



# MULTNOMAH LAWYER

MULTNOMAH BAR ASSOCIATION

1906

Lawyers associated for justice, service, professionalism, education and leadership for our members and our community. November 2007 Volume 53, Number 10



## Bridging the Gap to the Future

By Thom Brown, MBA President.

In this month's column, I want to talk about a subject that I've spent a good deal of time thinking about and focusing on over the last few years: blending Traditionalists (born before 1946), Baby Boomers (born between 1946 and 1964), Gen Xers (born between 1965 and 1980) and Gen Yers (born after 1980) in law

firms. Managing partners, like me, have faced the opportunities and challenges that bridging these generations provide within our own firms, and the MBA took important first steps last year to address those opportunities and challenges through a joint committee of managing partners and young lawyers. And, in my term as MBA President, I've made the continued work of the group one of my goals, along with building stronger personal and working relationships between the MBA Board and the YLS Board and both bodies' current and future leaders.

The MBA "Generation Task Force" spent almost a year studying the similarities and differences among Traditionalists, Baby Boomers, Gen Xers and Gen Yers. The work included a member survey that drew an astonishing 36% response rate. The group published a report, which was presented at an MBA CLE and to a joint meeting of the MBA Managing Partners Roundtable and the YLS Board. Some of the key findings were: (1) while job satisfaction is high across all generations, it is much higher with Traditionalists and Baby Boomers than Gen Xers and Gen Yers; (2) 47% of Gen Xers did not plan to be with their current firms in 10 years; indeed, of those people, nearly 39% plan to stop practicing law all together; (3) "work life balance" plays a role across all groups, but a much greater role with younger lawyers; and (4) younger lawyers value, much more than older lawyers, mentoring, supportive leadership, transparency in firm financial matters, communication of expectations and feedback and a more team-oriented working environment.

The "Generation Task Force" report included a number of recommendations: (1) hold firm-wide discussions to explore such topics as firm culture, leadership and work/life balance; (2) after identifying workplace culture and values, align planning, policies, procedures, practices, recruiting and marketing with that vision; (3) clarify and articulate the path to partnership, and provide information that will allow associates to more fully and knowledgeably participate in the planning and success of the firm; and (4) provide mentoring, training and coaching in areas of interest and need. If you haven't read the report, I encourage you to read it (you can find it on the MBA's Web site). And, I encourage you to give thought to how well your firms or practices are addressing each of the report's recommendations.

So, why do I think continued work on "bridging the gap" is important? Well, for a couple of reasons: (1) because the work will hopefully help in keeping younger lawyers from leaving private practice law firms (including mine); and (2) because younger lawyers are - obviously - the future of the profession. And so, the continued

work on "bridging the gap" not only has a present important purpose, but it also plays a key role in helping to see what firms like mine, for example, will need to understand and do to thrive in the future.

I'm not alone in that thinking - both the OSB and the MBA have present plans to look at the "future of the profession," a significant part of which will involve further examination of law firm demographics, including age, gender, race, ethnicity and sexual orientation. For the OSB, the present goal is a summit in 2008. For the MBA, the present plan is a YLS "futures committee," an MBA membership committee, the ongoing integration of the work of the MBA Board and the YLS Board and participation in the OSB's summit planning. All these efforts, I hope, will play an important role in ensuring that our profession builds strong bridges among the generations, bridges that will lead to a bright and better future for the profession and for all of us who continue in it and those joining us over the upcoming years. As always, if you have ideas on how to achieve those goals - or would like to be actively involved in the MBA's efforts - give the MBA a call at 503.222.3275.

## Congratulations to Carl Neil and all Award Winners

The MBA Awards Luncheon held September 19 recognized outstanding volunteers. This year's Professionalism Award winner was **Carl R. Neil**. In addition to Neil, 19 outstanding volunteers were recognized. The MBA Award of Merit was presented to **Keith M. Garza, Susan D. Marmaduke** and **Charles S. Tauman**. The MBA YLS Award of Merit was given to **Lainie M. Dillon, Jennifer Durham, Laurie R. Hager, Amber A. Hollister, Justin D. Leonard** and **Kristin H. Sterling**. Pro Bono Awards recognized **Peter S. Willcox-Jones, Michael B. Hallinan, Beverly C. Pearman, Stephen S. Walters, Don H. Marmaduke, Hon. Elizabeth Perris, Scott G. Seidman, Anna Sortun, Kent B. Thurber** and **David B. Gray**.

Congratulations to all the very deserving award winners!

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Continued on page 9

## MBA CLE

To register for a CLE, please see the inserts in this issue or go to [www.mbabar.org](http://www.mbabar.org).

### November

**Thursday, November 8**  
**Domestic Violence Law**  
**Drew Bobzien**  
**Judge Maureen McKnight**

**Tuesday, November 20**  
**Arbitration Clauses in Contracts**  
**Caroline Harris Crowne**  
**Julia Markley**  
**Carl Neil**

**Tuesday, November 27**  
**Non-Competition and Arbitration Agreements**  
**Anne Denecke**  
**Jeff Edelson**  
**Dan Gardner**

### December

**Thursday, December 6**  
**Appellate Cases**  
**Hon. Darleen Ortega**  
**Hon. David Schuman**  
**Lisa Lear**  
**Jim Westwood**

**Tuesday, December 11**  
**Financial Discovery & Civil Litigation**  
**Craig Bachman**  
**Rob Shlachter**  
**Jay Sickler**

**Thursday, December 13**  
**White Collar Crime**  
**David Angeli**  
**Robert Calo**

### In This Issue

Announcements..... p. 4  
Ethics Focus..... p. 4  
Around the Bar..... p. 7  
Tips From the Bench ..... p. 8  
News from the Courthouse..... p. 8  
Carl Neil's Remarks..... p. 8  
Profile: Judge Walker..... p. 9  
YLS..... p. 10  
Classifieds..... p. 14  
Multnomah Bar Foundation... p. 16

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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

An annual subscription is included in member dues or may be purchased for \$20.

Letters, award and news items, and announcements are welcome. Articles by members are accepted. All submissions may be edited for length, clarity and style, are published on a space available basis, and at the editor's discretion. Views expressed in articles represent the authors' opinion, not necessarily the MBA's. The publication does not purport to offer legal advice.

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**DEADLINE for copy:** The 10th of the month\*  
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\*or the preceding Friday, if on a weekend.

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# NEW ON THE SHELF

By Jacque Jurkins, Multnomah Law Librarian.

**THE TRIAL NOTEBOOK** edited by Robert S. Raschio. Published by the Oregon Criminal Trial Defense Lawyers Association, 2007-. (Ref. KF 8915 O7 T73 2007-)

**HOLTZSCHUE ON REAL ESTATE CONTRACTS AND CLOSING:** A step-by step guide to buying and selling real estate by Karl B. Holtzschue. Published by the Practising Law Institute, 2007-. (KF 665 Z9 H58 2007-)

**COMPENDIUM OF CLIENT PROTECTION RULES, 2007 ed.** Published by the ABA Center for Professional Responsibility, 2007. (KF 311 C65 2007)

**THE JUDGE ADVOCATE GENERAL'S SCHOOL GUIDE TO THE SERVICEMEMBERS CIVIL RELIEF ACT.** (United States Army.) Published by the ABA Standing Committee on Legal Assistance for Military Personnel, 2007. (KF 7680 A32 J83)

**AMERICAN BAR ASSOCIATION STANDARDS FOR THE PROVISION OF CIVIL LEGAL AID** by the Committee on Legal Aid and Indigent Defendants. Published by the ABA, 2007. (KF 336 A84)

**MANAGING AND LITIGATING THE COMPLEX SURETY CASE,** 2d. edited by Philip L. Bruner and Tracey L. Haley. Published by the ABA Tort Trial & Insurance Practice Section, 2007. (KF1228 M35 2007)

**GUIDE TO THE SEC'S EXECUTIVE COMPENSATION AND RELATED PARTY TRANSACTION DISCLOSURE RULES,** 2d ed. by Gary M. Brown. Published by the Practising Law Institute, 2007. (KF 1449 B74 2007)

**QUALIFIED PLANS:** Forms, notices and supplementary materials by Pamela D. Perdue. Published by the American Law Institute-American Bar Association Continuing Professional Section, 2007. (KF 3512 P47)

**ERISA SURVEY OF FEDERAL CIRCUITS,** 2d ed. edited by Brooks R. Magratten. Published by the ABA Tort Trial & Insurance Practice Section, 2007. (KF 3512 E75 2007)

# CALENDAR

For a complete MBA calendar, please visit [www.mbabar.org](http://www.mbabar.org).

## November

**1 Thursday, MBA CLE Intelligence and Cultural Competence**  
See insert or register at [www.mbabar.org](http://www.mbabar.org).

Thursday, Mediation Commission meeting  
Visit [www.mbabar.org](http://www.mbabar.org) for details.

**6 Tuesday, MBA Board meeting**

**7 Distinguished Historians Forum** with Fred Leeson  
Visit [www.ohs.org](http://www.ohs.org) for details.

**8 Thursday, MBA CLE Domestic Violence**  
See insert or register at [www.mbabar.org](http://www.mbabar.org).

**Thursday, New Admittee Social at the Crown Room**

**9 Friday, December Multnomah Lawyer deadline**

**12 Monday, Scam Avoidance class** sponsored by Elders in Action  
Visit [www.mbabar.org](http://www.mbabar.org) for details.

**Monday, YLS Brownbag Lunch with Literary Arts**

**13 Tuesday, YLS Board meeting**

**14-16 Wed-Fri, OSB PLF – Learning the Ropes Seminar**  
Visit [www.osbplf.org](http://www.osbplf.org) for details.

**15 Thursday, CEJ Mid-Campaign Leadership Meeting**  
[www.campaignforequaljustice.org](http://www.campaignforequaljustice.org) for details.

**16 Friday, U of O School of Law "Women's Work: Business, Business Law and Litigation"**  
Visit [www.law.oregon.edu/org/cle/lesa.php](http://www.law.oregon.edu/org/cle/lesa.php) for details.

Friday, U of O School of Law "Business Innovation & Law: Land Use & Development Tensions"  
Visit [www.law.uoregon.edu/org/pdx/docs/pdx07.pdf](http://www.law.uoregon.edu/org/pdx/docs/pdx07.pdf) for details.

**20 Tuesday, MBA CLE – Arbitration Clauses**  
See insert or register at [www.mbabar.org](http://www.mbabar.org).

**22-23 Thu-Fri, Thanksgiving Holiday**  
MBA closed

**27 Tuesday, MBA CLE Non-Competition and Arbitration Agreements**  
See insert or register at [www.mbabar.org](http://www.mbabar.org).

**28 Wednesday, MBA CLE Estate Planning**  
See insert or register at [www.mbabar.org](http://www.mbabar.org).

**Nov 30-Dec 1 Fri-Sat, OCDLA Winter Conference** at the Benson Hotel  
Visit [www.ocdla.org](http://www.ocdla.org) for details.

## December

**4 Tuesday, MBA Board meeting**

**6 Thursday, MBA CLE Appellate Tips**  
See insert or register at [www.mbabar.org](http://www.mbabar.org).

**10 Monday, January 2008 Multnomah Lawyer deadline**

**11 Tuesday, YLS Board meeting**

**Tuesday, MBA CLE Financial Discovery**  
See insert or register at [www.mbabar.org](http://www.mbabar.org).

**13 Thursday, MBA CLE White Collar Crime**  
See insert or register at [www.mbabar.org](http://www.mbabar.org).

**19 Wednesday, Multnomah Bar Foundation Board meeting**

**24-25 Mon-Tue, Holiday – MBA closed**

**31 Monday – MBA closed**

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# Ethics Focus

By Mark J. Fucile, Fucile & Reising.

## Advertising, Part 1: Theory

Law firm marketing regulation is a blend of theory and practice. The “theory” comes to us in the form of a series of US Supreme Court decisions beginning in 1977 that paved the way for the broad ability to advertise that we have today. The “practice” comes to us in the form of the Rules of Professional Conduct regulating this area that reflect those same Supreme Court decisions. In this month’s column, we’ll look at “theory” and next month we’ll look at “practice.”

Given the pervasive nature of law firm marketing today, it is easy to forget the distance traveled in a relatively short time from an era when virtually no law firm marketing was permitted at all. The first set of national professional rules was the ABA’s Canons of Professional Ethics adopted in 1908. Canon 27 prohibited advertising outright. When Oregon enacted the State Bar Act in 1935, we largely adopted the ABA canons - including the ban on advertising. (For a discussion of Oregon’s adoption of the State Bar Act and the ABA Canons, see *In re Porter*, 320 Or 692, 701-02, 890 P2d 1377 (1995).) When the ABA moved from the canons to its Model Code of Professional Responsibility in 1969, the advertising ban continued. Again, Oregon followed when we adopted our own variant of the ABA model code the next year. Until the mid-1970s and the then-emerging doctrine of commercial free speech, the US Supreme Court had upheld these severe restrictions on professional advertising in cases like *Semler v. Oregon State Board of Dental Examiners*, 294 US 608, 55 SCt 570, 79 LEd 1086 (1935).

In 1977 and 1978, however, the Supreme Court issued two decisions whose impact still resonates in all law firm marketing today.

The first, *Bates v. State Bar of Arizona*, 433 US 350, 97 SCt 2691, 53 LEd2d 810 (1977), addressed advertising. It arose on very prosaic facts. Two young former legal aid lawyers in Phoenix started a legal clinic focused on low cost consumer matters for clients who were just above the income ceiling for legal aid. They found that it was difficult to make themselves known to a consumer clientele in the absence of media advertising. Notwithstanding Arizona’s ban on advertising that mirrored the ABA canons and model code, they ran an ad in the city’s largest newspaper outlining the scope of their services and their rates. The president of the State Bar of Arizona filed a complaint against them. An administrative panel



of the Bar found them guilty and the bar’s board of governors’ recommended suspension. The lawyers appealed to the Arizona Supreme Court, arguing that the advertising ban as it related to price was a violation of the Sherman Antitrust Act and that, more fundamentally, the ban on advertising was an unconstitutional infringement of their commercial free speech rights under the First Amendment. The Arizona Supreme Court rejected both arguments. The US Supreme Court granted review and affirmed on the Sherman Act issue, but reversed on the First Amendment argument. In doing so, the Supreme Court relied on then-recent commercial free speech cases in other fields to reject the outright ban on law firm advertising. At the same time, the Supreme Court noted that law firm advertising could be regulated to prohibit false and misleading advertising and that reasonable restrictions on the time, place and manner of advertising would also be permitted. Nor did it foreclose regulation on claims regarding the quality of service that are not susceptible to empirical measurement or the possible use of warnings or disclaimers. Nonetheless, *Bates* opened the door and law firm marketing was never the same.

The second, *Ohralik v. Ohio State Bar Ass’n*, 436 US 447, 98 SCt 1912, 56 LEd2d 444 (1978), dealt with in-person solicitation. In *Ohralik*, a lawyer had been disciplined for violating Ohio’s ban on in-person solicitation (patterned on the then-current version of the ABA model code) by visiting a young automobile accident victim while she was in traction in a hospital and her equally young passenger as she recuperated at home in an effort to have them sign contingent fee agreements with him. After *Bates*, the lawyer sought review by the US Supreme Court, arguing that the ban on in-person solicitation was also unconstitutional. The Supreme Court took review, but affirmed. The Supreme Court drew a sharp distinction between general media advertising of the kind involved in *Bates* and the high-pressure, in-person solicitation involved in *Ohralik*: “The balance struck in *Bates* does not predetermine the outcome in this case. The entitlement of in-person solicitation of clients to the protection of the First Amendment differs from that of

# ANNOUNCEMENTS

### Courts Page Added to MBA Web Site

Please visit [www.mbabar.org](http://www.mbabar.org) and choose “Courts” at the bottom of the left index to read profiles of Multnomah County Judges and to find important links. The page is in development and will continue to expand. If you have suggestions for the page (content and design) please forward them to [judy@mbabar.org](mailto:judy@mbabar.org).

### OWLS Seeks Award Nominations

Oregon Women Lawyers is inviting nominations for the 16th Annual Justice Betty Roberts and Judge Mercedes Deiz Awards. The awards recognize and celebrate the accomplishments of individuals in promoting women and minorities in the legal profession in Oregon.

The nomination should include detailed information about the nominee explaining how that person fulfills the award’s criteria. At least three letters of recommendation should also be included. Nominations must be received by Monday, November 19 and must also include the appropriate nomination form.

Please send nominations to Kendra Matthews, OWLS, Ransom Blackman, 1001 SW 5th Ave Ste 1400, Portland OR 97204; fax: 503.227.5984; email: [kendra@ransomblackman.com](mailto:kendra@ransomblackman.com).

### Winter Conference Scheduled for Criminal Defense Lawyers

The Oregon Criminal Defense Lawyers Association will meet November 30-December 1 at the Benson Hotel in Portland. The CLE seminar portion of the conference is open to anyone involved in the defense function, and the Friday evening banquet,

with keynote speaker Judy Clarke, is open to everyone. For details or to register, visit [www.ocdla.org](http://www.ocdla.org).

### Fighting for the Rights of Breast Cancer Patients

Portland attorneys have the opportunity to join the battle against breast cancer by becoming pro bono advocates for patients on issues including employment law and health insurance coverage. A free CLE program will be held on December 17 from 9 a.m.-noon to provide training in the most important aspects of breast cancer legal advocacy. The CLE program will be held at the offices of K&L Gates in the KOIN center. To RSVP, contact Matt Goldberg at [matt.goldberg@klgates.com](mailto:matt.goldberg@klgates.com) or on 503.226.5754. Approval for two hours general credit is pending.

### Child Centered Solutions Presents November 30 Seminar

A full-day training session for attorneys representing children in custody and parenting time disputes will be held November 30 from 9 a.m.-5 p.m. at the World Forestry Center. Titled “Effective Representation of Children,” the seminar features nationally recognized expert, author and speaker Risa Garon. Seven hours CLE (pending). Contact: [www.childcenteredolutions.org](http://www.childcenteredolutions.org) or 503.546.6383.

### Noon Time Bike Rides

MBA 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.

### U of O School of Law Names New Dean

Margaret “Margie” Paris has accepted an offer to serve a full five-year term as dean of the School of

Law, UO Senior Vice President and Provost Linda Brady recently announced.

Paris joined the law school faculty in 1992 after six years specializing in white-collar criminal law in Chicago for Cotsirilos, Stephenson, Tighe & Streicker Ltd. Since then, she has taught advanced appellate advocacy, criminal law, criminal investigation, criminal adjudication, violence and the law and courses focusing on white-collar crime. Paris continues to write extensively. She is one of five authors of *Mastering Criminal Procedure* (Carolina Academic Press, forthcoming 2008). In addition, she served as associate dean for academic affairs at the law school from 2002 to 2005.

### Membership Renewal Notices Sent

The MBA has mailed renewal notices for the 2008 membership year. Members may also renew online at [www.mbabar.org](http://www.mbabar.org). Please remember to donate to the Volunteer Lawyers Project with your renewal. If you have questions about your membership, call Kennedy Smith of the MBA at 503.222.3275.

### MBA Membership Survey and Practice Area Update

The MBA will soon be sending all members a web-based membership survey, and will also be providing an opportunity to update practice area listings in the online directory. The old practice area listings will be removed from the directory. All members are encouraged to respond.

the kind of advertising approved in *Bates*, as does the strength of the State’s countervailing interest in prohibition.” 436 US at 455. The Supreme Court then concluded that the state’s legitimate interest in protecting the public justified continued regulation of in-person solicitation.

The twin threads woven in *Bates* and *Ohralik* have continued to define the Supreme Court’s approach to law firm marketing: generally expanding constitutional protection for media and written forms of advertising and generally continuing to sustain prohibitions and other regulation on in-person solicitation and closely related situations.

On the former, the Supreme Court in *In re R.M.J.*, 455 US 191, 102 SCt 929, 71 LEd2d 64 (1982), approved general direct

mail advertising as long as it met *Bates*’ standard of being truthful. It did the same for targeted print and direct mail advertising in, respectively, *Zauderer v. Office of Disciplinary Counsel*, 471 US 626, 106 SCt 2265, 85 LEd2d 652 (1985), and *Shapero v. Kentucky Bar Ass’n*, 486 US 466, 108 SCt 1916, 100 LEd2d 475 (1988). In *Peel v. Attorney Registration & Disciplinary Comm’n of Ill.*, 496 US 91, 110 SCt 2281, 110 LEd2d 83 (1990), the Supreme

Court found that a lawyer had a First Amendment right to advertise his certification as a trial specialist by the National Board of Trial Advocates and in *Ibanez v. Florida Dep’t of Bus. & Professional Regulation*, 512 US 136, 114 SCt 2084, 129 LEd2d 118 (1994), concluded that a lawyer could include her credentials as a certified public accountant and a

*Continued on page 13*

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# Campaign for Equal Justice Begins 2007 Fundraising Effort

By Maya Crawford, Campaign for Equal Justice.

The Campaign for Equal Justice (CEJ) kicked off its 2007 fundraising drive with a reception and meeting sponsored by the Bank of the Cascades. The Campaign's fundraising drive runs each year from September to early March, with most contributions coming in during November and December. CEJ is a 501(c)(3) organization that supports Oregon's legal aid programs, including programs based in Multnomah County, such as the Multnomah County Office of Legal Aid Services of Oregon and the Oregon Law Center. These offices, along with offices in 15 other communities around the state, represent low-income clients with survival issues such as domestic violence, housing and income maintenance.

Leslie Kay, Regional Director of the Multnomah County office, says, "A significant portion of our cases deal with domestic violence, public benefits, housing and elder

law. Every week we have to turn away hundreds of individuals who are income-eligible and who have legitimate legal needs because we lack the resources. Pro bono lawyers in Multnomah County do a great job of helping us try to fill the gaps, but these programs also require resources to screen clients and find the right pro bono placement."

Other specialized legal aid programs include the Community Development Law Center and the Native American Program of Oregon Legal Services. Statewide, legal aid offices provide direct assistance to 20,000 low-income clients each year, with thousands more being helped through self-help classes, pro bono programs, or Web sites and other self-help materials.

"A contribution to the CEJ is an investment in access to justice in Oregon. The campaign puts your money to work by writing grants for foundation support for legal aid, by increasing state and federal funding for legal aid and by operating an endowment fund



in addition to direct financial support," says Ed Harnden, chair of the campaign board of directors. "This year's goal is \$1 million, and lawyers in Multnomah County are the backbone of the campaign," says Harnden. In the past two years, the campaign has raised \$1.7 million from private lawyers, another \$1 million in foundation grants for legal aid, and has helped to increase state and federal funding.

"The poverty population in Oregon has grown, and unfortunately we're able to meet less than 20% of the legitimate legal needs of the poor. However, I think we're starting to turn the corner and we need the support of the private bar to do this," says Tom Matsuda, Director of Legal

Aid Services of Oregon. When asked why she contributes to the campaign, Portland lawyer Karen Stolzberg said, "It is a privilege to practice law and I need to give back to make certain that all people can access our system of justice."

**Editor's Note:**  
*The CEJ maximizes donations by winning challenge grants to increase legal services for the poor. Please help by making a generous donation at [www.cej-oregon.org](http://www.cej-oregon.org).*

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# 2008 MBA Professionalism Award Nominations Sought

Do you know a lawyer who is a joy to work with, someone who goes above and beyond the minimum professionalism standards? Nominate him or her for the 2008 MBA Professionalism Award.

Past recipients are Raymond Conboy, Thomas H. Tongue, Randall B. Kester, Frank Noonan Jr., Donald W. McEwen, Don H. Marmaduke, Noreen K. Saltveit McGraw, Thomas E. Cooney, John D. Ryan, George H. Fraser,

Barrie Herbold, Walter H. Sweek, Daniel E. O'Leary, Mark R. Wada, Sandra A. Hansberger, Robert C. Weaver, Walter H. Grebe, Susan M. Hammer and Carl R. Neil.

Any MBA practicing attorney member, except a member of the MBA Professionalism Committee or the MBA Board of Directors, is eligible to receive this award. Former nominees may be re-nominated. The recipient should exemplify, not simply

meet, the standards in the MBA Professionalism Statement. The award is intended to recognize and honor personal and professional qualities, reputation and conduct.


The recipient should be a role model for other attorneys, particularly younger MBA members.

Because the award recipient should serve as a role model,

an appreciation of diversity in the nomination and selection processes is important.

See nomination form insert for more information.


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# AROUND THE BAR

## ROSENTHAL & GREENE

The firm, including attorneys **Michael A. Greene**, **Elden M. Rosenthal** and **John T. Devlin**, has moved to 121 SW Salmon St Ste 1090, Portland OR 97204. Their phone, fax and emails remain the same.

## SCHWABE WILLIAMSON & WYATT

As part of a growing China practice, the firm has entered into a cooperative agreement with Stephenson Harwood & Lo (SHL), an international law firm based in China with offices in Hong Kong, Guangzhou and Shanghai. The two firms, while remaining as separate and independent entities, will contribute talents and resources to closely cooperate with each other in accomplishing the business objectives of clients on both sides of the Pacific.

## STANDARD INSURANCE COMPANY

**Julie Bolt** has been promoted to senior attorney in the insurance services group legal department.



Dan Thenell

representing less than one-half of one percent of American lawyers and is by invitation only.

**Dan Thenell** was recently elected to the Board of Directors of the Oregon Chapter of the International Association of Arson Investigators. In addition, he has also been appointed as Co-Counsel of the Oregon Chapter of the International Association of Special Investigation Units by the Board of Directors.



Jessica A. Asai

**Jessica A. Asai** has joined the firm as an associate and is a member of the corporate and securities and employment practice groups.



Alan McCollom

## MARGER JOHNSON & MCCOLLOM

**Alan McCollom**, a shareholder with the firm, was recently appointed to the newly formed Multnomah County Mediation Commission. McCollom will serve as the chair of the civil sub-committee.

McCollom has more than 25 years in private law practice. A mediator and arbitrator, he is a member of neutral panels for CPR International Institute for Conflict Prevention & Resolution, American Arbitration Association, and National Arbitration Forum. He has served as a special master, as a sole arbitrator, and on three-member panels. His extensive intellectual property background includes infringement and validity studies and opinions; analysis of potential patent infringement; and prosecution of applications for US and international clients.



Dennis Freed



John G. Crawford

**JOHN G. CRAWFORD**  
**John G. Crawford**, former shareholder of Schwabe Williamson & Wyatt, has retired after 34 years with the firm, and is now serving as a mediator and arbitrator in business and commercial cases. He may be contacted at 808 SW 15th Ave, Portland OR 97205, Mail PO Box 817, Portland OR 97207, www.businessdispute-arbitration.com, email john@businessdispute-arbitration.com and 503.224.9265.



Jeff Eberhard



Paul Migchelbrink

**FARLEIGH WITT**  
**Paul Migchelbrink** has joined the firm and is a member of the corporate and securities and real estate practice groups. He brings more than 13 years experience as a business advisor and counselor, and will maintain a diverse business practice emphasizing corporate and commercial matters and real estate.



Jeff Hansen

**SMITH FREED & EBERHARD**  
**Dennis Freed**, **Jeff Eberhard** and **Jeff Hansen** have been selected as Fellows in the Litigation Counsel of America (LCA) Honorary Society. Fellows are chosen upon merit, achievement in litigation and superior ethical status. LCA membership is restricted,

lawyers in conjunction with its November 16 symposium "Women's Work: Business, Business Law and Business Litigation." **Jody Stahancyk**, an alumna of the law school, will give the keynote speech, entitled "The Business of Law: How a Lady Can Make Money in the World's Second-Oldest Profession." The symposium's participants, who have distinguished themselves as transactional lawyers, in-house counsel, business litigators, business lawyers and practicing businesswomen, will share their experience and unique perspectives with law students and the wider community at the event.

**STAHANCYK KENT JOHNSON**  
The firm has relocated its Bend office to 158 NE Greenwood Ave, Bend OR 97701, phone 541.318.9115 and fax 541.318.9116.



Danielle R. Beauvais

**BEAUVAIS LAW FIRM**  
**Danielle R. Beauvais** is pleased to announce the opening of her new office, where her practice focuses on new defective motor vehicles, lemon law and breach of warranty cases throughout Oregon and Washington. The firm is located at 5635 NE Elam Young Parkway Ste 300, Hillsboro OR 97124, telephone 503.681.2008, email danielle@golemonlaw.com, www.golemonlaw.com.

**MARKOWITZ HERBOLD ET AL**  
Wine lovers from the legal and business communities came together on September 18 to enjoy fine wine and to raise more than \$80,000 for legal services for low-income families. The Markowitz Wine Tasting & Auction, held at the University Club, benefited St. Andrew Legal Clinic, a nonprofit law firm supporting low-income families in Multnomah, Clackamas, Washington and Columbia Counties.



Event host David Markowitz and auctioneer Paul Fortino

**VANGELISTI KOCHER**  
Firm principal **Richard Vangelisti** has been elected to serve a term as a director of the Oregon Chapter of the Federal Bar Association. He previously served as the Oregon Chapter president. Vangelisti practices plaintiff's personal injury law.



Richard Vangelisti

**STOEL RIVES**  
To mark the firm's 100th anniversary, firm attorneys and staff will embark on service projects for 20 charitable organizations throughout six major markets where the firm has offices. The program, called "A Day to Make a Difference," will run through August 31, 2008.

During the next several months, the firm's more than 800 personnel will be invited to spend up to a day of paid time off to participate in a group volunteer project for a designated organization. Service projects range from planting gardens to cleaning low-income housing and packaging food for the homeless.



William "Bill" Birdwell

**DAVIS WRIGHT TREMAINE**  
**William "Bill" Birdwell** has joined the Portland office as a partner, bringing a wealth of experience to its intellectual property/patent law practice. Birdwell has 33 years of experience representing both large and small clients in intellectual property litigation in bench and jury trials and prosecuting patent, trademark and copyright matters. He also has served as an expert witness on patent law issues, and has been a patent dispute mediator.

The Around the Bar column reports on MBA members' moves, transitions, promotions and other honors within the profession. The deadline is the 10th of the month preceding publication or the previous Friday if that date falls on a weekend. All items 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 carol@mbabar.org.



## Tips from the Bench

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

### Notify the court when your matter settles

A few weeks ago while I was on vacation on a Friday, I was assigned a five-day civil jury trial to start the Monday morning I was to return. The lawyers were very prepared - they delivered their trial memos, the pleadings, motions in limine and any other pretrial motions to my office on Friday.

As I was not there that day, my judicial assistant called me and told me about the trial assignment and the materials that had been delivered, which I needed to review before the Monday morning start. She brought the materials home with her, and I picked them up from her Sunday afternoon when I returned from out-of-town.

Sunday evening, just as I was about to start on the materials, and no doubt spend a number of hours on them, I checked my office email, which I am able to do from my home. To my very pleasant surprise, I found an email from the lawyers on my trial reporting that the case settled Saturday. I was so pleased to not have wasted a number of hours Sunday evening preparing for a trial that had already settled by that point.

**Practice tip:** Always notify the assigned judge promptly if the matter settles. If the settlement happens during the regular workday, call the office immediately. If it settles after normal hours, send an email. Our work email addresses are available online on the OSB's Web site at [www.osbar.org/members/start.asp](http://www.osbar.org/members/start.asp).

When your civil case settles more than the day before daily call, you need to telephone the court's calendaring section at



503.988.3168, extension 3. Court staff in this office make the entries into OJIN and generate the 35-day dismissal notice.

When your civil case settles the day before daily call, you need to telephone the office of the presiding judge at 503.988.3846 and report the settlement. The presiding judge's staff will make a notation of the settlement on the next day's call docket.

### Do not plan to be in your jury trial on Fridays

There continues to be some confusion in the bar about jury trials on Fridays in Multnomah County. Yes, we are open. But no, we generally do not conduct jury trials on Fridays. We use Fridays for other matters.

So if you have a case on call on a Wednesday, and you report it to be a five-day trial, you should plan on being in trial on Thursday for the first day, skipping Friday, and returning on Monday for the second day, etc. While some judges might occasionally be available on Fridays, it is the policy of the presiding judge that the default position is that jury trials will not continue on Fridays.



By Kathryn Villa-Smith, Clackamas County Bar Liaison, MBA Court Liaison Committee.

### Presiding Judge's Report

Judge Jean Maurer reported she is currently acting as deputy presiding judge. It is anticipated she will be appointed by the chief justice as presiding judge to a term beginning in January. The appointment is for a two year term, and is subject to re-appointment for succeeding terms. The position of deputy presiding judge is new in Multnomah County. The judges are considering continuing this position.

There have been no changes to the day-to-day operation at the courthouse since Judge Dale Koch's report in September. Some of the issues to be worked out include the problems regarding cell phones and cell phone cameras in the courtroom and transport delays of inmates. In civil cases involving the incarceration of a party, the presiding judge should be contacted to ensure transport.

### Web Site Update

Judy Edwards reported that technical issues are being resolved regarding posting the Tips from the Bench columns. The new Courts page has been added to

the site. The committee suggested adding links to the Court of Appeals and the Supreme Court. The Web site subcommittee continues to meet via email.

The MBA Web site offers visitors online CLE registration and payment of membership dues.

Judy reported there are 100-200 visitors per day to the Web site.

The committee discussed whether portions of the Web site should be limited to members only. A membership survey will be sent out in the near future. After the survey is complete, members will be able to update their personal profiles. Practice areas will increase from 30 to 70. In time, there will be a "members only" page.

The new filing fee schedule is on the Web site.

### CourtCare

Judy Edwards reported CourtCare is thriving. In 2007, \$125,000 was raised to support the program. Planning for the 2008 drive continues.

### Relocation of Downtown Courthouse

Although we have a downtown site for the new courthouse, it was acknowledged the funds for the new courthouse have not yet been obtained. The funding measure and bond will be required in the next few years. No new information was reported regarding the new courthouse.

### New Business

Brett Bender volunteered to act as the liaison to Clark County Bar Association. He will provide a summary of Clark County's monthly newsletter. Judy Edwards will look into the possibility of adding a link to the Clark County Bar's site to the MBA Web site. David Meyer suggested adding a report from the various liaisons to the agenda for next month's meeting.

## Remarks by MBA Professionalism Award Recipient

By Carl Neil.



The following remarks, edited for print, were given at the September 19 MBA Awards Luncheon.

I am honored to receive this award and I want to thank those responsible for choosing me as the recipient of it this year, including the members of the Professionalism Committee and the lawyers who nominated me for it: Don Green, Bill Kirtley, Don Marmaduke, Bob Stoll and my partner, Bob Palmer.

The honor in receiving this award comes partly from being added to the ranks of the distinguished

prior recipients. Their names amount to a list of leading Oregon lawyers over the last 25 years or so: Ray Conboy, Thomas Tongue, Randall Kester, Frank Noonan Jr., Don McEwen, Don Marmaduke, Noreen Saltveit-McGraw, Tom Cooney, John Ryan, George Fraser, Barrie Herbold, Walter Sweek, Dan O'Leary, Mark Wada, Sandra Hansberger, Bob Weaver, Walt Grebe, Susan Hammer.

Old-timers like me (I'll be 74 on October 1) are entitled - or at least can't resist - telling some stories about other lawyers, especially to a captive audience. So, I would like to tell a couple of them about two of the prior recipients, Randall Kester and Don Marmaduke.

Randall Kester is responsible for me coming to Oregon to practice law. As a judge of the Oregon Supreme Court, he had a notice put up on the Columbia Law School bulletin board that he would consider hiring a law clerk from that institution. I came out to Salem in the summer of 1957, after

my second year at Columbia Law School, met with Justice Kester and was hired. I was thrilled, since few third-year law students in those days had job commitments at the beginning of their last year in law school. I was really sitting pretty, when one day in April, 1958, I received two letters in the mail, both with return addresses at the Oregon Supreme Court.

I opened them in the right order. The first came from Kester, who told me that he had resigned from the Oregon Supreme Court and that I no longer had a job. The second was from Justice Hall Lusk, a longtime, distinguished judge on the Oregon Supreme Court and Multnomah County Circuit Court. Essentially, it read: "Dear Carl: I understand you're looking for a job. I need a law clerk." Needless to say, I accepted immediately, spent a year in Salem clerking for Lusk, and then joined the predecessor of my present law firm.

Don Marmaduke, then with Stoel Rives, was one of the first lawyers I met after moving to Oregon. He was the second or third Oregon lawyer to volunteer to represent people prosecuted in Mississippi for trying to exercise the constitutional rights of citizens. The late Cliff Carlsen was the first, but I can't recall whether the late Bill Martin or Don was the second. In any event, Don volunteered in 1965 when it was really dangerous to do some of the things he did there. Since the Chaney/Schwerner/Goodman disappearance from the Philadelphia, Mississippi jail had not been solved, it appeared as if such violence toward anyone associated with civil rights work could go unpunished.

Don called me up in November of 1965, and recruited me to be the next Oregon lawyer to volunteer for work in Mississippi, and I was there for about a month in February-March of 1966, when conditions were considerably less threatening to people in the civil rights movement than when Don was there.

Turning to the subject of lawyer professionalism, I note that both the OSB and MBA Statements of Professionalism pledge lawyers to participate in pro bono activities and to help make legal services available to everyone. MBA President Thom Brown, in his lead article in the current issue of the *Multnomah Lawyer*, urges lawyers to participate in pro bono legal work and community service - both of which enhance the standing of lawyers in the eyes of the public.

I want to second President Brown's comments. That kind of activity has produced some of my most satisfying experiences in law practice. Early on, I handled a couple of death penalty cases in appellate and post-conviction proceedings, and I represented over the years many less-than-popular litigants and causes as an ACLU cooperating attorney, including the Lloyd Center free speech case that reached the US Supreme Court in 1972.

Continued on page 9



# Profile – Judge Kenneth R. Walker

By Gregory Silver, Circuit Court Judge Pro Tem and former Court Liaison Committee member.

Some judges have gone directly from high school, to college, to law school, to private practice, to the bench. This is not about one of those judges.

**Ken Walker** was born in 1951 in San Pedro, Calif.; his family moved to nearby Compton when he was six months old. His parents were from Mississippi. They had moved to California to raise their children in an environment that would offer more opportunity for African-Americans than was possible in the Deep South. What they didn't know was that Compton, and its neighbors Watts and South Central Los Angeles, were beginning to change almost as they arrived. In a picture from Judge Walker's fifth birthday party, the 10 neighborhood children attending were black, white and Asian; the pictures of his eighth birthday party show only black neighbors. His parents had unknowingly traded the segregation and poverty of the South for the segregation and poverty of the inner city.

The future judge first thought of becoming a lawyer while watching *Perry Mason* on TV. "He represented the underdog, and he made sure that all people were protected in court, even if they

appeared to be guilty. I liked that," he says. But Walker also toyed with the idea of becoming a professional athlete. He played almost all sports as he grew up, but baseball was his favorite. At the age of eight he had a "decent curveball" and asked his father if he should become a professional baseball player or a lawyer. "A lawyer," his father said. "A pro ballplayer lasts maybe 5-10 years; you can be a lawyer for life."

Getting there, however, would come by a fairly circuitous route. Compton in the 1960s was becoming an increasingly tough neighborhood. At the end of his junior year in high school, several of his friends convinced him to try something different.

"They had gone into the Job Corps in Tongue Point, Oregon, then transferred to a high school equivalency program in Eugene," he says. "When they came back to Los Angeles to visit, they told me about a place where people were friendly, smiled at you, and trusted you. I was sold."

The Eugene program was full, however, so he went to a similar program in Pullman, Wash. He got his GED and finished his first semester of college at Washington

State. The culture shock of living in Pullman, however, finally hit. He returned to Los Angeles only to find that he was now "living in a war zone," so he moved back to Eugene and enrolled at Lane Community College, where he was soon elected vice president of the student body.

The summer following his sophomore year he was elected vice president of the National Student Association. He moved to Washington, D.C. for a year and traveled around the country, working with student governments nationwide. Then it was back to Eugene for a BA from the U of O in community service and public affairs. He moved to Portland looking for a good job, but all he could get was one as a night watchman, so after another year it was back to the U of O for law school.

His first job out of law school was with Marion-Polk Legal Aid in Salem. After 18 months he left to join the Portland office of Metropolitan Public Defender Services, where he remained for seven and a half years, representing clients in the full gamut of criminal cases. He also became reacquainted with Ernie Warren, another young

black attorney he had first met in Salem. They started to talk about private practice and in 1990 left the public defenders to open the first African American law firm in Oregon.

They planned to move from criminal defense into civil practice after a few years. Warren did that, but Judge Walker couldn't shake his memories of *Perry Mason*. He realized that he truly enjoyed criminal defense and his ability to "help the little guy." So he stayed with it, building up a substantial retained practice while continuing to represent indigent defendants for more than 17 years. He also became more active in the community, raised a family – one daughter is finishing her third year of law school, the other works for the San Francisco Zoo – and played in 15 national softball championships. (He's still waiting for that championship ring.) He and his wife, Mara, live in Portland.

On February 28, Governor Ted Kulongoski appointed Judge Walker to Department 11, the seat Judge Linda Bergman held for 26 years. While he won't commit to that long a judicial career, he is certainly enjoying the challenge.



Judge Kenneth R. Walker

"I loved to try cases and fight for my client," Judge Walker says, "and being a judge feels like a natural transition from practice. Now I try to objectively look at the facts, read the cases, listen to the arguments and then try to get it right. To me, that is the essence of being in the legal profession."

That intellectual exercise, though, will always be tempered with an understanding of where he came from. "Sometimes, when I look across the bench, I see that teenager from Compton. He will be held accountable if he's done something wrong, but if we can give him the right opportunity at the right time, he might surprise us all with what he really has."

Just like Judge Walker.

## Awards Lunch

Continued from page 1

Photos by Dan Carter



Pro Bono award of merit winners back row Bernie Thurber, Scott Seidman and Steve Walters. Front row Don Marmaduke, Beverly Pearman, Anna Sortun and Michael Hallinan. Not pictured: Hon. Elizabeth Perris and Senior Law Project Volunteer of the Year David Gray



YLS Award of Merit recipients Lainie Dillon, Justin Leonard, Laurie Hager, Kristin Sterling, Jennifer Durham and Amber Hollister



Peter Willcox-Jones, Michael E. Haglund Pro Bono award winner



Thom Brown congratulates Carl Neil on receiving the Professionalism Award



MBA Award of Merit recipients Chuck Tauman, Susan Marmaduke and Keith Garza

## Remarks by MBA Professionalism Award Recipient

Continued from page 8

My involvement in such work sometimes reached the news media. Notwithstanding fears of "regular" client backlash, I never had an existing (i.e., "paying") client criticize me or discontinue the relationship with my firm because of my participating in a controversial case. Instead, "regular" clients seem to think that their attorney must be pretty good if he or she handled newsworthy litigation, no matter how controversial.

I think other lawyers have had the same experience when they engage in pro bono and community service work. I hope that is true for great lawyers like Jan Kitchel, Bob Weaver,

Sam Kauffman, Steve Wax, Paul Fortino, Tom Johnson and Cody Weston – and there may be others I haven't heard about – who are carrying on the tradition of providing legal services to the unpopular by representing Guantanamo Bay detainees.

Thanks to the MBA for all of the awards presented today. They are pats on the back of each of the recipients, and recognition of the positive roles lawyers can play in law practice and in community activities.

### Courts page added to www.mbabar.org

Please visit [www.mbabar.org](http://www.mbabar.org) and choose "Courts" at the bottom of the left index to read profiles of Multnomah County judges and find important links. The page is in development and will continue to expand. If you have suggestions for the page (content and design) please forward them to [judy@mbabar.org](mailto:judy@mbabar.org).



## YLS Membership Committee Making Lasting Connections

By Christopher Lombard, Portland State University and YLS Membership Committee.

Groucho Marx once famously groused that he wouldn't "want to belong to any club that will accept [him] as a member." Well, with all due respect to Mr. Marx, I don't share his sentiment when it comes to the YLS Membership Committee. Now into my second term on the committee, I haven't regretted my decision to become involved for a moment.

What does the YLS Membership Committee do, exactly? It is one of five committees in the MBA YLS, and simply put, it serves the section's members, striving to bring newer lawyers together with opportunities to network and (often) commiserate, to connect them to the community and to make easier the sometimes daunting transition from law school student to practicing attorney.

The committee is the MBA's front-line of contact with future members of the legal community before they even finish law school. Each spring, the committee coordinates a law student social where students have the chance to talk with younger attorneys about the shift from student to attorney, how to navigate their way into the waters of conducting job searches, and have the opportunity to hone those all-important networking skills. Each fall, the committee also hosts the New Admittee Social,

which helps to welcome the newest members of the bar to the MBA YLS and to familiarize them with the YLS committee members and its board of directors. This year's New Admittee Social is coming up on November 8 and will be held at the recently-opened Crown Room in Old Town, Portland, so mark your calendars.

Another of the committee's overriding principles is to reach out and connect with other local organizations and bar associations. In the past, the committee has helped organize and host events with the Oregon Minority Lawyers Association, the Oregon Society of CPAs, and the Clark County Bar Association - Young Lawyers Section.

And lest you get the impression that all the committee does is arrange socials and happy hour networking events, the committee also helps organize charitable and community activities for young lawyers. For instance, each December, the committee coordinates a toy drive benefiting Toys for Tots. Then, every spring, the committee hosts its annual judges social where prizes, donated by various businesses and law firms, are raffled off to benefit the CourtCare program, a drop-in, no-cost childcare service for parents who must attend court and have no alternative childcare.

Finally, the committee publishes the *New Admittee Survival Guide*, which is available at various MBA YLS events throughout the year. It has been cited by new attorneys as an invaluable resource for the way it concisely compiles all kinds of relevant information in one place, such as the benefits of MBA membership and opportunities for involvement through its committees, more general information about OSB membership, issues related to reciprocity with the Idaho, Washington and Utah state bars, pro bono and other volunteer opportunities as well as links to Web sites of particular interest to young lawyers.

Clearly, the YLS Membership Committee spends a good deal of time organizing and hosting socials throughout the year. But why they are held ranges from simply getting young lawyers out of their offices and giving them a chance to share our common experiences, to encouraging volunteer and pro bono involvement, to helping to benefit worthwhile community-based and legal causes. With any luck, you'll have a long and prosperous career – we're just trying to make those first few years easier, and perhaps, a bit more rewarding.

## MBA YLS Professional Development and Education Committee Fall 2007 Update

By Tina Zemina, Bateman Seidel et al and Professional Development & Education Committee.

You're selling your house in a nice neighborhood near the local university. The house next to yours is a lovely Victorian, which happens to be used as a residence for a particularly notorious fraternity. There are no markings on the exterior of the house and the students are all away on summer break so there are no visible signs of the house's use. Are you required to disclose the fact that the neighbors are a bunch of rowdy fraternity boys to a prospective buyer?

You represent an owner of a condominium. The owner bought the unit years ago from its original owner but only recently started noticing a number of construction defects. He wants to know whether he can take action against the seller, the builder, the architects, the contractors and the real estate agents who were involved in the sale. What do you tell him?

These are just a few of the questions which have been discussed at the Fundamentals of Real Estate and Land Use

Law CLE series sponsored by the MBA YLS Professional Development and Education (PDE) Committee. The nine-part series started on September 18 and is held every Tuesday from 12-1 p.m. in the auditorium of the Standard Insurance Building. The season finale will be held on Wednesday, November 14 from 12-1:30 p.m. in the same location. The program is primarily designed as a "beyond the basics" series for attorneys with 3-6 years of experience, but is open to a much broader audience including more experienced lawyers, law students and paralegals. The series sold out in record time, but there are limited drop-in spots available.

The PDE committee is also hard at work planning for its annual winter Young Litigator's Forum. See the insert accompanying this newsletter for more details on this year's program and speakers. We highly encourage you to participate. In the spring, we will host several career enhancement workshops and seminars. Keep your eyes on the MBA Web site and publications for details.

As any practicing attorney knows, there is no shortage of CLE events in Oregon - not a single day goes by without receiving some kind of brochure or email advertisement. So what makes MBA YLS CLE classes stand out from the pack? First, the sessions are designed and put together by young lawyers, for young lawyers. The PDE Committee is very committed to selecting diverse and interesting speakers who are absolute stars in their fields. Second, our CLE classes are a true bargain. The entire cost of the Fundamentals of Real Estate and Land Use Law series was only \$95. In addition, the proceeds of each series or seminar support the important activities of other YLS committees.

Please visit the YLS section of the MBA Web site ([www.mbabar.org](http://www.mbabar.org)) for more information on PDE Committee activities. To make a suggestion for future topics or speakers, call Ryan at 503.222.3275 or email him at [ryan@mbabar.org](mailto:ryan@mbabar.org).



## DWT Sponsors Subterra Young Lawyers Social

The YLS held a Drop-in social at Subterra for new admittees and lawyers within their first six years of practice. Thank you to Davis Wright Tremaine for generously sponsoring the event.



Carlos Rasch, David Eder, Colin Andries and Emilie Mardyla at the September Drop-in Social

## Dropout Prevention Program Needs Volunteers

Members are encouraged to volunteer for the MBA's Dropout Prevention Program during the 2007-08 school year. Ryan Steen and Jennifer McCauley co-chair the program, which is sponsored by the MBA YLS Service to the Public Committee.

The Dropout Prevention Program provides volunteer attorneys, who visit Multnomah County middle and high schools to present a short video and facilitate discussion with students. The video features interviews with young convicted felons who dropped out of school. The felons detail how their decision to drop out of school led to other poor choices, which they believe is the reason they are now incarcerated. After the video, the attorneys engage the students in a discussion about the ramifications of dropping out of school and the benefits of staying in school. Volunteers are provided a handout with sample discussion topics and questions.

"I participated as a volunteer last year and the experience was very rewarding. I worked through a budget based on the minimum wage. The list of expenditures the students wanted (iPods, videos, clothes, etc.) was endless, which helped emphasize just how much they would not have if they were only able to earn minimum wage. The students will ask many questions about being an attorney and the law, especially what actions are, and are not, criminal, so there is no worry about not having enough to discuss." *Jennifer McCauley*

This program makes a huge difference to Oregon's youth. If you want to give back to the community, with a typical time commitment of only one class period, please join us. Orientation for this year's volunteers is on Wednesday, November 14, from 5:30-6:30 p.m. at Ball Janik. Food and beverages will be provided.

If you would like to attend the orientation, please email Ryan Steen or Jennifer McCauley your contact information. Volunteers are welcome at any time even if they are unable to attend orientation. Contact Ryan Steen at [rsteen@schwabe.com](mailto:rsteen@schwabe.com) or Jennifer McCauley at [jmccauley@bjllp.com](mailto:jmccauley@bjllp.com) if you're interested in volunteering.

## Join the MBA YLS for a brown bag lunch

On November 12, the MBA YLS will host a joint event with Literary Arts from 12-1:30 p.m. The event takes place in the Standard Insurance Center in classrooms 1-3 (located on the cafeteria level of the building). Bring your lunch to this informal gathering in downtown Portland. In addition, Literary Arts will discuss the Oregon Book Awards as well as its Portland Arts & Lecture Series ([www.literary-arts.org](http://www.literary-arts.org)).



# ABA Publication at 20% Discount to Members

## *Managing Closely Held Corporations: A Legal Guidebook*

What duties of care, loyalty and good faith do directors, officers and shareholders owe each other? Who has the power to approve corporate actions? How are those actions properly taken?

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This handy reference begins with a basic outline of the closely held corporation and discusses important key roles and duties, as well as the legal principles governing them. Providing you and your clients with expert

guidance and a thorough understanding of the special concerns and challenges involved in closely held corporations, this guidebook examines the legal concerns of directors, officers and shareholders.

The text covers the basics of corporate governance, including the structure of corporate action and the duties of care, loyalty and fairness owed by directors, officers and controlling shareholders. Included chapters detail how traditional roles and structures may be modified in the closely held context through agreements, multiple classes of stock and other means.

Topics also discussed are record-keeping and reporting

**We also encourage you to attend the *White Collar Crime: What Every Transactional Lawyer and Civil Litigator Needs to Know* CLE seminar on December 13.**

responsibilities as well as officer insurance and liability concerns

The MBA member price for this publication is \$27.95, regularly \$34.95. To purchase this book or to see what others have said about it, log onto [www.ababooks.org](http://www.ababooks.org) and enter your member discount source code PAB5EMUL. Your member discount applies to these or any publications featured on the ABA Web site.

# UO Law Professor and Constitutional Scholar Nominated for Oregon Book Award

By Credence Sol, U of O School of Law.

U of O Law Professor Garrett Epps' book, *Democracy Reborn*, has been nominated for the 2007 Oregon Book Award, in the division of general nonfiction. Epps is a transplant to Oregon, having grown up in a Jim Crow South that was "not free." A fourth-generation lawyer by way of an earlier journalism career (at, among other places, *The Washington Post*), he has devoted his career and scholarship to the understanding and advancement of civil and human rights. For example, in 2002, he published *To An Unknown God: Religious Freedom on Trial*, an oral history and work of legal history regarding the State of Oregon's attempt to regulate the religious use of peyote. *To An Unknown God* was so well-received that it was a finalist for the ABA's Silver Gavel Book Award, and recently was selected by the Georgetown University Law Center as required reading for all entering students.

For some academics, *To An Unknown God* would be a difficult act to follow. For Professor Epps, a prolific legal historian, novelist and poet, resting on his laurels was not an option. His next project, titled *Democracy Reborn: The Fourteenth Amendment and the Fight for Equal Rights in Post-Civil War America*, is a narrative account of the adoption of the Fourteenth Amendment, which revolutionized the US Constitution and "shaped the nation's destiny in the wake of the Civil War." According to Epps, "The last battle of the Civil War wasn't fought at Appomattox, but by middle-aged men in frock coats. By stealth, calculation and compromise a small group of antislavery political leaders ... enshrined the idea of equality into America's Constitution for the first time. Americans today live in the house they redesigned." Bringing this history to light is crucial to understanding the society in which



Garrett Epps

we live today and the Literary Arts Oregon agreed.

"Just to be a finalist is a great honor," Professor Epps noted. "I think that the judges recognized that *Democracy Reborn* is written for general readers, and that I tried to make it not just scholarly, but also fun to read."

## 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 more about pro bono opportunities in Multnomah County, check out the Pro Bono Opportunities in Oregon handbook, available at [www.mbabar.org/docs/ProBonoGuide.pdf](http://www.mbabar.org/docs/ProBonoGuide.pdf).

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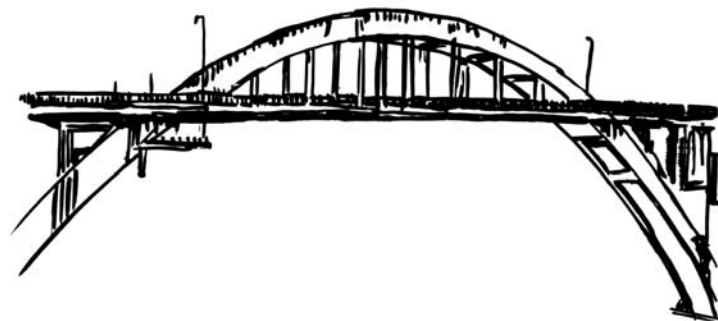
## NOTICE TO PRO TEM APPLICANTS

The MBA Judicial Screening Committee reviews applications for pro tem and full-time judicial candidates for Multnomah County. The committee meets the third Thursday of each month, typically September through June.

Pro tem candidates for renewal are asked to submit their applications at least four months in advance of the expiration date of their current appointment. There are two forms for pro tem candidates to complete; both may be obtained by emailing Carol Hawkins at carol@mbabar.org.

The committee must have sufficient time to process the applications and the Oregon Supreme Court then takes the time to approve the appointments at one of its regular meetings.

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Jannel Covault, *Moment's Rest*, 2004

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**Ethics Focus**

*Continued from page 4*

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On the latter, the Supreme Court in *Edenfield v. Fane*, 507 US 761, 113 SCt 1792, 123 LEd2d 543 (1993) (involving in-person solicitation by a CPA), emphasized that *Ohralik* was limited generally to circumstances that inherently lend themselves to potential undue influence. Nonetheless, the Supreme Court continued to adhere to *Ohralik* and relied on it

and *Edenfield* (among others) in *Florida Bar v. Went for It, Inc.*, 515 US 618, 115 SCt 2371, 132 LEd2d 541 (1995), upholding a Florida rule that prohibited personal injury lawyers from sending targeted direct mail solicitations to accident victims for 30 days following the accident involved. Although *Florida Bar* was a direct mail case, its analysis is framed in terms of the Supreme Court's approach to solicitation rather than advertising.

Both the ABA and Oregon rewrote their law firm marketing regulations several

times in the past 30 years in the wake of *Bates*, *Ohralik* and the cases that followed to shape the regulatory structure we have today. We'll look at that next month.

*Mark Fucile of Fucile & Reising handles professional responsibility, regulatory and attorney-client privilege matters and law firm related litigation for lawyers, law firms and legal departments throughout the Northwest. His telephone and email are 503.224.4895 and mark@frllp.com.*

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# Remember the Foundation When Renewing This Year



M U L T N O M A H B A R  
F O U N D A T I O N

When renewing your MBA membership for 2008, please consider donating to the Multnomah Bar Foundation (MBF), a charitable nonprofit promoting the understanding of law and justice.

Since the MBF was formed in 2005, hundreds of lawyers and dozens of firms have generously donated their time and money to

help establish the foundation and promote its mission of encouraging community understanding of our system of government.

**How MBF Helps the Community**

The MBF has been able to provide the funds needed to maintain the CourtCare Program at the Multnomah County Courthouse. And this drop-in childcare program, for children ages six weeks to five years, is just one program that has benefited from the MBF.

Other groups that have received grants from the foundation include the Classroom Law Project (CLP), which promotes civics education in middle and high schools. CLP had great success with its "We the People" expansion program.

In its final report to the foundation, CLP reported:

"Five teachers had an extremely positive experience with the assistance of volunteer attorneys. These teachers are planning to continue to participate in the

program for the 2007-08 school year and we hope at the middle school level there will be an additional teacher who will join the experienced teachers at each school."

The League of Women Voters is another group that has benefited from the foundation, as shown by the successful Constitution Day program earlier this year.

**Give Generously**

When donating to the MBF, you may indicate where you'd like your money to go, whether

it's CourtCare, the MBA's 100<sup>th</sup> Anniversary Community Gift Fund – which provides grants to local organizations providing civics education and participation – or simply indicate you'd like your donation to go "wherever most needed."

To learn more about ways to give, visit [www.mbabar.org/foundation.htm](http://www.mbabar.org/foundation.htm) or call us at 503.222.3275.



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