

The RED Report

by Lane Borg, Executive Director, Metropolitan Public Defender Services
and Bobbin Singh, Executive Director, Oregon Justice Resource Center



Lane Borg



Bobbin Singh

A new report on the Racial and Ethnic Disparities (RED Report) in the criminal justice system in Multnomah County tells us two things¹. Firstly, that these disparities are found throughout the system, from first contact with police right through to parole and probation, and secondly, that while people of color in general are negatively impacted in greater numbers relative to whites at every stage of the journey through the county's criminal justice system, the disparity is particularly great for black people.

Racial discrimination in the justice system is not new, so why investigate the issue now? Multnomah County commissioned a third-party researcher to produce the RED Report as a result of its participation in the Safety and Justice Challenge, which is funded by the MacArthur Foundation². The project called on jurisdictions around the country to look for ways to reduce their dependence on jails. Nearly 200 responded from across 45 states but only 20 were chosen as final participants. Multnomah County was one of those selected and the Local Public Safety Coordinating Council (LPSCC)³ was directed to take ownership of the project. LPSCC's Executive Committee includes members representing law enforcement, corrections, the judiciary, health, schools and others. The county has identified three focus areas: options for inmates with behavioral health needs, decreasing the disproportionate incarceration of people of color, and decreasing the number of low-level inmates in jail.

...people of color ... are negatively impacted in greater numbers relative to whites at every stage of the journey through the county's criminal justice system....

The report provides data on the experience of Multnomah County residents intersecting with the criminal justice system at seven decision points: 1. Referrals to the DA's office, 2. Arraignment/Prosecutorial charging, 3. Assignment of court-appointed counsel, 4. Pretrial release, 5. Cases diverted/continued, 6. Sentencing, and 7. Post-conviction supervision (probation and parole).

The data will not come as a surprise to people of color living in Multnomah County. But the RED Report has helped to sharpen our understanding of the scale of a problem that distorts our entire justice system. The numbers are compared in two ways in the report: by

weighing up outcomes by race or ethnicity for each group within the system and by measuring them against the overall population of the county. It is when we make this second comparison that we can see how seriously the problem of over-criminalization of people of color mounts as a person progresses on his or her journey through the system. To put some numbers to that:

- A black person living in Multnomah County is 320% more likely to be charged with a crime than a white one, and is
- 310% more likely to have his or her case accepted for prosecution
- 29% less likely to have his or her case diverted
- 500% more likely to serve time in jail
- 600% more likely to be sentenced to prison
- And 650% more likely to get a parole violation.

The cumulative effect of these disparities is that we are doing no less than criminalizing entire communities. Once we have ensured that a higher proportion of people in certain areas of the county has a criminal history, we have helped to justify more intensive or even more aggressive policing of those areas. When a person by dint of being black is more likely to have a criminal history and more likely to associate with others with criminal records, we have naturally increased his or her risk score in reoffending prediction measures. What is needed, therefore, is a totally new approach to the problem of the over-criminalization of people of color in our community.

...we are the product of cultural conditioning that begins from early childhood....

Unpicking the systemic racism that is woven into our criminal justice system here in Multnomah County will not be easy or quick. Most of the leaders in the system who have commented publicly on the report have expressed appropriate horror at the data as well as a sincere desire to address the problem. The fact remains that those of us who work within the system are the ones who have created or sustained its failings. We cannot create meaningful change if we try to act on this alone. Real community engagement and community involvement in building solutions are necessary if we are to be successful.

There are some steps that already seem clear and that have won the support of some of those who lead our criminal justice system. To start, we will only be able to measure any progress we have made if we continue to gather data on racial and ethnic disparities. Reporting on these disparities should be regular, ongoing, and public. Other Oregon counties might then take their cue from Multnomah and begin their own processes of examining their justice systems. Examining the data that was aggregated to produce the report will likely also shed light on precisely which situations and which offenses are contributing most to racial and ethnic disparities.

We must also accept that the biases that produce disparate outcomes for people of different races and ethnicities are often

Continued on page 2

mba|EVENT

Multnomah Bar Association Annual Meeting, Dinner & Judges Reception

Thursday, May 19
5-8 p.m.

Portland Marriott Downtown Waterfront
1401 SW Naito Parkway, Portland

Celebrating the profession and recognizing our colleagues

Professionalism Award Recipient
Bonnie Richardson

MBA Awards of Merit
Emily Teplin Fox
Judge Adrienne C. Nelson
Mary E. Tollefson
Judge Youlee Y. You

YLS Rookie of the Year
Michael C. Willes

Pro Bono Awards
Cody Berne
Ian Simpson
Mark A. Peterson
Richard A. Slottee
Theresa L. Wright

YLS Award of Merit
Anaiah E. Palmer

Register by May 13. Invitations have been mailed separately.

mba|CLE

To register for a CLE, please see p.4 or go to www.mbabar.org and log in as a member to register at the member rate.

APRIL

4-5 Tuesday The Care and Feeding of Small Businesses

Todd Cleek
Tim Crippen
Conrad Zubel

4-12 Tuesday Clark County Court Update

Judge David Gregerson
Don Jacobs

4-13 Wednesday Effective Strategies for Expert Depositions

Paul Conable
Chris Kayser

4-26 Tuesday Updates on Real Property Documentation and Title Insurance in Oregon

Alan Brickley
Dustin Klinger
Jim Reinhart

4-27 Wednesday Discovery – Let's Get Real

Bruce Rubin
Julie Vacura

4-28 Thursday Calculating and Presenting Lost Profits Damages

Shannon Armstrong
Serena Morones

MAY

5-3 Tuesday All's Well That Ends Well: Settlement Agreements and Releases

Jan Kitchel
Johnathan Mansfield

5-26 Thursday Multnomah County Trial Practices Update

Judge Stephen Bushong
Judge Kathleen Dailey

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DEADLINE for copy: The 10th of the month*

DEADLINE for ads: The 12th of the month*

*or the preceding Friday, if on a weekend.

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HOW TO MAKE YOUR SMALL FIRM SUCCESSFUL

A Spring Workshop Series

Held at the World Trade Center, Mezzanine Room, 26 SW Salmon St. from 12-1:30 p.m.

The MBA will apply for CLE credit as applicable. The sessions are set up to allow time for networking and questions and answers. Lunch is provided. Please let us know if you have any special dietary needs (vegetarian, vegan, etc.).

Register at www.mbabar.org. Workshops are \$15 for members and \$50 for nonmembers.

Session 3 - Wednesday, April 27, 2016

Nonprofit Board Service: Can it Build My Law Practice

Kay Abramowitz and Wendy Usher will lead a discussion of what's involved in serving on a nonprofit board and how you can be a great board member. Kay is a partner at Miller Nash Graham & Dunn LLP. In her many years as a solo practitioner before moving to a firm, Kay used nonprofit board service to help raise her profile in the community and develop business for her estate planning practice. Wendy has served as the Regional Development Director, Portland Metro for The Oregon Community Foundation for the past 11 years. She will share insights on how to identify opportunities for service and questions to ask before joining a nonprofit board.

Session 4 - Wednesday, May 25, 2016

Supporting or Staffing Your Practice

In this workshop Charese Rohny, solo practitioner and Julie R. Vacura, founding partner of Larkins Vacura, will discuss supporting your office with both software and people. You can learn from the panel and other lawyers how to most efficiently and cost-effectively staff or otherwise support a professional law practice. If you work from your home office, sublease from another firm, or have your own offices with partners and associates, there are financial and time efficiencies you can learn about in this workshop. Adina Matasaru, of Matasaru Law, PC will moderate. Come with specific questions that you have regarding your own office and ideas of how to improve efficiency and save costs.



The MBA conference room may be reserved for use by MBA members for client meetings, depositions and other professional law-related business.

Office location:

620 SW 5th Ave., Ste. 1220

Portland OR 97204

Contact the MBA for details and availability at 503.222.3275.

Calendar

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

APRIL

8 Friday
May Multnomah Lawyer deadline

12 Tuesday
YWCA Inspire Luncheon
www.ywcapdx.org

21 Thursday
New Courthouse Open House
www.mbabar.org

27 Wednesday
Administrative Professionals Day

MBA Solo/Small Firm Workshop
www.mbabar.org

CLP Legal Citizen Award Dinner
www.classroomlaw.org

30 Saturday
Tell It to the Judge & Legal Information Booth
See p. 13

MAY

4 Wednesday
YOUthFILM Screening
www.mbabar.org

5 Thursday
Tillicum Gathering
www.mbabar.org

10 Tuesday
June Multnomah Lawyer deadline

12 Thursday
MBA OSCPA & OBA Golf Clinic & Networking Event
See insert

19 Thursday
MBA Annual Meeting & Dinner
www.mbabar.org

20 Friday
MBA and YLS Committee Volunteer Forms due

25 Wednesday
MBA Solo/Small Firm Workshop
www.mbabar.org

30 Monday
Memorial Day Holiday

The RED Report

Continued from page 1

unconscious and not the result of overt racism. This is not a matter of conducting a witch hunt to cast out the racist bogeymen from our criminal justice system and then consider the job well done. It is a matter of all of us accepting that we are the product of cultural conditioning that begins from early childhood and that has an impact on our ability to clearly see our fellow man or woman, free from the stereotypes and assumptions we hold. Implicit bias training would help to improve relationships between those of us within the criminal justice system and communities of color. It is possible to reduce the influence that our unconscious prejudices have over us.

Lastly, hundreds, if not thousands, of small decisions impact an individual's path through the criminal justice system. Each one of these decisions is made with a degree of subjectivity. More light must be shed on how discretion is used in our criminal justice system, particularly in parts of the system where decisions are made behind closed doors. System stakeholders should make their decision-making processes and policies transparent and open to community review.

What we do not need is to engage in a blame game

with each part of the criminal justice system seeking to point the finger at the others. It is encouraging that since the report's release, this so far has not happened. Conversely, everyone in the system must take ownership of their part in producing and exacerbating disparities.

Generally, there appears to be a sincere desire on the part of most of those who work within the criminal justice system to make it better for all Multnomah County residents. Now we must address the difficult task of healing the hurt that has been caused to individuals, families and our communities. Avoiding the temptation to express dismay at what the report reveals and then doing nothing is not an acceptable outcome. The search for solutions will be challenging and it will take courage to implement them. We must create meaningful change in our criminal justice system and we must begin now.

¹ The RED Report can be accessed online at <https://multco.us/file/multnomah-rri-report-finalpdf>

² More information about the Safety and Justice Challenge can be found at www.safetyandjusticechallenge.org

³ One of the authors of this article, Lane Borg, is a member of LPSCC's Executive Committee in his capacity as Executive Director of Metropolitan Public Defender Services



The MBA will apply for 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.

Unless otherwise noted, all classes are held at the World Trade Center, 26 SW Salmon, Portland.

The Care and Feeding of Small Businesses

Tuesday, April 5, 2016 - 3:00-5:00 p.m.

World Trade Center, Mezzanine

Members \$60/Non-Members \$95

This CLE will discuss significant issues attorneys should address when assisting their clients in starting up and growing a small business. The class will explore the importance of understanding your client's goals, their business, and their management and operational expectations, so that you can help them choose the appropriate business entity and craft a flexible management agreement. Our speakers will discuss how to deal with deadlocks and prepare exit strategies. They also will explore methods for incentivizing employees in growing companies and will discuss important tax concepts every small business attorney should know.

Our presenters include **Todd Cleek** of the Cleek Law Office and **Conrad Zubel** of Zubel Law Offices. Mr. Cleek has over twenty years' experience working with some of Oregon's most exciting and successful independent companies. Mr. Zubel's business practice focuses on advising small and family-owned limited liability companies.

For more information: Call Ed Carlson, Carlson Law at 971.254.8907. For registration questions, call the MBA at 503.222.3275.

Clark County Court Update

Tuesday, April 12, 2016 - 12:00-1:00 p.m.

World Trade Center, Mezzanine

Members \$30/Non-Members \$50

The 2016 Clark County Court Update will be presented by Clark County Superior Court **Judge David Gregerson** and Vancouver civil litigator **Don Jacobs**. This class is designed for anyone who practices in Clark County, whether on a regular basis or only on occasion. Judge Gregerson will provide valuable information regarding new practices or changes to existing practices within the Clark County Court system. Mr. Jacobs will focus on the aspects of a civil trial in Clark County and how it may differ from civil trial practices in the Portland tri-county area.

If you currently practice in Clark County, or have been considering practicing in Clark County, this CLE is a must for you. This class is geared toward practitioners with all levels of experience.

For more information: Call Kyle Dukelow, Attorney at Law at 503.288.1992. For registration questions, call the MBA at 503.222.3275.

Effective Strategies for Expert Depositions

Wednesday, April 13, 2016 - 3:00-5:00 p.m.

World Trade Center, Mezzanine

Members \$60/Non-Members \$95

Use of experts in a case can be critical to its outcome. This "how-to" CLE will offer practical strategies for preparing your experts for their deposition, including tips for how to assist experts with report writing and answering tough questions; how to effectively depose an expert; how to use the federal rules on experts to your advantage, and whether depositions of experts in state court are appropriate. Our dynamic panel will be **Chris Kayser**, Larkins Vacura, and **Paul Conable** of Tonkon Torp, both experienced business litigators and trial lawyers.

For more information: Call Seth Row, Miller Nash Graham & Dunn at 503.205.2318. For registration questions, call the MBA at 503.222.3275.

Updates on Real Property Documentation and Title Insurance in Oregon

Tuesday, April 26, 2016 - 3:00-5:00 p.m.

World Trade Center, Mezzanine

Members \$60/Non-Members \$95

Please join us for a panel presentation regarding real property title insurance and deeds in Oregon. **Alan Brickley**, Retired (Emeritus) Counsel for First American Title Insurance Company, will discuss basic title insurance endorsements and recent issues and developments with title insurance policies in general. **Jim Reinhart**, in-house Regional Counsel for Lennar Corporation, a major residential developer, will discuss real property deeds and deed selection issues under Oregon law. **Dustin Klinger**, current OSB Real Estate & Land Use Section Secretary and a real estate transaction and business attorney and partner at Thede Culpepper in Portland, will discuss title insurance solutions to challenging title issues, escrow Instructions and dealing with parties from outside of Oregon as well as common miscommunications. The panelists will also comment on recent issues regarding real estate foreclosure development and evolving title insurance responses.

For more information: Call Seth Row, Miller Nash Graham & Dunn at 503.205.2318. For registration questions, call the MBA at 503.222.3275.

Discovery - Let's Get Real

Wednesday, April 27, 2016 - 3:00-5:00 p.m.

World Trade Center, Mezzanine

Members \$60/Non-Members \$95

Update your skills in the art of conceiving and composing effective discovery requests in state and federal court, writing genuinely specific (with particularity) requests and objections, talking through disputes to avoid court, and how the 2015 amendments to the Federal Rules of Civil Procedure focusing on proportionality will, and will not, change your life. Our presenters are **Bruce Rubin**, Miller Nash Graham & Dunn LLP and **Julie Vacura**, Larkins Vacura LLP.

For more information: Call Kyle Dukelow, Law Office of Kyle B. Dukelow at 503.288.1992. For registration questions, call the MBA at 503.222.3275.

Calculating and Presenting Lost Profits Damages

Thursday, April 28, 2016 - 3:00-5:00 p.m.

World Trade Center, Mezzanine

Members \$60/Non-Members \$95

This course will teach you fundamental steps for calculating lost profits, present information necessary to support key assumptions, summarize the legal framework that defines lost profits damages, and provide tips on presenting lost profits damages at trial. Damage expert **Serena Morones**, CPA, ASA, ABV, CFE has 20 years of experience calculating lost profits damages and testifying as a damage expert witness. Ms. Morones has helped lead some of Oregon's most complex commercial damage cases to successful conclusions through expert testimony or assistance with settlement. **Shannon Armstrong** is a shareholder at Markowitz Herbold PC. She represents clients in high-stakes business disputes in state and federal courts. Her cases involve a range of business issues including partnership disputes, fraud, unfair trade practices, contract and construction disputes, breach of fiduciary duty, and class actions. She has tried cases in state and federal court, argued key pretrial motions, taken and defended party and expert depositions, and managed commercial class action litigation.

For more information: Call Mindy Stannard, McKinley Irvin at 503.487.1645. For registration questions, call the MBA at 503.222.3275.

All's Well That Ends Well: Settlement Agreements and Releases

Tuesday, May 3, 2016 - 3:00-5:00 p.m.

World Trade Center, Mezzanine

Members \$60/Non-Members \$95

All's well that ends well ... unless you've messed up. **Jan Kitchel**, Cable Huston, LLP and **Johnathan Mansfield**, Mansfield Law, will engage in a spirited discussion of wows, oops and oh-no's in the negotiating and drafting of settlement agreements and releases, from both the plaintiff and defense perspectives. Jan Kitchel has over 35 years of trial experience, and currently focuses his practice on personal injury and probate litigation. For the last 20 years, Johnathan Mansfield has represented and advised clients while practicing at some of the country's largest firms. His practice focuses on intellectual property litigation and advice, including patent, trade secret, trademark, copyright, and other intellectual property matters.

For more information: Call Seth Row, Miller Nash Graham & Dunn at 503.205.2318. For registration questions, call the MBA at 503.222.3275.

Multnomah County Trial Practices Update

Thursday, May 26, 2016 - 12:00-1:00 p.m.

World Trade Center, Mezzanine

Members \$30/Non-Members \$50

Note: The MBA will apply for 1 OSB credit.

This year's program will feature presentations by Multnomah County Chief Civil Court **Judge Stephen Bushong** and Multnomah County Circuit Court **Judge Kathleen Dailey**. 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. Judges Bushong and Dailey 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 Judge Kelly Skye, Multnomah County Circuit Court at 503.988.3204. For registration questions, call the MBA at 503.222.3275.

**For more upcoming classes or to register,
see page 4.**

Piercing the Corporate Veil and Other Limits on Limited Liability

Thursday, June 2, 2016 - 3:00-5:00 p.m.

World Trade Center, Mezzanine

Members \$60/Non-Members \$95

“Piercing the corporate veil.” The “fiduciary shield” doctrine. “Vicarious liability.” “Imputed contacts.” “Retained control.” When do the boundaries between one person and another work to limit liability, and when does the law disregard those boundaries for purposes of liability? When does a “limited liability” entity really limit the exposure of its owners? And when are contacts with a forum state imputed to another for purposes of personal jurisdiction?

Three Portland litigators - **John Parsons**, **Keil Mueller**, and **Susan Marmaduke** - will discuss those and other concepts that affect whether the boundaries between one person or entity and another will act as a firewall for purposes of liability and personal jurisdiction, and when they will not.

For more information: Call Bridget Donegan, Larkins Vacura at 503.542.3107. For registration questions, call the MBA at 503.222.3275.

Beating the Odds: Defenses to Superfund Liability

Tuesday, June 7, 2016 - 3:00-5:00 p.m.

World Trade Center, Mezzanine

Members \$60/Non-Members \$95

As EPA issues the Proposed Cleanup Plan for the Portland Harbor Superfund Site and cleanup costs are likely to exceed a billion dollars, the “divisibility of harm” defense to CERCLA joint and several liability may become more important than ever. Our experienced panel of speakers will provide background on cases where courts have found harm to be divisible and reasonably capable of apportionment and will provide an in-depth analysis of how the divisibility defense proved successful in Burlington Northern. The panel also will discuss the application of the divisibility of harm defense in the Fox River litigation, with a special emphasis on varied approaches to characterizing and dividing harm. Finally, the panel will offer practical strategies for making divisibility of harm defense arguments at complex sites. Our panel includes **David Rabbino** of Tonkon Torp, and **John Ashworth** and **Emily Rake** of Kell, Alterman & Runstein.

Disclaimer: Opinions expressed by the panel members are their individual opinions and not their employers’ or clients’ and are not formal legal opinions upon which any party is entitled to rely.

For more information: Call Ed Carlson, Carlson Law at 971.254.8907. For registration questions, call the MBA at 503.222.3275.

Annual Probate Update

Thursday, June 9, 2016 - 3:00-5:00 p.m.

World Trade Center, Auditorium

Members \$60/Non-Members \$95

The MBA presents the 2016 Annual Probate Update, featuring **Judge Katherine Tennyson**, Multnomah County; **Judge Andrew Erwin**, Washington County; **Judge Robert Herndon**, Clackamas County; and **Sibylle Baer**, Cartwright Baer Johansson 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 Mindy Stannard, McKinley Irvin at 503.487.1645. For registration questions, call the MBA at 503.222.3275.

Advising Nonprofits and Serving on a Nonprofit Board: Navigating the Rules and Avoiding the Traps

Tuesday, June 14, 2016 - 3:00-5:00 p.m.

World Trade Center, Mezzanine

Members \$60/Non-Members \$95

There are an increasing number of rules, regulations, excise taxes and other sanctions that can apply to a tax-exempt entity. Whether you serve on a nonprofit board or advise nonprofits as part of your law practice, it is important to know the rules that apply to various types of nonprofit entities.

Michele Wasson of Stoel Rives and **Kate Kilberg** of Catalyst Law LLC will address best practices in the nonprofit area to help advisors, board members, and key staff avoid conflicts of interest and apply sound fiduciary oversight. This presentation will cover private foundations, public charities, trade associations, social clubs, and similar tax exempt entities. The speakers will outline the policies and procedures that help ensure a tax exempt entity is operating in compliance.

For more information: Call Ed Carlson, Carlson Law at 971.254.8907. 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. Self-study materials from past CLE classes may be downloaded at www.mbabar.org.

CLE Registration Form

NAME _____	ACCOUNT NUMBER _____
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OSB# _____	_____

Member Status:

- MBA Member
- Non-Member

Payment Options:

- Check VISA MasterCard
- American Express

Registration forms with payment must be received in the MBA office by 3 p.m. the day before the seminar. 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:

Multnomah Bar Association
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.mbabar.org.

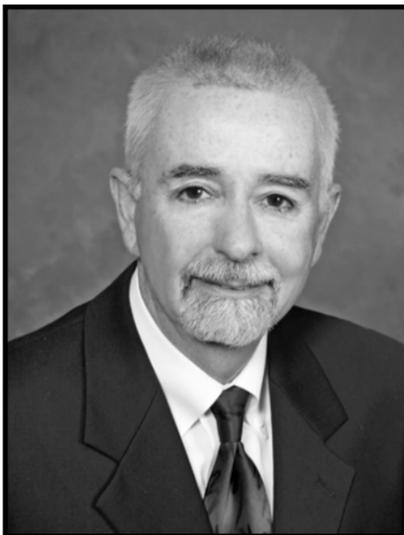
Reduced fees for unemployed members are available and are assessed on a case-by-case basis. For details, call the MBA at 503.222.3275.

Seminar Selection:

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

- 4/5 The Care and Feeding of Small Businesses**
 Class Registration (\$60 Members/\$95 Non)\$ _____
 CD-ROM & Written Materials (\$60 Members/\$95 Non) ..\$ _____
- 4/12 Clark County Court Update**
 Class Registration (\$30 Members/\$50 Non)\$ _____
 CD-ROM & Written Materials (\$30 Members/\$50 Non) ..\$ _____
- 4/13 Effective Strategies for Expert Depositions**
 Class Registration (\$60 Members/\$95 Non)\$ _____
 CD-ROM & Written Materials (\$60 Members/\$95 Non) ..\$ _____
- 4/26 Updates on Real Property Documentation and Title Insurance in Oregon**
 Class Registration (\$60 Members/\$95 Non)\$ _____
 CD-ROM & Written Materials (\$60 Members/\$95 Non) ..\$ _____
- 4/27 Discovery - Let's Get Real**
 Class Registration (\$60 Members/\$95 Non)\$ _____
 CD-ROM & Written Materials (\$60 Members/\$95 Non) ..\$ _____
- 4/28 Calculating and Presenting Lost Profits Damages**
 Class Registration (\$60 Members/\$95 Non)\$ _____
 CD-ROM & Written Materials (\$60 Members/\$95 Non) ..\$ _____
- 5/3 All's Well That Ends Well: Settlement Agreements and Releases**
 Class Registration (\$60 Members/\$95 Non)\$ _____
 CD-ROM & Written Materials (\$60 Members/\$95 Non) ..\$ _____
- 5/26 Multnomah County Trial Practices Update**
 Class Registration (\$30 Members/\$50 Non)\$ _____
 CD-ROM & Written Materials (\$30 Members/\$50 Non) ..\$ _____
- 6/2 Piercing the Corporate Veil and Other Limits on Limited Liability**
 Class Registration (\$60 Members/\$95 Non)\$ _____
 CD-ROM & Written Materials (\$60 Members/\$95 Non) ..\$ _____
- 6/7 Beating the Odds: Defenses to Superfund Liability**
 Class Registration (\$60 Members/\$95 Non)\$ _____
 CD-ROM & Written Materials (\$60 Members/\$95 Non) ..\$ _____
- 6/9 Annual Probate Update**
 Class Registration (\$60 Members/\$95 Non)\$ _____
 CD-ROM & Written Materials (\$60 Members/\$95 Non) ..\$ _____
- 6/14 Advising Nonprofits and Serving on a Nonprofit Board**
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mba | ANNOUNCEMENTS

Free CLE Webcast to MBA Members

The video webcast of the seminar entitled "Immigration Issues for the Rest of Us" is now available in the Members Center at www.mbabar.org. The webcast 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 \$360 value.

Take a Matter that Matters

Sign the MBA Pro Bono pledge at www.mbabar.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.

YWCA Inspire Luncheon

On Tuesday, April 12, from 11 a.m. to 1 p.m. at The Nines in Portland, Michele Coleman Mayes, ABA Margaret Brent and Minority Corporate Counsel Association Trailblazer Award recipient and current vice president, general counsel and secretary of the New York Public Library, will speak at the YWCA's 24th Annual Inspire Luncheon. Reservations are available at www.ywcapdx.org/inspire or by calling 503.294.7457.

Mentoring: Now More Important than Ever

A special National Legal Mentoring Consortium Conference will be held May 5-7, in Denver, Colorado. Principal speakers include Paulette Brown, president of the ABA; Michael Hunter Schwartz, dean and professor at the University of Arkansas; and other legal mentoring professionals, including consultant Ida Abbott, and Karen Hester of the Center for Legal Inclusiveness. Registration fee is \$225. The program will explore what the best mentors do, how to use mentoring to promote diversity and inclusion, and how mentoring may cultivate resilience and success in the future practice of law. Also included is a "Nuts & Bolts" session about how to start or improve existing mentoring programs. For details, see <http://legalmentoring.org>.

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Free Event Publicity

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The MBA offers other organizations the ability to access our online calendar in order to provide **one** site where all law-related events can be listed to help prevent conflicts.

Please consider adding your social events to the MBA online calendar at the following link: <http://mbabar.org/Calendar/SubmitAnEvent.html>. Or, you may contact the MBA at mba@mbabar.org to add your item to the calendar.



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Ethics Focus

Reciprocal Discipline in Federal Courts

by Mark J. Fucile
Fucile & Reising



With reciprocal admission becoming more common throughout the Northwest, reciprocal discipline has also become increasingly common. Washington, for example, requires lawyers licensed there to report public discipline imposed in another jurisdiction to the WSBA within 30 days under Rule for the Enforcement of Lawyer Conduct 9.2(a). Idaho has a similar requirement under Bar Commission Rule 513(a) - although the reporting deadline is 14 days. Alaska Bar Rule 27(a) contemplates reasonable notice of discipline without specifying a particular deadline. An Oregon lawyer who is also licensed in Washington, Idaho or Alaska, therefore, faces the prospect of reciprocal discipline in those states if the lawyer is disciplined here.

Lawyers sometimes forget, however, that federal courts also have their own reciprocal discipline rules - just like they have their own admission rules. In this column, we'll look at reciprocal discipline reporting requirements in federal trial and appellate courts around the Northwest.

Federal Trial Courts

In Oregon, LR 83-6(a) requires lawyers admitted to practice before our Federal District Court to notify the court clerk, the chief judge and the judges before whom the lawyer currently has matters pending within 14 days of being suspended or disbarred by any court or following a felony conviction in any jurisdiction. The same rule also requires a lawyer to notify the court if the lawyer has resigned from the bar of any court while a disciplinary investigation was pending that might have resulted in suspension or disbarment. LR 83-6(b) then outlines local procedures for assessing and imposing reciprocal discipline in this federal district.

In Washington, Western District LCR 83.3(c)(6) addresses reciprocal discipline (and, under LCrR 1(a), applies to criminal proceedings as well). Under LCR 83.3(c)(6)(B)-(D), a lawyer admitted to practice in the Western District must "promptly" report suspension or disbarment in any other jurisdiction or the lawyer's resignation in lieu of discipline. Similarly, under LCR 83.3(c)(7)(A), a lawyer admitted to practice in the Western District must also report a conviction for a felony or a misdemeanor "involving dishonesty or corruption[.]" Eastern District LR 83.3(c), in turn, addresses reciprocal discipline for lawyers admitted in that federal district. Like its Western Washington counterpart, Eastern District LR 83.3(c) requires prompt reporting of suspension, disbarment or resignation in lieu of discipline in any other jurisdiction. The Western and Eastern district rules then go on to outline procedures for imposing reciprocal discipline in those respective venues.

Alaska LCR 83.1(g)(1)(A) (which, under LCrR 1(b), also applies to criminal proceedings) directs the immediate suspension of any lawyer practicing in

the District of Alaska when "it appears to the court" - presumably upon notice by the lawyer concerned - that the lawyer has been suspended, disbarred, resigned in lieu of discipline in any other court or was convicted of a "serious crime." The rule then goes on to outline procedures for seeking reinstatement if the reciprocal discipline imposed was only a corresponding suspension. Idaho LCR 83.5(b)(3) (which, under LCR 1(f), is also applicable to criminal proceedings) differs from its Northwest counterparts in extending reciprocal discipline beyond suspension and disbarment to members of its bar who are "otherwise disciplined" by another court. It presumes notice by the lawyer concerned and also applies to resignation in lieu of discipline. Lawyers admitted to practice in the District of Idaho who are convicted

Continued on page 18

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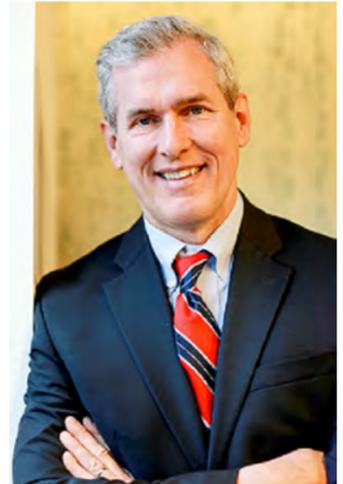
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As an outstanding member of our Tax Controversy Group, Jessica McConnell has earned respect among federal, state and local taxing authorities, as well as Oregon's legal community. As her practice has thrived, she has given back with an impressive amount of pro bono work and volunteer activities. Well done, Jessica! We could see this coming and are proud to name you our new partner.

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Around the Bar



Eric Pickard

Reynolds Defense Firm

Eric Pickard has joined the firm as its newest associate attorney. His prosecutorial knowledge and skills, enthusiasm for life, his passion for law and his ability to connect with others make him a good fit for the firm, which specializes exclusively in representing people facing DUI and related charges.



Mark Friel

Stoll Berne

Shareholder **Mark Friel** recently joined the Oregon Trial Lawyers Association Amicus Committee and the OSB's Appellate Section Executive Committee. Friel leads the firm's team of appellate lawyers. His practice focuses on appeals, alternative dispute resolution, business litigation, class actions, securities and antitrust.



Harry Wilson

Markowitz Herbold

Attorney **Harry Wilson** has been recognized by Lewis & Clark Law School as its 2016 Rising Star, an award presented to him in "recognition of his professional excellence and achievements as a litigator, his zealous advocacy on behalf of his clients, and his commitment to supporting the mission of De Paul Treatment Centers." Nominations for this award are sought annually for graduates who have made a difference in their community, profession, or the lives of others.

Wilson represents clients in complex litigation involving contracts, business torts, securities and employment in

state, federal, and international forums. He also chairs the De Paul Treatment Center Board of Directors.



Albert Menasche

Gevurtz Menashe

Albert Menashe, co-founding shareholder of the firm, was named to the Children's Cancer Association (CCA) Board of Directors. The association provides support for 20,000 seriously ill children, teens and their family members each year through music, friendship, play and resources to create transformative moments of joy. Since 1995, CCA has raised \$33.9M and invested \$30.7M directly in this community.

Menashe dedicates his practice exclusively to family law, including divorce, relationship agreements, same-sex marriage issues, and custody and parenting issues.



Jessica McConnell

Greene & Markley

Jessica McConnell is now a partner with the firm. McConnell helps businesses and individuals efficiently resolve major tax and financial problems. She concentrates her law practice in federal, state and local tax controversies, including tax audits, offers in compromise and tax collection matters. She also handles a variety of bankruptcy cases, a majority of which involve tax dischargeability issues and general business matters.

Charley Gee

Charley Gee has opened his own practice, where he will exclusively represent injured people against insurance companies and corporations in personal injury, wrongful death, and product liability cases. He will continue to focus his law practice on education, advocacy and litigation on behalf of injured bicyclists and pedestrians.

Gee also serves as president of Umbrella Board of Directors, a Portland-based fiscal sponsor



Charley Gee

nonprofit, with projects that include Better Block PDX, The Disaster Relief Trials, and CycloFemme PDX. The new firm is located in the Thomas Mann Building, 820 SW 2nd Ave. Ste. 407, Portland OR 97204. Gee can be reached at cgee@injuryoregon.com, 503.473.7334. Websites: www.injuryoregon.com and www.oregonbikelawyer.com.



Brian Jolly

Kivel & Howard

Brian Jolly has become a partner of the firm, where he primarily practices in the areas of estate planning, trust administration, probate, nonprofit organizations, and business transactions.

Jolly is engaged with various Portland nonprofits, including serving as the current president of the Chess for Success Board. He is also a member of the advisory board for the Institute for Youth Success at Education Northwest (formerly Oregon Mentors).



Eric Beach

Tonkon Torp

Attorney **Eric Beach** has been elected as secretary of the Building Blocks to Success Board of Directors. The mission of this Portland-based nonprofit is to get ethnically and gender-diverse, underserved youth from North and Northeast Portland excited about Science, Technology, Engineering, and Math (STEM). Its programs give children exposure to and the opportunity to participate in STEM-related programs and activities, including Lego® Robotics. Beach has also served as a coach during the last two Lego® Robotics' seasons.

Beach, a member of the firm's business department, focuses his practice on intellectual property

matters, both advising clients on the value and business impacts of intellectual property and representing clients in federal and state court in trademark, copyright and patent disputes.



Jessica Lewicki

Williams Kastner

The firm has added **Jessica Lewicki**, who joins the business litigation group. Her practice focuses on products and premises liability defense.

Garvey Schubert Barer

Owner **Eric Lindenauer** has been appointed to serve as the managing director of the Portland office and as a member of the firm's executive committee. Lindenauer's practice focuses on healthcare, employment and



Eric Lindenauer

insurance. He has extensive experience litigating complex disputes and advising clients in these areas.

The Around the Bar column reports on MBA members' moves, transitions, promotions and other honors within the profession. The submission deadline is the 10th 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.

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Legal Clinicians Recognized for Career-Long Dedication to Pro Bono

by Cathy Petrecca
Oregon State Bar

They've taught generations of law students to represent low-income Oregonians. They've mentored and encouraged pro bono work for decades. They've represented, collectively, probably thousands of impoverished individuals. The impact of their work will be felt across Oregon beyond their lifetimes. For all these reasons, **Richard Slottee, Theresa (Terry) Wright and Mark Peterson**, the clinical professors of the now-closed Lewis & Clark Legal Clinic, are this year's winners of the MBA Pro Bono Award of Merit, given each year to the lawyers who have set an example for our legal community in their dedication to providing pro bono services to those clients who are unable to afford them.

The Lewis & Clark Legal Clinic, located in downtown Portland, was designed to provide law students with practical skills while serving the needs of low-income clients. It handled residential evictions, domestic violence restraining orders, bankruptcies and tax controversies with the IRS and, for many decades, unemployment compensation matters. The first formal clinical program at the law school, and the birth of what became known as the Lewis & Clark Legal Clinic, started in 1971. As of December 31, 2014, when the clinic closed, it had been in operation for well over 40 years. Clinic Director Richard Slottee put the work of the clinic in perspective when he stated, "We all know that every lawyer, every person, and every institution involved in the legal profession, regardless of their role, should help ensure that every person has meaningful access to the legal

system. We have always believed that this is not just an ideal, but a responsibility. I hope the ultimate legacy of the legal clinic will be that for 43 years it lived up to that responsibility, and instilled in our clinic graduates the understanding of the necessity to continue to carry out this responsibility, and the willingness to do so."

According to Maya Crawford, State Pro Bono Manager for Legal Aid Services of Oregon, the three clinicians are unsung heroes who have always been in the background fighting the good fight on behalf of legal services. Beyond just taking cases, they've helped create comprehensive written materials, participated as speakers in CLEs, mentored other volunteer attorneys and have often taken cases that were too complicated for other volunteers. The professors included support for legal services, the concept of pro bono work, and access to justice in their legal ethics classes and invited LASO staff attorneys as speakers to bolster the encouragement the law students received.



Richard Slottee

Richard Slottee, now the Director of Student Legal Services at Portland State University, had the longest tenure at Lewis & Clark,

serving as a professor for about four decades. The director of the clinic, Richard focused his legal skills on bankruptcy. While he is happy to discuss the statistics from the clinic (3,400 students trained, 182 cases in the U.S. District Court, two cases appealed up to the U.S. Supreme Court), he and his fellow clinicians are most proud of the work they did in giving a voice and meaningful access to the legal system for those individuals who otherwise would have been denied.

Richard says that what he enjoyed most about the clinic was watching students do their first interview with an actual client. As he states, "Students often exhibited a whole range of emotions - nervousness, excitement, a little fearfulness. Some came to life when the client was likeable. Others struggled with the role as counselor and advocate when the client was not as sympathetic, or the law and facts did not scream that the case was about justice. For many of the students, this was the first opportunity to learn about actual lawyering by having to apply their analytical skills in the role of counselor or advocate, and to confront questions about competence, justice, morality, and fairness."

In addition to his work at the Lewis & Clark Legal Clinic, Richard was instrumental in the development of the Bankruptcy Clinic, a project of Legal Aid Services of Oregon. He helped to design the clinic, prepared in-depth training materials for it and encouraged his students to volunteer. Further, he was a stalwart volunteer at the clinic and a resource for other attorneys who volunteer.

Terry Wright, now the Director of Externships at Willamette University College of Law, is a former member of the OSB Board of Governors, among many other activities. She was a clinical law professor for 25 years, working and training students primarily in



Theresa (Terry) Wright

family law. Terry supervised the domestic violence component of the clinic, supporting hundreds of law students as they represented hundreds of victims of domestic violence, both at their initial hearings and afterward on child custody, support and dissolution issues. Terry has always believed that practicing law is a privilege and that all lawyers should give something back. She tried to instill this belief in her students, stressing the concept of "justice" as often as possible. She believes that the clinic made the practice of law real for her students. As she stated, "I loved to watch the students' growth over 13 or 14 weeks as they developed their professional identities and learned about themselves and the American justice system."

The program Terry directed changed over the years - sometimes focusing on representing clients who had companion DHS cases, and eventually expanding to represent low-income domestic violence survivors in their family law cases as well as their restraining order cases. In the last couple of years of the clinic, they had a more global approach to domestic violence clients, and represented them in a wide variety of cases, including small claims, tax, civil suits, name changes, etc.

During her tenure at the clinic, Terry worked closely with the Domestic Violence Project of Legal Aid Services of Oregon. She helped prepare training materials for pro bono lawyers handling

domestic violence cases, and was always responsive when legal aid had cases that could not otherwise be placed.



Mark Peterson

Mark Peterson, now the Executive Director of the Council on Court Procedures, served as a clinical law professor for 28 years. His primary practice was representing low-income tenants facing eviction. He guided students through their representation of clients, from the initial interview through trial, on cases that did not settle. Mark was always a reliable volunteer for LASO, taking many referrals of housing cases. Concerned that clients would go without representation, he often accepted cases when the clinic was not in session, working evenings and weekends because of how quickly landlord/tenant cases move through the system. And even during those times, he often had student volunteers working on cases with him.

Students were often shocked about the deplorable living conditions for some of their clients and families who were living in roach- and rat-infested buildings. He handled cases for clients who had no working plumbing, electricity, heat, insulation or locking doors. When opposing counsel in one case didn't believe the extent of roach infestation in the home and offered to hold the deposition there, Mark and the student agreed. During the deposition,

Continued on page 15

mba|EVENT

MBA, OSCPA & OBA Golf Clinic & Networking Event

Thursday, May 12
5:30 - 7:30 p.m.
RedTail Golf Center, Beaverton

We've reserved the covered upper deck for you to warm up your game. Enjoy unlimited range balls, advice from the pros, complimentary club rental, hosted appetizers and a free raffle. This popular outing brings attorneys, accountants and bankers together in a relaxed setting and is suitable for novice and seasoned golfers alike. Registration is \$20 for MBA members and non-lawyers, \$30 for non-MBA member lawyers (any lawyer actively licensed in Oregon who is not a current MBA member). Sponsorship opportunities are available. Register by May 10.



See insert to register and for more information.

Raising \$20,000 for the Volunteer Lawyers Project

The MBA VLP Golf Committee is working to raise \$20,000 this year for the Volunteer Lawyers Project (VLP) at Legal Aid Services of Oregon. Proceeds from MBA golf events benefit the VLP, which annually provides thousands of hours of pro bono 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 12 – RedTail Golf Clinic & Networking event brings attorneys, CPAs and bankers together to practice their golf swings, network and socialize.

June 14 – Riverside Golf and Country Club, one of Oregon's great classic golf courses, is home to the longest-running MBA golf event.

July 14 – Edgefield Family & Friends is a fun, casual, kid-friendly golf event featuring a short nine-hole course, contests and prizes.

August 15 – Lawyers & Law Students golf event brings lawyers and law students together to meet and foster professional relationships.

September 26 – The MBA 19th Annual Golf Championship to Benefit the Volunteer Lawyers Project will be at Portland Golf Club and offers excellent opportunities for visibility, sponsorship and time spent with clients or colleagues away from the office.

See insert to register. To discuss sponsorship opportunities, contact Pamela Hubbs (pamela@mbabar.org, 503.222.3275).

Tips From the Bench

Big Case Dispute Resolution Reflections on Handling Mega Cases

by Judge Jerome LaBarre
Multnomah County Circuit Court



Recently a CLE program was presented here about how to handle “bet-the-company mega class action” cases. This triggered a flood of memories for me about cases from long ago and from recent times. As I reflected, I started remembering what I have learned - frequently the hard way - about ways a lawyer can be successful in handling them.

Early in my career I got to work on mega cases and I continued handling big cases throughout my law practice. Since I came on the bench in 1999 I have been privileged to be assigned many large, complex cases. Some have been class actions, some large dollar individual cases, and some major injunction suits. As I write this, I am completing work on one. Many of these cases have gone the distance, but I have seen even more of them settle. From these interesting and challenging experiences I have arrived at certain conclusions on what works. Of course every case that settles starts out as a case that needs to be evaluated for trial. Also, to succeed in settlement, the case must be one that you prepare to win at trial.

More Similar than Different

Obviously, big cases have many daunting challenges. But there are a surprising number of similarities to the routine case, particularly at trial. Every case has a beginning, middle and end. The time typically involved picking a jury and in delivering opening statements is usually not that different. The biggest difference is the amount of time it takes to put on evidence. The focal point of every trial is convincing the jury.

All cases are about telling a persuasive story. It's obviously a lot harder to boil down a mega case to an appealing elevator speech. But that same process is involved. In summary, one case might be 100 times bigger than another case. But it is not necessarily 100 times harder to prepare, try and settle. In approaching them, trial attorneys should concentrate on the fundamentals.

It's All About That Handful of Questions on the Verdict Form

Jury verdict forms tend to be short. Those questions on jury verdict spell victory or defeat. The case may have hundreds of thousands of documents, but at the end it will come down to a

small number of mostly “yes” or “no” questions. I have learned from experience that especially in large cases you need an organizing principle. This is one of the great ones - start with the verdict form and work backward. At the outset of the case, start drafting your jury verdict. It also becomes a wonderful tool for settlement negotiations. In the big case at the beginning your opponent may be as confused as you are about how to proceed. By pointing out how you have evidence on most or all of what is needed for your success on the verdict form, it can work wonders in setting the stage for settlement.

It's interesting to reflect on the fact that even cases involving hundreds of millions of dollars can have verdict forms as short as small dollar cases. A recent mega case had a jury verdict that was just two and one half pages long and contained only five questions.

Early Settlement of Big Cases

Everyone would like to settle every case early. But we all know it is not easy. In large dollar cases I have frequently seen deeply entrenched positions and huge barriers to good settlement communications. One approach that can be helpful to start moving things in a good way is to do some visualizing. Put yourself in the other side's position - “walk a mile in their shoes.” Try hard to identify and understand the other side's perspectives, motivations and feelings. Some key questions to ask yourself:

- What do they really want and need out of the case?
- What do they fear?
- From the settlement decision perspective, what will they respond to? What are their pressure points?
- Can something be done like a draft complaint and a settlement demand letter that can really get their attention and open up productive discussions?
- Who is the real decision-maker on the other side, and how can you send a message which will be appealing to that person?

Investment experts boil down the stock market to a battle between greed and fear. In many ways the same thing is true in settling big cases. To successfully negotiate a settlement, an attorney must strike the right balance between them.

Conclusion

I have seen cases which have taken seven weeks to try and others which have been tried in seven hours. The fundamentals and parts of the trial are the same. One should not minimize the challenges of big cases. But by the same token, a trial attorney does not need to be scared away from them.



News from the Courthouse

by *Xiomara Torres Mattson*
Court Liaison Committee

Presiding Court Report New Judges

Judges Bronson James and Leslie Bottomly were recently appointed and have both begun their service on the bench.

New Trial Court Administrator

Former Interim Trial Court Administrator Barbara Marcille is the new TCA, as of March 1.

New Courthouse

Beneficial features of the new courthouse will include attorney-client conference rooms, a large conference room (the overflow jury room) where meetings and trainings can be held, more gender-neutral

restrooms, and four lactation rooms. The DA's office and Public Defense Services Commission appellate lawyers will be housed in the new courthouse. Security screening options are still being discussed for attorneys, court staff, and others who now have expedited access badges for entering the courthouse. There will be an open house to share more information about the new building from 4-6 p.m. on Thursday, April 21, in the downtown jury orientation room.

eCourt

eCourt Open Hours continue to be held on certain Fridays during the noon hour to offer eFiling tips and answer questions. The court's website has details on the dates and topics for eCourt Open Hours.

Washington County Circuit Court went live in the Odyssey system in March, and eFiling will become mandatory in that county on May 31.

UTCR 5.100

When submitting proposed orders and judgments, certificates of readiness are now required. **Beginning May 2, the court will no longer accept filings without the required certificate.**

Supplementary Local Rules

Work is starting on the 2017 Supplementary Local Rules (SLRs). Please email Presiding Judge Nan Waller or Chief Civil Judge Stephen Bushong by the end of April with any suggestions for changes or additions. Changes will be made in May and June and the comment period for the proposed draft 2017 SLRs will begin in July.

Cody Berne 2016 Recipient of Michael E. Haglund Award

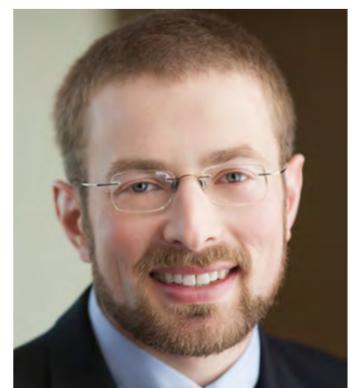
by *Erin White*
Legal Aid Services of Oregon

Cody Berne is the 2016 recipient of the Michael E. Haglund Pro Bono Award. This award goes to a young lawyer who, in the tradition of Mike Haglund, founder of the Volunteer Lawyers Project (VLP), has displayed a special commitment to pro bono services via a VLP or MBA YLS project in the previous year.

Cody grew up in Portland and served as a wildland firefighter and a police officer before attending UC Davis School of Law, where he represented clients as a member of the UC Davis Prison Law Clinic and the UC Davis Civil Rights Clinic. In 2014, he was admitted to the OSB and became an associate at Miller Nash Graham & Dunn, where he practices business litigation with a focus on securities litigation. Cody also began volunteering for the Domestic Violence Project (DVP) with Legal Aid Services of Oregon (LASO) in 2014, where he has volunteered 116 pro bono hours. Additionally, Cody has served on Miller Nash

Graham & Dunn's pro bono committee, where he and his colleagues encourage participation in ongoing pro bono projects and look for new ways to get involved. For example, recently the firm teamed with LASO to establish a new Virtual Legal Aid Clinic to provide quarterly videoconference consultations to low-income clients living in central Oregon.

Maya Crawford, Statewide Pro Bono Manager with LASO, has worked with Cody through the DVP and says of him, “Cody is a thoughtful and diligent advocate. He jumped right into volunteering with the DVP and has not shied away from tough cases. We appreciate his dedication to serving domestic violence survivors.” When asked why he chose to volunteer with the DVP clinic, Cody says that while a lot of experience practicing law might have a long term impact, “DVP has an immediate impact for people who may not otherwise have assistance.” What he enjoys



Cody Berne

most is the immediate impact and “the opportunity to serve, meet with a client, and try to solve a problem. It's really a great feeling to go into court and know you can add insight and value and help them keep this piece of paper that can help keep them safe.” Cody also highlights the professional benefits of serving in the DVP clinic, where he can use skills learned in law school and have the opportunity to meet judges and gain courtroom experience, something a lot of newer associates don't get to do. He encourages others to participate, saying the DVP clinic is “a great opportunity to gain court experience, especially for young lawyers.”

Cody embodies the spirit of the Mike Haglund award through

Continued on page 11

MBA Board Officers for 2016-17

The following MBA officers begin their terms on June 1

Eric Dahlin of Davis Wright Tremaine LLP will be the next MBA President. Eric has a long history of service with the MBA; he currently serves as the MBA Board Secretary and also chairs the MBA Courthouse/Court Funding Committee. Eric also chaired the MBA Court Liaison Committee for two terms, is a former member of the Equality & Diversity Committee and served on and chaired the Professionalism Committee.



In addition to his MBA volunteer activities, Eric also serves in a pro bono capacity as general counsel to the Boys & Girls Clubs of the Portland Metropolitan Area and is on the Operation Nightwatch Board of Directors. Eric has also served as a volunteer pro tem judge in Multnomah County since 2007.

He is also on the OSB Litigation Section Executive Committee, is a delegate to the OSB House of Delegates, serves on the Owen M. Panner Inn of Court, and is a member of Oregon Women Lawyers, Oregon Minority Lawyers Association, Oregon Asian Pacific American Bar Association, Oregon Hispanic Bar Association, OGALLA: The LGBT Association, and the Oregon Chapter of the National Bar Association.

Andrew Schpak of Barran Liebman LLP, will serve as Treasurer. Andrew is currently on the MBA Board Finance & Operations Committee. He has served as a board liaison to the MBA Judicial Screening and Membership Committees and as the MBA Delegate to the ABA House of Delegates. He chaired the former MBA Fun Committee and previously served as the MBA YLS President after participating on and chairing several YLS committees.



In addition to his many MBA activities, Andrew served as Chair and Secretary-Treasurer of the ABA Young Lawyers Division and is a current member of the ABA Standing Committee on Meetings and Travel and the American Bar Foundation Board of Directors. He also is a Life Fellow of the America Bar Foundation and an LP Fellow of the ABA Law Practice Division. He is extensively involved with the OSB and has served in various capacities with the Campaign for Equal Justice.

Andrew's community volunteer activities include serving on and leading the board of the NW EEO/Affirmative Action Association and the Hollywood Theatre Board of Directors.

Thomas Sand, of Miller Nash Graham & Dunn LLP, will serve as Secretary. He has served as the board liaison to the Professionalism and VLP Golf committees. In addition to his service on the MBA Board, Tom has served as President of the Multnomah Bar Foundation (MBF), after chairing the MBF Development Committee, and serving on the MBF Grants and Finance committees. Tom is also a past Chair of the MBA Managing Partners Roundtable.



Tom also serves on the Portland Golf Club Board. He is involved with the Children's Cancer Association.

Cody Berne

Continued from page 10

his ongoing commitment to pro bono service with the DVP clinic, service on the Miller Nash Graham & Dunn pro bono committee, and his encouragement of others to get involved. Elisa J. Dozono, partner and chair of the firm's pro bono committee says, "As a former police officer, Cody has justice in his heart. The LASO DVP gives him the opportunity to put to use his compassion for

victims, with his drive to build his skills as a trial lawyer. The result is a win-win for his clients who could not otherwise obtain justice, and Miller Nash Graham & Dunn which is proud to have lawyers so dedicated to their profession." To those considering volunteering Cody says, "Just do it! There are resources there to help you. LASO has been extremely helpful for questions, and there are already resources to guide lawyers through the process. Then go represent a client and try a case."

The Trauma-Informed Courthouse

by Joseph L. Franco
Court Liaison Committee



What is a "Trauma-Informed" Approach?

It should come as no surprise to those who work in the legal system that many litigants have experienced significant trauma in their lives. A "trauma-informed" approach recognizes that past trauma may have lasting effects that, if recognized and successfully addressed, can produce better outcomes for litigants and the justice system. Trauma is an experience that "creates a sense of fear, helplessness, or horror, and overwhelms a person's resources for coping."¹ Traumatic stress "can be devastating and long-lasting, interfering with a person's sense of safety, ability to self-regulate, sense of self, perception of control and self-efficacy, and interpersonal relationships."²

Trauma-informed care is a "form of evidence-based interventions and service delivery, implemented by multiple service providers, that identifies, assesses and heals people injured by, or exposed to, violence and other traumatic events."³ To be sure, the trauma-informed concept does not mean excusing or permitting unacceptable behavior from those who have been traumatized. Nor does it mean simply being "nicer" to those we encounter. Instead, it is an approach that takes the fact of trauma into account by avoiding predictable triggers to trauma reactions, adjusting the behavior of attorneys and court staff to support the individual's coping capacity and empowering trauma survivors to manage their own symptoms successfully.⁴ A trauma-informed approach recognizes that every interaction a trauma survivor has with the court system can reactivate trauma memories, add to previously experienced trauma, or provide a sense of safety and enhance emotional regulation.⁵

The Move to Apply Trauma-Informed Care Concepts to the Courthouse

Juvenile and family courts were among the first to expressly apply "trauma-informed" concepts to the judicial system. This was almost certainly in recognition of the fact that childhood trauma is closely associated with a risk of delinquency.

A variety of organizations such as the Substance Abuse and Mental Health Services Administration and the National Child Traumatic Stress Network have either created or funded materials designed to help judges become trauma-informed.⁷ Of course, trauma-informed concepts can and should be applied not just to the juvenile and family court systems, but to the entire civil and criminal court system, since many of the litigants and witnesses in cases before those courts will have been exposed to significant trauma as children or adults.

Trauma-informed approaches in the courthouse may include things such as: explaining what will take place in a hearing before it commences, providing information in the litigant's native language, providing time for the litigant to ask questions about the judicial process and to obtain meaningful answers, and explaining where things stand and anticipated next steps at the end of a court proceeding.⁸

Multnomah County Circuit Court's "Trauma-Informed" Initiatives

As part of its larger procedural justice initiative, the Multnomah County Circuit Court is at the forefront of incorporating trauma-informed concepts into its provision of service to the public. Over the last several years the court has held trainings regarding trauma-informed care in an effort to expose judges and court staff to the concept, and provide strategies for its implementation. Some of these materials may be found at <http://courts.oregon.gov/OJD/OSCA/cpsd/courtimprovement/jcip/2015EyesConfMCS/WebEyes/APresentationSlides.pdf>,⁶ and provide strategies for its implementation. Some of these materials may be found at <http://courts.oregon.gov/OJD/OSCA/cpsd/courtimprovement/jcip/Pages/Trauma-Informed-Care.aspx>. The court is also sponsoring a trauma-informed training for family law practitioners on June 16, "Finding Their Voice: Trauma Informed Approach to Witness Preparation."⁷

In addition to the provision of training, the court has made efforts to assess the level of service it is currently providing to the public as part of an ongoing effort to improve the experience of litigants and other members of the public interfacing with the courthouse. The survey covered a number of topics that, if answered in the affirmative, would be fully consistent with a trauma-informed courthouse. For example:

Do you agree with the following statements?	Strongly Agree	Agree	Disagree	Strongly Disagree	No Opinion
The people who work in the courthouse were respectful to me.					
Court staff explained things to me in ways I could understand.					
When I left, I understood what the next steps in my case were.					
I felt safe while in the courthouse.					

The survey was funded through a grant from the U.S. Department of Justice, Office on Violence Against Women. The USDOJ selected the Multnomah County Circuit Court as one of only four courts nationally to participate in the Family Court Enhancement Project.⁹ The survey results have been tabulated and are being used in the court's ongoing effort to improve its service delivery to the public.

The court also volunteered to be reviewed by a multi-disciplinary team from the New York-based Center for Court Innovation.¹⁰ The on-site review took place in January of this year and included interviews of court management, staff and litigants. The court anticipates that the feedback it ultimately receives from the Center for Court Innovation will assist the court in the implementation of additional trauma-informed approaches to service delivery.

¹ Elizabeth K. Hopper, Ellen L. Bassuk, and Jeffrey Olivet, *Shelter from the Storm: Trauma-Informed Care in Homelessness Services Settings*, *The Open Health Services and Policy Journal*, 131 (2009).

² *Id.*

³ U.S. DEPARTMENT OF JUSTICE, REPORT OF THE ATTORNEY GENERAL'S NATIONAL TASK FORCE ON CHILDREN EXPOSED TO VIOLENCE, DEFENDING CHILDHOOD: PROTECT, HEAL, THRIVE, 210 (2012).

⁴ Diane Yatchmenoff, PhD, *Intro to Trauma Informed Care*, <http://traumainformedoregon.org/wp-content/uploads/2014/10/Intro-to-Trauma-Informed-Care.pdf>.

⁵ Elaine Walters, *Children in Court: A Trauma-Informed Perspective*, <http://courts.oregon.gov/OJD/docs/OSCA/cpsd/courtimprovement/jcip/2015EyesConfMCS/WebEyes/APresentationSlides.pdf>.

⁶ National Council of Juvenile and Family Court Judges, *Ten Things Every Juvenile Court Judge Should Know About Trauma and Delinquency*, <http://courts.oregon.gov/OJD/docs/OSCA/cpsd/courtimprovement/jcip/2015EyesConfMCS/WebEyes/A.TraumaBulletin.pdf>, 2

⁷ See *NCTSN Bench Card for the Trauma Informed Judge* http://courts.oregon.gov/OJD/docs/OSCA/cpsd/courtimprovement/jcip/2015EyesConfMCS/WebEyes/A.JudgeBenchCards_final.pdf

⁸ Walters, *supra* note 5, p. 20-22.

⁹ See <https://www.justice.gov/opa/pr/justice-department-selects-four-courts-identify-promising-practices-custody-and-visitation>

¹⁰ For more information regarding the Center for Court Innovation, see <http://www.courtinnovation.org/>

Ask the Expert Young Lawyers Section

Ask the Expert

Dear Experienced Attorney,
I'm considering taking referrals from a referral service or firm based outside of Oregon. Any advice or pitfalls I should be aware of?

Young Lawyer Looking to Increase Clients

Dear YLLTIC,
Referral services or firms based outside of Oregon can be a source of local clients. But remember, an out-of-state referral service or firm is not going to be familiar with the Oregon Rules of Professional Conduct (ORPC). You have a responsibility to be sure that your practice conforms to the ORPCs. Meeting that duty may require you to modify some of the terms of your relationship with an out-of-state referral service or firm. Some examples of issues where you should apply the ORPCs to your relationship with an out-of-state service or firm include, but are by no means limited to, the following:

- Unlawful Practice of Law.** Beware of out-of-state referral services and firms with business strategies that sell something to clients in addition to legal services (i.e. - life insurance products or debt negotiation skills). Lawyers are responsible for providing legal services, but they may have little or no contact with the business or sales side of the service or firm. In this case, a lawyer could risk associating or assisting with the unlawful practice of law.
- Unlawful Fee Splitting.** When you discuss how your time and services will be compensated with an out-of-state referral service or firm, it is a good idea to take the discussion further and discuss how client funds are handled. You should be inquisitive and ask questions regarding how client funds are collected and whether fees not related to legal services are being collected from clients. Remember, ORPC 5.4 prohibits a lawyer or a law firm from sharing legal fees with non-lawyers except in specific circumstances. Also, consider whether or not you are going to be responsible for collecting fees from clients and depositing them into your Oregon client trust account.

- Competence, Diligence and Communication.** As you know, the ORPCs demand that a lawyer provide competent representation to a client, which requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation (see ORPC 1.1). The ORPCs also require that the lawyer be diligent and communicate with the client in order to keep the client reasonably informed and to explain a matter to the extent reasonably necessary to permit the client to make informed decisions (see ORPC 1.3 and ORPC 1.4).

When dealing with an out-of-state referral service or firm beware of any reliance on third parties to communicate with clients. If a client is assigned to a non-lawyer contact to gather information and provide updates regarding the status of a matter, a lawyer may risk compliance with the competence, diligence and communication rules.

- Stick with What You Know.** Be sure to clarify the scope of your role as counsel with an out-of-state referral service or firm and stay within the areas of practice where you are comfortable. If you have experience and knowledge regarding criminal matters, then be sure an out-of-state referral service or firm does not expect you to serve as counsel in civil matters. Accepting engagement in a matter that requires legal knowledge you do not possess may end poorly for you and the client.

Accepting referrals from an out-of-state service or firm can be a source of new business, but lawyers should approach such agreements with caution. Setting ground rules early in the relationship that focus on compliance with the Oregon Rules of Professional Conduct may prevent misunderstandings and problems later. Remember, YLLTIC, the OSB and PLF provide several resources to assist you in navigating relationships with in-state and out-of-state referral services and firms. Good luck!

Riley Makin Pro Bono Spotlight

by Rebecca Morgan
YLS Pro Bono Committee



Riley Makin

Riley Makin grew up on a family-owned ranch in Joseph, Oregon, near the state's northeastern border. When he graduated from law school in 2012, he didn't intend to start a solo law practice, but graduating into the high unemployment rates of the Great Recession required him to reexamine his plan. With guidance from an attorney mentor and the self-sufficiency modeled in his rural hometown, he started his own legal practice shortly after joining the bar.

Riley began his practice in Portland doing real estate, business transactions and estate planning, but found that prospective clients from his hometown were interested in his services. Many rural locales struggle to recruit new lawyers to practice in their area, and Joseph, Oregon is no exception. As clients from the community contacted Riley for legal assistance, he came to recognize the need for rural law practice and expanded his business by establishing a satellite office in his hometown.

He also developed a robust pro bono practice. He began volunteering his time with Legal Aid Services of Oregon's Domestic Violence Project (DVP), but quickly found that the practice area did not suit him. "Contested restraining orders are fairly adversarial. I'm more geared up to work with people without necessarily being litigious. I like to help everyone at the same time." Legal Aid's Volunteer Lawyer Project was able to accommodate Riley's desire for a less adversarial pro bono practice and he started volunteering with the Senior Law Project in 2014. "A lot of times in senior law, there is not a clear enemy - just clear problems. I enjoy doing that work a lot more."

Riley has since committed an incredible amount of time to his pro bono practice and to the Senior Law Project. He meets with pro bono clients at a clinic coordinated by the Senior Law Project four times per month. In less than two years, he has consulted with over 140 seniors to provide assistance which he says sometimes goes beyond strictly legal advice. He sees many seniors who have significant credit issues and don't have a clear legal remedy available to them. Rather than turn these seniors away, Riley provides information and advice to help them understand practical legal and non-legal options for rebuilding their credit.

His pro bono work has also contributed to the success of his private practice. As a newer attorney, it exposed him to a wide range of issues that he was not

familiar with before volunteering with the clinic. "People come in with issues that I've never had. Sometimes the real trick is just telling them, 'I care what you are saying, I am listening to you, but I don't know as I sit here what the answer is.' It can be hard for people to hear 'I don't know' after going through the process to get into the clinic, but I'll talk to my mentors, I'll do research, and I'll come back and keep working with them if I think I can help." By developing his skills through pro bono practice, he is able to offer his privately retained clients a wider range of services and a deeper expertise.

Riley finds that pro bono work has also impacted his business development. "It's not all altruistic. I get the opportunity to meet new people, learn new issues, and get new business. I may work for free initially, but it's a good marketing tool." Because participation in the Senior Law Project is not limited to low-income seniors, some of his pro bono clients become paying clients after the clinic is over. Others refer family and friends, or return to him in his private practice with other legal issues in the future.

Ultimately, the extent of his private and pro bono practices reflects a work ethic that is at the heart of most small businesses, including family ranches and law offices alike: "The hardest thing that I had to learn [as a new solo practitioner] was just to go do work. It doesn't matter what kind - there is no magic to doing pro bono work. It's just putting in your time. And I've never had a day where I've said, 'Man, I wish I hadn't showed up.' I'd rather be out there helping someone than twiddling my thumbs."

Children's Museum Event Recap

by Chris Fender
YLS Membership Committee

On February 27, a number of YLS families enjoyed a private evening at the Portland Children's Museum to celebrate the MBA YLS Membership Committee 2016 Family Night. Sponsors Miller Nash Graham & Dunn, Barran Liebman, and Harris & Bowker generously supported the event, which included sandwiches and Gummy Worms for children, as well as full access to the museum activities and exhibits. Special thanks to Membership Committee members Evan Novotny, Yazmin Wadia, and Beth Plass for their work and commitment in organizing the event. We're looking forward to an even bigger turnout in 2017.



Yazmin Wadia, Evan Novotny, and Beth Plass



Kevin Parks and Zora, age 6

YLS Board Officers for 2016-17

The following YLS officers begin their terms on July 1



Mary Tollefson

YLS President-Elect is **Mary Tollefson**, of Kramer & Associates, where she practices in the area of family law. She presently holds the YLS Board position of Secretary, and is also a member of the MBF CourtCare Campaign Committee.

Mary graduated from Willamette University and was admitted to practice in Oregon in 2007. She first became involved with the YLS when she joined the YOUthFILM Project Committee in 2011. Mary then became a member of the YLS Service to the Public Committee in 2012, and later served as chair. She was elected to the YLS Board in 2014, and has since performed in the role of board liaison to the YLS Pro Bono and YLS Membership Committees.

Mary is an OSB mentor, has volunteered with the MBA

Imprint Program and acted as a volunteer judge for College Mock Trial Competition.



Holly Hayman

YLS Treasurer is **Holly Hayman**, of Leonard Law Group, who practices in commercial bankruptcy and business law. Holly presently serves as the YLS Board Liaison to the YLS CLE Committee.

Holly graduated from the U of O School of Law and was admitted to the OSB in 2011. She joined the YLS Membership Committee in 2011, and later served as chair of that committee. She joined the YLS Board in 2015. Holly volunteers her time with the Legal Aid Services of Oregon Bankruptcy Clinic, and serves on the Campaign for Equal Justice Associates Committee. She is a member of the OSB Debtor-

Creditor Section as well as Oregon Women Lawyers.



Shayda Le

YLS Secretary is **Shayda Zaerpoor Le**, of Barran Liebman LLP, where she practices in the area of management-side employment law advice and litigation. She is currently the YLS Board Delegate to the American Bar Association and also the liaison to the YLS Service to the Public Committee.

Shayda joined the YLS Membership Committee in 2013, served as chair of the YLS Entrepreneur Committee, and volunteered with the YLS Wills for Heroes program. She was elected to the YLS Board in 2015. Shayda is also active with the Campaign for Equal Justice Associates Committee, the Andisheh Center Board of Directors, the Women in Insurance and Financial Services Programs Committee, and is a member of the Iranian American Professional Society of Oregon

Shayda graduated from Boston University School of Law and is admitted to the bar in Oregon and Massachusetts.

YLS Service to the Public Committee Hosts Community Law Week

Community Law Week provides legal education, access, and assistance to the public through a series of interactive events held around the American Bar Association (ABA) Law Day, which falls each year on May 1. This year's theme is "Miranda: More Than Words," and will celebrate the 50th anniversary of the landmark Supreme Court case *Miranda v. Arizona*. Community Law Week will be held April 25-May 1, and will provide ample opportunities for community engagement and attorney participation.

The YOUthFILM Project

The YOUthFILM Project is an exciting and one-of-a-kind filmmaking contest that provides students with an opportunity to express themselves creatively while learning about the justice system and importance of civic participation. Participants produce and submit short films

or videos focused on the theme of Community Law Week. This year's films will consider *Miranda*-related issues such as the privilege against self-incrimination, individual rights, knowledge of laws, and the right to assistance of counsel. The YLS

Service to the Public Committee will accept films through April 13, so it is not too late for interested teachers and students to submit a film.

Top films will be screened for the public on May 4 at the Hollywood Theatre in Northeast Portland (4122 NE Sandy Blvd.). This event is a fantastic opportunity for students to see their films on the "big screen" and meet influential Oregon justices, judges, and attorneys.



Justice Landau with some of the 2015 YOUthFILM Project award-winning filmmakers

YLS ENTREPRENEUR ACADEMY

The YLS Entrepreneur Committee presents this four-part weekly series as an introduction to the business aspects of opening a solo or small law office in Portland. Each two-hour session features panelists who will lead participants through the different stages of establishing a solo or small practice.

Session One: Getting Started Monday, April 18, 2-4 p.m.

Practice area and entity selection; pros and cons of partnering; developing a business plan; working with a shoestring budget; accounting and taxes; building an office for less.
Presented by C.J. Graves, Law Office of Christopher J Graves and Erika Huebschman, Yanchar Huebschman LLC

Session Two: Marketing Monday, April 25, 2-4 p.m.

Marketing on the cheap and how to get the most from professional associations.
Presented by Cole Enabnit, NW Immigration & Criminal Defense and Raife Neuman, Intelekia Law Group LLC

Session Three: Clients Monday, May 2, 2-4 p.m.

Preparing for, meeting and interacting with clients, and the ethical rules to consider.
Presented by Sean Currie, Law Office of Sean C Currie, Ed Lohman, Lohman & Lohman PC, David Nepom, Attorney at Law and Charles Weber, Harris Law Firm PC

Session Four: The Practice of Law Monday, May 9, 2-4 p.m.

Legal research, local court hacks, courtroom best practices and eFiling.
Presented by Miranda Summer and Gloria Trainor, Summer Trainor PC

Cost to participate in the four-part academy is \$25. **Due to the nature of the program, enrollment will be limited - those interested are encouraged to register at their earliest convenience. The academy will be at the MBA.** Participants must be current members of the MBA Young Lawyers Section. Scholarship waivers are available.

Visit www.mbar.org to register. Contact Ryan Mosier at ryan@mbar.org or 503.222.3275 with any questions.

Tell It to the Judge

Tell It to the Judge is a forum for community members to speak directly with local judges about their questions, concerns, and opinions on the justice system. Volunteers facilitate public interaction with the judges. Tell It to the Judge will be held on April 30, from 1-3 p.m. at the North Portland Library (512 N. Killingsworth St.). YLS Members interested in volunteering to help with Tell It to the Judge and the free legal information booth can contact Shannon West at shannon@mbar.org to sign up.

Free Legal Information Booth

The YLS Service to the Public Committee will also be running a free legal information booth at the Tell It to the Judge event. The information booth will help community members identify and connect with needed legal resources. Volunteers will provide general legal information and disseminate brochures containing legal resources.

For more information about Community Law Week, please contact YLS Service to the Public Committee Chair Kirsten Rush, krush@busseandhunt.com.

Spotlight: Elders in Action MBF Grant Recipient

by Bonnie Richardson
MBF Board President



The best thing about serving on the MBF Board is getting the opportunity to meet and help our local programs that make our county and surrounding areas one of the best places to live and work. Last year, part of your donations to the MBF supported the Elders in Action Civic Involvement Training Series. Fellow MBF Board member Susan Marmaduke and I had the pleasure of visiting the offices of Elders in Action and sitting down with the executive director to learn a little more about their excellent programs.

Elders in Action is a small nonprofit organization which advocates for older adults and provides ways for them to become more engaged with the Portland metro community and local businesses. As our population grows, so does the number of our elderly folks who need assistance with affordable housing, protection from elder fraud and access to local government to advocate for their needs. Last year, Elders in Action held two successful advocacy training series with the MBF grant funds. One program provided general training for elders on how to access local government. The other program focused on advocating for more affordable housing.

I'm really looking forward to the implementation this year of a five-session training series called "Elders and the Legal System," which is also partially funded by a grant from the MBF. Participants will include people from a range of ages, incomes, and backgrounds, who are elders,

work with elders, or have elders in their lives. These sessions, which include guest speakers, open group discussions, and hands-on activities, are designed to educate adults over 60 and encourage their participation in civic life. The MBF funds are specifically targeted to enhance civic participation such as voting, testifying at hearings, and writing letters to elected officials. They are also designed to help elders engage at the community level in neighborhood associations, advisory groups and political volunteering. Other session topics include elder fraud prevention, guardian and conservator programs for older adults and low cost legal services available to older adults.

I was so impressed with the work that this local nonprofit is doing, and has been doing for over 40 years. It's these small but significant organizations that make a big difference in the quality of our community.

If you'd like to volunteer for this organization and make a difference in the lives of older adults, check out www.EldersInAction.org.



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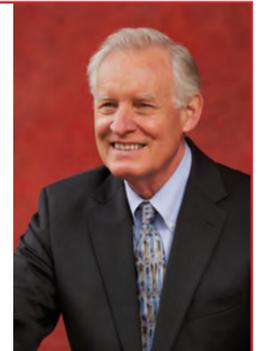
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The Corner Office PROFESSIONALISM

The second professionalism principle in the Commitment to Professionalism statement provides guidance on how we as lawyers should conduct ourselves in dealings with people of different genders, races, and other distinguishing personal characteristics. The principle reads as follows: "We will treat all persons with courtesy, fairness and respect, **without regard to any distinguishing personal characteristic** such as gender, race, ethnicity, disability, sexual orientation, gender identity or expression, social or economic status, military status, age, national origin, or religion." (Emphasis added.)

The emphasized portion of the rule seems to call for us to simply ignore the differences among us and act as though they don't exist. Certainly, that is not an ignoble goal, but how are we to actually apply this guiding principle in the real world?

Two current events have shed some light on one potential real-world application.

Recently, the Oscars came under fire for the awards' lack of African American nominees. Of course, others argued that the lack of nominations for African Americans was not the result of racism, but chance, and that all movies, directors, actors, actresses, sound engineers, etc. were treated equally with race ignored.

Senator Bernie Sanders, the older, whiter, maler Democratic presidential candidate has been battling Hillary Clinton on debate

stages for months. Recently, he too has come under fire for being insensitive. The criticism directed at Senator Sanders can be paraphrased as "he sometimes acts as though what he has to say is more important than what Secretary Clinton has to say, and demeans her through interruptions and hand gestures because she is a woman." Of course, those who disagree argue that Senator Sanders acts like that with everybody!

If the counter arguments set forth above with respect to both situations are accepted - that the Oscars simply ignored race and Senator Sanders simply ignores the fact that Secretary Clinton is a woman - then the above principle was perhaps followed in each case. Nonetheless, in each case severe backlash and calls of racism and sexism persisted.

Is there then a better application of this principle than to simply ignore differences? We are all familiar with the most common Western affirmation of the Golden Rule: "Do unto others as you would have them do unto you." Philosophers (including Immanuel Kant and Bernard Shaw among others) have criticized this formulation of the Golden Rule because different people have different tastes, treating others as you would want to be treated without regard for differing tastes may not be appreciated. This criticism embodies the issues with applying the above principle as the plain text may suggest.

A dominant response to the above criticism of the Golden Rule is that there are two distinct ways of applying the Rule: (1) requiring that you perform specific actions that you want others to do to you, or (2) requiring that you guide your behavior in the same general manner that you want others to, taking into account potential differences in tastes. The second formulation circumvents the criticisms set forth above, and is perhaps the formulation of this professionalism principle the Oscars and Senator Sanders should have employed. More to the point, to avoid unpleasant backlash in our own professional dealings, perhaps we as lawyers should adopt this formulation of the principle as opposed to using a classic "ignore" approach.

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 your question. Questions may be submitted anonymously.

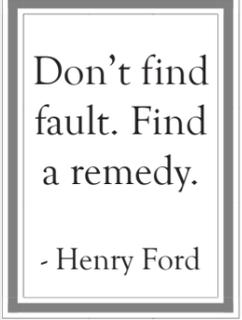
Legal Clinicians

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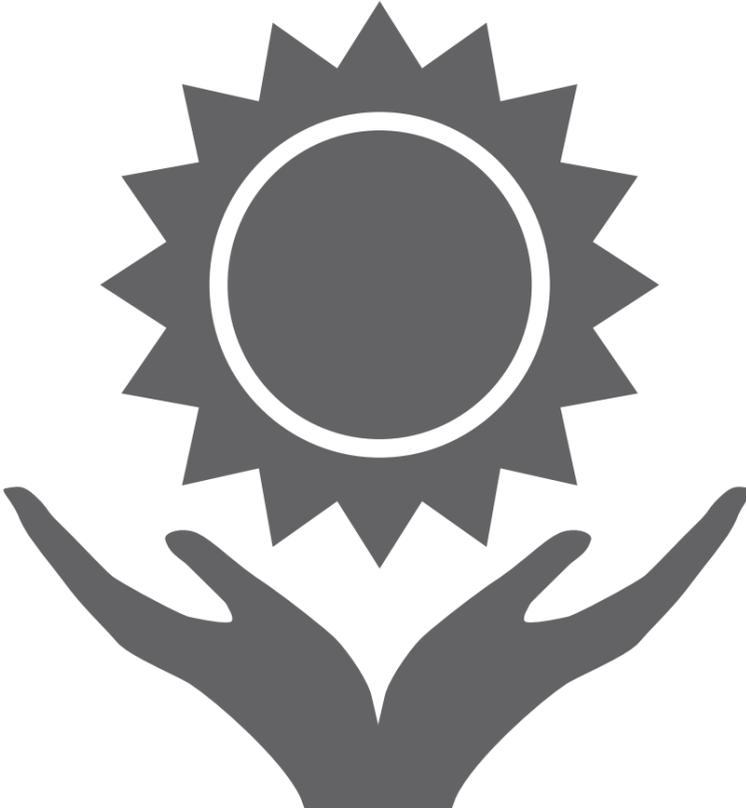
the student frequently flicked away roaches from her own and from opposing counsel's jacket.

Mark is known for being good-natured and for his keen sense of humor. He, too, enjoyed watching students spring into action. He believes that the fast-moving housing matters were ideal for law students, who could see an entire civil process in just a few weeks. He occasionally sees former students when he's in the courthouse now, and he finds it gratifying to know that he and his colleagues helped them on their path.

Sandra Hansberger, Executive Director of the Campaign for Equal Justice, and a former colleague at the clinic, voices well the regard in which these three clinical professors are held by their peers: "[They] have set an example for our legal community in their dedication to providing pro bono services to those clients who are unable to afford them. While the sheer volume and quality of their work is impressive, it is important to note that all three view handling pro bono work as part of our professional responsibility as lawyers."

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The ideal candidate will have the following qualifications:

- Admitted to practice in Oregon.
- 3 years of experience practicing in the area of insurance law.
- Exceptional legal research and writing skills.
- Eager to assume responsibility.

Qualified applicants should submit a cover letter, resume, law school transcript and a writing sample to Jill Valentine, Attorney Services Administrator at Jill. Valentine@bullivant.com.

No outside recruiters please.

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To apply, please submit a cover letter, resume, and law school transcript (unofficial is acceptable) by email to Michelle Baird-Johnson, Director of Recruiting and

Professional Development, at MNRrecruiting@millernash.com. For recordkeeping, please include the ad source in the subject line of your email (e.g., WSBA ad, firm website, etc.).

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Is actively seeking an associate attorney with demonstrated litigation experience. The position will support and collaborate with an accomplished team of litigators focused on construction defect litigation. Key requirements are at least three years of stable and progressively responsible litigation experience, including case management skills and work with experts. Strong academic credentials and excellent writing skills are necessary, as are exceptional communication, time management and interpersonal skills. Construction litigation experience is preferred. Membership in the Oregon Bar is required and membership in the Washington Bar is strongly preferred but not mandatory. The firm provides its associates with a collaborative office environment, generous compensation and an attractive benefits package.

Candidates who meet the requirements for this position are encouraged to email a confidential resume and cover letter to hkelly@barkermartin.com for immediate consideration.

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Ian Simpson Senior Law Project Volunteer of the Year Award Recipient

by Jill Mallery
Legal Aid Services of Oregon

This year's Senior Law Project (SLP) Volunteer of the Year recipient is an attorney who is known for being kind, trustworthy and respectful. Ian Simpson embodies the true spirit of a pro bono attorney who just wants to help others. This award is given annually to someone who volunteers for Legal Aid Services of Oregon's SLP.

Ian was born in Los Angeles and graduated from UCLA with a Bachelor of Arts in History. He received his law degree from Willamette University and a Master of Urban and Regional Planning degree from Portland State University. Ian is self-employed and currently works as an independent contractor with Sanger Law P.C. in Portland. He practices estate, energy and public utility law, and land use law. Ian has volunteered with 1000 Friends of Oregon, a land use advocacy organization.

Soon after Ian's admission to the OSB in 2001, he began volunteering for the SLP. Since 2011, Ian has provided legal assistance to 140 clients through the program. In 2015, he spent 50 hours helping seniors

with their legal issues. He volunteers monthly at Impact NW Southeast PDX and takes direct referrals from Legal Aid Services of Oregon. When asked about Ian, an information and assistance specialist from the community center said "Ian is great, he is always willing to listen and help in any way that he can. The clients leave feeling respected and good about the help they received."

When asked why he does pro bono work for the SLP, Ian responded that he finds the work rewarding. He also believes the elderly are a high risk group for being taken advantage of. When Ian first began volunteering with the SLP, he was surprised how little money many elderly people live on. Ian explains, "My clients are grateful for the work I provide, many elderly people have limited resources and cannot hire an attorney." The harsh reality is that, without SLP volunteers such as Ian, many seniors would go without legal help.

Through his pro bono work with SLP, Ian has worked with a wide variety of elderly clients. Ian says, "The experience has helped



Ian Simpson

me expand my ability to interact positively and productively with different clients." He also believes working with sometimes-challenging clients has taught him more patience.

Ian provides consistent and high quality service to clients at our senior centers in Multnomah County. Ian volunteers to provide extended services to seniors and travels to their homes when they are not able to make it to a clinic. Legal Aid Services of Oregon has received positive feedback about the help Ian provides. Ian's clients feel comfortable working with him and appreciate his assistance. Ian enjoys assisting the senior population and feels "grateful to work with this segment of society and provide them with what skills and knowledge I have learned along the way." We greatly appreciate Ian's dedication to seniors in our community.

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Pro Bono Volunteers

Thanks to the following lawyers and law students who donated their pro bono services recently via the Volunteer Lawyers Project, the Senior Law Project, 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 and click on "About Us" and "Pro Bono."

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Ethics Focus

Continued from page 7

of a felony or other "serious crime," in turn, are required to report their convictions within 14 days under LCR 83.5(b) (2) and "will be immediately suspended[.]" The Idaho rule then addresses local procedures for both the imposition of reciprocal discipline and possible reinstatement.

Federal Appellate Courts

Circuit Rule 46-2(c) requires lawyers admitted to practice in the Ninth Circuit to provide the clerk of the court with a copy of any order or similar notice that the lawyer has been suspended, disbarred or resigned in lieu of discipline. Circuit Rule 46-2(d)-(h) then goes on to outline procedures for reciprocal discipline and potential reinstatement. Similar provisions are included in the local rules of the other federal circuits and Federal Rule of Appellate Procedure 46(b)(1)(A) notes that a member of any federal appellate court bar is "subject to suspension or disbarment by the court if the member ... has been suspended or disbarred from practice in any other court[.]" U.S. Supreme Court Rule 8(1) echoes the FRAP provision by presumptively disbaring any member of its bar who has been suspended or disbarred by any other court subject to further proceedings, if timely sought by the lawyer concerned.

Summing Up

There are two practical reasons for lawyers to be equally attentive to federal court reciprocal discipline notification requirements. First, if a lawyer does not comply with the federal court's rules, the lawyer will be subject to further discipline in that court. Second, as the District of Oregon notes in a "practice tip" following its rule, timely reporting enhances the possibility of having the respective state and federal periods of suspension overlap and, therefore, the overall effect will be less disruptive on the lawyer's practice.

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Building Your Law Practice Through Nonprofit Board Service

by Robert Nunn
Solo/Small Firm Committee



On Wednesday, April 27, Kay Abramowitz and Wendy Usher will lead a discussion on serving as a nonprofit board member. The workshop will be held at the World Trade Center, Mezzanine Room, 26 SW Salmon St., Portland, beginning at noon.

The biggest client of my career was referred by a board member at the American Cancer Society (ACS). Both of us were drawn to volunteer service with ACS because of personal or family experiences with cancer. He was retiring from a solo law practice; I was building my client base. I hadn't volunteered with ACS to develop business, but I hoped that might be a pleasant side benefit. Both of us were passionate about the cause and dedicated to the organization. That common interest led to a client that

provided a steady stream of high quality corporate and transaction work for decades.

My experiences at ACS enriched my understanding of both nonprofit and healthcare businesses. My social circle expanded, and with that came clients and referrals. I became acquainted with many people from the medical community I otherwise would not have met. And some became clients.

Serving on that board made me a better lawyer. I learned valuable skills that were complementary to my legal training and useful in my small business law practice: organizational development and governance, budgeting, delegation, fundraising, managing meetings, and public speaking. I learned to chair committees and meetings, and to build consensus. I eventually became president of the organization and gained the perspective of a leader of a significant organization.

Personal, one-on-one networking seems old-school in today's era of social media, but it's still one of the best business development tools for building your practice. And one of the best ways to build your personal network and skill set is through

serving on the board of a nonprofit organization.

Business development is, in part, a numbers game. The more people you know, the more likely one of them will hire you or recommend you. Serving on a nonprofit board is a great way to get acquainted with people with similar interests and also gives you a platform to demonstrate your talents.

Kay Abramowitz is a partner at Miller Nash Graham & Dunn LLP. In her many years as a solo practitioner before moving to a firm, Kay used nonprofit board service to help raise her profile in the community and develop business for her estate planning practice. Wendy Usher has served as the Regional Development Director, Portland Metro for The Oregon

Community Foundation for the past 11 years. She will share insights on how to identify opportunities for service and questions to ask before joining a nonprofit board.

To register for the April 27 workshop, visit www.mbabar.org or see p. 2.

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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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MBA Lawyer Ride Turns 25 this Year

by Ray Thomas & Jim Coon
Swanson Thomas Coon & Newton

It was summer 1991 when MBA members Jim Coon and Ray Thomas began riding Portland's West Hills together for exercise and competitive fun. One day Ray talked Jim into wearing his heart rate monitor and watched the screen read out on NW 53d Drive, one of Portland's steepest hill climbs. To his surprise Jim was turning out a steady 207 beats per minute heart rate, which was so far over his own redline that he was greatly impressed by his friend's heedless commitment and competitive spirit. The two selected a couple of favorite routes to ride together and then started a Monday and Thursday noontime schedule, rain or shine. Word got around about the ride, and soon Portland's Pioneer Square was chosen as the gathering and starting place. In May, 1993 Ray sent an announcement about the ride for inclusion in the *Multnomah Lawyer*, and it has appeared regularly since.

This was back when Judge Bearden was running for Judge Roth's Circuit Court seat (remember District and Circuit Court?), Judge Abraham was Chief Criminal Judge, and Judge Londer was presiding. Judge (R.P.) Jones' *Tips from the Bench* was a favorite newsletter column, and Judge Ashmanskas was on the bench - in Hillsboro. The ORS had just become available on 3 1/2" floppy disks, and the idea of lawyers getting together during noontime to ride bikes was sort of a novelty.

The MBA Lawyer Ride billed itself as an intense workout ride: "Mondays difficult, Thursdays absurd." Soon word of the regular ride spread as downtown folks saw the brightly outfitted riders assemble and leave Pioneer Square. Regular regroupings were designed into the ride so that the riders could go all out on the hills, but no one got left behind. The ride's regularity and intensity appealed to recreational riders and racers who wanted a competitive interval workout, and the regroupings allowed the

slower and less competitive riders to still have the chance to ride with the big group. A rotating pace line on Mondays gave riders the chance to pull at the front and then rotate back through the group up on SW Fairmount Drive. While the size of the group would vary somewhat, there were times in the summer when we would have over 50 riders as the "peloton" wound its way up through the hills. Many area bicycle racers would use the ride as part of their regular training routine, and we suspected that folks really enjoyed their opportunity to whip the middle-aged lawyers on a regular basis. Judges, prosecutors, engineers, reporters, tech folks, OHSU students and college students all joined in over the years.

In 1992, Jim joined Ray's law firm as a partner, and in 1998, he found his present home in NW Portland when a for-sale sign went up in one of the driveways of one of his favorite wooded sections of the Thursday ride. We all got to be pretty skillful at knowing when we had to peel off and cut the ride short to get back to the office in time to make a 1:30 p.m. court appearance. In each of our offices there was a sort of standing joke about being able to tell what the weather was like by seeing how much wet stuff was hanging up to dry after lunch. Co-workers varied in how charming they thought the appearance of wet bike shorts and jerseys were in the various offices of the riders.

We felt like the camaraderie of regular friendly competition gave us all a good outlet for aggressive behavior, and we always felt fortunate that we had a place where it was okay to go all out and try to beat someone up the hill. We would laugh about how we encountered other riders on our way home who would pretend they weren't trying to race us but really were trying to chase us down and pass us. We felt, on the other hand, that we had already had

our workout and this was just our commute home. However, the regular interval training throughout the year was really beneficial to our fitness and when we did put the pedal to the metal, we often surprised folks who didn't realize that the commuter who just passed them

Jim and I enjoyed the ride as part of our friendship and as a fun and enduring project. One day I called him on the phone to talk about a work issue and I asked him what he was doing as I heard the sound of traffic in the background; he replied that he was up on NW Cornell with

opportunity; one of our founding members was legendary NW athlete and trainer Evelyn Hamann.

These days Jim and I, along with Randy Pickett, are the old guys on the ride. We tease Randy because he tends to run in the winter to avoid riding in the



A few hardy riders on a snowy lawyer ride

back had been pounding it out with a bunch of racers over the lunch hour earlier that day.

Over the years, many riders used the ride as a bridge to improve their riding skills and fitness to the next level, and even to begin bicycle racing. Word about the ride spread throughout the bike community and it has now become Portland's biggest and longest running mid-day workout ride. Every once in a while a big-time bicycle racer would join us after learning about the ride. We were proud that some of our riders, like Chris Marks and Judge David Rees, were so tough on the hills that they surprised some very competitive race riders who joined us. Mark Ginsberg and my own son Chris Thomas both joined the ride back when they were in law school. Rod Underhill was a more frequent rider back when he was a deputy DA, and Jeff Foote would join us more regularly before he began his mediation practice.

a shovel removing some gravel that had washed into the corner above one of the tunnels and had caused a big dangerous puddle to form. We had noticed it on the ride the previous Thursday. Other riders, like Bart Brush and Chris Larsen, would go back to the route on weekends while schlepping kids to soccer games and use marking paint to put circles around the most dangerous potholes.

The ride has been the subject of quite a few stories and press accounts including a nice summary with a map that David Stabler put together when he wrote a piece for *The Oregonian* (and beat me up the hill) in 2009 entitled "The 'lawyer ride': These guys eat hills for lunch," and film crews looking for a bunch of riders have frequently been told by their editors where and when to find us gathered or heading out of the Square. Many of the city's stronger female racers have used the ride as a training

cold rain but every sunny winter day and through the warm months we know to expect him. Someone asked me whom we wanted to recruit for the ride and I said we want more young slow riders, please, to beat.

So if you are ever thinking you might want to join a bunch of flailing idiots on a boogie-till-you-puke workout, we have just the ticket for you. As we said back in 1995 (when the area code was not part of the phone numbers we "dialed"):

"Join middle-aged MBA members for Monday & Thursday noon hour West Hills/Skyline bicycle rides; Mondays difficult, Thursdays absurd. Begin noon sharp, Pioneer Square. Great workout. Contact Ray Thomas or Jim Coon for details, 228-5222."

Over the years Hugh Givens even created a Facebook page for us to share our noon adventures, called, what else? Portland Lawyer Ride.



The lawyer ride on a sunny day attracts many riders