

At Home During Challenging Times

by Sarah Radcliffe
MBA President



In the span of 10 days, we have all embarked on a sudden transition into our homes and ourselves. Doctors believe that COVID-19 can have dramatically different symptoms for different people, and certainly this period of shutdown/lockdown/quarantine is manifesting itself in our daily lives and in our psyches in drastically different ways. My 17-year-old stepson is indignant that his family is his sole social outlet for who knows how long,

my self-employed carpenter husband is nervous about the economic impact, my kids have quickly acclimatized and now just want to live in the treehouse, and I have to admit that, with every work deadline and kid activity that was canceled, I felt an increasing sense of liberation. For me, puzzles are the hallmark of a useless activity that we DO NOT HAVE TIME FOR! And as I write this, my family is happily gathered around a card table with a 1,000-piece puzzle. The heavy part is acknowledging that we have it so good.

Small businesses are shuttering their doors and many will not reopen. Solo practitioners are wondering how long they can stay afloat without business. People are losing their jobs. The “gig economy” is either dwindling away, or suddenly demanding a daunting exposure risk that the rest of us are avoiding. People in retirement homes, prison and, the state hospital are no longer allowed to have visitors and video visits (at least in prison) are cost prohibitive or impractical for most. Close living quarters and generally inadequate medical care is compromising the health of thousands of people in jails. For people living in congregate, institutional settings, social isolation is a luxury totally outside their control. Elderly people and people with disabilities often don't have the support networks to get their basic needs met while homebound. Healthcare workers are on the front lines without adequate protective equipment. Many people are sick and more will become sick in the coming weeks.

I have been telling my kids that they will tell their kids how they lived through the COVID-19 pandemic, a public health event unprecedented in our lifetimes. I wonder what historic changes are being ushered in right now? This moment marks the collective realization that we actually can drastically alter our lifestyles overnight. We can stop driving. Many of us can work from home. We can indulge in extended hours of leisurely family time. We can subsist on whatever we were able to scavenge from the scant supplies at the grocery store.

Hardships imposed, mostly on poor people, by government and corporate systems, which seemed so intractable, have suddenly evaporated. It turns out that many of people in jail really don't need

to be locked up. The convention center will be repurposed to provide shelter. Evictions have been halted. Utilities have committed to not disconnect services.

Let's pause to notice that in big and small ways, machines (both actual and socioeconomic) are grinding to a halt. We are experimenting with a global elimination diet (that's when you stop eating everything, and then slowly reintroduce one food at a time), and when this passes, we'll have a rare opportunity to be intentional about whether we revert back to business as usual. Maybe my family will stay involved in COVID-19 prompted mutual aid networks, but we'll also scale back on some of the activities that make our family life feel so hectic. Maybe the current scarcity of pantry and bathroom staples will make us more conscious of our consumption and waste. Maybe the aerial photos of air pollution before and after quarantine will remain in our minds as evidence of the collective impact of individual actions. Maybe we will more deeply value the people we haven't been able to see and touch. Maybe climate change and homelessness will resonate as emergencies that warrant dramatic action.

I wish you and your loved ones health and stamina during this walk through uncharted and uncertain territory. I've never felt so insecure and yet, so - literally - at home.

This moment marks the collective realization that we actually can drastically alter our lifestyles overnight.

For people living in congregate, institutional settings, social isolation is a luxury totally outside their control.

NEW FALL DATE!

MBA Annual Meeting, Dinner & Judges Reception

Wednesday, October 14
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Due to the COVID-19 situation, the MBA will be offering all seminars **ONLINE ONLY** through April 30. To register for a CLE seminar, please see p. 3 or visit www.mbabar.org.

APRIL

4.2 Thursday
Presiding Court Update
Judge Stephen Bushong

4.15 Wednesday
What Kanye Can Teach Us About Litigation
Brent Turman

MAY

5.12 Tuesday
Arbitrations in Oregon: The What, Where, Why and How
Judge David Rees
Brad Krupicka
Kirsten Rush

5.21 Thursday
Build Better Mousetraps, or at Least Effective Limitations of Liability
Jaimie Fender
Jack Levy
Jacob Zahniser

5.26 Tuesday
Spousal Support Awards: Post-TCJA and Other Thorny Issues
Judge Patricia McGuire
Judge Eve Miller
Judge Keith Raines
Judge Todd Van Rysselberghe
Judge Kathryn Villa-Smith

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DEADLINE for copy: The 10th of the month*

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Get Involved in the MBA Consider Volunteering for an MBA or YLS Committee

Terms begin Fall 2020. To volunteer for a committee, please see the insert in this issue or visit www.mbabar.org/volunteer.

Rewards of Volunteering

Meeting new people and expanding perspectives are two of the reasons members cite for serving on committees. When you join a committee, you become part of a team of your colleagues. As you contribute to the work of the committee, you also learn from other members. Together, our volunteers provide valuable service to the legal community. Most committees meet for one hour once a month from September through May.

MBA Committee Descriptions

CLE: Plan, conduct and evaluate 40 CLE seminars, focusing on members' primary areas of practice.

Court Liaison: Foster constructive dialogue with the Multnomah County Circuit Court presiding judge and trial court administrator with regard to current practices, or to rules or procedural changes before they are implemented by the court.

Equity, Diversity & Inclusion: Foster and expand diversity, inclusion and equality in the MBA and Multnomah County legal community, and create and strengthen a relationship of mutual support between the MBA and diverse bar organizations. The committee also administers the Diversity Award screening and selection process.

Events: Plan social, networking, and fundraising events, including the annual golf tournament to benefit the Campaign for Equal Justice.

Judicial Screening: Review applications of pro tem and judicial appointment candidates confidentially, and report recommendations as called for by the MBA Board-approved process.

MBF CourtCare Campaign: Conduct a fundraising campaign for CourtCare program operations to provide free childcare in the Central Courthouse.

Professionalism: Promote principles of professionalism within the legal profession, through the Corner Office article, Professionalism Statement, Mentor Program and professionalism training programs. The committee also administers the Professionalism Award screening and selection process.

Public Service: Explore new ways for lawyers to assist those in need in the community, in partnership with the court, pro bono and social service providers, and other stakeholders.

Solo/Small Firm: Focus on programs and services that are of value to small firms and solo practitioners.

YLS Committee Descriptions

YLS CLE: Organize 27+ MCLE-accredited seminars, with content intended specifically for newer attorneys. Provide additional professional and career development seminars for the YLS membership.

YLS Membership: Assist in recruitment and involvement of MBA young lawyer members, to encourage member participation in the YLS, and to organize a variety of networking activities for YLS members.

YLS Pro Bono: Provide leadership and professional development opportunities for young lawyers in pro bono work. Administer the local Wills for Heroes Foundation clinic, providing estate planning services to first responders.

YLS Service to the Public: Provide programs to engage young lawyers in community outreach activities that educate the public about the legal system, the positive role of attorneys in society, and the legal resources available to the community.

Calendar

MAY

4 Monday
MBF CourtCare Campaign begins
www.mbabar.org/courtcare

13 Wednesday
MBA 114th Annual Meeting, Dinner and Judges' Reception
www.mbabar.org

20 Wednesday
Tillicum Gathering
www.mbabar.org

JUNE

13 Saturday
St. Andrew Legal Clinic: Race for Justice
www.salcgroup.org/race

Solo & Small Firm Committee Upcoming Workshop

MAKE DIGITAL MARKETING YOUR RAINMAKER

Thursday, May 28
Workshop: 12-1:30 p.m.
Red Star Club Room
503 SW Alder St., Portland

This presentation will focus on how you can use digital marketing to expand your practice and automate the process of sourcing clients. Nedra Rezinis, founder of Veritas Web Design, will discuss what it means to utilize digital marketing including your website, social media, email marketing, and online directories, and give practical tips for how you can use these tools in your practice. Nedra will demonstrate implementing digital marketing tools with several real examples and offer tips on best practices for how to utilize these same tools in your practice. You can learn how to make the most of your time by getting these tools to work for your practice so that you can focus on serving clients, rather than finding clients. Nedra will also highlight the latest 2020 trends in digital marketing and tips for staying current in this ever-changing digital world.

Cost: \$30 members/\$60 non-members.
Lunch is provided.
The MBA will apply for one hour of OSB MCLE credit.

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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.

Presiding Court Update

Thursday, April 2 3-5 p.m.

Online Participation Only

FREE to Members & Non-Members

In this session, Multnomah County **Presiding Judge Stephen K. Bushong**, the Chief Judges and court staff will present on the state of the court, review new Supplemental Local Rules, and provide tips on issues unique to practicing in Multnomah County. Judge Bushong will also give an update on the new courthouse, which is scheduled to open in 2020. This seminar is designed for attorneys at all levels of experience and questions are strongly encouraged.

For more information: Contact Eryn Karpinski Hoerster, Foster Garvey PC, at 503.553.3128. For registration questions, contact the MBA at mba@mbabar.org.

What Kanye Can Teach Us About Litigation

Wednesday, April 15 12-1 p.m.

Online Participation Only

Members \$30/Non-Members \$50

Note: Pre-approved for .5 hours of ethics credit and .5 hours of general OSB MCLE credit.

Over the past decade, Kanye West has run the gamut when it comes to civil lawsuits. From copyright and trademark infringement to breaches of contract to class action litigation, West has seen it all. In this presentation, **Brent Turman** analyzes Kanye's "greatest hits" in the courtroom and shares lessons other litigators can learn from his experiences. Brent is a commercial litigator with Bell Nunnally in Dallas, Texas. His practice covers a variety of matters including business disputes, breach of contract, complex arbitration, and intellectual property.

For more information: Contact Adrian Brown, Chair, CLE Committee, at 971.221.6237. For registration questions, contact the MBA at mba@mbabar.org.

Arbitrations in Oregon: The What, Where, Why and How

Tuesday, May 12 3-5 p.m.

World Trade Center, Mezzanine

Members \$60/Non-Members \$95

From mandatory court-annexed arbitration under ORS 36.400, et seq. to private arbitration through AAA, ASP or JAMS, arbitration is playing a larger and larger part in civil dispute resolution. With the US Supreme Court's decision to endorse class action waivers in Epic Systems Corp., arbitration has become even more prevalent. The recent trend of legislative barriers to private arbitration - including ORS 36.620(5) - are unlikely to turn the tide. Hear from Multnomah County Circuit Court **Judge David Rees** and experienced members of the plaintiff and defense bar, **Brad Krupicka**, Littler Mendelson, and **Kirsten Rush**, Busse & Hunt, on the theory, procedure, and practical issues of arbitration, including key issues in the drafting and enforcement of arbitration agreements.

For more information: Contact John Berg, Littler Mendelson, at 503.889.8863. For registration questions, contact the MBA at 503.222.3275.

Build Better Mousetraps, or at Least Effective Limitations of Liability

Thursday, May 21 3-5 p.m.

World Trade Center, Mezzanine

Members \$60/Non-Members \$95

Incorporating novel materials into a construction project can present significant risk. Contractors and tradespeople are routinely required to use unfamiliar products and techniques. Cross laminated timber, zip panel siding, and MgO boards are just a few novel materials that have experienced challenges. Whether the end goal is to improve environmental performance or simply to save costs, in some instances, things can go terribly wrong. By reference to case studies, **Jaimie Fender**, MacMillan Scholz & Marks PC, **Jacob Zahniser**, Miller Nash Graham & Dunn LLP and **Jack Levy**, Gilbert Levy Bennett will overview what and how things can go wrong with novel materials. Part A of the program will help the construction law practitioner guide their clients on how to build a better mousetrap, by following a nationally recognized vetting process for new building materials. Part B will focus the audience on key decisional law on how to craft effective liability waivers.

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

Spousal Support Awards: Post-TCJA and Other Thorny Issues

Tuesday, May 26 3-5 pm

World Trade Center, Mezzanine

Members \$60/Non-Members \$95

Attention family law practitioners of all experience levels! You will not want to miss this discussion of spousal support issues by our tri-county panel of judges, including **Judges Kathryn Villa-Smith** and **Patricia McGuire** of Multnomah County Circuit Court; **Judges Todd Van Rysselberghe** and **Eve Miller** (Senior Judge and mediator) of Clackamas County Circuit Court; and **Judge Keith Raines** of Washington County Circuit Court. This distinguished panel will discuss issues that impact your trial and mediation practices, including:

- How best to present spousal support cases for trial post-Tax Cuts and Jobs Act
- Differing approaches between the counties
- Modifications of spousal support
- Review of statutory factors
- Numerous other issues you navigate daily in your spousal support practice

For more information: Contact Shannon Hall, Gevurtz Menashe PC, at 503.227.1515. For registration questions, contact the MBA at 503.222.3275.

CLE Registration Form

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- 4/15 What Kanye Can Teach Us About Litigation**
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- 5/12 Arbitrations in Oregon: The What, Where, Why and How**
 Class Registration (\$60 Members/\$95 Non)\$ _____
- 5/21 Build Better Mousetraps, or at Least Effective Limitations of Liability**
 Class Registration (\$60 Members/\$95 Non)\$ _____
- 5/26 Spousal Support Awards: Post-TCJA and Other Thorny Issues**
 Class Registration (\$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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Special thanks to the law firms of Jaqua & Wheatley and Perkins Coie for their donations of books for the OLCR library wall.

mba | ANNOUNCEMENTS

The District of Oregon Seeking Nominations for Ninth Circuit Lawyer Representatives

Being a lawyer representative is a rare opportunity to collaborate with federal judges and plan and participate in court-sponsored activities. The court strives to create and maintain a group of lawyer representatives that reflects the experiences of all who are involved in Oregon's federal courts. Race, ethnicity, gender identity, sexual orientation, religion, disability, geographic, and practice areas are among the types of diversity sought.

Duties include assisting with planning the District's biennial conference, attending the Ninth Circuit's annual conference, and providing support and advice about the functioning of the courts within the Ninth Circuit to better the administration of justice. Representatives serve for staggered three-year terms. Those selected this year will serve from August 1 through July 31, 2023. Criteria for selection as a lawyer representative include admission to practice in the District of Oregon, regular practice in federal court, and a commitment to participating in lawyer representative activities. Details are available on the Ninth Circuit's website at this link: bit.ly/2QwZ0ov. The deadline to apply is April 30. To nominate yourself or someone else, send a short statement of interest and resume to Magistrate Judge Youlee Yim You at youlee_yim_you@ord.uscourts.gov.

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

Social distancing will be observed and the rides will continue as scheduled. 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.

Ethics Focus

Who is the Client? Representing Closely Held Corporations

by Mark J. Fucile
Fucile & Reising LLP



One of the most fundamental questions in law firm risk management is: "Who is the client?" The answer is often more difficult than the question when representing small, closely held corporations. This difficulty was illustrated last year in an Oregon Court of Appeals decision involving a legal malpractice claim by two closely held corporations and their owners against a law firm: *O'Kain v. Landress*, 299 Or App 417, 450 P3d 508 (2019). In this column, we'll first briefly review *O'Kain* for context and then turn to the law firm risk management lessons it offers.

O'Kain

The facts in *O'Kain* were not novel. An investor and his wife controlled two limited liability companies that operated two apartment complexes in Salem. The LLCs defaulted on loans and were in foreclosure proceedings in Marion County. The investor and his wife consulted with a law firm about the possibility of putting the LLCs into bankruptcy so they could stay in control while reorganizing the debts. The investor was a California lawyer and his wife was an inactive member of the OSB who had previously worked as an associate for the law firm.

The law firm provided the investor and his wife with an engagement agreement that designated the LLCs as the clients (299 Or App at 421): "[The law firm] ... was retained 'to represent [the LLC Plaintiffs] as legal counsel for research and advice concerning

feasibility of Ch. 11 Bankruptcy filing.'" When the law firm met with the LLCs, it was through the investor and his wife - as were follow-on communications.

Later, the investor, his wife and the LLCs all brought legal malpractice claims against the law firm over the substance of the advice provided. Based on the engagement agreement, the law firm moved for summary judgment against the investor and his wife - arguing that they lacked the attorney-client relationship with the law firm generally required for a legal malpractice claim. The two individuals argued that they thought the law firm was also providing them with personal legal advice. The trial court granted the law firm summary judgment on the individuals' claims, but the Court of Appeals reversed.

In doing so, the Court of Appeals relied principally on the standard for an attorney-client relationship defined by the Supreme Court in *In re Weidner*, 310 Or 757, 770, 801 P2d 828 (1990). In *Weidner*, the Supreme Court articulated a two-pronged test: (1) does the putative client subjectively believe the lawyer is representing the client? (2) is that subjective belief objectively reasonable under the circumstances? The

...although an engagement agreement is an essential risk management tool, an engagement agreement alone may not be sufficient...

Court of Appeals concluded that, notwithstanding the engagement agreement, fact issues precluding summary judgment existed on whether the two individuals reasonably understood that the law firm was also advising them personally.

Lessons

O'Kain offers two principal risk management lessons.

First, although an engagement agreement is an essential risk management tool, an engagement agreement standing alone may not be sufficient in defining - and limiting - the client for a particular representation. This is especially the case with a small, closely held corporation owned by a single person or a family whose interests are aligned. Under OSB Formal Opinion 2005-85 (rev 2016), which, in turn, is based on *In re Banks*, 283 Or 459, 584 P2d 284 (1978), representation

of a closely held corporation in that circumstance may be held to also embrace representation of the person or family involved unless the lawyer takes affirmative steps consistent with *Weidner* to limit the representation to the corporation. One approach is to add the word "only" to the description of the client in the engagement agreement so that it will be clear that the representation is limited to the corporation alone. Another approach is to send the individuals "nonengagement" letters that specifically inform them that they are not clients of the firm in the matter involved. The OSB Professional Liability Fund has template "nonengagement" letters

...representation of a closely held corporation... may be held to also embrace representation of the person or family involved.

available on its website.

Second, the lawyer needs to act consistent with the engagement agreement - and any accompanying nonengagement letters. In *Jensen v. Hillsboro Law Group, PC*, 287 Or App 697, 403 P3d 455 (2017), for example, a lawyer tried to disclaim personal representation of the president of a corporate client, but the firm's internal records included the individual in the representation and the firm's bills were sent to the president with references that made them appear to be for personal representation. As a result, the Court of Appeals concluded that there was a fact issue on that point and reversed summary judgment that had been granted by the trial court. In *Lahn v. Vaisbort*, 276 Or App 468, 369 P3d 85 (2016), by contrast, a lawyer who had prepared loan documents for his client reminded a counterparty in a cover email forwarding the documents that he was not representing the counterparty. The Court of Appeals affirmed summary judgment for the lawyer when the counterparty later attempted to claim that she thought the lawyer was representing her, too. Echoing the *Weidner* test, the Court of Appeals in *Lahn* concluded (276 Or App at 479-80): "[P]laintiff's subjective belief that defendant acted as her lawyer in the transaction is not accompanied by evidence from which a reasonable factfinder could conclude that the belief was objectively reasonable."



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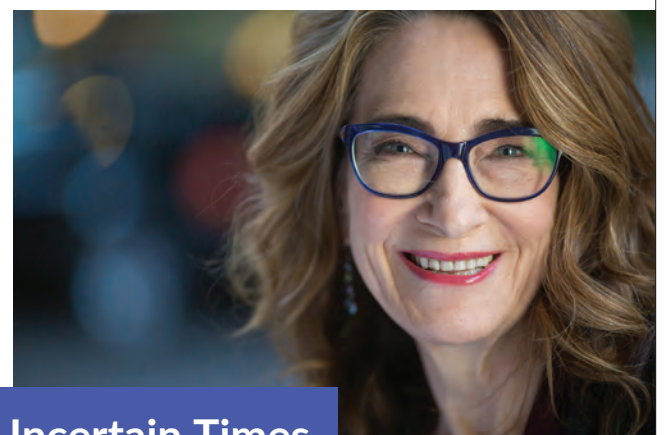
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Around the Bar

In Memoriam



J. Alan Jensen

Holland & Knight LLP

It is with heavy hearts that we announce the passing of former Holland & Knight partner **J. Alan Jensen**. Alan served as a National Practice Group Leader for Holland & Knight's Family Business Group and led the Northwest Private Wealth Services Team for many years. He also taught law at Lewis & Clark Law School. Outside of his work, Alan was a proud father and husband, a lover of bearded collies and an avid runner and mountain biker. Alan had an extremely quick wit to match his huge laugh. Our thoughts are with Alan's family and friends in mourning his loss.



Stanton Gallegos

Markowitz Herbold PC

Shareholder **Stanton Gallegos** has been named co-chair of the Oregon Hispanic Bar Association (OHBA).

Gallegos is a trial lawyer who represents high-profile corporate and individual clients across a wide range of practice areas including securities litigation, contract and shareholder disputes, products liability, class actions, and other business torts.

The OHBA was founded in 2002 to improve the conditions for lawyers of Hispanic heritage in Oregon. One of the oldest specialty bars, OHBA encourages Latinx individuals to become attorneys; collaborates with other organizations to retain Latinx legal professionals; raises awareness of Latinx legal issues; supports Latinx law students and legal professionals; promotes the advancement of Latinx legal professionals; and celebrates the achievement of Latinx legal professionals.

Chenoweth Law Group

The firm is proud to announce that **Tasha Lyn Cosimo** and **Katelyn E. Kindberg** have joined the firm as attorneys.



Tasha Cosimo



Katelyn Kindberg

Cosimo represents clients in a variety of areas, including business litigation, personal injury litigation, trust dispute litigation, and general civil litigation. She also assists clients with business transactional needs and ongoing needs for legal representation and consultation services. Cosimo represents both plaintiffs and defendants, including corporations, small businesses, individuals, and minors.

Kindberg graduated cum laude from Lewis & Clark Law School in 2019. Her practice focuses on civil and business disputes, business transactions, contracts, real estate, arts and entertainment, environmental disputes, and debt collection. Kindberg advocates for individuals and organizations big and small with tenacity and a people-first approach to legal services.



Karen Hobson



Robert Koch

Tonkon Torp LLP

Karen Hobson has been appointed to the Board of Directors for the Estate Planning Council of Portland. The nonprofit organization provides educational

opportunities for professionals in the estate planning field who practice in Oregon and Southwest Washington.

Hobson is an attorney in Tonkon Torp's Estate Planning Practice Group where she advises individuals and high-net-worth families in estate planning and administration, and assists clients with tax planning, business transactions, and succession planning.

Robert Koch has been appointed to the Executive Committees of the OSB Appellate Practice and Constitutional Law Sections.

Koch chairs Tonkon Torp's Appellate Practice Group and handles cases in state and federal courts of appeals. Prior to joining Tonkon Torp, he served in the US Department of Justice's Civil Rights Division in Washington, DC, where he worked on both civil and criminal matters in the US Supreme Court and in federal courts of appeals across the country.



Elizabeth Rosso

Jordan Ramis PC

Elizabeth Rosso has been elected as a shareholder at the firm.

Rosso is a member of the firm's environmental practice group, focusing on environmental compliance, water quality, and wetlands and drainage. She is experienced in a full range of environmental issues that include compliance with the Clean Air Act, Clean Water Act, and Resource Conservation and Recovery Act; natural resources conservation and protection under the Marine Mammal Protection Act, Coastal Zone Management Act, and Endangered Species Act; and spill and release response.

In 2018, Rosso joined Jordan Ramis PC as an associate after serving for 14 years as an officer in the Navy's Judge Advocate General's Corps, where she filled a variety of increasingly complex roles, including criminal defense attorney, instructor and environmental attorney.



Benjamin Melnick

Schauerma Thayer Jacobs Staples & Edwards

The firm is pleased to announce that **Benjamin P. Melnick** has been made a partner.

Melnick began his practice in criminal defense and personal injury in 2013, before coming to Schauerma Thayer to focus solely on personal injury in 2018. He practices in the areas of personal injury, wrongful death, auto, motorcycle, trucking, bicycle, and pedestrian collisions, as well as insurance disputes.



Lisa Poplawski



Geoff Palachuk

Lane Powell PC

Lisa Poplawski and **Geoff Palachuk** have been selected to participate in the Leadership Council for Legal Diversity (LCLD) Fellows and Pathfinders programs, respectively.

Poplawski joins the 2020 class of LCLD Fellows, a select group of experienced attorneys from diverse backgrounds who have been recognized for their potential as leaders in their organizations. The Fellows participate in a year-long, in-depth program devoted to relationship-building, in-person training, peer-group projects, and contact with LCLD's top leadership.

Palachuk joins the 2020 class of LCLD Pathfinders, a

program designed to train high-performing, early-career diverse attorneys in critical career development strategies including leadership and the building of professional networks.

Miller Nash Graham & Dunn LLP

The firm is pleased to welcome attorney **Edward T. Decker** to the firm's Portland office. Decker, who joins the firm's growing litigation team, will represent businesses and individuals in disputes and government regulatory investigations, as well as in class-action lawsuits. Before joining Miller Nash Graham & Dunn, Decker practiced as a litigation associate in the New York office of Shearman & Sterling LLP.

Decker's practice focuses on complex commercial matters, ranging from antitrust and securities class actions to corporate governance, mergers and acquisitions, and contract disputes. He is also experienced in pre-dispute risk management and representing clients when responding to investigations conducted by the Department of Justice, Securities and Exchange Commission, FINRA and other regulators covering a range of substantive topics, including anticompetitive conduct, corporate scandal, bribery and financial crimes. Decker earned his law degree at New York University School of Law, where he was the articles editor of the Annual Survey of American Law.

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.

LEGAL SERVICES CORPORATION

Notice of Grant Funds Available for Calendar Year 2021

The Legal Services Corporation (LSC) announces the availability of grant funds to provide civil legal services to eligible clients during calendar year 2021. In accordance with LSC's multiyear funding policy, grants are available for only specified service areas. On or around April 1, LSC will publish the list of service areas for which grants are available, and the service area descriptions at www.bit.ly/331bW01. The Request for Proposals (RFP), which includes instructions for preparing the grant proposal, will be published at www.bit.ly/2wps1Lz on or around June 1. Applicants must file a Notice of Intent to Compete (NIC) and the grant proposal through LSC's online application system in order to participate in the grants process.

Please visit www.bit.ly/2wps1Lz for filing dates, applicant eligibility, submission requirements, and updates regarding the LSC grants process. Please email inquiries pertaining to the LSC grants process to LSCGrants@lsc.gov.

Creating a Pro Bono Culture at Your Firm

by Owen Blank
MBA Public Service Committee

There are many ways law firms can create a culture that encourages pro bono work by their lawyers. I have no secret formula for doing so. However, here are five ways that this circa 1973 lawyer recommends for your consideration.

1. Teach by Example, Not by Lectures. There is no substitute for great examples set by those in formal or informal leadership positions. In my firm, the late

Don Marmaduke led the way over many decades bridging two centuries, but he was not alone.

2. Counting It Makes It Count. Figure out a way to track pro bono work that is consistent with whatever tracking systems your firm uses to track remunerative work. When evaluating partners' and associates' contributions to the firm, make a point of including pro bono numbers in the conversation.

For example, if an associate is meeting billable guidelines but not meeting pro bono guidelines, let the associate know that the firm takes both seriously.

3. Organize the Effort and Identify People to Lead the Effort. If everyone is responsible, no one is accountable. In our firm, we have a committee and the committee has a designated chairperson. The committee includes our managing partner and our staff member who leads attorney hiring and recruitment. The message is not subtle. For other firms, designating just one person may be the best fit. Our committee reaches out to attorneys

in the firm with internally-generated pro bono opportunities and requests from outside the firm. It also acts as a resource for attorneys who want to match their skill sets and passions with pro bono opportunities.

4. Recognition. Last year we instituted the Don H. Marmaduke Pro Bono Service Award. The inaugural award was presented at our annual firm retreat to Steven Wilker in recognition of the hundreds of hours he has dedicated to civil rights and civil liberties cases. We have a nomination and decision-making process that

emphasizes the importance of this award to our firm, which I will be pleased to share with anyone who is interested.

5. It is Work, So Treat it That Way. Early on in my career here, the founders made it clear to me that they expected my pro bono work to be of the same quality as my work for their best paying clients, and for the pro bono clients to be treated the same way we treat paying clients.

I will end with one other lesson I learned from my firm's founders: Pro bono work is great - when you do it intentionally!

We are pleased to welcome as a partner to our firm:

CHRISTINE MOORE

- 18 years of practice
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Tips From the Bench

Making Better Trial Time Estimates

by Judge Eric L. Dahlin
Multnomah County Circuit Court



"Ti-i-ime is on my side, yes it is."
-The Rolling Stones

While time is (surprisingly) still on Mick Jagger's side, it is not always on the side of a trial lawyer, especially when giving the court an estimate of how long a trial will take. There is no question that making an accurate time estimate is difficult, but it often appears that lawyers are either unrealistically optimistic about their time estimates, or simply have not given the thought and attention that is needed to be accurate. When lawyers fail to accurately estimate how long trial will take, that creates difficulties for jurors, judges, witnesses, and their clients.

When a trial is assigned to a judge, the judge does not have an unlimited amount of time, or often even a single day, available beyond the days the parties requested. In many instances, the judge will already have a full docket on the days following the trial; thus, if the trial runs long, presiding court will have to scramble to move multiple judges' schedules around to accommodate the last-minute change, or the trial will have to stop mid-stream for days until the judge is available again. Similarly, many jurors have commitments immediately following the trial, and if there is an 11th hour demand that they extend their service, that could either greatly inconvenience the jurors or even result in a mistrial if enough jurors are lost.

This is not to suggest that lawyers should wildly overestimate the expected time for trial, thinking that everyone will be happy when the trial takes less time than estimated. Overestimating also can have negative impacts on the judges' and jurors' schedules as they may have had to decline or postpone other engagements thinking they would be in trial for a longer period of time. Rather, the goal is to be more intentional and thoughtful about the many factors that impact how long a trial will take (though when in doubt, it is better to overestimate than underestimate).

Following is a non-exhaustive list of items that lawyers don't always take into account, or at least underestimate, when

reporting to the court how long trial will take:

First, expect the unexpected. Almost every trial will have unexpected delays. By definition, you won't be able to anticipate a particular unexpected event, but you should know they happen and build in a cushion for that. Even if you can control every aspect of your own life - which you won't always be able to do - you can't control every aspect of the lives of all the other people involved in the case. A sampling of the many problems that can delay a trial includes inclement weather, traffic accidents, car problems, sick family members, long security lines, fire drills, and bloody noses.

Second, be realistic about how many hours you have each day with the jury. Trials generally run between 9 a.m.-12 p.m. and 1:30-4:45 p.m., a total of 6.25 hours. But after factoring in morning and afternoon breaks, brief delays between witnesses, often not-so-brief delays when various legal or factual disputes arise, inevitable delays where at least one person crucial to the proceeding is late, and in criminal cases transport delays, realistically, the total amount of time in front of the jury is often well less than five hours.

Third, don't forget pretrial motions and disputes over jury instructions and exhibits. You may think your pretrial issues are no-brainers and that the judge should simply agree with your positions on everything, but if your opponent opposes your positions, it will take time to work through all the disputes. If there are dozens of substantive disputes, hours, if not more than a day, may be needed.

Fourth, don't forget jury selection. And when factoring in time for jury selection, don't just think about how long your questioning will take; remember that the judge first gives basic instructions to the venire, then addresses conflict and hardship issues, and then has each prospective juror answer a standard list of questions before it's even time for the lawyers to start asking questions.

Fifth, don't forget cross examination. You obviously have no control over how long your opponent will cross examine your witnesses, but the response shouldn't be to just ignore cross when estimating your time. Rather, you should meaningfully confer with opposing counsel about all aspects of trial to jointly determine timing and logistical issues. Part of this conferral should be a discussion about who will be the likely witnesses and how long each direct examination will take, and then a reasonable lawyer should be able to give an informed

Continued on page 16

News From the Courthouse



by Lee Ann Donaldson
Court Liaison Committee

COVID-19 Court Updates

The following article was written before the COVID-19 virus became a global pandemic. Since that time, court operations have been impacted significantly. For up-to-date information on court operations affecting your practice, visit the Multnomah County Circuit Court website (www.courts.oregon.gov/courts/multnomah).

Presiding Judge's Report Hon. Stephen Bushong

This is a busy time of the year for the court. The week before this article was written, presiding court sent out nine trials with a Monday start, and four more on Monday for that Tuesday.

Tips

1. To avoid the rush - if you have ex parte matters, come in Tuesday, Wednesday, or Thursday morning because Monday and Friday call dockets are the busiest.
2. If you're scheduling court appearances, try to avoid scheduling things over spring break (March 23-27). There are a limited number of judges available that week.

The Oregon judicial branch has adopted its Strategic Campaign 2020-21. This was a culmination of a yearlong process led by Chief Justice Walters and the Strategic Planning Steering Committee. The campaign includes four separate commitments and several initiatives to be pursued by the courts in an effort to meet those commitments. Although Multnomah County Circuit Court currently meets many - if not most - of the commitments, this is the first time that a statewide strategic plan has been formalized. Multnomah County Circuit Court and OJD will use the campaign to educate the public and to provide the foundation for its legislative agenda. The document may be viewed at www.bit.ly/strat_campaign.

The New Courthouse Barbara Marcille, Trial Court Administrator

The new courthouse will be open for business on Monday, July 20. The historic downtown courthouse will be closed Wednesday, July 15 through Friday, July 17 to facilitate the move to the new building.

The behind-the-scenes moving of dockets and closing of dockets has begun. Civil and criminal call will occur Tuesday, July 14 for Monday, July 20. Please be proactive with the court if you have trials spanning this period. Multiple options are available and the calendaring secretary and staff will assist. Jurors will be summoned to appear on July 20 for service in the new courthouse. All other Multnomah Circuit Court locations will be open during this time, and some downtown dockets will be located temporarily at the Justice Center, East County Courthouse, or Juvenile Justice Center.

Currently, furniture is being installed in the new courthouse; many of the courtrooms are already completed. The courtrooms are designed with state-of-the-art acoustics that will be a noticeable improvement over the acoustics in the old courthouse. The court will need to install over 4,000 pieces of equipment, test the equipment, and train staff on using it.

A grand opening/ribbon cutting ceremony is in the works. A committee is working on plans to honor the old courthouse and to kick-off operations in the new. Due to security restraints this may be an invitation-only event, but leadership is hopeful a celebration can incorporate the community that has worked so hard to get the new courthouse built.

Family Law Update Hon. Susan Svetkey

To follow up on the new courthouse move, family law trial assignment will also be Tuesday, July 14, for Monday, July 20. Several dockets will be closed during the move. However, necessary dockets (restraining order applications) and five-day restraining order dockets will occur at the Juvenile Justice Complex. Violation of Restraining Order trials will not occur Wednesday, July 15 through Friday, July 17. Ex parte will occur at the Juvenile Justice Center.

Three judges will be at the Juvenile Justice Complex to cover those dockets July 15 through July 17. Regular juvenile cases may be rescheduled to accommodate this additional workload.

In the last year the court has added two new family law judges: Hon. F.G. "Jamie" Troy and Hon. Morgan Wren Long. They both started at the end of October. It has been relatively seamless to work them into the department, and they are fully up and running. New referee Joe Hagedorn is getting up to speed at Juvenile.

In the last year, we restarted the Local Family Law Advisory Committee (LFLAC), which is aligned with the OJD's strategic court planning goals. LFLAC's goals are to make the court more accessible to self-represented litigants. LFLAC has expanded the Judicial Settlement Conference program, which is starting in the East County Courthouse this week. These are scheduled to take place two Thursdays a month. LFLAC has recruited judges to be pro tem judges to facilitate these conferences. Many lawyers have been interested, but only two have gone through the process. Please consider if you are qualified to serve as a family law pro tem judge to assist in this program:

Who: (1) Voluntary Case (both sides must agree); (2) Judge referred cases (by order).

What: Senior family law attorneys commissioned to sit as pro tem judges conduct the settlement conferences for pending family law cases.

When and Where: Central Courthouse: Wednesdays 9 a.m., 1 p.m. and 3 p.m.

East County: Thursdays 9 a.m., 1 p.m.; and 3 p.m.

How: Contact Christine Hill Christine.a.hill@ojd.state.or.us or 971.236.8673.

Fee: \$111 statutory fee per person, unless waiver or deferral.

The family law supplementary local rules have been substantially updated and revised. The new rules are effective now and have been since February 1. Please review the changes.

The Legal Resource Center (LRC) is scheduled for a "soft" opening in March. The LRC is open to everyone: lawyers, judges, but the main effort is to provide services to self-

Continued on page 11

The Honorable Patricia McGuire Multnomah County Circuit Court Judge

by Lee Ann Donaldson
Court Liaison Committee

It was a regular Friday afternoon at the Multnomah County Courthouse in the spring of 2018. An African American man was at the family law counter trying to get a restraining order. The problem was the deadline for the day had passed, the docket was over, and the staff told him to return on Monday. The man at the counter was not persuaded. Already very suspicious of the court system (he identified himself as posse comitatus), he questioned the court's authority, he questioned the court's rules, and he started filming the staff at the counter. The family clerk called over to my judge's chambers for help. Several of the judges were in a meeting away from the building, including my boss. I tried to explain the rules to the man myself, but he was very upset. Deescalating his emotions was crucial for me, and I brought him into our office next to the trial court administrator. The man started crying out of frustration and fear, but he was still angry, too.

After several minutes, one of the staff was able to find Judge Patricia McGuire. At that time Judge McGuire had been a family law judge for just around six months (appointed September 13, 2017), and had been a family law practitioner for several years. I told the man that a judge who handled restraining orders was on her way. Judge McGuire approached the man, and I do not recall exactly what he said, but he was surprised to see that Judge

McGuire was African American. It immediately put him more at ease. Judge McGuire took over the situation, explaining the rules, allowing him to express his concerns, and after going into the courtroom, getting on the record, he left feeling heard and understood, even if he did not have the restraining order hearing he was seeking.

I had never met Judge McGuire before then, but immediately I knew she was an amazing asset to the bench. She has been a judge for over two years, is the ninth African American to serve as a judge in Oregon and is the fourth African American woman judge when she was appointed by Governor Brown. The first was Hon. Mercedes Deiz; the second was Hon. Adrienne Nelson; and the third was Hon. Ulanda Watkins. Judge McGuire acknowledges the momentous nature of her appointment. "I have the ability to bring that perspective to my work. Because I am African American and partly because I am a native of Oregon, I can bring all these different perspectives to the bench."

Patricia McGuire grew up in Portland with permanent foster parents, who ended up being her adoptive parents. She considers herself lucky, having been placed in foster care shortly after she was born, to have had a secure placement for all of her childhood. When she turned 18, she aged out of the foster care system and prepared her own

adoption papers to formally have her foster parents adopt her. Judge McGuire recalls presenting her papers to Judge Elizabeth Welch, who sent her back home to make corrections. From early on, Judge McGuire was aware of the struggles of legal work.

McGuire graduated from Grant High School, and then graduated from Oregon State University, majoring in graphic design, which provided her with an early career. She worked for an architect as a graphic designer and was able to read blueprints. With that skill, she moved on to a job in the Port of Portland for a company performing ship repairs. When the Port closed the repair yard, she was offered a similar job in San Diego and so she went to California. True to her Oregon nature, she did not enjoy the daily 75-degree days and she returned to Portland looking for her next career. Several of her friends had gone to law school and she admired that they were paid to read, write and think. Setting off on her next career, McGuire attended Lewis & Clark Law School, graduating in 1995.

She started clerking at Davis Wright Tremaine after her first year, returned after her 2L year, and received a job offer following graduation. Patricia practiced at the firm for about 10 years, becoming a partner after six. Her focus was on being a general litigator and she worked on construction, anti-trust, employment, RICO, contract, and First Amendment licensing. She attributes working with her partners as being effective at showing her how to be a lawyer and practice law. As most of us know, complex litigation rarely has opportunities for court and Patricia McGuire really wanted to go to court.

In 2007, Patricia took a break from practicing law and traveled to Europe, something she had never done before. At this second pause in her professional career, she wondered what she would do next.

At that time, a very good friend asked Patricia to join their family

law practice, to help out. Personal tragedy struck her friend, and four months later the focus for Patricia changed from helping to taking over a law business.

McGuire practiced family law with Andrew Bobzien at Bobzien McGuire from 2007 until 2013 and partnered with Loren Thompson at McGuire Thompson from 2013 until she was appointed to the bench in 2017. In addition to divorces and custody disputes, she handled several challenging restraining order cases.

"Family law is the most interesting law you can practice. It draws from all the areas of law and you have to know about a lot of different things. You've got to be able to think on your feet. You might need to ask someone for assistance to figure out issues."

As a family law judge, Judge McGuire oversees some estate and probate cases, and with her personal experience taking over a firm, she reminds lawyers to plan for the possibility that we could become incapacitated and unable to practice.

"Lawyers have an ethical obligation to protect their clients' interests in the event of lawyer death, disability, or incapacity." The Professional Liability Fund has a great handbook (with forms) to help you with that process: "Planning Ahead: A Guide to Protecting Your Clients' Interests in the Event of Your Disability or Death," which is available at www.bit.ly/osb-planning-ahead.

About 85 percent of people who appear in front of Judge McGuire are self-represented, she estimates. When she practiced, about 75 percent were self-represented. They are involved in custody battles and divorces. "They are very stressed out. The matters are so incredibly personal to people. People come into court one way and then they may leave another. You may walk out the door no longer being a custodial parent. It's my job to explain how the process works, explain what my role is, and find out what they need and how to help with their problems. It's a positive thing to do."

Volunteering for Legal Aid Services of Oregon Pro Se Assistance Project gave her the familiarity of how to talk to folks. It was a natural roll-over into becoming a judge. People will



Hon. Patricia McGuire

come into her courtroom needing an immediate danger order. She must walk the line of helping solve their problems, providing all the available options, but not giving legal advice.

"Judges must be able to be straightforward with their role. We spend a lot of emphasis on procedural fairness and access to justice so people feel like they are heard. Procedural justice is an integral part of every area of the courthouse. People are at a very emotional time in their lives. It is helpful to give people an opportunity to be heard. If this happens and decisions are reached even if not in their favor, they feel it was a fair decision. It helps them with the rulings of the court."

"Looking back from a two-year perspective, the first year flew by. I was so completely absorbed. The second year has concluded. Now I am able to understand the biorhythm of being a judge. It's interesting - I feel like I have a different perspective."

"One of the things that Judge Anna Brown has said and that I have taken to heart is that you need to make sure that you take time for yourself. You can't fix every problem. Work is like a firehose; you can't manage everything. You've got to think long term. It's a marathon, and not a sprint."

On that one Friday in the Spring of 2018, I experienced first-hand how Judge Patricia McGuire uses her unique perspective in service to the community as a Multnomah County Circuit Court Judge. She was able to listen, understand, and communicate with an individual who was not trusting of our judicial system, but who needed our help regardless. I am truly thankful she was there when we needed her.

YLS UPCOMING SEMINAR

Immigration Law for the Non-Immigration Attorney: Common Procedures to Use in Your Practice and Volunteer Endeavors

Wednesday, May 20

3-5 p.m.

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until further notice

In today's uncertain political climate, undocumented immigrants are facing more challenges and obstacles than ever before. While one cannot simply transition into an entirely new area of law overnight, there are many ways non-immigration attorneys can help those in need.

Amanda Gray and Gretel Ness, Parker Butte & Lane PC, will cover practices and procedures you can utilize to help one of the most vulnerable populations. You'll get an introduction to the basics of protection and removal as well as the day-to-day procedures common in an immigration practice. You'll also gain insight into how to transition/incorporate business immigration into your already existing practice in addition to valuable employment-based immigration issues.

Cost: \$30 members/\$50 non-members

The MBA will apply for two hours of CLE credit.

Register at www.mbabar.org/cle

News From the Courthouse

Continued from page 10

represented litigants. The initial focus is family law since there is already a self-help program in place. Danielle Ramos is the supervisor. Currently, there are two facilitators - Christine Hill and Danita Campbell. Danielle will be hiring two more facilitators. The center will have computers, a phone line, and email. Interpreter services will be available on demand by phone or video conference. Current resources are coordinating efforts to make sure participants receive the best services.

Free Lunch and Learn CLE in the Courthouse

The court and the Court Liaison Committee are working on a CLE seminar about the technology in the new courthouse. The goal is to offer the presentation on multiple days and will cover the pop-ups at counsel tables, types of technology integration necessary, etc. Details to follow.

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!

Midyear Conference Highlights
ABA Young Lawyers Division

by *Shayda Zaerpoor Le*
YLS Past President



As the MBA Young Lawyers Section's Delegate to the ABA, I attended the Young Lawyers Division (YLD) programming at this year's ABA Midyear Meeting, which took place in Austin, Texas. In recent years, the Midyear Meeting has focused primarily on business and governance, affording young lawyers the opportunity to participate in significant policy work of the division and of the association.

The YLD Council met for an update on the status of the Division, including reports from and recognition to some of the state and local young lawyer organizations that affiliate with the YLD. The group also received a report from next year's chair on programs of focus which are currently underway, including the development of financial wellness programming, a focus on student loan debt, an upcoming podcast, a focus on civility within the profession, as well as partnering with the ABA Section on State and Local Government Law. The division is also entering into a period of updating its strategic plan and mission statement, which is a wonderful time for young lawyers to get engaged with the foundational work of the division.

The YLD Assembly, which functions as a policy-making body for the division as a whole, included certified delegates from across the country. The delegates voted on five resolutions: Resolution 20-3YL which discourages the use of mandatory arbitration clauses by legal employers vis-à-vis their employees (passed); HOD Resolution 115, which was also considered by the ABA House of Delegates at this same

conference, concerned the adoption of innovative regulatory approaches to address the access to justice crisis in the United States (passed); Resolution 20-4YL concerned increasing young lawyer participation before the bench by prioritizing scheduling of oral argument and trial on cases which include a young lawyer (failed); Constitutional Amendment 11-5 which amended YLD bylaws to remove usage of gender binary terms (passed); and Resolution 20-5YL which encouraged legal employers to implement paid parental leave (passed). As usual, the YLD Assembly was also visited by the ABA president and the chair of the House of Delegates, as well as other guests and presenters.

Other programming included: a GOOD Guys presentation (Guys Overcoming Obstacles to Diversity); Financial Wellness sessions made available through the American Bar Endowment; a session titled, "Celebrating Democracy," on the 100th anniversary of the ratification of the 19th Amendment and the 150th anniversary of the ratification of the 15th Amendment; a session titled "Present and Powerful," a panel of women leaders working towards encouraging women to run for elected office; a Diversity Dialogue with Don Prophete, the first lawyer of color to have his name added to the masthead of an Am Law 250 law firm, and who last year penned a candid and open letter about diversity in the legal profession; a candidates debate amongst those candidates running for elected positions within the YLD; and a fellows debate.

The ABA recently undertook a comprehensive restructuring of its membership model, which included significantly simplifying and lowering the price of membership for young lawyer members. This is an excellent time to get involved, and I invite any interested members of the MBA to reach out to me at sle@barran.com with questions about the many professional benefits of ABA membership.

YLS Board Officers for 2020-21
Term Begins June 1



Kirsten Rush

YLS President-Elect is **Kirsten Rush**, of Busse & Hunt, where she practices employment law. Kirsten joined the board in 2017, and presently serves as Secretary as well as the YLS Board Liaison to the MBA Professionalism Committee.

Kirsten served on the YLS Service to the Public (STP) Committee from 2013-15, chaired the committee for the 2015-16 term, and continues to volunteer with STP's Imprint Program.

Outside of the MBA, Kirsten serves as a mentor and professionalism discussion leader for incoming law school classes at her alma mater, and is also a member of the Oregon Trial Lawyers Association and Oregon Women Lawyers (OWLS).



Aurelia Erickson

YLS Secretary is **Aurelia Erickson**, of McGaughey Erickson, where her practice includes shareholder, LLC member and partnership disputes, as well as employment litigation and securities litigation. Aurelia joined the board in 2019, and presently serves as YLS Board Liaison to the YLS STP Committee.

Aurelia served on and later chaired the YLS Pro Bono Committee 2014-16, and was a member of the YLS CLE Committee 2018-19. Outside of the MBA, Aurelia is currently serving as a delegate of the OSB House of Delegates, Region 5. She is an OWLS member, and

volunteers with Metropolitan Public Defender, representing clients in Community Court.



Nikki Abercrombie

YLS Treasurer is **Nikki Abercrombie**. She is a litigation associate at Cable Huston LLP where she practices business and commercial litigation, probate and trust litigation, and appeals. Nikki joined the YLS Board in 2018 and presently serves as the liaison to the YLS Pro Bono Committee.

Nikki first became active within the YLS when she joined the CLE Committee in 2015 and was appointed as committee chair for the 2017-18 program year. She is also Secretary of the OSB MCLE Committee and serves on the OWLS Working Parents Subcommittee.

Portland Children's Museum Visit Recap



On February 29, MBA and YLS members, along with their families and friends, enjoyed a private evening at the Portland Children's Museum. Sixty-three parents and kids enjoyed refreshments and full access to the museum's activities and exhibits. Special thanks to YLS Membership Committee members Carlie Bacon and Michael Karas for volunteering at the event.

Thank you to our generous sponsors for helping make this event possible!



Nicole Elgin YLS Member Spotlight

by Anaiah Palmer
YLS Treasurer

Nicole Elgin knew she wanted to be an attorney from an early age. Her first experience with the legal system was trying to navigate her parents' divorce as a young child, and she was frustrated by the complete lack of control she had over something with a direct impact on her life and family dynamics. Instead of feeling intimidated and confused, as she was during that process, Nicole wanted to be in a position where she was able to make decisions that matter. Once she made up her mind, Nicole's legal aspirations never veered off course.

Nicole is a Pacific Northwest native who grew up in Issaquah, Washington, and attended the University of Washington for her undergraduate education. She finished her degree early and spent her time between college and law school traveling in Germany and working in fundraising in Portland, where her now-husband had moved for an engineering job. After falling in love with the city, Nicole attended Lewis & Clark Law School. However, Nicole's legal career began well before law school. Her first job at age 14 was scanning files for a law firm trying to go paperless.

During her 1L year at Lewis & Clark, Nicole worked as a clerk for the Trial Division of the Oregon Department of Justice, but it wasn't until her 2L year that she found her true legal passion. Professor Henry Drummonds inspired Nicole to pursue a career in labor and employment law, and, unsurprisingly, once she had made up her mind Nicole pursued that choice with a vengeance. She learned through the local legal community that Barran Liebman was one of the most respected employment law firms in the city, and that is where she set her sights. Through her mentor, past YLS president Jeanne Sinnott, Nicole met Barran Liebman's Executive Director, Traci Ray. Barran Liebman hadn't hired a summer associate for some time, but with Jeanne's help Nicole convinced Traci that she was ideal for such a position. Barran Liebman quickly offered Nicole a post-graduation job, where she feels lucky to spend her professional hours doing work she enjoys with a group of people she respects.

As a labor and employment law attorney, Nicole enjoys the fact that she has to know all the ins and outs of her clients' businesses - their operations, employees, and goals - which brings her variety in her job. She gets to meet with clients one-on-one regularly to ensure she has an accurate understanding of their needs, and she frequently gets out of the office to attend negotiations, mediations,



Nicole Elgin

investigations, and arbitrations. These personal and dynamic interactions keep her invested in the job and engaged with her clients and her work.

Just like her early commitment to the legal profession as a whole, Nicole got involved with the MBA early-on. She served as a law student representative to the YLS Board during her 3L year, and was drawn to the community-building nature of the MBA. Expanding her Portland network was of central importance to Nicole at that time, and she felt consistently welcomed at MBA events and appreciated the community service opportunities that let her impact her new community directly. Nicole has already served on three YLS committees since graduation. She served her first year on the CLE Committee, where she was able to participate in the organization of several timely programs. She spent her second year on the Service to the Public Committee, where she helped coordinate the highly successful Imprint Program and a community service day at the Oregon Humane Society. This year, Nicole is serving on the YLS Pro Bono Committee and is working on a revamping of the Pro Bono Pour fundraiser to benefit the Volunteer Lawyers Project (stay tuned!).

Nicole loves the YLS because it allows new attorneys to strengthen their connections and networks. She appreciates her ability to refer her clients to people she already knows and trusts from their committee work, and also the opportunity to share experiences with attorneys going through the same career-building process she is managing. Nicole is excited about continuing her career as a labor and employment attorney, staying educated on the constantly-changing landscape, and continuing to give back to her community in the process. In addition to the YLS, Nicole is involved with the Campaign for Equal Justice, the Federal Bar Association, and College Possible. In her limited free time she volunteers as a dog walker at the Oregon Human Society, visits family in Seattle, and enjoys exploring Oregon's breweries and restaurants with her husband.

Seven Tips for Spring Cleaning Your Practice

by Alysha Van Zante, YLS CLE Committee,
with Rachel Edwards, Professional Liability Fund



Alysha Van Zante

Perhaps it is time to dust off the resolutions you set for your practice at the end of 2019, or maybe you are just now deciding to make a change. Regardless, spring has sprung and it is an opportune time to do some spring cleaning. Whether you are a solo practitioner, or part of a large firm, you can each benefit from taking time to tidy up. Here are seven tips you can use to freshen up your practice:

1. Be Systematic. First, sort and purge. Begin with one section of your office and work your way through, sorting things into piles and purging what you no longer need. Then organize the piles into categories that make sense to you, such as by client files, research, and administrative information. Then redistribute the piles according to their assigned location. Apply this to all areas of your office as well as your digital files.

2. Utilize To-Do Lists. To-do lists allow your brain to release ideas from the "rehearsal loop" of your working memory and help you to prioritize tasks. However you want to maintain that list is up to you, whether it is in your calendar, in a Word document, or in a to-do



Rachel Edwards

list app. The key is to constantly update the list, by continually adding new tasks and removing completed tasks.

3. Personalize Your Approach. There are many ways to manage a law practice. Base your approach on your particular strengths and preferences, whatever they may be, such as your learning style. For example, if you are a visual learner, try color-coding your files and using a sequentially ordered system.

4. Make Your Desk a Command Center. You can maximize your productivity by organizing your immediate workspace in an efficient way. Your computer screen should sit in front of you at eye-level and approximately an arm's length from your body. Place frequently used items, like your telephone, on your dominant side for easy access. Limit personal items, sticky note reminders and non-essential office supplies to minimize clutter and distractions.

5. Take Back Control of Your Inbox. An overflowing email inbox can easily seem overwhelming. Consider creating folders within your email program

that allow you to move messages out of your inbox into specific folders by category, such as by client. You can then easily save the emails as part of the client file and delete them from your inbox. Unsubscribe from promotional emails. Set up filters within your email program to automatically place particular messages into folders, such as listserv postings, so they won't distract you during the day or clog your inbox. Instead of just deleting spam emails, mark them as spam to cut down on the emails you receive.

When reviewing your emails, consider applying a concept known as DAFT, which stands for Defer, Act, File, Toss. Look at each email and determine first whether it can be deferred. If so, keep it in the inbox and add it to your to-do list. If not, ask whether it needs attention immediately. If yes, complete the task and move it out of your inbox. Then ask whether it can be filed. If so, file it in the appropriate folder. Lastly, ask if the email can be tossed, and if it can, delete it.

6. Set a Date. Staying organized requires commitment. Set aside recurring times dedicated to maintaining the organizational system you have crafted and put them on your calendar. Ideally, set aside time at the beginning and the end of each day to assess and update your to-do list, as well as clean your desk. Set aside time once a week to again reassess your to-do list and update your calendar. Set aside time at least quarterly to reorganize paper and digital files, catch up on scanning, and inventory office supplies. Lastly, set aside time at least once

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The Corner Office PROFESSIONALISM

“Knowledge will forever govern ignorance; and a people who mean to be their own governors must arm themselves with the power which knowledge gives.”

- James Madison,
Fourth US President

The importance of public legal education (or ‘legal awareness’ or ‘civics’ as it is also sometimes called) was well known to our Founding Fathers long before the advent of social media and the dangers of rampant disinformation that have come with it. In addition to the above, you can find other quotable snippets on the topic from the likes of Jefferson, Franklin, and Adams, and later from Lincoln, both Roosevelts, and Kennedy. PLE (for short) programs are aimed at improving the legal literacy of the general public, as opposed to the education of a law student working toward a JD. But, why is that important? What are the goals and objectives of PLE? Those objectives have been expressed by many, quite eloquently at times, and can be summarized as instilling the basic ability to:

- recognize one’s legal rights and responsibilities in order to exercise or fulfill them;
- understand how to take necessary action to avoid or minimize legal problems;
- know how and where to find information on the law, and when and how to obtain legal assistance; and
- understand the legal process sufficiently to perceive whether justice has been done.

Improving these fundamental abilities of a populace can empower people to demand justice and accountability, protect

them from intimidation by or alienation from government and other centers of power, increase access to justice, and strengthen the rule of law. So, it should come as no surprise that this matter finds a place among the 12 tenets of the MBA’s Commitment to Professionalism: “We will support activities to educate the public about the legal system.”

As lawyers, we recognize, almost intrinsically, the essential nature of a legally literate public, and should strive to see it realized. But how? There are any number of programs in need of assistance and just as many ways you can give, whether that be of your time, money, or other contribution. Here are just a few to consider:

- Regular readers of The Corner Office will be reminded of the call to pro bono service, which often puts those attorneys who volunteer their time in contact with people who have little to no experience with, and even less knowledge of, the legal system. (www.mbabar.org/probono for opportunities and info)
- The MBF CourtConnect program offers volunteer opportunities to visit immigrant, youth and community groups to make a brief presentation about the courts and the rule of law. (www.mbabar.org/courtconnect)
- In addition to pairing law students with high school classes in the wider Portland metropolitan area, Classroom Law Project facilitates courthouse tours, competitive mock trial and constitutional law teams, the Oregon Civics Conference, and other events.

(www.classroomlaw.org/volunteer or www.classroomlaw.org/donate)

- Among its many PLE programs, the ABA promotes Law Day and Constitution Day on May 1 and September 17, respectively, each year, and provides free downloadable lesson plans and artwork, and sells logoed t-shirts and merchandise to make your group’s event a success. (www.americanbar.org/groups/public_education/programs)
- Many of the various MBA and OSB committees also engage in community outreach with the goal of improving public knowledge and understanding of the law and the legal profession. For example, both the MBA Professionalism Committee and Young Lawyers Section coordinate multiple panel events each year in local schools to discuss issues of legal ethics and professionalism with students.

If you’ve not yet found a way to give back to the community consider supporting one of these, or another, public legal education activities.

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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Thank you to the following lawyers who donated their pro bono services with the **Volunteer Lawyers Project at Legal Aid Services of Oregon** in the month of February.

- J. Rion Bourgeois • Brett Carson • Thomas Carter • Dallas DeLuca • Laura Donaldson • Jeannine Ferguson • Celia Fitzwater • Shauna Haney • Holly Hayman • Dona Hippert • Theresa Hollis • Samuel Justice • John Koch • William Kwitman • Elizabeth Lemoine • Riley Makin • Susan Muzik • Thomas Noble • Jessica Nomie • Troy Pickard • John Pinzelik • Jordan Piraino • Megan Rickert • Susan Rossiter • Julie Meyer Rowett • George Senft • Ian Simpson • Hon. Jill Tanner • Evans Van Buren • Gail Vore • Eric Wolfe • Whitney Yazzolino

Thank you to the following lawyers who donated their pro bono services with the **Children’s Representation Project** November 2019 through February 2020.

- Jacqueline Alarcón • Kristine Almquist • Jordan Barbeau • Austin Batalden • David Bean • Christopher Bergstrom • Jonathan Berman • Tom Brasier • Ted Brindle • Sarah Brown • Chris Burnett • Tiffany Davidson • Ben Evans • Chip Gazzola • Joel Geelan • Kendall Gourley-Paterson

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Thank you to the following lawyers who donated their pro bono services with the **Victim Rights Law Center** during late 2019 and early 2020.

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Tips From the Bench

Continued from page 10

prediction about how long the cross will take.

Sixth, don't forget post-evidence motions. Most trials involve either a motion for judgment of acquittal or a motion for directed verdict. Sometimes these motions are brief, but not infrequently they require a significant amount of time. If your case involves the later, factor that in to your time estimate.

Seventh, don't forget instructing the jury. Reading jury instructions does not add a huge amount of time to the trial - maybe 30-60 minutes combined for initial and closing - but when you are already pushing the envelope, every minute counts.

Eighth, don't forget deliberations. The lawyers can't control how long the jury deliberates, but it's important to get the case to jury early enough in the final day of trial so that the jurors don't feel rushed to reach a verdict by 5 p.m. This is especially important if the last day of trial is a Friday, because some jurors may hurry to reach a verdict so they don't have to come back the following week.

Ninth, be efficient. It's important that each side be able to fully present its case but it is also important to be concise. Often times lawyers are not efficient at the beginning of the trial and this makes them feel squeezed later on when trying to stay close to the estimated timeline.

Tenth, for your next trial, compare your estimates to the actual time spent on each segment. Lawyers are often surprised to hear that they took longer than expected for a particular segment because time flies when a lawyer is speaking in front of a jury. If you keep track of these times that will help you estimate better in future cases, especially if you realize your estimates are not as accurate as you had hoped.

No one expects lawyers to predict to the minute how long a trial will take, but if you are intentional and realistic about taking into account all aspects of trial before giving your estimate to the court, you will have a better chance of avoiding harmful and disruptive overruns.

Seven Tips for Spring Cleaning

Continued from page 13

a year to go through your file list and destroy files that have reached their date of destruction, determine important recurring dates for the year, and update your office procedures manual if necessary.

7. Ask for Help. We all get by with a little help from our friends. Teach your organizational system to your office staff so they can help you maintain it. Ask your peers or colleagues for their perspectives on maintaining an organized practice. Reach out to the practice management attorneys with the OSB Professional Liability Fund. Practice management attorneys provide free and confidential assistance to all Oregon lawyers for a wide range of needs.

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