



## CourtCare's 12th Annual Fundraising Campaign

### Free Childcare Program Expands into East County

by Amy Angel

MBF Vice-President & CourtCare Campaign Committee Chair

Since its opening in 2001, CourtCare has improved access to justice for families by making free, drop-in childcare available at the downtown Multnomah County

Courthouse for parents with business at the court. In addition to being a safe, convenient location for parents to leave their children, CourtCare helps to reduce the number of court appointments that need to be rescheduled and removes the potential that children might witness adult conflicts or disrupt court business. Ask any Multnomah County judge and you will hear that CourtCare has also improved the administration of justice because courts operate more efficiently without having children in the courtrooms and hallways.

CourtCare serves children as young as six weeks and as old as 10 years. In over 14 years of operation, the program has made a difference to over 12,700 children, who have been welcomed into a cheerful place where they are sheltered from adult issues in court. In addition to providing care during a time of need, CourtCare also makes referrals to families for basic needs, housing, food, clothing, and diapers as well as mental health services and legal aid.

Many families are already stressed to their limits when attending court for divorce proceedings, protective orders, custody battles, eviction proceedings, or criminal charges. Many do not have childcare options which would allow them to attend court without their children. Fortunately, CourtCare eases that dilemma at a time when stress levels are already running high.

The comments from the families who have used CourtCare emphasize how invaluable the service is. One parent who recently utilized the service commented, "You guys have been a blessing ... my kid just went wild and I thought we would have to leave, but then the clerk told me about your room." Another family reported, "We came down from the Seattle area, and didn't have any idea how we were going to get through this day, I can't tell you how glad we were to find out about your room, we had NO other place to leave the kids."

**...the program has made a difference to over 12,700 children, who have been welcomed into a cheerful place where they are sheltered from adult issues....**

are angels and life-savers ... My daughter couldn't wait to come back after lunch, she loves all the arts and play-doh! The other kids seemed so happy and busy and friendly, it's just a great place." Even children who are unaccustomed to being left in the care of others thrive: "I am just so glad that you are here in the courthouse and that my kids were happy to stay with you, they don't ever get left with anyone and I

**...CourtCare has also improved the administration of justice because courts operate more efficiently....**

Not only does CourtCare give parents peace of mind, it's fun for the kids, too. This is why CourtCare is known as the happiest place in the courthouse! In fact, the program consistently receives glowing feedback about how much the children love coming to CourtCare: "You people

thought this wouldn't work out, but they loved the room and playing with the other kids. Thank you!" One parent even lamented, "This is a weird complaint, but I have a hard time getting my kid to leave here. Everywhere else, he screams when I leave, but here, he screams when I come back to get him!"

Following the success of the CourtCare program in the downtown courthouse, we are thrilled to announce that CourtCare is opening its doors at the East County Courthouse. CourtCare officially opened at the East County Courthouse on April 13, and is open on Mondays from 1-5 p.m. and on Wednesdays from 8:30 a.m. - 5 p.m. This schedule coincides with the court's regular docket for FAPA hearings and family law matters.

Many people have worked tirelessly to expand the CourtCare program to the East County Courthouse, including Multnomah County Courthouse staff and judges, the staff at Volunteers of America, the MBA staff, as well as individual members of the bar and community who donated furniture, toys, books, computers, and services to make the room a joyful place. To everyone who has contributed and who has played any role in making the expansion of CourtCare to the East County Courthouse a reality: Thank you! We hope to see you at our Grand Opening Ceremony (to be announced) where we can thank you in person.

And now for the ask! The CourtCare Campaign began in 2004, with an annual goal of raising \$100,000 from Portland-area legal organizations, law firms, attorneys, legal assistants, paralegals, other support staff, and judges. The funds raised allow CourtCare to welcome approximately 80 to 100 children each month into a safe, fun and caring environment. With the expansion of CourtCare to the East County Courthouse, we are excited for the number of children served each month to grow. Without the generous financial support from the legal community, CourtCare would not be possible.

The MBA is proud to support CourtCare and asks that you consider making a donation to benefit the program to assist in its continued success. Donations are made to the Multnomah Bar Foundation and are tax-deductible. This year's campaign runs from May 4 to May 22, with a goal once again of raising more than \$100,000. Every dollar helps. To learn more about CourtCare or the campaign, please contact me at aangel@baran.com or 503.228.0500. Also, please see the insert to make a donation by mail or visit [www.mbabar.org](http://www.mbabar.org) to make a donation online or to view a brief video about the CourtCare program. Thank you in advance for your continued support of this amazing program.

**"...I have a hard time getting my kid to leave ... he screams when I come back to get him!"**

## mba|CLE

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### MAY

**5.6 Wednesday**  
**Commercial Leasing**  
**Landlord & Tenant Perspectives**

Robert Koury II  
Bryan Powell

**5.19 Tuesday**  
**Juror Attitudes in Complex Cases**  
**How Real People Think About Tough Trial Issues**  
Jeffrey Boyd

**5.20 Wednesday**  
**Oregon's Discussion & Resolution Law: A New Medical Malpractice Dispute Approach**  
Melissa Parkerton

**5.21 Thursday**  
**Multnomah County Trial Practices Update**  
Judge Nan Waller  
Judge Maureen McKnight  
Judge Stephen Bushong

**5.26 Tuesday**  
**Immigration Law for the Rest of Us**  
Brent Renison  
Sarah McClain

### JUNE

**6.9 Tuesday**  
**Evidentiary Implications of Technology in the Courtroom**  
Ralph Spooher  
Tim Williams

**6.11 Thursday**  
**Annual Probate Update**  
Sibylle Baer  
Judge Andrew Erwin  
Judge Robert Herndon  
Judge Katherine Tennyson

## Thank You!

**The MBA would like to thank the members and their staff who donated toys and furniture to the East County CourtCare room, which opened on April 13.**



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Calendar .....	2
CLE Schedule .....	3
Announcements .....	6
Ethics Focus .....	6
Around the Bar .....	8
News From the Courthouse .....	10
Tips from the Bench .....	10
2015 Professionalism Award .....	10
YLS .....	12
The Corner Office .....	15
Classifieds .....	16
Pro Bono Thanks .....	18
Annual Dinner .....	20

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## Doug Bray Multnomah County Circuit Court Administrator (Retired)

by Charley Gee  
*Court Liaison Committee*

Doug Bray retired at the end of 2014 as Trial Court Administrator for the Multnomah County Circuit Court. I recently sat down with him to discuss his work.

Doug Bray has spent the better part of the last 28 years working in the circuit court, and the last 25 as the Trial Court Administrator, except for a brief return to the Office of the State Court Administrator in the mid-1990s. In his work in Portland, he has been impressed by the close working relationship between the Multnomah Bar Association, the circuit court and the community in general. Through cooperation and collaboration, he said, the MBA is an effective catalyst for change in Multnomah County through the MBA Board and committee structure, the Young Lawyers Section, and the Multnomah Bar Foundation.

Bray also believes that the court, as a major component of government, has both a social role that it carries out with its community partners, as well as its statutory and constitutional role in providing a judiciary and a forum for the filing and resolution of disputes. The court exists to serve the populace and to stand for the rule of law; the court also serves the populace by planning with its community partners - the bar, citizen groups and governmental and nongovernmental agencies - effective processes to address common problems across the organizations. Bray often quotes Chief Justice Wallace P. Carson (retired): "Strong courts build strong communities through community partnerships." As Bray sees it, the court is most successful institutionally when its judges engage with the community both in the resolution of disputes under the rule of law and also in planning with its community partners for new programs, or for making existing programs more efficient, for the betterment



Doug Bray

of the community and for better outcomes in the resolution of disputes. In this work, one of the most critical and successful relationships has been between the circuit court and the MBA.

Bray cited several examples where the circuit court working with the MBA has instituted very positive changes in the court's interrelationship with the entire community. The first, in the early 1990s, was the request by the Court Liaison Committee to the circuit court to implement a "one-trial or one-day" jury term. Prior to the mid-1990s, jury panels in Multnomah County were summoned for periods of service of two weeks. These longer periods of service were unpopular with the public. The system was also unpopular with the bar because the jury members that made up venire panels were not representative of the population as a whole, because they were made up of retirees, people outside of the workforce, or institutional employees who were allowed to take the time for jury duty. A subcommittee of the MBA Court Liaison Committee worked with the court to change the standard jury term from two weeks to a "one trial or one day" term. As a result, the jury panels became much more representative of the community at large, presented more citizens the opportunity to participate in jury service, and reduced the collective hardship on individuals and employers to support service

## Calendar

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

### MAY

4-22 Monday-Friday  
**MBF CourtCare Fundraising Campaign**

25 Monday  
Memorial Day Holiday

27 Wednesday  
YLS Social at OMSI  
See p. 12

28 Thursday  
FBA Annual Dinner  
www.oregonfba.org

### JUNE

4 Thursday  
**MBA 1<sup>st</sup> Thursday Social with Specialty Bars**  
See p. 6

9 Tuesday  
**MBA Golf Event**  
Riverside Golf and Country Club  
www.mbabar.org

as a juror. Bray notes, that the "one-trial" term was suspended due to staffing reductions during the great recession, and jurors now serve a "two-day" term of service, but the plan is to restore the shorter term when staffing or advances in technology permit.

The next major work, undertaken, again out of the agenda of the Court Liaison Committee, was the creation of the CourtCare Program. The exposure of small children to court proceedings involving their parents as parties in criminal or domestic relations cases was very problematic for judges and attorneys. There was an identified need for an alternative safe resource for these children within the courthouse while their parents were in the courtrooms. In 1999, the Court Liaison Committee put this issue on its agenda and appointed a subcommittee to begin the work. At that time, the only known similar program was in the Suffolk County Court in Boston. The subcommittee visited that program and created a similar model for Portland. In December 2001, CourtCare opened as

*Continued on page 15*

## Rediscover the lost art of human interaction.

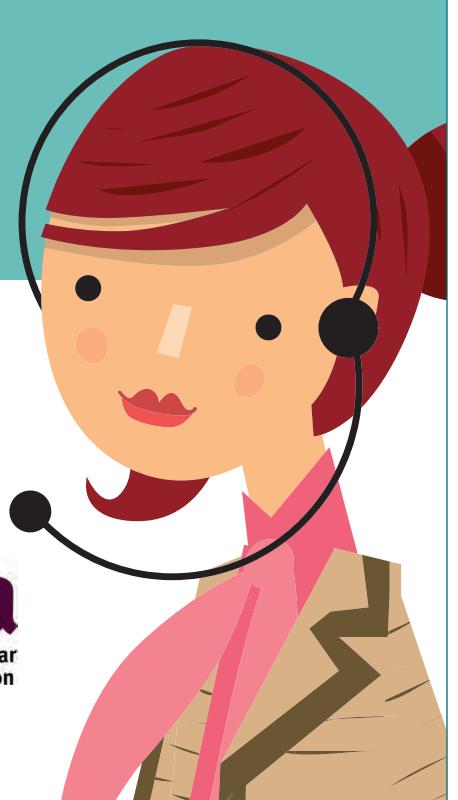
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Seminars are worth 2 OSB credits unless otherwise noted; 2 Washington MCLE credits may be obtained independently. Registrants who miss the seminar may request the written materials. Substitutions are welcome. Registration fees are non-refundable.

## Commercial Leasing: Landlord & Tenant Perspectives

**Wednesday, May 6, 2015**  
**3:00-5:00 p.m.**

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

This seminar takes you through the ins and outs of the key provisions in commercial leases, including recent developments in this area of the law. Come to this informative CLE session to hear about practical considerations and the latest developments in negotiating and drafting lease provisions from the perspectives of both the landlord and the tenant, including tenant improvements; lease terms; rent issues; security deposits; assignments and subleases; repairs, maintenance and alterations; and defaults and remedies. This class will be taught by **Bryan Powell**, a shareholder at Lane Powell PC, and **Robert Koury II**, a shareholder at Jordan Ramis PC.

**For more information:**  
Call Sean Ray, Barran Liebman LLP at 503.276.2135.  
Call the MBA at 503.222.3275.

## Juror Attitudes in Complex Cases: How Real People Think About Tough Trial Issues *A live presentation of a focus group*

**Tuesday, May 19, 2015**  
**2:00-5:00 p.m.**

World Trade Center  
Mezzanine Room  
26 SW Salmon, Portland  
Members \$80  
Non-members \$125

**Note: This class will run 2-5 p.m. and is worth 3 hours of practical skills credit.**

In the ocean of facts and law that make up a complex case, how do you decide where to focus? What matters to jurors when they are faced with tough issues? Whether it is a contested liability auto crash, medical negligence, insurance bad faith, product liability, premises cases, or intellectual property dispute, real people don't think like lawyers, and lawyers must meet the needs of the jurors instead of their own. Come listen to real people talk through how they feel about issues like: "big money" damages, the burden of proof in a medical negligence or products liability case, the standards they think plaintiffs should be held to when they sue, why the ever-present McDonald's coffee case still matters, and more. **Jeffrey Boyd**, President of Boyd Trial Consulting will present this combination of lecture, live interactive focus group, and questions and discussion, suitable for all litigation practice areas and all levels of experience.

Come see what it takes to win a complex case! Jeffrey has tried over 100 civil jury trials and has served as a trial consultant for over 15 years.

**For more information:**  
Call Don Jacobs, Attorney at Law at 360.695.1624. For registration questions, call the MBA at 503.222.3275.

## Oregon's Discussion & Resolution Law: A New Medical Malpractice Dispute Approach

**Wednesday, May 20, 2015**  
**3:00-5:00 p.m.**

World Trade Center  
Mezzanine Room  
26 SW Salmon, Portland  
Members \$35  
Non-members \$55

Oregon's new law on resolution of adverse healthcare incidents defines a process for patients and providers to seek resolution through confidential discussions after serious adverse events. Come learn about the historical context for this law, the details of the process it defines, and early experiences with implementation. Presenters will include **Melissa Parkerton**, Director for Early Discussion and Resolution, and members of the Governor-appointed task force that oversees the program.

**For more information:**  
Call Cynthia Newton, Attorney at Law at 360.695.1624. For registration questions, call the MBA at 503.222.3275.

**For more classes  
and to register,  
see page 4.**

## Multnomah County Trial Practices Update

**Thursday, May 21, 2015**  
**3:00-5:00 p.m.**

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

This year's program will feature presentations by Multnomah County **Presiding Judge Nan Waller**, **Chief Family Court Judge Maureen McKnight** and **Chief Civil Court Judge Stephen Bushong**. Topics will include motion practice, jury selection, briefing, jury instructions, making and arguing objections, managing witnesses and exhibits, handling presentation media and other procedural and practical issues faced by trial lawyers. The panel will also identify and discuss approaches for avoiding significant trial practice mistakes that Multnomah County judges frequently encounter.

The program is designed for attorneys at all levels of experience, and practitioners are strongly encouraged to take advantage of this excellent opportunity to ask questions. Please join us for this informative discussion.

**For more information:**  
Call Courtney Dippel, Folawn Alterman & Richardson at 503.546.4630. For registration questions, call the MBA at 503.222.3275.

## Immigration Law for the Rest of Us

**Tuesday, May 26, 2015**  
**3:00-5:00 p.m.**

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

Hear from lawyers working in the trenches about what happens day to day in the world of immigration law. Consider how immigration status may affect access to the courts and access to effective representation. Learn something about what to do when immigration status becomes an issue in cases that start out as other kinds of problems. **Brent Renison**, Parelli Renison LLC, and **Sarah McClain**, Marandas & McClellan LLC, have both spent their entire careers in immigration law. They will go over the basics of their work on citizenship matters in employment and family law contexts.

**For more information:**  
Call Leslie Johnson, Kent & Johnson, LLP at 503.220.0717. For registration questions, call the MBA at 503.222.3275.

## Evidentiary Implications of Technology in the Courtroom

**Tuesday, June 9, 2015**  
**3:00-5:00 p.m.**

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

This two-hour program will cover evidentiary implications of technology in the courtroom. Attendees will hear seasoned Oregon attorneys **Ralph Spooner** and **Tim Williams** discuss a variety of issues increasingly encountered by litigators, including:

- the mechanics of marking and admitting digital exhibits
- how to electronically display exhibits
- procedure for electronic exhibits going to jury
- effectively using an electronic presentation during opening and closing

Ralph is an experienced trial attorney with Spooner & Much. He defends clients in various types of cases, including complex institutional litigation, class actions, construction defects, liquor liability, premises liability, automobile accidents, employment, bad faith, and product liability. Tim is an established trial attorney with Dwyer Williams Potter. He specializes in representing plaintiffs and has tried many personal injury cases, including auto accident, premises liability, and semi-truck accident cases.

### For more information:

Call Sim Rapoport, Attorney at Law at 503.997.6329.  
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](http://www.mbabar.org).*

## CLE Registration Form

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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.*

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**Register online and order or download MBA self-study materials at [www.mbabar.org](http://www.mbabar.org).**  
Reduced fees for unemployed members are available and are assessed on a case-by-case basis.  
For details, call the MBA at 503.222.3275.

## Annual Probate Update

**Thursday, June 11, 2015**  
**3:00-5:00 p.m.**

World Trade Center  
Auditorium  
26 SW Salmon, Portland  
Members \$35  
Non-members \$55

The MBA presents the 2015 Annual Probate Update, featuring **Judge Katherine Tennyson**, Multnomah County; **Judge Andrew Erwin**, Washington County; **Judge Robert Herndon**, Clackamas County; and **Sibylle Baer**, Cartwright Whitman Baer PC. Ms. Baer will provide an update of recent case law and legislation. The judges and staff will discuss current practices and procedures in the metro area. This CLE is a must for all probate practitioners and/or their staff.

### For more information:

Call Judge Kelly Skye, Multnomah County Circuit Court at 503.988.3204. For registration questions, call the MBA at 503.222.3275.



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## CLE BOGO

**The MBA is pleased to announce its buy-one-get-one CLE policy for participants in the MBA and OSB mentor programs.**

**OSB and MBA mentors: When you register for an MBA CLE, you can register your mentee to attend with you for free. Contact Shannon West at 503.222.3275 or [shannon@mbabar.org](mailto:shannon@mbabar.org) to add your mentee to the registration list.**

### Seminar Selection:

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

### 5/6 Commercial Leasing: Landlord & Tenant Perspectives

Class Registration Online (\$50 Members/\$80 Non)  
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### 5/19 Juror Attitudes in Complex Cases

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### 5/20 Oregon's Discussion & Resolution Law

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### 5/21 Multnomah County Trial Practices Update

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

### 5/26 Immigration Law for the Rest of Us

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

### 6/9 Evidentiary Implications of Technology in the Courtroom

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### 6/11 Annual Probate Update

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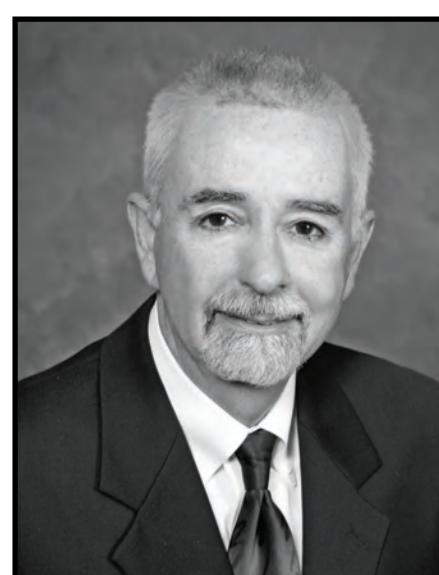
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## Ethics Focus

### Seeking Credit Litigation Funding Issues

by Mark J. Fucile  
Fucile & Reising



Over the past 20 years, litigation funding has emerged as a potentially significant management tool for claimants' firms in a wide spectrum of practice areas, ranging from personal injury to intellectual property. It is not hard to divine a primary driver: complex litigation has become increasingly expensive and that trend is unlikely to change anytime soon. Litigation funding differs from traditional bank lines of credit because it is typically tied to a particular case rather than a firm's overall financial operations. Although models vary, one of the most common is a nonrecourse loan from a specialty finance company to a law firm with repayment subject to recovery in a specific contingent fee case.

Oregon does not have a comprehensive ethics opinion on litigation funding for law firms - although OSB Formal Opinion 2005-133 addresses third-party financing plans for clients that share many similarities with their law firm counterparts. The ABA, in turn, issued a "white paper" on litigation funding as a part of its recently completed "Ethics 20/20" project containing a useful compendium of ethics opinions and academic articles that is available on the ABA website.

In this column, we'll look at three central issues that lawyers and their firms should consider on the ethics side when evaluating

a potential litigation funding arrangement: confidentiality; control; and conflicts. By focusing on these three, I don't mean to exclude others that may enter the analysis with particular litigation funding plans. But, lawyers will almost always want to view possible litigation funding proposals through the prism of these three key considerations.

#### Confidentiality

RPC 1.6 states our bedrock duty of confidentiality. It includes, but is broader than, work product protection under ORCP 36B(3) and the attorney-client privilege under OEC 503. Protecting confidentiality can loom large when discussing funding options with a potential lender.

Not surprisingly, most lenders will want to undertake some degree of "due diligence" to understand the economic potential and litigation risks of the case they are considering underwriting. At the same time, lawyers should not assume that the "common interest doctrine" necessarily applies in this context to protect confidential information shared with a potential lender. The Court of Appeals in *Port of Portland v. Oregon Center for Environmental Health*, 238 Or App 404, 243 P3d 102 (2010), noted that the common interest doctrine is a statutory creation in Oregon. OEC 503(2)(c) defines common interest protection as extending narrowly from "the client or the client's lawyer to a lawyer representing another in a matter of common interest[.]".

Similarly, in the analogous context of third-party bill audits, the OSB concluded in Formal Opinion 2005-157 that a lawyer would risk waiver of confidentiality and privilege by submitting detailed narrative billing statements to a third-party auditor.

The safest course is to share information that has already been disclosed in public court filings or associated discovery provided to the litigation opponent. This could include, for example,

disclosed medical records in a personal injury case. Conversely,

it would not include the lawyer's confidential analysis of sensitive legal issues.

#### Control

RPC 2.1 articulates our fundamental duty to exercise independent professional judgment on behalf of our clients. RPCs 1.8(f) and 5.4(c) echo this general point in the analogous setting of being paid by a third-party. RPC 1.2(a) likewise vests the decision to settle a case solely with the client.

It is not hard to imagine scenarios in which a lender may have a powerful economic incentive to offer the lawyer "direction." One ready example would be a relatively attractive settlement offer received on the eve of an expensive trial when the client, nevertheless, believes that an even better verdict will result. In this example, the lawyer would need to use his or her best professional judgment in advising the client and respect the client's decision. The fact that much of this lending is "nonrecourse" can make it easier as a practical matter for the lawyer to focus solely on the client's interest because if there is no recovery the lender will not be repaid. Lawyers should insist, however, on written language in the financing agreement acknowledging that the lender cannot control the litigation.

#### Conflicts

RPC 1.7(a)(2) states the general rule that a conflict exists when there is adversity between the financial interests of the lawyer and the client that may materially limit the professional judgment of the lawyer. Although some "material limitation" conflicts are waivable, others are not - with the difference often turning on the particular circumstances involved.

Litigation funding - at least the nonrecourse variant - does not inherently trigger a conflict any more than a traditional bank line of credit. Nonetheless, lawyers will need to carefully review the specific terms of any proposal. If a finance company is proposing to control the litigation generally or settlement in particular, for example, then the lawyer would have a conflict (and likely a nonwaivable one given the duties noted above).

## mba|ANNOUNCEMENTS

#### Multnomah County Court Appoints PIO

The court announces the appointment of a Public Information Officer – Rachel McCarthy. She may be reached at 503.988.4794, or mul.public.information@ojd.state.or.us.

#### MBA & YLS Committee Signups Due May 15

Please see the insert in this issue to sign up for an MBA or YLS Committee. Completed forms are due to the MBA office by Friday, May 15.

#### Free CLE Webcast to MBA Members

The video webcast of the seminar entitled "Winning Strategies for Representing Athletes & Sports Businesses" is now available in the Members Center at [www.mbabar.org](http://www.mbabar.org). The webcast is worth two hours of general OSB MCLE credit and will be available until June 1, 2015.

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!

#### 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.

#### Commitment to Professionalism

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](http://www.mbabar.org/assets/documents/resources/freq-requested/profcertorder.pdf).

#### OWLS Workplace Leader Award Nominations Due June 1

Oregon Women Lawyers seeks nominations for its Workplace Leader Award, an annual recognition of an Oregon employer that makes innovative and effective efforts to promote one or more of the following values: A healthy balance between work and personal life; acquiring and maintaining a diverse workforce with diverse leadership; and maximizing opportunities to succeed in the workplace and advance to positions of influence and leadership.

Nominations are due by 5 p.m. on Monday, June 1, to Val Tomasi, [vtomasi@tsbnwlaw.com](mailto:vtomasi@tsbnwlaw.com), and should include information that will assist the award committee to evaluate the specific program, policy or project of the employer; the markers of success, and the names of people who may be contacted for additional information. The award recipient will be celebrated at OWLS Fall CLE on Friday, October 16 in Portland.

## mba|EVENT

### MBA First Thursday Social with Specialty Bar Associations

Thursday, June 4

Perkins Coie

1120 NW Couch, 10th Floor

Portland

5-7 p.m.

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

**Thank you** Perkins Coie LLP for hosting the event.

**Thank you** Preg O'Donnell & Gillett PLLC for sponsoring the event.

**Thank you** By Design Legal Graphics, Inc. for sponsoring the wine at the event.

Space is limited, so RSVP to Shannon West, [shannon@mbabar.org](mailto:shannon@mbabar.org), to reserve a spot.

### Raising \$20,000 for the Volunteer Lawyers Project

The MBA VLP Golf Committee is tasked to raise \$20,000 this year for the Volunteer Lawyers Project (VLP) at LASO. All proceeds from golf events benefit the VLP, which provides legal services to people who couldn't otherwise afford legal help. You and your firm can support this effort through your sponsorship and participation at these events.

**May 14 – RedTail Golf Clinic & Networking** event brings attorneys, CPAs and bankers together to practice their golf swing, network and socialize.

**June 9 – Riverside Golf and Country Club**, one of Oregon's great classic golf courses, is home to the longest-running MBA golf event.

**July 17 – Edgefield Family & Friends** is a fun, casual, kid-friendly golf event featuring a short, nine-hole course, contests and prizes.

**August 17 – Lawyers & Law Students golf event** brings lawyers and law students together to meet and foster professional relationships.

**August 31 – MBA Golf Championship to Benefit the VLP** will be at Tualatin Country Club and offers excellent opportunities for visibility, sponsorship and time spent with colleagues or clients away from the office.

Register at [mbabar.org](http://mbabar.org) or call 503.222.3275. To discuss sponsorship opportunities, contact Pamela Hubbs at [pamela@mbabar.org](mailto:pamela@mbabar.org) or 503.222.3275.



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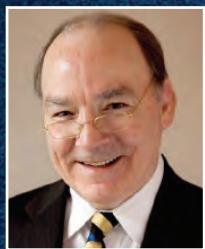
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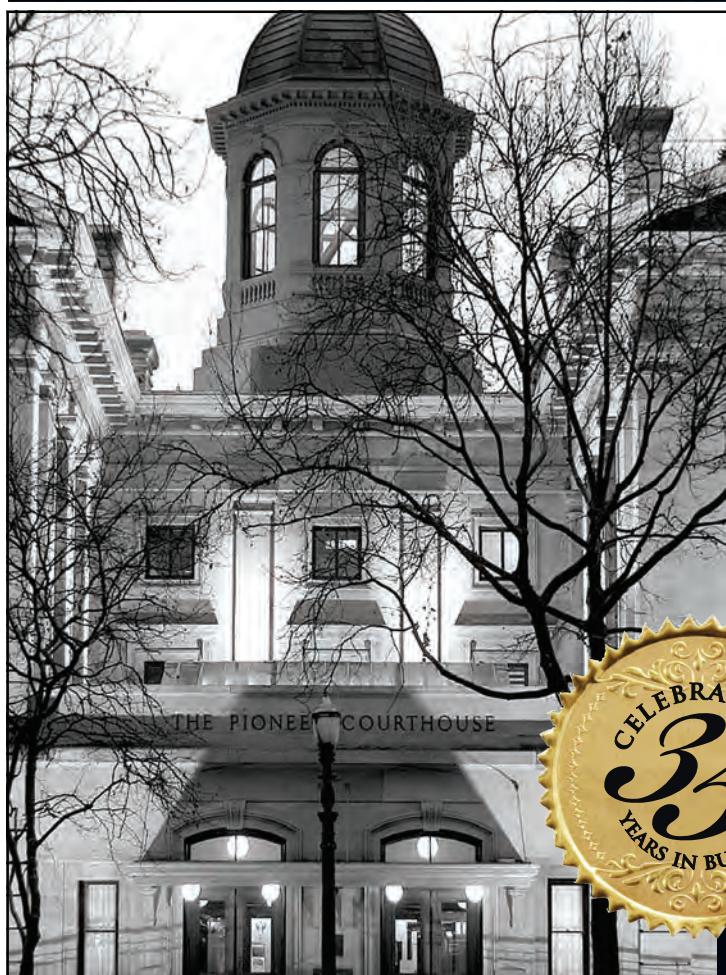


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## Around the Bar



David Petersen



Lauren Wallace

### Tonkon Torp

**David Petersen** is the new chair of the real estate & land use practice group, where his practice focuses on land use and government law. He has worked on behalf of developers and owners to bring a wide range of development projects to fruition and regularly represents clients before the Oregon Land Use Board of Appeals and other regulatory bodies in Oregon and California. Petersen also has a subspecialty working with renewable energy developers on real property, title and land use matters throughout the country.

**Lauren Wallace** has joined the firm's business department, where she is focused on start-up

companies, privacy, technology and intellectual property law.

Wallace holds the designation of Certified Information Privacy Professional for the United States. The rigorous course and examination for this certification is considered the global standard in the fast evolving area of privacy and data protection.

Wallace is a member of the firm's entrepreneurial services, intellectual property, and information & security practice groups.



Parma Mehrbani

### Lane Powell

Shareholder **Parma Mehrbani** was recently named a 2015 Orchid Award Winner by the *Portland Business Journal*, which honored her during its "Women of Influence" awards ceremony in April.

This award was designed to honor the region's most influential business women who have made a difference in their Pacific Northwest communities. Nominations for the award were judged on three criteria: professional accomplishments, community leadership, and awards and milestones.

Mehrbani was nominated based on her exemplary work ethic, as well as her dedication and involvement in several community organizations, including the Oregon Minority Law Association's IMAGE program, which educates, trains and supports minority attorneys, and the Rock 'N' Roll Camp for Girls, a nonprofit that builds girls' self-esteem through music. Additionally, Parna has participated in leadership programs for the OSB, Business for Culture and the Arts, and the Portland Business Alliance.

*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.*

## Jacquelyn Jurkins Director, Multnomah County Law Library, 1964-2014

by Renee Stineman  
Court Liaison Committee

On May 7, at the MBA Annual Meeting and Judges Reception, MBA members will honor Jacquelyn Jurkins for her many contributions to the legal profession.

### Blazing the way for women in the legal field<sup>1</sup>

Over 60 years ago, Jacque did something very few women did then: She graduated from law school. Jacque was inspired to become a lawyer after meeting a number of lawyers while a member of her high school debate team. Along the way, Jacque encountered resistance: a woman in law school? Undaunted, she continued, receiving her Juris Doctorate from the University of Wisconsin Law School in 1952, followed by a Master of Laws in 1954.

While working on her LLM, Jacque became interested in library science, joining the University of Washington's law librarianship program. In 1960, Jacque completed the program and then held several impressive positions, including Assistant Librarian, Washington Supreme Court; International & Foreign Law Librarian, University of Washington; and Director, Colorado Supreme Court Library. In 1964, Jacque became Director of the Multnomah County Law Library. She recently retired from this position after 50 years of dedicated service.

### 50 years of supporting lawyers and non-lawyers

Lawyers who practiced in Portland before computer research became the norm describe Jacque as a regular figure in their professional lives, and an invaluable resource. In those days, the law library supported most of the solo practitioners and law firms in town, in addition to the general public. Only the largest firms maintained in-house law libraries. The Multnomah County Law Library was constantly bustling.

For several years before the MBA had a permanent staff and office, the library filled the void. The library maintained a separate phone for the MBA. Jacque and the library staff took calls, answered questions, and stored MBA records. They also made MBA luncheon arrangements, took the members' reservations, and helped whenever they could.

Jacque loved rolling up her sleeves and helping the visitors with their problems. She tells of a time when she helped a local lawyer research and develop ideas in support of his case. He won a significant verdict. To thank Jacque for her contribution, he wanted to send her a gift. His secretary called and asked if she would like perfume? Chocolates? She declined and insisted a gift was not necessary, thinking she had heard the end of it. A short time later, a plant arrived. This started a tradition



Jacquelyn Jurkins

since followed by many in town. By her retirement, Jacque had amassed about 80 plants. A few of her living "thank-you" cards, including some rare varieties of ficus, are still on display throughout the law library.

Helping non-lawyer visitors to the law library often required a more creative approach. Jacque explains that there is a fine line between helping people understand the legal system and research the laws, and practicing law. Occasionally, the problems faced by visitors could not be solved through legal research. Even then, Jacque helped when she could, sometimes putting visitors in touch with providers of mental health, medical, or other social services. Non-lawyer patrons gave Jacque the more traditional "thank you" cards and letters.

### A history of improving access to justice

Access to justice is a current topic of interest for many. But, Jacque explains, by connecting people with resources and information, law libraries have always provided access to justice. As director, Jacque developed new ways for the law library to improve access to justice. Jacque helped open new law libraries throughout Oregon and fought to fund those libraries. She lobbied to improve the format of the Oregon Revised Statutes (some may remember the days when the statutes were held in loose-leaf binders, with updates accomplished by swapping outdated pages for new). She helped arrange for fax machines and other equipment, providing other counties better access to the resources available at the Multnomah County Law Library. Through Jacque's efforts, in 1979, the law library was the first in Oregon to offer attorneys and the public access to Westlaw.

Jacque is hopeful that, with the new construction of the courthouse, the law library will remain central to access to justice for Oregonians.

Though Jacque is retired, she continues to volunteer regularly at the Multnomah County Law Library.

<sup>1</sup> Some background information cited in this article was originally reported in *Profiles in the Law, Jacque Jurkins: Madame Librarian*, by Melody Finnemore, Oregon State Bar Bulletin, December 2006, <http://www.osbar.org/publications/bulletin/06dec/profiles.html> (last reviewed November 12, 2014).



## Free Conference Room Space in Downtown Portland

The Professional Liability Fund is offering Oregon lawyers free use of a conference room located at 520 SW Yamhill Street, Suite 1025, Portland, Oregon. To reserve this space and learn more details about this free conference room space, go to the PLF website, [www.osbplf.org](http://www.osbplf.org), and click on Practice Management, then Oregon Lawyers' Conference Room.

**Special thanks to the law firms of Jaqua & Wheatley and Perkins Coie for their donations of books for the OLCR library wall.**

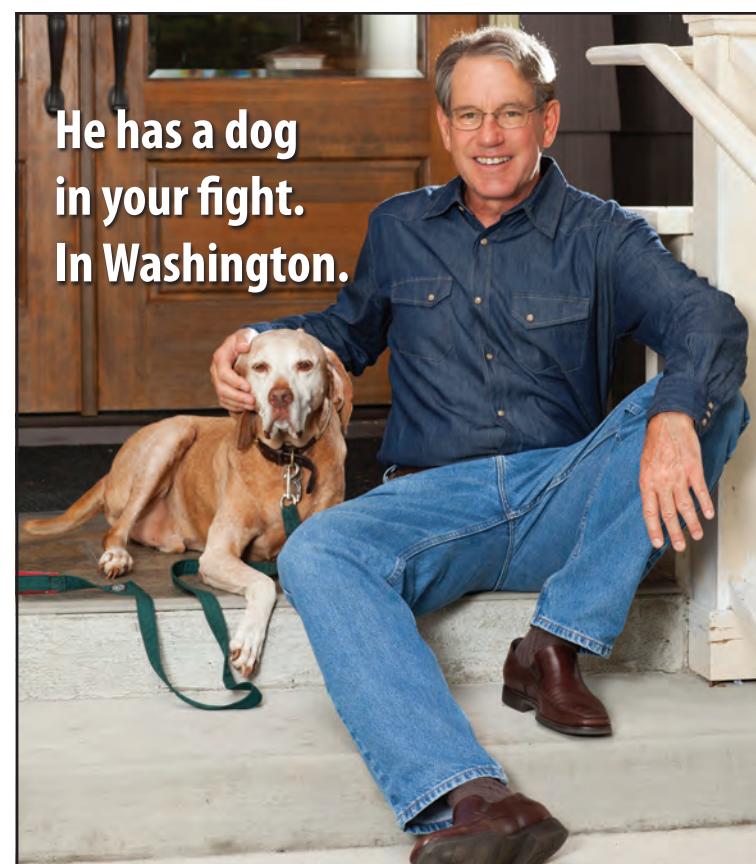


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## Tips From the Bench

### Vacating a Judgment

The Moving Finger writes; and,  
having writ,  
Moves on: nor all thy Piety nor Wit  
Shall lure it back to cancel half a  
Line,  
Nor all thy Tears wash out a  
Word of it."

Omar Khayyam

by Judge Leslie Roberts  
Multnomah County Circuit Court

There has been a sometime issue in foreclosure cases when, after judgment, the parties seek to set aside the foreclosure judgment pursuant to a settlement. In a case for damages, the parties can simply enter a satisfaction of judgment. In the foreclosure setting, the parties may wish to turn back the clock so that it is as if no judgment had been entered at all. The effect of the entry of the foreclosure judgment is to extinguish the consensual lien, and give the plaintiff a judgment lien in its place, the judgment lien to be satisfied by sale as in execution. The hope of the parties is that the court will make the judgment vanish; and that the foreclosed trust deed or mortgage lien will then rise from the grave, and life will go on as before the foreclosure action was filed.

The problem with this plan is that the court's powers to set aside a judgment are bounded by rule and precedent. The relevant rule, ORCP 71, provides for relief based on clerical mistake (ORCP 71A), the party's mistake or inadvertence or excusable neglect, newly discovered evidence, invalidity of the judgment, satisfaction of the judgment; or based on a showing that it is "no longer equitable" that the judgment would have prospective application." ORCP 71 B. None of those provisions apply. (That last grounds that it is "no longer equitable" might sound promising, but it is applicable only to continuing injunctive relief that has prospective application See (as to the identical Federal rule) *Rufo v. Inmates of Suffolk County Jail*, 502 U.S. 367, 112 S. Ct. 748, 116 L. Ed. 2d 867, (1992); in contrast is it not the *future* application that the foreclosure parties seek to avoid, it is what the judgment has, by the time of the motion, *already*, accomplished - the extinguishment of the consensual lien and substitution of money judgment, which occur at the time of judgment.)

ORCP 71C preserves "the inherent power of a court to modify a judgment within a reasonable time" (and some other inherent powers not applicable here). However, case law clarifies that this is not a wide doorway of opportunity: "Generally the court's exercise of its inherent authority has been limited to making technical amendments, *Palmateer v. Homestead Development Corp., supra*, to correcting errors of the court, *Stevenson v. U.S. National Bank*, 296 Ore. 495, 677 P.2d 696



(1984), or to situations in which [6] 'extraordinary circumstances' are present. *Vinson and Vinson*, 57 Ore. App. 355, 644 P.2d 635, *rev den* 293 Ore. 456, 650 P.2d 928 (1982)" *Condiliff v. Priest*, 82 Ore. App. 115, 118, 727 P.2d 175 (1986). Nothing suggests that the parties' joint request is enough, or that settlement is such an extraordinary circumstance.

*Condiliff*, and its progeny, do not set rigid barriers to the extent of a court's discretion to set aside a judgment; the appropriate circumstances are illustrated, but not limited, by the examples given. Thus, it was competent for a court to set aside a judgment because of *its own* technical error of law. 178 Ore. App. 97, 107-108 (2001). This power existed while the court still had jurisdiction - that is, before the time for appeal had run. (In that case, the error was in imposing an inapplicable limitation on damages in a wrongful death award.)

Does the power to set aside a judgment extend so far as to approve a settlement that calls for re-writing the past? It is certain that it does not if the time of appeal has run; but even before that, the judges on the Multnomah County foreclosure panel have ruled that sufficient grounds have not been presented to allow the 'inherent power' referred to in ORCP 71C, where the parties - by advance planning - could have avoided the issue simply by dismissing the foreclosure action without prejudice, before judgment. The timing of their settlement discussions is not the sort of unusual circumstance that has justified the invocation of ORCP 71C as against what the higher courts have consistency cited as a strong policy in favor of the stability of judgments.

It should also be recalled that most foreclosure cases involve junior lienors. Usually, they choose to allow default when it appears the claim of the first lienor will absorb any equity in the property. After the default, these other creditors may have taken collection steps incompatible with the lien or compromised the debts. If it were possible to turn back the clock for the first lienor after positions of junior lienors have changed to their prejudice, that might be inequitable; but junior lienors are rarely notified of attempts to set aside a judgment.

The solution for this problem, if it is one, lies with an amendment to the Oregon Rules of Civil Procedure, ORCP 71, to provide for reversing a judgment by settlement.



## News from the Courthouse

by Jolie Russo  
Court Liaison Committee

### Presiding Judge's Report

#### New Courthouse

The Multnomah County Board of Commissioners has voted that the site for the new courthouse would be at the west end of the Hawthorne Bridge.

The Joint Ways and Means Subcommittee on Public Safety took testimony on the courthouse replacement projects in April. Chief Justice Balmer has approved the current funding request for Multnomah County's courthouse. Multnomah County and OJD presented the request of \$17.4 million in bond sales for Multnomah County's courthouse at the hearing.

The RFP for the architect for the project was released, with the RFP for a contractor to follow. It is anticipated that design work for the courthouse will start at the end of August. In late 2016, groundbreaking for the project will take place, with construction being completed by the end of 2019. It is

projected that the courthouse will open in April, 2020.

A 'visioning' session was recently held on the technology needs of the new courthouse. Among the ideas discussed were video conference capacity in all courtrooms, best ways of presenting to the jury (small individual screens for jurors versus large, well-placed screens, technology carts, wireless systems for individuals requiring listening assistance, the use of technology to facilitate bench conferences) and chairs and benches that are adjustable to meet the needs of individual judges.

#### Justice Reinvestment Project

Judge Waller reported on the progress made through the Multnomah County Justice Reinvestment Project to safely reduce the number of persons being sent to prison that Judge Frantz presented on earlier this year. In 2013, the legislature offered funding to counties to decrease the reliance on prison in order to prevent the need to build a new prison at the cost of \$600 million over the next 10 years. Multnomah County has sent 243 fewer offenders to

prison since the project was implemented, for a savings of \$8.6 million. There are currently 11 judges engaged in "informed settlement conferences," which are a keystone to the project. The governor's budget recommends \$58 million; the co-chair's budget recommends \$28 million, which would significantly restrict the project.

### Other News

#### MBA Equality & Diversity Committee report

Ryan Bounds of the MBA Equality & Diversity Committee distributed the committee's Statement of Diversity Principles as well as a Pledge Sheet for individual and/or firm/organization's signature. The Pledge Sheet promises that the signer will support the principles of diversity and equality. The committee funded 16 LSAT prep scholarships to students this year. Among other things, the "Ambassador Subcommittee" maintains relationships between the specialty bars and the MBA. The "Pipeline Subcommittee" began working with the Maurice Lucas Academy at Irvington Middle School this year. The academy meets four days a week after school and provides enrichment activities for the students.

## Sylvia E. Stevens 2015 MBA Merit Award Recipient

In recognition of her career of dedicated public service, the Multnomah Bar Association has selected Oregon State Bar Executive Director Sylvia E. Stevens to receive the 2015 MBA Merit Award. MBA Merit Award recipients are chosen for their enduring commitment to the MBA's mission of promoting justice through service, education or leadership to the MBA, the legal profession and the community.

Sylvia has served with distinction as the OSB's Executive Director and its General Counsel. Tom Kranovich, OSB Past-President, describes Sylvia as "a lawyer of great caring and tremendous integrity," who, "in not just my opinion, is the best and most effective Executive Director that the bar has ever had." Justice Wally Carson notes that Sylvia was the primary driving force behind

the "development, adoption, and implementation" of the Oregon Rules of Professional Conduct, the ethical standards for Oregon lawyers. The bar has made great strides under Sylvia's leadership. In the past five years, the OSB became one of the first bars in the nation to adopt a mandatory mentoring program for new lawyers, and enacted a Diversity Action Plan to promote the bar's interest in advancing diversity and inclusion at the bar.

Throughout her career, Sylvia has devoted her time and energy to improve the profession and serve the common good. During her tenure on the MBA Board and as MBA president, Sylvia worked to found the Multnomah Bar Foundation, and later served as the MBF's vice president. She was also one of the founding members of Oregon Women Lawyers,



taking part in early conversations on how to promote women in the profession. Sylvia was the fourth woman lawyer to ever serve on the OSB Board of Governors.

Sylvia has announced that she will retire from her position as OSB Executive Director in January, 2016. The MBA has selected Sylvia to receive the Merit Award in recognition of her tireless work, often far out of the spotlight, to improve the practice of law in Oregon and to protect our profession's most cherished standards.

## Robin Selig to Receive 2015 MBA Professionalism Award

**Robin Selig**, Oregon Law Center, will receive the 2015 MBA Professionalism Award on May 7, at the MBA annual meeting and dinner.

The MBA Professionalism Award, the organization's highest honor, recognizes candidates who exemplify, not simply meet, the standards set forth in the MBA Professionalism Statement:

*Professionalism goes beyond the observance of the legal profession's ethical rules and serves the best interests of clients and the public in general; it fosters respect and trust among lawyers and between lawyers and the public, promotes the efficient resolution of disputes, and makes the practice of law more enjoyable and satisfying.*

Robin's nomination for the Professionalism Award was supported by numerous attorneys and judges. Here are a few of the things Robin's nominators and supporters said about her:

- "Robin is unfailingly generous with her time and knowledge. Her advice is not only technically correct but infused with a heavy dose of common sense and strategic practicality. She is a mentor in every sense of the word. She is a teacher and she leads by example."
- "Robin inspires us all to achieve the highest levels of professionalism in order to achieve the best results for our clients."
- "With a career-long focus on family law, and particularly the needs of victims of domestic violence, Robin is the "go to" person on those issues, whether it's a matter of drafting or amending legislation, representing victims at trial or on appeal, revising court forms to reflect law changes or best practice developments – or teaching and mentoring the next

generation of lawyers who will continue to tackle these social problems."

- "She is highly respected by her peers for her combination of good judgment, legal acumen, and approachability and has become a statewide resource to practitioners in both the public as well as the private sectors."

Robin has devoted most of her 34-year-career providing access to justice to low-income and vulnerable Oregonians as a legal aid attorney. She has accomplished this through individual protections, systemic change, and advocacy. Robin is legal aid's Statewide Support Unit expert in family law and domestic violence. Her commitment to justice is exemplified in her work. She is involved on numerous committees and boards including, but not limited to the State Family Law Advisory Committee (SFLAC), as SFLAC Domestic Violence Subcommittee Chair, and the Oregon Judicial Department eCourt Initiative. She participated in a Multnomah County project that developed interactive Family Abuse Prevention Act forms that are now available statewide and contributed to the Sex Abuse Prevention Order forms on the OJD website. Robin was one of the founders of Multnomah CourtCare, a drop-in childcare center at the Multnomah County Courthouse used by hundreds of children every year. She has conducted confidentiality trainings for nonprofit domestic violence and sexual assault programs. She helped establish the Domestic Violence Project, a long-time legal aid pro bono program, and has trained the private bar on a variety of topics relating to representation of victims in restraining order and family law cases. She has trained and collaborated with judges,



Robin Selig

law enforcement, prosecutors, and advocates on coordinating community response to domestic violence and sexual assault. Robin, together with others at the Oregon Law Center, received the Judge Stephen B. Herrell Award for leadership on domestic violence issues.

Robin is praised for her mentorship and as an exemplary role model for attorneys. She embodies the ideals of professionalism. She is reliable, honest, determined, courteous and compassionate. Robin has devoted her career to providing access to justice for all. She represents the best intentions and results of our legal system. She is a living example of what we aspire our legal system to provide. She provides a gateway to our justice system without regard to income or background. Her clients are not victims; they are litigants.

By design, our legal system is supposed to be dedicated to justice for all. Robin reminds us that the legal system works properly only when justice is available to all of our citizens - not just when money buys access.

There has to be a forum for the powerless and vulnerable in our legal system. Without the delivery of legal services to all, the justice system fails. Lawyers like Robin, who secure fair and right outcomes for the vulnerable and powerless, assure that everyone has access to justice.

Congratulations to Robin Selig, a most worthy recipient of the 2015 MBA Professionalism Award.

## Joshua Stadtler Michael Haglund Award Winner

by Holly Puckett  
Campaign for Equal Justice

When Josh Stadtler was in law school, someone important to him said that lawyering is first and foremost "a helping profession" and that in a private practice it can sometimes be easy to lose sight of this premise. Pro bono work reminds lawyers of the world beyond a private practice, where a short phone call or discussion can change the direction of a client's life - stopping a judgment and garnishment resulting from when the client did not respond because the plaintiff sued the wrong person, which led to the default judgment; or causing a landlord to rethink demanding damages on top of an eviction when the client has clearly dated pictures of the good condition of the vacated apartment. Josh has encountered both of these scenarios in his discussions with clients while staffing a legal aid night clinic. "It makes the resource of your ability [legal skills] viscerally important to a client's experience of their legal need in the system." The pro bono work that has given him the best sense of how important a lawyer's time is to a client has been his involvement with legal aid's Domestic Violence Project. "If anybody needs an advocate to stand by their side, it is a victim of domestic violence. There are so many victims out there who cannot get themselves to



Joshua Stadtler

the point of feeling able to file a restraining order. If someone has the courage to do it, I am drawn to support them in that." It is very easy for lawyers to say that they are too busy to help, even when they believe that volunteer legal work is an important part of a legal career. Josh encourages all lawyers to make the jump from just intellectualizing the idea that pro bono matters to actually making the commitment to pro bono work as a real item included in their schedule. In addition to his career, Josh and his wife, Lily, are expecting a daughter in July. He also enjoys running and is a huge soccer fan. Balancing career, family life, and volunteer work is always a challenge - especially as a new lawyer, it is easy to get caught up in focusing on the tasks that lead to billable hours. But Josh finds that pro bono work, just like networking or marketing,

*Continued on page 19*

## Owen Blank Pro Bono Award of Merit Recipient

by Cathy Petrecca  
Oregon State Bar

"Find a place where your passion and skills overlap, and then devote some energy to making a difference." This is the philosophy that has led MBA member Owen Blank down the path of helping the Albina Head Start (AHS) organization for almost 20 years. It is the philosophy that leads him to continually recruit more members of his firm to join him in pro bono work. And it is the philosophy that has led him to be the 2015 winner of the MBA-LASO-OLC Pro Bono Award of Merit.

Owen, a partner at Tonkon Torp since 1980, focuses his practice on business, commercial, real estate and corporate matters, including the representation of nonprofits. In his pro bono practice, he counsels nonprofits on their governance, operational and other issues. In 2014, that meant providing 275 hours' help to various organizations. The primary beneficiary was AHS, a nonprofit that provides early childhood education services to approximately 1,000 low-income families in North, Northeast and Southeast Portland. It has been serving these communities since 1965. According to Director



Owen Blank

Ronnie Herndon, between October 2013 and June 2014, Owen and his team at Tonkon were instrumental in AHS's successful application to access New Market Tax Credits, which allowed AHS to retire the debt on its real estate and build a reserve for the future.

AHS has been a client of Owen's for decades because he wanted to make a difference. Owen believes that there is no better return on investment to overcoming barriers than to nourish the minds and bodies of children born in poverty. AHS is so grateful for Owen's work over the past two decades that it has honored him by naming one of its sites the Owen D. Blank Center.

*Continued on page 16*

## Dona Hippert Senior Law Project Volunteer of the Year

by Sheri Osher  
Legal Aid Services of Oregon

Legal Aid Services of Oregon is proud to announce that Dona Hippert is the recipient of the 2015 Senior Law Project (SLP) Volunteer of the Year Award.

Dona was admitted to the OSB in 2004 and currently focuses her practice on elder, consumer, and public interest law. Since she began volunteering for the SLP in 2012, Dona has served more than 140 pro bono clients through this clinic. She ensures that seniors' needs are met by volunteering each month at the clinic in Gresham and often agreeing to meet with seniors at their homes when they are unable to travel.

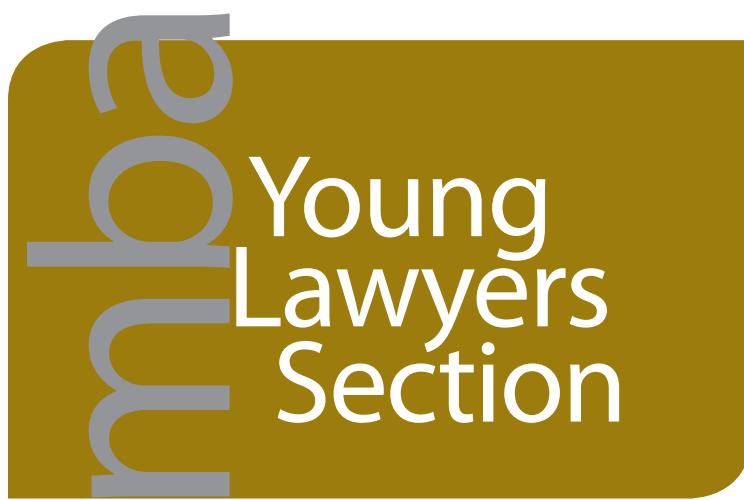
When asked what she enjoys most about her volunteer experience, she replied, "It is extremely fulfilling to be able to help people who are in danger of 'falling through the cracks' and otherwise would have no other access to legal services and assistance." She shared this as well, "One of the most common issues has been with seniors who are being sued by creditors. So many times I have had seniors break down crying during our session. These are people who have paid their bills all their lives. Because of the economic downturn, they find themselves in the position where



Dona Hippert

they cannot pay their bills. It is very gratifying to help them navigate the collections process and stop the harassment they are experiencing."

The SLP is a success primarily due to fabulous volunteers like Dona. She provides consistent and excellent services to seniors in Multnomah County, and we greatly appreciate all the time and effort that she dedicates to the project.



## Ryan D. Harris Pro Bono Spotlight

by Abby K. Miller  
YLS Pro Bono Committee

In our community, there are many situations where there is a need for legal representation that may go unmet. That is where pro bono practitioners step in. As attorneys, potential pro bono clients may walk into our office with a legal question. More often, we come into contact with potential pro bono clients through our personal involvement in the community, either through church, volunteer, or social activities. Ryan Harris, a partner with Vial Fotheringham LLP whose practice focuses on construction defect and general litigation, makes pro bono work part of his practice by taking on these causes and cases when they present themselves either through his professional activities or through his personal involvement in the community.

Over the past several years, Ryan has taken on two construction defect cases on a pro bono basis where he recognized there was a legitimate claim, but knew the economics of taking the cases on a contingent fee or hourly basis would be unfeasible. In these cases, Ryan represented two elderly gentlemen who had substantial construction defects present in their single family homes that were quite disruptive to their everyday lives. The protracted litigation over the cause of and liability for the defects stretched out over many months. As expected, in the end, the amount of legal time far exceeded the amount of recovery. That said, the recovery provided these gentlemen the ability to repair their homes and move on with their lives, something they would not have been able to do otherwise. Ryan found working on these cases personally rewarding because he knew he did the right thing.



Ryan D. Harris

In addition to helping people who walk into his office, Ryan takes on pro bono causes that he encounters through his church and social activities. These activities range from defending small commercial claims for fellow church members, to helping neighbors come to a resolution over a nuisance water drainage issue. While pro bono work is personally rewarding, it can also lead to financial returns for your professional practice. In one such case, Ryan provided pro bono assistance to an acquaintance with a landlord-tenant issue, which ultimately led his acquaintance to get out of a residential lease without financial penalty. This acquaintance went on to become a loyal client of Ryan's firm, thanks in part due to his positive interactions with Ryan during his pro bono representation.

Ryan manages to make time in his hectic schedule, between his busy private practice, working with his wife to raise their four children, and being actively involved in his church, to provide pro bono services to those people in our community whose need would otherwise go unmet. Ryan is a wonderful example of a practicing attorney finding time to provide pro bono services to people in need of his specific skills and experience.

## Ask the Partner

*Dear Partner,*

*I've never had a legal assistant before, and don't really know how to work with her effectively. Can give me some tips?*

*Sincerely,  
Associate*

*Dear Associate,*

It's not surprising that you're struggling to figure out how to utilize your legal assistant's time and talents. Many young attorneys struggle with this, and law school does little to prepare lawyers for working with law firm staff. But take heart. It's easier than you think. Here are a few tips.

### 1. First Things First

A good legal assistant can be invaluable to you. She can help you catch mistakes, polish your work, make helpful suggestions, and help you navigate your new law firm. Your assistant also knows some of the preferences of the partners for whom you will be working, and can help you make a positive impression. You must remember that although you may have been a great law student, you don't really know how to practice law yet; your assistant knows the ins-and-outs of the daily practice of law, which is one of the things you need to learn as a new lawyer.

### 2. Respect

Respect your legal assistant. She is not there to get your coffee or dry cleaning; your assistant is a competent professional and a valuable member of your firm. She has important knowledge and can save you from many

mistakes. You can make your life much easier by showing respect for your assistant's skills.

You must also respect your assistant's time. When a partner asks you to turn in an assignment on Friday, do not hand that assignment to your assistant on Friday and ask her to turn it around the same day. Although your assistant is willing to help you and understands that last minute work sometimes happens, you will make your assistant's life easier (and your own by extension) if you give your assistant a day or two to complete your assignments. If you make this your practice, you will find that when something truly does come up last minute and you need your assistant to drop everything and help you, she will be more willing to do so.

You must also remember that you are a new attorney and a new member of the firm. Your assistant has worked at the firm for several years, and works with several attorneys. You must remember that although she is happy to help you, you are essentially at the bottom of the heap. Show respect, give your assistant plenty of lead time on assignments, and thank her for her help.

### 3. Ask Your Legal Assistant

Chances are your legal assistant has been working with attorneys longer than you've been practicing law. Sit down and talk to your assistant, or take her to lunch or coffee. Ask her what types of tasks attorneys typically ask her to do. She'll give you some good ideas for the type of work you should be asking her

to help you with. Every firm is different, and every firm uses its legal assistants differently, so ask her. Also, some assistants prefer to have a lot of detailed instructions while others prefer to be given the broad strokes of an assignment to be able to do it their way. Ask your assistant what her preference is. And after you have worked together for a few months, ask again. Ask your assistant what's working well, and what you need to work on.

### 4. Provide Feedback to Your Legal Assistant

Do you like it when you hand me an assignment you've worked hard on and then don't hear any feedback? Of course not. You like getting feedback on your work; your legal assistant does, too. Give constructive feedback to your assistant, and let her know if you want something done a certain way. And above all, let her know that you appreciate her hard work.

Your assistant can help you a great deal and help ease your transition to the practice of law. Let her know that you appreciate her work; respect her skills and time; and talk to her regularly to ask what's working well and what you should work on, and ask how you can make her work easier. By helping your assistant, you will help yourself, and in turn, the firm. Partners notice how associates treat their legal assistants, and if legal assistants are not happy, we hear about it. By demonstrating respect for your legal assistant, you will give me confidence that I can trust you to treat my clients with respect, and you will be on your way to a successful career at the law firm.

## May YLS Membership Social at OMSI After Dark

by Ashely Vaughn  
YLS Membership Committee

Please join the YLS for "OMSI After Dark: Wild Wild West" on May 27. "OMSI After Dark" is a monthly event for adults that features live demos, exhibitions, samples from local food and alcohol vendors, and food and drink to purchase. We will meet at OMSI's eatery, *Theory*, at 5 p.m. for happy hour. The YLS will provide appetizers, and

there is a full cash bar. From there, groups can venture to the museum for the main event.

Tickets are \$13 for non-OMSI members and \$6.50 for OMSI members, and attendees need to purchase tickets in advance to guarantee a spot at: [www.omsi.edu/afterdark/052715](http://www.omsi.edu/afterdark/052715). Please also RSVP to Ryan Mosier at [ryan@mbabar.org](mailto:ryan@mbabar.org).

**OMSI After Dark:  
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*Partially funded by a Multnomah Bar Foundation grant*

## 2015 YLS Awards

### Congratulations to Our Merit Recipients & Rookie of the Year

by Jeanne Sinnott  
YLS President

The MBA YLS Board is pleased to announce the recipients of the 2015 YLS Awards of Merit and Rookie of the Year Award. The recipients will be formally recognized at the MBA Annual Meeting & Awards Dinner on May 7. As in past years, the YLS has been busy this year with a lot of programs and initiatives to enhance the benefits of our members. YLS develops and hosts quality and affordable CLE programs, reaches out to the public through community service projects and Community Law Week, orchestrates volunteer and pro bono opportunities, and provides articles for the *Multnomah Lawyer* highlighting the bar and the YLS membership. And this year, the YLS has embarked on a new, exciting project with the Entrepreneur Committee, which launched its first Entrepreneur Academy this spring. So far, it has been a smashing success.

Because we have so many hard-working, energetic, creative, and overall outstanding members, it is always difficult to decide the recipients of the Rookie of the Year Award and the Award of Merit. This year, we are excited to honor three of our outstanding and invaluable members, who exemplify the values that the YLS strives to achieve, including leadership, professionalism, and good work. The YLS Board is truly grateful for their support and for that of each YLS member who has participated in YLS events and helped plan and manage our great programming. I would also like to particularly recognize the MBA staff, who have - as always - kept our organization running so smoothly.

#### Award of Merit Recipients

##### **Paul Thompson, Thompson Law, LLC**

Paul has been a valuable member of the CLE Committee since 2013. Paul was nominated to receive the Award of Merit because he has been a dedicated and vital member of the CLE committee, YLS, and MBA as a whole. In addition to providing



*Paul Thompson*

comic relief at meetings, he consistently delivers ideas that the committee almost always adopts. In short, YLS CLEs are among the best, thanks to Paul. In true Paul fashion, he says that his favorite part of the CLE Committee is "the great pay and benefits." But seriously, he enjoys working with attorneys from different disciplines and being able to coordinate CLEs with attorneys he wouldn't otherwise know. Paul is a sole practitioner focusing on plaintiff's side work, including employment, landlord-tenant, personal injury, and LGBT civil rights. Paul presently represents the lesbian couple in the "cake case," which has gained national attention and notoriety.



*Erika Huebschman*

##### **Erika Huebschman, Yanchar Huebschman LLC**

Erika is a member of the Entrepreneur Committee, having been plucked from the Membership Committee to help develop and implement the committee's new charge. According to her nominators, Erika "demonstrated her full commitment to the committee" and was integral to developing

and launching the Entrepreneur Academy while "armed with thoughtful suggestions and creative ideas." Since this committee was new this year, it requires a lot of additional work. Erika was willing to undertake much of that work and substantially contributed to the committee's success. Erika said that her favorite part of being on the committee was taking her "ideas and opinions and turning them into concrete actions." She added, "it's been fantastic to get to bring ideas about new lawyer education to the committee and work with such a great team of people to turn the ideas into practical skills training. It really feels fantastic." Erika has her own law practice with business partner Nik Yanchar at Yanchar Huebschman LLC, where she practices general civil litigation and trial work, with an emphasis on consumer advocacy cases.

#### Rookie of the Year



*Nedu Nweze*

##### **Nedu Nweze, Corbridge Law Offices, P.C.**

Nedu was nominated for Rookie of the Year because when he joined the YLS Membership Committee in December, he dove in right away, volunteering to plan the January YLS drop-in social at Rialto. He organized the entire event and did an excellent job, even though he had just joined the committee less than two months before. Since then, Nedu has volunteered to assist with a number of other events (including the end of the year celebration) and has been an active and energetic member of the committee and the YLS as a whole. Nedu said his favorite part about serving on the committee is the opportunity to plan events and network with other similarly situated attorneys. Nedu practices criminal defense at Corbridge Law Offices PC.

Congratulations to each of our deserving award winners.

## FBA YLD & YLS Judges Social

by Holly Hayman  
YLS Membership Committee Chair

The Young Lawyers Division of the Federal Bar Association and the Young Lawyers Section of the Multnomah Bar Association hosted a Judges Social in the historic Pioneer Courthouse on April 8. The collaboration between the YLD and the YLS resulted in a first-rate soiree, where young lawyers were able to socialize with members of the bench from the Federal, Multnomah County, and Ninth Circuit Courts. I attended the event and witnessed judges and young lawyers discussing everything from first appearances in court to paths to the bench and many topics in between.

Our local members of the bench were generous with their time and advice, and the young lawyers in attendance were excited to mingle with and learn from our esteemed colleagues. The energy of the participants was amplified by everyone's appreciation of the venue. Pioneer Courthouse is not just a historic landmark, it is filled with memorabilia of the history of Oregon's bench and bar. Participants took some time to appreciate the photographs and information the Pioneer Courthouse has to offer. In conclusion, the Judges Social was a resounding success. Be sure to keep an eye out for future YLD/YLS collaborative events!



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## Children's Book Bank Community Service Day Recap

YLS members volunteered at the Children's Book Bank cleaning and repairing over 100 books to be donated to children in the Portland area who lack access to books at home. The Children's Book Bank, located in NE Portland, donates packages containing 14 age-appropriate books for children to bring home and call their own. The books are donated to children through local Headstart programs and also through Portland Public Schools.



L-R: Michael Schaefer, Kelvin Adkins-Helgeson, Heather Goodlett and Robert MacKay



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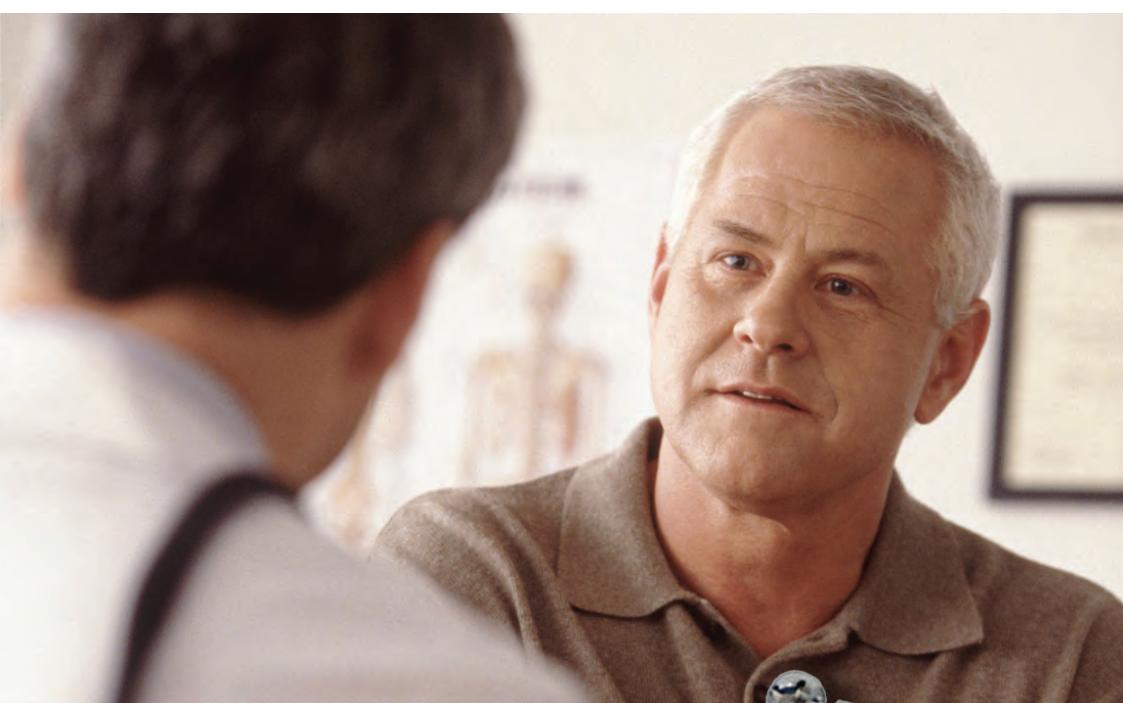
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## The Corner Office PROFESSIONALISM

### Just Say(ing) No

It's not as easy as it sounds, and certainly not as exciting or appealing as "getting to yes." But every lawyer must learn to say "no" (and not just to opposing counsel). Due, in part, to their position in the community, lawyers are often called upon to take on the tough case, take on another board position, or help raise funds for a worthy cause. Juggling professional and personal obligations with skills and grace can take a lot of time and energy. Providing pro bono and nonprofit services to the community should be pursued when possible, but it is important, especially for attorneys new to practice, to learn to say "no." Focusing your energy on a more limited number of client matters and community organizations can help attorneys avoid the professionalism pitfalls that more quickly beset those that stretch themselves too thin.

When it comes to clients, especially new clients, it is difficult to turn down business, even in busy times. But the desire to capitalize on new business should not overcome the lawyer's obligations to existing clients. RPC 1.3 states that "a lawyer shall not neglect a legal matter entrusted to the lawyer." RPC 1.4 requires a lawyer to "keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information." A lawyer

operating at maximum capacity who chooses to take on a new client risks neglecting the legal matters of existing clients. In this case, consider referring the case or associating co-counsel, or taking the time to review existing matters before turning your attention to the new matter. A lawyer who is constantly redlining also risks running afoul of RPC 1.1, which is titled competence - but in addition to requiring the knowledge and skill to do the job, also requires thoroughness and preparation - two things that demand a certain amount of time, and there are only 24 hours in a day. A harried lawyer rushing to get the next new client in the door is also more likely to overlook red flags with respect to the client or the terms of representation that may lead to later conflict or dissatisfaction for both lawyer and client.

A lawyer must also be prepared to tell the client "no." If a client asks the attorney to take a position or engage in certain conduct violative of the RPCs, the attorney should be prepared to draw a line in the sand and firmly tell the client "no." RPC 3.3 requires candor to the court, RPC 3.4 demands fairness to [the] opposing party and counsel, and RPC 4.1 requires truthfulness in statements to others. All of these rules are implicated when a lawyer fails to tell a misguided client "no."

Newer lawyers working under senior partners also have to know their limits. If there is no way you can competently complete

the numerous tasks assigned by one or more partners, be sure to tell the partners of these limitations and ask for assistance in prioritizing the projects. While an outright "no" may be inappropriate in this case, simply accepting new assignments or an event invitation when you are already operating at capacity runs the same risks discussed above, plus you will likely alienate your best client.

These concepts are echoed in the MBA's Commitment to Professionalism, which can be found on the MBA website. A hard copy suitable for framing is available for order. While it may not always be easy or fun, learning to say "no" in appropriate situations will decrease the likelihood of professional conduct missteps and increase the lawyer's satisfaction with the practice.



*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.*

### Doug Bray

*Continued from page 2*

another means for education of the public about their courts.

Another example of external communication is the political outreach accomplished by the MBA and the court to inform legislators about the court, its work, and its program needs. At the end of each calendar year, prior to the start of the next legislative session, the MBA hosts a meeting to which the Multnomah County legislative delegation is invited to participate in an agenda prepared by the circuit court's presiding and chief judges. The agenda showcases court programs and educates the delegation and others present about the court and the community based programs in which the court is involved. In this process, the court's leadership and the MBA's officers and staff are also able to talk with legislators about court-related issues for the next legislative session. This program is very effective in identifying for local legislators the work of their circuit court and its needs.

"In the last 10 years," Bray continued, "these MBA/court meetings with legislators have been effective in advancing the need for the court to move into the electronic age for web-based access to court documents and eFiling, and to highlight the need for state funding assistance for the new central courthouse. The MBA Board was key, early in supporting legislative decisions to allocate funds for the Oregon eCourt program," Bray said. This project has taken years to develop and implement; MBA action through board resolutions and other statements of support was a key part of the successful funding and retention of the program.

The MBA has played an even more critical role over the last decade and to the present in supporting a Multnomah County decision for the replacement of the current courthouse and funding for

the new structure. In every recent courthouse replacement study, the MBA has had representation and a board-chartered committee to work with the Board of Multnomah County Commissioners and the circuit court. With a legislative decision in 2013 to create a structure to support counties in the replacement or remodeling of deficient and unsafe court facilities, the MBA provided effective leadership and advocacy on this issue through board support and the work of its Courthouse and Court Funding Committee. "This collaboration with the circuit court, the Board of County Commissioners, and the Legislative Assembly, is critical to the successful acquisition of the new courthouse," Bray said. "While this project has additional critical steps to be taken by political decision-makers, the MBA's position has been clearly articulated and is a key part of the foundation upon which these decisions will be made," he concluded.

Bray said that collaboration and communication with the MBA leadership will remain critical always for the circuit court's leadership. The primary vehicle for this is the representation on the Court Liaison Committee, as ex officio members, of the presiding judge and the trial court administrator. This connection provides two-way communication for the identification of problems and successes as the circuit court continues its constant evolution to better serve the bar and the people of Multnomah County. "It is a structure that makes both the court and the MBA better and stronger," he said, and was one of the most satisfying parts of his tenure as the administrator for the circuit court.

*Doug Bray will be honored for his years of work at the MBA Annual Meeting, Dinner and Judges' Reception on May 7.*

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### Owen Blank

Continued from page 11

Owen genuinely desires to bring other attorneys into the pro bono fold. He speaks at his firm about his pro bono service and always thanks the other attorneys who have worked on the projects with him. He has noted that no one at his firm ever turns him down when he's asked them to help out. He thinks it speaks well of his colleagues. As his partner Kimberlee Stafford states, "I think that speaks volumes about Owen and his efforts to promote a culture at our firm that values providing pro bono services to members of our community who need it."

Owen provides pro bono services for more than just AHS. Over the years he has assisted organizations as diverse as the Oregon Association of Minority Entrepreneurs,

the Lawyer's Campaign for Equal Justice, and the Portland Business Alliance. Recently, as a member of the Oregon Sports Authority Foundation, Owen led the foundation's collaborative efforts to promote the passage of Oregon legislation that includes specified minimum levels of Physical Education for all public school children.

Owen stresses that it is easy for transactional attorneys to engage in pro bono work. Nonprofits have very similar needs to any other corporate entity: property leases, contracts for computer systems, tax issues, human resources/compliance issues, governance and regulatory concerns and more. He believes that transactional attorneys have much to contribute in a pro bono capacity to both nonprofits and small for-profit companies. Many of the organizations he helped

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## Joshua Stadtler

*Continued from page 11*

has a key part to play in the success of his practice. For Josh, the pro bono schedule that works for him is to try to take on one contested restraining order case about every other month. It has meant that he has helped legal aid with 6-8 cases in the past year, which Josh says has generally been a moderate time commitment. He says the biggest hurdle is tackling the first case. There is a learning curve, as with any type of legal work, and there is some uncertainty involved in the first one or two cases. But Josh says that the training materials for self-study that legal aid provides are great, and legal aid attorneys are generous with their support and time as you assist the client. Josh is quick to mention that his help is really just one moment in the larger life of the client and his or her whole process in the court system. Legal aid does not just provide training and support for the lawyer doing the contested restraining order, but also connects the victim to community resources, domestic violence shelters, and follow up legal needs after the hearing, sometimes even a divorce and ongoing child custody plans.

Most domestic violence cases he has seen so far have involved very young clients, with young kids. To Josh, this means they have their whole life ahead of them. One of the goals in his representation is to set up the parties to succeed in stepping up and raising the kids long term, because it is likely that a judge will want both parents to be involved if the adverse party acknowledges his or her actions and seeks to spend time with the child. The safety issue of a contested restraining order is very important, and the adverse party's actions have almost certainly created a situation that will affect the child for a lifetime if both parents do not look out for the best interest of the child. Observations of his own parents' divorce when he was young inform his view of the complicated ways that all family members are affected by both the process of the court system and the practicalities of a difficult break up.

Josh will be receiving Michael Haglund Pro Bono Award at the MBA Annual Meeting and Dinner on Thursday May 7 for his commitment to pro bono work and his dedication to the clients he has helped through legal aid.

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

Paragraph (b)(7) added.

**Rule 1.7 Conflict of Interest: Current Conflicts**

(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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