

Earning Trust Through Relationships

by Rakeem Washington
Portland Community College and Portland State University



I had only been a juvenile delinquency attorney for a month before my first trial was set, but I didn't need a ton of experience to recognize that the facts were not on my client's side. The District Attorney filed Robbery in the Third Degree, Assault in the Fourth Degree and Criminal Mischief in the Third Degree charges - with various forms of evidence to support them. I negotiated a potential plea deal with the DA that would avoid a

felony charge on my client's (Robert, a 15-year-old, name changed) record, but Robert was unwilling to take the plea. Robert informed me later that he and the victim had a long-running dispute, one which made him too stubborn to admit any guilt at all. So, counter to my advice, we went to trial. Although I didn't think it was the best course of action given the facts, I did the best I could to prepare. Together, Robert and I crafted a trial strategy and met several times to go over our approach. I met with his family several times and learned more about Robert's goals and aspirations. Robert shared the nature of his dispute with the victim and although irrelevant to the case, it did help me understand a bit more about Robert as a person. Over the course of the trial, we called witnesses and cross-examined others, made objections, and filed motions.

During the proceedings, Robert's mother sat stoically in the back of the courtroom as he remained remarkably cool. When the judge asked him to rise so she could deliver the disposition, I felt Robert's tension and anxiety alongside my own. I placed my hand on his shoulder and we both lowered our heads slightly when she found him within the jurisdiction of the court (guilty).

Robert surprised me with what he did next. I expected him to yell or cry - isn't that what I would have done had I been in his shoes? Wasn't he angry? Wasn't he sad? Instead, he leaned over to me, shook my hand and softly said, 'I appreciate you doing everything you could. Thank you.' He *was* angry. He *was* sad. But he was *also* grateful.

The question is: what was he grateful for? We didn't get the outcome we wanted that day, so it clearly had to be something else.

During the disposition hearing, all of the things I learned about Robert and his family while spending time with them suddenly became extremely relevant. Because I could clearly communicate Robert's needs, the judge was able to craft a creative disposition plan that felt like a positive next step for Robert and his family.

Fast forward 11 years to the month and I'm sitting with Trei, a young man at MacLaren Youth Correctional Facility. I am no longer a juvenile delinquency attorney, but still work with justice-involved youth. Trei has been locked up for over seven years. It is immediately

apparent that he sees connections in the world that most miss and I am disheartened that society has not provided adequate recognition for his wisdom. I don't ask him what he did to get sent to MacLaren because that is not important. Besides, we both know a quick internet search would provide that information if that's what I'm really seeking. Instead, we share experiences. He spent time as a youth in Northeast Portland near Woodlawn Park, an area that I know well. Trei, there as a young man of color in the 2000s and 2010s, and I, there as a young man of color in the 1980s and 1990s. Trei's father died when he was a small child, whereas mine was around to make sure I had positive activities for growth and mentors nearby who kept negative influences from distracting me. Both of our mothers worked tirelessly throughout the week to provide for our families; mine made enough in her job that I didn't have to work to take care of younger siblings like Trei did. We talk about the systemic traps that exist for young people of color - like the way education disproportionately sorts out kids of color and discards many into the school-to-prison pipeline. Trei never felt connected to teachers. I learned school can be fun if your basic needs are already met.

Trei refuses to make any excuses for the decisions he's made in his life and he is wholly uninterested in soliciting any form of pity.

But during our conversation, he makes one thing very clear about his experiences with the legal system - he trusted no one in his case. Not the judge, not jurors, not even his own attorney. As a former public defender, his distrust of his attorney struck me most. Trei recounts how he felt the weight of the criminal justice system on his shoulders and how he was unsure if his attorney was actually on his side, or if his attorney was just a cog in a machine systematically designed to grind up young boys of color. In turn, I recall that one of the hardest aspects of being a public defender is finding the time to connect and communicate with clients. He's still upset about how quickly the process moved without him feeling like he got to tell his story. I recall having to actively learn how to listen for more than just the facts of the case, but for the history and emotion of the human being sitting in the chair across from me. He shares how impossible it is for him to trust people he does not have a relationship with. I recall dreadful feelings of inadequacy trying to represent people I did not know very well.

How can we, as attorneys, adequately represent people when we haven't done enough to earn their trust? The attorney-client relationship is incredibly complex in its dynamics and disproportionate in its allocation of power often leaving clients without clarity in the legal process. For those like Trei who have been failed by multiple institutions throughout life, what should attorneys do to ensure that those clients can at least trust those representing them? James Baldwin famously stated, "I love America more than any other country in this world, and, exactly for this reason, I insist on the right to criticize her perpetually." It is in that spirit that attorneys must perpetually criticize legal systems in which we work, especially when working with populations marginalized by those same systems. Our criticism should lead us to action that improves legal systems and to action that improves advocacy for individual clients. And, most importantly, we should be able to *demonstrate* to each of our clients all of these improvements.

Continued on page 15

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mba|CLE

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

MARCH

3-3 Tuesday
Under Oath: Preparing Clients for Depositions
Ron Cheng

3-5 Thursday
Family Law Update
Judge Susan Svetkey
Sarah Bond
Amy Fassler

3-6 Friday
Identifying, Preparing and Examining Expert Witnesses
Judge Judith Matarazzo
Judge Michael Simon
Miranda Summer

3-12 Thursday
Deposing the Organization
Keith Dubanevich
John Dunbar
Beverly Pearman

3-17 Tuesday
Oregon Sales Taxes? The New Oregon and Portland Taxes on Gross Receipts
Nikki Dobay
Dan Eller
Valerie Sasaki

APRIL

4-2 Thursday
Presiding Court Update
Judge Stephen Bushong

4-15 Wednesday
What Kanye Can Teach Us About Litigation
Brent Turman

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SAVE THE DATE!

MBA 114th Annual Meeting, Dinner & Judges Reception

Wednesday, May 13
5-8 p.m.
Portland Marriott
Downtown Waterfront
1401 SW Naito Parkway

Sponsorship opportunities available.
Contact Kathy at the MBA at 503.222.3275.

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The *MULTNOMAH LAWYER* is published 11 times per year by the Multnomah Bar Association, 620 SW Fifth Ave. Ste. 1220, Portland, OR 97204 503.222.3275

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

*or the preceding Friday, if on a weekend.

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Editor: Guy Walden

Advertising: Ryan Mosier

Design: Cyrano Marketing Solutions

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WinterSmash Raises Over \$18,000 for Multnomah CourtCare

by Kathy Modie

Director, Events & Programs

What better way to raise money for a good cause than with an afternoon of family fun, bowling, raffle prizes and a best bowling shirt competition? On Saturday, February 1, over 250 MBA members and their families participated in the MBA's 18th Annual WinterSmash fundraiser at KingPins in Portland.

In the spirit of fun, teams gathered to vie for prizes based on their scores and outfits.

Best team score and the coveted bowling trophy went to the Oregon Court of Appeals - Judge Jodie Mooney Chambers's team, with their top three individual scores combined at 517.

There were a lot of great shirts, but Richardson Wright edged out the competition and won the best shirt prize with their "Pin Droppers" shirts.

The prize winner for highest individual score went to Chris Dokos from the Oregon Court of Appeals team, with a score of 208.

The recipient of the Big Lebowski award - the team with the most participants this year - was Schulte Anderson, with 23 people signed up. Barran Liebman and Richardson Wright also had 20 or more registrants.

WinterSmash benefits Multnomah CourtCare®, the free drop-in childcare program for children of parents who have no other alternative than to take their children with them to court.

Thank you to Barran Liebman LLP for sponsoring the food and beverages this year, and to all our sponsors and participants. Thank you also to the Events Committee, chaired by Tony Kullen, for planning such a great event. Thank you, Rebecca Cambreleng, Chris Fanning, Tony Kullen, Mindy Stannard, Paul Thompson and Dawn Winalski for volunteering at the event.

King Pin Sponsor



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Wild Roots Tasting Room



Oregon Court of Appeals - Judge Jodie Mooney Chamber's team

Calendar

MARCH

5 Tuesday
YLS Social
Details on p. 8

13 Friday
OWLS Roberts & Deiz Awards Dinner
www.oregonwomenlawyers.org/roberts-deiz-awards-dinner

31 Tuesday
YLS & ONLD March Drop-In Social
Details on p. 13

APRIL

2 Thursday
CEJ Justice Trivia
www.cej-oregon.org/events
Details on p. 13

22 Wednesday
YLS Judges' Reception
Details on p. 13

MAY

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

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

21 Thursday
Objection! Poetry Slam
www.mbabar.org/poetryslam



Barran Liebman team



Richardson Wright team



Schulte Anderson team



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.

Under Oath: Preparing Clients for Deposition

Tuesday, March 3 12-1:30 p.m.

World Trade Center, Mezzanine

Members \$45/Non-Members \$70

Note: 1.5 hours of general OSB MCLE credit will be applied for.

Ensuring that a client arrives well-prepared for deposition and provides accurate and complete testimony is one of the most important things a civil litigator can do to protect their client's interests. Ron K. Cheng, Of Counsel at Kaplan Law LLC, will discuss practical, ethical, and strategic considerations that go into preparing clients for depositions, as well as offer tips and advice on how to give clients the tools they need to give their best testimony.

For more information: Contact Angela Ferrer, Buchanan Angeli Altschul & Sullivan LLP, at 503.974.5015. For registration questions, contact the MBA at 503.222.3275.

Family Law Update

Thursday, March 5 3-5 p.m.

World Trade Center, Auditorium

Members \$60/Non-Members \$95

On March 5, the MBA will hold its annual two-hour Family Law Update. Multnomah County Chief Family Court **Judge Susan Svetkey** will be joined by **Sarah Bond** of Zimmer, Bond, Fay & Overlund and **Amy Fassler** of Schulte, Anderson, Downes, Aronson & Bittner. Our speakers will provide family law practitioners with information on changes, updates, and reminders regarding Multnomah County Family Court procedures and practices, as well as valuable updates on appellate case law, including the most recent spousal support cases.

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

Identifying, Preparing and Examining Expert Witnesses

Friday, March 6 1-3 p.m.

World Trade Center, Sky Bridge Room

Members \$60/Non-Members \$95

This CLE will review the entire process of an expert's mission, from the initial report drafting to trial cross-examination, highlighting issues and concerns of the case, the expert's professional and personal perspectives, and their independent opinions. We will discuss preparing for, conducting and defending a Daubert hearing and challenge; preparing your expert to testify at a deposition and trial, and in deposing opposition experts; and mastering direct and cross examination of experts at trial (including do's and don'ts). This CLE will be of interest to all litigators and in-house counsel. **Judge Michael Simon**, US District Court, **Judge Judith Matarazzo**, Multnomah County Circuit Court, and **Miranda Summer**, Summer Family Law, LLC, will present this CLE.

For more information: Contact Justice Brooks, Cable Huston LLP, at 503.973.0653. For registration questions, contact the MBA at 503.222.3275.

Deposing the Organization

Thursday, March 12 3-5 p.m.

World Trade Center, Mezzanine

Members \$60/Non-Members \$95

John Dunbar, Dunbar Law LLC; **Beverly Pearman**, Port of Portland and **Keith Dubanevich**, Stoll Berne PC will teach you strategies for taking and defending depositions under FRCP 30(b)(6) and ORCP 39C(6). These three experts will provide plaintiff, defendant, in-house, and government perspectives.

For more information: Contact Adrian Brown, Chair, CLE Committee, at 971.221.6237. For registration questions, contact the MBA at 503.222.3275.

Oregon Sales Taxes? The New Oregon and Portland Taxes on Gross Receipts

Tuesday, March 17 3-5 p.m.

World Trade Center, Mezzanine

Members \$60/Non-Members \$95

In 2019 and 2020, Portland and Oregon will impose new gross receipts taxes: the Clean Energy Surcharge (CES) and the Corporate Activity Tax (CAT), respectively. Join speakers **Nikki Dobay**, Senior Tax Counsel at Counsel On State Taxation (COST), **Dan Eller**, Shareholder at Schwabe Williamson & Wyatt, and **Valerie Sasaki**, Partner at Samuels Yoelin Kantor who will discuss how these taxes operate, some technical aspects such as tax rates, registration requirements, apportionment and exemptions, and whether Oregon is on its way to a state wide sales tax.

For more information: Contact Samuel Grosz, Attorney at Law, at 503.676.3800. For registration questions, contact the MBA at 503.222.3275.

Presiding Court Update

Thursday, April 2 3-5 p.m.

World Trade Center, Auditorium

Members \$60/Non-Members \$95

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 503.222.3275.

What Kanye Can Teach Us About Litigation

Wednesday, April 15 12-1 p.m.

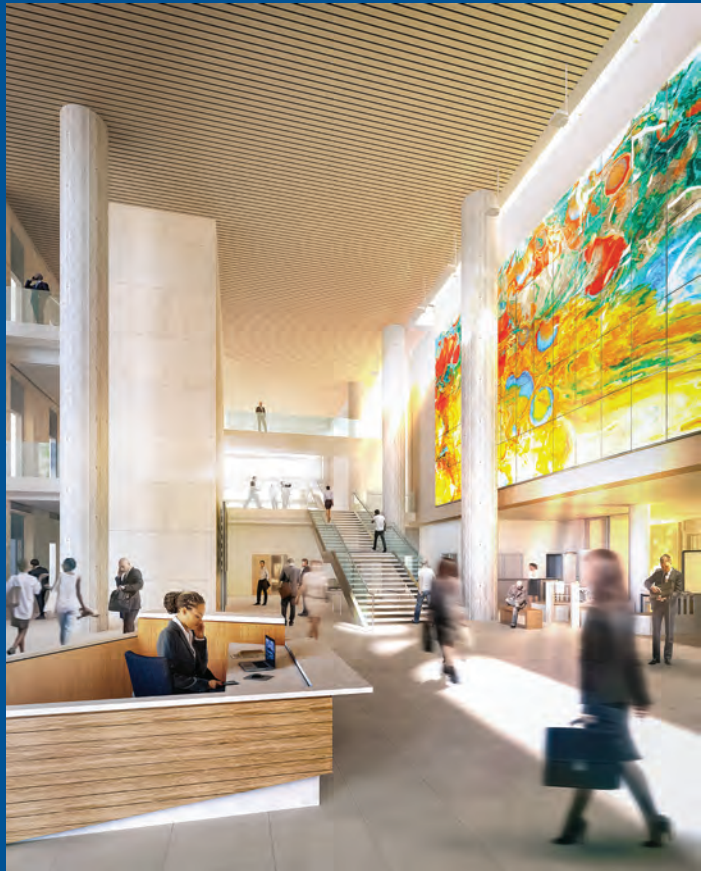
World Trade Center, Mezzanine

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 503.222.3275.



Support MBF CourtSupport and Increase Access to Justice

Through CourtSupport, the MBF will develop and fund projects designed to assist community members navigating courts in Multnomah County. The initial goal is to place a Navigator at the information desk in the lobby of the new Central Courthouse. The Navigator will serve community members entering the courthouse by answering basic questions about the court and connecting individuals who need accommodations or extra assistance to services and resources within the court. 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.

Donors will be recognized at all levels of giving, including recognition on a plaque in the new courthouse with a donation of \$1,500 or more. Visit www.mbabar.org/courtsupport or contact Pamela Hubbs (503.222.3275, pamela@mbabar.org) to learn more or make a charitable donation.



Have you renewed your health plan?



Consider MBA Health Plans for Your Firm

New Competitive Rating Model

The MBA Health Plan has adopted a new rating model, which may make MBA premiums more competitive for your firm than they have been in the past. Plans include medical, dental and vision. Any law firm located in Oregon or Clark County, WA with at least one W2 employee is eligible to enroll. Enrollment is offered year-round.

Contact Aldrich Benefits for a quote on the MBA Plans.

Contact

Steve Doty
sdoty@aldrichadvisors.com

Janos Bodnar
jbodnar@aldrichadvisors.com

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CLE Registration Form

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

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Seminar Selection:

Please select the seminar(s) you wish to attend. Written materials for each class are included with registration. Pre-registration with payment is required to reserve a space; at-the-door registrations are accepted if space is available.

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- 3/5 Family Law Update**
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- 3/6 Identifying, Preparing and Examining Expert Witnesses**
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- 3/12 Oregon Sales Taxes? The New Oregon and Portland Taxes on Gross Receipts**
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- 4/2 Presiding Court Update**
 Class Registration (\$60 Members/\$95 Non)\$_____
- 4/15 What Kanye Can Teach Us About Litigation**
 Class Registration (\$30 Members/\$50 Non)\$_____

Total due\$_____

Unable to attend?
 Live and archived webcast options are available
 at www.mbabar.org/cle

Why Your Firm Should Consider the MBA Health Plan

New Rating Model Makes Premiums More Competitive

by Steve Doty
Aldrich Benefits, LP

The MBA Health Plan recently changed to a new rating model that allows the offered plans to be more competitive than they have been in the past. This change allows the plans to rate groups in the same manner that all groups are rated in the open market. Under this new rating model,

the MBA is able to offer rates that are more competitive with rates offered by carriers directly to employers and will also help stabilize the rates for MBA groups for future years.

Firms who have used the MBA Health Plan in the past should consider requesting a

proposal; they may find that the rates are better than under the old rating model.

The MBA has offered member-negotiated, customized medical, dental and vision plans for law firms for more than 40 years. Any law firm in Oregon or Clark County, Washington, with

at least one W2 employee, other than the attorney or the attorney's spouse, is eligible to enroll.

The MBA offers a choice of 10 medical plans, including three HSA plans, with Providence and Kaiser, three dental plans with MODA, Willamette Dental and Kaiser and two vision plans with Vision Service Plan and Kaiser. Each employee can select any of the plans offered, allowing participating MBA members to offer more choices than normally available to law firms who purchase their plans directly from insurance carriers.

Enrollment is available year-round. All medical plans satisfy all of the requirements of the Affordable Care Act. The plans are all "guaranteed issue" and

there are no limitations for pre-existing conditions.

The MBA partners with Aldrich Benefits to provide administrative services. Each firm receives one invoice and makes one payment, regardless of the number of different plans offered. Employers have the option of using an online portal to handle enrollment and changes. Aldrich Benefits also provides free COBRA administration to all firms, regardless of their size.

If you would like a proposal for your firm, contact Aldrich Benefits, LP:

Steve Doty, 503.716.9328
sdoty@aldrichadvisors.com

Mike Berry, 503.716.9390,
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Oregon Lawyer Chapter Annual Dinner
March 27, 2020
Portland City Grill
6 to 9 p.m.

<https://www.acslaw.org/event/acs-oregon-2020-annual-dinner/>

		
Keynote Speaker City Commissioner	Rising Star Award Recipient	Hans A. Linde Award Recipient
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Professional Liability Fund

Free Conference Room Space in Portland

The Professional Liability Fund is offering Oregon lawyers free use of a conference room located at 520 SW Yamhill Street, Suite 1025, Portland, Oregon. To reserve this space and learn more details about this free conference room space, go to the PLF website, www.osbplf.org, and click on Practice Management, then Oregon Lawyers' Conference Room.



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 yim_you@ord.uscourts.gov.

Conference Room Available to MBA Members

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

OMLA Annual Summer Social and Fundraising Auction

In OMLA's 20th Annual Summer Social and Fundraising Auction thank you ad in the December 2019 issue of the *Multnomah Lawyer*, OMLA inadvertently left out the OSB Criminal Law Section as a Patron sponsor. OMLA offers its apologies.

Commitment to Professionalism

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

Noontime Rides

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

Pro Bono Volunteers

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

Daniel Bonham
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Ian Simpson
Joshua Stadler
Adam Starr
Evans Van Buren
Aaron Varhola
Lauren Walchli
Darin Wisehart

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

Ethics Focus

Get It In Writing: Fixed Fees "Earned Upon Receipt"

by Mark J. Fucile
Fucile & Reising LLP



Ten years ago this fall, the OSB proposed and the Oregon Supreme Court adopted a specific set of rules - RPCs 1.5(c) and 1.15-1(c) - governing fixed fees paid in advance and deemed "earned upon receipt." RPC 1.5(c) permits them subject to very specific written disclosures. RPC 1.15-1(c), in turn, exempts them from being deposited into trust - provided the lawyer complied with RPC 1.5(c). Neither rule limits the practice area where this fee model can be used. It is most commonly used, however, where the costs of a particular set of tasks is predictable, overhead throughout the representation is constant and the underlying dynamic favors a single "up front" payment.

When the OSB Board of Governors proposed this set of rules in advance of the 2010 House of Delegates meeting, it noted that the Oregon Supreme Court had long made clear that this fee structure was only permitted when done in writing and that clients were entitled to at least a partial refund if all of the work contemplated was not performed. Nonetheless, the Board observed: "Notwithstanding the clear language in the cases..., the foregoing principles are elusive to many practitioners." The Board reasoned that, in essence, "hard-wiring" these elements into the RPCs would hopefully make the requirements both more accessible and easier to follow.

The 2010 amendments have likely achieved those goals for many lawyers. Nonetheless, OSB

disciplinary statistics suggest that - at least for some - the principles involved remain "elusive." In this column, we'll first revisit the rules and then survey the consequences of failing to comply with what are now "black letter" requirements.

The Rules

RPC 1.5(c) sets out the basic standards for fixed fees that are paid in advance and are considered "earned upon receipt." "A lawyer shall not enter into an arrangement for, charge or collect:

...
 "(3) a fee denominated as 'earned on receipt,' 'nonrefundable' or in similar terms unless it is pursuant to a written agreement signed by the client which explains that:
 "(i) the funds will not be deposited into the lawyer trust account, and
 "(ii) the client may discharge the lawyer at any time and in that event may be entitled to a refund of all or part of the fee if the services for which the fee was paid are not completed."

...this fee structure was only permitted when done in writing and that clients were entitled to at least a partial refund...

RPC 1.15-1(c) then exempts such fees from being deposited into trust:

"(c) A lawyer shall deposit into a lawyer trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred, unless the fee is denominated as 'earned on receipt,' 'nonrefundable' or similar terms and complies with Rule 1.5(c) (3)."

OSB Formal Opinion 2005-151, which was revised in 2011 to reflect these amendments and which is available on the OSB website, discusses both the "mechanics" of using this model and the need to refund any fees collected but not earned if the work involved is not completed as agreed. The OSB Fee Agreement Compendium, which was updated in 2018 and which is also available in the members section of the OSB website, includes a model fee agreement complying with these rules.

Failing to Comply

There are two central consequences of failing to follow these rules: lawyer discipline and a fee arrangement that is likely unenforceable - leaving the lawyer with at most a *quantum meruit* remedy measured by what was actually accomplished.

On the former, several decisions this past year in the OSB Disciplinary Reporter series, which is also available on the OSB website, included instances where the lawyers involved had used written fee agreements - but they did not contain the language required by RPC 1.5(c) (*see, e.g., In re Bottoms*, No. 19-03 (Mar. 1,

...handling client funds is a particularly sensitive area in the regulatory realm.

2019); *In re Ramirez*, No. 18-181 (Jan. 11, 2019)). The very clarity of the rule doesn't leave much room for a defense of "substantial compliance." Failure to meet the requirements of RPC 1.5(c) means that the lawyers involved also likely failed to comply with RPC 1.15-1(c) by depositing the advance payments into their general business accounts rather than into trust (*see, e.g., In re Naranjo*, No. 18-193 (Mar. 13, 2019); *In re Olsen*, No. 18-131 (Apr. 3, 2019)). If the lawyer collects such a fee, does not complete the work covered and fails to return at least the unearned portion, then the lawyer is also at risk of being charged with attempting to collect a "clearly excessive" fee in violation of RPC 1.5(a) (*see, e.g., In re Heydenrych*, No. 18-168 (June 26, 2019)). Although the discipline imposed in any given case turns on its individual facts, handling client funds is a particularly sensitive area in the regulatory realm.

On the latter, fee agreements that fail to comply with mandatory requirements are at risk of being found unenforceable. In *Bechler v. Macaluso*, No. CV 08-3059-CL, 2010 WL 2034635 (D Or May 14, 2010) (unpublished), for example, a contingent fee agreement that failed to comply with the disclosures required by ORS 20.340 was held unenforceable - leaving the lawyer with only a *quantum meruit* remedy. By analogy, a fee agreement that does not comply with the disclosures required by RPC 1.5(c) is equally at risk of being found unenforceable.



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Finds clowns unnerving

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Bryana joins us as a battle-tested lawyer with extensive courtroom experience. She has exceptional trial skills and drive to tackle complex litigation cases. We are thrilled to have her on our team.

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Around the Bar



Steven Cade

Williams Kastner

The firm is pleased to announce that **Steven Cade** has become a member in its Business Litigation Practice Group. Cade's practice concentrates in the areas of commercial litigation, construction law, products liability, and transportation law. He also advises both insurers and insureds on insurance coverage issues. Notably, Cade assisted in prosecuting a multi-million dollar products liability case on behalf of a construction client.



Elizabeth Falcone

Ogletree Deakins

Elizabeth (Liz) Falcone, an attorney in Ogletree Deakins' Portland office, has been elected equity shareholder at the firm. Falcone represents private and public employers in all aspects of employment law, including wage & hour matters, wrongful termination, discrimination, and harassment litigation. Falcone earned her JD from New York University School of Law.

Stoel Rives

The firm is proud to announce that it received a score of 100 percent on the Human Rights Campaign Foundation's 2020 Corporate Equality Index (CEI), the nation's premier benchmarking survey and report measuring corporate policies and practices related to LGBTQ workplace equality. Stoel Rives is among more than 680 major US businesses that earned top marks this year.

Foster Garvey

Kara Stoddart has joined Foster Garvey PC as an associate in the firm's Trusts, Estates & Charitable Organizations group in Portland. She is a fiduciary litigator with extensive experience representing individuals, trusts companies and nonprofit organizations in a wide range of complex trusts and estates disputes. Stoddart is also an experienced commercial litigator who advises clients in a variety of business disputes.



Kara Stoddart



Kimberlee Stafford

Tonkon Torp

Partner **Kimberlee Stafford** has been elected as Chair of the Board of Directors for The Street Trust. The Street Trust is a nonprofit organization that promotes community partnerships to improve public transit, walking and bicycling conditions in Oregon. Stafford joined the organization's board of directors in 2017.

Throughout her career, Stafford has advocated for the integration of sustainable ideas and practices into the profession of law. She is a member of the OSB Sustainable Future Section Executive Committee, and in 2015, was presented with the OSB President's Sustainability Award.

Stafford's practice focuses on a wide range of commercial real estate transactions, including purchases and sales, 1031 exchanges, commercial leases, and financing. She represents a diverse group of businesses, owners, and developers, with a special emphasis on the forest products, energy, agricultural, and seniors housing industries.



Karen Hobson

Karen Hobson has joined the Estate Planning Practice Group. Hobson comes to Tonkon Torp from Lane Powell PC.

Hobson, who has practiced in areas of tax, estate planning, and administration since 2008, is experienced in providing Oregon and Washington clients with the full array of planning and administration services. She regularly advises clients on tax planning strategies to minimize state and federal transfer taxes

through the use of charitable vehicles, grantor trusts, and limited liability companies. Hobson also has experience advising on pre-formation planning, entity formation, and corporate governance issues - expertise that ideally complements her planning practice for those clients with sophisticated business succession goals.



Jonathan Edwards

Jonathan Edwards

Jonathan Edwards is a new member of the MBA. He has spent the last six years as the general counsel for Francis Marion University, in Florence, SC, where he also teaches Business Law. He is now preparing to move to Portland, where he looks forward to pursuing a role as general counsel, and hopefully to continue teaching as an adjunct.



Maya Rinta

Albies and Stark LLC

The firm is pleased to welcome **Maya Rinta** as our associate attorney. Rinta represents individuals in employment and civil rights litigation, and is a passionate and committed advocate for people treated unfairly by employers and the government. In addition to private practice, she has provided legal services through the Legal Aid Low Income Taxpayer Clinic, the Metropolitan Public Defender's Community Law Office, the Lewis & Clark Criminal Justice Reform Clinic, and the National Lawyers Guild. Rinta enjoys collaborating with clients to determine the best strategy and outcome for each individual person. She is committed to helping build a just society where everyone is treated with dignity and respect. Rinta grew up in Oregon and has lived and worked here for most of her life.

Miller Nash Graham & Dunn LLP

Experienced bankruptcy and creditors' rights attorney **Garrett Ledgerwood** has joined the firm's Portland office. Ledgerwood brings with him extensive experience in representing lenders and creditors in bankruptcy, collection actions, loan modifications and workouts, nondischargeability proceedings,



Garrett Ledgerwood

foreclosures and receiverships, as well as borrowers in a variety of financing transactions.

Before joining Miller Nash Graham & Dunn, Ledgerwood practiced at an international law firm on Wall Street, where he gained extensive experience in representing multinational commercial banks, private equity lenders and hedge funds in insolvency and commercial lending transactions.



Erica Glaser

Erica C. Glaser

Erica C. Glaser has been admitted to the National Academy of Distinguished Neutrals and now has an online calendar to schedule mediations and arbitrations at www.ormediators.org/erica-glaser.

Glaser continues to serve as a panel member in UM and UIM binding arbitrations as well as mediating a variety of civil litigation matters.



Christine Moore

Richardson Wright

Richardson Wright is pleased to announce that **Christine Moore** has joined the firm as a partner. Christine's practice focuses on aviation, appeals, and civil litigation. Moore is licensed to practice in Oregon, Washington and Nevada and has pro hac in jurisdictions across the country. She has pursued appeals in the state appellate courts for Oregon, Washington and Nevada as well as the Ninth Circuit. Moore is Chair of the OSB's Appellate Section and has served on the executive committee of that section for several years. Moore is a member of the Oregon Rules of Appellate Procedure committee and active in the Oregon Trial Lawyers Association, serving on its Board of Governors and the amicus committee. Moore brings 18 years of experience to Richardson Wright and we welcome her to the firm.

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.

mba yls | EVENT

YLS Social

Thursday, March 5

5-7 p.m.

Troutman Sanders LLP

100 SW Main St., Ste. 1000, Portland

MBA members are invited to Troutman Sanders LLP to catch up with friends and make new acquaintances.

In addition, Multnomah Bar Foundation Vice President Mackenzie Hogan and other foundation leaders will be on hand to share details about CourtSupport, the MBF's latest project.

This is a free event, with food and beverages provided.

Thank you to Troutman Sanders LLP for sponsoring and hosting this event.



Please RSVP to mba@mbabar.org.


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Tips From the Bench

The Times They Are A-Changing

by Judge Shelley D. Russell
Multnomah County Circuit Court



As we rush into this century's "Roaring 20s," make our New Year's resolutions, and prepare for the move into the new Central Courthouse later in the year, I thought it would be appropriate to reflect on how litigation and courtroom decorum have changed over the course of our careers. Gone are the days when nearly every professional person in the courtroom was a white male, when women litigators were required to wear skirts in court, and live human court reporters were the standard way to record court proceedings.

Our courtrooms are now more diverse than ever in more ways than ever, and that is a good thing. We serve an ever-evolving population of citizens of Oregon, and we are making every effort to keep up by adapting the way we do things to accommodate everyone. When litigants appear before us, we want to ensure that they are treated respectfully, that we refer to them by their preferred pronouns, that we provide our services in a language they understand, and that our courtrooms are as accessible as they can be. We are learning how to recognize our own implicit biases to ensure we are cognizant of them and addressing their impact on our interactions with those who appear before us.

Other changes are reflected in expected courtroom decorum. Many judges no longer require counsel to request permission to move about the courtroom during voir dire, opening statements, witness examination, and closing arguments. Many judges no longer require the removal of head coverings, and UTCR 3.010(1) allows head coverings if they are required by an individual's religion. And, thank goodness, women can wear pants. UTCR 3.010(2).

Some changes, however, are not welcome, such as the perception that litigators are increasingly exhibiting less than professional behavior toward (perhaps just the newer members of) the bench. Judges do compare notes about the behavior of the attorneys appearing before us, good and bad. We of course welcome lawyers to zealously and forcefully advocate for their client's legal position, but not at the expense of professionalism. Many of us have observed advocates in our courtrooms pulling faces, shaking heads, rolling eyes, and even verbally

reacting to our rulings. UTCR 3.150, requiring that all persons present in the courtroom refrain from visibly or audibly reacting to a verdict in a disruptive manner, is instructive - if you shouldn't do it in response to a verdict, you shouldn't do it in response to a ruling. Keep in mind the judge is doing her job and making the best decision she can in that moment. Rather than angrily challenging the judge or questioning her ability or knowledge of her job, counsel may find it more effective to identify your most persuasive legal authority and/or factual support for your position, provide it to your judge for her consideration, say "Thank you, your Honor," and sit down. If you "wholeheartedly disagree" with a ruling or believe that "no other judge in the entire history of the State of Oregon has made such a ruling," or think your judge has not done their job, the appellate courts of Oregon are happy to entertain your appeal.

Judges expect civil, professional treatment of others in the courtroom as well. Judges notice how litigators appearing before them treat the judge's staff, opposing counsel, witnesses, and the attorney's own support staff such as associates and technicians. Inappropriate things judges have seen occur include demanding that the judicial clerk make copies, needlessly haranguing a witness after receiving a warning from the bench, dismissing or admonishing associates during their argument, and throwing shade at opposing counsel during motion arguments. While thankfully rare, these behaviors do not make a good impression on the court and do more to harm than help your case.

Still more changes are just around the corner. When we finally relocate to the new courthouse in July 2020, we will experience many changes in how we do things. Some of the highly anticipated changes include state-of-the-art technology in every courtroom with two large wall-mounted monitors for videoconferencing and evidence presentation, powered HDMI plug-ins at the counsel tables, amplified sound, and vastly improved acoustics. Attorneys will have access to small client counseling rooms at the back of each courtroom. In-custody defendants will no longer be brought through public areas of the courthouse, but will instead be brought through secure elevators to holding cells between the courtrooms. A new courthouse resource area through which the public and attorneys can access court records, forms and other information will make navigating the system easier.

Continued on page 16

News From the Courthouse



by Michael Yates
Court Liaison Committee

Presiding Judge's Report and Courthouse Update

Updates from Presiding Judge Bushong and Trial Court Administrator Barbara Marcille

New Courthouse News

The opening of the new Central Courthouse is scheduled for Monday, July 20. Its official address is 1200 SW First Avenue, Portland, Oregon 97204. The last day of court business in the old courthouse will be Tuesday, July 14, and the old courthouse will be closed Wednesday, July 15 through Friday, July 17 to accommodate the move. The Justice Center, Juvenile Court, and East County Court will each be open those days. During this time, dockets for some essential matters (for example, restraining orders, immediate danger issues, etc.) may be scheduled at the other courthouses. The court is currently working on those details. Courtrooms in the new courthouse have been assigned to judges, and that information will be made public soon. Presiding Court will be in Courtroom 7A on the 7th floor. Trial call/assignment day will be in the old courthouse on Tuesday, July 14, for trials that begin on Monday, July 20.

New Referee. If the Supreme Court approves him as a pro tem judge, Eric Lentz will replace retired referee Steve Todd. Referee Lentz is expected to start in March.

Revised Hours. Due to budgeting issues, the Sheriff has revised facility operating hours for the current downtown courthouse. The building will now be open at 7 a.m. and doors will be locked at 5 p.m. All visitors will need to be out of the courthouse by 6 p.m. Anyone in the courthouse after 6 p.m. will have to be personally escorted out by court staff or judges as the front doors will be locked.

Courthouse Security and Emergency Preparedness. ORS 1.180 provides for the appointment of an Advisory Committee on Court Security and Emergency Preparedness to develop a two-year plan for courthouse security. The plan adopted beginning July 1, 2019, addresses security in the current courthouse, not the new courthouse. Judge Bushong has reconvened the Advisory Committee to consider whether any amendments to the current plan

are needed for the new courthouse. The Advisory Committee met in January, and is scheduled to meet monthly until the security issues are resolved. In addition to security in the new courthouse, the committee may address concerns regarding delays in transporting in-custody defendants to a courtroom. Transport delays are exacerbated when there are trials requiring extra security, such as the recent Jeremy Christian trial. On any given day, there are roughly 30 to 60 people on the in-custody list who need to be transported to a courtroom. Membership on the Advisory Committee is set by statute. MBA President, Sarah Radcliffe, represents the bar.

New Courthouse Access. Attorneys will likely require a new identification badge to enter the new courthouse. Details on how attorneys can obtain an expedited access ID badge for the new courthouse will be announced in the near future.

Civil Tips

Trial Dates. Trial dates for civil cases are set at the Trial Readiness Conference (TRC); those dates should be treated as "firm," subject to change only for good cause such as an emergency that could not have been anticipated at the time of the TRC. Attorneys requesting to reschedule a trial date selected at a TRC for good cause must request a scheduling conference with the presiding judge. The court will not grant a setover at morning call or at ex parte.

Please, No Double-Sided Documents. Because all files are maintained electronically, all documents submitted to the court for filing must be scanned into the court's case management system. It is more time-consuming for court staff to scan double-sided documents, and back sides of pages are easily missed. The better practice is to submit single-sided documents. Although this is not currently specified in the rules, the court may promulgate a Supplemental Local Rule (SLR) to address this problem.

Fridays are Motion Days. Trials are held generally Monday through Thursday, with Fridays reserved for hearings on motions, judicial settlement conferences, and other short matters. Attorneys requesting a motion hearing should plan on having the hearing on a Friday, as Mondays through Thursdays are reserved for trials.

Attorneys requesting to have a trial continue on a Friday must notify presiding court of that request six weeks in advance of the trial to give the court sufficient time to clear a judge's docket.

Trials Lasting Five Days or Longer. A reminder: under SLR 7.055(14), if a trial is expected to last five days or longer, you need to send a letter to the presiding court at least six weeks in advance so the court can find an available trial judge. The letter should indicate whether the parties are requesting trial on one or more Fridays. Don't wait until morning call and report "ready" for a five- or six-day trial.

If Your Case Settles. Another reminder: if the case settles before call, please notify presiding court. There have been an increasing number of cases on the civil "call" docket that presumably resolved because no one appeared at call or contacted the court. If that happens, the court will dismiss the case for want of prosecution/failure to appear at call.

UTCR 7.020(2) and (3). The court notifies attorneys before dismissing a case under UTCR 7.020. If an attorney receives one of those notices and does not want the case dismissed, the attorney should request a Rule 7 continuance. Otherwise, the court will enter a Judgment of Dismissal, and the attorney will have to satisfy the requirements of ORCP 71 for obtaining relief from judgment (and pay the required fee).

Summary Judgment. The court's revised SLRs went into effect February 1. It has been a long-standing practice in this court to assign summary judgment motions to a pro tem judge. The court greatly appreciates the assistance of its pro tem judges - all approved by the Supreme Court - in handling this important work, but has allowed parties to request a sitting circuit court judge. Under new SLR 5.016, a party requesting to have a summary judgment motion heard by a circuit court judge instead of a pro tem judge must make a timely request to reschedule the hearing before a sitting circuit court judge. The Attorney Reference Manual has appropriate forms. To be timely under the new SLR, the motion to reschedule must be presented at ex parte within five calendar days of the initial assignment to a pro

Continued on page 15

The Honorable Angela Franco Lucero Multnomah County Circuit Court Judge

by Michael Yates
Court Liaison Committee

On September 16, 2019, Judge Lucero was sworn in as Multnomah County's then-newest Circuit Court Judge, and immediately began her duties for an overworked court which has seen a spate of retirements. She took over Department 11 for retiring Judge Kenneth Walker. Judge Lucero's public investiture occurred on November 22, 2019, in the chambers of the Portland City Council at City Hall before a packed crowd of family, friends, and colleagues, including this author. The mood was festive and uplifting. With Judge Lucero, the Multnomah County Circuit Court gained a person of color with a rich cultural background and an experienced trial lawyer with an astute legal mind.

Judge Lucero was born 41 years ago in Las Cruces, New Mexico, where she lived until she departed for Portland to attend law school at Lewis & Clark in 2000. Diversity and culture have been hallmarks of Judge Lucero's life. New Mexico is one of two states (Hawaii being the other) where the non-Hispanic white population is a minority. Judge Lucero is of Mexican descent on her father's side and of Mexican-Irish descent on her mother's side. Her family's roots in the community run deep. Her

maternal great-grandparents opened the Palacio Bar in 1936 in the nearby town of Mesilla, where it remains in the family.

Raised Catholic, Judge Lucero attended public school (except Sunday catechism), and comes from a solid working class family which instilled in her the importance of education. Judge Lucero decided to become a lawyer in fourth grade after attending a career day event. A self-described "social butterfly," Judge Lucero was an avid soccer player, was in the marching and concert bands, was in Key Club and was active in her local community.

Judge Lucero attended and graduated from New Mexico State University (Go Aggies!) in Las Cruces. While attending college, she lived at home and worked, eventually earning a double major in criminal justice and Spanish, and a minor in government. It was while attending NMSU that Judge Lucero met her future husband, Leroy Lucero, who is from Las Vegas, NM (the original Las Vegas). Judge Lucero can describe the sometimes subtle cultural differences between Las Cruces, located in southern New Mexico, and Las Vegas, in the northern New Mexico, as a testament to the multitudinal diversity within the Hispanic community.

It became clear that Judge Lucero was destined to become a trial lawyer and trial judge. During law school, she was a member of the Lewis & Clark Honors Moot Court Mock Trial Team. As a law student, Judge Lucero clerked for the legal department at Safeco Insurance Company where she met former OSB President and then Safeco's managing attorney, Tom Kranovich. By the time Judge Lucero graduated from law school and became a member of the OSB in 2003, Tom had left Safeco and opened his own firm. He offered work to Judge Lucero as a contract lawyer, and eventually hired her as an associate. In 2009, Judge Lucero became Tom's partner and the two formed the law firm of Kranovich & Lucero, LLC.

Since being admitted to the bar, Judge Lucero's career has followed two distinctive but parallel tracks. The first is as a trial lawyer, working for and then with Tom Kranovich. Judge Lucero had an active litigation practice, primarily in insurance defense. She advised and represented individual clients (the majority of which were Spanish speakers), insurance companies and public bodies in a wide range of cases involving

property damage, bodily injury and insurance coverage disputes. She handled cases involving complex contractual issues, and a variety of physical, mental and emotional injuries. She also handled cases ranging from minimal monetary exposure to multi-million dollar exposure. As an attorney, Judge Lucero worked hard to maintain a professional reputation for being reasonable and compassionate, while also being well-prepared for trial and a zealous advocate for her clients.

Her second career track has been in service to the bar and her community. A partial list of Judge Lucero's numerous bar and community associations is as follows: Oregon Hispanic Bar Association, Executive Committee, Board of Directors (2015 to present); Oregon Board of Bar Examiners, Vice-Chair (2018), Board of Directors (2015 to present); Oregon Women Lawyers, President (2017-18), Board of Directors (2011-18); Clackamas Women Lawyers, founding member and officer (2008-11); Oregon Minority Lawyers Association, member (2003 to present); Oregon Hispanic Chamber of Commerce, member (2005 to present); Meals on Wheels, volunteer; and DACA Renewal Day, volunteer. Judge Lucero also has spoken on a number of occasions, both within her specialty as a lawyer and on issues of diversity.

In Judge Lucero's private life, she and her husband, Leroy,



Hon. Angela Franco Lucero

are blessed with four-year old Sophia. Judge Lucero's hobbies and passions include rooting for the Timbers and the Ducks, concerts, movies, futsal (similar to soccer, but is played indoors and is much faster), and travel with her family, including the occasional trip back to Las Cruces where she is able to enjoy the best enchiladas in the world.

In her short time on the bench, Judge Lucero has learned that her colleagues are incredibly smart, hardworking and caring individuals who strive daily to make legally sound, fair and just rulings that serve the public. She is appreciative of the tremendous support she has received from her fellow judges who have generously shared their judicial wisdom. As a new judge she is on a steep learning curve. Based on her strong work ethic and commitment to the bar and her community, we know Judge Lucero will easily meet the challenge, and is a welcome addition to our bench.



The Oregon Delegation of the ABA House of Delegates meeting on February 17th at the 2020 ABA Midyear Meeting in Austin, TX. Pictured from left to right: Attorney General Ellen Rosenblum, Traci Ray, Walt Karnstein, Leslie Johnson, Justice Adrienne Nelson, Jovita Wang, Andrew Schpak, and Marilyn Harbur.

The MBA Solo & Small Firm Committee Upcoming Workshop

LAW FIRM DNA: HOW TO MAKE YOUR SMALL/SOLO PRACTICE 100% THAT...EFFICIENT

Wednesday, April 29
Workshop: 12-1:30 p.m.
Red Star Club Room,
503 SW Alder St., Portland

Join **Andrew Altschul** of Buchanan Angeli Altschul & Sullivan LLP for an informal discussion about ways to run a more cost-efficient law office, including practical tips on where to invest (or not invest) your limited resources. Put your time and money where it counts. Andrew has done it all. He began his career at a large firm, transitioned to solo practice and now owns a small employment law boutique firm.

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

Register at www.mbabar.org.

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:
I am a relatively new attorney, and I have a case that is not likely to settle prior to the upcoming trial. Although I have courtroom experience, this will be my first trial. What advice can you offer to help ease my pre-trial anxiety?*

-First Timer

Dear First Timer:

Whether you are approaching your first trial, or your 20th, it is normal to be anxious. You should naturally be concerned about your client's situation, and how to best present your case to a judge or jury. Here are some tips to get through your first trial experience and act effectively on your client's behalf despite the anxiety:

Similar to a law school exam, your odds at trial improve greatly the more you study. Study the facts of your case, and then study them some more. Re-read depositions, discovery, witness statements and pleadings. Review client communications and your notes from client meetings to make sure that you have an accurate idea of what your client hopes to gain from the legal proceeding, as well as an idea of how they may answer questions on the witness stand.

Organize your exhibits and trial materials in a way that you can easily locate key documents, witness contact information, and potential rebuttal exhibits. Make sure you have more than enough copies of all documents you may present to the court, and keep them in order. Even if you are anxious in the courtroom, well-organized trial documents will ease your worry and help you appear calm and collected to a judge and jury. If possible, take time to visit the courtroom prior to the start of trial to familiarize yourself with the room.

Prior to trial, pack a supply box for the courtroom with things you may need during trial that you are used to having available in your office. Think highlighters, a stapler, old-fashioned white-out, and even tissues and cough drops. Bring

your own water, and a stash of snack bars in your briefcase in case you need to work through a break.

Just like getting to know the courtroom, it is equally important to learn what you can about the judge and opposing counsel. Ask around your circle for tips on your opposing counsel's style, and also for any preferences the judge may have regarding providing exhibits and documents to the court. If you have an idea of how the judge and your opponent may act, you can be prepared in advance to respond, lessening your anxiety in the moment.

When crafting your trial strategy and preparing trial pleadings and exhibits, focus on the facts. It is easy to become emotional when trial seems to be moving quickly, and an upset client is beside you at the counsel table. Take careful notes during opposing counsel's examinations, and keep your focus on the facts you hope to prove as witnesses testify. Keeping your mind on the facts instead of the emotions will help you to spot weaknesses in the other party's case.

Make sure that you are dressed professionally and encourage your client to act in an appropriate and respectful manner throughout trial. Be careful to have quiet conversations with your client, and keep emotional reactions out of the courtroom. Knowing that you and your client are presenting well on the outside will go a long way to helping your confidence in addressing the judge or jury.

Finally, understand that no matter how well you plan for trial, there is no perfect trial strategy. There will be surprises, you will make mistakes, and occasionally flat out lose. If you are prepared and do your best for your client, that is success even if the outcome is not what you hoped for, and this learning process will only sharpen your skills as an attorney.

YLS Director Nominees

The YLS Board has approved a slate of four director nominees to join the board as of June 1.



Amelia Andersen

Amelia Andersen earned her JD from University of San Francisco School of Law and was admitted to practice in Oregon in 2015. She practices disability law at the Immigrant and Refugee Community Organization.

Amelia first became active within the YLS when she joined the YLS Service to the Public Committee in 2016, and was appointed committee chair for the current 2019-20 program year. She is also involved with Catholic Charities, where she serves as volunteer and Cultural Navigator.

Anthony Blake is a graduate of Lewis & Clark Law School and was admitted to the OSB in 2016. Anthony is an associate at Markowitz Herbold where he practices business litigation, contract disputes, employment matters and sports law.



Anthony Blake

Anthony joined the YLS Pro Bono Committee in 2017, and presently serves as the committee's chair. Outside of the MBA, Anthony serves on the St. Andrew Nativity School Board of Directors and is a member of the Oregon Trial Lawyers Association.



Peter Tran

Peter Tran earned his JD from Lewis & Clark Law School and was admitted to practice in Oregon in 2013. He practices business, employment and

business immigration law at Immix Law Group PC.

Peter joined the YLS Service to the Public Committee in 2017, served as chair during the 2018-19 program year, and is presently serving on the YLS Board after being appointed to fill a one-year vacancy concluding this spring. Outside of the MBA, he serves on the board of the Portland Fruit Tree Project and on the Advisory Board of the Lewis & Clark Small Business Legal Clinic.



Maxine Tuan

Maxine Tuan attended Lewis & Clark Law School, receiving her JD and joining the Oregon bar in 2015. She practices family law at Wyse Kadish LLP.

Maxine's YLS involvement began as a member of the YLS CLE Committee in 2016, and she presently serves as the committee chair. Maxine is President-Elect of the Oregon Asian Pacific American Bar Association, volunteers with St. Andrew Legal Clinic's Night Clinic Program, and serves as a 1L Mentor with Lewis & Clark Law School.

**Steven Mastanduno
YLS Member Spotlight**

by Kirsten Rush
YLS Board

Steven Mastanduno is a Portland-area native with a sense of adventure. Growing up in Lake Oswego, Steven decided to see a different part of the country for college, attending Skidmore College in upstate New York, where he majored in Philosophy and History with a minor in Asian Studies. After graduating, his sense of adventure and wanderlust led him to China, where Steven taught for two years. In addition to teaching English, Steven also taught classes about western culture and the western world. Steven found that the textbooks didn't always get facts of western culture quite right and he got in a bit of trouble for saying less than positive things about the Communist Party and mentioning facts about China of which his students were otherwise unaware.

Steven returned to Portland after his two-year teaching term and decided to attend law school at Willamette. While Steven had no plans to start his own firm during most of his law school career, in his last semester, he took a class about starting your own practice and was excited by the idea. During bar study, he decided that he would open

his own firm, diving right into the groundwork needed in order to set up his own practice after passing the bar. With his Willamette classmate and friend Nathan Jones, Steven founded Mastanduno Law Group after passing the Oregon Bar in 2015. While he initially started his firm in Salem, the firm soon moved to Portland, setting up shop in Steven's home.

Steven's practice focuses predominantly on family law, but also handles guardianships, probate, trust and estate planning, as well as business and contract matters. While he realizes it was a bit of a gamble starting his own practice out of law school, Steven found that other attorneys were willing to give him advice and be a resource for him. Steven enjoys the flexibility owning his own practice provides and the opportunity to work with a wide variety of clients from different backgrounds, even making house calls to clients who are unable to visit his office.

Upon moving to Portland, Steven got involved with the YLS in order to connect with the Portland legal community and, in particular, joined the Service to the Public committee so that



Steven Mastanduno

he could connect with the greater Portland community as a whole. Now in his fourth year on the committee, Steven has worked to help the committee develop the Objection! Poetry Slam. Steven joined the committee during the last year that it sponsored the YOUTHFILM Project event and has been part of the transition from that event to the Poetry Slam, even extending his initial term on the committee in order to help grow the event. Now in its third year, the committee is continuing to increase the impact of the Objection! Poetry Slam and reach more students interested in participating. This year, the event will take place at Neyborly at 1225 SE Grand on May 21. Interested students are encouraged to contact Steven or committee chair Amelia Andersen for more information.

When he's not practicing law or volunteering with the YLS,

Continued on page 16

Susan Rossiter Dedicating Her Retirement to Pro Bono Services

by Nicole Elgin
YLS Pro Bono Committee

This month's Pro Bono Spotlight features OSB Active Pro Bono Status Member, Susan Rossiter. Sue is originally from Chicago, having earned her bachelor's degree at Wellesley in Massachusetts. After college, Sue began her career in public service by joining VISTA (Volunteers in Service to America). Her VISTA assignment brought her across the country to central California working with the probation department. That work inspired her to go to law school. As she and a friend explored law schools, Sue was able to visit Willamette University and liked the fact that the school was located right in the heart of the state capitol.

At Willamette University College of Law, Sue originally thought she would focus on criminal law, but soon found herself studying under Professor Carlton Snow and studying public sector labor. Following law school, Sue worked for the Oregon Education Association, was a hearings officer for the Employment Relations Board, and then transitioned to working in immigration law. Sue then returned to employment law and worked on the Oregon Employment Appeals Board, serving as the board chair from 2014-17.

While practicing immigration law, Sue was inspired by the generosity of other Oregon immigration lawyers providing

pro bono representation to the underserved. Their work inspired her to begin and continue pro bono work throughout her career. Sue provided pro bono representation to asylum seekers, including representing Haitian refugees in the 1990s and in 2015, traveled to detention centers in Texas to provide pro bono immigration support to those from Honduras, El Salvador and Guatemala.

Since then, Sue has retired, but elected to maintain Active Pro Bono Status through the OSB. This unique form of membership allows attorneys to remain members of the bar at a much lower rate with PLF coverage so long as the attorney provides pro bono services to one of the organizations on the bar's approved list. Sue provides her pro bono services to the Senior Law Project and El Programa Hispano Católico.

Senior Law Project

The Senior Law Project (SLP) is a free legal service offered by the Portland Regional Office of Legal Aid Services of Oregon, with funding from the Multnomah County Aging and Disability Services Department. SLP attorneys help seniors in the community with a variety of legal issues in 30-minute consultation sessions and may continue with representation depending on

Continued on page 16

SBLC Law Day Clinic for LLC Formation

by Ioana Lavric and Hansary Laforest, YLS Service to the Public Committee, and Drew Eyman, YLS Pro Bono Committee

Soon, an exciting event will bring together the Lewis & Clark Law School Small Business Legal Clinic (SBLC) and volunteers from the YLS. On Thursday, April 30, to commemorate Law Day, the SBLC and the YLS will hold an LLC formation clinic at the SBLC in downtown Portland.

Law Day, a national day promoted by the American Bar Association, highlights the pivotal role of law in our society. Traditionally, the YLS Service to the Public Committee has organized events on or around Law Day that are inspired by that year's Law Day theme. This year's Law Day theme is "Your Vote, Your Voice, Our Democracy: The 19th Amendment at 100." In order to celebrate and foster women's empowerment, event planners will focus on serving low-income women entrepreneurs.

The event, named the SBLC Law Day Clinic for LLC Formation, will be a dynamic version of the SBLC's well-established Pro Bono Project. Like numerous clients who are served through the Pro Bono Project on a regular basis, many clients served

through the event will also be immigrants and people of color.

The SBLC will collaborate with organizations like Micro Enterprise Services of Oregon (MESO), Livelihood NW, and the Portland Mercado/Hacienda CDC to recruit over two dozen clients for the event. The SBLC will screen potential clients to determine if they have a strong interest in LLC formation, and will emphasize that volunteer attorneys are only expected to handle basic LLC formation tasks. Meanwhile, the YLS will recruit over two dozen volunteer attorneys and otherwise facilitate the event.

Clients and volunteer attorneys will meet for 55-minute sessions on Thursday, April 30 from 10:30 a.m. to 6 p.m. at the SBLC in downtown Portland. Students from Lewis & Clark Law School will have the opportunity to gain valuable insights into attorney-client interactions by shadowing some of these sessions.

Each volunteer attorney will assist each client with one to four basic LLC formation tasks. These tasks will be: (1) ensuring that an

LLC is the right business entity for the client; (2) filing Articles of Organization with the Oregon Secretary of State; (3) drafting and explaining an operating agreement; and/or (4) filing for an Employer Identification Number (EIN) with the IRS.

Some of these tasks, such as drafting and explaining an operating agreement, may need to be handled after the initial 55-minute session. However, any remaining work may be completed at a later date, to be decided by volunteer attorneys and clients. The estimated time commitment is around four to ten hours, depending on the experience of the volunteer attorney, the number of LLC members and the complexity of the operating agreement.

The SBLC will provide volunteer attorneys with a standard representation agreement used in the SBLC's Pro Bono Project. Volunteer attorneys may use this agreement or their own. Regardless of which agreement is used, the agreement should clarify that the volunteer attorney is only responsible for

UPCOMING YLS EVENTS

YLS & ONLD March Drop-In Social

Tuesday, March 31, 5-7 p.m.
Barlow
737 SW Salmon St., Portland

Don't miss this joint drop-in social with the YLS Membership Committee and the Oregon New Lawyers Division! Join us at Barlow's Jazz Age-inspired lounge for an evening of networking. Appetizers will be hosted. Come unwind after work with friends, colleagues and other young lawyers.

This is a free event, no RSVP necessary. Details at www.mbar.org

Justice Trivia, Presented by the Campaign for Equal Justice and the YLS

Thursday, April 2, 5:30-7 p.m.
Kells Irish Restaurant & Pub
112 SW 2nd Ave., Portland

Help support Oregon's legal aid programs by participating in this challenging and fun, friend-raising, fundraising event. Appetizers will be provided and prizes will be awarded to trivia winners and the best team name!

The suggested donation is \$10 to participate, or \$5 for law students, all legal staff, legal aid and unemployed lawyers. Pre-registration is available at:

www.cej-oregon.org/pdx-trivia



YLS Judges' Reception

Wednesday, April 22, 5-7 p.m.
Schwabe Williamson & Wyatt
1211 SW Fifth Ave Ste 1900, Portland

The YLS invites you to join us at our annual Judges' Reception. This event provides lawyers the opportunity to socialize with members of the bench in a cordial and informal environment. Hors d'oeuvres and beverages will be provided.

Attendance is free, but space is limited - submit your RSVP via email to lauren@mbabar.org or contact the MBA at 503.222.3275.

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



LLC Formation CLE Seminar

Thursday, April 23
5-6:30 p.m.
310 SW Fourth Ave.,
Room 433, Portland

Note: 1.5 hours of Practical Skills OSB MCLE credit will be applied for.

A free training seminar for clinic volunteers with little to no LLC formation experience. Presented by SBLC Clinical Professor Susan Felstiner.

SBLC Law Day Clinic for LLC Formation

Thursday, April 30
10:30 a.m.-6 p.m.
310 SW Fourth Ave.,
Ste. 1018, Portland

Volunteers will assist clinic participants in basic LLC formation tasks. Volunteers will meet with a client for a 55-minute session and complete any follow-up work at a later date, to be decided by volunteer attorneys and clients. Estimated time commitment is around four to 10 hours, depending on the experience of the volunteer attorney, the number of LLC members and the complexity of the operating agreement.

RSVP to Ryan Mosier at ryan@mbabar.org to participate in these activities.

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The Corner Office PROFESSIONALISM

The Habits of Professionalism

Professionalism is the bedrock of the legal system and it manifests itself in how we act on a daily basis. Therefore, there are “habits” we should embrace in our daily practice that foster professionalism. The old adage “you are how you act” applies here. Embracing these habits also gives us important tools that can help de-escalate situations that could turn ugly and unprofessional. In no particular order, here are some habits and behaviors to maintain professionalism in your law practice.

Dress Like a Professional.

One of the many great joys of living in the Pacific Northwest is that we have a casual-dress culture. On any night, you can enter any of the many top-notch restaurants in Portland and see a variety of outfits, ranging from jeans and t-shirts to elegant dresses and suits and ties. That is a good

thing. But I respectfully suggest that the dynamics change when you are at work, meeting clients, meeting other attorneys, or going to court. In all of those situations, you are being looked to as an authority and expert to provide guidance and to solve problems. Dress the part. Again, it does not have to be business suits (your practice/client base may view that as too dressy), but your wardrobe should be a level of dress that lends credence to and befits your role as an authority to give guidance and solve problems.

Be on Time.

Someone who is constantly late is not being respectful of the time and scheduling needs of others. It is rude and leads to a perception that you are not organized and will not address the situation in a professional manner. Yes, we are all pressed for time, and situations outside of our control

will inevitably result in our being late occasionally, but a habit of being late does a disservice to your reputation and undermines your relationships with others.

Be Prepared. At first glance, this may be the biggest “duh” of all the habits listed here. Of course, you are always prepared, right? Wrong! In reality, we all face situations where the clock or calendar has conspired against us and it looks like we will need to go into a client meeting or court hearing less prepared than we want to be. At some level, we all think that we can successfully “wing it” and get through the meeting. Maybe. A few times. More likely, the others at the meeting will see you are unprepared and this will severely cut against your professionalism. The better solution is to either move the meeting to be more prepared (giving as much notice as

possible to the other participants), or if that is not possible, work in advance to move other matters to give yourself time to prepare. Humans consistently overestimate their abilities and talents; we often have the same misplaced overconfidence in our ability to get through a meeting or court appearance when not fully prepared. Don't fall into that trap. Be prepared.

Limit Your Curse Words.

Public dialogue has grown much coarser over the last few years. Profanity and personal insults saturate the airwaves and social media. And, yes, I know there could be situations where a well-timed and judicious use of a curse word with a client or another attorney (but never the court!) can help to really show your outrage at a situation. I get that and I see the effectiveness of its limited use. But littering your conversation with profanity gives the impression that you don't have the tools to substantively address the legal issue at hand and are masking your inadequacy with invectives. It greatly diminishes your professionalism and undermines your credibility.

Stay Calm. Every attorney will be confronted with a frustrated client, a rude adversary, or a cantankerous judge who will attack you in some way. It is practically hard-wired in our DNA (and, unfortunately, somewhat refined in law school) to respond in kind. But stop and stay calm before you react. The reason to do so is very simple. We make mistakes when our emotions take over. In that situation, we are more prone to say something that can be both unprofessional and unethical. The solution (and not an easy one) is to stay calm, take a breath, and make two judgment calls. Step one: do you need to respond at all? Is the person just “blowing off steam” and a non-response does not hurt your position and will prevent the matter from escalating? Step two: if you need to respond, decide what response you need to make here that contravenes the accusation but remains professional. Again,

I am not saying this is an easy habit to maintain and execute in the heat of the moment, but it is necessary to practice these tools to develop professional habits. When the opponent goes low, you go high.

Show Compassion. This is somewhat related to the habit of staying calm. The client, adversary, or judge may be under pressure and having difficulties in this case (or in some other personal or professional matter) and this is what prompted the unwarranted attack described above. Keep that in mind as you formulate your response. I've often been blindsided by another attorney with an unexpected attack and have let the matter pass. At a later time, I'll approach the attorney and say something like: “I really didn't appreciate that attack, here's why you're wrong, but also that was so out of character for you - is there something going on?” That typically prompts an apology or explanation that soothes the situation. Try it. It works.

In sum, we work in a wonderful, rewarding, but at times, stressful profession. The stakes are high for all the players: clients, attorneys, and judges. This can cause all of us to say or do things that are less than optimal. But I think incorporating the habits discussed above into our daily work lives will help maintain the professional conduct that is necessary for a legal system to function effectively.

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.

Building Trust

Continued from page 1

It is important to invest in the attorney-client relationship in ways that provide opportunities to build trust with clients. Our clients must often be vulnerable when sharing their stories and we should be well-versed in understanding the historical contexts that give additional meaning to those stories. When

representing clients of color, it is even more imperative that we consider the ways in which race can shape those clients' experiences. It takes significant self-reflection and continued education to better understand the historical contexts that we don't understand naturally from experience. But when we make that extra effort, our idea of a good outcome will parallel our client's idea of a good outcome.

News From the Courthouse

Continued from page 10

tem judge. Untimely requests will be denied.

“Justice for All” Conference. Presiding Judge Bushong attended the “Oregon Justice for All” conference on January 14. The conference focused on addressing the unmet need for legal services in civil and family law cases. Attorneys are reminded that the court offers a free mediation program for civil cases that have

at least one self-represented litigant. The mediation program is coordinated by Kathryn Scott, Mediation Program Coordinator for the court.

New Tech Lunch & Learn CLE. The MBA and the court are planning to hold Lunch & Learn CLE seminars about the technology in the new courthouse. Some programs will occur after the new courthouse opens in July. There may be some limited opportunities for programs before the move to the new courthouse. Dates will be announced.



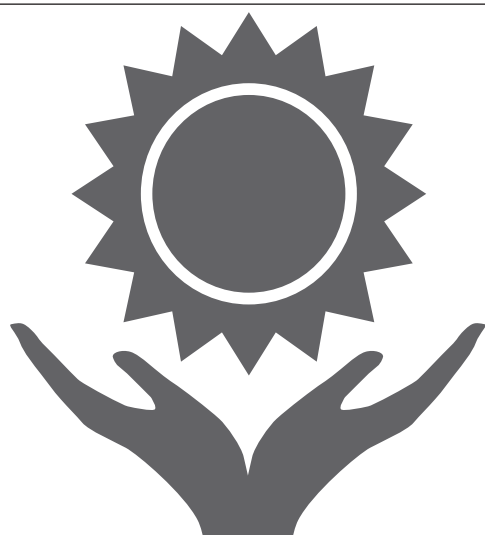
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Tips From the Bench

Continued from page 10

Spacious jury rooms will make jury service more comfortable, every courtroom will have 14 seats in the jury box, and all courtrooms will have fully accessible witness and jury boxes.

As we enter the new “Roaring 20s” let us embrace those changes that advance the causes of justice, access to justice, and the improvement of the legal profession. Let us reject and discard those changes that result in discord, denial of justice, and degradation of the profession.

Steven Mastanduno

Continued from page 12

Steven can be found enjoying great cheese, thrifting, and gardening. Steven grows most of his own food during the summer and fall growing seasons and intends to make his own wine this year using homegrown grapes. He still maintains his sense of adventure, traveling when time allows and recently returned from a three-week trip to Thailand.

Susan Rossiter

Continued from page 13

the nature of the issue and if the senior qualifies for low-income aid. The volunteer attorneys go to senior centers throughout Multnomah County. In 2018 alone, SLP opened 911 cases and volunteers dedicated hundreds of hours to helping seniors. Sue explains that her work there each month includes a refreshingly wide variety of legal issues - from the sale of puppies, to understanding a letter from an insurance company, to landlord tenant issues and estate planning. “That’s what makes it so interesting.”

Low Income Tax Clinic at El Programa Hispano Católico

El Programa Hispano Católico offers a Low Income Tax Clinic (LITC) that provides free year-round advocacy and education about the tax system to low income families. The LITC also serves clients with disputes with the IRS by representing them directly before the IRS. Sue volunteers here twice a week and primarily helps clients with tax debt issues and obtaining individual tax identification numbers (ITIN) for those who are ineligible to receive a social security number. Even though Sue did not practice tax law during her career, she explained that the resources and people at the LITC helped her learn everything she needed to know quickly and effectively.

The YLS would like to thank Sue for all the time and hard work she has given to the legal community.

If you are retired or considering retiring and still want to help serve our community, contact the OSB to learn more about Active Pro Bono Status.

Classifieds

Positions

Business Associate

Brownstein Rask LLP, a mid-sized law firm in Portland, is seeking associates with three to five years’ experience in business and business litigation. The ideal candidate must possess excellent oral and written communication skills, strong legal research and analytical skills, with a strong commitment to providing high quality client service. We offer the opportunity to gain experience in a variety of areas of law. Competitive compensation and benefits. Interested candidates should send their resume and a cover letter to jobs@brownsteinrask.com.

Litigation Counsel Position (Vancouver, WA)

The Vancouver, Washington, office of Miller Nash Graham & Dunn is seeking a full-time attorney with six or more years of practical experience in commercial litigation. This Counsel position will support partners and senior counsel in the Vancouver office with legal research, briefing, motion practice, and other aspects of litigation. The attorney will not be expected to generate business.

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independently manage many aspects of litigation. Membership in the Washington State Bar required. Membership in the Oregon State Bar or eligibility for reciprocity preferred.

To apply, please submit a cover letter, resume, law school transcript (unofficial is acceptable), and writing sample by email to [Sharae Gross at MNRecruiting@millernash.com](mailto:Sharae.Gross@MNRecruiting@millernash.com).

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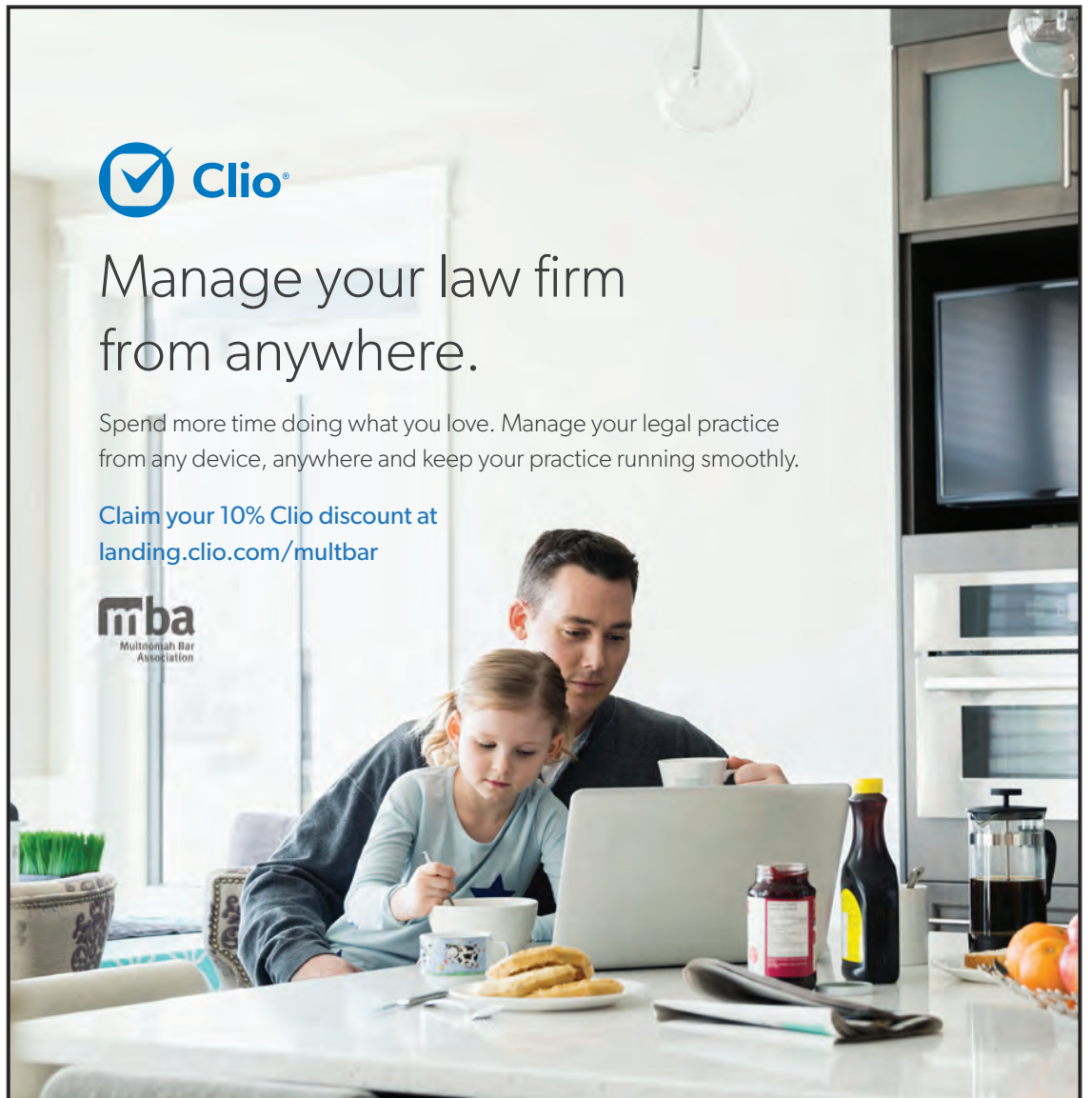
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Networking from the Outside

by Anna Claypool
Abbott Law Group PC



Law schools create thriving networking opportunities that provide students with the ability to connect with a variety of local alumni, firms, and organizations. Throughout our time in law school, we are encouraged to utilize these networks to gain internships, volunteer, and ultimately secure a job in the legal profession. Students who take advantage of the hosted events, advertised positions, and career center personnel are working hard at building and strengthening their network. Beyond law school, these webs are great stepping stones into networking for recent law school graduates and young lawyers. But, how does your ability to network change if you decide to leave the epicenter of your law school connections and begin your legal career elsewhere?

For me, the idea of networking has always been an unnerving task, but I knew it was important for a successful

career. After spending nearly seven years at college and law school in Illinois, I decided I wanted to return to Oregon to begin my legal career. I needed to pursue networking in Portland, but dreaded the thought of beginning from square one in building my connections out West. Once in Oregon, I repeatedly contemplated whether I wanted to leave my comfort zone and attend a networking event. Ultimately, I decided to go to a simple networking social hour. At the event, I spoke to various attorneys, ran into a childhood friend, and scheduled at least one follow-up coffee meeting. Since that first event, I continue to attend events, have become a member of two committees, and use my practice to build my network.

The common networking advice engrained in our brains during law school is valuable information. The following are some of the tips and tricks we all know, but I have found to be instrumental in building and strengthening my professional web coming from an out-of-state law school:

Attend Events. The decision to attend your first event can be intimidating, but you will not regret it once you get there. Several of the attendees are in the same position, wanting to network, meet friends, and strengthen their professional connections.

Be Positive, Polite, and Open. Whether at an event, CLE, mediation, or in court, attend with the mindset that you are meeting a person who can be an essential contact. Be enthusiastic and confident in your discussion, ask questions, and listen thoroughly. I often find sharing information about myself to be difficult but believe offering details about yourself, your practice, and your interests is just as important as asking questions and learning about others’ practices.

Join Organizations and Get Involved. Easily, the best thing I have done to grow and strengthen my network is joining committees with both the MBA and the OSB. You are automatically grouped with members of the organization who are interested in getting involved, planning events, and/or broadening their network.

While your resources may change and the thought of creating a new professional network may seem daunting, I encourage you to put yourself out there. Every attorney I have encountered at an event is always willing to talk. I highly recommend seminars and events hosted by the Young Lawyers Section of the MBA. The events are interesting, inclusive and welcoming. Plus, most of the attendees are in the same networking mindset!



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