennifer Williamson are co-chairing the “Central Courthouse Delivery Team,” which is made up of members across each of the jurisdictions with a role in the funding approval and also includes circuit court, MBA and OSB representation, as well. This committee is another element of support, communication and, when needed, problem solving for the delivery of a new courthouse for Multnomah County.

Judge Waller told the committee that the new courthouse project manager and the owners representative have concluded the “reference design” based on the National Center for State Court’s program plan, as constrained by the \$250 million budget cap. The next step in the schedule is for the Multnomah County Board of Commissioners to proceed with the identification of the primary site for the location of the new courthouse. That decision was expected at the end of 2014.

#### Acting Court Administrator Barbara Marcille

Judge Waller said the judges of the court have decided to discontinue the current recruitment process for a new trial court administrator and to appoint Deputy Trial Court Administrator Barbara Marcille as the acting trial court administrator effective on January 1. Judge Waller explained that the court needed more time for the recruitment than was available and determined that appointing Marcille to be the acting administrator will permit the smoothest transition; she has been an employee of the court since October, 2011. Prior to her work in Multnomah County, she worked for the circuit court in Clackamas County and, prior to that, was a trial court administrator in Los Alamos County, New Mexico, for several years before relocating to Oregon. Judge Waller said that the recruitment will be re-visited in 2015.

*Continued on page 11*

# Navigating an eWorld in Multnomah County

by Tyler Bellis  
Court Liaison Committee



During the past seven months since Multnomah County implemented Oregon's eCourt program in May 2014, the court has encouraged lawyers (or at least their legal assistants) to begin eFiling all documents. As of December 1,

however, eFiling is no longer encouraged - it is **mandatory** in Multnomah County. For many of us, the transition from paper to electronic is daunting. But consider these potential malpractice traps that lurk if you are not up to speed: an eCourt notice gets caught in your email spam filter, so you pay your opponent's attorney fees because you failed to attend a mandatory hearing; or you eFile the wrong document, and your client loses the right to appeal. These examples may be hypothetical, but the mandatory nature of eFiling and the consequences for failing to comply are very real in Multnomah County.

To provide guidance for Oregon's transition to eFiling, the Uniform Trial Court Rules (UTCRCs) were amended out-of-cycle on September 29, 2014, pursuant to Chief Justice Order 14-049. The following summary is far from inclusive of all changes, but it attempts to describe some of the important differences and rules to keep in mind when eFiling.

To start, UTCRC 21.040(1) requires documents to be eFiled in the form of a text-searchable PDF not to exceed 25 megabytes in size, and bigger documents must be broken down and submitted separately. If a single document is submitted in separate files because of its size, the filer must clearly identify in the eFiling Comments field the part of the document that each file represents.

Although UTCRC 21.040(2) previously described a complex filing scheme with different rules for specific types of documents,

the new version of UTCRC 21.040(2) requires that most documents be filed as a single PDF with their attachments, such as exhibits and declarations. Exempted from the single PDF rule of UTCRC 21.040(2) are of course documents larger than 25 megabytes, along with proposed orders or judgments which must be electronically submitted separate from any motion, and confidential or otherwise exempt attachments which must be eFiled separately. Any such separately submitted documents need to be clearly identified in the Filing Comments field of each document.

In addition, any proposed order or judgment that is electronically submitted for a judge's signature must include a blank space of not less than 1.5 inches and a blank line following the last line of text. When electronically submitting a proposed order or judgment, the filer should also identify the

specific judge and remember to indicate that the required time has elapsed from service on the opposing party before submission to the court.

Under UTCRC 21.080, the deadline for any document filed electronically is 11:59:59 p.m. on the day the document must be filed. If the document is accepted for filing, then the date and time of filing entered in the register relate back to the date and time when the eFiling system received the document. Below are several common pitfalls that filers can avoid to reduce the risk of rejected eFilings:

1. Entering the incorrect party, event or filing codes;
2. Selecting the wrong case or location;
3. Failing to associate the attorney with the filing party;
4. Improperly filing exhibits (see UTCRC 21.070);

*Continued on page 16*

## News From the Courthouse

*Continued from page 10*

### Mandatory eFiling for Oregon State Bar Members

Judge Waller said that eFiling in Multnomah County became mandatory for OSB members on December 1 – the effective date set by the chief justice for Uniform Trial Court Rule 21.140. In the first two days under mandatory eFiling, the civil section and the family law section of the court administrator's office experienced a 200% increase in eFiled documents. Those numbers are expected to grow larger as the court works with bar members on observing the mandatory eFiling rule. The court is hiring temporary staff to help with the increase in eFiling until the workload stabilizes and offsetting reductions in work are realized in the post filing business processes.

There is an eFiling kiosk located on the second floor in the courthouse for lawyers to use if needed. Kiosks are also located in the Juvenile Justice Complex and the ECC.

### New Supplementary Local Rules for Out of Cycle Implementation

The circuit court is developing a new supplementary local rule to define the documents which must be filed conventionally if the document is to be presented at an ex parte appearance for immediate approval. eFiling documents for an ex parte appearance will not be functional in many cases since a proposed order or judgment may not be queued in a way that makes the document accessible timely for an ex parte ruling.

Another proposed rule that is being considered is one that will require that eFiled proposed orders and judgments have attached a certificate which will inform the judge both that the document was served on all appropriate parties and that no

objections have been made to the form of the order or, if objections have been made, would alert the judge of the objections so that a hearing may be set, if needed, to resolve the matter.

### Oregon eCourt Project Adds Three More Courts

The first weekend of December 2014, Marion, Douglas and Josephine County Circuit Courts implemented the Odyssey case and document management system. With these three new jurisdictions online, 14 counties and over 60% of the entire state court case volume are available in Oregon eCourt Case Information (OECI). There will be six more implementations, one every 90 days, as the remaining 22 circuit courts and the Oregon Tax Court are moved to the Odyssey system. During every implementation weekend, the OECI system will be unavailable to users. Note, however, while OECI is unavailable during an implementation weekend, File & Serve will remain accessible for new filings and subsequent filings, except for cases in which no previous documents have been eFiled.

### Chief Justices Recommended Budget for 2015-17

The chief justice's recommended budget includes as a top priority a salary increase for all elected judges. The chief justice is also recommending three new judgeships, one each for Multnomah, Washington and Marion Counties.

Judge Waller said that while having another judge would help, it is more important that the chief justice is successful in securing the salary increase for the judges of this state. Oregon continually ranks at or near the bottom on judicial salary surveys prepared by the National Center for State Courts. Oregon is currently ranked 45<sup>th</sup> of the 50 states for general jurisdictions trial court judges, and, when adjusted by cost of living, it is 50<sup>th</sup> of the 50 states, based

on the January, 2014 survey. Oregon circuit court judges earn \$119,468 annually.

### Governor's Recommended Budget for 2015-17

The governor's recommended budget was released in December. For the Oregon Judicial Department, the most critical news was that the governor is recommending a \$35 million lower general fund appropriation for the operation of the state court system than the chief justice is requesting. The governor of Oregon is charged by the constitution to recommend a balanced budget for all branches of state government. Historically, it is not unusual for a governor to balance the overall budget by reducing other branches' budget requests. Ultimately, the legislative assembly will make the final decision on the general fund appropriations for all three branches and agencies therein.

### Farewell to the Lewis & Clark Legal Clinic

The MBA hosted a farewell for the faculty and staff of the Lewis & Clark Law School's Legal Clinic. The clinic was closed at the end of 2014. This bittersweet event was held in the presiding judge's courtroom and was well attended, which befits the value of the clinic. For over 40 years, the clinic has filled an important role both in the training of law students to be advocates and in providing legal services to the most disadvantaged in our community. The program will be missed by the entire community, Judge Waller concluded.

### 2014 Legislative Breakfast

Judge Waller thanked the MBA for hosting the Legislative Breakfast. This year's event was one of the best attended, and provided an opportunity for the court to talk to legislators about all that the court, working with local governing officials and organizations, is doing to improve the community. The court highlighted programs focused on families and public

safety. Judge Waller said that the breakfast is also an opportunity to recruit legislators and other policy makers for courthouse tours and have them experience both the busy and crowded work and public spaces and also to see behind the scenes the aged and dangerous unreinforced brick construction and the antiquated mechanical infrastructure that supports the building.

### Family Court Report - Judge McKnight

Judge McKnight said that December is the busiest month to process dissolution judgments; the family court is using judicial assistants and judicial clerks as well as the clerical staff to perform judgment screening. The goal is to have proposed judgments signed by December 31.

### Attorney Settlement Program

Judge McKnight pointed out that the family court follows a "one-judge, one-family" case management strategy by having a judge assigned to a case for all matters, once the judge has held a hearing in the case which lasts longer than 60 minutes. That family court judge then stays with a case for as long as it is active. Following this assignment strategy over the years has resulted now in all of the judges of the family court carrying very large and growing individual caseloads. The family court calendar is slowing down as available judicial hearing time per case declines under the growing individual caseloads.

During the Odyssey implementation, the family court recruited 40 family law attorneys to help conduct settlement discussions in cases coming up for hearings. This attorney-settlement program was very successful. Judge McKnight said that she wants to look at creating a permanent program based on this model of using family law attorneys to assist judges in settling cases, especially the cases with self-represented litigants. This will be a program to develop in 2015.

### Family Court Enhancement Program Grant

Judge McKnight reported that the family court was one of four courts nationally which were awarded a Family Court Enhancement Program grant from the Office of Violence Against Women. This \$400,000 grant will allow family court to review how the court and its partner agencies are identifying, processing and making decisions in cases where domestic violence is present. The purpose is to find better ways to serve these parties, protect them and prevent the escalation of the violence. The grant will provide for training for court staff, judges and others involved in custody and parenting disputes. The training will focus on how to identify and avoid or prevent situations that lead to escalation of domestic violence. Part of the training will focus on how to provide an enhanced sense of procedural fairness to domestic violence victims so that litigants feel that they have been heard, even if they disagree with ultimate rulings.

### Special Advocates for Vulnerable Oregonians (SAVO)

Judge McKnight said that Judge Katherine Tennyson was instrumental in 2014 in the creation and passage of legislation to create a statutory structure which permits a court to implement a program for a volunteer to be appointed as a protected person's special advocate. The program is based on the Court Appointed Special Advocate in the juvenile court. Volunteers have been trained and the SAVO program is operating at this time. The SAVO volunteer is an independent advocate for the protected person. Judge Tennyson and the SAVO Board of Directors have done great work in creating and implementing this program.

# 50 Young Lawyers Section

## Goodbye Futures, Hello Entrepreneurs

by Shayda Zaerpoor Le  
YLS Entrepreneur Committee Chair



The Young Lawyers Section of the Multnomah Bar Association has long been committed to the needs of new(ish) and young(ish) attorneys in our community. In keeping with that tradition, this year's YLS leadership has brought about a significant and innovative addition to the committee lineup. Replacing its Futures Committee, the YLS is pleased to announce and introduce the Entrepreneurs Committee.

The Entrepreneurs Committee will focus on helping recent admittees to the bar with the business and administrative aspects of setting up their own solo or small practice. The Entrepreneurs Committee consists of a dedicated group of attorneys from large, small and solo practices who are brainstorming new ways to meet the needs of this growing section of our membership.

The committee's foremost project is the design and

implementation of an "academy", which will take a small cohort of new attorneys through a sequence of presentations and workshops geared toward practice setup and management. Academy topics may include subjects such as business planning and entity formation, financial planning and budgeting, technological resources, ethics and professionalism, client relations, and marketing. In structuring this academy, the committee is seeking out both attorneys and non-attorneys who can offer their expertise to the participants in a practical manner, with a mind toward ease in implementation at a new law office.

In parallel with this academy and the range of practical guidance and resources offered, the committee aims to foster relationships of mutual support between the participants, allowing for a peer-to-peer network that will truly function like a cohort. Therefore, we invite applicants who seek to benefit from the programming, and who also want to develop relationships and a community of support with other similarly situated new attorneys.

Applications for the academy will soon be available, but all new attorneys who are interested in the programming or have questions about the plans for the academy are invited, and encouraged, to contact the Entrepreneur Committee.

## Imprint Program Seeks Volunteers

The Imprint Program has returned for another fun year of reading a great book and corresponding with local high school students. This popular program is sponsored by the YLS Service to the Public Committee and is a way for high school students to connect with attorneys in their community. The program also provides an opportunity for the students to develop written and analytical skills. Each student in the participating class will be paired with a volunteer attorney, and both will be

assigned to read the same novel over a 2-3 month period. The student and attorney will write approximately four letters each, discussing both their lives and interests as well as discussing the portion of the novel that was read that week. By the end of the program, the student and attorney will have developed a mentoring relationship and will have the chance to meet at an informal gathering celebrating the project.

To participate, you must be able to attend one of two program-end parties on

Friday, May 15 from 10:40-11:30 a.m. and 1-1:50 p.m. at Parkrose High School. YES, a top requirement is that you relax and attend a party (and refreshments are included).

An orientation meeting for volunteers will be held at 5:30 p.m. on Monday, January 26, at the Standard Insurance Center, 900 SW 5<sup>th</sup> Ave. Attendance at the orientation is not mandatory, but is strongly encouraged. The first letters will go out in mid-February.

To sign up for the program contact Kathy Modie at the MBA at [kathy@mbabar.org](mailto:kathy@mbabar.org) or 503.222.3275. If you have any questions, contact Alison Brown at [abrown@hfg-law.com](mailto:abrown@hfg-law.com) or 503.501.5434.

## Get Involved in Community Law Week YOUthFILM Project Needs You!

The YOUthFILM Project allows elementary, middle and high school students from all over Oregon and SW Washington to show off their creativity, knowledge and skills by producing short films on a chosen civics' theme. The films are screened as part of the MBA Community Law Week celebration.

This year's theme is "Magna Carta: Symbol of Freedom Under Law."

The YOUthFILM Project Mentorship Program provides an opportunity for civically-minded students to learn about the law from an attorney. As an attorney mentor, you will be matched with a group of student

filmmakers to provide insight to the students on the law relevant to this year's theme, help the filmmakers develop ideas for their film, and assist with planning and organization. Technical filmmaking ability is not required. Educational materials regarding the Magna Carta will be provided, and so no additional research is necessary.

Orientation for attorney filmmaker mentors will be held on February 18, from 6-7 p.m. in the classroom at the Standard

Insurance Building, 900 SW 5th Ave., Portland. If you would like to volunteer your time as a mentor this year, please contact Amanda Loupin-Bartlett, directly at [aloupin-bartlett@schwabe.com](mailto:aloupin-bartlett@schwabe.com). This is a great opportunity to get involved and help encourage students to care about civics issues. For more information, please visit [www.theyouthfilmproject.org](http://www.theyouthfilmproject.org).

All MBA members are also encouraged to mark their calendars for Thursday, April 29 at 6 p.m. for the 8<sup>th</sup> annual film screening of the YOUthFILM Project. This family-friendly event will take place at the Hollywood Theatre, and will highlight the students' films and give them a chance to see their

work on the big screen. Special guest Justice Jack Landau of the Oregon Supreme Court will provide the keynote address and present awards to the winning filmmakers.



Judge Henry Kantor presented at the YLS Lunch & Learn event on December 3 at Hotel Rose's Bottle + Kitchen. He shared valuable insight on how to make a great first impression. The judge also provided guidance regarding, among other things, how to respectfully disagree with a judge, and the importance of taking care in drafting emails to judges. Thank you, Judge Kantor, for your time and wisdom!

## Paul Thompson YLS Member Spotlight

by Kevin Parks  
YLS Board Director

Paul Thompson (U of O '11) had always wanted to be an attorney, but he nonetheless has taken a non-traditional path toward the practice of law.

After growing up in Southern Mississippi, Paul graduated from Millsaps College with a degree in Classical Studies. After a stint living in Yosemite National Park following college, Paul moved to Eureka, CA, and worked in the food industry for many years, eventually becoming an executive chef at a notable Italian restaurant.

Despite having pursued other endeavors, Paul always kept law school in the back of his mind. Upon becoming discouraged with the restaurant industry and discussing his career path and plans for the future with an old mentor from college, Paul decided to dive in head first, go to law school, and work toward making his lifelong dream a reality.

During law school in Eugene, Paul became involved with the UO's Green Business Society, Student Bar Association, and Law and Entrepreneurship Student Association. A career in litigation was inevitable, but

Paul's broad interests in a variety of legal subject areas kept his options open as he considered an eventual career path.

After graduation, Paul moved to Portland and worked for a medium-sized firm for a year, prior to venturing out on this own, hanging a shingle, and opening Thompson Law LLC. Now practicing general civil litigation with an emphasis in civil rights, employment, and landlord/tenant law, Paul relishes the opportunity to, as he puts it, "fight for the underdog."

When asked what he most values most about practicing law, Thompson identifies "the ways that a conscientious practice can help enable social change and social justice." Indeed, even in Paul's brief stint in solo practice thus far, he has already helped to do just that.

One of Paul's cases has become particularly notable and garnered national attention in a variety of media outlets: the "Cake Case," in which Paul represents a Portland lesbian couple against a local bakery who denied them a wedding cake based on their sexual orientation.

While Paul has "no comment" on the still-pending



Paul Thompson

cake case litigation, this YLS member's intentions in fighting for those who are denied justice is clear.

When he's not busy practicing law, Paul volunteers as a member of the MBA Equality & Diversity Committee and for the MBA YLS Professional Development & Education Committee, having previously served as its secretary.

Paul still enjoys the fruits of his labor taken from years spent in his previous profession, as he still cooks frequently; these days, however, he limits himself to cooking for family and friends. He also enjoys visiting local wineries throughout the Willamette Valley, and he also tries to spend as much time as possible on the golf course - which admittedly isn't very much time at all - though he has found a way to parlay this pursuit with his legal career by as a member of the MBA Golf Committee.

## YLS Volunteers Package Food

by Emily Sitton & Lisa Pex Shevlin  
YLS Service to the Public Committee

For its two most recent service days, the YLS Service to the Public Committee helped package food for people in need.

On November 16, eight YLS members joined hundreds of other volunteers helping to package approximately 260,000 meals of rice, beans, soy, and vitamins to assist the Oregon Food Bank and Africa New Life in Rwanda. Half of the meals stayed in Oregon, to be distributed throughout our local communities by the Oregon Food Bank, while the other half will find its way to Rwandans in need, with the help of Africa New Life.

December 12 was a service day at the Oregon Food Bank where volunteers helped package a total of 9,358 pounds of pasta that will be distributed to needy families throughout Oregon.



For more information on YLS monthly service days, check the MBA event calendar, or contact committee chairs Kelvin Adkins-Heljeson at [kadkins@gmail.com](mailto:kadkins@gmail.com), or Alison Brown at [abrown@hfg-law.com](mailto:abrown@hfg-law.com).



Alex Coberly, Lisa Pex Shevlin, Kelvin Adkins-Heljeson, Laysan Unger, two photo-bombing Adidas employees, and Nyika Corbett at the December 12 service day

## YLS Holiday Events Toys for Tots & ZooLights

by Holly Hayman  
YLS Membership Committee Chair

The YLS MBA Membership Committee had a busy December. The committee organized two events - the Toys for Tots toy drive and drop-in social and the ZooLights Social at the Portland Children's Museum.

On December 10, the YLS held its annual Holiday Drop-in Social and toy drive at Portland Prime. For the past several years, the YLS Membership Committee has organized a toy drive at firms across the Portland area in conjunction with the U.S. Marine Corps and Toys for Tots Foundation. This year's toy drive was another success! Donations filled several boxes

that were collected by volunteers from the Marine Corps. The Toys for Tots Foundation has helped children during the holidays since 1947, and all donated toys stay in the local community. Thanks to the overwhelming generosity of our local legal community, many Oregon families will experience joy this holiday season with our donations.

On December 14, the YLS and MBA once again participated in our ZooLights

Family and Friends Social at the Children's Museum. MBA members, their families, and friends had full run over the Children's Museum and the opportunity to socialize over



Fun at the Children's Museum

cookies and hot chocolate. Afterward, many members attended the Oregon Zoo's annual winter festival, ZooLights. This is the MBA's fourth year participating in a Family and Friends Social at the Zoo and it continues to be strongly supported by members and firms alike. Thank you to our 2014 ZooLights sponsors, Ater Wynne, Barran Liebman, Stoel Rives, and Miller Nash. This event could not have happened without your support.



Toys for Tots event at Portland Prime

### mba yls | EVENT

**YLS January Drop-in Social**  
Rialto Poolroom Bar and Cafe  
529 SW 4th Ave., Portland  
Tuesday, January 27  
5:30-7:30 p.m.

Join the YLS Membership Committee at the Rialto for January's drop-in social. Stop by after work to catch up with your friends and make some new connections. Snacks will be provided. We look forward to seeing you there!



No RSVP is necessary.

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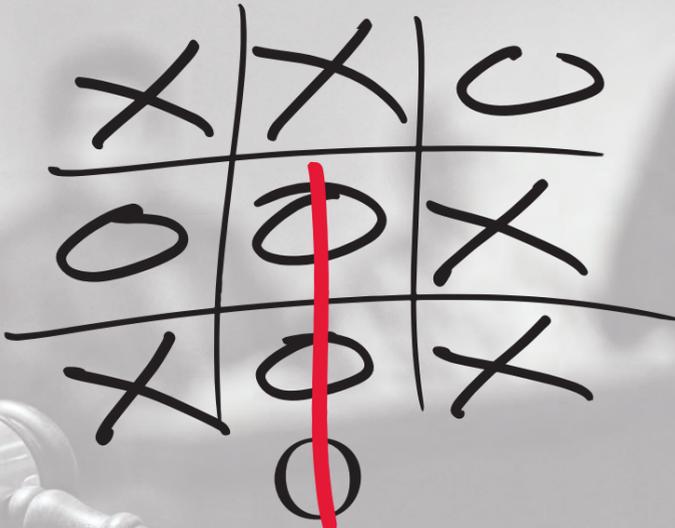
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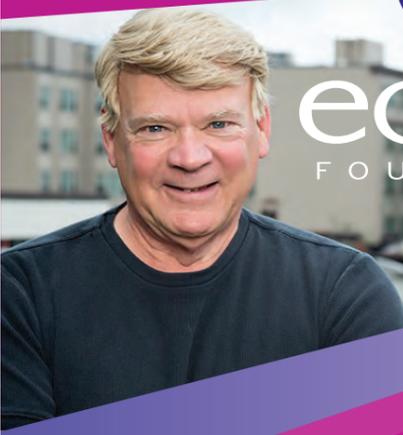
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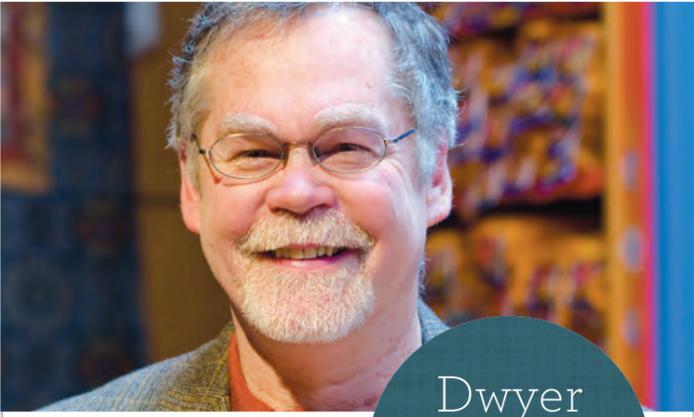
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## “Race and the Law” A Roundtable Discussion

With a Civic Education Grant from the MBF, MetroEast Community Media has created and produced “Legal Logic: Race and the Law.” This roundtable discussion highlights the issues that surround race and the judiciary. Moderated by Bonnie Richardson, Folawn Alterman & Richardson, guests include Hon. Adrienne Nelson, Multnomah County Circuit Court, Simon Whang, Deputy City Attorney, Portland and Ramón Pagán, The Law Office of Ramón W. Pagán. Legal Logic, a public affairs style mini-series, airs on cable access TV and is available online. Watch “Race and the Law” at [www.youtube.com/user/themultnomahbar](http://www.youtube.com/user/themultnomahbar).



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Rob May joined the firm this December. Rob’s complex litigation practice fits well with KVL’s philosophy for client service and strong advocacy. Before joining the firm, Rob was a shareholder and practice leader with the Smith Freed & Eberhard law firm.

His active litigation practice includes extensive trial experience in state and federal courts, as well as appellate courts. He has served as lead trial counsel in a wide variety of matters including disputes where the stakes

involved several million dollars. Significant representations include representing Oregon’s top private colleges and universities in injury and premises liability litigation, serving as coverage counsel in the nation’s largest priest sexual abuse litigation and representing product manufacturers and retailers in catastrophic injury and death claims.

Rob is licensed to practice in the state and federal courts of Washington, Oregon, and Idaho.

Rob can be contacted at [Rmay@kilmerlaw.com](mailto:Rmay@kilmerlaw.com)

## Navigating an eWorld

*Continued from page 11*

5. Including sensitive or confidential information;
6. Failing to file single, unified PDFs;
7. Missing information - signatures missing or no party information entered;
8. Submitting illegible documents - PDFs that are not text-searchable or PDFs scanned upside down;
9. eFiling documents that must be filed conventionally under UTCR 21.070; and
10. Failing to pay fees or paying incorrect fees.

Avoiding these common missteps is a great preventative measure, but should an eFiled document be rejected nevertheless, UTCR 21.080(5) provides a procedure to correct the mistake. When a document is rejected, the filer will receive an email from the court explaining why the document was rejected (both acceptance and rejection notices are delivered automatically to your email address on record with the OSB, so it is critical to keep that information current). Within three days of the date of rejection, the filer must resubmit the document with the words "RESUBMISSION OF REJECTED FILING, RELATION-BACK DATE OF FILING REQUESTED" included in the Filing Comments field and an explanatory cover letter of the same title, and the filer may then request that the date of filing of the resubmitted document relate back to the date of submission of the original document. A similar process is available under UTCR 21.080(6) when a document cannot be eFiled

due to a transmission error or system unavailability. Just keep in mind that "technical problems under the filer's control" will not generally excuse an untimely filing, and the opposing party will have an opportunity to object to any request for a document to relate back.

While the court is undoubtedly entering the electronic age, there are still a number of documents that must be filed conventionally under UTCR 21.070(3), for example documents filed under official seal and original wills. Likewise, UTCR 21.070(4) requires oversized and demonstrative exhibits to be filed conventionally, and trial exhibits to be submitted in accordance with UTCR 6.050(2). In addition, ex parte documents that must be

delivered in person should still be presented to the court as a hard copy for conventional filing.

There is a lot to learn about eFiling, but fortunately Multnomah County has a multitude of resources available for lawyers. Recently, eCourt kiosks were even installed in the courthouse, which enables filers to scan hard copies and file documents electronically, a great tool for anyone who prefers to file documents in person or momentarily forgets about the switch to eCourt. For a thorough list of available resources and information about the implementation of eCourt, please visit the main page of the Multnomah County Circuit Court website at <http://courts.oregon.gov/multnomah/Pages/index.aspx>.



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Our friend and colleague, **Heather Bowman**, is now our partner, too. Heather joined us at **Bodyfelt Mount** in 2008 and has built her practice by representing individuals and companies in employment, professional liability and insurance coverage matters. Way to go, Heather!

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## The Corner Office PROFESSIONALISM

As attorneys, we are used to navigating professionalism issues with other attorneys who have similar educational backgrounds and training in our field and who, for a living, do exactly what we do, day in and day out. However, when you are litigating a case with a pro se plaintiff, who typically does not have the benefit of a legal education or access to similar resources, professionalism and how you portray the legal profession can take on a whole new level of importance. We

often have to take a step back, remind ourselves that we are dealing with laypeople who have entered a world that is very confusing, overwhelming, and often times frightening for them and tailor our interactions with them accordingly. At times, offering advice on procedural issues or suggesting the plaintiff review certain court rules before they take certain steps in the litigation may serve our client's own best interests in keeping costs low and moving the litigation

along efficiently. However, this kind of relationship with a pro se plaintiff can also have the unintended effect of the plaintiff relying on you for advice or calling you before taking any further steps in the process. Maintaining professionalism in these situations can often be difficult when you are also trying to set strict boundaries and remind the pro se plaintiff that you are not his or her attorney, or friend, and in fact are adverse to his or her interests.

However, even given the inherent challenges in litigating a case with a pro se plaintiff that immediately trusts you, almost too much, and relies on you to move the case forward, the bounds of professionalism can truly be tested when the pro se litigant suffers from mental health issues or addictions which make the plaintiff prone to irrational behavior, paranoia, and anger issues. Now, granted, some attorneys have training in counseling and other areas of mental health that may give them the tools to communicate with such individuals, but I think it is safe to say that the vast majority of us do not have the background, experience, or education to communicate or interact with individuals suffering from mental health issues or addictions in a productive way in the context of a legal case. I have faced this myself in recent months with a pro se plaintiff who, during the course of a telephone conference to confer on a motion I was filing, ended up threatening to sue me personally if I filed such a motion, arguing that I was obstructing justice, and making several other threats against me personally, and finally hanging up on me. Needless to say, the lines of communication between us are now broken, making future conferrals and discovery extremely difficult.

I would like to think that I maintained a high level of professionalism in my

interactions with this particular plaintiff even though a little part of me wanted to scream back. It was after this telephone conference that I realized that while I have all the tools I need to effectively represent my clients and advocate for their interests, I do not have any tools to help me address such an irrational outburst that would enable me to calm the other person down and bring him or her back to a point of productivity in the case that will help to move it along efficiently. It also became apparent to me that in these situations, where you are dealing with an individual with whom you cannot communicate on a rational level and who has an inherent distrust of the legal profession and everything it stands for, maintaining the highest level of professionalism becomes most important. I do not know the answer for how to maintain the highest level of professionalism under these circumstances, and as in all things, it likely depends on the individual as to how you best address the situation. Perhaps the best we can do is pull from resources we do have to help us communicate with pro se plaintiffs who are afflicted with mental health or addiction issues and not only maintain our professionalism throughout the case, but extend a little human compassion and understanding along the way.

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### Free Event Publicity

When the MBA's most recent website launched, it included a unique feature: the ability for law-related organizations and nonprofits to add their social events to the MBA online calendar.

The idea behind the MBA offering other organizations the ability to access our online calendar was to create **one** site where all law-related events could be listed to help prevent conflicts.

Please consider adding your social events to the MBA online calendar at the following link: [mbabar.org/Calendar/SubmitAnEvent.html](http://mbabar.org/Calendar/SubmitAnEvent.html). Or, you may contact the MBA by emailing us at [mba@mbabar.org](mailto:mba@mbabar.org) to add your item to our online calendar.



## VLP Special Donors

The MBA offers a special "thanks" to the following members for donating more than the suggested check-off amount to the Volunteer Lawyers Project when paying their 2015 dues.

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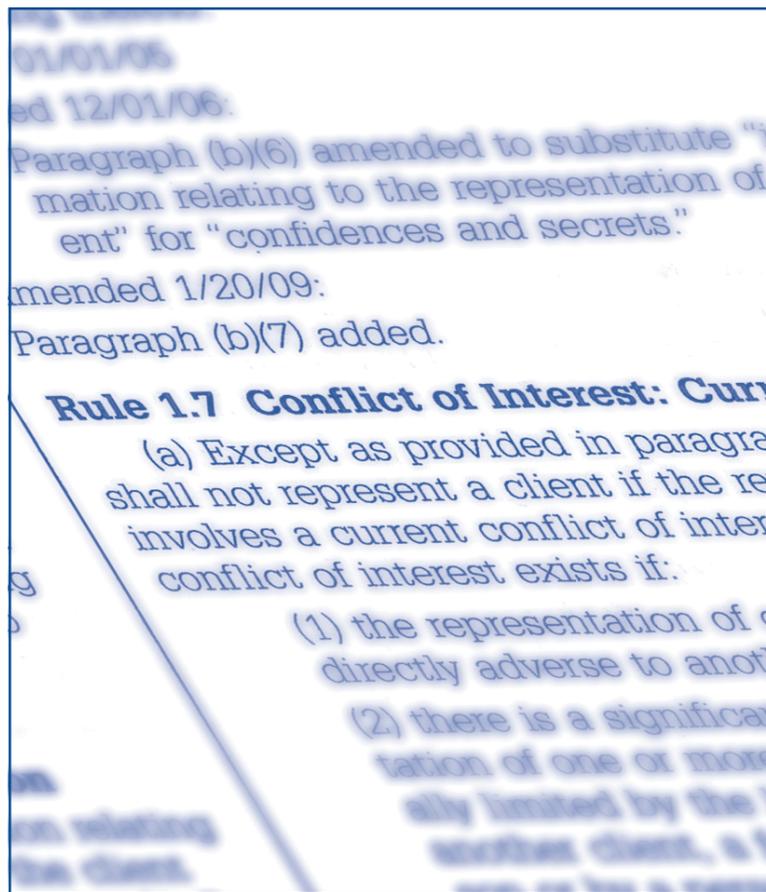



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Paragraph (b)(6) amended to substitute "information relating to the representation of client" for "confidences and secrets."

amended 1/20/09:  
Paragraph (b)(7) added.

**Rule 1.7 Conflict of Interest: Current or Potential**

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

no conflict of interest exists if:

- (1) the representation of one or more clients is not directly adverse to another client, and
- (2) there is a significant possibility that the representation of one or more clients will be materially limited by the lawyer's duties to another client, a former client, or a potential client.

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## Thank You from McKittrick Leonard LLP

After nearly three years together helping fellow attorneys and their clients navigate the bankruptcy system, Peter McKittrick and Justin Leonard are pleased to announce that the Ninth Circuit has appointed Peter as U.S. Bankruptcy Judge for the District of Oregon, and that Justin will continue their firm as Leonard Law Group, LLC.

Peter and Justin have enjoyed working with many of you, and thank you for your support. The partners are honored that their firm was nationally recognized in *Super Lawyers Business Edition 2014* as the "Top Small Firm" (i.e., 2-10 attorneys) in the state of Oregon for "Business and Transactions" (which includes their category of "Bankruptcy and Creditor/Debtor Rights").

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## Multnomah Bar Foundation

### MBF Invites Letters of Inquiry for 2015 Grants

by Pamela Hubbs  
Office and Foundation Administrator

The MBF is seeking letters of inquiry from local nonprofits interested in receiving grant funding for their civic education programs. The MBF awarded a total of \$40,000 in 2014 to Bus Project Foundation, City Club of Portland, Classroom Law Project, League of Women Voters of Portland, League of Women Voters of Oregon, the MBA Young Lawyers Section, MetroEast Community Media, Native American Youth and Family Center, Red Lodge Legal Services Program, and Sponsors Organized to Assist Refugees.

Grants are made to 501(c)(3) organizations whose civic education or engagement programs increase the public's understanding of the rule of law. Priority is given to new projects that utilize MBA volunteers in the geographic area served by the MBA. Grants are intended to facilitate the initiation or expansion of projects rather than long-term funding of ongoing

projects; however, recipients may apply for additional funding in subsequent years.

Letters of inquiry are due **January 23**. Grant proposals will be due in March, and grant awards will be announced and funded in May. Criteria for letters of inquiry and more information about the grants program may be found at [www.mbabar.org/foundation/](http://www.mbabar.org/foundation/).

Founded in 2005, the Multnomah Bar Foundation is a 501(c)(3) charitable and educational nonprofit. The mission of the MBF is to increase the public's understanding of the legal system, to promote civic education, public participation and respect for the law, to improve the quality and administration of the legal system, and to support programs and projects related to the MBF's purpose.

For more information, please contact Pamela Hubbs at 503.222.3275.

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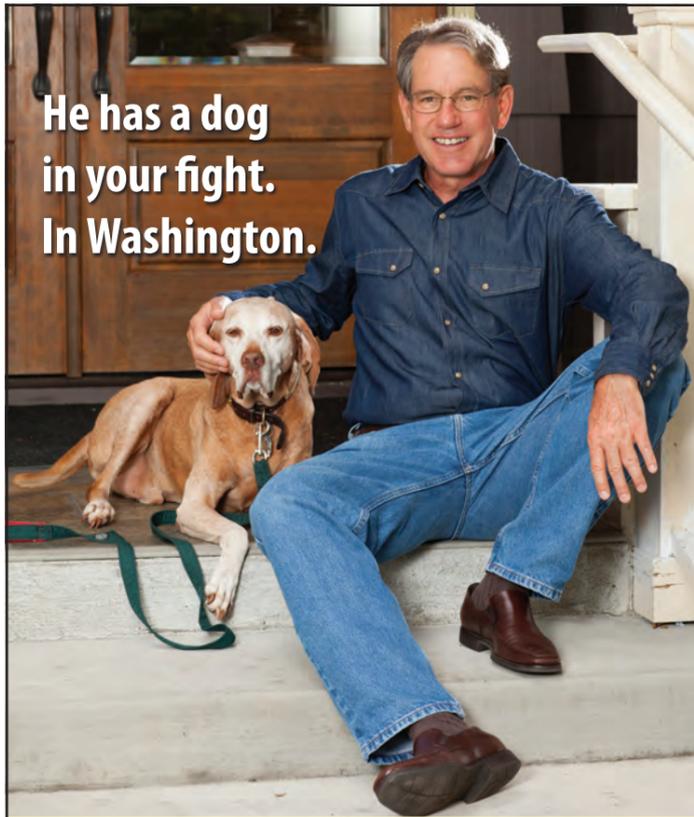
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Thanks to the following lawyers and law students who donated their pro bono services recently via the Volunteer Lawyers Project, the Senior Law Project, law firm clinics, the Oregon Law Center, the Nonprofit Project, St. Andrew Legal Clinic, Catholic Charities Immigration Legal Services, Lewis & Clark's Small Business Legal Clinic, Children's Representation Project, and Changing Lives Forever Project. To learn more about pro bono opportunities in Multnomah County, go to [www.mbabar.org](http://www.mbabar.org) and click on "About Us" and "Pro Bono."

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## Bench Bar & Bagels

In the early morning of November 13, members of the MBA and judiciary gathered at Tonkon Torp LLP for this year's "Bench Bar & Bagels" event. In the relaxed atmosphere, attorneys and judges started their day catching up with colleagues and making new acquaintances over pastries and coffee in a unique networking experience; the sixth year for this fun event.

Bench Bar & Bagels was generously sponsored by Tonkon Torp. If you or your firm is interested in sponsoring a similar event in the future, please contact Kathy Modie at [kathy@mbabar.org](mailto:kathy@mbabar.org).



*Dallas DeLuca, Judge Cheryl Albrecht and Tom Melville at Bench, Bar & Bagels*



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