



Giving Back and Stepping Up The Spirit of the YLS

by Holly Hayman
YLS President

As 2019 comes to a close, I'm excited to share some of the YLS's achievements from the year. Our committees have accomplished a lot and look forward to more as we incorporate new members. I've also received a good deal of

feedback about the personal benefits that folks have experienced as YLS members. I'm taking this opportunity to highlight some of the organizational and personal benefits YLS membership offers.

Committee Achievements

The YLS as an organization accomplishes some pretty amazing tasks in a single program year. Currently, the section supports four committees: Membership, CLE, Service to the Public, and Pro Bono. Although each committee is governed by its charge, they are encouraged to be flexible and allow individuals to present and pursue new ideas. During my time with the YLS, I have met new practitioners with a variety of passions and experiences. The YLS embraces this diversity and creates opportunities for members to be innovative and curious, and provides access to resources to execute their ideas. The results include impressive programming and content, some of which are highlighted below:

- **Judges' Social.** The YLS Membership Committee organizes a social event that focuses on bringing new lawyers and judges together. For many new lawyers, being before a judge in a courtroom is uncommon and unfamiliar. Meeting judges in a social environment without results-oriented pressure is important for new practitioners to gain confidence and expand their professional networks. Be on the lookout for details about the 2020 Judges' Social on the MBA website.
- **Young Litigators Forum.** The YLS CLE Committee focuses on providing CLE seminar content geared toward newer lawyers and one of its most popular series is the Young Litigators Forum. The YLF provides both theory and practical skills about the nuts and bolts of litigation in one-hour lunchtime CLEs over the course of several weeks. This year's series begins on Thursday, January 16 - see the enclosed flyer for details.
- **Objection! Poetry Slam.** The YLS Service to the Public Committee works to connect lawyers with volunteer opportunities. The committee also organizes a poetry slam that brings local high school students, attorneys, and poets together to create art based on a legal theme. In 2019, the Poetry Slam's theme was "Free Speech, Free Press, Free Society" and the event successfully connected folks for discussion, creation, and socializing.
- **Pro Bono Pour & Support for the VLP.** The YLS Pro Bono Committee provides MBA members with pro bono resources and organizes volunteer opportunities. The committee also supports the Volunteer Lawyers Project in a variety of ways, including raising money by hosting the Pro Bono Pour. The 2019 fundraiser was a success and raised more money for the VLP than the event has for the past several years.

I am constantly impressed by the level of enthusiasm and dedication members contribute to their roles. The efforts of committee members result in successfully organized events, CLEs, community service

and pro bono opportunities tailored to new lawyers. Hard work pays off, but diligence is not the only value shared and prioritized by YLS members. I am regularly inspired by the commitment our YLS members as individuals dedicate towards pro bono and public service. These shared values serve as a foundation for YLS members to make strong connections with each other and with the greater community. YLS Board Secretary Kirsten Rush summarizes that sentiment below:

"The YLS empowers its members to engage with the community by providing programming where new lawyers have opportunities to get involved in public service in a meaningful way through a wide range of volunteer activities which serve the greater-Portland area, including many that are aimed at educating the public about the legal system and inspiring the next generation of attorneys to join our profession."

The YLS's organizational model does not stop with supporting member innovation and offering a platform for prioritizing service-based values in the greater community. Indeed, one of the most important benefits the YLS provides for its members is the opportunity to participate in leadership.

Dedication to Leadership

My experience with the YLS has shown me that the value to the organization is greater than the sum of its parts. Membership empowers new lawyers, myself included, to create a professional reality that provides meaning and purpose. For many new practitioners, that means the opportunity to develop leadership skills. "The YLS creates a positive space where there are opportunities to engage in leadership roles and to learn from other new lawyers in different practice areas so that everyone can grow, professionally and personally," says Maxine Tuan, CLE Committee Chair.

YLS members have created a community that empowers individuals to succeed even at the most basic level of involvement. Our leadership focuses on maintaining that community and supporting members in every step of their participation. This support enables members to feel good about their work and results in a desire to learn from their leaders so they can continue to improve and grow. "The YLS allows new lawyers to interact with leadership directly and develop practical leadership skills," states Anthony Blake, Pro Bono Committee Chair.

At both the organizational and individual levels, it is difficult to mistake the spirit of the YLS. We are a thriving community seeking to improve both the legal and greater communities around us. Furthermore, we provide a support system for each other that encourages professional growth and prioritizes meaningful personal connections. For me, YLS membership has and continues to provide special meaning and value. I have also received similar sentiments from many new lawyers. It should come as no surprise that we modestly regard the YLS as one heck of a "professional network." It has been my privilege to serve as YLS President. I look forward to the rest of our program year and many successes in the future.

mba|CLE

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

DECEMBER

12.3 Tuesday Annual Probate Update

Judge Patrick Henry
Judge Beth Roberts
Judge Katherine Weber
Tim McNeil

12.5 Thursday New Judges' Perspectives

Judge Steffan Alexander
Judge Amy Baggio
Judge Andrew Lavin
Judge Angela Lucero
Judge Heidi Moawad
Judge Melvin Oden-Orr
Judge Shelley Russell
Judge Katharine von Ter Stegge

12.6 Friday Oregon Ethics Rule 8.4(a) (7): Moving Oregon Beyond Professionalism and Inspiring Confidence in the Justice System

Judge Melvin Oden-Orr
Nik Chourey
Donna Maxey
Shaina Pomeranz

12.17 Tuesday Top Five (Un)Ethical Reasons Lawyers Find Themselves In Trouble

Ted Reuter
Calon Russell

12.18 Wednesday Mandatory Mental Health and Substance Abuse

Judge Gregory Silver
Jared Hager
Michelle Ryan

JANUARY

1.28 Tuesday For Your Eyes and Ears Only: Handling and Protecting Attorney-Client Communications and Attorney Work Product in the Digital Age

Martha Hodgkinson
Allison Martin-Rhodes

In This Issue

Calendar.....	2
MBF.....	2
CLE.....	3
Announcements.....	6
Ethics Focus.....	6
Pro Bono Thanks.....	6
Around the Bar.....	8
News From the Courthouse.....	10
Tips From the Bench.....	10
The Corner Office.....	11
Profile: Hon. Heidi Moawad.....	11
YLS.....	12
Member Resource Center.....	13
Classifieds.....	17

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SAVE THE DATE!

MBA 18th Annual WinterSmash

A Family Friendly Bowling Event



Saturday, February 1
11 a.m.-2 p.m.
KingPins
3550 SE 92nd Ave
Portland

A Multnomah CourtCare Fundraiser

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DEADLINE for copy: The 10th of the month*
DEADLINE for display ads: The 12th of the month*

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The Multnomah Bar Foundation 2019: A Look Back on the Year

by Nick Kampars
MBF President



As I write this, we are only a few weeks from Thanksgiving and, by the time this reaches your mailbox, we will have already enjoyed the holiday. Much like we do at our Thanksgiving table each year, I thought I would share with you some of the things that brought me gratitude this year, as president of the Multnomah Bar Foundation.

The generosity of our legal community is exceptional. This statement routinely graces the pages of the *Multnomah Lawyer*, but it never gets old. When an organization that is doing good work reaches out to our legal community to ask for contributions, you respond. This year, as it has done every year, the CourtCare Committee collected enough donations to continue to offer free, drop-in childcare at the Central and the East County Courthouses. And through WinterSmash, we raised enough funds to furnish the CourtCare space in the new courthouse. The MBF's CourtCare program has become a model for other courthouses around the state, and for good reason. We are fortunate that members of the bar donate so much each year to keep this important resource thriving.

Our role in the community is vital. So many of us give to organizations we hold dear, for missions we endorse, and to others in our community who need our help. And our community is all the better for it. This year, the MBF saw an uptick in the number of people who volunteered to participate in one of its programs, CourtConnect, which pairs lawyers with judges to visit community organizations to discuss the legal system. From

neighborhood associations to new citizenship classes, these MBF volunteers sat down with folks who rarely interact with lawyers or judges, and the response has been fantastic. We are looking to build off of the enthusiasm we experienced this year and add even more community partners who wish to host these sessions next year.

The MBF is in good hands. Although I have been on the Board for a few years, it wasn't until I moved into a leadership role that I truly realized what an amazing group of people comprises the MBF Board. Along with the fantastic efforts of Pamela Hubbs and Guy Walden, these board members devote their time and energy each month, not only because they appreciate the mission of the MBF, but because they know that volunteerism is an important part of our profession. Thanks very much to Matt Donohue, Mackenzie Hogan, Abby Wool Landon, Judge Xiomara Torres, Julie Vacura, Sarah Bond, Victoria Blachly, Jim Oliver, Richard Vangelisti, Jeanne Sinnott, Nellie Barnard, and Emilee Preble. And a special thanks to incoming MBF President Jen Wagner. When she takes the reigns in January, I know things will only get better.

We have much to look forward to. I, like many of you, have followed each month's "News from the Courthouse" feature, mainly for the updates on the new Multnomah County Courthouse. Its opening next year promises to be a landmark occasion for all of us, and a highlight that will stand out in our careers. The MBF is working on several projects to support the court, the courthouse staff and the community, and we will be reaching out to many of you in the coming weeks for your thoughts and support. Without a doubt, next year will be exciting.

Thank You to Holland & Knight

Matt Donohue, Immediate Past President of the Multnomah Bar Foundation (MBF), presented a \$5,000 donation to the MBF at Holland & Knight's "Locally Yours" event at the Multnomah Whiskey Library on November 14. The MBF gratefully acknowledges the firm's support for the foundation's work to assist the public in the new courthouse.

Calendar

DECEMBER

6 Friday
OC-NBA Ebony & Ivory
www.ocnba.org/events

13 Friday
Court, Coffee & Conversation
www.mbabar.org

25 Wednesday
Christmas Day
MBA Office Closed

JANUARY

1 Wednesday
New Year's Day
MBA Office Closed

14 Tuesday
MBA Solo & Small Firm Workshop
Details on p. 11

20 Monday
Martin Luther King Jr. Day
MBA Office Closed

FEBRUARY

1 Saturday
WinterSmash
Details on p. 1

17 Monday
Presidents Day
MBA Office Closed

22 Saturday
Lewis & Clark Law School
Public Interest Law Project
Auction
bit.ly/LC_auction

29 Saturday
MBA Visits the Portland
Children's Museum
Details on p. 13



The MBA staff wishes you a happy holiday season. In 2019, 508 Oregon law firms, attorneys and non-attorney staff donated to the Multnomah Bar Foundation to benefit Multnomah CourtCare. Countless others contributed time and resources to pro bono efforts. We would like to thank the MBA membership and Portland legal community for helping to make our community and our state a better place. We look forward to serving you in 2020.

VOLUNTEER TO REDUCE ABUSE

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I would love to schedule time to chat with you, your professional group, social group or faith group about our volunteer program. Let's talk!

Contact:
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marc@guardian-partners.org | 971-409-1358

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

New Judges' Perspectives

Thursday, December 5 3-5 p.m.

World Trade Center, Sky Bridge

Members \$60/Non-Members \$95

Join some of the newest Multnomah County Circuit Court judges - **Hon. Steffan Alexander, Hon. Amy Baggio, Hon. Andrew Lavin, Hon. Angela Franco Lucero, Hon. Heidi Moawad, Hon. Melvin Oden-Orr** and **Hon. Shelley Russell** - for essential tips on how best to advocate in their courtrooms. Learn what these new judges find to be the most - and least - effective advocacy strategies, their courtroom preferences, and what they wish they had known before they took the bench. This will be informative and valuable for all Multnomah County litigators, and an excellent opportunity to hear from some of our newest judges. **Hon. Katharine von Ter Stegge** will moderate the panel. Please join us for this unique opportunity and bring your questions.

For more information: Contact Anit Jindal, Markowitz Herbold PC, at 503.295.3085. For registration questions, contact the MBA at 503.222.3275.

Oregon Ethics Rule 8.4(a)(7): Moving Oregon Beyond Professionalism and Inspiring Confidence in the Justice System

Friday, December 6 9 a.m.-Noon

Standard Insurance Building, 900 SW 5th Ave., Auditorium

Members \$80/Non-Members \$125

Note: Approved for three hours of ethics credit.

Oregon Rule of Professional Conduct 8.4(a)(7), makes it professional misconduct for a lawyer to intimidate or harass a person because of that person's race, color, national origin, religion, age, sex, gender identity, gender expression, sexual orientation, marital status, or disability. But what does that mean? Be prepared to engage with each other; this is no "talking head" presentation. Through a combination of group and facilitated discussions, participants will identify words and terms likely to intimidate or harass when we engage in conversation. Participants will also explore why we choose such words and the impacts of those choices, whether intended or not. The presenters believe it is important that such words be used during the program in a way that promotes courageous conversations, with an eye towards creating a brave space.

Learning Objectives:

- Learn about the relevance of Oregon Rules of Professional Conduct to intimidation or harassment based on race, color, national origin, religion, age, sex, gender identity, gender expression, sexual orientation, marital status, or disability.
- Through group discussion, learn to identify words that intimidate, harass and dehumanize people based on race, color, national origin, religion, age, sex, gender identity, gender expression, sexual orientation, marital status, or disability.
- Explore the impact on people and society when such words are used in our practice, chambers, and courts.
- Explore the role we as lawyers and judges play in either enabling or interrupting the intimidation, harassment and dehumanization of people in our offices, practices, in the courts, the justice system and society.

The esteemed facilitators and presenters for this interactive ethics CLE are: The **Honorable Melvin Oden-Orr**, Multnomah County Circuit Court; **Donna Maxey**, Founder, Race Talks; **Shaina Pomeranz**, Chief Operating Officer, Race Talks; and **Nik Chourey**, Deputy General Counsel, OSB. Race Talks is a local organization that has supported interracial and cross-cultural communications and relationships through the development of sensitivity and understanding since 2011.

For more information: Contact Adrian L. Brown, Chair, CLE Committee, 503.727.1003. For registration questions, contact the MBA at 503.222.3275.

Top Five (Un)Ethical Reasons Lawyers Find Themselves In Trouble

Tuesday, December 17 3-5 p.m.

World Trade Center, Mezzanine

Members \$60/Non-Members \$95

Note: Two hours of ethics credit will be applied for.

Please join the MBA for a presentation on the top five pitfalls that get lawyers in trouble with the Office of Disciplinary Counsel - and how you can successfully avoid them. In this CLE, relevant to lawyers in all areas of practice, you will hear from OSB Assistant Disciplinary Counsel **Ted Reuter**, and Holland & Knight legal ethics defense attorney **Calon Russell**. Come and learn what you need to know to avoid common ethical mistakes, and to refresh your knowledge of the rules of professional conduct.

For more information: Contact Garrett Garfield, Holland & Knight at 503.517.2931. For registration questions, contact the MBA at 503.222.3275.

Mandatory Mental Health and Substance Abuse

Wednesday, December 18 Noon-1 p.m.

World Trade Center, Sky Bridge

Members \$30/Non-Members \$50

Note: One hour of mental health and substance abuse credit will be applied for.

A landmark 2016 ABA/Hazelden Betty Ford Foundation national study found that attorneys are nearly twice as likely as the general population to experience problematic alcohol use, and younger attorneys (under 30) are approximately three times as likely. Reported levels of depression, anxiety and stress were also significantly elevated among attorneys according to the study. Given these realities, the Oregon Supreme Court approved amendments to the MCLE rules requiring mental health, substance abuse, and cognitive impairment education. The speakers in this CLE will talk about the causes and consequences of lawyer distress, when to ask for help for yourself and for colleagues, how to recognize when someone needs help, and what practical tools are available to enhance well-being. You will also hear a personal story of recovery. This CLE will be presented by **Judge Gregory Silver**, Multnomah County Circuit Court, **Michelle Ryan**, Attorney at Law, and **Jared D. Hager**, Assistant United States Attorney.

For more information: Contact Ian Christy, Miller Nash Graham & Dunn at 503.205.2416. For registration questions, contact the MBA at 503.222.3275.

For Your Eyes and Ears Only: Handling and Protecting Attorney-Client Communications and Attorney Work Product in the Digital Age

Tuesday, January 28 3-5 p.m.

World Trade Center, Mezzanine

Members \$60/Non-Members \$95

Note: Two hours of ethics credit will be applied for.

This CLE will explore the scope of the attorney-client privilege and work product doctrine in Oregon, as well as discuss some practical tips and considerations for dealing with privilege issues as they develop in a world that is becoming increasingly more dependent on electronic storage and devices for communication. The program will discuss the most common mistakes that lawyers make when handling their client's privilege and how to avoid them. **Martha Hodgkinson**, Hodgkinson Street Mephram, LLC and **Allison Martin-Rhodes**, Holland & Knight, will present this class.

For more information: Contact Adele Ridenour, Ball Janik LLP, at 503.228.2525. For registration questions, contact the MBA at 503.222.3275.

To register for these classes, see page 4.

MCLE REPORTING YEAR?

For the first time, 2020 MBA members receive access to the entire catalog of video webcasts recorded during the Fall 2018-Spring 2019 program year. This amounts to 60+ hours of free, unlimited MCLE-accredited programming, available anytime online.

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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.

12/5 New Judges' Perspectives

- Class Registration (\$60 Members/\$95 Non)\$ _____
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12/6 Oregon Ethics Rule 8.4(a)(7): Moving Oregon Beyond Professionalism and Inspiring Confidence in the Justice System

- Class Registration (\$80 Members/\$125 Non)\$ _____

12/17 Top Five (Un)Ethical Reasons Lawyers Find Themselves In Trouble

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

12/18 Mandatory Mental Health and Substance Abuse?

- Class Registration (\$30 Members/\$50 Non)\$ _____
 CD-ROM & Written Materials (\$30 Members/\$50 Non) ..\$ _____

1/28 For Your Eyes and Ears Only: Handling and Protecting Attorney-Client Communications and Attorney Work Product in the Digital Age

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

Total due\$ _____

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

Photocopy registration and mail or fax with payment to:

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Román D. Hernández
Managing Partner
Portland Office

We congratulate **Román** for his receipt of Oregon State Bar's President's Diversity & Inclusion Award. He has a career long record of advancing diversity and inclusion in the legal profession both locally and nationally.

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The clock is ticking...



Renew your MBA membership for 2020 by December 31 to receive a FREE \$60 credit toward MBA CLE programming.

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Terms and conditions apply – see www.mba.org for details.



mba | ANNOUNCEMENTS

Action Required: NextGen Coming to the District of Oregon

On January 21, the US District Court for the District of Oregon will go live on CM/ECF NextGen. Attorneys will not be able to login and e-file with their current CM/ECF usernames and passwords after that date. To e-file with NextGen, attorneys should upgrade their PACER accounts now (if established before 2014 and not yet upgraded). Once NextGen is live, attorneys will link their PACER and NextGen accounts. Only a single sign-on will be required for both systems after the accounts are linked. Please see ord.uscourts.gov for more details.

Conference Room Available to MBA Members

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.

Free CLE Webcast for MBA Members

The video webcast of the seminar "Copyright and the Internet" is now available in the Members Center at www.mbabar.org. The seminar was accredited for two hours of practice skills OSB MCLE credit.

2019 MBA members receive access to a rotating selection of six different CLE seminars - 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/diversity.

Noontime Rides

Short fast rides with hills. Meet at SW corner of Pioneer Courthouse Square (Yamhill & Broadway) between noon and 12:10 p.m., Monday and Thursday. Contact: Ray Thomas 503.228.5222 with questions, or meet at start.

Pro Bono Volunteers

Thank you to the following lawyers who recently donated their pro bono services at the Volunteer Lawyers Project at Legal Aid Services of Oregon.

Visit www.mbabar.org/probono to discover pro bono opportunities in Multnomah County.

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Clarke Balcom
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Daniel Bonham
J. Rion Bourgeois
Carson Bowler
Sara Butcher
Brett Carson
Dallas DeLuca
Laura Donaldson
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Richard Slottee
Joshua Stadler
Brian Talcott
Evans Van Buren
Gail Vore
Lee Wyatt
Whitney Yazzolino

Ethics Focus

One at a Time: Restrictions on Future Representation in Settlement Agreements

by Mark J. Fucile
Fucile & Reising LLP



In a variety of practice areas, it is common for the same lawyer or firm to handle repeated claims against the same defendant. Employment, product liability and business tort claims provide ready examples. If a lawyer or firm is particularly effective, the defendant may be tempted to say to the lawyer: "We're tired of seeing you - how about including a provision in our settlement agreement prohibiting you from handling cases against us going forward?"

RPC 5.6(b) generally prohibits both offering or accepting such a proposal. At the same time, the economic pressure to settle cases sometimes leads to "creative" variants that are not as clear. In this column, we'll first look at the history of Oregon RPC 5.6(b) - which varies from its ABA Model Rule counterpart in a key respect. Next, we'll survey some "creative" variants that have also been found to violate the rule.

Oregon RPC 5.6(b)

Oregon's rule is simple on its face: "A lawyer shall not participate in offering or making:

...

(b) an agreement in which a direct or indirect restriction on the lawyer's right to practice is part of the settlement of a client controversy."

RPC 5.6(b) traces its lineage back to 1970 when Oregon adopted the former Code of Professional Responsibility including DR 2-108(B) that, with a slight change

in 1986, read: "In connection with the settlement of a controversy or suit, a lawyer shall not enter into an agreement that restricts the lawyer's right to practice law." A 1991 OSB ethics opinion - 1991-47 - clarified that the prohibition extended to both making and offering a restriction. A plaintiffs' lawyer in *In re Vanagas*, 8 DB Rptr 185 (Or 1994), was subsequently disciplined under DR 2-108(B) for offering to forego handling future employment claims against a company in return for a proposed payment of \$25,000.

In *In re Brandt/Griffin*, 331 Or 113, 10 P3d 906 (2000), two plaintiffs' lawyers handling a series of business tort cases against a franchisor reluctantly agreed as a part of a "global" settlement to advise the franchisor going forward on its business practices that had led to the lawsuits. The restriction, therefore, was indirect in the sense that the conflict rules would preclude the lawyers from handling a matter against the

...the economic pressure to settle cases sometimes leads to "creative" variants counterparts...

franchisor as long as they were representing it. The Oregon Supreme Court concluded that this indirect restriction also violated DR 2-108(B).

When Oregon moved to the Rules of Professional Conduct in 2005, DR 2-108(B) was replaced by RPC 5.6(b). Although patterned generally on its ABA Model Rule counterpart, the Oregon rule includes an important nuance. Reflecting the Supreme Court's *Brandt/Griffin* decision, the Oregon rule was expressly expanded to include both "direct or indirect" restrictions. Consistent with the corresponding ABA Model Rule, Oregon RPC 5.6(b) also expressly prohibits both the "offering or making" of such restrictions. The related ethics opinion - 2005-47 - was updated to reflect the amended formulation. The comments to the ABA Model Rule explain that such restrictions are prohibited because they both limit the professional autonomy of the lawyer and the freedom of clients to choose their lawyer.

In sum, lawyers on both sides of the negotiating table are at disciplinary risk under RPC 5.6(b) if they venture into settlement discussions that would restrict the practice of one of the lawyers in the future. Moreover, the provisions may be unenforceable as well. In *Gray v. Martin*, 63 Or App 173, 663

P2d 1285 (1983), and *Hagen v. O'Connell, Goyak & Ball, P.C.*, 68 Or App 700, 683 P2d 563 (1984), the Court of Appeals concluded that analogous non-compete provisions in law firm partnership or shareholder agreements were unenforceable because they were against public policy.

"Creative" Variants

A seminal ABA opinion on this subject - Formal Opinion 93-371 - highlighted the economic forces underlying "creative" variants to the outright prohibition in ABA Model Rule 5.6(b) and its state equivalents: "The pressure to find creative solutions to mass tort litigation has prompted an inquiry regarding the propriety of a lawyer entering into a settlement agreement with an opposing party pursuant to which the lawyer may be obligated to refuse to represent certain present clients as well as other similarly situated individuals against the same defendant in the future." ABA Formal Opinion 93-371 examined a settlement arrangement where a law firm would be obliged to refuse to represent claimants who opted out of a global resolution formula. The opinion concluded that this variant would also violate ABA Model Rule 5.6(b).

The ABA returned to "creative" variants in Formal Opinion 00-417. This opinion was predicated on a hypothetical in which a plaintiffs' lawyer agreed not to use information gathered in a present case for the benefit of future clients involved in similar litigation against the

"The pressure to find creative solutions to mass tort litigation has prompted an inquiry regarding the propriety of a lawyer..."

same defendant. Again, the ABA concluded that this would violate ABA Model Rule 5.6(b) because it would interfere with the lawyer's ability to represent future clients. Formal Opinion 00-417 was careful to note that its conclusion did not preclude lawyers from entering into confidentiality agreements - as long as they were limited to the case at hand and did not prevent the lawyer from using the information developed in one case in future litigation for other clients.

These ABA opinions underscore that lawyers should remain wary of "creativity" in this area.



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HANSARY LAFOREST.**

Hansary is a trial attorney and focuses on civil, criminal, and commercial litigation matters. His courtroom experience includes representing clients on both the state and federal level.

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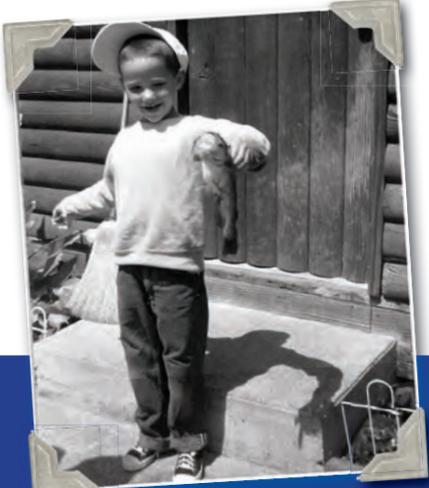
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Around the Bar



Mick Harris



Lauren Lewis



Timothy Wright



Josh Sherman

Tonkon Torp LLP

Tonkon Torp welcomes associate **Mick Harris** to the firm's business department, where he will focus on business law.

Harris graduated cum laude from Willamette University College of Law in 2019. Harris gained legal experience working as a summer associate at Tonkon Torp and as a judicial extern for the Hon. Robyn R. Aoyagi at the Oregon Court of Appeals.

Timothy Wright has joined Tonkon Torp as an associate in the firm's litigation department. His practice will focus on resolving commercial disputes.

Prior to joining Tonkon Torp, Wright served as a judicial law clerk for the Hon. Erika L. Hadlock, former Chief Judge at the Oregon Court of Appeals. During the two-year clerkship, he worked on a number of civil, administrative, and criminal appeals, dealing with issues as varied as free speech, home rule, and discrimination.

Wright graduated from University of Oregon School of Law in 2017. During law school, he served as a judicial extern with the Hon. Michael J. McShane at the US District Court for the District of Oregon. Wright also worked as a law clerk for the Oregon DOJ in the Civil Litigation Section of ODOJ's Trial Division. Prior to law school, Wright served in the US Army as a Tactical Unmanned Air Systems Repairer for three years.

Hart Wagner LLP

Lauren Lewis joins the firm as an associate. Lewis' practice will involve the defense of long-term care facilities, medical malpractice and general liability matters. She graduated from the University of Oregon School of Law. She also learned the ropes of litigation while working as an extern for the Hon. Magistrate Judge John V. Acosta of the US District Court for the District of Oregon and in her work as a law clerk with the Oregon School Boards

Association. In addition, Lewis worked as a law clerk for Ruthie City of Anchorage, Alaska.

Josh Sherman joins Hart Wagner LLP as an associate. Sherman's practice will focus on employment litigation, medical malpractice, and general liability matters. He earned his law degree at Lewis & Clark Law School, graduating cum laude. He worked as a certified law clerk for the US Attorney's Office for the District of Oregon.



Eric Mills

Miller Nash Graham & Dunn

Eric Mills has joined the firm. Mills will continue to focus his practice on business litigation matters, including contract, corporate governance and securities disputes, and supporting clients in the financial services, technology, retail, real estate and other industries. Before joining Miller Nash Graham & Dunn, Mills practiced in the Washington, DC office of a global law firm.

Sussman Shank LLP

Sussman Shank is pleased to welcome **Hansary Laforest** as an associate to the firm's litigation department.

Laforest is a trial attorney and focuses his practice on civil, commercial, and criminal litigation matters. He brings over eight years of courtroom experience to the firm, including jurisdictions from multiple states on both state and federal levels. Laforest has represented a broad



Hansary Laforest

spectrum of both corporate and individual litigants in contested matters in court, arbitration, and administrative settings.

Laforest is admitted to practice law in Oregon, Texas, New York, and New Jersey.



Jovita Wang

Richardson Wright

Partner **Jovita Wang** has been recognized as one of this year's Best Lawyers Under 40 (BU40) by the National Asian Pacific American Bar Association (NAPABA). The BU40 Award recognizes talented individuals in the Asian Pacific American legal community who are under the age of 40 and who have achieved



Simon Whang

prominence and distinction in their respective fields, while demonstrating a strong commitment to the Asian Pacific American community at relatively early stages in their careers.

Simon Whang has joined Richardson Wright law offices as Of Counsel. He brings two decades of experience in litigation, contracts enforcement, appellate, collections, mortgage and foreclosure, financial crimes, consumer protection and government relations, from his work at the Manhattan and Multnomah County DA's Offices, Oregon Department of Justice, and Portland City Attorney's Office. Whang is an adjunct professor of mock trial/moot court at Lewis & Clark Law School.

Stoll Berne

Elizabeth Bailey has joined the law office of Stoll Berne as an associate attorney. Bailey's practice will focus on complex litigation matters.

Prior to joining Stoll Berne, Bailey served as a law clerk for the Hon. David W. Christel (US District Court, Western District of Washington) as well as a



Elizabeth Bailey

judicial extern to the Hon. Jolie A. Russo (US District Court of Oregon). She also served as a law clerk for a law firm in Springfield and as a foreclosure law clerk with the Northwest Justice Project.

Shenker & Bonaparte LLP

The Law Office of **Arden E. Shenker** has returned to the World Trade Center, Suite 1100, where it will continue to focus on complex civil litigation. The telephone and email listings (503.294.1118, ashenker@ashenkeresq.com) remain the same.

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

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Another Successful Absolutely Social

Two hundred lawyers, judges, sponsors and law students gathered at the University Club on October 15 for the fall Absolutely Social - The Grape Escape. The event featured wine tastings selected by Matt Levin and Albert Menashe. Cash and canned food were collected for the Oregon Food Bank. Thanks to all those who contributed!

Thank you to our generous sponsors

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Bench Bar & Bagels

On November 13, members of the MBA and judiciary gathered at Tonkon Torp LLP for the 11th annual Bench Bar & Bagels event. In a relaxed atmosphere, attorneys and judges started their day by catching up with colleagues and making new acquaintances over pastries and coffee.

Bench Bar & Bagels was generously sponsored and hosted by Tonkon Torp.



Judge Thomas Ryan, Bob Koch and Judge Nan Waller



Julia Hagan and Judge Kathleen Dailey



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Tips From the Bench

In Order to Win, Find Out What's Wrong with Your Case

by Judge Katharine von Ter Stegge
Multnomah County Circuit Court



One of the true pleasures and privileges of being a judge, especially one curious about people and litigation strategy, is the ability to get inside someone's case during a settlement conference and poke and prod it before it settles or heads to trial. In my experience, there are two distinct approaches lawyers take in a settlement conference: the first is taken by the "reasonable" lawyers who admit weaknesses in a case, while the second is taken by lawyers who stridently oppose any small criticism of their client, their client's evidence, or the merest suggestion that trial could result in an unfavorable outcome.

I'm not here to tell you which approach is likely to be more effective; frustratingly, I truly think the answer depends on the facts and client dynamics of a particular case, including the personality of the judge or mediator. My purpose in writing this article is to provide some tips on how to evaluate your case so that, in the event you attempt to "bluff" the judge or mediator about the strength of your case, you have a pretty good idea of what might actually be wrong with your case well before the jury returns a verdict.

Sometimes I worry that overconfident lawyers aren't bluffing, they just haven't considered that reasonable people might view the same facts differently. So, how do you figure that out so you can be well prepared for any settlement conference or trial, while giving your client sound legal advice every step of the way?

First, start a list of "good" facts and "bad" facts for your case. I put those words in quotes because of course your job as a trial lawyer is to convince your opposing counsel and your mediator that the bad facts are, at worst, just neutral and not the devastating facts your opponent claims them to be. The relative length of each list will not tell you whether or not you will win (because, for example, your star witness having an impeachable perjury conviction could make the long length of the "good" list very short in practice). It will, however, usually give you some idea about how good your case is. Maintaining these lists will also prompt you as to what additional follow-up work you need to do to prove or disprove the key facts at trial. The lists will also come in handy in realistically advising your client about settlement or chances for success at trial, drafting

mediation statements, and in ultimately picking exhibits and witnesses for trial.

Next, you need to talk to people about your case. A lot. Talk to people who are like you and do the kind of work you do, but also people who are different than you and who do different types of work. The best trial lawyers I know, the dog-with-a-bone trial lawyers, will not shut up about their cases and are always asking if they can "just run a few facts" by you on the phone or over coffee. These lawyers are trying to troubleshoot their cases by getting opinions from as many people as possible, and they are smart to do it. Buying your friends coffee so you can talk about your case is a lot cheaper and faster than paying for a formal trial focus group, something many clients can't afford. Obviously, you need to make sure you are not revealing client confidences, and only talking to people you trust. Talk to lawyers, and talk to non-lawyers too, because of course that's what you'll be doing in an actual trial.

Talking to smart, opinionated people who don't have an interest in your case is the best way to combat a dangerous phenomenon that goes by many names: confirmation bias, tunnel vision, an echo chamber, having your head buried in the sand, etc. If you personally are a different race, age, gender or otherwise share little in common with the star witness for the opposition, talk to some folks who might have more in common with that witness than you to make sure that your view of the facts (including your case theme and intended cross-examination strategy) isn't likely to backfire or cause offense. Ideally, lawyers who work together should be a diverse enough group that this feedback is available internally, but unfortunately that is not always the case.

To make workshoping your case most effective, tell the story of your case first from your opponent's point of view...then from your client's point of view. Ideally, you should do a mini-opening with other side's best version of events. That way, your audience will have your bad facts first. If you aren't giving your "best" case first, you will likely get more useful feedback about the strengths and weaknesses of your case. If you're the defense, you know that's how it goes down every time at trial anyway.

Giving your case some air will provide you with useful feedback, allow you to do a better job countering your opponent's approach, and will also make you more fluent with the evidence in your own case. Knowing your evidence, and its weaknesses, is your best asset in a settlement conference and at trial. And that's whether or not you decide to acknowledge your case's problematic aspects or confidently try to bluff your way past them.

News From the Courthouse



by Ben O'Glasser
Court Liaison Committee

Presiding Judge's Report and Courthouse Update

Judicial Appointments and Transitions
Long time Hearings Referee and Pro Tem Judge Steven Todd is retiring at the end of the year. Judge Todd, a referee since 1997, presides over many high-volume courtrooms and has been an invaluable resource in training judges and referees through the years. The court is extremely appreciative of Judge Todd's years of service.

Family law Judges Morgan Wren Long and F.G. "Jamie" Troy II were sworn in on October 28 to fill the positions vacated by the retirements of Judges McKnight and Tennyson.

The elevation of Judge Long from a referee position created a Juvenile Court referee vacancy; that position and Judge Todd's position have been posted for applicants.

Legislative Breakfast

Judge Bushong thanked the MBA for hosting the upcoming Legislative Breakfast. The themes of the event will be: (a) the court's appreciation for legislative funding of the new courthouse and improved funding for the Oregon judicial branch; and (b) the court's desire to be a resource for the legislature. The court wants to ensure that legislators have access to information about the court's work and contacts at the court whose work relates to public policy issues under consideration by the legislature. Some legislators have visited the court recently and more are scheduled to visit in the near future.

Multnomah County Court Rules Update and Reminders

The UTCR Committee has tentatively approved new Supplemental Local Rules for Multnomah County that will go into effect on February 1.

SLR 5.016 provides that after filing a Motion for Summary Judgment and receiving notice that it has been assigned to a pro tem judge, attorneys will have five days to seek reassignment to a sitting judge. This codifies the

longstanding practice described in the attorney reference manual and adds a time limitation. After the new rule goes into effect, the court may deny untimely requests for reassignment.

SLR Chapters 8 and 9 have been substantially rewritten to streamline and improve domestic relations and probate procedures. A committee of judges and staff drafted these changes over the past year.

Pursuant to SLR 7.045(1), when an attorney affidavits a judge they must serve a copy of the affidavit and supporting materials on the judge prior to appearing at ex parte. Attorneys are encouraged to contact the presiding court clerks for procedural assistance if they anticipate filing an affidavit vis-à-vis an assigned pro tem judge.

Default judgment paperwork should not be presented at ex parte, but instead should be electronically filed. SLR 2.501 lists the only matters appropriate for presentation at ex parte.

Proposed UTCR on Warrantless Civil Arrests

On October 18, the UTCR Committee considered a proposal and supporting legal memorandum regarding warrantless civil arrests in and around courthouses. The proposal would recognize the common law privilege to be free from such arrests. Multiple other jurisdictions have taken similar actions, including Washington (court policy); California (legislation); New York (court policy); New Jersey (court policy); and the District of Massachusetts (injunction). Many lawyers, including Multnomah County District Attorney Rod Underhill, signed a letter supporting the proposal.

Proponents of the rule cite concerns about access to the court system. There is a concern that Immigration and Customs Enforcement (ICE) actions at state courthouses are creating a chilling effect on individuals' willingness to come to court for their own matters or as witnesses. Plainclothed ICE officers have made arrests and at least one recent incident involved the use of mace.

Both Chief Justice Walters and Chief Justice Balmer before her have unsuccessfully sought assurance from the United States Attorney General that ICE would not conduct warrantless civil arrests at Oregon's state courthouses. The UTCR Committee ultimately recommended a modified proposal that would apply to the court and its "environs" as defined in the proposal. Chief Justice Walters will determine whether to adopt that proposal as a Uniform Trial Court Rule or a Chief Justice Order. The UTCR Committee did not adopt the portions of the proposal that would have: (a) extended to persons coming or going to court (deemed to be a legislative issue); or (b) specified an enforcement mechanism (deemed to be worthy of further study by a workgroup).

Courthouse Update

Courthouse construction is in its final stage. The designs for the new courthouse were developed four-plus years ago based on studies of desired features that were conducted when the courthouse was being planned, and there have been many changes to business processes, laws, Uniform Trial Court Rules, and technology since the designs were finalized. The court intends to share more information about the improved functionality the building will offer as well as revisit needs and determine how to best meet them. The court will be offering "New Courthouse at Noon" open house sessions to educate attorneys on different aspects of the building, and is also conducting listening sessions with law firms' technical staff regarding the new courthouse's audio-visual systems.

In early November, the court held two lunch and learn panel presentations on improving access to justice for those with hidden disabilities. The sessions featured attorneys John Robb and Rima Ghandour; Emily Cooper from Disability Rights Oregon; and speech pathologist Glenn Weybright. This is a continuation of the court's educational series, intended to improve understanding about members of the community.

The Honorable Heidi Moawad Multnomah County Circuit Court Judge

*Former Gubernatorial Advisor and Prosecutor
Appointed to Circuit Court Bench*

by Ben O'Glasser
Court Liaison Committee

Multnomah County Circuit Court Judge Heidi Moawad took the bench in April 2019. With her appointment, Judge Moawad returned to the same courthouse where she worked for the first decade-plus of her career as a Multnomah County prosecutor. However, to describe Judge Moawad simply as a prosecutor-turned judge would vastly underestimate the diversity and richness of experience that she brings to the bench.

Midway through her tenure as a prosecutor, Judge Moawad had the opportunity to work as legislative counsel for the 2005 legislative session. After this initial glimpse into politics and policymaking, Judge Moawad returned to her former role and went on to handle nearly every type of criminal case, including the prosecution of significant child sex abuse cases. Judge Moawad was asked in 2013 if she had any interest in returning to Salem with the governor's office. Despite initial reluctance to leave her senior role in Multnomah County, Judge Moawad ultimately chose to return to Salem as a member of Governor Kitzhaber's staff.

From 2013 until her appointment to the bench, Judge Moawad served as the Governor's Public Safety Policy Advisor, providing continuity in the role when Governor Brown assumed office. At her investiture, her former colleagues spoke about her tenacious drive to protect the public and to pursue justice. At the state's highest levels, Judge Moawad worked on criminal justice initiatives, including sentencing reforms, designed to balance public safety with the fiscal burden that would be triggered by the creation of additional prison beds. These experiences have given Judge Moawad a holistic understanding of and appreciation for the challenges and opportunities presented in criminal cases.

While in Salem, Judge Moawad also broadened her experience with public safety agencies and unexpectedly spent much of her time in that role marshalling the state's responses and issuance of "conflagration declarations" in six consecutive summers of significant wildfires. Judge Moawad managed the governor's office's response to emergency incidents, including the mass shooting at Umpqua Community College, and the Malheur Wildlife Refuge occupation. This hard work under extreme circumstances exposed her to the variety of social, political, and economic challenges that are confronted by Oregonians across the state.



Judge Heidi Moawad

A veteran of dozens of jury trials, Judge Moawad has a comprehensive understanding sense of what it takes to come into court as an advocate. However, she remarked that her current role has given her newfound appreciation for the work that goes into quickly making decisions in a way that will keep a trial running efficiently. As she builds her judicial experience, Judge Moawad considers herself extremely lucky to have inherited Judge Wittmayer's excellent staff, Sonja Lockhart and Joe Keenan, who she describes as a "dream team."

Judge Moawad is a Stage III breast cancer survivor, a challenge that gives her unparalleled knowledge about what it takes to appear in court as an advocate in the face of adversity. Senior Judge Jean Kerr Maurer, who administered Judge Moawad's oath of office, was always impressed by Judge Moawad's skills as a trial lawyer, her organizational ability, and her work ethic. Even more, though, she still marvels at Judge Moawad's tenacity in coming to the courthouse, bald from chemotherapy, ready to "roll." In March, Judge Moawad will celebrate eight years since her last chemotherapy treatment.

Active in civic life, Judge Moawad has previously served on multiple bar committees, and the boards of Mentor Minds Matter and Camp Rosenbaum. She currently serves on the board of Lincoln Youth Football.

Looking back, Judge Moawad says her work waiting tables between her time at Whittier College and beginning to attend law school at University of Oregon Law informs her in her current role presiding over cases. She remarked that both are customer service roles, and a judge's goal is to ensure that lawyers and litigants who leave a courtroom feel that they have been heard and listened to.

Judge Moawad is excited for the opening of the new courthouse and to see how the new space will allow the court to achieve better efficiency and results, particularly in high-volume courts. Additionally, she hopes to play a role in improving how the court system works with other system partners to provide the best outcomes to our community.

The MBA Solo & Small Firm Committee Presents

EVERYONE'S BUSY, BEING PRODUCTIVE IS A CHOICE: DRIVING RESULTS IN 2020

Tuesday, January 14
Workshop: 12-1:30 p.m.
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The Corner Office | PROFESSIONALISM

How Do You Implement Professionalism in Your Practice?

As Oregon lawyers, we often talk about how we aspire to a professional standard of conduct that goes beyond merely complying with the ethical rules. This principle is recorded in the MBA Commitment to Professionalism and in the OSB Statement of Professionalism. I still recall how it was described to me by established lawyers and judges in my first week at an Oregon law school: "law practice is different here in Oregon" and "as professionals, Oregon lawyers must strive for justice and fairness."

But how does that translate into a lawyer's practice day to day? How do you reconcile principles of justice and fairness with your duty to zealously represent your client? What difference will it make to the larger community if you act in a professional manner? Can concepts of professionalism be weaponized against non-dominant cultures that reinforce oppressive systems or stereotypes? I raise these questions not because I have the answers, but because being a professional often means struggling with these and other important questions. And if you do not find professional or ethical predicaments frequently in your practice, maybe you should look more closely.

Recently, I faced a personal decision related to professionalism. I had to decide whether to exploit

an opposing counsel's error to advance my client's interests. An opposing counsel in a complicated multi-party case misstated the relevant law and pertinent facts of the case in an informal email directly to me in a manner that was insulting to both my client and myself. I considered whether to forward that attorney's unprofessional email to all the attorneys working on the case and correct his error publicly as it tended to put my client in a better light. After immediately drafting an email in anger (which is perhaps a red flag in and of itself), I decided I should let it sit in my drafts overnight so I could talk it over more thoroughly with my client. Ultimately, we chose to paraphrase the lawyer's email in a more neutral way and correct the record to advance my client's interests without shaming the lawyer publicly as it may cause that lawyer to prolong the dispute.

This brought up two concepts from the MBA Statement of Professionalism, among others. First, we strive to "treat all persons with courtesy, fairness and respect" and second, that "we will represent our clients' best interests while seeking to resolve matters with a minimum of legal expense to all involved." In my case, we developed a path forward that we felt was respectful and would not prolong litigation, and would adequately

advance the client's interests. I think we came to an appropriate conclusion, but I am the first to admit it was not easy to develop a response.

So next time you face a difficult issue that even indirectly evokes concepts of professionalism, trust your instincts and take a moment, talk it over with a colleague, and read over your Commitment to Professionalism. While the path to professionalism is often obscure, I have always found that the best results occur when I can find the balance that achieves both professionalism and advocacy.

The Corner Office is a recurring feature of the Multnomah Lawyer and is intended to promote the discussion of professionalism taking place among lawyers in our community and elsewhere. While The Corner Office cannot promise to answer every question submitted, its intent is to respond to questions that raise interesting professionalism concerns and issues. Please send your questions to mba@mbabar.org and indicate that you would like The Corner Office to answer your question. Questions may be submitted anonymously.

mba | **Young Lawyers Section**

What is the YLS?

An inclusive section of the bar, comprised of 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!

Ask the Expert

*Dear Expert,
Right after I passed the Bar I got involved with a lot of organizations so I could expand my network and gain relevant experience. Now that my practice is growing, I am having a hard time keeping up with all my commitments, and I'm feeling overwhelmed. I don't want to let anyone down, but I'm having a really hard time giving my all.*

*Sincerely,
Overcommitted with
Extracurriculars*

Dear Overcommitted,
When you are just starting out in your legal career it can be tempting to join every organization, committee, or even board that comes your way. These are all important ways to build your legal network, figure out which areas of law interest you the most, and give back to your community. Often, each individual commitment seems small enough that it won't get in the way of the rest of your life, but when you add them all together they can become overwhelming. Remember, you can only be a good attorney and a good colleague if you have the mental energy to devote to your work and your obligations, and if you are taking the time to care for yourself as well. It is possible to gracefully and professionally end some of your obligations, but first you need to figure out which ones to keep.

Now that you have a job and a legal field to focus on, consider which organizations are relevant to your professional development. Maybe you were considering jobs in employment law and in family law, so you joined networking groups related to both. Now that you have settled on family law as your practice area, is a group of employment lawyers the best place for you to spend your limited time and energy? Probably not, unless you are thinking about switching gears in the near future.

You also want to think about your passions and where you want to make a difference. If working toward better mental health awareness in the legal community energizes you, stay on the quality of life committee you joined, but consider dropping the CLE planning committee. If you have joined the board of an organization, think about how important that organization's mission really is to you.

Undoubtedly, it is doing good work, but if it isn't the work you feel passionately about, you aren't going to be motivated to participate fully, and that won't be beneficial to you or to the organization.

Finally, consider which commitments you actually enjoy the most. Maybe you joined a trial lawyers group and ended up practicing transactional law, but darned if those trial lawyers haven't become your best friends in the meantime. You don't want to lose those connections, or the opportunity to do something you enjoy in a professional context.

Once you have narrowed down your list to obligations you enjoy the most, are the most relevant to you, and will benefit you the most, you still might have to make some hard decisions to cut your list down to a reasonable size. Consider your specific obligations in each of the groups. Is there a way to cut back so you can stay involved but without as much responsibility? If you planned five CLEs this year, maybe next year you can commit to only doing two. For the specialty bar you joined, maybe you decide you can help plan the dinner next year, but not the conference.

Now comes the hard part: following through on the decisions you made. Saying no to future obligations might be a little easier (for some of us) than getting out of current ones. Either way, the best thing to do is be honest about it. Sit down with the chair of the committee you need to resign from, or the other members of the small nonprofit board you joined, and be direct about what is going on. It's okay to tell them that you have taken on too many commitments and you can no longer be an effective member of the group. In most cases, they will understand, support you, and appreciate your honesty. Give them a heads up and detach gracefully. If you promised you would secure a venue for next month's happy hour, do that, but make it the last thing you do. This is the perfect opportunity to practice the "no, but..." skills you will need to maintain your sanity going forward. You don't have the capacity to serve on the board, but you would love to volunteer at their next clinic. You can't stay on the planning committee, but your firm can sponsor the next event.

Ian Baldwin
YLS Member Spotlight

by Jamison McCune
YLS Board

Ian Baldwin is a senior associate at Wood Smith Henning & Berman and is a valued member of the YLS Pro Bono Committee. For those who know Ian, his commitment to public service through the Pro Bono Committee is not surprising given his background working with underprivileged populations.

Ian is a native of Eugene, Oregon. After graduating from the University of Oregon in 2010 with a political science degree, he spent a year volunteering with AmeriCorps, a national service organization with the goal of addressing critical community needs and fostering civic engagement. With AmeriCorps, Ian worked as a career counselor and tutor for underserved students at a high school in the Seattle area. Many of his students were recent immigrants to the United States, who spoke very little English. Ian dove into the program, assisting students with everything from writing a resume to learning literature and calculus. Today, he describes his experience working with his students as "challenging" and "eye opening," but most importantly, "rewarding."

When deciding where to go to law school, public service was, once again, an important factor for Ian. He chose to attend law school at George Mason University in Virginia because of its close proximity to Washington, DC. While in law school, he worked as a public defender in a juvenile detention center where he represented clients accused of crimes within the facility. He eventually transitioned into helping defend adult felony cases. During his third year, Ian returned home to Eugene and studied as a visiting student at the University of Oregon School of Law, where he volunteered with the Lane County Legal Aid & Advocacy Center defending low-income clients in landlord tenant disputes and debt collection actions.

After graduating from law school, Ian clerked for Multnomah County Circuit Court Judge Kathleen Dailey. He was drawn to the position because of its opportunity to work with public defenders and observe criminal trials firsthand. While clerking, however, Ian discovered a strong interest in complex



Ian Baldwin

civil litigation. This led him to a position with a civil defense firm in Portland, and then to Wood Smith Henning & Berman where he maintains an active construction, personal injury, and business litigation practice.

Even with a busy practice, Ian continues to give back. This year, he is leading the Pro Bono Committee's Wills for Heroes program. The program provides essential legal documents such as wills and advance directives for first responders through a series of free legal clinics. The committee will be hosting three of these clinics this year. Ian also runs his firm's annual food drive for low-income families.

Although Ian focuses on serving others, his contributions to the YLS and the community are hard to overlook.

YLS Toy Drive to Benefit CourtCare on Now Through December 17

Please Join the YLS this Holiday Season in Donating Toys to CourtCare!

Multnomah CourtCare® is a project of the Multnomah Bar Foundation that improves access to justice by making free, drop-in childcare available for families who have business at the court. The program is located in the downtown Central Courthouse.

Our Amazon wishlist helps you easily order and send the items CourtCare really needs. Participating in a toy drive has never been easier!

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It's okay to say no, and it's okay to quit some things. It is also possible to do it in a way that maintains the connections you have made and the good will you have built. Being honest about how overwhelmed you feel sounds scary, but it's probably the best thing you can do. Most people appreciate it when you open up to them, and you might

even strengthen some of those connections in the process. Most importantly, remember that you can only benefit an organization if you actually have energy to bring to your commitments. Focus on a few projects that ignite your passion, and you will be able to benefit the organization, and yourself, that much more.

Imprint Program Seeks Volunteers

by Wilson Jarrell
YLS Service to the Public Committee



The Imprint Program has returned for another fun year of reading great books and corresponding with local high school students. This popular program is sponsored by the YLS Service to the Public Committee and is a way for high school students to connect with attorneys in their community. The program also provides an opportunity for the students to develop written and analytical skills. Each student in the participating class will be paired with a volunteer attorney, and both will be assigned to read the same novel over a three-month period. The student and attorney will write approximately four letters each, discussing their lives and interests as well as the portion of the novel most recently read. By the end of the program, the student and attorney will have developed a mentoring relationship and will have the

chance to meet at an informal gathering celebrating the project.

This year, students and their paired attorneys will be assigned one of the following books:

- *The Last Leaves Falling*, by Sarah Benwell
- *Diamond Boy*, by Michael Williams
- *A Time to Dance*, by Padma Venkatraman
- *Life of Pi*, by Yann Martel
- *Bamboo People*, by Mitali Perkins
- *The Alchemist*, by Paulo Coelho

To participate, you must be able to attend one of two program-end parties at Parkrose High School. That's right - a top requirement is that you relax and attend a party (and refreshments are included)! Specific party dates and times to be announced.

An orientation meeting for volunteers will be held on Tuesday, January 7 at 5:30 p.m. at the Standard Insurance Center Atrium (900 SW Fifth Avenue). Attendance at the orientation is not mandatory but is strongly encouraged, especially for first-time volunteers. The first letters will go out in mid-February.

If you have any questions, contact me at wjarrell@barran.com or 503.276.2181. To sign up for the program, contact Ryan Mosier at the MBA at ryan@mbabar.org or 503.222.3275.

The Benefits of a Demand Letter

by A.C. Estacio-Heilich
YLS CLE Committee



The potential expense of litigation can be an impediment to the pursuit of valid claims. Although clients are ultimately responsible for their costs (including, for example, filing fees, deposition costs, and expert witness fees), because most clients can't afford to pay them, they often have to be fronted by their attorneys. This daunting reality can discourage litigation against bad actors, especially in more complicated matters. As the gap continues to widen between those who are with and without means, legal services become less accessible to marginalized groups. It is not insurmountable, however, with advance planning and strategic decision-making.

For both new and seasoned attorneys, it is important to learn strategies on how to keep costs down in civil litigation. One of the ways to keep costs down is to begin by writing a detailed and persuasive demand letter, rather than immediately filing a complaint in court. A well-written demand letter, supported with facts and legal arguments, provides notice to an opposing party that your client is serious about pursuing litigation. You are also likely to receive a more in-depth response, which can help sharpen your position and provide helpful information in advance of formal discovery requests. In the event it is necessary to file a complaint, the demand letter can be easily transposed into the fact section of the complaint, and the legal arguments into claims. And in some cases, this exchange can also open the door to early settlement negotiations or even an invitation for private mediation.

Drafting demand letters is just one of the many strategies that can keep costs down in litigation. The more we familiarize ourselves with other cost-efficient litigation strategies, the more we can make legal services accessible to all.

mba EVENT

MBA Visits the Portland Children's Museum

Saturday, February 29
Portland Children's Museum
4015 SW Canyon Road, Portland
5:30-7 p.m.

Join us in celebrating Leap Day at the Portland Children's Museum for this private networking event. Families will have free reign to explore the museum and create crafts in the Maker's Studio and complimentary refreshments will be provided for kids and adults. Admission is free.

Please register early as space is limited. Submit your party's RSVP list to lauren@mbabar.org. Interested in becoming a sponsor? Please email your inquiry to lauren@mbabar.org.

RSVP to lauren@mbabar.org.

Member Resource Center

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

Pro Bono Oregon Listserv

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We are pleased to announce that Elizabeth Bailey has joined our team.



Elizabeth is an associate in the firm's litigation group where she focuses on complex litigation. A previous law clerk and judicial extern, she graduated *Order of the Coif* from the University of Oregon School of Law. She received her undergraduate degree from Washington State University Vancouver, *magna cum laude*.

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We are proud to announce that Lea Schneider and Tab Wood have been named partners of the firm effective October 1, 2019.



Lea Schneider

Lea's practice is focused on complex business and commercial litigation. She represents clients in a variety of industries with experience in wrongful death, personal injury, breach of contract, defamation, product liability, and probate disputes.

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Tab Wood

Tab represents individuals and businesses in civil litigation, including complex commercial, transportation, personal injury, employment, and real estate litigation.

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Mary Rower
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Mary was a friend and paralegal at our firm. Even as a single parent and busy trial team member, she always found time to give back to her community. In 2012, Mary was selected as a 2012 Multnomah Bar Association Award of Merit recipient for her successful efforts to remodel the MBA's outdated Courtcare space in the Multnomah County Courthouse. Diagnosed with multiple-myeloma in 2013, she became a passionate volunteer and fundraiser for the Leukemia and Lymphoma Society, raising thousands of dollars over the years.

Mary, you are gone but will never be forgotten.



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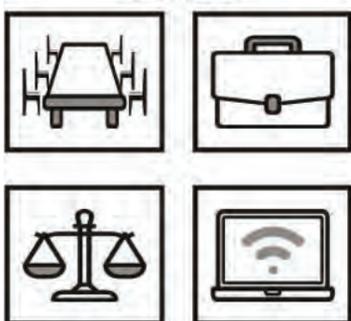


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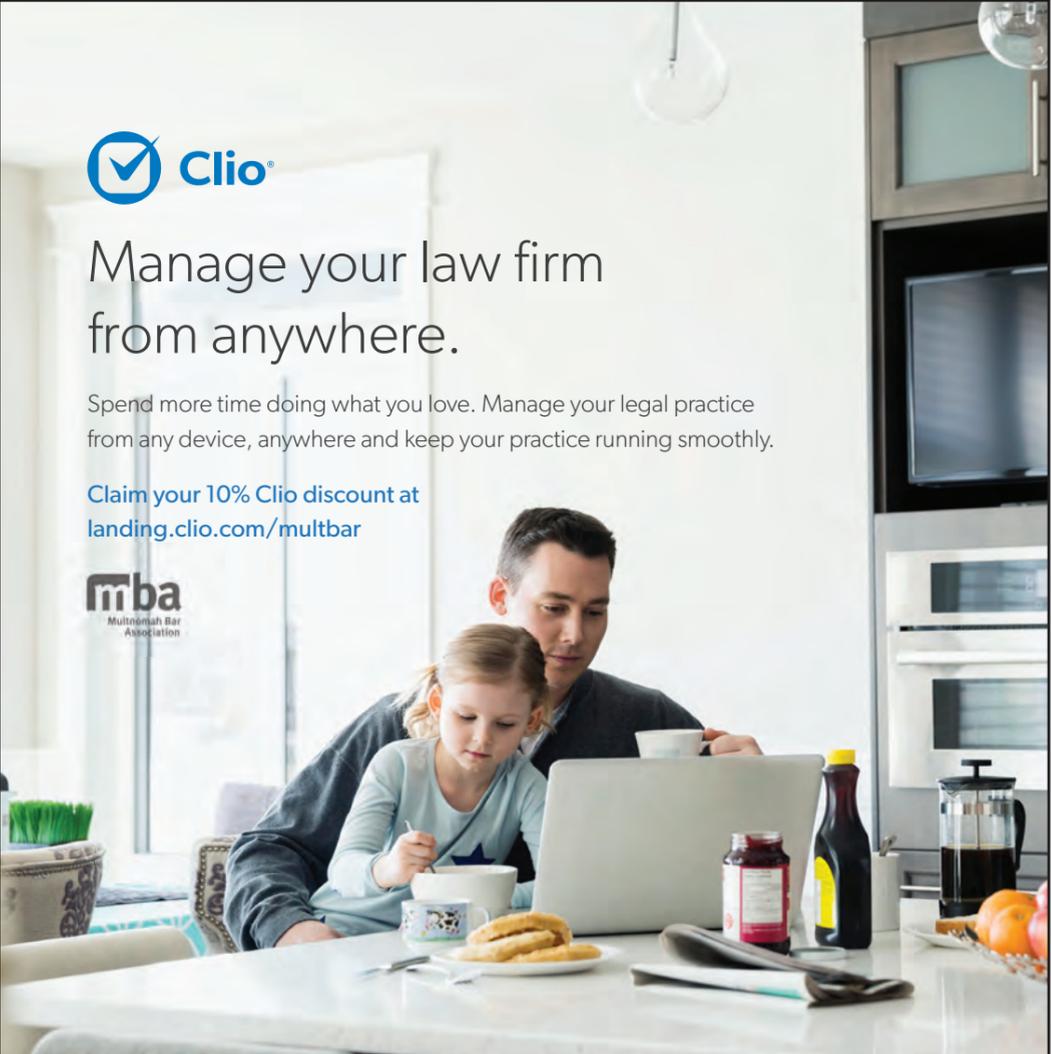
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