



Lawyers at Work, Caregivers at Home Fostering a Profession that Makes Space for the Labor of Love

by Sarah Radcliffe
MBA President

Persistent gender inequity in the legal profession can't be attributed exclusively to straight-up sexism; part of the explanation is our field's failure

to accommodate parenthood. Even as family roles have become more flexible and LGBTQ families are more common, women still tend to be deeply engaged in the unpaid caregiving work of the family, whether that's childcare, caring for an aging parent, or supporting a loved one with an illness or disability. As I talked with other lawyer-caregivers in preparation for this article, I heard that for many of us, the closest we can come to "work/life balance" is when neither our employers or our children are satisfied; when we feel we are equally underperforming in both our work and home realms; "balance" is the mid-point in a perpetual tug of war.

In a career track that seems to demand an all-or-nothing commitment, the simple reality is that we are often forced to choose, and as a result, our profession is losing too many talented women. Contrary to gender equity gains in other fields, the legal profession as a whole is becoming more dominated by white men, especially at the top.

- The ABA plans to release a report this summer documenting a mass exodus of mid-career women from the legal profession.¹
- Women have represented half of graduating law school classes for two decades, but still make up just 20 percent of equity partners in law firms.² Women of color are 24 percent of associates but only eight percent of partner track attorneys.
- Women law firm partners are paid an astonishing 53 percent less than their male counterparts; a wage gap that has grown from 32 percent in 2010.³ A recent ABA study indicates that women lawyers of color report even more significant pay equity barriers as compared to white women.⁴

During my year as MBA President, I want to focus on how we can make our profession more accommodating of the caregiving responsibilities that most of us navigate outside of our workdays. Most people have children (86% of women ages 40-44 are mothers),⁵ but even people without children may need to care for an aging parent, or a family member with an illness or disability. "Caregiving"

Contrary to gender equity gains in other fields, the legal profession as a whole is becoming more dominated by white men...

encompasses all of these manifestations of the unpaid labor of love that consumes our lives outside of work.

"Begin from the proposition that we cannot survive, as individuals or as a nation, without caring for one another."

-Anne-Marie Slaughter⁶

1. Retaining Parents Makes Good Economic Sense

As many of us can attest, mothers are kick-ass workers - we are organized, we are unflappable, we are perpetually willing to challenge assumptions about the volume of what can be accomplished in a day. When you understand children, you understand people, and that emotional intelligence is an asset in the workplace.

Continued on page 2

⁶ Anne-Marie Slaughter, "The Failure of the Phrase 'Work-Life Balance,'" The Atlantic, 2015: bit.ly/work_life_balance_article

BATTLE OF THE LAWYER BANDS

Thursday, July 25

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 2019." 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 judging criteria, in addition to the Audience Choice Award. Suggested donation: \$10.

These bands will compete for the title of "Best Oregon Lawyer Band 2019":

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SEPTEMBER

9.18 Wednesday

**Revisiting How to Mediate:
New Strategies To Resolve
Old Problems**

Eric English
Bonnie Richardson
Richard Vangelisti

9.26 Thursday

Sex Crimes Conviction Relief

Mark Cogan
Jeff Turnoy

NOVEMBER

11.14 Thursday

Understanding UM/UIM Claims

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Lawyers at Work

Continued from page 1

Parents are also valuable because they are generally in their mid-career prime. They are the pipeline to leadership. It’s both healthy and economical for an organization or firm to retain staff who are experienced, but not close to retirement. Research also shows that gender-diverse work settings tend to be more productive and to have healthier workplace cultures. Finally, turnover is costly.

2. Changing Economic Realities

I have three children, ages 6, 10, and 16. When the oldest (my step-son) was six and I was pregnant with our daughter, my husband and I bought a big house with my mom and her partner, who has been involved with my family for 40+ years.
My husband and I both work about 35 hours per week and I worked half-time for a few years when our kids were young. With the two live-in grandmas, and our reasonable schedules, I am grateful for the family time that we have. But, the absence of work schedule stress tends to correlate with the presence of financial stress. Group living and free childcare has allowed us to make ends meet with a nonprofit salary, but at times, just barely.

What really worries me, however, is that my journey as a young public interest lawyer raising a family was likely much easier than what’s in store for newer lawyers and those without the family resources that I’ve leaned on.
New lawyers are entering the profession with an unprecedented amount of educational debt. Meanwhile, the rising costs of housing, childcare, and health insurance outpace salaries, especially in nonprofit and public defender positions or solo practice. These economic hurdles impact access to justice because public interest careers are less viable across the board, and even further out of reach for lawyers who reflect the diversity and life experiences of the clients that they serve.
All of these challenges - the financial stress and the demands of parenting - are made worse by the fact that we don’t talk about them. We worry about reprisals at work if we disclose how consuming our parenting obligations are, and we worry about maintaining a façade of prosperity in a culture where one’s professional appearance and reputation is predicated on the trappings of wealth.

3. What Can be Done?

This fall, the MBA, in partnership with OWLS, will release a survey aimed at gauging the current workplace climate for lawyers who have caregiving obligations at home. We’ll ask about the practical realities (not just aspirational policies) around family leave, flexible schedules, part-time work, vacation, and expectations of working outside of regular business hours. We hope that the results of this survey will help inform career choices and provide leverage to lawyers who want to advocate for improved practices in their workplaces.
Researchers have established that “slapping an alternative work schedules policy onto organizations designed around overwork does not work.”⁷ Without new models, such efforts only lead to “flexibility stigma” (which yields undesirable assignments) and “schedule creep,” (or full-time work for part-time pay). We need creative shifts in how our workplaces are structured and incentivized.
In the meantime, whether we’re mothers, fathers, or caretakers for elderly parents or a loved one with a disability, we can start by being transparent and unapologetic about our caregiving roles. If we value this work and we applaud one another, we can help raise the stature of caregiving and prove that we, as caregivers, are a worthy investment for our employers as well as our families.

⁷ Joan Williams, “Don’t Leave When You Leave,” HuffPost, 2106: bit.ly/dont_leave



Thomas M. Landye
March 20, 1937 - May 8, 2019

In Memoriam

It is with sadness we announce the death of our partner and friend. We are grateful for the 50 years he gave to his clients and to our firm. He cannot be replaced, but his contributions and love remain with us.

The lawyers and staff of Landye Bennett Blumstein LLP

LANDYE BENNETT
BLUMSTEIN LLP
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Calendar

JULY

11 Thursday
OWLS 30th Anniversary Celebration and Legacy Society Launch
www.oregonwomenlawyers.org/calendar

16 Tuesday
Bus Tour and CLE of Historic Portland
www.mbabar.org

18 Thursday
OCDLA 8th Annual Nancy Bergeson Ardent Advocacy Series
www.ocdla.org/seminars/shop-seminar-index.shtml

25 Thursday
Battle of the Lawyer Bands
Details on p. 1

26 Friday
Court, Coffee and Conversation
www.mbabar.org

1 Thursday
OMLA Auction
www.omlalawyers.com

15 Thursday
Pro Bono Pour Fundraiser and Social
See insert

SEPTEMBER

5 Thursday
Volunteers of America Oregon 2019 DePriest Gala
www.voaor.org/depreistgala

19 September
22nd Annual MBA Golf Championship to Benefit CEJ
See insert

26 Thursday
Solo and Small Firm Workshop
Details on p. 6

26 Thursday
OAPABA’s 2019 Gala Dinner
www.oapaba.org

AUGUST

1 Thursday
OWLS Dress for Success Benefit Fashion Show
www.oregonwomenlawyers.org/calendar

Seeking Sponsors for the 22nd Annual MBA Golf Championship
A Fundraiser for Legal Aid



The golf championship is the MBA’s largest annual fundraiser for legal aid and has raised over \$160,000 for the Volunteer Lawyers Project (VLP) since 2001. Your golf sponsorship or raffle prize donation will help continue that support. Our 2019 goal is to raise \$15,000 for



hundreds of volunteers for pro bono work on nine projects and has associated staffing, translation services and court costs.
Sponsoring the golf championship offers excellent opportunities for visibility and marketing. Sponsor levels range from \$100 to \$2,500, with complimentary golf, lunch and dinner included at some levels. For more information, see the insert in this issue, visit www.mbabar.org, or contact Pamela Hubbs (pamela@mbabar.org, 503.222.3275).
Sponsor by August 9 to be recognized in the September *Multnomah Lawyer*.
To learn more about the VLP and how you can get involved, contact Jill Mallery at Legal Aid Services of Oregon (503.224.4086, jill.mallery@lasoregon.org).



Doug Chiapuzio, Chip Gazzola, Zeta Rennie and Brian Jolly, 2018 Championship

the Campaign for Equal Justice to benefit the VLP. Now in its 38th year, the VLP coordinates



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.

Revisiting How to Mediate: New Strategies to Resolve Old Problems

Wednesday, September 18 3-5 p.m.
World Trade Center, Sky Bridge
Members \$60/Non-Members \$95

This CLE is for civil trial attorneys of all experience levels. Our panel of experts will cover mediation from an array of perspectives - the client, trial counsel, settlement counsel, and mediator. The panel will discuss “new” ways to improve on the “single-day event” model of mediation. Expect a spirited discussion of strategies to increase the likelihood of resolution with less costs to the parties. Audience participation and questions will be encouraged. Our panel of experts includes **Eric O. English**, Resolution Strategies LLP; **Bonnie Richardson**, Richardson Wright LLP; and, **Richard J. Vangelisti**, Vangelisti Mediation.

For more information: Contact Adrian Brown, United States Attorney’s Office at 503.727.1003. For registration questions, contact the MBA at 503.222.3275.

Sex Crimes Conviction Relief

Thursday, September 26 3-5 p.m.
World Trade Center, Mezzanine
Members \$60/Non-Members \$95

This CLE will cover relief from sex offender registration, both adult and juvenile, and expungement. Adult relief from registration is complicated, as it can be done in both the circuit courts and in the Board of Parole and post-prison supervision. Laws that have recently been implemented have opened the floodgates for tens of thousands of individuals to seek relief who never had a chance. Seeking relief in the Board of Parole and post-prison supervision will become the more common route for relief, and is based on Oregon’s new tier-system. The laws for juvenile relief remain unchanged, but there are a large number of factors that go into who is a good candidate for relief. The expungement (or set aside) law is one of the most complicated in the code, and is constantly changing. Sex crimes can be expunged only in very narrow circumstances. **Mark Cogan** and, **Jeff Turnoy**, Mark C. Cogan PC, will describe all avenues for relief from registration for both adults and juveniles, and under what circumstances a sex crime can be expunged. The presentation will also cover expungements in general for adult convictions.

For more information: Contact Terry Wright, Willamette College of Law at 503.375.5431. For registration questions, contact the MBA at 503.222.3275.

Understanding UM/UM Claims

Thursday, November 14 3-5 p.m.
World Trade Center, Mezzanine
Members \$60/Non-Members \$95

This CLE is for any practitioner who wants to learn more about UM (uninsured) and UIM (underinsured) motorist claims. Come hear from practitioners on both sides about the ins and outs of these types of claims.

Topics will include:

- Coverage considerations;
- Claim requirements and procedures;
- Damages and attorney fees;
- Arbitration.

Our speakers are **Michael A. Colbach**, a Portland personal injury attorney and **Simon J. Harding**, a shareholder at Schulte, Anderson, Downes, Aronson & Bittner, P.C. who focuses on personal injury defense, automotive liability and general liability defense.

For more information: Contact Jovanna Patrick, Hollander Lebenbaum et al at 503.222.2408. For registration questions, contact the MBA at 503.222.3275.

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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.

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9/26 Sex Crimes Conviction Relief

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11/14 Understanding UM/UIM Claims

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Total due\$_____

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The OSB Litigation Executive Committee is soliciting nominations for the 23rd Annual Owen M. Panner Professionalism Award. Each year the section honors an OSB member who exemplifies the highest professional and personal standards. Criteria may be found at www.osblitigation.com/awards.php or contact Kate Wilkinson (971.321.8866, kate.wilkinson@standard.com).

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 “Collecting on Judgments” is now available in the Members Center at www.mbabar.org. The seminar was accredited for two hours of practice skills OSB MCLE credit.

MBA members receive access to a rotating selection of six different CLE seminars each year - a \$360 value.

Commitment to Professionalism

The MBA Professionalism Statement is available for MBA members to order and display in their offices. The statement is printed on quality 11x14” parchment paper and is suitable for framing. Reconfirm your commitment to professionalism; order your free Professionalism Statement at www.mbabar.org/assets/documents/profcertorder.pdf.

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 with questions (503.228.5222), or meet at start.

The Solo & Small Firm Committee Presents

**HOW WHAT YOU DON’T KNOW
(AND KNOW) CAN HURT YOU:
PROTECTING YOUR FIRM FROM
SCAMS AND DATA BREACHES**

**Thursday, September 26
Workshop: 12-1:30 p.m.
Red Star Tavern Club Room
503 SW Alder, Portland**

Law firms in particular have become targets for criminals seeking to take advantage of any and all weaknesses found. This can include technology weaknesses, such as weak passwords, unencrypted data, or outdated virus protection, or physical weaknesses through break-ins to an office or safe. Yet one of the major sources of issues for attorneys is criminals taking advantage of our trusting nature and willingness to help others through “social engineering,” which is the act of gaining access to buildings, systems, or data by manipulation and exploitation of human psychology. **Rachel Edwards**, PLF Practice Management Advisor, will use this opportunity to discuss the PLF’s recommendations for improving your security protocol, and recognizing the latest scams targeting law firms before they become an issue for you and your clients.

Cost: \$20 members/\$60 non-members.
Lunch is provided.
The MBA will apply for one hour of general MCLE credit.

Register at www.mbabar.org.

Ethics Focus

**In Between:
Duties to
Prospective
Clients**

by Mark J. Fucile
Fucile & Reising LLP



When evaluating conflicts and other duties, lawyers often put people into two groups - clients and non-clients. There is, however, another category that can enter the mix: “prospective clients.” A “prospective client” is a person who speaks with an attorney about the possibility of hiring the lawyer but no attorney-client relationship results. Under RPC 1.18, we have limited duties of loyalty and confidentiality to those who consult with us about the possibility of retention even if no relationship follows. Reflecting the limited scope of those duties, RPC 1.18 also provides a unilateral mechanism for a law firm to screen an individual lawyer-member who spoke to a prospective client so that others at the firm may still take on the other side of the matter involved.

In this column, we’ll first survey the limited duties of loyalty and confidentiality included in RPC 1.18. We’ll then turn to the screening mechanism incorporated into the rule.

Before we do, however, a caveat is in order. In *In re Knappenberger*, 338 Or 341, 352-53, 108 P3d 1161 (2005), the Oregon Supreme Court held that a brief - compensated - consultation that did not result in further work constituted an attorney-client relationship. Although *Knappenberger* predated Oregon’s adoption of RPC 1.18, the Supreme Court in *Knappenberger* considered and rejected the argument that the person who was billed for a two-hour consultation with the lawyer was merely a prospective client. Therefore, absent the Supreme Court revisiting *Knappenberger*, prudent lawyers should assume that RPC 1.18 does not apply to compensated consultations - however brief.

Duties

RPC 1.18 came to Oregon when the RPCs replaced the former Disciplinary Rules in 2005. RPC 1.18 is based on its ABA Model Rule counterpart. Although there was no corresponding provision in the former DRs, the notion of duties to prospective clients was not unknown in Oregon. The Oregon Supreme Court in *In re Spencer*, 335 Or 71, 83-85, 58 P3d 228 (2002), for example, discussed the general concept. Similarly, Oregon Evidence Code 503(1)(a) has long included a person “who consults a lawyer with a view to obtaining professional legal services from the lawyer” within the definition of “client” for purposes of the attorney-client privilege.

RPC 1.18(a) defines a “prospective client” as “[a] person who consults with a lawyer about the possibility of forming a client-lawyer relationship with respect to a matter[.]”

RPC 1.18(c) and (b) outline, respectively, the limited duties of loyalty and confidentiality we owe prospective clients. Both are focused on the specific matter on which the lawyer was consulted and the particular contents of the conversations involved.

Under RPC 1.18(c), a lawyer who was consulted by a prospective client is generally precluded from representing an adverse party in “the same or a substantially related matter[.]” But, this limited duty of loyalty is tempered by an important qualifier relating to the kind of information the lawyer acquired from the prospective client: it only applies “if the lawyer received information from the prospective

...we have limited duties of loyalty and confidentiality to those who consult with us about the possibility of retention even if no relationship follows.

client that could be significantly harmful to that person in the matter[.]” As explained in the comments to the corresponding ABA Model Rule, the intent of the qualifier is to permit a lawyer to obtain information that is not confidential so that the lawyer can, for example, run necessary conflict checks or determine generally whether the matter is within the lawyer’s area of practice before discussing the matter in more detail with the prospective client.

Under RPC 1.18(b), confidential information communicated during an initial call or meeting with a prospective client will also generally disqualify the lawyer involved from later using the confidential information

against the prospective client. Again, the comments to the corresponding ABA Model Rule suggest conditioning initial meetings on either not receiving such information or an agreement allowing the lawyer to later be adverse to the prospective client notwithstanding a discussion of confidential information. In many instances, however, those conditions may not be practical because the lawyer may need to evaluate confidential information

...confidential information communicated during an initial call or meeting with a prospective client will also generally disqualify the lawyer involved from later using the confidential information against the prospective client.

to assess the prospective client’s position and the prospective client may not be willing to provide it without assurance that it will remain confidential.

Screening

If the prospective client does not hire the lawyer and the firm is approached by the opposing party about taking the matter on against the prospective client, RPC 1.18(d)(1) permits both affected parties to waive any conflict. As a practical matter, however, waivers are rare in this setting in light of the human dynamics often present. Therefore, RPC 1.18(d)(2) allows the law firm that was approached but not hired to unilaterally screen the lawyer who met with the prospective client from the matter and then have other lawyers at the firm handle it for the opposing party. OSB Formal Opinion 2005-138 (rev 2016) applied the same general approach to a paralegal who took in the otherwise disqualifying information rather than a lawyer.

RPC 1.18(d)(2)(i) requires that screening be “timely” and RPC 1.18(d)(ii) requires that written notice of the screen be given to the prospective client “promptly.” Although these are inherently fact-specific terms, the US District Court in Portland in *Jimenez v. Rivermark Community Credit Union*, 2015 WL 2239669 (D Or May 12, 2015) (unpublished), denied a motion to disqualify the defendant’s law firm where it had screened the lawyer involved under RPC 1.18(d)(2) and provided notice six days after plaintiff’s counsel had asserted a conflict.

Attorney Admission Fund Makes Generous Donation to CourtCare

by Jeanne Sinnott
MBF Board of Directors



The Multnomah Bar Foundation is pleased to announce that the Oregon District Court’s Attorney Admission Fund (AAF) donated \$35,000 to CourtCare this year during the annual CourtCare Campaign, which took place from April 29 through May 17. This very sizeable donation was integral to the 2019 CourtCare campaign, and follows years of generous donations from AAF.

The AAF, which was established by general order of the US District Court, collects attorney admission fees for regular and *pro hac vice* admission. Those fees are earmarked “for purposes that benefit members of the bench and bar in the administration of justice.” The Board of Judges has adopted a plan for how those funds are to be spent, and that

plan includes, among other things, “cash donations to law-related educational or charitable organizations ... for purposes that advance the administration of justice in the courts.”

According to Magistrate Judge John V. Acosta, Chair of the AAF Committee, the AAF has long recognized the importance of CourtCare, and has shown its support through yearly donations. Judge Acosta stated, “CourtCare advances the administration of justice because those who come to court may focus on their legal obligations free of the worry and anxiety that would otherwise arise because of inadequate childcare resources or the complete absence of childcare.” Judge Acosta further noted that “providing safe, reliable, qualified, and free on-site childcare services for those who have business with the court is essential to litigants’ ability to dedicate their entire attention to the matter at hand, their lawyer’s advice and counsel, and the court’s inquires, thus helping to advance the administration of, and access to, justice.”

The MBF Board thanks the AAF for its continued generosity and support of CourtCare!



Bankers and Attorneys: Partners in Fighting Elder Financial Abuse

by Kali Jensen
Columbia Trust Company



Here in Oregon, where the number of people aged 65 and older is projected to exceed 750,000 by the year 2020, few of our duties are more important than protecting elderly clients from financial abuse. The National Council on Aging points out that, whereas most younger people fall prey to scams using sophisticated anonymous technology, elder financial abuse still occurs via face-to-face or phone-based manipulation from a trusted person or someone who maneuvers their way in. And many cases go unreported every year. It is here, in identifying the warning signs of elder financial abuse, where bankers and lawyers can really step up to protect their clients.

Lawyers are mandatory reporters of elder abuse. ORS 124.050(9). You may be surprised to learn that bankers

are not. Oregon recently made certain securities professionals mandatory reporters—but the statute exempts “financial institutions” including banks, credit unions and trust companies. Under ORS 124.115, bankers are permissive reporters.

So, why are bankers great partners in looking out for your elderly clients? Like attorneys, bankers are in positions of familiarity with their clients: they know their patterns, habits, and preferences with regard to their financial instruments. They occupy a place where they can easily spot disruption in those patterns, which is often a telltale sign of abuse.

Let’s look at a sample scenario. Your client, Dany, has been coming to you for periodic updates to her estate plan. She always comes alone, and she rarely makes changes beyond what is necessary.

Recently, she came in for a meeting and brought a new “friend,” Jon. Soon, Jon is speaking up and making suggestions about amending Dany’s will. This is a change in the pattern of the relationship, which should raise a red flag for the attorney. Meanwhile, over at the bank, Dany breaks a longstanding pattern of regular and incremental cash withdrawals and begins to empty her accounts. This change in a pattern of behavior should be a red flag for Dany’s banker. The bank may even choose to delay a distribution to her if it suspects financial abuse (permitted under ORS 124.115). Both her attorney and her banker are well-positioned to recognize these warning signs because they know what their client’s typical behavior is. They are the best defense against such abuse to ensure that their clients are taken care of into the future.

Kali Jensen is a Trust Officer with Columbia Trust Company, an affiliate of Columbia Bank. Kali is a member of the Oregon State Bar. She can be reached at kjensen@columbiatrustcompany.com or 503.279.3155.

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Around the Bar



Reid Schweitzer



Lisa Shevlin

Hart Wagner LLP

Reid Schweitzer has joined the firm as a new associate. His practice focuses on defending clients against claims of personal injury, premises liability, and construction defects. Before moving to Oregon, he worked in Virginia and Alaska. He received his law degree from William & Mary Law School, where he was a member of the Moot Court, the Order of Barristers, and published a legal study on Veterans Affairs benefits.

The firm is also pleased to announce that attorney **Lisa Shevlin** has joined the firm. Shevlin’s trial practice will focus on the defense of cases involving assisted living care, medical malpractice, and general liability. Prior to joining Hart Wagner, Shevlin was a trial attorney for a large insurance company, where she managed a wide variety of legal matters. Her experience included cases involving commercial auto liability, product liability, employment matters and contract disputes in state and federal courts.

Shevlin attended The Dickinson School of Law at Pennsylvania State University. She is a member of the Owen M. Panner Inn of Court, Oregon Women Lawyers, the Oregon Association of Defense Counsel, and the MBA.

Tonkon Torp

Alex Tinker has joined the Board of Directors for the Oregon Cannabis Association, the largest cannabis trade group in Oregon. It fosters connections between cultivators, processors, retailers, entrepreneurs, and allied business, and advocates for a thriving Oregon cannabis industry. Tinker is Co-Chair of Tonkon Torp’s Cannabis Industry Practice Group. Tinker is a founding board member for the Resource Innovation Institute (RII), which works to increase resource efficiency in the cannabis industry.



Alex Tinker

He is a frequent speaker on the evolving legal and regulatory issues impacting cannabis businesses. Tinker’s business litigation practice includes helping clients resolve business disputes in and out of court.



Dean Alterman

Alterman Law Group PC

Dean Alterman has become the chair of the Japan-America Society of Oregon, where he has been a board member since 2009. JASO was founded in 1907 and is the third-oldest Japan-America society in the United States.



Bryson Davis

Sussman Shank LLP

The firm is pleased to welcome **Bryson E. Davis** as an associate to the Business Department. Davis’ practice involves advising and representing for-profit and nonprofit clients in a broad range of business issues from formation to sale and he often serves as external General Counsel for his clients. His practice touches on mergers and acquisitions, business formation and maintenance, real estate issues, contract drafting, employment matters, and regulatory compliance. He also has experience representing clients in the cannabis industry, clients with professional licensing issues, and handling administrative law matters. Davis earned his JD from the University of Washington School of Law. He is admitted to practice law in Oregon and Washington.



Amy Angel



Chris Morgan

Barran Liebman LLP

Firm partner **Amy Angel** has been named treasurer for the Portland Opportunities Industrialization Center and Rosemary Anderson High School. She has been a member of the POIC+RAHS Board of Directors since 2015 and previously served as chair in 2017-18. The organization’s mission is to provide education, mentoring, family outreach, and employment training and placement to at-risk youth. **Chris Morgan** has been appointed to the Board of Directors of the Portland Children’s Museum. Morgan looks forward to lending his support and expertise to one of Portland’s favorite early childhood education-centered organizations.



Laney Ellisor

Boise Matthews LLP

The firm welcomes **Laney Ellisor** as an associate. Ellisor will focus on state and federal criminal trials and appeals. Prior to joining Boise Matthews LLP, Ellisor clerked for United States Magistrate Judge Stacie F. Beckerman and worked in private practice. Ellisor graduated with honors from Lewis & Clark Law School in 2017.



Eva Marcotrigiano

Rizzo Mattingly Bosworth PC

The firm is pleased to announce that **Eva Marcotrigiano** has joined the firm as an associate. Her practice will focus on complex construction and environmental litigation. Marcotrigiano brings nearly a decade of civil litigation experience in Oregon. She has handled high-profile construction defect and construction-related product liability litigation in state and federal court, and has defended

physicians and lawyers facing malpractice claims throughout the state. Marcotrigiano also worked as staff counsel for a large US insurance company, managing numerous construction defect, construction liability and personal injury cases.



Anthony Blake

Markowitz Herbold PC

Anthony Blake has joined the firm as an associate. Blake is a trial lawyer who handles complex business litigation with a specialty in employment and sports law. He represents individuals and corporations in state and federal courts. Prior to joining Markowitz Herbold, Blake worked for a regional law firm where he represented residential and commercial owners in construction claims of all types.

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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Tips From the Bench

Jury “De-Selection,”
Not Jury Selection

by Judge Eric L. Dahlin
Multnomah County Circuit Court



“You can’t always get what you want,
but if you try some time,
you might find,
you get what you need.”
-The Rolling Stones

It is a misnomer to refer to the process of empaneling a jury as “jury selection;” it should really be called “jury de-selection.” The parties aren’t picking who they want on the jury, they simply have an opportunity to remove jurors who might create a problem for them. The best way to determine who might be a bad juror for your side is to have the prospective jurors tell you. To get them to share their biases, it is important to make it comfortable for the prospective jurors to provide the negative information, which can be done by making their feelings seem reasonable and steering them towards saying things that are hostile to your side. Most lawyers, however, reflexively shy away from these methods.

Your case is almost certainly going to have at least one systemic problem that may be of concern to at least some jurors. For example, on the civil side there may be some prospective jurors who think there are too many frivolous lawsuits in which too much money is being sought, or some who might think corporations are evil and always put profits over people. Rather than hide your head in the sand about these issues, it’s best to confront them head on and try to get the panel talking about their feelings on these topics. It may seem counterintuitive to bring up in voir dire feelings that might be antithetical to what you are going to advance during trial, but it is better to learn about the harmful feelings at the outset of the case while you can get rid of the jurors who hold those views instead of having those beliefs come up for the first time during deliberations when you no longer have control.

As jury consultant Harry Plotkin writes in his excellent July 2017 Jury Tip, *Good Voir Dire Should Feel Uncomfortable*: “good voir dire questions encourage bad jurors to say awful things about your case. Bad voir dire questions discourage bad answers” (www.yournextjury.com/jurytips). Mr. Plotkin stresses the need to ask questions in a way that gives prospective jurors the permission and safety to be brutally honest in voir dire, even though they may

be biased against your client’s position: “If your question makes the juror feel stupid for admitting it, you’re discouraging honest answers. Instead, ask questions that make your jurors’ biases seem reasonable.” *Id.* For example, a plaintiff’s attorney asking for a sizeable damages award may want to ask, “who feels like too many people exaggerate their damages to ask for more than they really deserve?” *Id.* Or a lawyer defending a corporate client may want to ask, “who feels that corporations only care about profit and don’t care about people?”

You may get some uncomfortably honest answers but at least you will have identified the jurors who are most problematic for your side.

One of the best voir dres I’ve seen was an insurance coverage case where the panel was extraordinarily hostile to insurance companies, a hostility the plaintiff’s attorney was happy to inquire about. When it was the defense’s attorney’s turn, rather than run from those uncomfortable answers he politely and diligently dug even further into the prospective jurors’ preconceived notions and biases and encouraged them to say what they really felt about insurance companies. He didn’t argue or try to convince them they were wrong about their beliefs, he simply wanted to find out what those beliefs were. As a result, he was able to remove the worst jurors, and was also able during the evidentiary phase of trial to address and neutralize the concerns of some other jurors. He obtained a defense verdict.

To those who are concerned that negative comments made by a prospective juror during voir dire will taint the rest of the panel and bias them against your client, it is unlikely that will occur. How often have you changed your opinion when a stranger, in a public setting, made a somewhat outlandish statement? I suspect the answer is close to zero. The much greater risk is that a juror with deep-seated negative views against your client’s position might make it onto the jury because the person was not asked questions to elicit those views, or the person did not volunteer that information because the way the question was posed would make an honest answer sound stupid.

It is not easy to employ this strategy effectively; it will require significant thought and preparation to decide what type of questions will work in your particular case to elicit this type of information. It is especially difficult because usually the prospective jurors don’t realize they have biases; in fact, they will often think they simply have reasonable beliefs as opposed to a potentially disqualifying

Continued on page 14

News From the Courthouse



by John Robb
Court Liaison Committee

Presiding Judge’s Report and
Courthouse Update - Presiding
Judge Stephen Bushong and
Barbara Marcille, Trial Court
Administrator

Reminders Regarding
Procedural Issues

The show cause docket: The normal show cause docket is set for morning call Thursday for hearings to be set on Friday. This is because the court expects show cause hearings to generally be resolved in a day or less, and since Friday is not a normal trial day, judges have availability. Recently, Judge Bushong has noticed people tending to forget this, and submitting orders directing a person to appear at a hearing, rather than to call for a hearing to be scheduled the following day, and requests for hearings on days other than Friday. It is possible for these hearings to occur on different days of the week, but this increases the chance the parties appear and won’t have a judge available for their hearing.

Some attorneys appear at ex parte with extra copies of orders. With the electronic court system, this is not necessary. All attorneys need to bring in are the original orders - the court will file the originals and signed copies can be downloaded from the computer system. There are two exceptions. For TROs, if there is material you need the judge to read, drop off a copy early. Also, show cause orders will need to have a service copy, which clerks can make for attorneys.

The court recently changed the process for handling petitions for review of state agency orders in other than contested cases. If it is just a petition - and not a writ - the procedure is to file the petition, and the court will schedule a scheduling conference. The purpose of the scheduling conference is to discuss a schedule for filing the administrative record (if any); to set a briefing schedule; to determine the length and nature of the hearing; and to schedule the hearing.

Justice Involved Women
Conference

On May 31, 2018, representatives of the court and others attended a conference at Portland State

University regarding women involved in the criminal justice system. It was a statewide conference funded by a grant from the Oregon Criminal Justice Commission (CJC), and was attended by representatives from the court system, law enforcement, probation departments, prosecutors, and defense attorneys.

Women involved in the criminal justice system can present different types of challenges, needs, and opportunities than men. Women are often victims as well as defendants; their trauma, mental health or addiction issues, or childcare concerns can affect their behavior. The criminal justice system does not always have adequate systems to address these issues. For example, Inverness Jail has a treatment readiness dorm available for male inmates, but not for women.

Change in Grant Funding for
Special Programs

The Oregon Criminal Justice Commission (CJC) has implemented some changes in its grant programs. In general, CJC grants fund two major programs statewide - the Justice Reinvestment (JRI) program, and specialty and treatment courts. The programs serve somewhat different goals. JRI is designed to reduce the use of prison as a sanction for criminal behavior, and “reinvest” those statewide savings in local communities, with the goals of reducing recidivism and protecting public safety while still holding offenders accountable. Specialty or treatment court programs are designed to reduce criminality by addressing the root causes of criminal conduct even if there may not be a corresponding reduction of prison usage.

In the past, specialty court grant recipients, such as the Department of Community Justice (DCJ) or treatment providers, would apply directly for CJC grants. This year, CJC is requiring the specialty court grant programs to be coordinated through the Local Public Safety Coordinating Council (LPSCC). This change was designed to avoid overlap between programs and provide for a local oversight body to coordinate the programs. In addition, CJC is no longer determining specialty court funding based on the number of people served by the program.

Instead, CJC is requiring applicants to describe the types of services needed and the expected cost of those services.

Multnomah County Circuit Court currently participates with other stakeholders in four specialty or treatment courts to be funded by CJC grants: STOP (Sanction-Treatment-Opportunity-Progress) Court for drug offenders; START (Success Through Accountability, Restitution, and Treatment) Court for property and other offenders involved in the criminal justice system because of substance abuse disorders; Mental Health Court for offenders needing mental health treatment; and DISP (DUII Intensive Supervision Program) for offenders with multiple DUII convictions. Obtaining adequate funding for these programs is critical to public safety. Grant applications were addressed by LPSCC and submitted to CJC in mid-June.

Judicial Settlement
Conferences in Civil Cases

Attorneys often ask about judges’ availability to conduct judicial settlement conferences (JSCs) in civil cases. The court does not maintain a master calendar of judicial availability for JSCs. Attorneys should confer and come up with a list of acceptable judges, then call the judges’ chambers for available dates. JSCs should be scheduled for a Friday; judges are required to be available for trial assignments Monday through Thursday. Judicial availability is limited, and not all judges will agree to conduct settlement conferences in every case. For simple personal injury cases, attorneys are encouraged to consider using a more recently-appointed judge; they are likely to have greater availability for those conferences. Most JSCs in civil cases will take at least two hours; many will require at least a half day. If the case is particularly complex or will require more time, parties are encouraged to use a private mediator.

Supplemental Local Rule
Changes

The court is in the process of updating its Supplemental Local Rules (SLRs). SLR changes must be approved by the statewide Uniform Trial Court Rules (UTCRC) Committee. The court

Continued on page 15

Congratulations, Award Recipients

The May 14 MBA Annual Meeting, Dinner and Judges Reception recognized exemplary members of our profession. The MBA Diversity Award recipient was **Hala Gores**. MBA Awards of Merit were presented to **Kasia Rutledge** and **Rakeem Washington**. YLS Awards of Merit were given to **Anthony Blake Jr.** and **Maxine Tuan**. **Margaret Davis** received the YLS Rookie of the Year Award. Pro Bono Awards recognized **Julia Hagan**, **Erick Haynie**, **David Malcolm** and **Lauren Russell**. The MBA Professionalism Award recipient returned her award after the dinner and asked that the award reflect “no recipient” for 2019. The MBA Board is honoring her request.

Congratulations to all the very deserving award recipients!

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Shayda Zaerpoor Le and Rima Ghandour pictured with award recipients Anthony Blake Jr., Maxine Tuan, Kasia Rutledge, Rakeem Washington and Margaret Davis



Pro Bono Award recipients Erick Haynie, Lauren Russell, David Malcolm and Julia Hagan

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Justice Rebecca Duncan and Erin Esparza



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Rima Ghandour presents Hala Gores with the Diversity Award



Justice Adrienne Nelson and Valerie Colas



Judges Heidi Moawad and Steven Powers



Judge Melvin Oden-Orr, Chief Justice Martha Walters and Whitney Boise



MBA Fellow Diego Gutierrez, Melina Martinez and Emily Guimont

MBA Membership Good for Members, Good for the Profession, Good for the Community

by Jeff Matthews
MBA Membership Committee



I have now been a proud member of the Multnomah Bar Association for over 30 years. The MBA has served to be instrumental in my development as an attorney and was a catalyst for helping me integrate into the Portland area bar. Back in 1988, I was a young attorney who had recently moved back to the Portland area from Bend. Through the volunteer opportunities and social events

provided me by the MBA, I was able to establish relationships with many attorneys, with whom to this day I still enjoy collegial relationships. A prior slogan of the MBA was “The Bar That Matters.” From my personal experience, I very much believe that is still the case today.

Besides the somewhat intangible benefit of networking and relationship building, the MBA also offers a vibrant array of tangible benefits through the MBA’s business partners. The aggregate dollar value of these benefits far exceeds the \$140 annual fee for MBA membership for regular members. It’s also important to note that the MBA’s annual dues for members are the lowest in the nation for voluntary bars with membership of 2,000 or more.

So, what are the benefits currently available to MBA members?

Health Insurance Plans
Members have access to negotiated group health, life, disability and long-term care insurance, structured specifically for lawyers and law firms. This is an employer-based program, and the firm must have at least one W-2 employee in addition to the attorney.

Free CLE Content
In addition to discounts on all MBA CLE programming, members receive access to a rotating selection of MCLE-accredited webcast seminars, a \$360 value annually. Visit www.mbabar.org/member-center to view the latest offering.

CLIO provides case and practice management software. Members are provided a 10 percent lifetime discount, as well as a free seven-day trial.

Continued on page 19

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**A.C. Figueroa-Estacio
YLS Member Spotlight**

*by Michael Willes
Tonkon Torp LLP*

In the sixth grade, A.C. Figueroa-Estacio moved from the Philippines to Merced, California. On her first day at a new school, in a new country, she stood and introduced herself to her new classmates. In accented English, she told the other kids her name and where she was from. The one thing any middle schooler wants to do is fit in, so it came as a shock when one little boy asked, “Are you an illegal alien?”

It is as though in that moment Figueroa-Estacio said to herself, *I’ll show you*. She kept her head down, working hard to get good grades and do the right things. When others doubted that she would be able to gain admission to UCLA, she used that as inspiration, too. The work paid off. She was named valedictorian of her high school class; she went on to study at UCLA. There, nobody made her feel like an outsider. She enjoyed spending time with other intelligent, driven people, and learning new concepts. She majored in political science and minored in North African and Middle Eastern studies.

Figueroa-Estacio moved to Oregon to attend Lewis & Clark Law School. Having interned at a media entertainment company in college, she thought entertainment law or intellectual property law may be her calling. But then she took a course on employment discrimination taught by Professor Juliet Strumpf. Her inclusive approach taught students to look at the employee’s perspective in disputes with management. This led Figueroa-Estacio to explore work in employment law.

Figueroa-Estacio has worked at the Dolan Law Group since her 2L year. At this majority-female employment law firm, Figueroa-Estacio receives mentorship and is entrusted with substantial matters. Her firm also encouraged her involvement in the YLS CLE Committee.

Former committee chair and current YLS Board Director Nyika Corbett says that Figueroa-Estacio “brings a fresh, thoughtful perspective to our committee, and she’s a great team player.” Figueroa-Estacio



A.C. Figueroa-Estacio

prides herself on selecting speakers from a variety of backgrounds, including plaintiff-side and solo practitioners. She is working on an access to justice CLE program about litigating on a budget. This program will offer suggestions to young lawyers who want to represent clients with modest means in a cost-effective way.

“The YLS has offered many opportunities to meet other lawyers while engaging in meaningful and interesting committee work,” she says. The YLS appreciates Figueroa-Estacio’s contributions and looks forward to seeing her around the bar for many years to come.

**Lynn Walsh
Pro Bono Spotlight**

*by Kay Teague
YLS Pro Bono Committee*

This month’s Pro Bono Spotlight tracks the career of Lynn Walsh, a solo practitioner who created a successful career allowing her the time and flexibility to give back to the community by providing pro bono legal services.

Lynn began her legal career a little differently than most. Through the 1980s, Lynn worked for General Motors as a mechanical engineer. It was through this career that she realized she would prefer to be her own boss. From there, Lynn worked her way through law school, and was admitted to practice in 1992.

Since 1992, Lynn has been primarily a solo practitioner. She started with personal injury cases, and now the bulk of her practice is devoted to representing prisoners on their civil rights, ADA, and negligence claims. I know many

of us loathe the cliché phrase that folks just “fall into” a particular line of work, but for Lynn, that is exactly how it happened. After more than 15 years of personal injury work, Lynn started to represent prisoners, and has built up a thriving practice taking state or county actors, particularly medical providers, to task.

It was at this time, that Lynn felt the call to give back and joined the Federal District Court’s Pro Bono Panel. The panel appoints local attorneys who are able to provide counsel in federal court cases for pro se litigants. Although there are numerous other types of cases for which pro bono counsel are appointed, Lynn is always appointed to prisoner cases, and typically has one or two ongoing pro bono cases at any given time.

While civil rights claims relating to incarceration present significant technical challenges, Lynn assures us that there are numerous benefits to joining the panel and taking on a case of this nature. For one thing, it provides ample opportunities to get into court to practice appearing and speaking. If you are one of the many young attorneys lamenting the long wait to get into a courtroom, this is one avenue to address the delay. Taking on one of these cases also provides experience in federal court, which is not always a guaranteed venue in many areas of practice. Most importantly though, you will get the opportunity to help people who really need help, and are very grateful for the help they receive.

If you’re an attorney who wants experience, or wants to throw their energy into changing the tides of prison litigation, contact Lynn Walsh or read up on the pro bono program at the following link: ord.uscourts.gov/index.php/607-attorneys/pro-bono-service.

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Objection! Poetry Slam Recap

On May 24, the YLS Service to the Public Committee hosted the Second Annual Objection! Poetry Slam. Seven participants from local high schools performed original poetry of their own construction for those in attendance. This year’s poetry theme was “free speech, free press, free society.”

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Nationally-recognized poet Alex Dang (left) led the performers in a warm-up activity



Performers gathered on stage to take a bow at the conclusion of the event

The Sixth Annual Tillicum Gathering A Celebration of Diversity

On May 23, leaders from Oregon’s affinity bars and representatives from the MBA and OSB met at the annual Tillicum Gathering. Now in its sixth year, the Tillicum Gathering is a social networking event organized by the MBA Equity, Diversity & Inclusion Committee for legal leaders committed to fostering and expanding diversity and inclusion in our legal community. Davis Wright Tremaine generously hosted the evening. Recipients of the MBA and OSB’s LSAT test preparation

scholarships were honored. The scholarships pay for an LSAT preparation course for prospective law students who have a connection to Oregon, and who will diversify our bar when they complete law school and begin practicing law. Judge Melvin Oden-Orr offered encouragement to the LSAT scholars before distributing the awards. The attendees look forward to working together to promote and strengthen each group’s work toward enhancing diversity and inclusion in our legal community.



LSAT scholarship recipients with Judge Melvin Oden-Orr

Panner Inn and Jefferson High School Mock Trial Team Knock Down Barriers and the Competition

by Laura Salerno Owens
Markowitz Herbold PC and Jefferson High School Mock Trial Coach



The Owen M. Panner Inn of Court in Portland is proud to report that its increased financial sponsorship of a local urban mock trial team has helped transform the team into a statewide competitor. The program had humble beginnings and several hurdles to overcome. Jefferson High School pulls its students from a generally lower socioeconomic neighborhood than the other top mock trial teams in the Portland area. Also, none of the students on the team have lawyers for parents while many other teams are coached by lawyer-parents. Many of the students work or have the responsibility of caring for younger siblings in addition to participating in mock trial. And because Jefferson High School does not offer mock trial as a class, practices are not every day,

but once a week in the evening. Indeed, when the program started in the early 2000s, there were times when it was difficult to cobble together even eight students to participate. But the tide began to turn when the Owen M. Panner Inn of Court began funding Jefferson Mock Trial. About five years ago, the inn began providing a budget that allowed the students to have a pizza dinner while practicing mock trial. It also allowed the students to participate in an annual overnight trip to the



beach where the students run through the problem, team build, and have an unforgettable high school experience. On the first beach trip, one student remarked that he had never seen the ocean,

even though Portland is only 80 miles from the coast. Word spread fast throughout the high school that mock trial was a fun activity and soon the number of participants increased, as did the team’s success. This past 2018-19 season, we are proud to report that we had more than 40 students participate and fielded three teams at the regional competition. Moreover, one of the teams advanced to the state competition for the third time in four years. The team performed admirably at state - it won its first round, losing only in a power match in the second round to the team that eventually won the entire state title. One team member, Mekdes Hilete, is a great example of the Jefferson students who participate on the mock trial team. Mekdes came to the United States from Ethiopia in 2016, when she was in the eighth

grade. At first, she struggled to acclimate to middle school and high school in a different country. But she found her way to the Jefferson Mock Trial team as a freshman and has been



a standout since then. Now a junior, she earned a perfect 10 on her closing statement at the regional competition - an incredibly difficult feat for any student, let alone one whose first language is not English. Mekdes was a key part of a very strong team that led Jefferson High School to the state competition. Other mock trial alumna are pursuing promising college careers: Sekai Edwards is at Julliard in New York City, Sidne Gregory is at MIT in Boston, and Alyssa Bailey attends American University in Washington, DC. Alyssa was also awarded a prestigious and competitive scholarship from the Classroom Law Project for her participation in mock trial, which contributed \$10,000 toward her education costs. The exponential growth of the team, both in size and success, is directly correlated with the increase in financial support by the Owen M. Panner Inn of Court. By providing coaches and financial support to the team, the Owen M. Panner



Team member Mekdes Hilete in the Markowitz Herbold library, preparing for final argument before state competition

Inn of Court seeks to instill the values of professionalism, community service, and integrity into the young adults at Jefferson High School. Working with these students has been extremely rewarding and the Inn is proud to sponsor them.



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Tips From the Bench

Continued from page 10

predisposition. At a minimum, you will need to ask open-ended questions, as opposed to yes/no questions, and it is often helpful to focus on how the jurors *feel* about certain topics. There are many nuances that you will need to figure out - too much nuance to address in this limited space - but considering that few lawyers seem to have even thought of possibly using this type of questioning in voir dire, my hope is that this strategy at least be considered.

For more reading on this topic I strongly recommend Harry Plotkin’s June 2017 jury tip mentioned previously as well as his November 2017 jury tip, *Why You Should Talk Like Opposing Counsel in Voir Dire* (www.yournextjury.com/jurytips). Each article is only two pages long and has great ideas and tips.



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The Corner Office | PROFESSIONALISM

The OSB Statement of Professionalism (as adopted by the OSB House of Delegates and approved by the Supreme Court of Oregon effective December 12, 2011) includes the following proclamation – “*I will be courteous and respectful to my clients, to adverse litigants and adverse counsel, and to the court.*”

In life, there are only some things we can control, and punctuality is one of them. Many lawyers struggle with punctuality; however, when we're late for a meeting or a phone call, what percentage of the time is it genuinely an issue beyond our control? Certainly, it's a very small percentage. If we take honest stock of how lawyers tend to behave, we find that almost always lawyers are late because we don't plan well enough. We departed too late for our destination, we didn't enforce time boundaries earlier in the day, we tried to squeeze too many tasks into a single day, or we failed to set realistic expectations. Because punctuality is one of the most basic tenets of professionalism and social etiquette, effective lawyers must make it a priority.

In the legal world, the quality of promptitude is arguably more important for courteousness than the use of the correct prefixes and surname pronunciations. Aside from the lost (and perhaps most basic) opportunity to exhibit courtesy and respect by arriving on time for any lawyerly act, tardiness may be perceived as incompetence, disorganization, a lack of discipline, and insecurity.

Lateness may also reflect fluster and a compromised ability to manage stress and prioritize time, people, pressures, and commitments. Lateness creates a negative external impression in people outside of your office, and it lowers morale among your colleagues and staff when they can't trust your word about when you'll be somewhere, or when a meeting will start. As the saying goes: “Time is a precious gift we give, but too often waste.” Tardiness breeds wasted precious operational capital. It could place an unnecessary strain on a professional's negotiating power, or cause a lost opportunity to shine. (The most obvious example may be a late reply brief rejected for consideration by the

court, or a delayed return call to a potential new client who finds her counsel elsewhere.) More fundamentally, lateness is often perceived as just plain rude.

While some lawyers (litigators in particular) may enjoy the adrenaline rush that comes from cutting it close, and struggle to complete a task unless there's a mini crisis looming on the horizon, the late lawyer is almost never the most prepared or conscientious lawyer. To honor our commitment to professionalism, experienced lawyers should exhibit and mentor others to keep these punctuality tips in mind:

1. **Know Why You Want to Be Punctual.**

Consider your reasons and motivation to build a habit of punctuality. Like any good lawyer often does, create a list of action items. Write down the risks of lateness and the benefits of punctuality. Your list may include:

- Punctuality reduces stress and friction with your adversaries, staff and partners. None among us enjoys waiting for others.

- Punctuality builds trust. Clients will feel their counsel is more competent to handle competing deadlines and pressures, and decision-makers will view you as more credible.
- Punctuality signals to others, as well as to yourself, that you are reliable and organized.

2. **Make it a Priority to Be Prompt, and Early.**

If you tend to be chronically late, own it and perhaps recognize it as your own Achilles' heel. Strive to be always early. Realize that lateness is not a cute or quirky character trait. Instead, it's an unprofessional habit that negatively impacts your career, business, and other relationships. Commit to kick the habit and become more reliably punctual.

3. **Promote a Punctual Culture.**

Recognize punctuality as a right and obligation. Avoid hypocrisy by requiring of your staff only the level of punctuality that you consistently demonstrate. Surround yourself with colleagues and staff that share your respect for promptness. Start and end meetings

on time. Hold your staff and committee members accountable when they demonstrate tardiness and invite them to do the same for you.

Simply thinking about punctuality will inspire us to recognize that we have better control of our time. Professionalism includes the gracious exercise of that control - whether by the simple act of reliably returning calls to opposing counsel, meeting client or court-imposed deadlines, or arriving punctually to court proceedings. In doing so, you serve your professional obligation to “*be courteous and respectful to ... clients, to adverse litigants and adverse counsel, and to the court.*”

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.



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News From the Court

Continued from page 10

expects to present SLR changes in three categories:

1. Housekeeping/clean-up changes (not major substantive changes).
2. Significant rewrite of SLRs governing family law, probate and juvenile matters. The court has been working on streamlining and improving the understandability and consistency of the SLRs in these areas.
3. The court is proposing an SLR that addresses requests to reschedule a summary judgment hearing before a

sitting circuit court judge. Summary judgment hearings are typically assigned to a *pro tem* judge. This process was adopted many years ago to help the court handle all the work of the court with limited resources. The *pro tem* judges are experienced lawyers approved by the Oregon Supreme Court to hear these matters; they often spend many hours reading briefs and cases in preparation for the hearing. The court encourages parties to continue to use *pro tem* judges for most summary judgment hearings. If a party objects to having the motion heard by a *pro tem* judge, it

can request the matter be rescheduled before a sitting circuit court judge. The court's updated Attorney Reference Manual describes the process and includes forms. The court is proposing a new SLR to codify that process. The proposed SLR will include a time limit for making the request. Untimely requests will be denied by the presiding judge.

If approved, the SLR changes would take effect February 1, 2020. Attorneys are encouraged to review the SLR changes when the UTCR Committee releases them for public comment.

Pro Bono Volunteers

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

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Cosgrave is an equal opportunity employer. We welcome all applicants and strive to provide a workplace in which all employees feel included, respected, and valued.

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Applications must include all documents for consideration.

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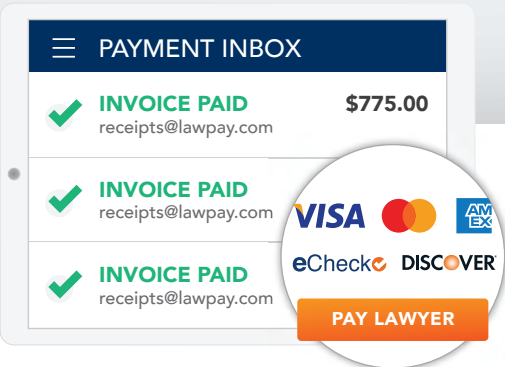
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Continued from page 11

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The MBA also sponsors fun and worthwhile social events throughout the year, including: WinterSmash in February, the MBA Annual Dinner in May, the Battle of the Lawyer Bands in the summer (this year on July 25), the MBA golf fundraiser (September 19), and the Absolutely Social in October. These events all provide plenty of opportunity for MBA members to enjoy themselves and meet other MBA members and future friends. Furthermore, volunteer and leadership roles provide additional options to network while serving the legal community.

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