



MULTNOMAH LAWYER

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Volume 66, Number 11



Realizing the Vision The CourtSupport Navigator Starts at the New Central Courthouse

by Jen Wagner
MBF President

In January, I wrote about the Multnomah Bar Foundation's launch of a new program called CourtSupport. Through CourtSupport, the MBF plans to develop and fund projects designed to assist community members navigating Multnomah County courts, with a particular focus on projects promoting access to justice. CourtSupport, along with the MBF's other programs, CourtCare and CourtConnect, will help the MBF to fulfill its mission of promoting civic education and improving the quality and administration of the legal system.

As we are all aware, our court system is significantly underfunded and often has no ability to provide needed services. Over the last few years, the MBF worked with Multnomah County Circuit Court Presiding Judge Stephen Bushong and Trial Court Administrator Barbara Marcille to identify critical gaps in funding falling within the MBF's mission. The development of CourtSupport coincided with the design and construction of the new Central Courthouse. The lobby in the new courthouse was built around the goals of transparency and providing a restorative human experience. The court planned for a large information desk as a central focus. Due to budgetary restrictions, however, the court had no personnel to staff the desk. Welcoming community members to the courthouse with an abandoned information desk was inconsistent with the vision the court had for its new home.

After much discussion with the court and our partners at Volunteers of America, the MBF conceived of a new position to staff the information desk - the CourtSupport Navigator. The goal of placing the Navigator in the courthouse lobby is to make the process of entering and navigating the court less intimidating for community members. The Navigator is trained in court operations and capable of helping individuals connect with departments, services and other resources within the court.

At the beginning of the year, the MBF asked for your assistance in launching this new project. The legal community rose to the challenge, and then some. In this founding year, the MBF was able to raise over \$115,000 for CourtSupport. In any "normal" year, this would be a huge success. The fact that we were able to accomplish this in the midst of a global pandemic speaks volumes about your generosity. I would like to personally thank all of our donors, who are also recognized later in this newsletter.

With your donations, the MBF's vision for the CourtSupport Navigator has now become a reality. Ingrid Hernandez Gonzales started as the first CourtSupport Navigator on September 15. After some initial training at the old courthouse, Ingrid moved to the

information desk in the new Central Courthouse lobby soon after it opened. All reports are that Ingrid is very happy in her new role and that she has been of great service to the community.

When I asked about Ingrid's impact, Barbara Marcille shared the following: "We knew it would be helpful to offer personal assistance in the lobby, but didn't realize how frequently that personal assistance would be needed and how much it would be appreciated. Confused and frazzled people arriving in the courthouse visibly sigh with relief when Ingrid assures them they are in the right place or directs them to their destination. She also regularly assists people who are having trouble finding their names on our new electronic dockets. While many people are able to use the technology to get the information they need, there are plenty of others throughout each day that are overwhelmed by the many signs and options. The interaction with the CourtSupport Navigator helps to reduce their anxiety."

Rachel McCarthy, Public Information Analyst for Multnomah County Circuit Court, added that it was "wonderful to see people's eyes light up when they realize she can speak Spanish and they are able to get clear directions on where they need to go."

In the coming year, the MBF hopes to further expand the reach of CourtSupport. We plan to continue our dialogue with the court regarding additional ways the MBF might support the work of the Navigator. We are also very interested in projects tied to the Legal Resource Center, again focusing on projects promoting access to justice. And of course, we are excited to continue the MBF's CourtCare program in its new and improved space, which was furnished by the MBF with your donations.

As my term as president of the MBF comes to a close, I want to take this opportunity to thank the full MBF Board and my fellow officers, Mackenzie Hogan, Victoria Blachly and Nicholas Kampars. I am grateful for all of your work in making CourtSupport a reality. I look forward to seeing the positive impact of this program at the courthouse for many years to come.



Ingrid Hernandez Gonzalez
CourtSupport Navigator

"The interaction with the CourtSupport Navigator helps to reduce...anxiety."

The goal of placing the Navigator in the courthouse lobby is to make the process of entering and navigating the court less intimidating for community members.



mba|CLE

Due to the COVID-19 situation, the MBA will be offering all seminars **ONLINE ONLY**. To register for a CLE seminar, please see p. 3 or visit www.mbabar.org and log in as a member to register at the member rate.

DECEMBER

12.1 Tuesday
How Prosecutorial Policies and Discretion Can Aid in Ending Systemic Racism in the Criminal Justice System
Mike Schmidt
John Hummel

12.9 Wednesday
Ethical Considerations: Ethics Issues That May Arise When Dealing with Prospective and Past Clients
Jon Monson

12.10 Thursday
Mandatory Mental Health and Substance Use CLE
Judge Gregory Silver
Mae Lee Browning
Hugo Gonzalez Venegas
Harry Wilson

12.10 Thursday
Civil Litigation - Old School vs. New School
Bill Barton
Brent Barton
Matt Levin
Renée Rothauge

12.15 Tuesday
Mandatory Elder and Child Abuse Reporting
Linn Davis

12.17 Thursday
Annual Probate Update
Judge Patrick Henry
Judge Susie Norby
Judge Janelle Wipper

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*or the preceding Friday, if on a weekend.

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Jury Trial Policy During the COVID-19 Pandemic

Effective November 2020

by Presiding Judge Stephen Bushong
Multnomah County Circuit Court



Governing Principles

A jury trial generally requires the participants - litigants, lawyers, witnesses, court staff, and jurors - to gather together in a confined space for several days or longer. People from the community summoned for jury service are required by law to appear; they do not volunteer or consent to participate in the gathering. According to guidelines published by the Centers for Disease Control (CDC), such gatherings in community or business settings pose the highest risk of spreading the COVID-19 virus. Although protective measures - requiring face coverings, maintaining social distancing, using plexiglass barriers - can reduce the risk, the CDC recommends avoiding such gatherings whenever possible. The court will take every reasonable precaution to minimize the risk of infection for jurors and all other participants in a trial. Any jury trial will require multiple courtrooms to comply with social distancing requirements. The court has assessed the spaces available in the courthouse and can conduct a limited number of jury trials while complying with social distancing requirements without unduly disrupting other court business. Under the circumstances, in general, jury trials will be conducted only when necessary to comply with the law or where the adverse consequences of postponing the trial outweighs any potential risk to jurors, litigants, lawyers, and court staff. The court will assess civil and criminal cases before trial to determine whether conducting a jury trial during the pandemic in any particular case is warranted.

Criminal Cases

Priority for jury trials will be given to the following cases (listed in order of priority):
(1) cases with in-custody

defendants facing constitutional or statutory deadlines; (2) cases with defendants who have been held in custody pre-trial for one year or longer; and (3) cases with out-of-custody defendants facing constitutional or statutory deadlines. To help alleviate backlogs, the court may also conduct six-person jury trials in some misdemeanor cases, with priority given to domestic violence cases. The court will set over all other misdemeanor and felony jury trials until after the pandemic subsides, absent a showing of good cause for conducting the trial during the pandemic. The court will conduct court trials in all cases upon the filing of a written waiver of the right to trial by jury.

Civil Cases

Civil cases generally do not involve constitutional or statutory deadlines or people held in custody awaiting a trial. Although timely resolution of those cases is extremely important to litigants, lawyers, the community, and the court, civil jury trials can be postponed during the pandemic to avoid the risk of infection inherent in a jury trial. Postponing civil jury trials during the pandemic may cause hardships to litigants, lawyers, and others, but it does not violate constitutional or statutory requirements or extend pre-trial loss of liberty associated with in-custody defendants. Accordingly, the court will set over all civil jury trials until after the pandemic subsides, absent a showing of good cause for conducting the trial during the pandemic.

Case Management

All criminal and civil cases will be given trial or next appearance dates. Trial dates for civil cases will be assigned at Trial Readiness Conferences (TRCs) and/or scheduling conferences with the presiding judge. The court will continue to assist in moving civil cases toward resolution by (1) conducting bench trials upon request; (2) conducting judicial settlement conferences upon request; (3) hearing all motions; status, or scheduling conferences as needed. Litigants in civil cases are required by Supplemental Local Rule 7.016 to participate in appropriate dispute resolution procedures.

Calendar

DECEMBER

8 Tuesday
Queen's Bench Virtual
Holiday Luncheon
www.owlsqueensbench.org

25 Friday
Christmas Day - MBA Office
Closed

JANUARY

1 Friday
New Year - MBA Office Closed

14 Thursday
Bench Bar & BYO Bagels
www.mbabar.org

18 Monday
Martin Luther King Jr. Day -
MBA Office Closed

Alternatives

Across the nation, some courts have been able to conduct a limited number of jury trials in criminal and civil cases at alternative sites and/or by utilizing alternative procedures. This court will utilize any feasible alternative procedures that allow it to safely conduct a jury trial during the pandemic if the parties stipulate to the procedures or otherwise demonstrate that the proposed procedures comply with Oregon law. Pursuant to ORS 1.185, Multnomah County is responsible for providing courtrooms for court operations. Multnomah County has not provided alternative locations for jury trials during the pandemic. Some parties may be willing to arrange for an alternative site for their trial. However, this court will not conduct a trial at an alternative site that is available only to litigants with the resources

to pay for it. If an alternative site for conducting jury trials becomes available to all litigants regardless of their resources, the court will consider utilizing it for jury trials if feasible.

Conclusion

Jury trials are the foundation of our civil and criminal justice systems. Safely conducting a jury trial during this pandemic presents many challenges. The court encourages lawyers and litigants to consider creative solutions for resolving their cases. Attorneys are expected to exercise the highest levels of professionalism to keep their cases moving through the system. The court will conduct a limited number of jury trials during this pandemic consistent with Oregon law, CDC guidelines, Chief Justice Orders, this policy, and the resources of the court.

The clock is ticking...



Renew your MBA membership for 2021 before January 1 to receive a FREE \$60 credit toward MBA CLE programming.

Register to attend an upcoming webcast, watch an archived seminar, or listen to a CLE program on your computer or smartphone.



Terms and conditions apply - see www.mbabar.org for details.



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 online.

How Prosecutorial Policies and Discretion Can Aid in Ending Systemic Racism in the Criminal Justice System

Tuesday, December 1 12-1 p.m.

Online Participation Only

Members \$30/Non-Members \$50

This program will address the different policy and case-by-case decisions prosecutors make, how those decisions play a role in systemic racism, and how changes in policy and decision making can help to end inequality in the criminal justice system. Multnomah County Prosecutor, **Mike Schmidt**, and Deschutes County Prosecutor, **John Hummel**, will present this timely and informative discussion.

For more information: Contact Justice Brooks, Cable Huston, at 503.973.0653. For registration questions, contact the MBA at mba@mbabar.org.

Ethical Considerations: Ethics Issues That May Arise When Dealing with Prospective and Past Clients

Wednesday, December 9 12-1 p.m.

Online Participation Only

Members \$30/Non-Members \$50

This program will address common and not often considered ethical issues that arise in relation to prospective and past clients. Specifically, **Jon Monson** of Cable Huston, LLP, will discuss:

- The ethical rules and obligations to prospective and past clients;
- Recognizing potential issues; and
- Best practices when ethical issues arise.

For more information: Contact Justice Brooks, Cable Huston, at 503.973.0653. For registration questions, contact the MBA at mba@mbabar.org.

Mandatory Mental Health and Substance Use CLE

Thursday, December 10 12-1 p.m.

Online Participation Only

Members \$30/Non-Members \$50

Note: Worth one hour of Mental Health and Substance Use OSB MCLE credit.

A landmark 2016 ABA/Hazelden Betty Ford Foundation national study found that attorneys are nearly twice as likely as the general population to experience problematic alcohol use, and younger attorneys (under 30) are approximately three times as likely. Reported levels of depression, anxiety, and stress were also significantly elevated among attorneys according to the study. Given these realities, the Oregon Supreme Court approved amendments to the MCLE rules requiring mental health, substance use, and cognitive impairment education. The speakers in this CLE will talk about when to ask for help for yourself and for colleagues, and how to recognize when someone needs help. You will also hear personal stories of recovery. This CLE will be presented by **Senior Judge Gregory Silver**, Multnomah County Circuit Court, **Mae Lee Browning**, Attorney at Law, **Hugo Gonzalez Venegas**, Oregon State Bar and **Harry Wilson**, Markowitz Herbold.

For more information: Contact John Dunbar, Dunbar Law LLC, at 503.222.9830. For registration questions, contact the MBA at mba@mbabar.org.

Civil Litigation - Old School vs. New School

Thursday, December 10 3-5 p.m.

Online Participation Only

Members \$60/Non-Members \$95

This CLE will touch on all phases of civil litigation, including discovery, trial preparation, settlement negotiations, and trial. Our panel of trial lawyers will discuss and contrast old school, conventional methods with modern and evolving techniques and strategies. What still works? What has been improved? How has the “vanishing trial” impacted civil litigation strategy? What is the impact of current technology on traditional trial preparation and trial techniques? Find out from our presenters, **Matt Levin** of Markowitz Herbold, **Renée Rothauge** of Perkins Coie, and **Bill Barton** and **Brent Barton** of Barton Trial Attorneys.

For more information: Contact Anit Jindal, Markowitz Herbold, at 503.295.3085. For registration questions, contact the MBA at mba@mbabar.org.

Mandatory Elder and Child Abuse Reporting

Tuesday, December 15 12-1 p.m.

Online Participation Only

Members \$30/Non-Members \$50

Note: Worth one hour of Mandatory Elder and Child Abuse Reporting OSB MCLE credit.

This program will help lawyers meet their legal responsibilities as mandatory reporters, while maintaining their ethical obligations to clients. **Linn Davis** of the Oregon State Bar will present this dynamic and practical discussion on:

- Recognizing elder and child abuse;
- Complying with mandatory reporting requirements; and
- Protecting privilege and confidentiality.

Linn is Assistant General Counsel for the Oregon State Bar and manages the bar’s Client Assistance Office. As Assistant Counsel, he regularly fields calls from lawyers on the bar’s Ethics Hotline. Linn formerly worked as an assistant disciplinary counsel for the bar and as a prosecutor in New York.

For more information: Contact Jamison McCune, Bodyfelt Mount LLP, at 503.243.1022. For registration questions, contact the MBA at mba@mbabar.org.

Annual Probate Update

Thursday, December 17 3-5 p.m.

Online Participation Only

Members \$60/Non-Members \$95

The MBA presents the 2020 Annual Probate Update, featuring **Judge Patrick Henry**, Multnomah County; **Judge Susie Norby**, Clackamas County; and **Judge Janelle Wipper**, Washington County. The judges will discuss current practices and procedures for each of the tri-county area courts. This CLE seminar is a must for all probate practitioners and their staff.

For more information: Contact Ryan Flatley, Thede Culpepper Moore Munro & Silliman LLP, at 503.416.6133. For registration questions, contact the MBA at mba@mbabar.org.

CLE Registration Form

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 Check VISA MasterCard
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Online CLE registration strongly encouraged. Visit www.mbabar.org to register online. 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 the address below. Accommodations available for persons with disabilities; please call in advance for arrangements.

Photocopy registration and mail payment to:
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Seminar Selection:

Please select the seminar(s) you wish to attend. Written materials for each class are included with registration. Pre-registration with payment is required to participate.

- 12/1 How Prosecutorial Policies and Discretion Can Aid in Ending Systemic Racism in the Criminal Justice SystemE**
Online attendance only - link will be emailed
 Class Registration (\$30 Members/\$50 Non)\$_____
- 12/9 Ethical Considerations: Ethics Issues That May Arise When Dealing with Prospective and Past ClientsE**
Online attendance only - link will be emailed
 Class Registration (\$30 Members/\$50 Non)\$_____
- 12/10 Mandatory Mental Health and Substance Use CLE**
Online attendance only - link will be emailed
 Class Registration (\$30 Members/\$50 Non)\$_____
- 12/10 Civil Litigation - Old School vs. New School**
Online attendance only - link will be emailed
 Class Registration (\$60 Members/\$95 Non)\$_____
- 12/15 Mandatory Elder and Child Abuse Reporting**
Online attendance only - link will be emailed
 Class Registration (\$30 Members/\$50 Non)\$_____
- 12/17 Annual Probate Update**
Online attendance only - link will be emailed
 Class Registration (\$60 Members/\$95 Non)\$_____

Total due\$_____

Unable to attend?
Archived webcast options are available
at www.mbabar.org/cle

Legal Aid Services of Oregon Volunteer Lawyers Project Pro Bono Project Descriptions

This is a list of statewide and area-specific Volunteer Lawyer Project (VLP) opportunities with Legal Aid Services of Oregon (LASO).

Training materials are available on legal aid's advocate website at www.oregonadvocates.org. Mentorship and support is provided by legal aid attorneys and private attorneys.

NEW - Disaster Assistance

The recent wildfires have been described by Oregon authorities and experts as unprecedented; more than one million acres of land has burned, hundreds of homes lost, and entire communities destroyed. Approximately 24,000 FEMA disaster assistance applications have been filed in Oregon and thousands of applicants have been determined ineligible. Your help is needed to provide critical legal assistance to Oregon disaster survivors. The Disaster Assistance Panel assists wildfire survivors with FEMA disaster benefit appeals. Trainings and materials are available on oregondisasterlegalservices.org. This is a statewide virtual opportunity.

Bankruptcy Clinic

The OSB Debtor-Creditor Section and LASO sponsor the Bankruptcy Clinic. The project consists of two components, a 45-minute bankruptcy class and a legal clinic. During the clinic, volunteer attorneys meet with clients to help assess whether bankruptcy is appropriate, and if so, provide

representation in a Chapter 7 bankruptcy. Attorneys may sign up for direct client referrals. This is a virtual clinic.

Domestic Violence Project

Oregon has seen a rise in domestic violence cases during the pandemic and as stay-at-home orders were issued. Organizations that assist survivors have also seen an increased need for services. This project provides critical legal assistance to survivors of abuse and stalking. Attorneys represent survivors in contested restraining order hearings in Clackamas, Multnomah and Washington Counties. These cases tend to have short timelines, involve limited issues and require a court appearance. DVP is an excellent opportunity for new lawyers, lawyers seeking litigation experience, and attorneys who cannot commit to long-term cases. Most volunteers are not family law lawyers and are not expected to assist clients with family law issues. Training and materials are available.

Expungement Clinic

Help reduce barriers to safe housing, employment and education caused by criminal records. Attorneys determine whether clients qualify for an expungement and complete all necessary court paperwork for those eligible. In partnership with Intel, we are now offering virtual opportunities for expungement in Multnomah and Clackamas counties. Training and materials are available.

Family Law Forms Project

In Oregon, 67 to 86% of family law cases involve at least one person representing themselves; the majority of whom cannot afford a lawyer. Attorneys with little (or no) family law experience can assist clients in completing their forms. Experienced family law attorneys can provide limited assistance to clients requiring discrete legal advice or document review. Attorneys are NOT expected to provide ongoing representation and clients sign a retainer agreement detailing the limited scope of the attorney-client relationship. Training and materials are available. This is a virtual project.

Housing Notice Clinic

Oregon is in the midst of an affordable housing crisis. In eviction cases, the vast majority of landlords are represented by an attorney or agent while very few tenants have any representation. While LASO represents thousands of tenants a year, demand for assistance exceeds our limited resources. Attorneys provide self-represented litigants with advice and legal assistance on their rental termination notice. Trainings and materials are available. This is a virtual clinic.

Senior Law Project

The Senior Law Project (SLP) consists of twenty monthly legal clinics scheduled through eight senior centers in Multnomah County. Attorneys provide a 30-minute consultation on a variety of civil legal issues to clients 60 or older (or who are married to someone 60 or older), regardless of their income. SLP volunteers provide continuing pro bono services for clients who meet LASO's financial eligibility.

Training and materials are available. This is a virtual clinic.

UI Benefits Panel

Unemployment insurance (UI) is the sole means of temporary wage replacement for workers and is critical in preventing individuals and families from spiraling into poverty. As unemployment claims continue to hit unprecedented levels, LASO is expanding its pro bono attorney panel for low-income Oregonians with controversies involving UI benefits. Attorneys provide legal advice and possible representation at an administrative hearing. This is an excellent opportunity for those seeking litigation experience and introduction to administrative law. Training and materials are available. Most hearings are conducted by phone.

Legal Aid Night Clinic

Attorneys from Stoel Rives LLP and Dunn Carney LLP staff the Night Clinic in a partnership with LASO. Volunteer attorneys screen the cases and provide legal representation to clients on a range of civil legal issues, including: consumer law, small claims advice, landlord/tenant, and estate planning.

ProBonoOregon & Listserv

Legal aid offices around the state post pro bono opportunities on our website Oregon Advocates. Listings include the area of law, type of case, assistance expected and a brief description of the issue. To view current opportunities, visit www.oregonadvocates.org.

NAPOLS Project

The 2018 Barriers to Justice noted that Native Americans are 1.9 times more likely to experience an elder law or disability-related issue,

such as homelessness. In 14 of the 17 categories surveyed, Native Americans experience problems at higher rates than non-Native people. Native American Program Legal Aid Services (NAPOLS) represents Native clients in tribal, state, and federal courts, as well as in administrative proceedings, on issues specific to an individual's Native status. Pro bono attorneys provide assistance to Native clients around the state on a diverse range of matters, including consumer law and fair debt collection issues, family law, landlord/tenant, public benefits, elder law, and estate planning for clients with assets involving federal or tribal jurisdiction. Please contact Fabio Apolito at Fabio.Apolito@lasoregon.org

Statewide Tax Clinic

This clinic provides advice and representation to low-income clients who have a tax controversy with the IRS and related cases with Oregon Department of Revenue. Cases cover a range of state and federal personal income tax issues including collections, examinations (audits), innocent spouse claims, and tax court cases. Please contact Guillermo Ramos at guillermo.ramos@lasoregon.org.

For more information or to volunteer, please contact:

*Brett Cattani, Pro Bono Coordinator
brett.cattani@lasoregon.org*

*Tiffany Smith, Pro Bono Coordinator
tiffany.smith@lasoregon.org*

*Jill Mallery, Statewide Pro Bono Coordinator
jill.mallery@lasoregon.org*

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mba | ANNOUNCEMENTS

Update from the Washington County Presiding Judge

Presiding Judge Theodore E. Sims, Washington County Circuit Court, reports that “Although Washington County Court is still not able to try civil jury cases, we are docketing civil motions which can be resolved either on the pleadings, or with phone or limited in person appearances. Please alert your colleagues in the civil bar that this is happening so that their cases will be ready to go when we can finally resume civil jury trials.”

The Multnomah Law Library Has Moved

The Multnomah Law Library is now located at 1050 SW 6th Avenue, Ste 180, Portland. To reach our library staff, call our new phone number, 971.888.5961, or email us at librarian@multlawlib.org. We are available to assist you with curbside checkout, answers to research questions, electronic documents, database access, and other library services. For more information, visit www.multlawlib.org.

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 11”x14” 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

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



Giving Thanks: “Thank You” Gifts to Referral Sources

by Mark J. Fucile
Fucile & Reising LLP

In 2018, the ABA significantly amended the lawyer marketing regulations in its influential Model Rules of Professional Conduct on which the Oregon RPCs are patterned. The ABA amendments included an exception to the general prohibition on paying for referrals that specifically permits

Both giving and receiving “thank you” gifts are permitted as long as the gift involved meets the general standard of ordinary business hospitality.

“thank you” gifts. ABA Model Rule 7.2(b)(5) reads: “[A] lawyer may ... give nominal gifts as an expression of appreciation that are neither intended nor reasonably expected to be a form of compensation for recommending a lawyer’s services.” Comment 4 to ABA Model Rule 7.2 explains the thinking behind the exception:

“Paragraph (b)(5) permits lawyers to give nominal gifts as an expression of appreciation to a person for recommending the lawyer’s services or referring a prospective client. The gift may not be more than a token item as might be given for holidays, or other ordinary social hospitality. A gift is prohibited if offered or given in consideration of any promise, agreement or understanding that such a gift would be forthcoming or that referrals would be made or encouraged in the future.”

To afford Oregon lawyers the enhanced clarity of a rule on this point, the Oregon State Bar in 2019 recommended to the Oregon Supreme Court an exception based on the ABA Model Rule formulation. The Supreme Court adopted the proposal earlier this year. New Oregon RPC 7.2(b)(4) reads: “[A] lawyer may ... give nominal gifts as an expression of appreciation that are neither intended nor reasonably expected to be a form of compensation for recommending a lawyer’s services.”

Although Oregon does not have comments to our RPCs, the report to the OSB House of Delegates with the proposal referenced both Comment 4 to ABA Model Rule 7.2 and OSB Formal Opinion 2005-73.

Therefore, the rough gauge included in the ABA comment - “a token item as might be given for holidays, or other ordinary social hospitality” - is a prudent general standard. In other words, a bottle of wine or event tickets are likely “OK,” but a new sports car is “not OK.” The exception does not distinguish between recipients. Therefore, the same general measure applies to lawyer and non-lawyer recipients alike.

Receiving

The rules make a slight analytical distinction between receiving gifts from lawyers and non-lawyers.

With lawyers, because it is now expressly permitted for a lawyer to give a “thank you” gift, it is also permitted to receive one - provided it otherwise meets the criteria noted in RPC 7.2(b)(4). As lawyers, we are prohibited under RPC 8.4(a)(1) from knowingly “assisting” another lawyer in violating the RPCs. In theory, therefore, a lawyer giver

A gift is prohibited if offered or given in consideration of any promise, agreement or understanding that such a gift would be forthcoming or that referrals would be made or encouraged in the future.

and a lawyer receiver could be liable for, respectively, providing and receiving a substantial gift exceeding the boundaries implicit in RPC 7.2(b)(4) - the sports car in my earlier example - for a referral.

With non-lawyers, RPC 5.4(e) specifically allows a lawyer to receive “thank you” gifts - again within the same general parameters for giving:

“A lawyer shall not refer a client to a nonlawyer with the understanding that the lawyer will receive a fee, commission or anything of value in exchange for the referral, but a lawyer may accept gifts in the ordinary course of social or business hospitality.”

Summing Up

RPCs 7.2(b)(4) and 5.4(e) provide common sense guidance. As long as lawyers adhere to the standard of “ordinary business hospitality,” they should be safe to either give or receive.

As we enter December, law firms and individual lawyers frequently take stock of the people who have sent them referrals during the course of the year. Traditional business practice and human nature often suggest sending those referral sources “thank you” gifts. In other instances, it is the firm or individual lawyers who are the ones being thanked. Both giving and receiving “thank you” gifts are permitted as long as the gift involved meets the general standard of ordinary business hospitality. In this column, we’ll look at the rules governing both giving and receiving “thank you” gifts.

Before we do, however, two qualifiers are in order. First, fee splits between lawyers at different firms are governed by RPC 1.5(d). The OSB *Ethical Oregon Lawyer* (Chapter 3) and the OSB *Fee Agreement Compendium* (Chapter 12) address fee splits in detail and both are available in the members section of the OSB website. Second, formal reciprocal referral arrangements with nonlawyers are generally prohibited by RPC 5.4(e). OSB Formal Opinions 2005-2 (rev 2018) and 2005-175 (rev 2018) discuss this restriction and are also available on the OSB website.

Giving

Historically, the lawyer marketing rules have prohibited paying for referrals. The prohibition traces its lineage to the use of paid “runners” to solicit injured workers. RPC 7.2(b) continues to summarize the prohibition today: “A lawyer shall not give anything of value to a person for recommending the lawyer’s services[.]”

At the same time, “thank you” gifts remained a common practice for many lawyers because they were simply expressing their appreciation rather than “paying” for referrals. OSB Formal Opinion 2005-73 (rev 2018) recognizes this distinction (at 2): “Lawyer ... may provide de minimis gifts in the ordinary course of social or business hospitality as long as the proposed gifts are not payments in exchange for ... [referral sources] ... recommending Lawyer’s services.”

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Around the Bar



Aaron Reichenberger, Ashley Rosenbaum-DePalo, and Gretchen Mandekor

Rosenbaum Law Group

Aaron Reichenberger, Ashley Rosenbaum-DePalo, and Gretchen Mandekor have become shareholders of the firm. All three specialize in personal injury, wrongful death claims, and litigation. Mandekor also defends legal malpractice cases and frequently serves as a mediator and arbitrator. Our team looks forward to many more years of providing first rate legal services to our clients and friendship to our colleagues on both sides of the fence.

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Will Gent

Tonkon Torp

Litigation attorney Will Gent has joined the Young Professionals Board at Blanchet House, a nonprofit organization that provides meals and housing programs to people in need. Gent will serve as an ambassador of Blanchet House to expand the reach and impact of the vital organization and to advocate for those it serves.

The Young Professionals Board recently produced the first annual On the Ledge, an online art show that raised over \$10,000 for Blanchet House and local artists.

Gent is an associate in the firm's litigation department. He represents businesses and individuals in a variety of complex civil matters, including real estate and construction litigation, commercial leasing matters, eminent domain



Mick Harris

proceedings, contract disputes, consumer protection litigation, and corporate governance and shareholders disputes.

Business attorney Mick Harris has been appointed to the College Possible Oregon's Ambassador Board and the board of trustees for Community Services Inc.

College Possible Oregon's Ambassador Board is a group of young professionals under the age of 40 who raise support and awareness for College Possible, which helps students in Oregon achieve their college goals. Community Services Inc. is a nonprofit organization that provides individualized services for adults with developmental disabilities in the greater metropolitan Portland area.

Harris is an associate in Tonkon Torp's Business Department where he works with the firm's Cannabis Industry, Real Estate & Land Use, and Entrepreneurial Services practice groups, among others. He graduated with honors from Willamette University College of 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.



Gordon Welborn

Hart Wagner

Managing partner Gordy Welborn has been named the chair of the Oregon Chapter of the American College of Trial Lawyers (ACTL), one of the premier legal associations in North America. He will serve in this leadership position for two years. Welborn was inducted as a Fellow in 2012, and has served as the vice chair of the Oregon Chapter. He maintains a very active trial practice throughout

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We wish you all the best as you pursue a new opportunity in lawyer assistance!



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To make a donation, please use the insert in this issue or donate online at www.mbabar.org/courtsupport. Contact Pamela Hubbs (503.854.5237, pamela@mbabar.org) for more information, to request an invoice, or to donate by phone with a credit card.



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

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

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Tips From the Bench

Remote Court Proceedings The New Normal

by Judge Shelley D. Russell
Multnomah County Circuit Court



In my last *Tips from the Bench* back in February of this year, I described the many improvements in delivering court services that the new courthouse would offer once it was up and running. Spacious courtrooms with ample jury seating, state-of-the-art technology, client counseling rooms, modern jury facilities, and unparalleled access to justice. At that time, we had no idea what 2020 had in store and how it would affect not only everyday life, but the court system as well. It is now December. We are finally in the new courthouse and while some parts of life are beginning to return to a measure of normal, due to COVID-19 we are still unable to resume the level of court operations to which we are accustomed. Those spacious jury boxes, client counseling rooms and modern jury facilities remain empty, but the new technology is getting quite the workout.

Since this summer, we have been conducting most court matters remotely, and we will continue to do so for the immediate future (see Presiding Judge Bushong's recent article in the November *Multnomah Lawyer* "Waiting on the World to Change: Jury Trials During the Pandemic"). Questions have arisen from members of the bar regarding the presentation of virtual testimony, exhibits, and general participation in remote matters. I hope to address at least some of those questions here.

Is Remote Location Testimony Allowed?

Remember that state-of-the-art technology I mentioned above? It enables the court to more efficiently and effectively conduct business remotely. The updated audio equipment allows telephone participation by remote parties and lawyers to be better heard and understood. Video participation is also possible through Webex and potentially other connections, allowing witnesses and incarcerated persons to appear "in court" from remote locations. But do the rules allow such appearances, and if so, in what kind of proceedings?

Civil Proceedings

"Remote Location Testimony" is "live testimony given by a witness or party from a physical location outside the courtroom via simultaneous electronic transmission." ORS 45.400(8)(a).

It is not recorded testimony, which is covered by ORCP 39 on perpetuation deposition. "Simultaneous Electronic Transmission" means television, telephone or any other form of transmission that allows:

- (A) the court, the attorneys, and the remote witness to communicate during the proceedings;
- (B) the ability of a witness or party represented by counsel to confer privately during the proceedings; and
- (C) the public to hear (and see) the witness or party as if they were in the courtroom. ORS 45.400(8)(b).

ORS 45.400(1) provides that "A party to any civil proceeding or any proceeding under ORS Chapter 419B [juvenile dependency reporting and investigation of child abuse] may move that the party or any witness for the moving party may give remote location testimony." A party seeking to offer remote testimony must provide written notice to all other parties and the court at least 30 days before the hearing or trial. (See also SLR 3.183, effective February 2021). For good cause shown, the court may allow written notice within 30 days before the proceeding. ORS 45.400(2). Absent a showing of prejudice to the non-moving party that outweighs the good cause for the remote testimony, the court may allow it. ORS 45.400(3) (a). The statute sets out the factors to be considered in allowing or denying remote testimony. The court may allow telephone testimony only upon a finding that video transmission is not readily available. ORS 45.400(4).

ORS 45.400(6) requires the party moving for remote testimony to pay all costs of the testimony and such costs are not recoverable as costs or disbursements.

Pursuant to Presiding Judge Bushong, so long as COVID-19 restrictions are in place, the Multnomah County Circuit Court will only conduct jury trials where the risk of infection of jurors is outweighed by the consequences of further delay in the proceedings. Such trials will most likely be criminal cases involving serious felony charges, in-custody defendants, and/or speedy trial requirements. Civil practitioners may set a scheduling conference with the presiding judge if they believe their case presents circumstances justifying holding a jury trial during the pandemic. The court will entertain stipulations to innovative procedures minimizing the COVID risk, but generally civil jury trials are not expected to resume until spring or summer 2021. Remote civil motion hearings will continue, as will bench trials

Continued on page 11

News From the Courthouse



by Katie C. Goss
Court Liaison Committee

Court Update from Presiding Judge Stephen Bushong Scheduling Conferences - Reminders About Availability and Practical Tips

Scheduling conferences are generally held every Wednesday afternoon. They are set upon request; a scheduling conference will not automatically occur. Three things are typically addressed at a scheduling conference: a request to designate a case as complex; any requests to postpone a previously-selected trial date; and addressing trials that may need to be postponed due to the COVID-19 pandemic. Note: the court is not automatically setting over trials due to the COVID-19 pandemic. Lawyers should confer with clients, witnesses and opposing counsel *before* the scheduling conference in order to be prepared to select a firm trial date. Civil jury trials should be scheduled to start on a Monday, if possible, because jurors are typically called on Mondays and Wednesdays.

Scheduling conferences are typically held over the telephone. The court will notify the parties in advance of the conference call number and access code. Lawyers should call-in a couple of minutes before the scheduled conference. Conferences are usually set five to 10 minutes apart, so it's important to call-in on time. Do not expect the court to call you.

Setting Trials

Bench trials may be conducted as scheduled on any date in 2020 or 2021. Appear at call and report ready.

If the parties think there is a particular urgency justifying holding a jury trial in the middle of the pandemic, lawyers should address that urgency at a scheduling conference in advance; do not just wait until the call date and report "ready." In determining whether there is good cause for proceeding with a jury trial during the pandemic, the court will consider the risk to jurors summoned to court and other participants; any special protective measures or procedures the parties have agreed on to minimize the risk; the extent to which delay might prejudice the rights of the parties; and any

other factors that might apply in a particular case. Criminal cases facing statutory or constitutional deadlines or involving defendants held in-custody for a year or more awaiting trial will be given priority over civil cases.

For additional information regarding jury trials, see Judge Bushong's article, "Waiting on the World to Change: Jury Trials During the Pandemic" in the November issue of the *Multnomah Lawyer*.

Trial Readiness Conferences - Reminders About Availability and Practical Tips

The primary purpose of a Trial Readiness Conference (TRC) is to select trial dates. Lawyers generally appear at a TRC through a remote appearance - usually by telephone, though videoconference via Webex is available upon request. TRCs are generally scheduled by the court about eight months after the complaint is filed. The parties can also request a TRC at an earlier date.

Currently, several judges are holding TRCs, applying the Uniform Trial Court Rules (UTCs), the Supplemental Local Rules (SLRs), and protocols adopted by the presiding judge. Again, lawyers are expected to confer with clients, witnesses, and opposing counsel before appearing at a TRC to pick a trial date.

Trials and Backlogs

The court will generally schedule trials for any date requested by lawyers. However, absent good cause for conducting a jury trial during the pandemic, it is unlikely that a civil jury trial will be held. At this juncture, the court's best estimate is that civil jury trials will resume in the spring or summer of 2021.

Lawyers often ask about the backlog of cases awaiting trial. Currently, there are approximately 7,000 civil cases pending. That number is consistent with the number of pending cases at any given time before the pandemic, so it does not represent the size of the backlog. Also, history shows that most civil cases - more than 95 percent - will resolve short of trial. The court is tracking the age of pending cases; the average age of pending cases is getting longer due to the pandemic. As a result, the court expects that it will have backlogs of all types of cases - civil,

criminal, family, landlord-tenant, and others - to resolve after the pandemic lifts.

The court is developing plans to address the expected backlogs, consistent with recommendations from statewide work groups formed under the direction of Chief Justice Martha Walters. It is likely that the court will schedule extra dockets in some areas - landlord/tenant cases, for example - and call upon retired judges to help with the additional workload after the pandemic eases.

The new courthouse has 40 courtrooms, and the court can summon as many jurors as needed to handle the backlog whenever the COVID-19 restrictions are lifted. The court does not expect any further delays due to limited resources, though it does expect lawyers to continue working their cases, exercising good faith and the highest levels of professionalism in resolving cases during the pandemic.

Ex Parte

Ex parte matters in civil and criminal cases are heard Monday through Friday at 10:30 a.m. in courtroom 7A (the presiding judge's courtroom). It occurs once per day to minimize the exposure risk to staff. Although in-person appearances are allowed, the best practice is to call in at 10:30 on the conference line, rather than appear in person. Before calling in, lawyers should email documents that would otherwise be presented in person to both presiding clerks, Suzanne Johnson (suzanne.r.johnson@ojd.state.or.us) and Katlynn Backus (katlynn.m.backus@ojd.state.or.us). The court asks that documents are sent with as much notice as possible to give the court time to consider the pleadings. Don't forget to include a proposed order with your pleadings.

Remember that there are separate ex parte dockets for family law and probate cases. Lawyers should contact those departments in advance of an ex parte appearance.

Ex parte matters in forcible entry and detainer (FED) cases are held at 9:00 a.m. in the "Crane Room" of the former Jefferson Station. That docket is expected to be busy when the current moratoriums on evictions are lifted.

Continued on page 11

News From the Courthouse

Continued from page 10

Opening of the New Courthouse

The courthouse opening has proceeded smoothly and people seem to be finding the new courthouse much more user-friendly. The building includes dedicated customer service areas, electronic information display boards throughout the building, and sitting areas and meeting spaces to improve the experience of those in the building. Inside each judicial suite, there should be a basket to drop off paperwork that is being hand-delivered to the court. The sheriff's office has sent new access cards to lawyers using the courthouse; if lawyers have not received their new access card, they should contact the Multnomah County Sheriff's office. The old access cards will not work because they do not have the embedded chip needed to ensure access. The new building uses a state-of-the-art HVAC system to improve air quality, and we have incorporated many extra measures to protect the safety of those in the courthouse.

Criminal Court Update from Chief Judge Cheryl Albrecht

Adjusting to COVID-19 has been, and is, an ongoing process to address how to keep things moving or on track with restrictions still in place.

Hearings for Out-of-Custody Defendants

Under the current Chief Justice Order, court proceedings for out-of-custody defendants are not deemed "essential" during the pandemic. Such proceedings may be conducted, where necessary and permitted by law, remotely or in-person consistent with social distancing requirements and the court's resources. The court has looked at each particular docket to see what could occur, what could not occur, and what could occur with modification. The court has moved quickly to allow phone-in conferences for some dockets, including the high volume "call" dockets. More dockets will be opened up going forward. Some of the efficiencies and practices developed during the pandemic will be continued after the pandemic eases and restrictions are lifted.

Hearings for In-Custody Defendants

In general, the court has continued to conduct court proceedings for in-custody defendants during the pandemic. Court proceedings - including trials - that are statutorily and constitutionally required are treated as "essential" under the Chief Justice's order.

During a recent special legislative session, the legislature passed House Bill 4212. That bill gives the chief justice authority to extend certain statutory deadlines during the Governor's declaration of emergency, and the court some additional authority to extend deadlines for good cause. Among other things, HB 4212 allows the court

to extend the time for bringing an in-custody defendant to trial beyond the 180-day period maximum allowed by existing law if the court makes certain findings required by the bill. The court has been scheduling judicial settlement conferences and "HB 4212 release hearings" for in-custody defendants approaching the deadline to either assist in resolving the case or determining whether the defendant should be released or continue to be held in custody prior to trial.

Grand Jury

The court continues to summon people to serve on grand juries during the pandemic. Generally, there are two or three grand juries reviewing cases at any given time. The court ensures that everyone participating in the grand jury process wears protective face coverings and complies with physical distancing as required by Chief Justice Order and guidance from the Centers for Disease Control (CDC). Potential grand jurors who are in high-risk categories or otherwise unwilling to serve during the pandemic may be excused by the court. Our facilities are marked with signs and markings on the floor to ensure appropriate distancing, seating is spaced out at least six feet apart, and grand jurors are given a handout outlining steps that the court has taken to comply with CDC recommendations regarding safety.

Keeping Cases on Track

The court is keeping criminal cases on track and proceeding towards resolution to the greatest extent possible. Currently, the court regularly schedules in-person plea hearings, release hearings, judicial settlement conferences, and dispositive motion hearings in felony and some misdemeanor cases. The court is prepared to conduct jury trials in some criminal cases, with priority given to cases facing constitutional or statutory deadlines or involving defendants who have been held in custody awaiting trial for a year or longer. Before conducting a trial, the court will attempt to help the parties resolve the case by scheduling a judicial settlement conference; in some cases, a release hearing under HB 4212 will be conducted before trial. Judge Bushong has set out a jury trial policy that addresses which trials are priorities. Because a jury trial during the pandemic requires two to three times more space than in pre-COVID times, it is likely that the court will not be able to accommodate more than two or three trials at any given time. The court is still exploring additional options to get trials out.

DUII-related dockets are successfully up and running, including the contested diversion docket, the expedited DUII plea docket, and DUII diversion entries. Judge Albrecht reminds lawyers to e-file signed documents 48 hours ahead of time. The sheriff's office has reinitiated the "Turn Self In" (TSI) program for

defendants needing to serve one or more weekends in jail. A limited number of openings for Alternative Community Service (ACS) are available. The treatment courts - STOP drug court; START court; and Mental Health Court - are operating, with many court proceedings occurring via remote means.

The state, the defense bar, the sheriff's office and court administrative staff have done a great job and the court very much appreciates their willingness to adjust and pivot to address different procedures as they arise.

Addressing Racial and Ethnic Disparities in the Criminal Justice System

Even before the recent Black Lives Matter protests, the court worked to address racial and ethnic disparities in the criminal justice system. Recent events have highlighted the need for change, and the court continues the work of confronting where it contributes to discriminatory practices. Multnomah County received a \$2 million grant from the MacArthur Foundation to help with justice system reform, and justice system partners - including the courts - are re-examining processes and procedures through an equity lens to eliminate disparities. The court and other stakeholders are collaborating with community leaders and targeting resources to achieve more equitable outcomes.

Art in the New Courthouse

The art collection throughout was selected by a pool of judges, lawyers, and artists under the guidance of the Regional Arts & Culture Council. Most of the artists are rooted in the Pacific Northwest, and there is a significant presence of BIPOC artists. An explanatory placard is posted for each piece next to the work, and the court will soon have a guide to the artwork available in the courthouse and on the court's website. Take a moment to check out and appreciate the artwork when you are next in the courthouse.

Closing Thoughts from Judge Bushong

This pandemic has created hardships for everyone. Businesses, lawyers, and the public have suffered economically, emotionally, and physically. We're all in this together. The court urges lawyers to stay positive. Our local bar has a well-deserved reputation for professionalism. Now is the time to take that level of professionalism and ramp it up a couple of notches. Work your cases; be creative to try to resolve cases short of trial. This is not the time for lawyers to play hardball, stonewall, or just delay things because you can. The court can help identify barriers to resolving cases. Judges are available to conduct settlement conferences where needed. But the court needs lawyers to work with each other and with their clients in positive and professional ways. Together we WILL get through this pandemic.

Tips From the Bench

Continued from page 10

for those who wish to waive a jury. Within those proceedings, judges will consider allowing remote location testimony pursuant to statute and court rules.

Criminal Proceedings

ORS 131.045(4) prohibits remote location testimony in criminal jury trials absent written consent of all the parties. With respect to bench trials, at least one judge has recently allowed remote expert witness video testimony.

Where simultaneous electronically-transmitted remote testimony is allowed in criminal proceedings, the same rules apply as in the civil arena, plus such testimony must allow for a defendant represented by counsel to confer privately, and allow a victim to participate in the same manner as if the witness were physically present. ORS 131.045(1)(b). (See also SLR 4.081, effective February 2021, regarding appearance at criminal proceedings by simultaneous electronic transmission).

In matters other than trial, certain remote appearances by counsel and defendants are allowed unless specifically prohibited by statute or the Oregon or federal constitutions. ORS 131.045(2) and (3). Remote arraignments, pleas and sentencing hearings may occur where the parties stipulate and the court agrees to the remote appearance. Because statutes authorizing or requiring appearance create a right to appear, defendants wishing to appear remotely should agree on the record to waive their right to appear personally in the courtroom. For a plea hearing, the defendant should be prepared to acknowledge that the defendant reviewed the plea petition with counsel and understands its contents, and that the defendant affirms on the record the choice to enter the plea to the charges.

With respect to sentencing, the court will pronounce the sentence on the record and confirm that the defendant was informed of the sentence, the probation conditions, and the consequences of failing to abide by the probation conditions. The court will also on the record inform the defendant to report

for intake to the Department of Community Justice by calling 503.988.3081 within 24 hours or to report to the court coordinator. Finally, the defendant must acknowledge on the record that the defendant understands the sentence and conditions as pronounced by the judge.

How Do We Submit Exhibits in Remote Hearings or Trials?

The court is not able to accept last minute thumb drives, discs, or Dropbox versions of exhibits because such items must be cleared through our IT security system. Contact your assigned judge's judicial assistant (JA) well in advance of your hearing or trial to determine how best to provide exhibits to the court. In addition, if the entire proceeding is to be conducted remotely, provide a copy of your exhibits to your opposing counsel and the appropriate witnesses ahead of time. While most lawyers do not wish to disclose exhibits to their opponent ahead of time if not required to, in times of COVID it may be necessary to give up some of the element of surprise in order to ensure your exhibits are received. Consider conferring and agreeing on those non-controversial exhibits that can be pre-admitted and email a PDF copy to your assigned judge's clerk and JA the day before your proceeding.

E-file plea petition documentation and exhibits needed for criminal motion hearings in advance of your proceeding date. When in doubt, you can also email copies in PDF form to your assigned judge's staff.

Remember, if you are e-filing your documents, it can take up to 48 hours for them to appear in the court file.

Will Things Ever Return to "Normal?"

I don't have an answer to that question. One thing is certain, we will eventually see the COVID restrictions loosen and we will return to in person motion hearings, bench trials and yes, full blown jury trials. I know we in the courthouse are looking forward to being able to use our new digs to their full extent and we can't wait to welcome you all back. Until then, keep calm and carry on.



The MBA staff wishes you a happy holiday season. In 2020, 110 Oregon law firms, attorneys and non-attorney staff donated to the Multnomah Bar Foundation to benefit CourtSupport and Multnomah CourtCare. Countless others contributed time and resources to pro bono efforts. The incredible charitable and pro bono support from our members in the midst of a global pandemic makes 2020 a truly remarkable year. We are thankful to the MBA membership and the Portland legal community for helping to make our community and our state a better place. We wish you peace, health, happiness and prosperity, and look forward to serving you in 2021.

mba | Young Lawyers Section

What is the YLS?

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

Ask the Expert

Dear Expert,

It has been difficult to network and connect with my colleagues, co-workers, and others during the pandemic. Do you have suggestions on how I can effectively network and connect with others, in a safe manner, during this pandemic?

-Craving More Connection

Dear Craving,

Many of us are in the same boat, having quarantined for months now. This means many others will want to connect and network, too. So, step number one is to get out there and take action. Here are some ways you might be able to network and connect with others in a safe manner:

Email

Sending an email to check in on a colleague or co-worker or to even initiate contact with someone is easy and effective. As previously mentioned, many folks are looking for reasons to interact with others and a warm email is a nice way to reconnect or to introduce yourself. If you are reaching out to a new contact, be respectful of your contact's time - be concise, direct, and courteous. In addition, you can also use email as a way to set up a more involved and substantive time to connect with someone.

Phone Call

Consider picking up the phone. Although email can be a quick and easy way to connect with someone, a phone call provides you an opportunity to have a closer connection. Hearing someone's voice, tone, and laughter can help bridge the less personal feel of an email. The instantaneous exchange of ideas and conversation is more natural and more similar to connecting in person. At the same time, a phone call allows more flexibility for you and others since you don't need to travel to a meeting place.

Socially Distanced Meetings

To the extent you are able to meet in a socially distanced manner, there is no substitute to being physically present with others. Having face-to-face interaction, while not being in front of your computer (and dealing with Zoom fatigue), is a

great way to connect, especially since many of us have been isolated. Outdoor settings are the best way to be safe when meeting in a socially distanced manner. As the weather turns colder and wetter, it may be more difficult to convince others to meet outside. Some ideas may include outdoor meeting places that have covering, tents, patio heaters, and enclosures. If possible, consider an outdoor meeting that allows you to be active. Otherwise, bundle up!

Attend Virtual Events

Another way to connect with others is to attend virtual events. Many organizations, including the YLS and MBA, are hosting virtual events to keep lawyers connected with each other. These virtual events allow you to visually connect in real-time with others in a safe and comfortable manner from your home. An added benefit is that you can connect with folks you might not have been able to meet up with otherwise since there is very little geographical limitation on virtual events. Virtual events can range from being educational (CLEs) to more social events (such as the recent CEJ and YLS Party on the Screens). Depending on what you're up for, there is likely a virtual event geared towards helping you network and stay connected with others. If you have ideas on virtual events you'd like to participate in, the YLS and MBA are always looking for ideas and feedback, too.

Get Involved

Another way you can connect and network with others during the pandemic is to participate in committees and bar organizations. Volunteering and associating with your colleagues are great ways to get to know others and to develop professional relationships. Involvement in bar organizations and committees makes it easy for you to connect with others since there is typically a structured way to get involved.

Above all else, keep reaching out and know that we all have a need to connect and relate to others.

Kohel Haver and The Old Church Pro Bono Spotlight

by Olivia Wotman
YLS Pro Bono Committee

Are you passionate about the arts? Have you been missing live music and supporting local venues? Now is your chance to get involved with The Old Church, a local nonprofit, all-ages, concert hall and historic landmark in Portland. One of the missions of The Old Church is to promote music and art that reflects and enhances the cultural life of our community. This year, The Old Church has focused on elevating BIPOC voices, and becoming an ally against racism and damaging systems of oppression. Despite all live events being cancelled through the end of 2020, The Old Church has continued to provide virtual events through its "Better Together Virtual Concert Series," which serves to amplify the voices and art of BIPOC. This series is free to watch online, and all proceeds raised benefit the artists.

Now, you are probably wondering, where do my legal services come in? The Old Church recently co-produced a documentary titled, "Tipping Point: What the Portland Protests Tell Us About the State of America," which details the ongoing civil rights protests in Portland. Volunteer attorneys will have the unique opportunity to assist The Old Church with submitting this documentary to film festivals, completing any required clearances, and gathering any required documentation. Volunteer attorneys may get as involved as they desire. There are an abundance of other entertainment law and intellectual property issues a volunteer attorney can help with, such as ensuring proper licensing for music within the film, and even drafting future distribution contracts. Does

this sound like something you may be interested in, but are concerned about volunteering without having expert-level experience?

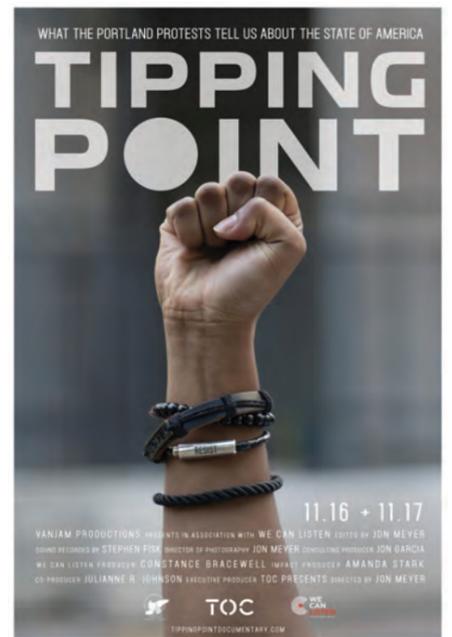
I'd like to introduce you to an excellent mentor, Kohel Haver, a partner at Swider Haver, LLP, Founding Board Member of Oregon Volunteer Lawyers for the Arts, author, teacher, mentor, and active member of many local arts organizations. With over 25 years of experience, Kohel advises businesses in developing and protecting their brand and intellectual property, and specializes in copyright and trademark law. Historically, Kohel gives away one third of his time to artists and organizations as part of his personal commitment to the arts, and this year is no different. Kohel's involvement with The Old Church embodies this personal commitment and underscores his belief that art is an important, valuable, and empowering tool. Art moves people. Art speaks to people. And, as is the case with "Tipping Point," documents critical events in America's history. Kohel's dedication to public service has allowed him to make his own path. He recommends attorneys volunteer their time to pursue interests which they may not otherwise be able to within their own firm. He also emphasizes volunteering with organizations as a way to learn something new in a hands-on fashion.



Kohel Haver

Thank you for donating your time and expertise, Kohel. Keep up the great work!

To learn more about The Old Church, and how to watch "Tipping Point," please visit The Old Church's website at www.theoldchurch.org. If you are interested in volunteering with The Old Church, please contact Executive Director Amanda Stark, at amanda@theoldchurch.org for more information.



"Who Do I Want to Be?"

by Anne Haugaard
YLS CLE Committee

It's been a busy and strange year. Now more than ever, we're relying on our laptops and that sad couch we've had since 2L year to carry us through the often dark and mysterious waters of learning how to be a lawyer. It's easy to get frustrated and wonder why we can't just learn how to practice law the old-fashioned way. This frustration can creep into the way we talk to and treat our colleagues.

For many of us, 2020 has asked the questions: Who am I as an attorney? Who do I want to be? What on earth am I doing?

When we started down this path, we took an oath and pledged fairness, integrity, and civility to the court, opposing parties, and opposing counsel. In tackling the question for myself of who I am as an attorney and who I want to be, I suggest the following viewpoints for your consideration:

Words Matter. We've all sent that response email in the heat of the moment and wished we

could take it back. When we email, when we're on the phone, and when we're drafting letters or pleadings, our words may not only be used as evidence down the road but much more importantly set the tone for how the world views us.

While I am by no means telling you to forego advocacy and the thrill of the fight, I challenge you to put a small dose of empathy, compassion, and kindness into your words. People have lost loved ones this year. People have lost their homes to fires. All of us are stressed and exhausted by this virus. The courts are functioning in a completely different way and are severely understaffed. It's important to realize we are all under a lot of pressure and everyone is deserving of kindness and understanding. Use your "please's" and "thank-you's," your reputation will honor you for it.

Slow Down. If we accept that words matter, those words better be correct. You have thousands of emails coming in, 10 pleadings open on your desktop, and partners from all corners asking if you can take on more projects. Take a moment to breathe and reset as you triage and move between each project. Allowing yourself this grace will benefit everyone in the end because you will make fewer mistakes. Slowing down will in turn tell the world you are true to your word and a reliable attorney- an invaluable asset.

Remember. There was a reason you became an attorney. I imagine for all of us there is some small part pertaining to the honor of this profession and the power to do some good in this world. Find that spark of passion still alive in you and hold tight to it. Let it drive your words and your work. Let it remind you that you can always take the high road, even when opposing counsel is being difficult. Let it remind you of who you wanted to be and who you have become. You are a lawyer. You got this.

Lucy Ohlsen YLS Member Spotlight

by Anthony Blake
YLS Board

Some people see obstacles and run around them. Lucy Ohlsen runs through them, and then she keeps running. A native of Santa Fe, New Mexico - a town in the foothills of the Rocky Mountains known for its art galleries and markets, rich culture, clear blue skies and sunshine - Lucy grew up being passionate about three things: long runs, public education, and never giving in to the temptation to relax and feel that you know it all. Lucy is in her second year of practice as a labor and employment associate at Lewis Brisbois Bisgaard & Smith. She hopes to build a career and a life where she can inspire others to doggedly pursue new experiences and knowledge in the same way her mentors inspired her.

Lucy originally journeyed to Oregon in 2010 to attend the University of Oregon, where she majored in political science and journalism. With aspirations of being a journalist, Lucy worked for KLCC and OPB, was editor in chief of Oregon Voice Magazine, and contributed stories to a variety of other publications. When she wasn't studying, writing, or running on a trail, Lucy worked first as a dishwasher, and later a server, at Eugene's famous Oregon Electric Station

restaurant. After graduating, Lucy shifted her focus to law school. She didn't know if she wanted to be a lawyer or a legal journalist, but she did know that she couldn't turn down the prospect of gaining a more realistic perspective about government and the legal system.

True to her endurance athlete ways, Lucy used law school as an opportunity to challenge herself to grow, both as an advocate and as a citizen. While most law students are lucky to have three legal experiences during law school, Lucy had seven. She worked as a legislative assistant in Oregon's Government and Community Relations office, traveled to Washington DC to work as Senator Ron Wyden's legislative fellow for a summer, served as a law clerk for the Oregon School Boards Association, the Umpqua Valley Public Defender, and OPB, and clerked for a juvenile court judge in Linn County. She also managed to continue working part-time at the restaurant, and to volunteer as a middle school mentor to a Eugene public school student and as a Girls Inc. after-school group leader.

After law school, Lucy served as a judicial clerk for Chief Judge James C. Egan on the Oregon

Court of Appeals. Apart from drafting opinions and dissents, Lucy led the Court of Appeals to victory at the annual kickball tournament with the Oregon Supreme Court. She also was finally convinced by one of her legal mentors to train for - and complete - a marathon.

Just before entering private practice, Lucy joined the YLS Service to the Public Committee. She was eager to hit the ground running with the committee, as it provides essential opportunities to facilitate connections between the legal community, local schools, and other public service-focused groups. Lucy is known for finding creative ways to resolve challenging problems. Once the pandemic's stay-at-home phase became permanent, Lucy organized an event for local attorneys to provide potluck-style meals to

Transition Projects' emergency shelters. Before the pandemic, Lucy facilitated the Imprint Program, a pen-pal program between lawyers and students at Parkrose High School, and spearheaded an event for a group of Girls Inc. participants to meet female justices and judges, hear their stories and see first-hand that they, too, can someday earn a seat on the bench. Though this event was postponed, it is back on the schedule for the near future. Lucy is always on the lookout for opportunities to grow connections and relationships between lawyers and students.

For now, like all of us, Lucy is doing her best to stay positive and healthy. For example, her quarantine routine includes doing a regular sprint workout with a neighbor. When she's not running or practicing law, Lucy tries to relax with her



Lucy Ohlsen

dog, Ruth, also known as Ruth Bader DogsBurg or Ruth Bader GinsDog. True to form, though she started her practice as a labor and employment associate, Lucy is always on the lookout for new opportunities to identify issues or problems in other areas of law that she can help her clients solve.

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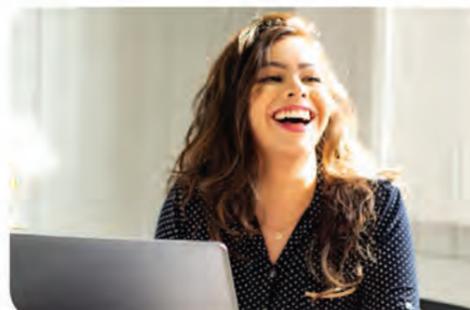
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by Pamela Hubbs
Office and Foundation Administrator



The CourtSupport Navigator is helping our community access the services offered by the court



With help from the legal community, MBF CourtSupport is staffing the information desk in the courthouse lobby with a Navigator to answer basic questions about the court and connect individuals who need accommodations or extra assistance with services and resources within the courthouse. Through this and future projects, CourtSupport will work to close critical funding gaps in areas impacting access to justice and the quality and administration of the legal system.

The MBF is fundraising now for this program. All donors who contribute by December 31 will be acknowledged on the MBA website and in the February 2021 *Multnomah Lawyer*. Donations of \$1,500 or more will be acknowledged on a Founders Plaque in the Central Courthouse.

Please consider a 2020 tax-deductible charitable contribution to CourtSupport. To add your name to the donor list below, see the insert in this issue, contact Pamela Hubbs at pamela@mbabar.org, or visit www.mbabar.org/courtsupport.

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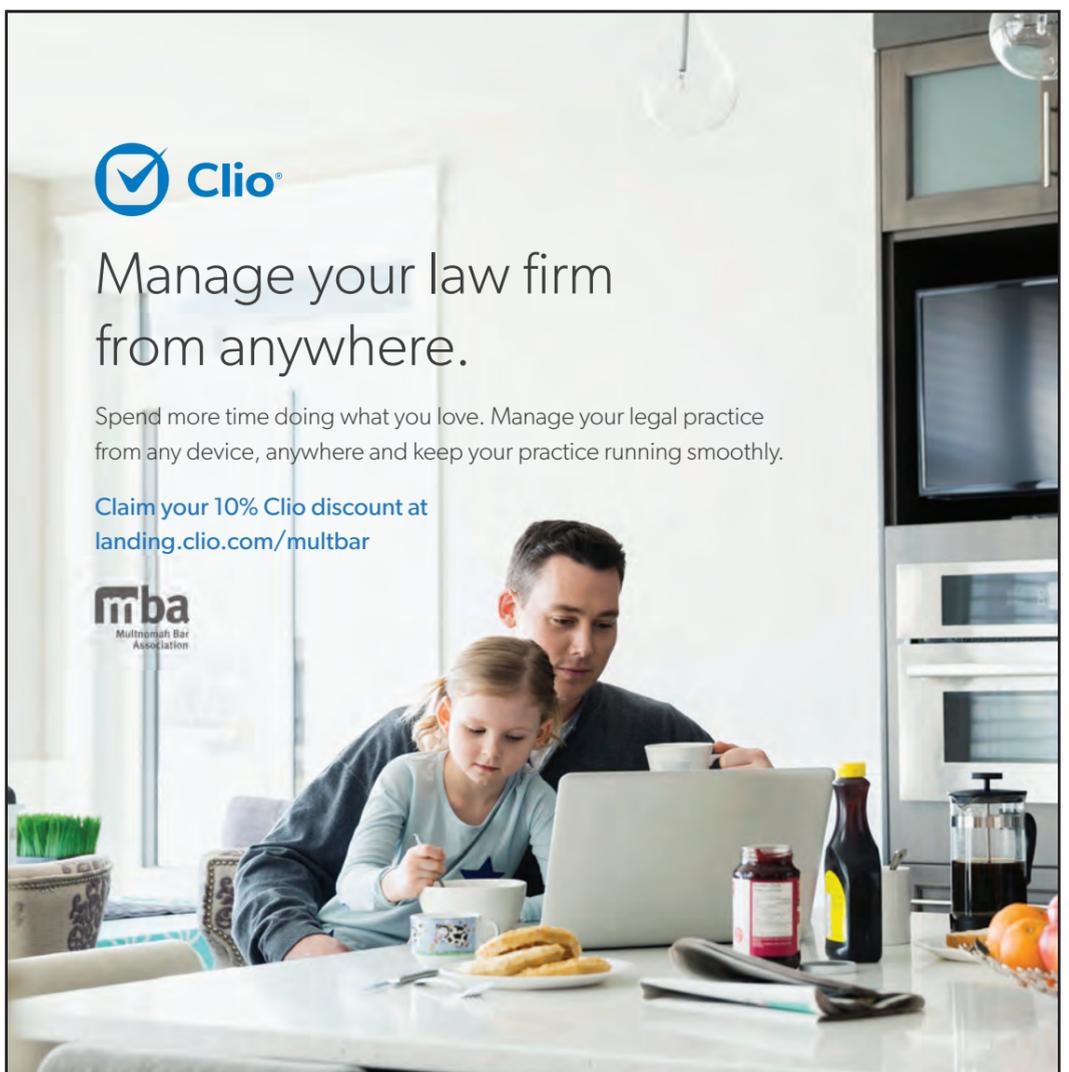
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