



## What Don't I Owe to the MBA?

by Andrew Schpak  
MBA Past President

Typically, outgoing MBA Presidents use their final article to recap the MBA's accomplishments in the past year and reflect more broadly on how the year went.

However, when I sat down to start drafting this article, I could not help but reflect a bit more broadly on what my MBA involvement has done for me. With membership declining in not just the MBA, but also the ABA and OSB, it is more important than ever that bar associations deliver value to their members. I cannot help but feel like I am a walking case study for what MBA involvement can do for an attorney's life and career.

I'll start with the most personal example: I have the MBA to thank, albeit indirectly, for meeting my wife. I met Colin Andries through the MBA YLS and got to know him better through our involvement with the ABA YLD. We hang out socially from time to time, and back in 2014, he invited me to a dinner party at his house. I was slightly hesitant to go to a dinner party at which I worried I might be the third (or fifth) wheel. However, it was a great mix of people, and I ended up sitting next to a smart and charming woman with whom I immediately clicked. She and I started dating shortly thereafter, and fast-forward a little over four years, we are married with an eight-month-old daughter. What is the moral of the story? There are two: 1) you never know where your MBA connections will lead you and 2) never turn down an invite to a dinner party hosted by Colin.

As if having the MBA to thank for connecting me to my wife was not enough, I have the MBA to thank for introducing me to a number of people who have become close friends. My first form of MBA involvement was the 2004-05 MBA YLS Membership Committee. I remain good friends with over half of those committee members, and I count one of them as a best friend (and former roommate).

On a more professional note, I have met at least seven people through MBA involvement who Barran Liebman went on to hire, including two people who are now partners at the firm. Traci Ray might not have joined Barran Liebman and eventually become our firm's Executive Director if I had not met her and Sean Ray at a young lawyer event and raved about the people and culture at our firm. I think it is fair to say that, if you or someone you know is either actively looking for a job or else just considering a move, the MBA and its Mentor Program can be invaluable, and your MBA connections make all the difference in setting your application apart from the pack.

For those who are most concerned about the cost-benefit analysis of membership, I'm a poster child for the value that MBA service can have on client development. I did not join the MBA or its committees to generate business, but it has been a clear side effect of my involvement. Although I now get referrals from past clients, ABA contacts, and through presentations and publications, my first

**I am a walking case study for what MBA involvement can do for an attorney's life and career.**

few referrals came through MBA contacts. The MBA gives you the opportunity to get to know lawyers from all practice areas and to see how they perform in volunteer capacities within the organization. If you work hard, do good work, and treat people well, people notice. Whether it is an MBA or MBA YLS committee, I encourage attorneys not to underestimate the possibility that the person sitting next to you in a meeting or CLE may be a current or future referral source.

Perhaps what I am most thankful for is the opportunity that the MBA has given me to serve the public and the bar. I have friends who are lawyers scattered across the United States and the globe, and our association is unique in how easy it is to get involved. Just sign up for a committee, identify a couple of preferences, and you will probably get an appointment. The more involved you get, the more opportunity there is for innovation in service delivery and public service. My involvement with the MBA has allowed me to bring together stakeholders to help brainstorm about collaboration and addressing common challenges, unify the tech and legal communities to develop innovative approaches to bridging the access to justice gap, and help create tools to promote procedural justice for self-represented litigants.

If you are still reading, you now have the impression that I have the MBA to thank for my wife, many of my closest friends, some great co-workers, my book of business, and for service opportunities. All of that is true. I have certainly dedicated tremendous amounts of time and effort to the association, but I think it is fair to say that I have gained just as much if not more than I have given. Thank you all once again for the opportunity to serve as your 2017-18 MBA President. It has been a tremendous honor, and a highlight of my career. I am excited to pass the gavel to incoming President Rima Ghandour, who will bring her own fresh perspectives and insights to the role and continue a long legacy of leaving this organization better than we found it.

**...[Our] association is unique in how easy it is to get involved.**

## mba|CLE

To register for a CLE, please see p. 3 or visit [www.mbabar.org](http://www.mbabar.org) and log in as a member to register at the member rate.

### JUNE

#### 6.5 Tuesday Washington and Clackamas County Court Updates

Judge Kathie F. Steele  
Judge D. Charles Bailey

#### 6.6 Wednesday Multnomah County Trial Practices Update

Judge Stephen Bushong  
Judge Kathleen Dailey

#### 6.12 Tuesday Environmental Cleanup: Could an "Ability to Pay" Settlement and Insurance Trust Get Your Client Out Early?

Larry Burke  
Mike Farnell  
Emily Miller, moderator

#### 6.20 Wednesday Application of New Tax Laws

Mandy Chan  
Bill Manne  
Jason Orme

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## BATTLE OF THE LAWYER BANDS

Thursday, August 9  
7-9 p.m.  
Kennedy School  
5736 NE 33rd Ave., Portland

Join the MBA Events Committee for this CourtCare fundraiser. Bands comprised of at least one Oregon lawyer will compete for the title of "Best Oregon Lawyer Band 2018." Judges from the MBA legal community will decide the winner at the end of all the performances. Bring your family and friends and cheer for your favorite band! Crowd applause and interaction will be one of the criteria on which judging is based, in addition to the Audience Choice Award. Suggested donation: \$10.

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### NEWSLETTER STAFF CONTACTS

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## Congratulations, Award Recipients

The May 2 MBA Annual Meeting, Dinner and Judges Reception recognized exemplary members of our profession, the MBA Professionalism Award recipient **Carolyn Walker** and the MBA Diversity Award recipient **Ernest Warren**. In addition to Carolyn and Ernest, seven outstanding volunteers were recognized. MBA Awards of Merit were presented to **David Bean** and **Joe Franco**. The YLS Award of Merit was given to **Amelia Andersen**. **Ashley Carter** received the YLS Rookie of the Year Award. Pro Bono Awards recognized **Lisa Kenn**, **John Koch** and **Judge Peter McKittrick** and the **OSB Debtor-Creditor Pro Bono Committee**.

Congratulations to all the very deserving award recipients!

### Thank you to MBA Annual Meeting sponsors

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See additional photos from the dinner at [www.mbabar.org/membership/annualdinner2018.html](http://www.mbabar.org/membership/annualdinner2018.html).



Andrew Schpak and Mary Tollefson pictured with award recipients Amelia Andersen, Joe Franco, Ashley Carter and David Bean



Andrew Schpak with Pro Bono Award recipients Lisa Kenn, Judge Peter McKittrick and John Koch



Justice Rives Kistler, Judge Kathleen Daily and Judge Chris Garrett

## Calendar

### JUNE

#### 6 Wednesday

OAPABA Annual Elections Meeting  
[www.oapaba.org](http://www.oapaba.org)

#### 7 Thursday

Topgolf Social  
Details on p.4

#### 12 Tuesday

Coalitions of Communities of Color Summer Soiree  
[coalitioncommunitiescolor.org](http://coalitioncommunitiescolor.org)

#### 14 Thursday

Solo and Small Firm Social  
Details on p. 4

#### 27 Wednesday

YLS Summer Social at Thorns FC Match  
Details on p. 12

### JULY

#### 12 Thursday

Oregon Women Lawyers Foundation Summer Event  
[www.oregonwomenlawyers.org](http://www.oregonwomenlawyers.org)

#### 19 Thursday

MBA Family-Friendly Golf Event  
Details on p.4 or see insert

#### OWLS Dress for Success Fundraiser and Fashion Show

[www.oregonwomenlawyers.org](http://www.oregonwomenlawyers.org)

#### 26 Thursday

OMLA Summer Social and Auction  
[www.oregonminoritylawyers.org](http://www.oregonminoritylawyers.org)

### AUGUST

#### 9 Thursday

Battle of the Lawyer Bands  
Details on p. 1

#### 16 Thursday

YLS Pro Bono Pour

#### 30 Thursday

OAPABA Annual Dinner  
[www.oapaba.org](http://www.oapaba.org)



Andrew Schpak and Bonnie Richardson present Carolyn Walker with the Professionalism Award



Vera Warren and Andrew Schpak present Ernest Warren with the Diversity Award



Chief Justice Tom Balmer and Judge Michael Simon



Judge Ben Souede and Elisa Dozono



Justice Adrienne Nelson and Laura Salerno Owens



The MBA will apply for 2 hours of general OSB MCLE credits unless otherwise noted; Washington 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.

**Washington and Clackamas County Court Updates**

Tuesday, June 5 3-5 p.m.  
World Trade Center, Sky Bridge Room  
Members \$60/Non-Members \$95

The MBA CLE Committee presents a two-hour CLE focusing on Clackamas and Washington County court updates. This CLE is designed for all attorneys and will provide information and updates on appearing in Clackamas and Washington County Courts.

Our panel includes Clackamas County **Presiding Judge Kathie F. Steele** and Washington County **Presiding Judge D. Charles Bailey**. This CLE will assist the practitioner in adjusting to court procedures outside of Multnomah County, including local rules, judicial preferences, court organization, motion practice, and scheduling and obtaining court assistance with trial and pleading issues.

The CLE will also provide attendees with updates to both Washington and Clackamas County court practices. Electronic materials and online resources will be available to provide further assistance to attorneys who may practice in either or both of these counties.

**For more information:** Contact Bridget Donegan, Larkins Vacura Kayser at 503.222.4424. For registration questions, contact the MBA at 503.222.3275.

**Multnomah County Trial Practices Update**

Wednesday, June 6 3-5 p.m.  
World Trade Center, Mezzanine  
Members \$60/Non-Members \$95

This year’s program will feature presentations by Multnomah County Circuit Court **Presiding 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:** Contact Adrian Brown, US Attorney’s Office at 503.727.1000. For registration questions, contact the MBA at 503.222.3275.

**Environmental Cleanup  
Could an “Ability to Pay” Settlement and Insurance Trust  
Get Your Client Out Early?**

Tuesday, June 12 3-5 p.m.  
World Trade Center, Mezzanine  
Members \$60/Non-Members \$95

Please join **Larry Burke** of Davis Wright Tremaine LLP and **Michael Farnell** of Parsons Farnell & Grein LLP as they evaluate how to determine whether “ability to pay” settlements and insurance trusts may be a potential means to obtain early protection from regulatory bodies and other PRPs in environmental matters. This CLE is designed to benefit any attorney who represents clients in environmental matters. This two-hour deep dive will be moderated by **Emily Miller** of Parsons Farnell & Grein LLP.

**For more information:** Contact Emily Miller, Parsons Farnell & Grein LLP at 503.222.1812. For registration questions, contact the MBA at 503.222.3275.

**Application of New Tax Laws**

Wednesday, June 20 3-5 p.m.  
World Trade Center, Mezzanine  
Members \$60/Non-Members \$95

Please join Miller Nash Graham & Dunn LLP tax partner **Bill Manne**, and Talbot Korvola & Warwick Certified Public Accountants and tax practitioners **Jason Orme** and **Mandy Chan** as they review the impact of federal tax changes implemented by the 2017 Tax Act on for-profit business entities, nonprofit organizations and individuals.

**For more information:** Contact Cody Elliott, Miller Nash Graham & Dunn LLP at 503.205.2465. For registration questions, contact 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](http://www.mbabar.org).*

**CLE Registration Form**

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*Registration forms with payment must be received in the MBA office by 3 p.m. the day before the seminar. Registration forms may be mailed or faxed to the address or number below. Accommodations available for persons with disabilities; please call in advance for arrangements.*

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

**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.*

**6/5 Washington and Clackamas County Court Updates**

Class Registration (\$60 Members/\$95 Non) .....\$ \_\_\_\_\_

CD-ROM & Written Materials (\$60 Members/\$95 Non) ..\$ \_\_\_\_\_

**6/6 Multnomah County Trial Practices Update**

Class Registration (\$60 Members/\$95 Non) .....\$ \_\_\_\_\_

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Class Registration (\$60 Members/\$95 Non) .....\$ \_\_\_\_\_

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## Your Support for VLP Golf Events Supports Access to Justice

When you sponsor an event, put together a team, or contribute a raffle item, you're supporting the Volunteer Lawyers Project (VLP) at the Portland Regional Office of Legal Aid Services of Oregon. Your participation will help the MBA meet its goal of raising \$15,000 for the VLP. See the insert in this issue for more information.

### Topgolf Social Thursday, June 7, 5-8 p.m. Topgolf, Hillsboro

Enjoy friendly, competitive golf games, network and socialize. Bring your clients, colleagues, family and friends. You'll play in climate-controlled bays in teams of up to six. Registration includes two games, hosted appetizers and a cash bar. Sponsorship opportunities are available and include complimentary tickets. Adults only.

### A New Family-Friendly Event Thursday, July 19 Tee Times Begin at 2 p.m. Sah-Hah-Lee, Clackamas

Join us for a fun afternoon that offers both nine holes of par-3 golf and miniature golf. All are welcome. Registration includes golf and a barbecue buffet. Sponsorship opportunities are available and include complimentary tickets. Appropriate for children 5 and up. No strollers or babes in arms.

### MBA 21st Annual Golf Championship Monday, October 8, 1-7 p.m. Willamette Valley Country Club, Canby

This event offers excellent opportunities for visibility, sponsorship and time with clients or colleagues away from the office. Registration includes golf, cart, range, lunch, dinner, contests and door prizes. Some sponsor levels include complimentary entry.

Contact Pamela Hubbs for more information (503.222.3275, [pamela@mbabar.org](mailto:pamela@mbabar.org)) or visit [www.mbabar.org](http://www.mbabar.org).



## The Corner Office PROFESSIONALISM

As members of the Multnomah Bar Association and as legal professionals, one of our commitments to professionalism is that each of us will "NOT engage in or condone unlawful or unethical discrimination." To do this, it requires us all to have courageous conversations and to be ready to confront all forms of unethical discrimination, even when it is hard to do so.

I have focused and specialized in labor, employment and business law for many years. I have handled numerous unlawful discrimination investigations and cases. I have counseled and advised clients, employers and employees that have been plaintiffs, defendants, witnesses, and subjects of investigations from EEOC, BOLI and other administrative agencies related to allegations of unlawful discrimination. Based upon my experience and knowledge, it is relatively easy for us as legal professionals to know what "unlawful discrimination" is because, for the most part, "unlawful discrimination" has been codified in ordinances and statutes and written about by courts.

For example, Title VII (Civil Rights Act of 1964) prohibits employers from discriminating against employees on the basis of sex, race, color, national origin, and religion. And, Title IX (Education Amendments Act of 1972) prohibits discrimination on the basis of sex in any education program or activity that is federally funded by stating explicitly that: "No person in the United States

shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." Other examples exist as well, such as the ADEA (Age Discrimination in Employment Act of 1967) which protects individuals who are 40 years of age or older from employment discrimination based on age. The ADEA's protections apply to both employees and job applicants on the basis of age in hiring, promotion, discharge, compensation, or terms, conditions or privileges of employment. Another example, often overlooked, that prohibits unlawful discrimination is GINA (Genetic Information Nondiscrimination Act of 2008) which is a federal law that protects individuals from genetic discrimination in health insurance and employment. Genetic discrimination is the misuse of genetic information. Genetic discrimination occurs when people are treated differently by their employer or insurance company because they have a gene mutation that causes or increases the risk of an inherited disorder.

As lawyers, it may seem self-explanatory or easier to identify when we are presented with facts and cases involving the above types of unlawful discrimination. However, given my years of practice, I recognize it may often be harder to identify discrimination that may not

fall strictly under the category of unlawful discrimination, which I will refer to as "unethical discrimination."

What is unethical discrimination? It is conduct that we participate in, assent to, or fail to condemn that causes offense to someone because of their race, class, religion, sex, ethnicity, age, disability, national origin, veteran status, familial status, or gender identification.

Yes, there is a legal standard and objective facts that each of us can rely upon – based upon delineated anti-discrimination laws that are enacted by law or written about by courts – but the reality is that on a day-to-day basis each and every one of us defines and determines what we perceive to be and believe to be unethical discrimination. How do we do this when, for example, at the highest level of office in this country we observe and hear repeatedly behavior that many of us can and do characterize as unlawful discrimination and/or unethical discrimination?

On a regular basis I find myself wondering how I synchronize my responsibility to be a zealous advocate with my "professionalism" responsibility to not engage in or condone unlawful or unethical discrimination. I struggle internally when I interact with a client and I am faced with having to represent a client who, in my opinion, has acted unlawfully or who has discriminated against another person. I find myself in a conundrum and wondering if

## mba | EVENT

### Solo and Small Firm Social

Thursday, June 14

5-6:30 p.m.

Multnomah Athletic Club

1849 SW Salmon St., Portland

The MBA Solo and Small Firm Committee invites you to a free social for solo and small firm practitioners.

- Enjoy complimentary appetizers
- Socialize and meet other attorneys who work at small firms
- Learn about and help shape upcoming workshops designed specifically to help your small firm succeed

RSVPs appreciated.

Please RSVP to [kathy@mbabar.org](mailto:kathy@mbabar.org).



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it is my place, as their attorney, to counsel them that their conduct and actions, in my opinion, were unlawful or unethical; is it my place as their attorney to tell them that their actions were discriminatory? I struggle with what could be perceived as a conflict between the concept of being a professional and being a zealous advocate. For example, by advocating for and arguing for my client, doesn't that indicate that I condone their actions?

It is simple to say that "we are just doing our job" or "I am just the lawyer for my client." The reality is that who we are as legal professionals includes our commitment to not engage in unethical discrimination, however you may choose to accomplish that within your area of practice. It is important for members of the public, for the media, for opposing counsel with whom we work, and the individuals affected by the unethical acts that we are addressing, that you do address it, in whatever way you can, even if it requires a courageous conversation. For example, our actions, conduct, the legal motions we file, the legal arguments we make, and the facts that we rely upon from our clients all provide an opportunity to not engage in or condone unethical discrimination.

For me, and for all legal professionals, I believe that it is critical that we recognize

today that we live in a time when we need to be vigilant, thoughtful, and recognize that discrimination is personal and subjective to the person impacted and affected; discrimination may go well beyond the unlawful discrimination that is codified by statute or court decision. In my opinion, our profession needs to work hard to champion the idea that unethical discrimination is much broader than unlawful discrimination, and we need to be willing to engage in difficult and courageous conversations with each other and with our clients so that we demonstrate that we do NOT condone any form of unlawful or unethical discrimination.

*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](mailto:mba@mbabar.org) and indicate that you would like The Corner Office to answer your question. Questions may be submitted anonymously.*

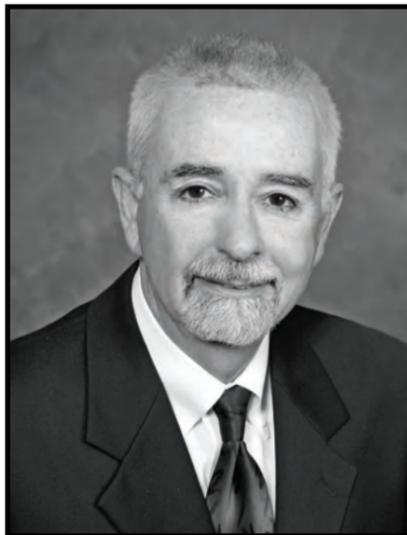


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## mba | ANNOUNCEMENTS

### County Exploring Options for Existing Courthouse

On April 19, the Multnomah County Board of Commissioners declared the Central Courthouse as surplus, beginning a process to dispose of the properties. Public comments will be provided to county commissioners along with any recommended offers to purchase the building. The last day of the public comment period is June 18. Additional details and comment form are available online at [multco.us/facilities-and-property-management/surplus-real-property-sales](http://multco.us/facilities-and-property-management/surplus-real-property-sales).

### Conference Room Available for Reservation

Conveniently located downtown, the MBA conference room is available for reservation by members for client meetings, depositions and other practice-related uses. Contact the MBA for details and availability at 503.222.3275 or [mba@mbabar.org](mailto:mba@mbabar.org).

### Free CLE Webcast for MBA Members

The video webcast of the seminar "Spousal Support Claims at Trial" is now available in the Members Center at [www.mbabar.org](http://www.mbabar.org). The seminar was accredited for 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.

### Statement of Diversity Principles Available to Sign

The MBA Equity, Diversity & Inclusion Committee invites you to sign the Statement of Diversity Principles. Read and sign the diversity statement and pledge at [www.mbabar.org/about-us/diversity.html](http://www.mbabar.org/about-us/diversity.html).

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## Ethics Focus

### Self-Defense: Representing Yourself in Lawyer Disciplinary Proceedings

by Mark J. Fucile  
Fucile & Reising LLP



Oregon State Bar statistics reflect that approximately one Bar complaint is filed annually for every 10 lawyers. Although not every complaint warrants hiring outside counsel, all require a prompt and serious response by the lawyer involved. This column looks at three related questions. First, should you represent yourself? Second, if you do, what works? Third, again if you do, what doesn't?

#### Should You Represent Yourself?

Whether you should represent yourself triggers a blend of economic and personal considerations.

On the economic side, you will be paying out hard dollars if you hire someone to represent you. At the same time, representing yourself is not cost-free. The time devoted to representing yourself likely means that you are not handling other paying work. You should also consider when hard dollars on outside counsel may be best spent. If the issue involved is legally complex, using outside counsel early may improve your odds of an earlier disposition that saves you money in the long run.

On the personal side, you need to honestly assess whether you can maintain the same professional detachment defending yourself that you

bring to the table when handling client work. An analogy that I have used at CLE seminars on this point is: doctors rarely do surgery on their own navels because it is an uncomfortable position and hard to see. If you decide to handle your own defense, it is usually prudent to have a trusted colleague review and edit your response. Another option is to retain counsel to at least edit your work. You will hopefully benefit from a perspective that is difficult to reach when you are defending yourself.

#### What Works?

Three words summarize what works: (1) be prompt; (2) be specific; and (3) be professional.

**Be Prompt.** We have a duty to cooperate with a Bar investigation under RPC 8.1(a). Responding "promptly," however, involves two separate notions beyond the baseline regulatory duty of cooperation. First, don't stall in the hope that the dark cloud will magically disappear. It won't. If you need additional time to gather your evidence or to clear adequate time in your schedule to prepare your response, then by all means ask for it. But, don't drag your feet solely for the sake of delay because that will likely become

#### The time devoted to representing yourself likely means that you are not handling other paying work.

readily apparent to Bar counsel. Second, don't procrastinate. Although preparing a response can be difficult, putting it off can invite disaster. Just as you wouldn't start on a client's response to a summary judgment motion the night before it is due, allow yourself plenty of time to marshal your evidence, do any necessary legal research, and work through drafting.

**Be Specific.** The Bar will usually let you know which RPCs it wants you to address. Although sufficient background is important to put your analysis of those RPCs in context, the Bar doesn't necessarily need to know every fact that might go into your summary judgment motion or trial brief in the underlying case. The risk of "over-sharing" is twofold. First, your analysis of the RPCs may get lost in a

hyper-detailed recitation of unnecessary facts. Second, you may inadvertently open further avenues for the complainant to grouse about.

**Be Professional.** The shortest route to undermining your credibility as an advocate on your own behalf is to sound less **The shortest route to undermining your credibility as an advocate on your own behalf is to sound less than lawyerly.**

than lawyerly. Even if you are justifiably angry at having to respond to a complaint from a horrible former client, you need to maintain the same sense of professional decorum in your response as you would in client work that you would file with a court. In particular, don't engage in personal attacks on either the complainant or Bar counsel.

#### What Doesn't?

Case law provides ready examples of what doesn't work. Three stand out: (1) don't attack the system; (2) don't sue; and (3) don't lie.

**Don't Attack the System.** Even if you feel that you have been unjustly accused, attacking the system won't get you very far. Due process rights in lawyer disciplinary proceedings are generally limited to notice and the opportunity to be heard (*see, e.g., In re Ruffalo*, 390 U.S. 544, 88 S Ct 1222, 20 L Ed2d 117 (1968)). If you want to improve the system, a more productive path is to volunteer your time to be part of it - such as running for the House of Delegates or volunteering to be a Disciplinary Board trial panel member.

**Don't Sue.** On the theory that a "strong offense is the best defense," lawyers sometime envision obtaining injunctions against disciplinary proceedings. Don't count on that either. The Oregon Supreme Court has held that it is the only state court with direct regulatory authority (*see, e.g. State ex rel Bryant v. Ellis*, 301 Or 633, 724 P2d 811 (1986)). Similarly, the United States Supreme Court in *Middlesex County Ethics Committee v. Garden State Bar Ass'n*, 457 US 423, 102 S Ct 2515, 73 L Ed2d 116 (1982), found that principles of abstention generally preclude federal trial courts from enjoining state lawyer disciplinary proceedings.

**Don't Fudge.** It is imperative that you are absolutely accurate in your response. The ultimate disciplinary risk in any case will increase exponentially if you are accused of lying in your response - which will likely result in a separate charge under the "dishonesty rule," RPC 8.4(a)(3).

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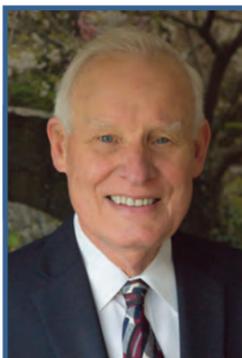
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## Around the Bar



Alex Tinker



Parna Mehrbani

### Tonkon Torp LLP

Alex Tinker has joined the Board of Directors of the Portland Story Theater. The nonprofit arts organization works to build community through storytelling.

As a member of Tonkon Torp's Litigation Department, Tinker helps clients resolve business disputes in and out of court. He is also co-chair of the firm's Cannabis Industry Practice Group, where he represents and advises investors, individuals, and companies doing business in the cannabis industry.

Parna Mehrbani has joined Tonkon Torp as a partner in the Intellectual Property Practice Group. She comes to the firm from Lane Powell, where she was a shareholder serving in several leadership positions, including as a member of their managing board.

Mehrbani's expertise is in trademark registration and enforcement; advising local, national, and international companies at all stages of growth on protecting their trademark portfolios.



Coni Rathbone

### Dunn Carney LLP

The Rathbone law team, including Portland real estate and business attorneys Coni Rathbone and George Dingeldein, has joined the Real Estate Practice Group of Dunn Carney LLP.

Rathbone has extensive experience in real estate, construction finance, real estate securities, and corporate general business. Prior to starting her



George Dingeldein

own firm in 2010, she was with Davis Wright Tremaine.

Dingeldein has four years of experience in real estate, construction finance, real estate securities and corporate general business. He is a 2014 graduate of Lewis & Clark Law School.



Andrew Weiner

### Hart Wagner LLP

The firm welcomes Andrew Weiner as the newest associate in the Portland office.

Weiner's practice will focus on employment litigation and medical malpractice defense. He will also work on appellate law issues, as well as legal malpractice and other professional liability defense matters.

Weiner comes to Hart Wagner after working as a criminal defense attorney specializing in white collar matters. He represented individuals and entities in both federal and state courts on matters ranging from simple theft to complex bank fraud and conspiracy.



Donovan Bonner

### Barran Liebman LLP

The firm is proud to welcome Donovan Bonner to their employment advice, litigation and higher education teams. Bonner earned his JD from the University of Oregon School of Law, where he served as an editor of the Oregon International Law Review and interned with Bonneville Power Administration and Nike. Bonner is the Scholarship Chair of Education First in the Oregon region, and is a member of the Urban League of Portland.



Matt Donohue



Joe Franco

### Holland & Knight LLP

Partner Matt Donohue has been appointed the new leader of the firm's West Coast Litigation Practice Group, which includes almost 50 attorneys in the Portland, San Francisco, Los Angeles, Denver and Anchorage offices.

Donohue is a lead trial counsel with jury and bench trial victories in courtrooms across the country. He is a co-leader of the firm's class action litigation and arbitration practice.

Holland & Knight partner Joe Franco has been honored with a 2018 MBA Award of Merit.

The award recognizes those who have made significant recent contributions to the MBA's mission of promoting justice through service, education or leadership to the MBA, legal profession or community.



Darlene Pasieczny

### Samuels Yoelin Kantor LLP

Darlene Pasieczny joins the Reed College Board of Trustees as an Alumni Trustee for a four-year term beginning July 1. She continues her service on the Reed College Alumni Board, where she chairs the Reed Career Alliance with a focus on promoting professional development for alumni of all ages. Pasieczny was also elected to the PIABA Board of Directors in October. PIABA is the Public Investors Arbitration Bar Association, an international bar association whose members represent investors in disputes with the securities industry. Pasieczny is a securities and fiduciary litigator, representing investors in FINRA arbitration and clients in trust and estate disputes.



Marilyn Cover

### Classroom Law Project

Marilyn Cover, Executive Director of Oregon's Classroom Law Project, has been named recipient of the 2018 Sandra Day O'Connor Award for the Advancement of Civics Education, presented annually by the National Center for State Courts.

The award honors an organization, court, program or individual who has promoted, inspired, improved, or led an innovation or accomplishment in the field of civics education related to the justice system.

*The Around the Bar column reports on MBA members' moves, transitions, promotions and other honors within the profession. The submission deadline is the 10<sup>th</sup> of the month preceding publication or the prior Friday if that date falls on a weekend. All submissions are edited to fit column format and the information is used on a space-available basis in the order in which it was received. Submissions may be emailed to [mba@mbabar.org](mailto:mba@mbabar.org).*

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# Carolyn D. Walker 2018 MBA Professionalism Award Recipient

The following is Carolyn Walker's acceptance speech at the MBA 2018 Annual Meeting

My words to you this evening are about professionalism and conspiracies. I thought about what the word "professionalism" means, and while of course there is the dictionary definition, and I'm sure that word probably means different things to different people, to me, it means treating people respectfully.

It also means responding to the needs of my clients, my colleagues and my community. It means doing so with the understanding that the way I conduct myself will reflect upon and affect all of them. It means not making assumptions about a person because of what they appear to be on the outside - gender, color, age, bar number, etc. - and not treating them any less favorably because of it.

When I was a new lawyer, taking my first deposition in Texas, I experienced being bullied by opposing counsel, and while I stood my ground, I was deeply affected by his behavior even as I realized then exactly what was happening. I knew that I was not being treated professionally, and certainly not the way that attorney would have treated a seasoned, male attorney - and let me also add that I was the only African American female attorney at a major law firm in my city of San Antonio at that time.

In my career, I have encountered many attorneys who absolutely exemplify professionalism. But I have also been subjected in my career and in my life to some serious unprofessional and inequitable treatment. I have tried my best not

to perpetuate that behavior, and I think I have achieved that in how I deal with everyone I encounter in my professional world, including associates, practice assistants, partners, opposing counsel and clients. Which is not to say that I don't sometimes have a really hard time maintaining a level of professionalism when I've felt unfairly treated, outright attacked or even worse, treated as insignificant or simply overlooked.

I have a friend who tells me that she sometimes gets upset in certain situations and she pulls it back together by saying "Carolyn would never act like that." (You know who you are, Pilar French). Well, sometimes Carolyn really wants to "act like that" - sometimes things happen that in the lyrics of the late Marvin Gaye, "makes me wanna holler, throw up my hands." I just have to be candid about that.

And I think that professionalism requires candor, and not just towards the tribunal - it requires candor in all situations, even when it is uncomfortable. It is sometimes uncomfortable for me to tell a client what I know the client doesn't want to hear; to tell a colleague or a client that I have made a mistake; to be candid with *myself* on how I handled a situation; it is sometimes uncomfortable to give an associate or a subordinate negative feedback; to call out inequities when I see them either directed at myself or others.

The fact is that sometimes when I am candid, people don't love me for it. But I know that without that candor, there can be no transparency and without transparency there can be no growth and no opportunity to

improve, which can impede professionalism because professionalism is not superficial (like politeness). Professionalism, like integrity, is bone deep. So I'm going to be candid here, while I have the microphone and your attention, even if it is uncomfortable, and I do hope you'll thank me for it even if you don't love me for it.

In the legal profession, there are serious disparities in the treatment, opportunities and outcomes for people like me - I mean women and women of color in particular. We typically earn less, get less opportunity, and are often scrutinized more harshly when we are considered at all. The MBA's Professionalism Statement, includes the pronouncement that, "We will treat all persons with courtesy, fairness and respect, without regard to any distinguishing personal characteristic," and also states, "we will support a diverse bench and bar." If this profession is ever going to fully effectuate the standards set forth in those statements, then things need to change.

Because it is not enough to have a "diverse" bench and bar, if there is not true inclusion. Some of you will know what I mean, but for those who don't, one of the best analogies that I've heard comes from Verna Meyers, a well-known diversity and inclusion consultant specializing in the legal profession. She says that "diversity is being invited to the dance, and inclusion is being asked to dance" once you get there. The fact is that if you're at the dance and not being asked to dance by those who are running the dance, you don't want to stay at the dance.

While I do not impose this on you, I do urge you to consider it - if law firms wonder why they lose women and people of color, then maybe it's because these individuals are not being asked to dance, are not being given the same opportunities; the same

"encouragement" with pay raises; the same invitations to serve on important firm committees (and not just the diversity committee); the same exposure to clients; or the same level of praise, but are still being subjected to a higher level of scrutiny than their counterparts. If you are skeptical about some of what I am sharing here regarding scrutiny of people of color, I encourage you to read a study from a few years back that received a great deal of attention in various publications, including the Washington Post and the ABA Journal. That study showed that partners in law firms gave lower ratings and found more mistakes in a memo when they were told it was written by a black associate.

Two years ago, when Bonnie Richardson gave her acceptance speech upon receiving the Professionalism Award, she called out the fact that the makeup of the bar is changing and that we have to work to figure out how to best make changes for a better practice and community. She was right. And if we say we *want* this, and if we *mean* to exemplify the MBA's Professionalism Statement, then we *can* make it happen.

There is a great quote by Paulo Coelho, author of "The Alchemist." He says "and when you want something, all the universe conspires in helping you to achieve it."

I really like the idea of a conspiracy - a conspiracy to build a better legal community.



Carolyn Walker with mom Kate Davis at the MBA Annual Dinner

There a lot of people who are conspiring to do just that - like Ernie Warren, this year's winner of the MBA Diversity Award, and other people who are serving together on various bar committees and working collaboratively on pro bono matters. I like to think of them as conspiring to make the world better through their professional efforts.

I want to wrap up by thanking those who have conspired in my favor to get me where I am today - there are a lot, but I will be brief:

First, there is my mother, Kate Davis, who is visiting from Detroit and sitting in the audience this evening. She is the biggest conspirator of them all, and has been conspiring in my favor my whole life. Even with respect to going to law school, she conspired with my Aunt Sarah to use a Jedi mind trick to change my decision on attending a local law school that would have given me a bigger scholarship over going to the University of Michigan which gave me better opportunities and

Continued on page 14



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## Tips From the Bench

### Effective Writing

by Presiding Judge  
Stephen K. Bushong  
Multnomah County Circuit Court

*"I just can't find the time  
To write my mind  
The way I want it to read."*

That line, from the Wilco song, "Box Full of Letters," touches on the key to effective writing, whether it is a legal brief, a novel, or a rock and roll song: taking the time to write what's on your mind the way you want it to read. Here are some other tips for effective legal writing.

#### Organization

Outline your arguments before you start writing, and then use your outline to organize your brief. Use short sections and subsections with appropriate headings; briefs longer than 10 pages should have a Table of Contents. The judge should be able to understand your main points and how they fit together just from reading the Table of Contents.

Understand the purpose of each part of your brief. Are you trying to *educate* the judge, *persuade* the judge, or both? Consider separating the educational section from the persuasive sections; education is neutral, persuasion is not. Use a Summary of Argument for longer briefs. If appropriate, attach an Appendix with copies of key cases (especially federal cases or cases from other states), legislative history, or statutes from other jurisdictions.

#### Writing Style and Technique

Always have someone else read your brief or motion before you file it. It may sound good to you, but it might strike a different chord with your audience. Summarize the key facts, with citations to supporting affidavits or exhibits. Shepardize and cite check your cases. You don't want to be embarrassed when the other side points out that your key case has been overruled. State your point first, then back it up; don't write "backwards" and make the judge read to the end of the paragraph or section to understand your point. Use short, simple sentences, and be direct. Don't make the judge guess at what you're trying to say. Just say it.

Don't use exclamation points! Don't ever use them! Avoid using ALL CAPS or bold type (OR BOTH). Nobody likes being screamed at. Use adjectives and adverbs sparingly; understatement is better than overstatement. Do not belittle opposing counsel, other litigants, or their arguments. Do not speculate about opposing counsel's thoughts, motivations, or beliefs. Don't state the obvious or repeat points already made.

Define key terms and phrases once, and then use the definitions consistently thereafter. Use active



voice. Make it *sound* right; use italics (sparingly) for emphasis. Proofread and revise often; eliminate unnecessary words: "Defendant submits that..." Don't overuse commas; use dashes to set off explanatory phrases or related comments. It's okay to use "and" or "but" to begin some sentences. But don't overdo it. And don't do it unnecessarily.

Appearance counts; make it look good (and readable). Footnotes should be the same size and font as text. Don't bury key points in a footnote. Don't say that there is only one reasonable conclusion. Let the judge reach that conclusion on his/her own. Be creative to maximize the judge's ability to easily understand your arguments and increase the persuasive force of your brief. Consider starting with a quote that is consistent with your theme.

#### Substance

Remember that most judges are generalists; they may not be very familiar with specialized areas of the law. Educate the judge on complex areas, but don't make it *more* complicated; instead, simplify. Give the judge some context, the "lay of the land." Explain how granting or denying the requested relief affects the case, and whether it is consistent with how other courts have addressed the issue. Let the judge know if the issue is a "hot topic" in the area, or if you are advocating for a majority rule, a minority rule or a new rule. Don't hide the ball.

Explain the procedural background or prior developments in your case only when necessary for the particular motion at issue. Don't expect the judge to know every detail of your case. Ask yourself "does the judge need to know this?" "Why?" Address controlling authority first. If it is favorable, tell the judge that it is controlling and explain why. If unfavorable, distinguish it or find some other reason to explain why it doesn't control. Or explain that you're just raising it to preserve the issue for appeal.

Make sure you understand why you are citing a case. Are you contending that the test, standard or rule established in that case applies here? Are you arguing that the holding and/or analysis of the case supports the result you are advocating? Discuss the facts and arguments presented when necessary to show that the case is analogous precedent that should be followed in your case.

*Continued on page 11*



## News from the Courthouse

by Patrick Angel  
Court Liaison Committee

#### Presiding Judge's Report - Judge Stephen Bushong

There are various practice issues trending in the courthouse that impact legal practitioners in Multnomah County and statewide.

#### More Criminal Trials?

The court is anticipating an upswing in criminal trials due to the Multnomah County District Attorney's new policy on Unauthorized Use of a Vehicle (UUV) charges, ORS 164.135. Under the new policy, the DA's office will not offer probation in lieu of prison for UUVs that would be subject to prison under the sentencing guidelines. This new policy will likely result in fewer plea deals and more criminal trials in UUV cases. This could reduce the number of judges available for other matters, including civil trials.

#### Transferring Traffic and Other Offenses from the East County Courthouse

Under ORS 3.014, trials for traffic offenses and misdemeanors occurring east of 122nd Avenue in Multnomah County shall be conducted in the East County Courthouse (ECC), unless the accused at first appearance requests a trial in Portland.

Attorneys for some defendants have made late requests - *after* the first appearance - to move the proceeding to Portland. Other attorneys have made timely requests at the first appearance, but without offering a reason for the move. Because the presumptive venue under the statute is the ECC, the court will deny a motion to move the trial to Portland if the request is made after first appearance or the moving party fails to demonstrate good cause for moving the trial to Portland.

Civil trials lasting no more than four days may be conducted in the ECC the first full week of every month. The ECC is a brand new, state-of-the-art facility with large courtrooms and convenient, free parking for attorneys, litigants, witnesses and others. The jury pool for ECC trials is the same as for the downtown

courthouse. Lawyers requesting a civil trial in the ECC should agree on a trial date starting on Monday of the first full week of a month.

#### Submitting "Proposed" Orders

Many lawyers have submitted orders to the court captioned PROPOSED ORDER or using brackets, as in: [PROPOSED] ORDER. This practice should be abandoned. UTCR 21.040(2)(a) requires identifying a Proposed Order in the Filing Comments field, not in the document caption (or in the footer). Any order submitted by an attorney is a "proposed" order until it is signed by a judge. Including the word "Proposed" in the caption or footer of the document can lead to confusion and can unnecessarily delay signing and entry of the document. Ideally, before signing an Order submitted by the parties, the judge or court staff would cross out the word "Proposed" in the caption and footer, but this does not always happen. As a result, the court's eFiling system could identify an order as "Proposed" even after it has been signed. Attorneys should submit a proposed order captioned "Order" in both the caption of the document and the footer. Starting July 1, court staff may reject orders that contain "Proposed" or [PROPOSED] in the caption.

#### Motion and Order = Separate Documents

Another helpful reminder related to Oregon's eFile system is to separate a motion and an order into two documents. A combined motion and order was previously allowed under the Uniform Trial Court Rules, but UTCR 2.010(12)(c) now clearly states: "A motion must be submitted as a separate document from any proposed form of order deciding the motion." The eFile system gives a distinct name to each document filed, either "Motion" or "Order." There are no combined document titles, so motions and orders must be submitted as separate documents.

#### Use Paperclips, Not Staples

Under UTCR 2.010(3)(b), documents submitted to the court that are not eFiled must be bound by paper clips or binder clips, not staples. The reason for this rule is simple. The court no longer maintains documents in paper form in a "file." The only "file" maintained by the court is an electronic one. All paper documents are now scanned, filed electronically, and then shredded. If staples are used, court staff will be required to remove the staples before the document can be scanned and filed. This can delay entry of the document.

#### Multnomah County Civil Motion Panel Statement of Consensus

The Multnomah County Civil Motion Panel Statement of Consensus - available on the court and MBA websites - is designed to inform lawyers about rulings on issues that commonly arise in civil motions. The Statement of Consensus does not have the force of law and is not binding on any judge. Although there is no longer a "Civil Motion Panel" - all judges, other than family law judges, are available to hear civil motions - the court will periodically review the Statement to see if there is still a "consensus" among the current judges. The court is currently working on updating the Statement. When that process is complete, the updated Statement will be released with a notation that it is current through a particular date. In the meantime, attorneys should continue to use the current Statement of Consensus.

#### Disability Access to Courts

The MBA and the MBA Court Liaison Committee are committed to ensuring that people with disabilities can access the courts without being subjected to inhumane or undignified treatment by security personnel, court staff or others. The MBA plans to work with Oregon disability rights groups and other stakeholders on ways to accomplish this objective.

## The Honorable Ramón A. Pagán Washington County Circuit Court Judge

by John Robb  
Court Liaison Committee

Judge Ramón A. Pagán joined the Washington County Circuit Court bench in 2016 with a depth of experience in both civil and criminal law. He earned his law degree at Fordham University School of Law, which he attended after taking respite from the bustle of New York City, his hometown, to earn his undergraduate degree at Arizona State University.

At Fordham, Judge Pagán took advantage of the school's strong commitment to supporting its students and alumni to graduate with an impressive array of experience. His first taste of high profile litigation came during his first job as a law student with the New York City Law Department, Affirmative Litigation Division, which was busy litigating major tobacco and asbestos claims. He also spent a semester with a bankruptcy judge in the Southern District of New York, a summer at the Brooklyn DA's office, and was a law clerk for then-Second Circuit Judge Sonia Sotomayor.

After graduating, Judge Pagán returned to the Second Circuit as a staff attorney. There, he honed his legal writing and reasoning by writing legal memos for all the circuit judges and being grilled about his work afterwards. His most memorable case involved Marvel Comics alleging dilution of the X-Men brand, which required him to explain the intricate back-stories of various comic book characters to Second Circuit judges. This sparked a yet-unfulfilled dream of a practice focused on comic book litigation.

Judge Pagán then joined a boutique employment firm in Manhattan, where his practice centered on high-level employment litigation in state and federal courts. Despite getting extensive litigation experience, he realized was not getting out to trial. At the same time, he was teaching a trial advocacy class

at Fordham and watching his criminal defense attorney father seemingly getting out to trial even on Sundays. He realized he had the trial bug, and he decided to go into practice with his father. Once there, it did not take long to get his first trial, in which he represented a criminal defense attorney facing federal charges.

He then began accepting court-appointed criminal cases in the Bronx. This instilled a passion for representing indigent clients and led to a busy caseload, typically carrying 40-45 criminal cases and 20-25 civil cases at any given time.

While he enjoyed practicing with his father and the fast-paced civil and criminal practice, he and his wife, a dietitian, decided it was time to leave the city. They had all but decided on Oregon but booked a trip for a cycling tour of the state just to make sure. Experiencing the fresh air, outdoor activities, and farm-to-table culinary culture sealed the deal. He applied for a job as an associate with Janet Hoffman & Associates and was hired quickly, leaving for Portland earlier than planned.

After getting familiar with practicing law in Oregon, Judge Pagán went out on his own, taking a contract for court-appointed criminal cases in Washington County and becoming a member of the Criminal Justice Act Panel in the District Court. This allowed him to continue his passion for working with indigent clients, which he credits as good preparation for presiding over self-represented litigants in family court. Judge Pagán became active in the community, joining the MBA Golf Committee, and eventually the MBA Equality and Diversity Committee (now Equity, Diversity & Inclusion Committee). He joined the board of the Oregon Hispanic Bar Association, and was elected president from 2013-15. He served a term as a member of the



Hon. Ramón A. Pagán

Board of Governors of the OSB, an organization he misses dearly. He also joined the boards of local nonprofits, like Adelante Mujeres and Literary Arts.

After establishing a reputation in Oregon as an attorney deserving the widespread admiration and respect of his colleagues, he took the bench in 2016 with extensive trial experience, having tried both civil and criminal cases and taken dozens of trials to a jury verdict.

According to Judge Pagán, being a judge is one of the best jobs on earth, and he highly recommends it. He says he feels grateful to be part of a great group of judges in Oregon, describing them as a good family. Based on a glowing review of a classical guitar performance by Judge Pagán at a recent judicial conference, this writer suspects the feeling is mutual.

As a judge, he prides himself on respecting the litigants and attorneys that appear before him. He takes efforts to care for himself, being an avid triathlete, so that parties have the benefit of having the same judge show up from day to day. He also works hard to be respectful to counsel, appreciating that there is often much going on behind the scenes that is not obvious from the bench.

On the bench, Judge Pagán particularly enjoys when litigants realize that the judge in their case is trying to be respectful and understand them. He strives not to give the impression that he feels superior to those who walk into his courtroom, and makes efforts to apologize when running late, be open-minded, and be willing to admit to making a mistake. It is okay, he says, to have respect for the judicial system by admitting it is not infallible.

## The Honorable Andrew M. Lavin Multnomah County Circuit Court Judge

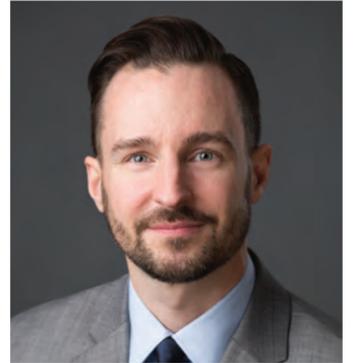
by Stephanie Engelsman  
Court Liaison Committee

Judge Andrew M. Lavin was born and raised in Northeast Portland and attended Grant High School. He moved away only to attend college in Ashland at Southern Oregon University. Judge Lavin was particularly interested in Southern Oregon University for its criminal justice program and fell in love with Ashland when he visited. He graduated with a double major in Criminology and Psychology, both of which have helped him tremendously in his career as a prosecutor and now as a judge

After graduation, he returned to Portland to attend Lewis & Clark Law School. His parents now live in Welches and he sees them regularly. Family and friends are very important to Judge Lavin, and his short-term personal goal is to travel more, with Iceland on the short list.

Judge Lavin first joined the Multnomah County District Attorney's Office at the age of 19 when he interned in misdemeanor intake at the Justice Center. He returned each summer during college, interning at the Discovery Desk and in Community Court. He stayed on as a part-time intern with the DA's office during law school before becoming a Certified Law Student during his third year at Lewis & Clark. Judge Lavin was hired as a Deputy District Attorney upon graduating law school in 2003 and stayed with the office until 2010. During his time at the DA's office, he served in the misdemeanor unit, the auto-theft task force, the domestic violence unit, the theft/fraud/identity theft unit, and the gang unit.

One unique professional story of his dates back to 2004 when he was prosecuting a domestic violence case before Judge Litzenberger. On that day, Crawford v. Washington was decided by the US Supreme Court. He laughs and says "I was



Hon. Andrew M. Lavin

winning the case before lunch and losing it after lunch." He reminds young lawyers of the importance of being up to speed on new decisions as soon as they come out. As to being a Deputy District Attorney, Judge Lavin felt that he was doing a lot of good work for Oregonians.

In 2010, Judge Lavin joined the Department of Justice as an appellate attorney and was there until his recent appointment to the bench by Governor Brown. As an appellate attorney, he regularly appeared before the Oregon Supreme Court and the Oregon Appellate Court. He loved this job because it allowed him to focus on legal research and writing while also taking "DA advice calls" from prosecutors statewide.

In late December 2017, on a snowy and icy day, Judge Lavin was called down to Salem to meet with Governor Brown. The capitol was decorated for the holidays and felt magical. Judge Lavin had the unique opportunity of getting offered the judicial position in person by Governor Brown and calls this the "best Christmas present ever!"

Some advice Judge Lavin has for new lawyers: reputation is everything. Judges talk, so be prepared and respectful not only to the judge but to everyone in the courtroom. Be prepared and courteous - if you have that, that's more than half the battle.

### Tips From the Bench

Continued from page 10

Use subsequent history of cases to show which line of authority is more widely accepted. Quote the key text of a statute, case or contract verbatim, and then apply that text consistently in your analysis. Avoid lengthy, block quotes. Don't string-cite lots of cases; a few good ones will do. Put holdings and key quotations in parentheses to explain the significance of a case. Address

any "elephants in the room." Ignoring significant factual, legal, or policy considerations won't make them go away; it just lets the other side address them first. Be sure to specify precisely what you want the judge to do.

In the song, Jeff Tweedy sings, "I wish I had a lot of answers, 'cause that's the way it should be. All these questions, being directed at me." In legal writing, you'll have to address lots of questions. Following the above tips will help you answer them effectively.

**Endnote:** The song "Box Full of Letters" appears on Wilco's debut album, *A.M.*, released in 1995. Wilco's lead singer and songwriter, Jeff Tweedy, formed Wilco after the band Uncle Tupelo - featuring Tweedy and Jay Farrar - broke up. Wilco then released *A.M.* and Farrar's new band, Son Volt, released its debut album, *Trace*, triggering a debate among fans about which was the better album. Turns out, they're both great.

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# mba | Young Lawyers Section

## What is the YLS?

An inclusive section of the bar, which includes any MBA member in practice less than six years or under the age of 36. The YLS provides leadership, networking, professional development and service opportunities. And we have fun!

### mba yls | EVENT

#### YLS Summer Social at Thorns FC Match

Wednesday, June 27  
7:30 p.m.  
Providence Park  
1844 SW Morrison, Portland



Come celebrate the work of our volunteers as the committee year draws to a close. The YLS has booked a private viewing deck for the Thorns FC soccer match versus Sky Blue FC. Join us for this fun opportunity to mingle and watch the match.

Attendance for YLS and MBA members is free; guests and non-members \$5. Space is limited. Advance RSVP only - visit [www.mbabar.org](http://www.mbabar.org) to register.

This event is made possible with the support of our sponsors:

- Miller Nash Graham & Dunn
- Oregon Hispanic Bar Association
- Oregon Minority Lawyers Association

Thank you to the OSB Civil Rights Section for partnering with the YLS on this event.

RSVP and register at [www.mbabar.org](http://www.mbabar.org).

## ABA Young Lawyers Division Spring Conference Highlights

by Shayda Zaerpoor Le  
YLS President



As the MBA YLS Board's delegate to the American Bar Association Young Lawyers Division (ABA YLD), I attended the young lawyer programming at this year's spring meeting, which took place in Louisville, Kentucky (the week following the Derby, so the city was calm and the rain was gone).

**Legal Education:** One of the highlights of the conference is the variety in programming, all of which is targeted toward young lawyers, with emphasis on practice development, leadership, and advocacy. The programming at this meeting included topics such as emotional intelligence, cyber threats, cryptocurrency and blockchain technology, harassment and bullying in the workplace, technology and its impact on pro bono work, net neutrality, and mental well-being for lawyers.

**Special Programming:** During the 2017-19 bar years, the ABA YLD has programming and projects focused around an initiative called "Home Safe Home," which focuses on different types of home violence (intimate partner abuse, child abuse, elder abuse, and animal

abuse) and seeks to address these topics through education, outreach, and advocacy. Educational components at the conference included sessions on intimate partner violence during pregnancy, and the intersection of domestic violence and the Black Lives Matter movement. In addition, many attendees took part in a public service project, putting together personal assistance kits for young women. The ABA YLD's Public Service Team has also put together an Affiliate Toolkit (available online) which local young lawyer organizations, such as the MBA YLS, can use to plan Home Safe Home pro bono fairs to connect attorney volunteers with nonprofits and legal aid organizations. Finally, YLD members are currently working on drafting a resolution to introduce for passage by the ABA House of Delegates in support of federal and state legislation designed to address home violence, particularly during times of natural disaster response, and to work to turn that resolution into legislative action in Washington DC. The first draft of this proposed resolution was presented to the ABA YLD Council at this spring meeting.

Those who arrived early were also able to participate in a half-day training for Affiliate Leadership. This training focused on planning, starting, and executing a successful bar year for those young lawyers who are in bar leadership positions within their local bar organizations.

There was also an international oratory competition, as well

as executive coaching sessions focused on providing young lawyers with skills in the areas of communication, leadership, and productivity. The conference concluded with an awards ceremony for young-lawyer affiliates around the country who submitted information on their diversity programming for the ABA YLD's Embracing Diversity challenge. Our own Oregon New Lawyers Division was awarded a grant of \$1,000 in connection with their project matching local lawyers with students from Franklin High School to learn about the legal profession, visit the courthouse, watch a mini mock trial, and have lunch one-on-one with a local attorney. A huge congratulations to the ONLD for this national recognition!

**Networking:** Each conference provides opportunities for networking, in recognition of the importance of relationship building at all stages of career development. Attendees were provided the opportunity to attend welcome receptions, participate in small-group dine-arounds throughout the city, breakfast events on-site at the conference, and a group event held at historic Churchill Downs.

*For those interested in getting involved locally, the MBA YLS offers numerous opportunities to meaningfully participate in local initiatives and ABA programs through committees, events, and targeted projects. The 2017-18 bar year is coming to a close, so this is an excellent time for local young lawyers to consider committee involvement for the upcoming year. Please feel free to reach out to me, or any other YLS Board member, with questions or interest. In addition, the ABA annual conference will be in Chicago from August 2-4 and registration is now open on the ABA website.*

## Objection! Poetry Slam Recap

by Kevin Sasse and Andrew Narus  
Co-Chairs, YLS Service to the Public Committee

On behalf of all the members of the Service to the Public Committee, we are pleased to report that Community Law Week 2018 was a success. Community Law Week (CLW) occurs every year in conjunction with the ABA's celebration of Law Day on May 1. This year, we planned two events.

For our first CLW event, the committee hosted an immigration rights informational session at the Oregon Association of Minority Entrepreneurs. Samantha Ratcliffe of Game Immigration Law PC detailed the rights that every person has regardless of citizenship status. After her presentation, Samantha took questions from the audience. Immigration rights are a focal point of many discussions today, and we are happy to have contributed to that broader discussion in a small way.

Our second CLW event was the first ever Objection! Poetry Slam. Objection! is a replacement for the YOUthFILM Project competition from years past, and is designed to be more accessible to our young participants (ages 13-22). All that was required of our participants was the desire to express something important to them. They didn't even need to have a poem prepared, because our emcee and renowned poet, Alex Dang (look him up!), held a workshop for participants to craft a poem at the slam.

At the Lagunitas Community Room, our participants shared their personal thoughts on a variety of topics, including the separation of church and state, the loss of youthful innocence, a historical account of our nation's founding, and the treating of all peoples equally. We also raised a modest amount of funds for the Multnomah Bar Foundation

through refreshment proceeds, with beverages provided by Lagunitas.

As a profession of writers, we are exposed to the transformative power of words every day. These participants are poised to shape the future, and we are committed to giving them a platform to exchange ideas and stimulate discussion in our community. This year, we were truly impressed with the wordcraft of our young participants, and we hope you were too.



Kevin Sasse (L) and Andrew Narus (R)



Participant Danny Nguyen



Emcee Alex Dang



## Emery Wang YLS Pro Bono Spotlight

by Matteo Leggett  
YLS Pro Bono Committee

After spending 17 years in Austin, Texas as the owner of a graphic design studio, Emery Wang decided to change career paths and move to Oregon to attend Lewis & Clark Law School. He became a member of the OSB in 2009, and since then has focused his practice on personal injury claims. He has offices in Gresham and Hillsboro.

In addition to his busy private practice, Emery volunteers a significant number of hours with Legal Aid Services of Oregon (LASO), working specifically with the Domestic Violence Project (DVP). He was originally drawn to the project because it allowed him to use his courtroom skills. "It seemed like the area that was closest to my practice area, being a trial lawyer, and it was in the courtroom, so that's why I picked it," he says.

Since he first started volunteering with the project in 2011, Emery has helped numerous clients. Erin White, Staff Attorney and Pro Bono Coordinator in the Portland Regional Office of LASO, calls Emery "an enormous asset for LASO and our Domestic Violence Project. He has been a consistent and reliable volunteer for years, and we appreciate his dedication to pro bono service, low income clients, and survivors of domestic violence."

The DVP matches volunteer attorneys, like Emery, with survivors of domestic violence for representation in contested restraining order hearings. These cases tend to be fast-moving, with short timelines. From the

time a case is first assigned to him, Emery estimates that he has about a week to prepare it for hearing. In that time, he meets the client and prepares them for their hearing, which includes working with them to gather evidence and to line up potential witnesses. As for the hearings, Emery finds they are generally short and to the point, although he has been involved in a few that have stretched a full day.

Like most attorneys who volunteer with the DVP, Emery did not have prior family law or domestic violence experience before signing up, and he believes this should not be a barrier to volunteering. In fact, because the DVP covers such a discrete area of law, he says the learning curve for a new volunteer is relatively low and that the project provides volunteers with plenty of training, advice, and consultation opportunities. He also reminds those who may be interested in the project, but perhaps worried about not being a family law practitioner, that there is no expectation to help clients beyond their contested hearings. "We are like short-term fixers," he explains, "we fix that one problem of getting them through their hearing and hopefully keeping their restraining order."

Emery finds the time he commits to the DVP to be rewarding. "It's enjoyable when you actually get to help someone who is frightened of the other person. It's a real relief for them to know that their restraining order will be in place for a year. They



Emery Wang

feel safer," he says. While his work is so meaningful and empowering to his clients, it is also helping to address the legal need of the more than 850,000 low-income Oregonians who cannot afford to pay for legal advice and representation in civil matters.

At the same time, Emery remembers how it felt when he was first learning the ropes as a new volunteer, adding that it can be at once exciting and stressful. "It's rewarding to learn a new area of law, but at the same time, learning includes making mistakes, and you don't want to be making mistakes when someone's safety is at risk." To avoid potential mistakes, Emery encourages new volunteers to take advantage of the advice available from more experienced volunteers.

Emery recommends the DVP to all lawyers, especially young lawyers who are looking to gain practical experience in the courtroom. He adds that it is good practice in presenting evidence and arguments to a judge, and in examining witnesses. Anyone interested in volunteering with LASO's Domestic Violence Project should contact Erin White at 503.224.4086 or erin.white@lasoregon.org.

## Andrew Narus YLS Member Spotlight

by Anaiah Palmer  
YLS Board of Directors

Andrew Narus is an employment law attorney at Barran Liebman and served as co-chair of the YLS Service to the Public (STP) Committee over the past year. Andrew grew up in Southern Oregon, where he spent most of his free time outside, playing baseball, fishing, and hiking. His passion for the outdoors led to summer jobs as a river guide on the Rogue and North Umpqua rivers and as a dock hand at Crater Lake. He still tries to spend his free time exploring Oregon's great outdoors.

A self-described "policy nerd," Andrew's interest in the law comes from a passion for public policy. During his 2L summer at the University of Oregon School of Law, he landed a summer fellowship with US Senator Ron Wyden in Washington DC and worked heavily on the Farm Bill that was up for debate that year. He had the opportunity to draft a floor speech for the senator, and despite his own nerves watching the speech, he was both proud of his work and impressed by the senator's ability to add his own personal touches on the fly. Andrew loved working in the senate and seeing policy in action, but learned that his heart was in Oregon and he wanted to focus on issues within the state. During law school, Andrew also received a Bowerman Fellowship to study campaign finance laws in Oregon. This fellowship gave Andrew the opportunity to work closely with the Oregon legislature, exactly where he wanted to be after his senate experience.

After graduating from University of Oregon Law School in 2013, Andrew spent two years as a clerk for Judge Joel DeVore on the Oregon Court of Appeals, which allowed him to develop a broad knowledge of Oregon's substantive and procedural law. Andrew enjoyed becoming a "jack of all trades," and was grateful for the mentorship of so many judges and staff attorneys at the court.

Today at Barran Liebman, Andrew enjoys his proactive role in advising employers on



Andrew Narus

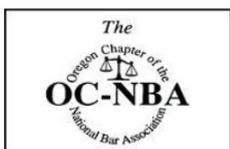
compliance issues, as well as the fast pace of employment law changes in statutes, rules, and guidance - there is always something new to learn, which keeps things interesting. Andrew's litigation practice is also flourishing, and has included a first-chair trial as well as deposition and mediation experience. Andrew also appreciates how supportive his firm is of community service and bar participation, including his time spent with the MBA.

Andrew is finishing his tenure as co-chair of the STP Committee, which is responsible for organizing monthly service projects, the Imprint Program (pairing high school students with young lawyers), and Community Law Week events, including this year's inaugural Poetry Slam. Developed with co-chair Kevin Sasse, the Poetry Slam sought to give young people a platform to express themselves on topics in US civics, and Andrew admits his love of the "Hamilton" musical influenced the event. One of Andrew's favorite community service projects with the STP Committee involved working in the kitchen with other MBA lawyer volunteers to prepare dinner at a local homeless shelter. Andrew has enjoyed the opportunity to give back to the community in a non-JD format and connect with people in the community, while at the same time building personal relationships with his lawyer peers. He wholeheartedly recommends joining the STP Committee to anyone who is interested.

## Judges' Reception Event Recap

On May 9, the Oregon Chapter of the National Bar Association, Federal Bar Association and MBA YLS hosted a judges' reception at Schwabe, Williamson & Wyatt. The event provided an opportunity to socialize with members of the bench from Federal, State, Linn County and Multnomah County Courts.

Thank you to Schwabe, Williamson & Wyatt for hosting and sponsoring the event.



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**Professionalism**

*Continued from page 9*

more career options. So, go blue and thank you, Mom!

A word about my mother, who is the epitome of grace and professionalism. When I called and told her I was getting this award, she was so thrilled and when she asked me how I felt, I said “Mom, I feel like you.” She asked me what made me say that, and I told her it was because she was so amazing and was always being honored for one thing or another. Her next words to me were, “Well, that’s true.” So while my mother has an appropriate level of humility, she will never be accused of false modesty.

And then there are the other conspirators who have affected my career: There’s Milo Petranovich at my former firm, Lane Powell. Milo conspired to try to “showcase” me to the partnership by ensuring that I tried with him one of the most grueling cases of my career (six weeks in Roseburg, Oregon) so that he could say, “This woman is partnership material.”

There are my colleagues from that same firm that have become my friends and support system in this legal community, and who have credited me with mentoring them and helping them grow in their careers - but what they fail to realize, is that *they made me* grow by making me their mentor and unknowingly helping me

understand that I needed to act in a way that reflected what they believed me to be. Their belief in me made me a better lawyer and a better human, and they are the Summit of Awesomeness. Two years ago, I introduced Bonnie Richardson as the Professionalism Award winner and since then, she along with others, conspired behind my back, and in my favor to ensure that I was standing in front of you this evening.

Then there are these past award winners, Susan Hammer and Jeff Batchelor, that I learned had conspired with others (like Bob Maloney) to nominate me for this award. And my law partner, Victor Kisch, and my practice assistant, Kathy Erickson, at Stoel Rives - also involved in the conspiracy.

My current firm, Stoel Rives, is having our firm-wide retreat - it started today in Utah, and it was important that all of the partners be there because there are important things to discuss, so I didn’t expect very many to be here this evening. But my partner, Amy Joseph Pedersen, conspired behind my back to get together with my other colleagues in our Labor & Employment group to change their flights and miss important firm business meetings so that they could be here to support me.

To all of these people and to all of you, thank you for making me the target of your conspiracy and for helping me be the person that you felt deserved to receive this Professionalism Award.

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*Congratulations*

**Heather Bowman**

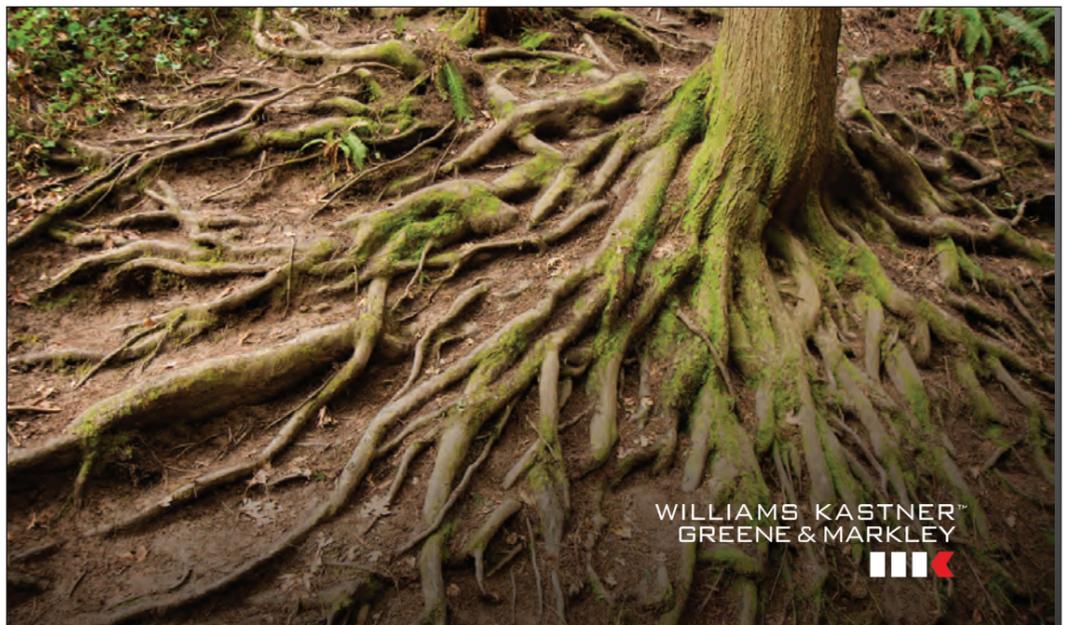
on joining the Professional Liability Fund as a claims attorney.

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You will be missed. See you soon!



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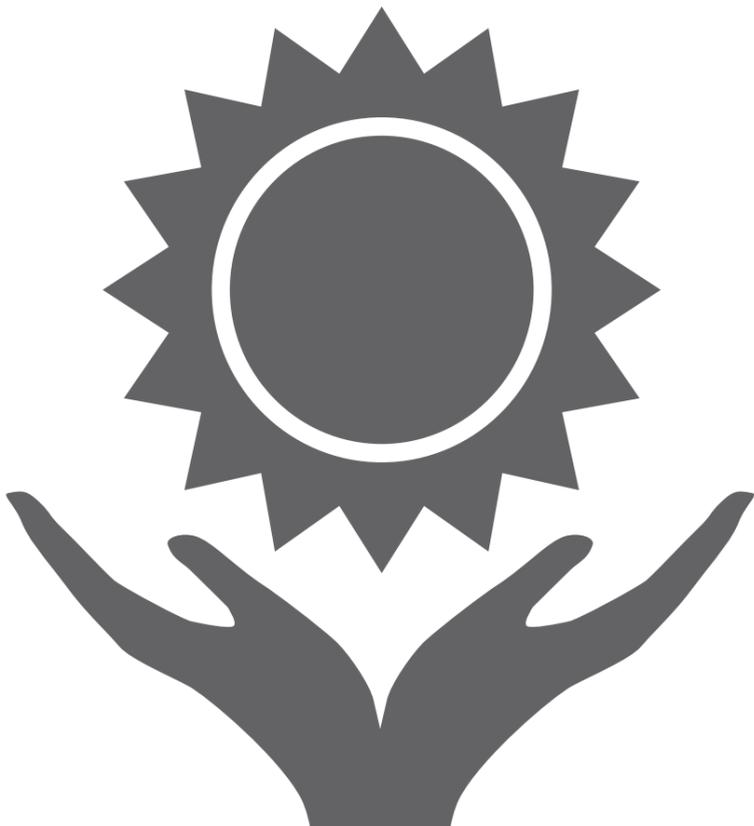


## Pro Bono Volunteers

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

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- Values diversity and teamwork
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#### Portland Casualty Associate

The Portland office of Bullivant Houser Bailey is seeking an attorney with 2-3 years of relevant experience in handling cases in the areas of complex civil matters including products liability, trucking and motor carrier claims, personal and catastrophic injury, wrongful death, commercial litigation, and medical malpractice. This position involves all phases of litigation, and includes drafting pleadings and discovery, managing files, and handling hearings, depositions, arbitrations and trials. This is an exciting opportunity to work with a group of accomplished lawyers and become part of our nationally-recognized litigation team. We offer a collegial and collaborative work environment that celebrates diverse backgrounds and experiences which strengthen our ability to serve our clients and enhances our culture.

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- Must be admitted to practice in Oregon (additional Washington bar membership preferred)

Applicants should submit a cover letter, resume, law school transcript, and a 5-7 page writing sample to [carol.oconnell@bullivant.com](mailto:carol.oconnell@bullivant.com).

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Miller Nash Graham & Dunn (MNG&D) is seeking a midlevel associate attorney with two to four years of experience in representing educational, nonprofit, or other mission-driven institutions to join its Portland, Oregon office. The successful candidate must demonstrate the ability to represent educational institutions in federal and state court and in administrative proceedings. Knowledge of and experience in education law preferred. Experience with public entity representation experience is a plus. Strong communication and writing skills, good judgment, analytical ability, and the ability to communicate effectively with people of many diverse backgrounds are required.

To apply, please submit as one PDF: A cover letter, résumé, and law school transcript (unofficial is acceptable) by email to [Michelle Baird-Johnson, Director of Recruiting and Professional Development, at MNRecruiting@millernash.com](mailto:Michelle.Baird-Johnson@MNRecruiting.com). For recordkeeping, please include the ad source in the subject line of your e-mail (State Bar ad, firm website, etc.).

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#### Experienced Litigation Attorney

National law firm is seeking an exceptional attorney for its Portland-based Northwest team. The attorney filling this position must be capable of managing and advancing a large caseload and possess sound resolution strategies. The practice primarily involves product defect, negligence and general tort cases resulting in property damage. Matters are typically managed from initial investigation through final resolution. Washington license and experience necessary; Oregon license and experience a plus. Ideal candidate will have three or more years of litigation experience; critical thinking and writing ability; exceptional time management; and excellent professional references.

Please email resume to [lheath@ghlaw-llp.com](mailto:lheath@ghlaw-llp.com) for consideration.

#### Executive Director

Disability Rights Oregon (DRO), Oregon's Protection and Advocacy System for individuals with disabilities, is seeking an Executive Director to lead the organization as it continues to improve the lives of Oregonians with disabilities. The position is located in Portland, Oregon.

Applications will be accepted until Friday, July 20. Interested candidates should submit a

letter expressing, in detail, their interest in the position, and the experience that they believe demonstrates their ability to contribute to the future of DRO and its client community. The letter should be accompanied by a current resume, and names and contact information for three references. Electronic submissions are preferred. Materials should be emailed to [execrecruit@droregon.org](mailto:execrecruit@droregon.org). Mailed submissions will also be accepted. Mail to DRO Search Committee, PO Box 1625, Portland, Oregon 97207. If you would like to submit your application in an alternate format, please contact us at [jobs@droregon.org](mailto:jobs@droregon.org) or 503.243.2081.

For any questions regarding our process, please call Michael Bailey, Search Committee Chair, 503.504.0318.

DRO offers a competitive salary and benefits package. DRO is an equal opportunity employer. DRO encourages candidates with disabilities, women, persons of color and others who represent distinct linguistic or cultural communities to apply.

Please visit [droregon.org/who-we-are/employment/](http://droregon.org/who-we-are/employment/) for the full solicitation.

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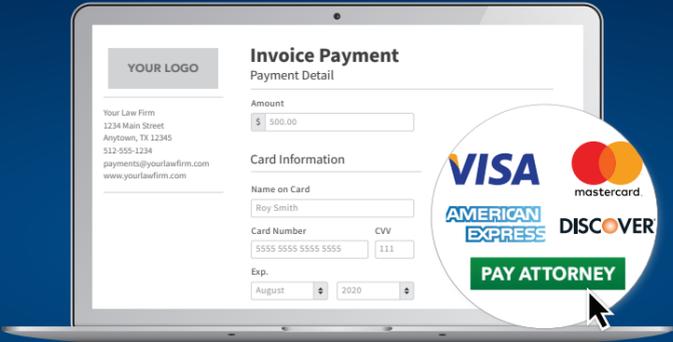
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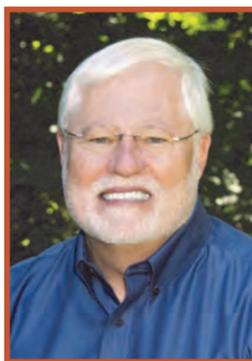
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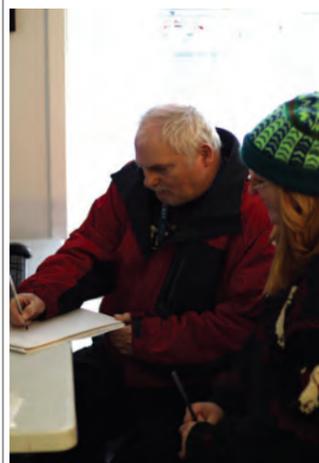
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*Special thanks to the law firms of Jaqua & Wheatley and Perkins Coie for their donations of books for the OLCR library wall.*

## MBF Announces 2018 Civic Education Grant Awards

by Pamela Hubbs  
MBA Office and Foundation Administrator

The Multnomah Bar Foundation has awarded grants totaling \$39,195 to seven area nonprofits for programs that educate people of all ages about the justice system and encourage civic engagement. Grants are made from the MBF Civic Education Fund and reflect the generous support of lawyers and law firms in the community.



**Elders in Action was granted \$5,200** for Civics 101, a five-session hands-on leadership training in advocacy to build a strong cadre of seniors who are civically engaged, understand the city, county and state government systems and can advocate for themselves and their peers.

**Healthy Democracy, a new recipient, was awarded \$5,000** for the Multnomah County Citizens Initiative Review, which brings together representative groups of citizens to fairly and thoroughly evaluate ballot measures and provide voters with information, which includes publishing a written citizens' statement in the Multnomah County Voter's Guide.



**League of Women Voters of Portland was granted \$5,000** to expand their Voter and Civic Education programs, including civic education panel discussions, voter registration services, candidate and ballot measure forums, unbiased, nonpartisan Voter's Guides in English and Spanish, and outreach to more communities, particularly to ethnically diverse and economically disadvantaged communities.



**MetroEast Community Media was awarded \$4,495** to create "Checks and Balances," a two-minute Spanish-language video that explains our system of checks and balances, the responsibilities and functions of each, the challenges the system faces today and why an understanding of the three branches of government is vital to being active and purposeful participants in our democracy.



**Saturday Academy received \$5,000**, to provide tuition assistance for low-income middle school students to attend Kid Lawyer Camp and Mock Trial Classes, a summer camp that provides a fun, hands-on, in-depth learning experience about the judicial system, incorporating mock trial, speech and debate, forensics and journalism.



**Northwest Family Services was granted \$7,000** to support the educative function of Peer Court and expand the program to David Douglas and Portland Public schools. High school student volunteers and program graduates serve as attorneys and jury members in a courtroom setting to hold youth accountable for first-time misdemeanor offenses.



**Sponsors Organized to Assist Refugees was granted \$7,500** to update and expand the curriculum for the Voter Education Project, providing group classes and individual sessions to ensure newly naturalized citizens - particularly people of low income, refugees and asylees - have an understanding of the American voting system, are registered to vote and have proper access.

For more information about the work of the MBF, visit [www.mbabar.org/foundation](http://www.mbabar.org/foundation) or contact Pamela Hubbs (503.222.3275, [pamela@mbabar.org](mailto:pamela@mbabar.org)).

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