



MULTNOMAH LAWYER

MULTNOMAH BAR ASSOCIATION
1906

Lawyers associated for justice, service, professionalism, education and leadership for our members and our community. July/August 2005 Volume 51, Number 7



Themes that have Endured

By Kelly Hagan, Schwabe Williamson & Wyatt and MBA President.

A general discussion was at this time had upon the possibility of an organization amongst the Multnomah Attorneys, and spirited speeches were heard, whose authors emphatically declared that such an association should be strictly non-partisan and non-political.

- Portland, Oregon; Feb. 3, 1906

The excerpt above is the first record of the Multnomah Bar Association. It expresses a core value of the organization: nonpartisanship.

I begin my year as president with this passage for two reasons. The first is to inaugurate a series of columns in this space that will look back over our 100-year history to find those themes that have endured over the life of our Bar.

My second reason is to broach the specific topic of nonpartisanship. We are, after all, a voluntary bar largely unencumbered by legal restraints on political advocacy. Other local and national bars have embraced activism, and regularly weigh in on controversial issues of the day. Yet our association, from its first moments, has pursued an apolitical agenda.

I think it is useful to ask ourselves, why? Why not expand our sphere of concern beyond the profession and the judiciary? Could we not, as an association of legal professionals, contribute a special understanding to many political questions?

For my own part, I credit common sense for our forbearance. We know intuitively that by avoiding the issues that divide us we preserve the ability to act together on the concerns that unite us. We choose tightly focused missions: promoting professionalism, supporting access to legal services – and justice – for all, and educating the public about the critical role that the judiciary plays in the life of our state and nation. I have witnessed repeatedly the good sense of my fellow board members who, although holding strongly to a political view, have rejected a partisan path for the association. I am grateful to them.

There are some, of course, who feel we have strayed too often into politics. Most notably, in 2000 the association proposed a moratorium on executions. In the last election cycle, we opposed initiatives to reform the election and make-up of our appellate courts. We continue to recommend candidates for appointment to judicial vacancies.

To those who complain, rightly or wrongly, that the association has crossed the line into partisan politics, I say thank you. The difference between protecting time-honored legal institutions and principles, and advancing partisan political values, is not always clear. Your voices make us mindful of our core values, and help keep us on the narrow road. I hope that you will continue to voice your concerns.

2006 will be the Multnomah Bar Association's centennial year. Over the coming months we will be celebrating a *Century of Service*. I doubt that we will have the time or energy for politics, even if we were so inclined. We have so much to be proud of, and so much to celebrate.

The MBA's *Century of Service* began with an emphatic commitment to nonpartisanship. Our founders knew what we have proven: we succeed by harnessing the time and talents of a politically diverse membership. That membership continues to give generously in the certain knowledge that their gifts will be devoted to purposes that they, and indeed all of us, can support.

Annual Dinner & Judges Reception

The MBA 99th Annual Dinner & Judges Reception held May 18 recognized outstanding volunteers. This year's Professionalism Award winner was **Walter H. Grebe**. In addition to Walter, nine outstanding volunteers were recognized. The MBA Award of Merit was given to the **Hon. Ellen F. Rosenblum, Michael A. Greene** and **Theresa L. Wright**. The MBA YLS Award of Merit was given to **Marc E. Jolin** and **Sherilyn Holcombe Waxler**. Pro Bono Awards were given to **Tim McNeil, Kelly A. Struhs, Robert W. Wilkinson** and **Schwabe Williamson & Wyatt**.

Congratulations to all the very deserving award winners!



MBA 2005-06 Board. Back row (left to right): Thomas Brown, Diana Stuart, Kelly Hagan and Peter Glade. Bottom row: Sylvia Stevens, Christine Meadows, Michael Bloom, Nancie Potter, Simeon Rapoport and Eric Waxler. Not pictured: Lori Deveny, Michael Dwyer, David Ernst, Helen Smith and Agnes Sowle



Sylvia Stevens and Kelly Hagan congratulate Walter Grebe (center) on receiving the Professionalism Award

Cont. on p. 9

MBA CLE

To register for a CLE, please see the insert in this issue or go to www.mbabar.org.

July

Thursday, July 28

MBA-Wells Fargo Breakfast CLE
How to Position the Closely Held
Business for Sale
Randy Duncan
Scott Roberts

October

Tuesday, October 11

Washington and Clackamas
Presiding Courts Update
Hon. Thomas Kohl

Friday, October 14

Fall YLS Family Law Series begins
Friday, October 14: Marriage
Agreements
Thursday, October 20: Laws
Affecting Children
Friday, October 28: Domestic
Violence Law
Friday, November 4: Dissolution

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Advertising is accepted; advertisers(ments) are not necessarily endorsed by the MBA. The editor reserves the right to reject any advertisement.

DEADLINE for copy: The 10th of the month*

DEADLINE for ads: The 12th of the month*

*or the preceding Friday, if on a weekend.

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www.mbar.org

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Letter to the Editor

Hi Judy,

I just finished reading your "Trust No One" article. Yes, the headline got my attention.

I wanted to let you know the Professional Liability Fund has many resources designed to educate lawyers on the importance of using proper accounting controls to prevent theft or loss. We have covered this subject extensively in several CLEs, including:

- Don't Be Blindsided – Protect Your Money (from 2002)
- Money, Money, Money – Your Financial and Ethical Responsibilities (from 2000)
- Trust Accounting (March 2005)

All three of these programs were taped (audio and video) and are available at no charge on the PLF web site (www.osbplf.org).

In addition, proper accounting procedures are addressed in our books, *A Guide to Setting Up and Running Your Law Office* and *A Guide to Setting Up and Using Your Lawyer Trust Account* and to a lesser extent in our Trust Accounting practice aids. All are available at no charge on our Web site.

Finally, Oregon lawyers are free to call any member of our practice management team to arrange a confidential office consultation to discuss this, or any practice management related subject, at no charge.

Embezzlement is more common than people think. Thanks for bringing it back on everyone's radar screen. If you would like a copy of my article, "To Catch a Thief," which previously appeared in both the OSB *Bulletin* and PLF newsletter, the *In Brief*, let me know.

Beverly A. Michaelis
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NEW ON THE SHELF

By Jacque Jurkins, Multnomah County Law Librarian.

ALTERNATIVE DISPUTE RESOLUTION: A practical guide for resolving government contract controversies. Published by the ABA Section of Public Contract Law, Committee on Alternative Dispute Resolution, 2005. (KF 9084 A96)

THE BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005: with analysis by Alan R. Resnick and Henry J. Sommer. Published by LexisNexis, 2005. (KF 1511.5 R47)

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005: Law and explanation. Published by the Commerce Clearing House, 2005. (KF 1511.5 C65)

LAW OFFICE PROCEDURES MANUAL FOR SOLOS AND SMALL FIRMS, 3d ed. by Demetrios Dimitriou. Published by the ABA Law Practice Management Section, 2005. (KF 318 D55)

GIDEON'S BROKEN PROMISE: America's continuing quest for equal justice. A report on the ABA's hearings on the right to counsel in criminal proceedings. Published by the ABA Standing Committee

on Legal Aid and Indigent Defendants, 2004. (KF 9646 G54)

STATE OF OREGON 2005 RESIDENTIAL SPECIALTY CODE: Structural & Mechanical Section, based on the 2003 edition of the International Residential Code. Published by the International Code Council, 2005. (Ref. KF 5701 A15 O7157)

TORTS IN A NUTSHELL, 4th ed. by Edward J. Kionka. Published by Thomson/West, 2005. (KF 1250 K55)

COUNTER-TERRORISM TECHNOLOGY AND PRIVACY. Report by Conference rapporteur Patrick J. McMahon. Published by the McCormick Tribune Foundation, 2005. (KF 9430 M35)

MODEL JURY INSTRUCTIONS: Business torts litigation, 4th ed. edited by Bradley P. Nelson and Ian H. Fisher. Published by the ABA Section of Litigation, Business Torts Litigation Committee, 2005. (KF 8984 A65 M64)

EFFECTIVE LITIGATION OF ATTORNEY FEE CLAIMS AND DEFENSES. Course materials from the April 5, 2005 Oregon Law Institute program in Portland, OR. (*KF 316 O7O73)

SECURITIES REGULATION IN A NUTSHELL, 8th ed. by David L. Ratner and Thomas Lee Hazen. Published by Thomson/West, 2005. (KF 1439 R38)

THE ABCs OF NONPROFITS by Lisa A. Runquist. Published by the ABA Section of Business Law, 2005. (KF 1388 Z9 R86)

CRIMINAL EVIDENCE: An introduction by John L. Worrall and Craig Hemmes. Published by Roxbury Pub., 2005. (KF 9660 W67)

THE OF COUNSEL AGREEMENT: A guide for law firm and practitioner, 3d ed. by Harold G. Wrenn and Beverly J. Glascock. Published by the ABA Senior Lawyers Division, 2005. (KF 310 O34 W74)

WHAT ALL BUSINESS LAWYERS & LITIGATORS MUST KNOW ABOUT DELAWARE LAW DEVELOPMENTS. Course handbook published by the Practising Law Institute, 2005. (B-1486)

THE PCAOB SPEAKS IN 2005: A collection of the Public Company Accounting Oversight Board's rules, standards, releases and staff Q & A. Published by the Practising Law Institute, 2005. (B-1482)

CALENDAR

For a complete MBA calendar, please visit www.mbabar.org.

July

4 Monday, Independence Day
MBA closed

7 Thursday, MBA Seminar on Advance Directives
Register at www.mbabar.org.

14 Thursday, MBA Golf Outing at OGA Members Course at Tukwila
Register at www.mbabar.org.

21 Thursday, OMLA Luncheon
Visit omla.homestead.com for details.

PBA and Multnomah County Judges Event
See www.mbabar.org for details.

28 Thursday, MBA CLE – How to Position the Closely Held Business for Sale
See insert or register at www.mbabar.org.

August

2 Tuesday, MBA Board meeting

Tuesday, Classroom Law Project Golf Tournament
For more information, email office@classroomlaw.org.

9 Tuesday, YLS Board meeting

10 Wednesday, Multnomah Lawyer deadline

23 Tuesday, Multnomah Bar Foundation Board meeting

September

5 Monday, Labor Day-MBA office closed

6 Tuesday, MBA Board meeting

9 Friday, Multnomah Lawyer deadline

Friday, LAF-OFF
See p. 4 for details.

13 Tuesday, YLS Board meeting

16 Friday, MBA Annual Golf Championship
See insert or register at www.mbabar.org.

28 Wednesday, Multnomah Bar Foundation Board meeting

Wednesday, East County Social
Details to be announced.

October

4 Tuesday, MBA Board meeting


Tuesday, MBA CLE – Washington and Clackamas Presiding Courts Update
See insert or register at www.mbabar.org.

11 Tuesday, YLS Board meeting

14 Friday, YLS Family Law Series begins
See insert or register at www.mbabar.org.


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TIPS

Multnomah County SLR 12.025 allows parties to mediate cases under \$50K as a substitute for "mandatory" arbitration.

Additionally, mediation fulfills the SLR 7.075 ADR requirement if you file a certificate within 270 days of filing the lawsuit.

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Ethics Focus

By Mark J. Fucile, Stoel Rives.



Getting Crosswise with Cross-Marketing

The Oregon Supreme Court recently wrote a cautionary tale on lawyer “cross-marketing” with other service providers. In *In re Phillips*, 338 Or 125, 107 P3d 615 (2005), the court suspended a lawyer for three years for entering into a marketing joint venture with an insurance group without fully informing the targets of the sales pitch - his clients.

Phillips’ practice focused on living trusts and related estate planning for older, high net-worth clients. An insurance group approached Phillips and his partner about entering into a joint venture under which the lawyers would introduce their clients to the insurance group for “trust reviews” and the law firm would get a cut of any insurance sales that resulted.

The law firm’s initial letter to clients suggested that the trust review would be conducted by three people that the firm had “carefully selected and trained” and that there would be no charge for the review unless the clients needed new or updated estate planning documents. The letter did not reveal the connection between the law firm and the insurance group or that the three people who had been “carefully selected and trained” were employees of the insurance group rather than of the law firm. The letter did not include a conflict waiver.

The law firm sent the initial letter to 200 clients. In a later mailing to another 1,500 clients, the firm modified the letter to mention that if an insurance sale occurred “we may receive compensation from the issuing company.” Even this second round of letters, though, did not disclose the full connection between the law firm and the insurance group, nor did it contain a conflict waiver.

The joint venture was phenomenally successful, generating \$810,000 in commissions during a six-month period, of which the law firm netted \$270,000. In fact, the “trust review” program was so successful that the law firm worked with the insurance group

to market it to other lawyers. The firm developed an 11-point checklist for lawyers to market the program to their clients. Item 11 read: “[s]it back and wait for the checks to roll in.”

The OSB was not amused and neither was the Oregon Supreme Court. The Bar charged Phillips and his partner (who later resigned his membership under a provision equivalent to disbarment) with misrepresentation, revealing client secrets and conflicts. The court agreed. Because the case arose before we moved to the new Rules of Professional Conduct this past January, the Supreme Court analyzed the case under the former Oregon Code of Professional Responsibility. Given the tenor of the decision, though, it is likely that the court would have come out the same way under the RPCs.

The Supreme Court noted that the failure to disclose the financial connection between the law firm and the insurance group was not simply an unwaived financial interest conflict. Although the court did indeed find a violation of that conflict rule (former DR 5-101(A); current RPC 1.7(a) (2)), it also held that the failure to disclose the relationship constituted a misrepresentation (former DR 1-102(A) (3); current RPC 8.4(a) (3)). The court also found that Phillips violated the confidentiality rule (former Oregon DR 4-101(B) (3); current RPC 1.6(a)) because he revealed his clients’ identities and addresses for his own financial gain.

The events involved predated Oregon’s adoption in 2003 of a strict reciprocal referral rule - former DR 2-105 and current RPC 5.4(e). That rule provides, in relevant part, that “[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[.]” Even if a cross-marketing agreement passes muster under RPC 5.4(e), *Phillips* is a good illustration of the pitfalls that

ANNOUNCEMENTS

Roscoe Nelson Jr. Fund for Pro Bono Legal Services to Poor

Legal Aid Services of Oregon thanks **Roscoe Nelson Jr.** for his generous support of their pro bono programs and specifically for the \$29,752 grant distribution for this year. The grant enables LASO to staff their pro bono unit, which assisted nearly 2,000 clients last year. More than 300 attorneys volunteered for the program, donating over 3,000 hours. Without this support, many clients served by the program would not have received assistance with their legal matters.

Queen’s Bench Luncheons

On Tuesday, July 12, Queen’s Bench welcomes Multnomah County Commission Chair Diane Linn to their July luncheon. Chair Linn joined the county commission in 1998 when she was elected to represent District 1. She was subsequently elected to serve out the term of resigning Chair Bev Stein in 2001. Diane served as the director of the City of Portland’s Office of Neighborhood Involvement for several years before running for political office.

Queen’s Bench luncheons occur the second Tuesday of each month from 11:45 a.m. - 1 p.m. at Jax Restaurant. The cost is \$12. Queen’s Bench accepts cash or checks and reservations are not required. For more information, please contact Shari R. Gregory

at 503.226.1057, ext. 14, sharig@oaap.org or Barbara Smythe, 503.595.5300, barbara.smythe@klarquist.com.

MBA Bike Rides

Noon-time bike rides - short fast rides with hills. Meet at SW Yamhill and Broadway between noon and 12:10 p.m. on Mondays and Thursdays. Contact Ray Thomas 503.228.5222 with questions, or meet at the start.

Oregon Lawyers Against Hunger (OLAH) Food Bank Drive Planned

OLAH will conduct its ninth annual fundraiser from September 26 to October 7. To learn more, please contact Kathy Dent at 503.778.5338. Information about the Oregon Food Bank is available at www.oregonfoodbank.org.

Legal Administrators Association Launches Service Project

The Association of Legal Administrators-Oregon Chapter has launched its annual community service project. They are collecting backpacks and school supplies, including pencils, crayons, colored pencils, pens, lined paper, spiral notebooks, glue, rulers and calculators for four school programs, in Portland, Salem, Eugene and Vancouver. Donations must be received by August 31 and may be dropped off in Portland at Holland & Knight, Lindsay Hart et al, or the Oregon Law Center.

OWLS Announces New Board

Oregon Women Lawyers’ officers and board members for 2005-2006 were chosen. Kate Thompson, the new President, is an associate at Gleaves Swearingen et al in Eugene and previously served as Vice President. **Norma Freitas**, a sole practitioner, is President-Elect/Vice President and previously served as Secretary. Mary Bruington, who practices with Metropolitan Public Defender in Washington County, joined the Executive Committee as Secretary. **Ellen Jones**, Director of Career Services at Lewis & Clark Law School, joined the Executive Committee as Treasurer. Kellie Johnson, an assistant district attorney in Multnomah County, comes onto the Executive Committee as Historian. New board members include Bridget Musgrave, representing Mary Leonard Law Society in Salem; Catherine Susman, representing Lane County Women Lawyers; **Connie Speck, Nicole DeFever**, Gwyneth McAlpine, **Laura Caldera Taylor, Hon. Katherine Tennyson**, and **Heather Van Meter**, all of Portland. Continuing on the board are: Barbara Smythe, representing Queen’s Bench in Portland; Eva Jo Temple of Pendleton; **Hon. Darleen Ortega, Leslie O’Leary, Cecile Réniche-Smith** and Alice Bartelt.

remain. Conflict issues loom large and the Supreme Court’s characterization of the lawyers’ failure to disclose the joint venture as a misrepresentation to clients puts such conduct in very serious disciplinary territory. Moreover, the failure to disclose raises the specter of civil liability on a lawyer’s part for breach of fiduciary duty - especially if the “cross-marketed” product or service isn’t to a client’s liking. See *Kidney Association of Oregon v. Ferguson*, 315 Or 135, 142-44, 843 P2d 442 (1992) (noting that violations of the professional rules may also breach corresponding fiduciary duties by lawyers to clients). In short, cross-marketing can be an invitation to get crosswise with many civil and regulatory restrictions.

Second Annual LAF-OFF Comedy Competition

The second-annual LAF-OFF Comedy Competition, which raises money and awareness for Oregon’s legal aid programs and the Campaign for Equal Justice (CEJ), will be September 9 at the Memorial Coliseum. The Legal Aid Fundraiser will feature up to 10 Oregon legal professionals who will compete in a head-to-head stand-up comedy competition. It will be judged by a panel of real-life judges straight from the bench and will again be emceed by Kerry Tymchuk, state director for Senator Gordon Smith.

Oregon lawyers lead the nation in their support for legal services, but even so, less than 20 percent of the legal needs of poor people in Oregon are being met.

“LAF-OFF is a unique event that brings together all those who work in law firms - associates, partners, administrators and paralegals - and the business community to show their support for Oregon’s legal aid programs in a very festive and humorous evening,” said Sandy Hansberger, Executive Director of CEJ. “We’re looking forward to another fun filled kick-off to the campaign.” For more information, visit www.laf-off.org.



The 2004 LAF-OFF brought smiles and high marks from Multnomah County Circuit Court Presiding Judge Dale Koch, US District Court Judge Anna Brown and Oregon Supreme Court Associate Justice Tom Balmer.

MBA Web site Resources

The MBA Web site is a one-stop shop for information that local lawyers often need. A sampling of the resources found at www.mbabar.org are listed below.

Membership

Benefits, discounts on business services, committees and a form to join

News features

Upcoming events

Feedback to Multnomah County Circuit Court Judges

Forms are available for attorneys to use to provide feedback anonymously to Multnomah County Circuit Court Judges. Ratings of Needs Improvement and Very Good to Excellent may be assessed to areas such as, judicial demeanor, attentiveness, practical approach, knowledge and application of law and courtesy.

Judicial Recommendations

MBA Annual Report

MBA Bylaws

Young Lawyers Section

Events, seminars, publications, leadership and volunteer opportunities and Community Law Week

CLE

Upcoming and previously held seminars, registration form and tapes/CD/handout order form

Resources

Jobs: MBA Weekly Employment Bulletin and legal support staff salary survey

Publications: past issues of the *Multnomah Lawyer*, Juvenile Rights Handbook (Spanish and English), Pro Bono Opportunities, Domestic Violence Handbook (Spanish and English) and Hon. Robert P. Jones' Tips from the Bench

Frequently Requested Documents: Multnomah County Deposition Guidelines, Multnomah County Court Fee Schedule and U.S. District Court Fee Schedule
Links: local and national law-related organizations

Calendar

Seminars, social events, golf outings and other organizations' events

Online Membership Directory

Every MBA member is listed unless they opted out. You can check out your record and see if it is current or find out more about your colleagues.

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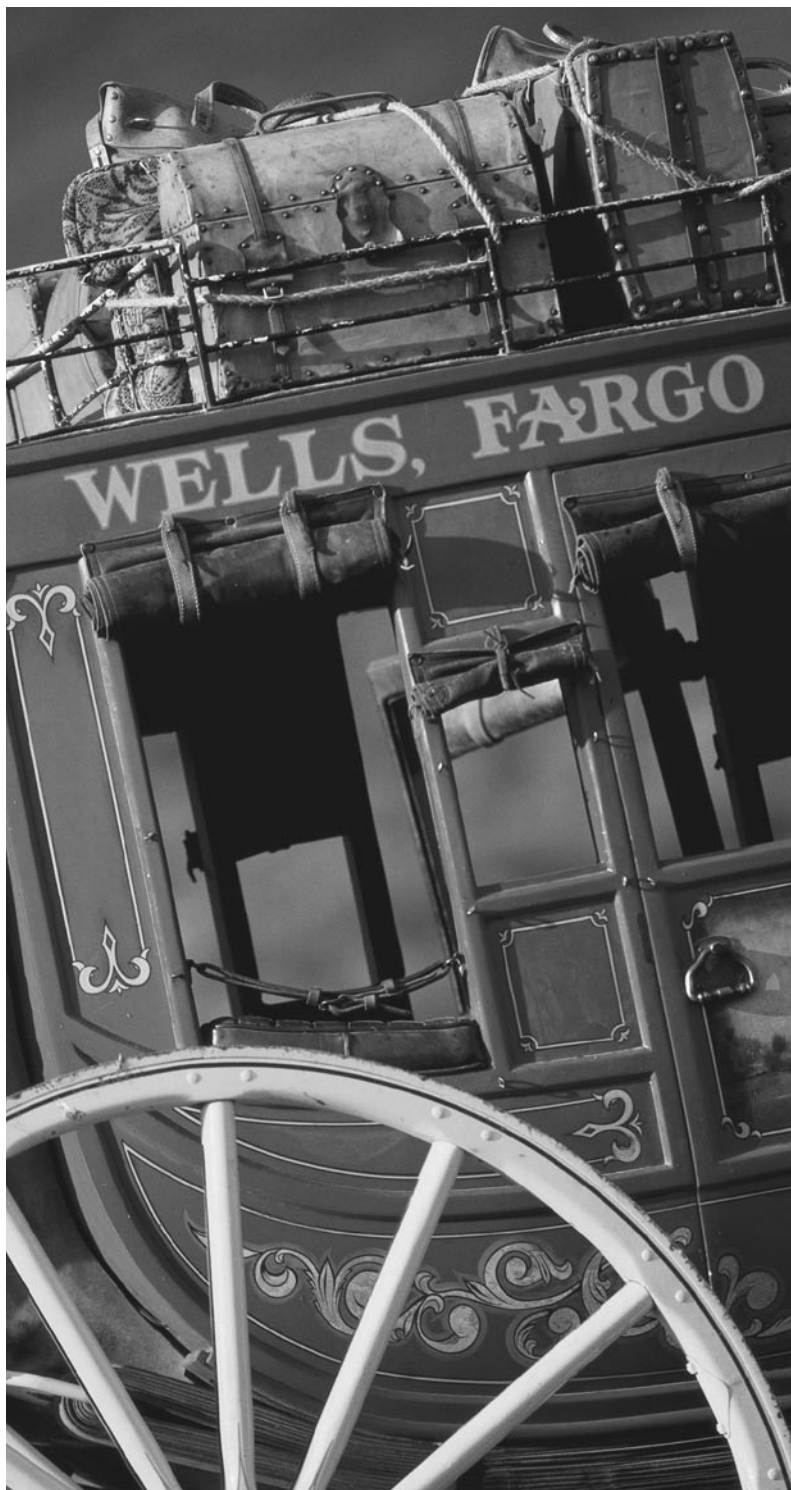


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A Jungle Gym in the Jungle

2005 Multnomah CourtCare Campaign

You helped us surpass our goal!

Nearly \$93,000 was raised during the campaign to fund the free daycare for children at the Multnomah County Courthouse. The goal was \$80,000. This exceptional success was due to the dedication and hard work of the Multnomah CourtCare Campaign Committee, CourtCare law firm coaches and the generous support from the Portland metro area law community.

Kay Toran, President of Volunteers of America Oregon which operates the daycare, called it "Lawyers loving children." And she is so very right.

The CourtCare Campaign raised \$65,500 from large firms and organizations, \$10,700 from small firms and \$16,700 from February's WinterSmash benefit bowling outing.

The MBA wishes especially to thank **Jeffrey S. Matthews**, Yates, Matthews & Associates and **Michael A. Greene**, Rosenthal & Greene, for co-chairing the campaign for the second year and for donating countless hours and sharing their experience, wisdom and leadership. Without their extraordinary commitment, it would have been very difficult for CourtCare to continue its operations. **Susan Marmaduke**, Harrang Long Gary Rudnick, will chair the 2006 campaign committee. We wish also to thank Volunteers of America Oregon and the CourtCare Advisory Committee.

When planning budgets for 2006, please keep CourtCare in mind. Next year's campaign will run from April 24 - May 5, 2006. Mark your calendars!

CourtCare Proudest Pride Award for the largest donation from a firm for the second year in a row goes to **Davis Wright Tremaine**, \$7,756. Runners up were Bullivant Houser Bailey at \$5,000, Williams Love et al at \$4,204 and Multnomah County Judges at \$4,005.

CourtCare Loftiest Leap Award for the largest donation per capita for the second year in a row goes to **Williams Dailey et al**, \$247. Runners up were Rosenthal & Greene at \$164 per person, Yates, Matthews & Associates at \$153, Multnomah Co. judges at \$111 and McKanna Bishop at \$77.

CourtCare Lions, \$500 or more
Firms and Organizations (descending order of donation amount)
Davis Wright Tremaine
Bullivant Houser Bailey
Williams Love et al
Multnomah Co. Judges
Harrang Long et al
Tonkon Torp
Markowitz Herbold et al
Miller Nash
Stahanczyk Gearing et al
Yates, Matthews & Associates
Dunn Carney et al
Ball Janik
Schwabe Williamson & Wyatt
Multnomah Co. DA's Office
Williams Kastner & Gibbs
Lane Powell
Ater Wynne
Hoffman Hart & Wagner
Klarquist Sparkman
Farleigh Witt
Gevurtz Menashe et al
Metro Public Defenders
Bullard Smith et al
OTLA
Sussman Shank
Lindsay Hart et al
Garvey Schubert Barer
Cosgrave Vergeer Kester
Perkins Coie

Rosenthal & Greene
McKanna Bishop et al
Barran Liebman
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AROUND THE BAR



Tom Tongue

was confirmed by the Oregon Senate. Travis' practice areas include business reorganizations, workouts, debtor-creditor and bankruptcy law.



Sonja L. Henning



Frank Langfitt

ATER WYNNE
The firm has named **Frank Langfitt** as chair of its litigation department. Langfitt's litigation expertise includes insurance coverage issues, business and commercial cases and environmental claims. He also provides a wide range of risk consulting services and general advice to the firm's business clients.



Gil Parker



Christopher M. Bikus

TONKON TORP
The firm announces the election of **Sonja L. Henning**, an attorney in the firm's labor and employment practice, to the Portland School Board. Henning is a labor and employment attorney and former professional basketball player.



Richard Vangelisti

VANGELISTI LAW OFFICES
Richard Vangelisti's firm has moved its personal injury practice to Peterkort Centre II, 9755 SW Barnes Rd Ste 450, Portland OR 97225. All other contact information remains the same.



Ken Antell

DUNN CARNEY
The firm and attorneys **Tom Tongue, Gil Parker** and **Ken Antell** were recognized by Chambers USA in their 2005 *Listing of America's Leading Business Lawyers*. Chambers USA acknowledged the firm's commercial litigation team and ranked Tongue as one of the top seven litigators in the state.

The firm's intellectual property practice has expanded, with the addition of **Christopher M. Bikus** as of counsel. Bikus will continue his domestic and international trademark portfolio prosecution and licensing practice.



Paula Barran

MARKOWITZ HERBOLD ET AL
The 2005 Chambers USA *Client's Guide to America's Leading Lawyers for Business* has ranked the firm number one for commercial litigation in Oregon. Shareholders **David Markowitz** and **Peter Glade**, who is also MBA President-Elect, were listed as leaders in their field, with Markowitz cited as one of two top litigators in the state.



Catherine S. Travis

FARLEIGH WITT
Connie L. Speck has joined the firm as an associate in the financial services, corporate and securities, employment and litigation departments. Speck will maintain primarily a financial institutions and business practice, with an emphasis on representing lenders in consumer lending and commercial financing transactions.



Richard Liebman

LANE POWELL
Catherine S. Travis has been appointed by Governor Kulongoski to serve on the State Accident Insurance Fund (SAIF) Board. Travis' appointment

Golf News



Edwin Harnden

May 12 Golf Tournament Results
Ten groups of golfers played in a scramble tournament at Heron Lakes Golf Course on May 12. The first place team was Bill Stiles, John Bassett, Steve Werts and Stan Samuels.



Maryann Yelnosky

June 14 Tournament Results
Fourteen groups of golfers played in a best ball tournament at Riverside Golf and Country Club on June 14. The first place team was John Powers, Gary Grenley and Chris Blattner.

Golf for Pro Bono
On **September 16**, the MBA will hold its 8th Annual Members Golf Championship and Awards Luncheon at Pumpkin Ridge Golf Club in North Plains. The proceeds from this tournament will directly benefit the Volunteer Lawyers Project at LASO.



Richard VanCleave

MBA members and sponsors are encouraged to participate. As in the past, there will be a Law Firm Division and an Open Division. Law Firm Division teams must be comprised of attorneys from the same firm and their employees and clients. The Open Division is open to all others, including judges, attorneys, clients, MBA sponsors and their respective employees.

Winning teams receive gift certificate prizes and the first place teams will have their names engraved on the tournament trophies.

BARRAN LIEBMAN
For the second year in a row, this employment and labor law firm was ranked number one by Chambers and Partners USA in Oregon, for the Employment Law - Defense category. **Paula Barran** and **Richard Liebman** tied for number one under defense employment lawyers in Oregon, along with Corbett Gordon from Fisher & Phillips and one other lawyer. Three additional firm attorneys were ranked including **Edwin Harnden** at number two, and **Maryann Yelnosky** and **Richard VanCleave** at number three.

Space is limited to the first 32 teams. The entry fee of \$150 per person includes green fees, carts, golf balls, door prizes, continental breakfast and lunch. An entry form is enclosed in this issue of the *Multnomah Lawyer*. Please complete the form and return it with your entry fee as soon as possible to assure your team's space in the tournament.

The MBA is actively seeking sponsors for this tournament. For more information on sponsorship opportunities, please call Paul Havel, MBA Golf Committee Chair at 503.205.2596.

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Tips from the Bench

By Judge John A. Wittmayer, Multnomah County Circuit Court.

Your Honor, may I approach the witness?

How many times have you said that yourself in Court, or heard another lawyer say it? In the state courts of Oregon, UTCR 3.050(3) was changed in 1991 to provide that the parties must "...be allowed to move freely about the courtroom during trial unless otherwise instructed by the court." There was a debate in the Uniform Trial Court Rules Committee in 1991 about this rule change, and the need for the trial judge to be able to control the courtroom and protect witnesses. Nothing in this rule deprives the trial judge of control. The trial judge remains free to require you to ask permission.

I surveyed our Multnomah County Circuit judges and discovered that only one judge requires that you ask permission. That one judge uses a small courtroom and often has *pro se* litigants, so that one judge feels it maintains a better atmosphere to require permission.

Suggestion: In state court ask the clerk or the judge in advance if you need to ask permission to approach the witness. In federal court, you must ask for permission. So, don't forget which courthouse you are in (as if that were possible).

But a reminder: with electronic recording for the record in state court, if you wander from the microphone on counsel table, you risk not having your voice "on the record."

Peremptory challenges and alternate jurors in civil trials

ORCP 57 D(2) governs the conduct of peremptory challenges of jurors. In civil trials with a 12-person jury, plaintiff gets three peremptory challenges, and defendants share three peremptory challenges. If alternate jurors are selected, ORCP 57 F governs the number of alternates and the number of additional peremptory challenges. If one or two alternates are selected, each side gets one additional peremptory challenge, to use against the alternate jurors only.

Think about how this works: You get three peremptory challenges as to the 12 regular jurors, and each side, therefore, gets to "control" 25% of the jury. But as to the two alternates, each side gets one peremptory challenge, and therefore has "control" of 50%



of the alternates, who presumably are less apt to decide the case than are the regular jurors.

Why should you have less control of the regular jurors than you do of the alternates? Tip: If you are going to have two alternates, you might stipulate to having four peremptory challenges each, which you are free to use against any of the 14 jurors.

Courthouse security - getting into the building on time

Any of you who have come to the courthouse first thing either in the morning or the afternoon have noticed how long the lines are to go through security upon entering the courthouse. The Multnomah County Sheriff operates security for the courthouse. It is not controlled by the court.

Members of the OSB may apply for and receive a "Court ID Card" from the sheriff's office to bypass security and enter through the employee entrances. The "Expedited Court Access" program is operated by the concealed handgun licensing section of the sheriff's office (note the irony of that) from the sheriff's facility at the Hansen Building, 12240 NE Glisan St in Portland. Telephone 503.251.2417.

You have to take your completed application form and the fee to the Hansen building with photo identification. This service is available only on Wednesdays from 8:30-10:30 a.m. and 1-2 p.m. The current fee charged by the sheriff to lawyers for an ID card is \$125. The cards are good for three years and may be renewed upon payment of a \$125 renewal fee.

You can download the application form and the instructions from the sheriff's Web site at <http://www.co.multnomah.or.us/sheriff/chlunit.htm#access>.

Accepting the 2005 Professionalism Award

By Walter Grebe, Schwabe Williamson & Wyatt and 2005 Professionalism Award Recipient.

Remarks made at the 2005 MBA Annual Meeting

I got a lucky start in the law. First, when I went to the U of O and met Orlando John Hollis, the Dean. He was a real taskmaster who not only made you do your best, but allowed you to understand what you really could achieve. My second lucky break was in joining the law firm of Maguire Shields Morrison Bailey & Kester, one of the big five law firms in Portland at the time with all of 15 lawyers.

There were some wonderful lawyers in that firm, including Randall Kester, who is still practicing today. By 1964 he had been on the Oregon Supreme Court and was back as solicitor for the Union Pacific Railroad. Tom Cooney was our trial horse, trying two to three cases a week. George Joseph was appealing Tom's mistakes. Tom Moore was backing up Cooney. Mike King joined us from the District Attorney's office, and has now become the Honorable Garr M. King. Others at the firm were Rob Ball, Mort Zalutsky, Bob Allen and Tom Tongue (the elder). Working with these and other fine lawyers helped mold my professional career early on.

I have been asked to talk about professionalism. After some thought, I think it is better defined by examples than by words. So here are some examples of lawyers that I have found to be highly professional:

- Randall Kester - very quiet, always a gentleman and highly competent.
- Tom Cooney Sr. - juries love him - always positive, friendly and capable of dealing with any surprise.
- Don McEwan - drove his tank from the boot of Italy to the Rhine, came home and tried cases for 50 years. Tough but pleasant. At least until you showed you did not deserve it.
- Don Marmaduke - strong advocate in court whether he was working on civil rights cases in the south, for his pro bono law firm or for Tonkon Torp.
- Tom Tongue - the elder - always giving of himself for the good of the bar while at the same time maintaining a hectic trial practice.
- Walter Evans - the elder. Walter was my partner for five years. He could and did try every kind of case and at the same time be the closest business advisor to Peter Brix

as he built Brix Maritime. Cap took one case to the US Supreme court for Jim Elkins and helped argue the case. This was a significant case that overturned the *Silver Platter Doctrine*. He loved to tell that after the court took their seats, Felix Frankfurter bent down and handed a note to the bailiff and asked that it be delivered to Walter's co-counsel. When they opened the note, it was an invitation to join Justice Frankfurter for dinner that night. I never knew Walter to raise his voice or denigrate anyone. His favorite saying was that you catch more flies with honey than with vinegar. He once argued a motion before Judge Burns with one of Portland's most contentious attorneys on the other side. Judge Burns ruled for Walter and said, "Mr. X, you have just fallen victim to the Evans' embrace."

- Frank Pozzi - one of Oregon's great plaintiff's lawyers. Frank knew his craft as well as anyone ever has, but he also maintained a healthy interest in the community. I remember going with Tom Cooney to meet with Frank. I was very impressed with not only his negotiating skills, but his deep interest in the welfare of the University of Portland.

- Jim Goodwin - Judge Goodwin's brother. My first year of practice I was sent out to Oregon City to negotiate a real estate deal. We quickly reached agreement and divided up the tasks of documenting it. One of my tasks was drawing up the escrow instructions. Once Jim finished his tasks, he asked to see my instructions. I had to confess that I did not know how to do it. Jim just laughed, put his feet on the desk, allowed as how he had not done this for years and proceeded to dictate perfect instructions.

- Steve Babson and Ruth Beyer - I had the privilege of negotiating a large business sale where they represented the buyer and I the seller. They were associated with a large New York law firm. While the deal was complicated and negotiations were hard, I could always take a few steps back and reach reasonable compromises with both of them. They were tough but not over reaching.

- Moe Tonkon taught me practicality early on; Ralph Bailey sent me over to renegotiate a property settlement after both parties



fell on hard times. I had never met Moe but he agreed to meet me the day I called. As I entered his huge office I was struck by the size of his red leather chair which he reclined in. About two minutes into my pitch, Moe said, "Walter, are you getting paid?" I said I did not know. He said, "Well I do. Neither your client nor mine has any money left. Please go back and ask Ralph Bailey why either of our clients should pursue this further." We dropped it.

- Velma Jeremiah and Neva Campbell; two women who proved women could excel in large law firms, Velma at Stoel Rives and Neva at Schwabe Williamson. Both were smart, soft-spoken but strong advocates.
- Mike Schrunk, our long time DA. Mike has run a very professional office for years providing Multnomah County with tough, competent prosecutions.
- John Schwabe - A long time client of John's told me that they had been engaged in a protracted and difficult negotiation which seemed to go nowhere. Finally, Schwabe invited the lawyers and the clients to a lunch meeting. Once there, however, John commenced to tell war stories about the difficult cases he had tried and the wonderful results he achieved. The controversy was hardly mentioned and when they left after lunch the client was upset that he had been paying his lawyer by the hour to tell stories. Two days later however, everything changed when the other side decided that a good settlement with John and his client was better than a trial.

I hope you get my picture of a professional lawyer.

Thank you again for this wonderful honor. I am deeply moved. Most of us have partners. As you all know, your partner will bring you down to earth whenever someone says something nice about you. So it was with my partner Jack Faust. He came into my office after this award was announced and said, "Just remember Walter, you are to the law what Michael Jordan was to baseball."

Thank you very much.

SUPPORT THE OREGON LAW FOUNDATION THROUGH THE MBA AND WELLS FARGO

The MBA's partnership with Wells Fargo means that MBA members pay no fees on IOLTA and lawyers' trust accounts. In addition, Wells Fargo pays a consistently high interest rate on IOLTA accounts to the Oregon Law Foundation. To take advantage of this member benefit and support the Oregon Law Foundation, MBA members who bank with Wells Fargo must identify themselves as MBA members. For more information, call Michael Giavanti of Wells Fargo Bank at 503.886.1446.

Profile: Judge Robert Wollheim, Oregon Court of Appeals

By Theresa Wright, Lewis & Clark Law Clinic and Court Liaison Committee.

Robert Wollheim thinks he has the best job in the world. He has a great work environment; he works with people who get along and respect each other, and who are committed to “getting it right.” He particularly enjoys working with his law clerks, and at least annually invites all his clerks to a get together at his Portland home.

Judge Wollheim came to the law in a less than traditional manner. He began his college career at Reed College in 1968, but did not finish. In the early 70’s, Judge Wollheim became involved in doing prison reform work, along with lawyers from the National Lawyers Guild. Through the guild, Judge Wollheim met some local lawyers who eventually formed a local partnership, with Judge Wollheim signing on as a legal assistant. He worked with that firm and another before moving to Lindsay Hart as a legal assistant. It was through this legal assistant work that Judge Wollheim developed his interest in the law. Not having a BA, he looked for the fastest way to complete his degree so he could apply to law school. He took some classes at Portland Community College, then attended Portland State

University, while working full time, earning his BS in General Studies in 1979.

Once he had completed his degree, Judge Wollheim spent a year traveling throughout North America, describing the United States in an “amazing country.” He began law school at the U of O in 1980. On June 6, 1980, Judge Wollheim met Karen Erde, a doctor with an established practice in Portland. Within a year, they decided to marry, and Judge Wollheim transferred to Lewis & Clark, from which he graduated in 1983.

Judge Wollheim began his legal career as a floater clerk with the Court of Appeals, at the end of the year working with Chief Judge Joseph and presiding Judge Gillette. He notes that he is the only former Oregon Court of Appeals clerk who has then taken the Court of Appeals bench. Then, Judge Wollheim began working for Welch, Bruun, and Green, focusing his practice on workers compensation, personal injury, and Social Security Disability. Approximately one-third of his work was appellate practice. He became a partner in the firm in 1990, becoming a named partner in 1993.

Throughout his practice, Judge Wollheim did significant pro bono work. In addition, he served on the boards of the Multnomah County Legal Aid Service and the Willamette Valley Law Project and on the AFL-CIO Laborers’ Community Service Agency. Judge Wollheim believed that becoming a judge would allow him to continue his public service. He was appointed to the bench in early 1998 by then-Governor John Kitzhaber, M.D. He was sworn in on March 8, 1998, filed for election the next day, thereafter being elected to his position.

In 2004, during Judge Wollheim’s most recent re-election campaign, he found himself in a contested race. As a result he campaigned throughout the state, which he found to be a humbling experience and says he learned a lot in the process. He spent time in rural Oregon. He found himself becoming a civics teacher, talking with voters about the rule of law, the necessity of having an independent judiciary and the separation of powers. He also said it was heart-warming to receive so much support from other lawyers during his re-election campaign,

especially since he has much less interaction with lawyers as a judge than he did as a lawyer.

Judge Wollheim continues his involvement with legal programs. He is on the Oregon Judicial Department’s Access to Justice for All Committee, and sits on the court’s motions panel which reviews and decides over one thousand substantive motions each month. He is on the board for the Campaign for Equal Justice, and is just finishing his second term on the Oregon Judicial Department’s Employees Appeal Board, hearing grievances from employees from the Oregon Department of Justice.

To keep his skills honed, Judge Wollheim occasionally sits as a trial court judge. He sat in Lane County for a time two years ago, has heard civil commitment cases in Marion County, and video-conferenced post-conviction trials in Malheur County.

Judge Wollheim grew up on the south side of Chicago, the youngest of three boys. He has a cousin he is close to, and considers her like a sister. He has been a White Sox fan for years, and says he has never been a Cubs fan and never will be,



Judge Robert Wollheim

although his father and brothers have gone over to the “dark side.”

Judge Wollheim and Dr. Erde have three sons - Josh, 21, finishing his junior year as a business major at the U of O, and 17 year-old twins, Nate and Theo, who will be seniors at Grant High School in the fall. In his “spare” time, Judge Wollheim enjoys spending time with his family, using his season tickets to the Oregon Ballet and White Bird Dance Group, and he enjoys spending time at the family’s shared cabin near Mt. Hood. He also enjoys reading, despite the fact that he reads thousands of pages each month for his job.

Judge Wollheim thrives in his position as an appellate judge and is honored to serve Oregon’s citizens in this role.

Annual Dinner and Judges Reception

Cont. from p. 1



YLS 2005-06 Board. Back row (left to right): Douglas Palmer, Eric Waxler, Elizabeth Knight and John Belknap. Middle row: Catherine Brinkman, David Bean and Emily Nazarov. Front row: Gregory Levinson, Cally Warfield and Todd Cleek. Not pictured: Anne Koch



YLS Award of Merit recipients Sherilyn Waxler and Eric Jolin



MBA Award of Merit recipients, the Honorable Ellen Rosenblum, Michael Greene and Theresa Wright



Pro Bono award winners Margaret Hoffman (accepting Schwabe Williamson & Wyatt’s award), Kelly Struhs, Tim McNeil and Robert Wilkinson

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Wine for the dinner was underwritten by **Naegeli Reporting Corporation** and **LexisNexis**. Dessert was underwritten by **Bank of the Cascades**.

Photos by Dan Carter

What Partners Want from Associates *commitment, desire and sweating the commas*

Sixth Part of a Series

By Gregory C. MacCrone, Attorney at Law.

Why do we work?

When candid, we will probably admit we work to pay the mortgage and the private school tuition and the cable bill. But more than a mere paycheck, we seek personal development, the opportunity to innovate and the possibility of accomplishing tasks that improve the lives of our community, clients and others.

We work because, at least in part, we enjoy that which the profession offers in both intellectual and human development. We stake out our career work in the law because if we didn't, then our lives themselves probably wouldn't work.

While an attorney recruiter, I learned that law firm hiring partners look to hire associates who will themselves become partners. In essence, the hiring process seeks out future trustees who can help shepherd the firm in providing a corpus of client services. Committed attorneys provide better legal services while honestly enjoying and thriving in delivering that assistance.

Demonstrating commitment, though, is something more than merely putting in the time. "It's not about the raw hours, though we all put them in when they need to be, and it's not about working forever," says Randal A. Johnson, of Ater Wynne.

Rather, the issue is the mind-set and approach one brings to the practice," he offers. While "the pedigree does evidence some ability and assuming you have [this background], a primary issue is an attitudinal one."

Local practitioners in firms of all sizes seem to concur: underlying the successful attitude must be a genuine interest for legal work and counsel.

George J. Gregores is the hiring partner at the Portland office

of Holland & Knight, a firm of approximately 1,300 lawyers in over 30 cities. Gregores says his firm seeks "professional commitment" in young attorneys. "Associates must recognize that being an attorney is more than a job, more than a means to a paycheck. It is a way of life, and successful lawyers look at their work this way."

At medium-sized, regional firm Harrang Long Gary Rudnick, partner Jerome Lidz adds that "a new associate at Harrang Long needs the drive and desire to become the best lawyer he or she can be."

Jonathan Norling of energy law boutique Lovinger Norling Kaufmann, adds that beyond the appropriate academic and background qualifications, "it takes a demonstrated interest in energy law and a desire to learn more about this area of law independent of work given the associate.

"Because we specialize in energy law, [when] looking at potential candidates, more weight is given to relevant experience than academic credentials."

How, then, might an associate demonstrate his or her commitment to self-learning, professional development, and service to firm, clients, profession and community.

Jeffrey P. Foote is a plaintiffs' torts attorney who practices with one associate. Foote answers, "The most important asset I look for is whether [an associate] has a genuine passion for representing those who have been wronged by big insurance, industry, or government. Because of the political climate, we have to look on our work as a cause."

Whether or not as visceral as a "cause," Johnson of Ater Wynne agrees with Foote and believes "it shows through in many ways and in mundane or important things."



Johnson believes commitment also involves the notion of "reliability." It's about honoring your word to your colleagues, clients and the people around you. Its hallmark involves "doing your best in everything you do."

"Does the associate demonstrate a commitment to excellence? There are very, very qualified people with all the pedigree in the world who don't have this commitment," he says.

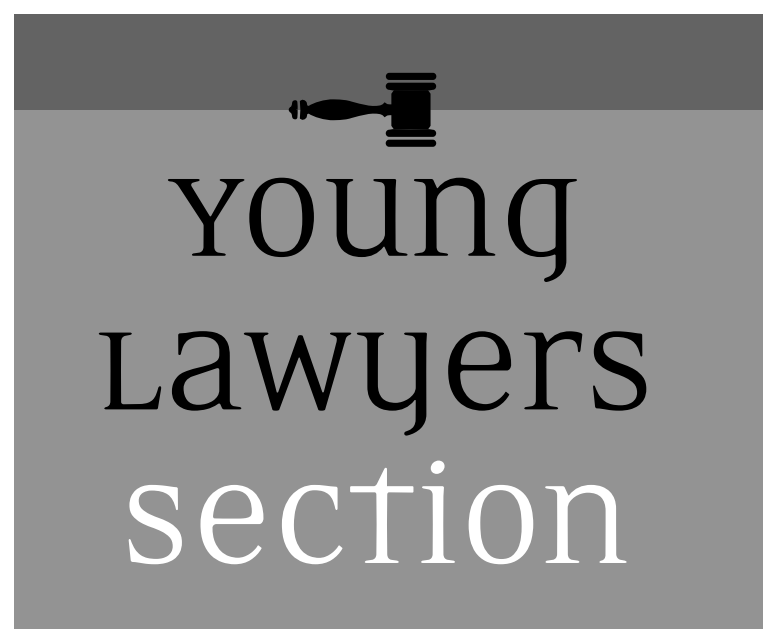
He gives the example of two summer associates, both who were "very, very qualified. One struggled with the work because [s/he] was so concerned with getting it right. Sweated every comma, every punctuation mark.

"The second associate wasn't too concerned with such typos, did a pretty good job, but had a 'whatever attitude' to minor details."

"Ater Wynne," Johnson emphasizes, "wants someone trying her best, trying her hardest, a person who is committed in the quest for excellence. As long as you don't get overwhelmed by it, an associate who is concerned with every comma demonstrates her concern for the client. And when you succeed, the firm succeeds.

"We want this second type of associate who sweats the commas."

The seventh part of this series will discuss learning from your mistakes and giving more than lip service to being "detail-oriented."



MBA YLS '04-'05: The Tale of the Tape

By Todd Cleek, Dunn Carney et al and YLS Past President.



I am not by nature a joiner. In high school and college, I shied from team sports and large group organizations and was drawn to the more individual activities with only incidental team involvement (cross-country, wrestling, creative writing, etc.). American culture and in particular, Generation X, are filled with the celebration of individualism. However, my past year as President of the Young Lawyers Section has caused a reversal in my opinions of group activity. Through the relationships and friends I have developed during my MBA involvement, I have become a zealous proponent of "playing (and working) well with others." During a recent book club gathering (another great team sport), a good friend pointed out that the joy of life comes from making connections with your fellow men and women. The Young Lawyers Section is an amazing tool to develop and nurture those connections.

My private goal at the outset of this year was to enhance opportunities within the Young Lawyers Section for making connections on both person-to-person and organizational levels. Through the good work of committee members, committee chairs and my fellow board members, we have reached and breached my expectations.

I'll give you just a few examples. The Service to the Public Committee has firmly established the Imprint Program connecting young lawyers to school kids on a human-to-human level. The Professional Development Committee's creation of the peer-to-peer groups allow young lawyers to congregate in small groups based upon common interests that will hopefully

continue throughout the participants' careers. The Pro Bono Committee has reached out to other organizations and developed what we hope will be an ongoing Pro Bono Fair that will solidify our respective organizations' ability to aid people in need. The Membership Committee continued its excellent precedent of planning events for young lawyers on non-legal ground and even reached further to draw law students into the fold. In response to your survey results, the CLE Committee planned inexpensive yet excellent educational opportunities geared to the "beyond the basics" market including the recent commercial litigation series.

While I have the privilege of telling you about these great success stories, I would be remiss if I did not point out that their accomplishment happened only as a result of significant time, energy and enthusiasm of YLS volunteers, committee chairs and board members. I want to thank them for their involvement and the enrichment of your Multnomah Bar Association. If time constraints or personality traits seem to discourage your YLS involvement, I would recommend changing your perspective. As more of us focus on balanced lifestyles, remember that the time you put into Bar activity can enhance your life rather than burden it.

The YLS Service to the Public Committee thanks the OSB and Legal Aid Services of Oregon for donating brochures which were distributed by volunteer lawyers at legal information booths around Multnomah County during Community Law Week.

Pro Bono Takes Center Stage at Prominent Local Firm Retreat

By Legal Aid Services of Oregon and Oregon Law Center Pro Bono Committee.

Like most firms, the lawyers at Tonkon Torp schedule an annual retreat away from the office to talk shop, renew ties and build teamwork. This year, the firm decided that the focus of the retreat would be a discussion of the importance of the firm's history of and commitment to pro bono service.

The pro bono focus began with a moving presentation by one of the firm's founding partners, Don H. Marmaduke, who was one of the first Oregon lawyers to heed President John F. Kennedy's call for assistance to support the civil rights movement in the South. Don's presentation included a visual and verbal account of the dangers and challenges that faced community members, civil rights workers and Oregon lawyers who traveled to Mississippi in support of the fight for racial equality and civil rights.

Today, the need for pro bono service is no less important than in the 1960s, a point eloquently

made by a panel including representatives from LASO, OLC and the ABA. Panel members discussed the urgent – and often unfulfilled – need that many indigent members of society have for legal advocacy. Tonkon Torp lawyers peppered the panelists with questions and personal accounts of the impact that their pro bono service had had on themselves and on their clients.

Pro bono is more than lip service at Tonkon Torp. The firm's CEO, Bob Hirshon, is a former president of the ABA and chaired the committee that drafted Model Rule 6.1, the benchmark expectation of pro bono service adopted by most state bars and many of the country's leading law firms. In fact, Tonkon Torp was one of the first firms in Oregon to formally adopt Model Rule 6.1 as its pro bono policy.

The firm's commitment to pro bono has continued with the establishment of a pro bono committee, chaired by Don

Marmaduke, to streamline the assignment of pro bono projects and improve reporting of pro bono time. Tonkon Torp's pro bono service shows that midsize firms in regional markets can act both locally and globally: the firm's pro bono service includes regular sessions at the Southeast Legal Clinic sponsored by the OLC, as well as matters attracting international media attention, such as the case of Carla Freeman.

"The retreat's focus on pro bono has had the effect of stimulating our attorneys' desire to do even more direct legal work for the poor," said Hirshon. "Often, the sheer volume of the problems faced by pro bono clients can seem daunting to lawyers. But, as Lori Alton, OLC, Cathy Keenan, LASO, and Steve Scudder, ABA, pointed out, just being there for pro bono clients can make all the difference. I am truly impressed with our lawyers' commitment to give back to their communities."

American Board of Trial Advocates, Oregon Chapter



WHEREAS:

On March 31 through April 2, 2005, a Summit of trial lawyers, judges, law professors, members of multiple legal organizations, including American Board of Trial Advocates, Federation of Defense & Corporate Counsel, Academy of Rail Labor Attorneys, ABA Tort & Trial Practice Section, American Trial Lawyers Association, Association of Defense Trial Attorneys, Defense Research Institute, International Association of Trial Lawyers, International Association of Defense Counsel, International Society of Barristers, National Center for State Courts, International Academy of Trial Lawyers, American College of Trial Lawyers, Trial Lawyers for Public Justice and Federal District Judges Association and other interested participants were convened to consider the issue:

"The American Jury Trial - Do we Allow Its Death or Lead its Rebirth?"

WHEREAS:

There is conclusive evidence that the American Jury System is dying - faster in the Federal Courts than in the State Courts, and faster on the civil side than on the criminal, but dying nonetheless.

WHEREAS:

There is conclusive evidence that our society's system of justice is under a dangerous and unwarranted attack, including its jury system, its judges and the independence of its third branch of government.

THEREFORE, BE IT RESOLVED, THAT:

We reaffirm our confidence in and commitment to the American Jury System, the 7th Amendment Right to Trial by Jury, and the state constitutional provisions providing a Right to Trial by Jury; and

We reaffirm our confidence in and commitment to the independence of America's Judiciary and our Third Branch of Government; and

FURTHER:

This Summit concludes in response to the issue before it that:

- We will not allow the death of the American Jury Trial; and
- We commit to and will lead the rebirth effort for the American Jury Trial; and
- A task force will be created to review the Summit transcript and further develop this effort.

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PRO BONO VOLUNTEERS

Thanks to the following lawyers, who recently donated their pro bono services via the Volunteer Lawyers Project, the Senior Law Project, Community Development Law Center, law firm clinics, the Oregon Law Center, the Nonprofit Project and Attorneys for Youth. To learn about pro bono opportunities in Multnomah County, check out the Pro Bono Opportunities Handbook available at www.mbabar.org/docs/ProBonoGuide.pdf.

To volunteer, please call Maya Crawford at 503.224.4086.

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The *Multnomah Lawyer* is the official publication and newsletter of the Multnomah Bar Association (MBA) and is a timely and well-read source of information for the entire Portland metropolitan region legal community. Nearly 75% of the lawyers in the metro area are members of the MBA. Our membership includes several hundred suburban lawyers and some Willamette Valley lawyers as well. All new lawyers are offered a first-year, free membership in the MBA, which includes a complimentary subscription to the *Multnomah Lawyer*. For more information, please visit www.mbabar.org.

Circulation

The newsletter has a circulation of more than 4,000 lawyers, judges and other legal professionals in the Multnomah, Clackamas, Washington and Clark counties.

Interested in Writing Articles?

The MBA is looking for writers and article ideas for the newsletter. If you are interested and/or have an idea for a story, please call or email Judy Edwards, Executive Director, 503.222.3275 or judy@mbabar.org. We are currently recruiting articles related to practice areas, human interest stories or profiles of individuals in the law. Members tell us that they especially enjoy reading profiles of members, analyses of trends in law, tips on points of law and essays on issues in the profession. We also invite letters to the Editor.

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Each month we will highlight different books that we think you might like to know about. Your discount applies to any book you select, however. This month we are featuring the following books:

Patriot Debates: Experts Debate the USA Patriot Act by Steward A. Baker and John Kavana. The MBA member price is just \$23.96. Later this year, Congress will determine whether the provisions of the USA Patriot Act that are due to expire at the end of 2005 should be renewed. The ABA assembled some of the brightest minds in national security and privacy laws to provide informed debate about these provisions and whether they should be renewed. The publication of this series of "point" and "counter-point" essay exchanges is devoted to civil and informed debate about these provisions, as well as a few other

issues that are likely to be part of the renewal debate in 2005.

Advanced Health Care Directives: A Handbook for Professionals by Scott K. Summers and Carol Krohm, M.D. The MBA member price for this book is \$79.96. Help your clients plan, write, execute and implement essential "personal contingency plans" for health care decision-making. This book includes a CD-ROM containing Advance Health Care Directives by state.

Please also keep in mind that **MBA is offering a CLE seminar on Advance Health Care Directives on October 27**. Attorney Cindy Barrett and Dr. Susan W. Tolle with the Center for Ethics in Health Care at OHSU will be our speakers for this class. Please look for further details in the September issue of the *Multnomah Lawyer*.

The Divorce Trial Manual: From Initial Interview to Closing Argument by Lynne Z. Gold-Bikin and Stephen A. Kolondy. This step-by-step manual is designed to help the practicing family lawyer effectively and successfully navigate through the complexities of domestic litigation. This is a much-needed resource, as most divorce lawyers spend more time in court than any other type of litigation lawyers. Putting into words the many lessons formulated and taught during

the 17-year history of the annual Trial Advocacy Institute for matrimonial lawyers, *The Divorce Trial Manual* covers everything from the essential information gathered in initial client meetings to organizing the case and bringing all the issues and evidence together in the trial and closing argument. This publication would be a great companion item for anyone taking the **YLS Family Law Series beginning October 14**. Please see the flyer in this issue of the *Multnomah Lawyer* for further details and to register for this series.

To buy any of these books or see what others have said about them, log onto www.ababooks.org and click on the New Releases tab. Remember to enter your member discount source code, PAB5EMUL.

Our Commitment to Professionalism

By Christine Meadows, Jordan Schrader and MBA Board.

The next time you appear in a Multnomah County courtroom, you may notice something new - the MBA Professionalism Statement. Working with Presiding Judge Dale Koch, the MBA Professionalism Committee provided 50 framed statements to the court, enough for every courtroom in Multnomah County.

The statement was developed by the Professionalism Committee at the direction of the board and was approved by the MBA Board in June 2004. Trying to boil down the elements of professionalism can be a challenging, if not daunting, task. The end result reflects the expectations of ourselves and our profession, and a commitment to our clients to practice accordingly. "We are committed to professionalism; we believe that lawyers should solve problems, not create them." The statement then sets out the principles by which we strive to conduct ourselves.

As the Bar grows, professionalism has become an increasingly pressing issue. Around the country, the likelihood that two attorneys will not meet again on another case can lead to a temptation to push the limits of conduct. For those who have heard horror stories about attorney conduct in other jurisdictions, the statement emphasizes once again that we do things differently here.

The statements are printed on heavy parchment and will be available for purchase to members in an 11" x 14" size suitable for framing and large enough to be legible in an office reception area. Watch for order information in the next issue of the *Multnomah Lawyer*.

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MBA Affinity Partnership Summary

Several companies offer MBA members discounts and benefits on the services they provide. The following is a summary of the member benefits from each affinity partner, as well as the contact at each company.

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Discounts on meeting room space and on hotel rooms, including discounted room rates at all Kimpton Group Hotels in the US. Contact Melissa Westacott at 503.417.3377.

Legal Northwest Staffing Specialists

Discounts on placement fees and a quality of service guarantee. Call Anneke Haslett at 503.242.2514.

LexisNexis

Discounts on a wide range LexisNexis services. For more information, call Paul Zallar at 503.348.6012.

MBA MasterCard from MBNA

A low annual percentage rate, and a range of optional services including purchase protection, travel agency services and more. A percentage of all purchases supports the volunteer lawyers project. Contact MBNA at 1.800.523.7666.

Northwest Employee Benefits and the MBA Health Plan

The MBA offers eight member-negotiated, customized health plans for members, their staff and dependants. For more information, contact Steve Doty of NW Employee Benefits at 503.284.1331.

Naegeli Reporting Corporation

MBA members receive a 15% discount for court reporting appearance fees, videographer appearance fees and videoconferencing hourly room rates, as well as a 24¢ per page discount off on original transcripts. For more information call Naegeli Reporting Corporation at 503.227.1544.

Wells Fargo

MBA members have access to a wide range of discounted and premier services for law firms, attorneys and non-attorney staff. To learn more, call Michael Giavanti at 503.886.1446.

2005 CourtCare Campaign Results

Cont. from p. 6

Tom Cooney
Robert Lee
Sarah Ryan
Jim Beall
Jack & Erika Orchard
Stephen Houze
Richard Weill
Kathryn Jackson
Ingrid Slezak
Gregory Zeuthen
Elizabeth Madsen
Valerie Fisher
Dan Larsen
Robert Neuberger
Natalie Hocken

Special Thanks To

Miller Nash for donating their office and refreshments for the campaign results party, **JoLynne Zimmerman**, Williams Love et al, for coordinating donations from all 60 firms and organizations and organizing the campaign results party and to **Monica Molina** for representing VOA Oregon.

CourtCare Coaches:

Bob Stoll
Gary Berne
Tom Tongue
Charles Corrigan
Ted Runstein
Sam Kauffman
Kelly Hagan
Jennifer Oetter
Kari Furnanz
Laura Rackner
Jim Oliver
Susan Marmaduke
Fran Barnwell
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Amy Carlton
Jan Betz
Roy Pulvers
Sarah Crooks
Ava Schoen
Lori Irish Bauman
Pilar French
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Jeff Schick
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Marshal Spector

Tamara Russell
Christine Coers-Mitchell
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2005 WinterSmash benefiting CourtCare received generous donations from the following organizations.

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Barran Liebman took home *The Big Lebowski* honor for the firm with the greatest turnout. Their 30 bowlers, all with matching firm bowling shirts and each monogrammed with the bowler's name, also won for best shirt.

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Support for Access to Justice Increases

Oregon lawyers contributed over \$810,000 to the Campaign for Equal Justice (CEJ) Annual Fund Campaign in 2004, surpassing the previous year's total by \$40,000.

Volunteer leaders increased every category again in 2004. Bill Crow of Schwabe Williamson & Wyatt led the Large Firm Committee category to an all-time high, with Portland's largest 25 law firms giving a total of \$315,000 in 2004. Co-chairs **Beverly Pearman** of Stoel Rives and **Jessica Hamilton** of Ball Janik led the Associates Committee to a 35% increase over 2003,

contributing significantly to the success of the large and mid-size firm campaigns.

Keith Ketterling and **Gary Berne** of Stoll Stoll Berne Lokting & Shlachter led OTLA to a total of \$124,500. Emi Donis of Precision Castparts, **Frank Langfitt** of Ater Wynne and **Rod Lewis** of Davis Wright Tremaine helped secure gifts from an ever-growing circle of major donors. Over 185 individuals are now members of the CEJ Council, contributors of \$1,000 or more.

David Denecke and **Mark Wada** of Harrang Long Gary & Rudnick led a very active Mid-size Firm

Committee. Committee members secured donations from several new firms for the 2004 campaign. **Jacqui Koch** of Koch & Deering led the effort among Small Firms and Sole Practitioners. Emi Donis of Precision Castparts, Paul Ehrlich of adidas Salomon and Paul Kelly of Nike led the Corporate Counsel Committee.

Congratulations to the CEJ and the many generous lawyers who help provide legal services to people in need.

CEJ MISSION
The Campaign for Equal Justice is a nonprofit corporation that raises funds for legal aid

programs in Oregon. Organized by Oregon attorneys in 1991, the campaign funds programs that provide legal aid to the poor and works to assure access to the legal system for all Oregon citizens.

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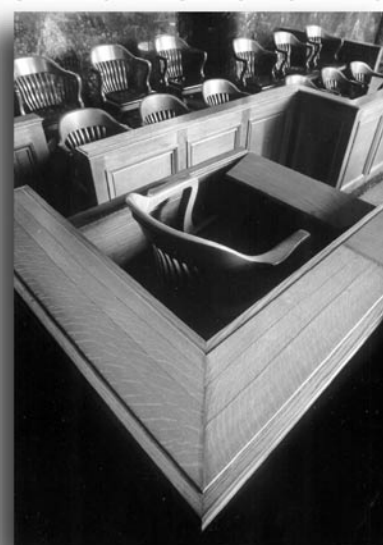
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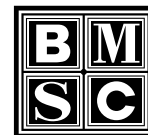
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Judicial Outreach Speakers' Bureau Summer Intensifies

The Multnomah County Judges have stepped up their speaking engagement dates in the community during the summer months. They have been addressing groups such as the Lions, Elders in Action, local neighborhood associations, business groups, churches and other organizations. In the last few years, they have spoken to more than 85 groups. Their core message – that courts are an integral and essential part of the healthy community – is well-received.

If you belong to a church or other civic group in Multnomah County, please consider asking one of our entertaining and informative judges to address your group. To schedule a judge to speak or for more information about the program, please contact Carol Hawkins at the Multnomah Bar Association: carol@mbabar.org or 503.222.3275.

The MBA salutes all our judges, especially those who have spoken to community groups from the Judicial Outreach Committee Speakers' Bureau. From left to right, they are: Judges Chris Larsen, Steve Todd, Michael Marcus, Jan Wyers, Nan Waller, Julia Philbrook, Jean Maurer, Jerome LaBarre, Ed Jones and Presiding Judge Dale Koch. Judges who have also spoken to groups but are not pictured here include: Judges Richard Baldwin, Ronald Cinniger, Julie Frantz, Alicia Fuchs, David Gernant, Henry Kantor, Marilyn Litzenberger, Maureen McKnight, Michael McShane, Keith Meisenheimer, Ellen Rosenblum, Katherine Tennyson and John Wittmayer.



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