



MULTNOMAH LAWYER

MULTNOMAH BAR ASSOCIATION

1906

Lawyers associated for justice, service, professionalism, education and leadership for our members and our community.

March 2011 Volume 57, Number 3



Working Together - Providing Legal Services to the Poor

By Michelle Druce, MBA Vice President.

2011 marks the 75th anniversary of legal services in Oregon and the 20th anniversary of the Campaign for Equal Justice (CEJ). I had the pleasure of interviewing Leslie Kay, Regional Director-Multnomah County Office of Legal Aid Services of Oregon (LASO) and past MBA

president, and Sandra Hansberger, Executive Director of the CEJ, to talk about how the MBA, LASO, the Oregon Law Center (OLC) and CEJ work together.

The relationship between legal aid services and the MBA goes way back. In 1936 the MBA and the Legal Aid Committee of the OSB established the first legal services program in Oregon, which operated out of the Multnomah County Courthouse. The MBA was instrumental in providing funding in the early days. Many challenges and changes have taken place and the need for legal services continues to grow beyond what current funding and staffing can address.

There is an enormous need for legal services for persons living in poverty. 138,000 people live in poverty in Multnomah County. LASO and OLC conduct a very collaborative priority setting process with community partners, the bench, and clients. Legal services representation is limited to high-priority civil needs: food, shelter, medical care, income maintenance and physical safety. About 40% of the cases are family law cases, usually helping the victims of domestic violence to obtain and enforce restraining orders and create a stable home environment for their children. Recent studies have shown that access to legal services is essential in the process of ending domestic abuse. About 80% of LASO's clients are women - most of them with children to support.

The Volunteer Lawyers Project (VLP) was started in 1981 by the then newly formed MBA Young Lawyers Section. The VLP was originally an independent nonprofit with an executive director and a board of directors comprised of MBA members. In 1996, the VLP merged with Multnomah County Legal Aid Services and Oregon Law Center. Many of VLP's original programs continue to thrive today. I was especially impressed to learn that the LASO VLP handles approximately 2,000 cases a year. The MBA supports a portion of the VLP through fundraising efforts and contributions to the CEJ. With the help of the MBA and hundreds of local attorneys, pro bono legal services are provided through six volunteer lawyer staffed clinics. Leslie Kay noted that all of the pro bono projects have "incredible volunteers."

The CEJ was started by lawyers in 1991 when Oregon Legal Services received a pledge from the Meyer Memorial Trust to match lawyer contributions to legal aid in the amount of \$750,000 over three years. The CEJ mission is ensuring equal access to justice for all Oregonians.

The CEJ supports 100 legal aid attorneys in 19 communities. Since 1991, the Oregon legal community has helped the CEJ raise more than \$20 million for legal aid. The CEJ 20th Anniversary Award Luncheon was held on February 22 and US Senator, Jeff Merkley was a keynote speaker.

At the time I wrote this article, the CEJ was very close to meeting its fundraising goal for this year. Sandra Hansberger expressed her appreciation by stating, "The uplifting thing is lawyers continue to care even when they are facing tough times." Many creative fundraising events have been sponsored by firms such as a poker tournament, "potluck for justice," "jeans for justice," and floor competitions at larger firms. The CEJ will be hosting an event on March 31 at the Hollywood Theater, showing the classic movie "Twelve Angry Men."

I urge you to consider these statistics from the CEJ:

- Nearly 800,000 low-income and elderly Oregonians qualify for the services of Oregon's 100 legal aid attorneys. Those eligible for legal aid are unable to pay for legal services and must meet the federal poverty income guidelines.
- Studies show that we meet less than 20% of the legitimate civil legal needs of the poor in Oregon.
- There is an increasing demand for civil legal services as larger numbers of Oregonians become unemployed and confront growing problems related to domestic violence, foreclosure, medical care, government benefits, and similar issues that burden low-income families.
- Oregon's unemployment rate was 10.6% in November 2010, compared to the national rate of 9.8%. Oregon has the third highest foreclosure rate in the country - a problem that impacts low-income renters and homeowners.
- Oregon's legal aid programs are state, federal and private partnerships, but the single largest source of funding has been state court filing fees.

Although many great programs and efficient legal services are currently provided, legal aid program funding is at risk. Sandra Hansberger urges lawyers to let their legislators know how important legal aid is to insure access to justice for all Oregonians.

On behalf of the MBA Board, I encourage you to donate your time and financial support to increase access to justice through the CEJ, LASO and all of the pro bono programs that need your help.

MBA Board of directors slate announced

The MBA Nominating Committee announces its slate of new directors for the term of July 1, 2011–June 30, 2014. A profile of each candidate is included on p. 9 and a voting ballot will be sent to members.

Cedric R. Brown, Attorney at Law
Helen M. Hierschbiel, Oregon State Bar
Christopher J. Kayser, Larkins Vacura
Dana L. Sullivan, Buchanan Angeli Altschul & Sullivan

YLS board of directors slate announced

The YLS Executive Committee announces its slate of new directors for the term of July 1, 2011–June 30, 2014. A profile of each candidate is included on p. 10 and a voting ballot will be sent to members.

Valerie Colas, Oregon Law Center
Sean C. Currie, Greene & Markley
Amy M. Hoven, Kennedy Watts Arellano & Ricks
Jeanne K. Sinnott, Miller Nash

MBA CLE

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

March

Tuesday, March 15

Environmental and Land Use Issues

Rick Glick
Michelle Rudd
Jeff Kleinman

Tuesday, March 29

The Latest in Whistleblowing

Amy Alpern
Caroline Guest

Wednesday, March 30

Annual Family Law Update

Judge Nan Waller
Tom Bittner
Gary Zimmer

April

Thursday, April 28

Washington and Clackamas County Courts Update

Judge Robert Herndon
Judge Kirsten Thompson

May

Tuesday, May 3

The New ADA in Action

Rich Meneghello
Dennis Steinman

Wednesday, May 25

Multnomah County Presiding Court Update

Judge Jean Maurer

save the date!

**MBA 105th Annual Meeting,
Dinner & Judges Reception**

Tuesday, May 17
5-8:30 pm
Marriott Portland Downtown
Waterfront
1401 SW Naito Parkway

In This Issue

Calendar.....	p. 3
Member Resource Center.....	p. 3
Announcements.....	p. 4
Ethics Focus.....	p. 4
Around the Bar.....	p. 7
Tips from the Bench.....	p. 8
News From the Court.....	p. 8
New Life for OC-NBA.....	p. 9
YLS.....	p. 11
Classifieds.....	p. 14
Multnomah Bar Foundation...p.	14

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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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Member Resource Center

Welcome to the member resource center, where you will find information of importance to members and the legal community at large.

courthouse watch

- MBA representatives continue to serve on two county committees focusing on the downtown courthouse; one is studying the courthouse needs and another is exploring funding options.
- The county contracted with SERA Architects to study the feasibility of renovating the current downtown courthouse while maintaining substantial court operations. A mid-contract report was given in December. Final analysis, recommendations and construction cost estimates will be reported this month. The preliminary report finds that such a renovation would likely take between four and one-half to six years to complete. Work would occur between 4 p.m. and 1 a.m. and/or possibly on weekends. Seismic and security upgrades would come first, followed by new HVAC and phasing in its replacement of current systems. Construction would be done two floors at a time, with staging on Salmon which would cause its closure during the renovation timeframe. The goal will be to design for contemporary courthouse standards where possible. The preliminary report indicates that certain operations would be moved out of the building during construction and some would be permanently removed to other buildings. When the final report is available, we will include it on the MBA Web site, with an executive summary in a spring newsletter issue.

Pro Bono Opportunities

Acquire useful legal skills and then put your newfound knowledge to work providing pro bono assistance at Legal Aid Services of Oregon's Bankruptcy Clinic. The 45-minute instructional seminar is followed by a clinic during which volunteer attorneys each meet with two clients for 30-minute appointments. Volunteer attorneys help clients assess whether bankruptcy is appropriate, and if so, provide ongoing representation. Online CLE and written training materials are available in addition to the instructional seminar. *This program is covered by PLF insurance, no independent coverage required.*

For more information, please contact Catherine Yarnes at 503.224.2166 or catherine.yarnes@lasoregon.org.

Downloadable CLE Seminars

Audio recordings of past MBA CLE seminars are now available for download and use on your personal computer or MP3 device. Simply purchase online and download the audio and written materials in minutes. MCLE-accredited content includes Child Abuse Reporting, Multnomah County Judges Trial Practices, and Ethics Update, among others. Visit the MBA's dedicated MCLE Web site at www.oregoncle.com for more details.

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www.savewithups.com/multnomahbar

Classified Advertising

In addition to publishing classified ads in the *Multnomah Lawyer*, the MBA posts all classifieds at www.mbabar.org. To obtain a quote, email your ad text to Carol Hawkins at carol@mbabar.org.

CALENDAR

For a complete MBA calendar, please visit www.mbabar.org. To add your organization or firm's annual events to the MBA online calendar, contact Carol Hawkins, carol@mbabar.org.

March

3

Thursday, MBA CLE Intellectual Property

See insert or register at www.mbabar.org.

5

Saturday, WinterSmash at 20th Century Lanes

Visit www.mbabar.org for details.

8

Tuesday YLS Board meeting

Tuesday, Queen's Bench Luncheon at Trees Restaurant
See Announcements on p. 4 for details.

9

Wednesday, SALC Play for Justice at Portland Center Stage
See Announcements on p. 4 for details.

10

Thursday, April Multnomah Lawyer deadline

11

Friday, OWLS Awards Dinner at The Governor Hotel
Visit www.oregonwomenlawyers.org for details.

12

ACLU Foundation of Oregon Liberty Dinner at Hilton & Executive Tower
Visit www.aclu-or.org for details.

14

Monday, MBA-NW Employee Benefits Health Plan Open House
See p. 9 for details?

15

Tuesday, MBA CLE Real Estate/Land Use Environmental Law
See insert or register at www.mbabar.org.

18

YLS PDE Seminar – How to Get Along with Opposing Counsel
See insert or register at www.mbabar.org.

19

YLS Drop-in Social at Hopworks
See p. 10 for details.

29

Tuesday, MBA CLE – The New Oregon Whistleblower Statute

See insert or register at www.mbabar.org.

30

Wednesday, MBF Board meeting

Wednesday, MBA CLE Annual Family Law Update

See insert or register at www.mbabar.org.

31

Thursday, CEJ Associates Committee Movie Night "12 Angry Men"
Visit www.cej-oregon.org/movie10.php for details.

April

1

Friday, MBA Board election ballots due

5

Tuesday, MBA Board meeting

8

Friday, May Multnomah Lawyer deadline

12

Tuesday, YLS Board meeting

27

Wednesday, Administrative Professionals Day

Wednesday, MBF Board meeting

28

Thursday, MBA CLE Washington & Clackamas County Courts Update

See insert or register at www.mbabar.org.

29

Friday, Multnomah County Arbitrator Training

Register at www.mbabar.org.

May

17

Tuesday, MBA Annual Meeting & Dinner

See details on p. 1.

Correction to the February List of MBF Donors

The editor notes that the name of one of the firms listed as generous donors to the Multnomah Bar Foundation was spelled incorrectly. To our friends at Wyse Kadish LLP, we regret the error and apologize. The firm has a diverse practice that includes business planning, real estate, estate planning, family law, employment law, general and complex litigation, mediation and ADR. The firm is located at 621 SW Morrison, Suite 1300.

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Make 2011 the year you start something big, become a Sports Buddy, Big Brother, Big Sister, or Big Couple and make a difference in our community. As a volunteer, you provide a life-changing friendship by simply spending a few hours a week enjoying the activities you already like to do. There are 2,000 juveniles in need of a "big" in Multnomah County. To help change the life of a child, call Rachel Plummer at 503.249.4859.



Big Couple Celeste and John with Little Brother Anthony

Photo by Lincoln Barbour/Photoforce

Ethics Focus

By Mark J. Fucile, Fucile & Reising.

Staying Covered: The PLF & Risk Management

Since it was created in the late 1970s, the Professional Liability Fund has been a cornerstone of law firm risk management in Oregon. Given the PLF's role, two central elements of risk management for all Oregon firms are to ensure that firm members understand the scope of coverage provided and to meet any necessary predicates to coverage. In this column, we'll look at both aspects of firm risk management.

Scope of Coverage

Most lawyers know that the PLF provides base coverage of \$300,000 per claim. What some either don't realize or forget is that the \$300,000 total is typically the coverage limit (assuming no excess coverage) regardless of the number of firm lawyers who are involved in the same case or transaction gone sour. In other words, if a partner and an associate are working on a case in which they blow the statute of limitations, there is one \$300,000 limit - not two. The PLF Plan, which is available at www.osbplf.org, makes this plain through its broad definition of "same or related claims":

"[T]wo or more CLAIMS that are based on or arise out of facts, practices, circumstances, situations, transactions, occurrences, COVERED ACTIVITIES, damages, liability, or the relationships of the people or entities involved (including clients, claimants, attorneys, and/or advisors) that are logically or causally connected or linked or share a common bond or nexus." (2011 Plan at 4.)

The Court of Appeals in *Oregon State Bar Professional Liability Fund v. Benefit*, 225 Or App 409, 201 P3d 936 (2009), found that this provision is unambiguous and applied it to two lawyers from different firms who were working on the same matter. The comments to the PLF Plan contain several examples of similar scenarios.

The significance for firm risk management is twofold. First, firms need to carefully consider whether the basic coverage is adequate for their particular practice areas. Second, firm lawyers need to understand how the limit works so they will be sensitive to the collective stake all firm members have in risk management.

Predicates to Coverage

We know that if we have an "event" that may lead to a claim we should contact the



PLF. What lawyers sometimes forget, however, is that there is a significant "event" that requires PLF notification even *before* it happens: a business transaction with a client. Business deals with clients are always dicey because they potentially expose lawyers to both regulatory discipline and civil damage claims. Examples include co-investing with a client in a real estate transaction in which the lawyer is providing legal advice or taking stock in lieu of fees with a high tech start-up. RPC 1.8(a) permits business transactions with clients but puts a very high bar on the required advance disclosure. Under RPC 1.8(a), the disclosure must include a recommendation to seek independent counsel and the client's informed consent must be in writing and signed by the client. The comments to the PLF Plan put it aptly:

"Because of the obvious conflict of interest and the high duty placed on attorneys ... the attorney is nearly always at risk of being liable when things go wrong. The only effective defense is to show that the attorney has made full disclosure, which includes a sufficient explanation to the client of the potential adverse impact of the differing interests of the parties to make the client's consent meaningful." (2011 Plan at 16.)

In light of these considerations, the PLF Plan generally excludes business transactions with clients from coverage unless the lawyer: (a) makes the predicate advance disclosure to the client; and (b) provides the PLF with a copy of the disclosure within 10 days of its execution. The PLF Plan includes a recommended disclosure form that, in turn, incorporates a paper by the OSB's Chief Disciplinary Counsel called "Business Deals Can Cause Problems." The comments to the PLF Plan note that a lawyer is not required to use its disclosure form, but that option comes at a potentially risky price: "YOU are free to use YOUR own form in lieu of the PLF's form, but if YOU do so YOU proceed at YOUR own risk, i.e., if YOUR disclosure is less effective than the PLF's disclosure form, the exclusion will apply." (2011 Plan at 16.) If providing the executed disclosure to the PLF would violate the confidentiality rule (RPC 1.6), then the lawyer must in the alternative (and within the same

ANNOUNCEMENTS

2011 MBA Firm Visits

Our interactive firm visits are dedicated to finding out what members would like from their MBA membership and how they prefer to volunteer, network and receive communications. MBA representatives include a member of the Court Liaison Committee to answer questions about the courts and to elicit feedback on how the courts could improve services and operate more efficiently. The MBA team also includes representatives for both young and more experienced lawyers as well as a pro bono expert. Participants will learn more about the MBA and the Volunteer Lawyers Project (VLP).

If you would like our team to come to your office over a noon hour, please contact Guy Walden at 503.222.3275 or guy@mbabar.org.

Tell the Judges What You Want to Hear

The MBA is planning its annual CLE seminar on Judges Trial Practices in Multnomah County, and our distinguished panel of presenters would like MBA members to provide guidance on what the class should cover. Past sessions have covered motion practice, jury selection, briefing, jury instructions, making and arguing objections, managing witnesses and exhibits, handling presentation media and other procedural and practical issues faced by trial lawyers. If you have suggestions for topics you would like to be addressed, please email guy@mbabar.org.

Statement of Diversity Principles Available for Your Signature

The MBA Equality Committee invites you to sign the new Statement of Diversity

Principles. Read the statement at www.mbabar.org/docs/DiversityStatement.pdf and demonstrate your commitment to diversity by signing the statement online at www.mbabar.org/diversitypledge.htm.

MBA Noon Time Rides

Gather at SW Yamhill and Broadway between noon and 12:10 p.m. on Mondays and Thursdays. Contact Ray Thomas at 503.228.5222 with questions, or meet at the start.

Bankruptcy Judgeship Opportunity, District of Oregon Eugene

The US Court of Appeals for the Ninth Circuit invites applications from highly qualified candidates for the position of bankruptcy judge for the District of Oregon. The selection process may take up to 10 months to complete. The official duty station for this position will be in Eugene.

The term of office is 14 years with a possible renewal appointment subject to applicable reappointment procedures. The current salary is \$160,080 per annum. No relocation expenses are payable.

The Court of Appeals uses an open and competitive selection process. All applications are screened by a local Merit Screening Committee which selects a limited number of applicants for interview. The committee also contacts references of the interviewees. From the initial group of interviewees, a small number of applicants is referred for further interview by a committee of circuit judges which then submits a recommendation to the Court of Appeals. The court's nominated applicants will undergo FBI and IRS background investigations prior to appointment.

Basic qualifications for consideration include: (1) admission to practice before the highest court of at least one state or the District of Columbia or the Commonwealth of Puerto Rico; (2) membership in good standing in every bar in which membership is held; and (3) at least five years of legal practice experience (certain other legal experience may be substituted). Applicants are considered without regard to their race, color, gender, religion, national origin, age, disability, or sexual orientation.

Applications must be in the format required by the Ninth Circuit. Forms may be obtained by contacting Tina Brier, Assistant Circuit Executive for Human Resources, Office of the Circuit Executive, phone 415.355.8910 or personnel@ce9.uscourts.gov. Website: www.ce9.uscourts.gov. All letters of reference (although optional) must be submitted with the original application. Deadline for receipt of all completed application materials is Thursday, March 17, 5 p.m. The United States Courts is an Equal Opportunity Employer.

Queen's Bench Luncheon

Please join Queen's Bench for the March Luncheon at Trees Restaurant, 1211 SW 5th Ave., on Tuesday, March 8, 11:45 a.m.-1 p.m. Cost is \$14. The speaker is Emily Harris from OPB's "Think Out Loud." The buffet includes a vegetarian option. For more information contact Vice President Christine Coers-Mitchell at coers@comcast.net.

10-day period) send the PLF a letter certifying that the lawyer has obtained client consent following disclosure meeting the requisites of RPC 1.8(a) and the PLF Plan. Given the risk of lawyer-client business transactions, lawyers who proceed nonetheless need to ensure that they meet both the requisites of RPC 1.8(a) and the PLF Plan.

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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STAFFING SOLUTIONS

MBA Group Insurance - Update

By Bruce Thompson, MBA Group Insurance Committee Chair.



The MBA health insurance program has a great deal to offer participating law firms. Unlike "one size fits all" group insurance policies in which all of a law firm's employees are limited to a single insurance plan chosen by the law firm, the MBA health insurance program allows employees of participating firms to select their own plan from a menu of eight different plans offered by Providence Health Plan and Kaiser Permanente. Plans range from more moderately priced traditional EPO plans,

to benefit-rich but more expensive PPO plans, to lower cost, high-deductible, tax-advantaged health savings account plans.

All of the plans offered under the MBA health insurance program are guaranteed issue, which means that no one can be turned down for coverage and there are no pre-existing condition limitations. All of the plans are, from an employer's perspective, easy to administer in that the employer receives one invoice, and writes one monthly premium check, even though employees may participate in a multitude of different plans offered by different insurers. In addition, Northwest Employee Benefits, which serves as plan administrator for all of the MBA plans, provides COBRA administration for all participating law firms at no charge.

The MBA works very hard each year to provide a good variety of plans and providers to choose from and to keep the rate increases on its plans as low as possible, consistent with the goal of not confining choice to one system

or provider. Although plans are offered through Providence and Kaiser, MBA members may obtain access to the OHSU and Legacy systems and provider networks through Providence Plan 4. Notwithstanding the upward trend of medical costs, there will be less than a 9% rate increase for the Providence and Kaiser medical plans. In an effort to add value in a time of rising premiums, the MBA dental insurance for both the Providence and Kaiser plans now include a \$2000 maximum orthodontia benefit for both children and adults.

Alternative care benefit coverage for chiropractic, acupuncture, naturopathic and massage therapy is available under the Kaiser plans and is offered as an option under the Providence plans.

If you have any questions about the MBA health insurance program, contact our plan administrator, Northwest Employee Benefits, at 503.284.1331, or go to www.nebi.com. If you have any

suggestions for the MBA health insurance program, contact the MBA Associate Executive Director, Guy Walden, at 503.222.3275.

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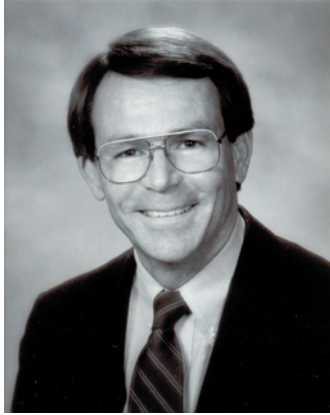
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A night at the spa wednesday, March 16 5:30 p.m.

Join the MBA Membership Committee for a free evening at Portland Spa and Boutique (315 SW Montgomery St. Ste. 390) on the Riverplace Esplanade Downtown. Enjoy complimentary mini services including brow waxes, chair massages and makeup and skin care consultations. There will also be complimentary gift bags, wine and snacks. RSVP to Kathy Maloney at the MBA at kathy@mbabar.org or 503.222.3275.



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AROUND THE BAR



W. Michael Gillette



Dan Eller

SCHWABE, WILLIAMSON & WYATT

The firm was recently admitted to the International Alliance of Law Firms (IALF), a network of mid-sized law firms founded to provide clients with global legal services. The common aim of the alliance is to combine positive legal advice with sound commercial judgment and litigation expertise. Each alliance member firm seeks to provide clients with a swift and effective response to the challenges of international business requirements. IALF has 58 member firms in 42 countries. Schwabe is the only IALF member in the Pacific Northwest.

Newly retired Oregon Supreme Court Justice **W. Michael Gillette** has joined the firm as a shareholder in the commercial litigation practice group. In addition to serving as a member of the firm's commercial litigation group, Gillette will work closely with shareholder Bill Crow to build the firm's mediation and arbitration practice.

Associate **Dan Eller** was recently elected to the board of trustees of the Oregon and Southwest Washington Idaho Montana Chapter of the Leukemia & Lymphoma Society, the world's largest voluntary health organization dedicated to funding blood cancer research, education and patient services.

Eller focuses his practice in the areas of tax and business law. He advises clients with both transactional and controversy matters. His transactional practice has its emphases on real property development transaction structuring; renewable-energy tax credits and grants utilization; and tax-exempt entity formation, qualification and operation.



Todd A. Lyon

WILLIAMS, ZOGRAFOS & PECK

Todd A. Lyon, Special Counsel, has been certified by the American Arbitration Association as an Employment Law Arbitrator. His experience in having formerly represented employees and now employers will serve him well as a neutral.

OGLETREE DEAKINS ET AL

The firm welcomes **Jathan Janove** to its Portland office as a shareholder. Janove has nearly 30 years of employment law experience as a litigator and as a trainer helping management prevent employment-based legal claims and create positive, productive relationships with employees. In his practice, he also assists employers with their internal investigations and alternative dispute resolution proceedings.



Lisa A. Amato

WYSE KADISH

Lisa A. Amato has been elected a partner in the firm, where she continues her practice of counseling employers on employment related matters, representing employers and management in employment litigation, and assisting federal contractors with affirmative action programs and compliance.

MILLER NASH

Senior partner **Dennis Rawlinson** has been elected to the ABA Council of the Section of Litigation. This is the largest section of the ABA, composed of more than 60,000 lawyers and judges. The council is the section's governing body.

Rawlinson has been involved in the leadership of the section for 15 years, previously serving as chair of the Commercial and Business Litigation Committee, chair of the Trial Evidence Committee and

Division Director of three separate divisions. Rawlinson also served as managing editor and columnist for the commercial and business litigation committee newsletter, as well as the trial evidence committee newsletter. Rawlinson has chaired, moderated and emceed many ABA annual and section annual meetings.

The firm has promoted **Jennifer Roof** and **Michelle Barton** to partners. Roof and Barton are members of the litigation team at the firm's Portland office.

Roof's practice emphasizes employment litigation, appeals and commercial litigation. Barton represents businesses and public entities, helping them resolve their legal disputes through litigation, including in jury trials.



Christine Thelen

LANE POWELL

Christine Thelen has become an associate in the employment law practice group. She has handled a wide array of matters including employment disputes, compliance with anti-discrimination laws, contract disputes, business disputes, class actions, Section 1983 claims, state and federal regulatory issues, bankruptcy and commercial collection matters.



Hon. Nan Waller

MULTNOMAH COUNTY CIRCUIT COURT JUDGE NAN WALLER

National Court Appointed Special Advocate (CASA) Association will award **The Hon. Nan Waller**, Chief Family Law Judge of the Multnomah County Circuit Court, the National CASA Judge of the Year award at its 30th Annual CASA National Conference in March. With this award, the National CASA Association recognizes Judge Waller for her exceptional vision and energy in improving the

welfare of children and families. Under Waller's leadership, Multnomah County Circuit Court has distinguished itself nationally as a model court designated by the National Council of Juvenile and Family Court Judges, (NCJFCJ) for implementing docketing procedures designed to reduce the time to trial in termination of parent rights and dependency cases. In her role as judge, Waller regularly convenes other partners in the system on a frequent basis to ensure that best practices for improving the lives of children are implemented by all parties.



Charlie Hinkle

CHARLES HINKLE RECEIVES ACLU AWARD

The March 12 ACLU Foundation of Oregon Liberty Dinner at the Portland Hilton and Executive Tower, will feature Susan Herman, National ACLU president. A highlight of the evening will be the presentation of the first Charles F. Hinkle Distinguished Service Award. The inaugural award will be presented to **Charlie Hinkle** to honor his 40 years of service to the ACLU.

Hinkle has been a cooperating attorney for his entire career, championing landmark cases in free speech; separation of church and state; gay, lesbian, bisexual and transgender rights; and religious freedom.

The Oregon Liberty Dinner is ACLU of Oregon's largest fundraiser of the year. To purchase tickets, go to aclu-or.org/dinner or contact James Phelps at 503.552.2101 or jphelps@aclu-or.org.



Brad S. Daniels



Amy Edwards



Timothy W. Snider

STOEL RIVES

Three attorneys in the firm's Portland office have been named partners: **Brad S. Daniels**, **Amy Edwards** and **Timothy W. Snider**. All three are members of the firm's litigation practice group.

Daniels' practice focuses on securities litigation, appellate litigation and complex business litigation. He has represented clients in state and federal courts and in Financial Industry Authority and other arbitrations.

Edwards' practice focuses on trusts and estates, real property and land use, product liability and complex litigation. She advises clients on litigation and legal issues involving fiduciaries, trusts, estates, and nonprofit organizations.

Snider's practice emphasizes complex business litigation, and his clients range from public companies to privately-held businesses. He defends companies and executives in class actions, securities and antitrust cases, consumer and deceptive practices actions, and corporate governance disputes.



Edwin A. Harnden

BARRAN LIEBMAN

Edwin A. Harnden has been named the CEJ Henry H. Hewitt Access to Justice Award recipient for 2011. This award is reserved for recognition of an individual who, through strong leadership, consistent effort and commitment to the ideal of equal justice under the law, has made a substantial contribution to legal aid for low-income Oregonians. Ed has been active with the CEJ since 2000, and served as the chair from 2006-10. Ed is the managing partner at Barran Liebman, where he represents management in employment law matters.

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 Budget Cuts Lead to Changes in Criminal Case Procedures, Affect Civil Cases

By Judge Stephen K. Bushong, Multnomah County Circuit Court.

Criminal law practitioners should be aware of changes that have been implemented - and additional changes that are being considered - to enable the court to continue processing all of the cases that come into the system. Civil practitioners need to be aware of these developments, too. Reductions in resources available to the court will have an impact on criminal and civil cases.



- Misdemeanors treated as violations.** Because of budget cuts, the District Attorney's (DA's) office has begun charging defendants with violations instead of misdemeanors - and reducing some pending misdemeanor charges to violations - in certain cases. Violations are tried to the court and are punishable by fines. Defendants charged with misdemeanors have the right to a jury trial and face consequences that could include jail, probation, community service and other sanctions. In Multnomah County, 19,043 misdemeanor cases were filed in 2009, and 9,036 misdemeanor cases were filed during the first six months of 2010. Treating misdemeanors as violations will reduce those numbers, thereby saving the resources that the DA's office and the court would need to process the cases as misdemeanors.

- Staff reductions.** The court has not filled vacancies in court operations staff in recent years. Currently, 26 staff positions are vacant and will remain unfilled for the foreseeable future. To help minimize the impact of these vacancies, every judge's judicial assistant is now required to devote 25% of her time each week to court operations required to keep the court functioning. This means that judicial assistants are generally unavailable during that time to assist their judges. As a result, scheduling matters with a judge may be delayed; paperwork processing will take longer; communications with attorneys, probationers and the public may be disrupted; telephone calls may go unanswered; and there will be delays in returning phone calls.

- Referee layoffs.** Recently, four referees (3.5 FTE) were laid off due to budget cuts. The dockets handled by those referees - misdemeanor and felony arraignments, expedited probation violation hearings, DUII diversion hearings, and other matters - are now being handled by circuit court judges serving in the Justice Center on a rotating basis. This means that fewer judges are available to handle trial assignments in criminal and civil cases. During the first six months of 2010, 137 criminal cases and 55 civil cases were resolved through jury trials, and 1,917 cases of all types were

resolved through court trials. With fewer judges available to handle all of these trials, resolution of some cases may be delayed. In addition, judges have less time available for probation violation hearings, civil motion hearings, judicial settlement conferences and other matters.

- DUII early resolution program.** The court has implemented a new program to process guilty pleas from first-time DUII offenders on an expedited basis. In general, first-time offenders who plead guilty under this program are placed on enhanced bench probation and given the minimum sentence required by Oregon law - two days in jail or 80 hours of community service, plus a \$1,000 fine and drivers' license suspension, if they attend the Victims Impact Panel, complete at least 25 hours of community service, complete an alcohol evaluation and arrange for treatment, all within 60 days of the plea. Progress is monitored at a court hearing held about 60 days after the plea. If an offender has not met those conditions, the offender is taken into custody immediately to begin serving a 30 day jail sentence. This program resolves many DUII cases at an earlier stage, thereby saving resources that otherwise would be spent processing those cases.

The budget situation is not expected to improve significantly in the immediate future. The court has already adopted an expedited civil jury trial program, and we are currently studying ways to improve misdemeanor case handling procedures and methods for addressing the thousands of offenders currently on bench probation. This is all part of the court's continuing effort to improve efficiency without unduly disrupting the court's ability to serve the public. It may become necessary to implement other changes in court processes and procedures, depending on the availability of resources. While the court remains committed to its core functions and will do everything it can to minimize disruptions, criminal and civil practitioners can expect delays in case processing and other changes that will affect the functioning of the court.



By Laura Rufolo, Multnomah County District Attorney's Office and Court Liaison Committee member.

Presiding Court Report and Courthouse Update

Budget

The chief justice has asked all courts to submit 25% reduction packages in 5% increments. A 25% total budget reduction will cut about 75 people. The first 7.5% reduction is by virtue of current vacancies that will not be filled. Twent-six positions are currently vacant, all of which are in the court administrator's office, except for the 3.5 referees who were laid off earlier, due to budget cuts. Currently 25% of the judicial assistants' time is being provided to court administration. Doug Bray indicated that it is probable that the final cut will come in between 15-20% rather than the 25%.

There has been discussion each biennium with the legislature regarding whether the courts are treated equally with other branches. Last biennium the legislature put together some programs (like filing fees) that did help the judicial branch substantially. The chief justice will continue to bring the message on the importance of the judicial branch of state government to our economic and social well being and that the courts need adequate funding.

East County Courthouse

Construction was delayed two weeks, but it should be under construction now. It is expected to open March 2012.

Downtown Courthouse

Two committees chaired by the county commissioners are working on the downtown courthouse.

The county committee studying the building received a mid-study report in December. The mission of the study was to find out the feasibility of renovating the downtown courthouse while maintaining substantial court operations. The proposed project would take 4 ½-6 years to complete, in eight phases. Some of the details cited in the report are: there are 39 courtrooms now; after the remodel, there would be 41 courtrooms if the DA's office is moved back into

the building after the remodel is complete, 45 if the DA's office is permanently housed out of the building. The proposal includes moving the traffic court, most court records and the law library permanently out of the building.

Committee Comments about Court Operations

A concern was expressed that courthouse procedures are sometimes changed without the bar being notified. For instance, for years the setover process for stalking orders was at 1:30 p.m. and now it's at 8:30 a.m. and in a different court location.

Doug Bray reported that the change came from the reduction in referees; stalking proceedings were moved to JCI. The application process is normally done by self-represented parties, who get their information at the family law counter. Attorneys don't generally go to the counter, so they wouldn't have found out about the change.

Doug reports that these types of changes are generally dealt with on an ad hoc basis. Stalking proceedings generally don't involve attorneys, so the court didn't think of spreading the word to the bar, but clearly the word should get out.

Committee Members as Ambassadors

Eric Dahlin asked that if committee members hear someone complaining about the court, to please ask for details. It may be a legitimate concern. Or, it may be a misunderstanding.

Mark Peterson reported that he was an ambassador to a firm lunch discussion which included information about this committee. The talk was well received.

MBA Deposition Guidelines

The guidelines were last approved by the MBA Board in 1992. The question was raised as to whether they need to be revised. The general consensus is that they are pretty good as they are. OTLA and OADC provided CLC Chair Eric Dahlin with a few comments. One was regarding specifying a default location where depositions should take place. This could be

particularly helpful when dealing with out-of-state counsel. A suggestion was made to specify the order of depositions.

Spring Brown Bag Presentation

Keil Mueller is organizing the spring brown bag. The brown bag will likely include discovery disputes in general - motions, depositions, sanctions, etc., including the judicial take on the duty to confer. The MBA may be able to audiotape the brown bag and offer the recordings free to members.

Web site

John Rothermich reviewed the MBA Web site, in particular, the courts page. The question was raised about what members are looking for on the MBA site, versus the court's site. The MBA will have an entirely new site sometime this year, with the purpose of sending more information and providing more services electronically.

E-filing

OJD has chosen a vendor for e-filing, Tyler Technologies. A subcontractor (Infosys) will provide document assembly services for self-represented people, called "TurboCourt."

E-filing is a statewide solution with a central portal which allows e-filing from anywhere. The filing fee legislation (HB 2710) makes filing fees the same across the state and HB 2690 will allow the chief justice to set subscription and user fees for eCourt online services.

ECourt acquisition is funded with state bond money, but operation and maintenance must be funded by the judicial department. The vendor's system will reduce the costs significantly over building a custom system. The vendor's system, Odyssey, is being used in seven other statewide systems.

Attorney Feedback to the Bench

The MBA's judicial feedback program was seldom used. Committee members are interested in exploring ways to give individual judges feedback.

Nominated for MBA Director

Four, three-year MBA director positions start July 1. A ballot will be sent to members.

Cedric R. Brown, Attorney at Law, graduated from Lewis & Clark Law School in 1990 and was admitted to the OSB in 1991. He is also admitted to the Washington State Bar. His practice areas are personal injury and medical negligence.

Cedric is the current chair of the MBA Judicial Screening Committee and he is also a member of the MBA Golf Committee.

Helen M. Hierschbiel, OSB, graduated from Lewis & Clark Law School in 1991 and was admitted to the Arizona State Bar in 1991 (now inactive) and the OSB in 1997. Her practice areas are legal ethics, government law and employment law.

Helen has served on the MBA Professionalism Committee from 2008 to the present and chaired the committee in 2009-10. She has been a volunteer at St. Andrew Legal Clinic Night Clinic since 2006 and was a Classroom Law Project Tour Guide from 2004-08.

Christopher J. Kayser, Larkins Vacura, LLP, graduated from Lewis & Clark Law School in 1998 and was admitted to the OSB that same year. After practicing for eight years in Washington, D.C., first at the US Department of Justice and later at a private firm, he returned to Portland. His practice area is complex commercial litigation.

Chris served as a member and chair of the MBA CLE Committee. He has also served as a member of the Owen M. Panner Inn of Court Executive Committee and is a member

of the OSB Business Litigation Committee. He has coached chess for the Alameda Chess Club and has coached baseball.

Dana L. Sullivan, Buchanan Angeli Altschul & Sullivan LLP, graduated from New York University Law School. She was admitted to the OSB in 1994. In her practice, Dana focuses on the representation of individuals in employment litigation. She also advises individuals in contract and severance negotiations and conducts workplace investigations.

Dana has served on the MBA CourtCare Committee for several years and received the YLS Award of Merit in 2000 for her outstanding service to the YLS Service to the Public Committee, where she coordinated its Dropout Prevention Program.



Cedric R. Brown



Helen M. Hierschbiel



Christopher J. Kayser



Dana L. Sullivan

New Life for an Established Bar OC-NBA

Please mark your calendars for the 2011 Convocation on Equality, November 4

By Judy A. C. Edwards, MBA Executive Director.

The Oregon Chapter of the National Bar Association (OC-NBA) recently celebrated its renewal after a few years of inactivity. If you attended their February social, you witnessed a sea change, all because of a small

group of enthusiastic members. It just goes to show what an impact a few charged-up people can make.



L to R: OC-NBA Secretary, Tyler Anderson, Stoel Rives; OC-NBA Treasurer, Morgan Smith, Miller Nash; Hon. Adrienne Nelson; OC-NBA Vice President, Naomi Levelle-Haslitt, Miller Nash; OC-NBA President, Ali Seals, Schwabe Williamson & Wyatt

group of enthusiastic members. It just goes to show what an impact a few charged-up people can make.

While there's new life, the same mission of being dedicated to the advancement of the African American community in Oregon through the support of legal professionals lives on. That mission will manifest itself in events, mentoring and building a network so that when African American lawyers and law students move to Portland "they won't feel like they're here alone" stated Ali Seals, OC-NBA President and attorney at Schwabe, Williamson & Wyatt. He says that the OC-NBA wants to provide support so that those new to the area "know there are others who've gone through or are going through the same things, to make them more

comfortable in a new setting both socially and professionally. When you feel like you're the only person going through something, it's easy to feel isolated. Whether these new attorneys of color are entering

the public or private sector, the OC-NBA wants to let them know that there is a network of people here, young and old, that they can feel comfortable sharing their experiences with." One of their goals is to grant a scholarship to a student to help offset both the costs of a bar exam preparatory course, and the fees associated with taking the OSB exam. "Our goal is to give one for this year's graduating class. We will consider any African American student who shows that they have a passion to practice in Oregon and take the OSB examination. We're setting up the criteria, a process and hope to begin publicizing it shortly."

Other leaders for this newly reinvigorated bar are Naomi Levelle-Haslitt, Vice President,

Miller Nash; Tyler Anderson, Secretary, Stoel Rives; and Morgan Smith, Treasurer, Miller Nash.

The OC-NBA's roots go back to 1980 when the Association of Oregon Black Lawyers (AOBL) was started, according to Gregory Gudger, who perhaps as well as anyone knows the organization's history. Originally, "The person who was the impetus for formation of the AOBL was the late John Toran. His daughter, Jana, told me that when she was young, she remembered the originators meeting in John's living room. Others involved in the organization early on were the late Hon. Roosevelt Robinson, Ken Dixson and the Hon. Aaron Brown," shared Gudger. AOBL acted as an advocate for black lawyers who had issues with the bar and vice-versa.

Raising money for scholarships for African Americans enrolled in law school was part of the mission and Gudger was a three-time recipient. The first fundraiser was a chess tournament. Later, then-law students Rita Lucas and Marcia Neal developed the Ebony and Ivory Scholarship Banquet and Dance as the primary fundraising activity for the AOBL.

Later, in the mid-2000s, "the bar became associated with the national association and Clarence Belnavis was the first OC-NBA president. Other past presidents were Cedric Brown, Melvin Oden-Orr, the late Armonica Gilford, Kellie Johnson and myself."

"We emphasized increasing the quantity and quality of black lawyers, through education and mentoring. We also worked to enhance the contributions of black lawyers to the OSB and promoted the ascension of qualified black lawyers to the bench."

Some of the bar's activities included its "Hot Biscuits Breakfast Forum" which brought lawyers together to debate issues of particular interest of the black legal and general communities.

When asked what he would like to see for the OC-NBA, Gudger said, "I want to show support for the new leadership in their effort to increase the number of African American lawyers in the state of Oregon. Ali and his administration will determine what they want to accomplish, based on who they are and what they determine the needs to be. The mantle has to pass for progress and continuation. I am really excited about it."



OC-NBA members celebrate

MBA Health Plan Open Enrollment Meeting

Portland Hilton, 921 SW 6th Avenue, Broadway Room - 11:30 a.m. to 1:30 p.m. Monday, March 14

Learn about changes to the MBA Health Insurance Plans taking effect on April 1. Existing plan enrollees as well as those interested in enrolling are invited to attend. No RSVP is required.

If you are unable to attend but have questions about the health plan, call Steve Doty of Northwest Employee Benefits at 503.284.1331, or view the Northwest Employee Benefits Web site at www.nwebi.com.

Nominated for YLS Director

Four three-year positions start July 1. A ballot will be sent to members. Only YLS members may vote for YLS Directors.

Valerie Colas graduated from the University of Miami School of Law and was admitted to the OSB in 2009. She works at the Oregon Law Center and practices in the areas of employment and administrative law. Valerie has been on the YLS YOUTHFILM Project Committee since 2009, currently serving as chair of that committee. She also serves on the YLS Membership Committee and as a court tour guide for the Classroom Law Project.



Valerie Colas



Sean C. Currie

Sean C. Currie graduated from Gonzaga University School of Law and was admitted to both the OSB and Washington State Bar in 2008. He is an associate at Greene & Markley PC and practices in the areas of commercial litigation, creditors' rights and bankruptcy. Sean has been a member of the YLS Professional Development & Education Committee since 2009 and currently serves as co-chair of that committee. He has also authored multiple CLEs and articles, presented case notes for the OSB Debtor-Creditor Section and served as a speaker at an OAAP luncheon.



Amy M. Hoven



Jeanne K. Sinnott

Amy M. Hoven graduated from Loyola Law School (Los Angeles) and was admitted to the California State Bar in 2002 and the OSB in 2007. She is an associate with Kennedy, Watts, Arellano & Ricks LLP and

practices in the areas of general civil litigation and professional liability defense. Amy has been on the YLS Futures Committee since 2008, currently serving as chair of that committee and also serves on the YLS YOUTHFILM Project Committee. She is a board member of a local nonprofit, My Voice Music, and has served as a Classroom Law Project Mock Trial Judge.

Jeanne K. Sinnott graduated from Lewis & Clark Law School

and was admitted to the OSB in 2007. She is an associate with Miller Nash LLP and practices in the areas of debtor-creditor litigation, real estate litigation and bankruptcy. Jeanne has been a member of the YLS Service to the Public Committee since 2009 and currently serves as chair of that committee. She co-chaired the YLS Imprint Program in 2009 and 2010. She has also volunteered with Lewis & Clark's Practice Interview Program.

Alternative Career Pathways for Recent Law School Graduates

By Kimberly Pray, U of O School of Law



The recent *New York Times* article entitled "Is Law School a Losing Game?" sparked a lively discussion about the saturation of the legal services market. While the article presented a convincing argument against attending law school, it provided little in the way of meaningful advice or constructive examples for current students or recent graduates.

The competitive nature of the legal profession, exacerbated by the current economic downturn, shed approximately 15,000 jobs nationwide, challenges recent graduates to think more creatively about alternative career pathways.

However, the knowledge and skills acquired over the course of a law school education offer exciting and engaging opportunities for a professional career outside of a traditional legal practice. Moreover, law firms and companies continue to hire, despite the down market, but it may take ingenuity and perseverance to find and land those jobs.

For many graduates with experience in the workforce prior to attending law school, a JD may provide for a return to a similar field, yet command a management track position with increasing levels of responsibility. For graduating students with little or no professional experience, a legal education provides a foundational skill set, including advanced research and writing capabilities, an aptitude for problem solving and the ability to meet deadlines. These professional attributes create value for potential employers and provide law school graduates with the flexibility to explore non-traditional career options.

For those graduates who ultimately seek to practice law, many find success through creative job search strategies. For example, finding a position as a law clerk or as a contract lawyer provides the supervising attorney or law firm an opportunity to get to know a candidate's skills and abilities prior to making the commitment to hire a new full-time employee. Volunteer positions with local nonprofit organizations and government agencies provide additional opportunities for newer lawyers to gain experience and explore the practice of law.

Similarly, professional networking offers new lawyers the opportunity to meet established professionals in a variety of practice areas and other fields. Local and state bar organizations, such as the YLS, offer new lawyers a chance to engage in projects such as writing newsletter articles or participating on committees and provide many options to attend CLE seminars and other educational events at a reduced cost.

While a law degree does not provide the same guarantee of a lifetime career as it did in previous decades, the legal profession is anything but a dead end. The recent economic downturn likely fueled a cultural transition as an increasing number of new lawyers are forced to shift expectations away from the traditional path and approach new careers with flexibility. These changes, which follow trends in other industries and professions, will influence and transform the landscape of the legal profession for years to come.

To read and comment on this and other YLS Futures Committee articles, please visit www.mbar.org/YLSFuturesCommittee.htm.

David Segal, Is Law School a Losing Game? *N.Y. Times*, Jan. 8, 2011



Community Service Days with the Oregon Humane Society Saturdays, April 16 & 23

Please join the YLS Service to the Public Committee at the Oregon Humane Society on Saturday, April 16 or Saturday, April 23 from 1-3 p.m. All MBA members are welcome to participate, as are family, friends, and children over the age of 12. Our volunteer sessions will give the animals the attention they need and the social skills to help them find new homes. To volunteer at the Oregon Humane Society or to request more information, please email Tony Dal Ponte at tdalponte@samuelslaw.com.

YLS kid-friendly drop-in social March 19

Join the YLS Membership Committee on Saturday, March 19 from 12:30-2 p.m. at Hopworks Urban Brewery. Portland's first Eco-Brewpub offers a play area, so bring the kids! Enjoy handcrafted organic beers, amazing pizza, burgers, and more at this drop-in social. No RSVP is necessary. 2944 SE Powell Blvd.

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Thanks to the following lawyers and law students, who donated their pro bono services in January via the Volunteer Lawyers Project, the Senior Law Project, Community Development Law Center, law firm clinics, the Oregon Law Center, the Nonprofit Project, St. Andrew Legal Clinic, Catholic Charities Immigration Legal Services, Lewis & Clark's Small Business Legal Clinic, Children's Representation 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.mbbabar.org/docs/ProBonoGuide.pdf.

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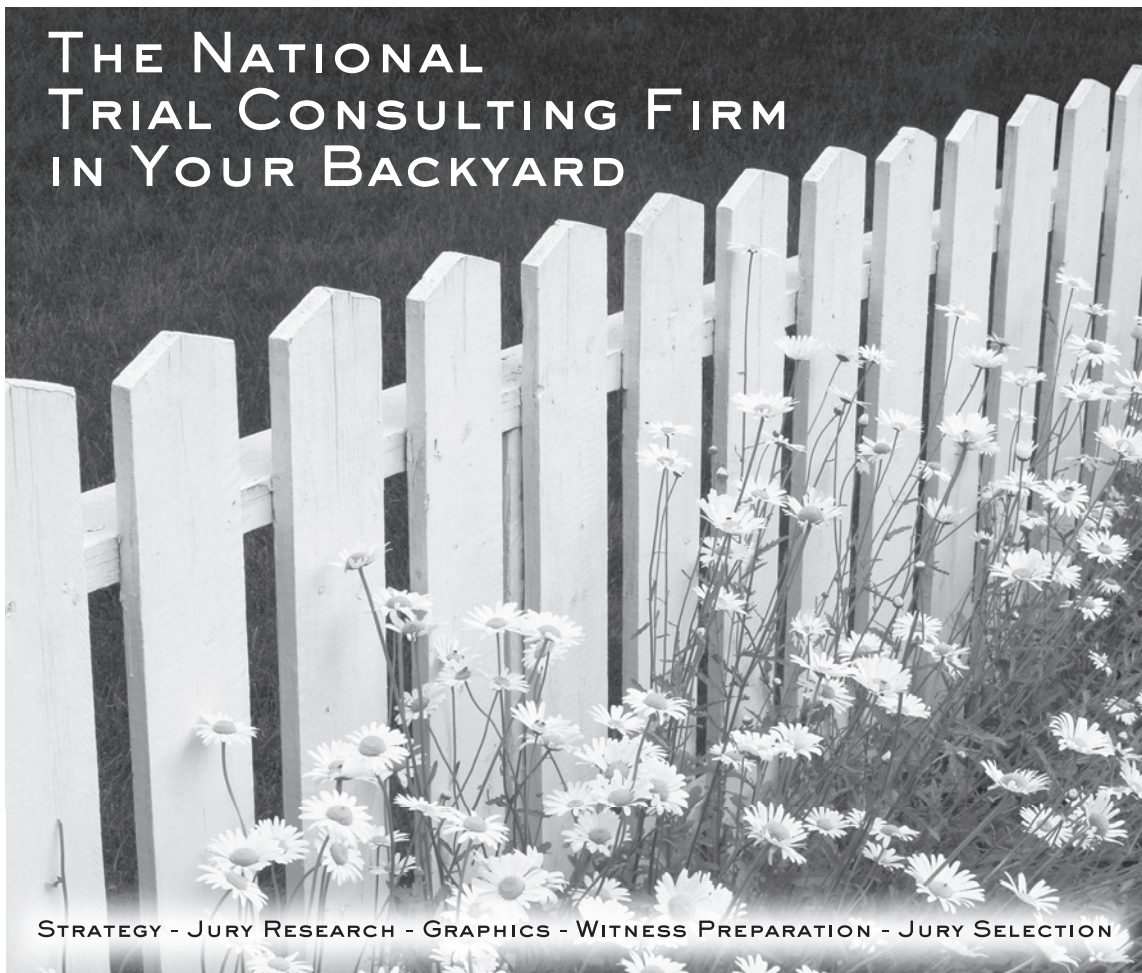
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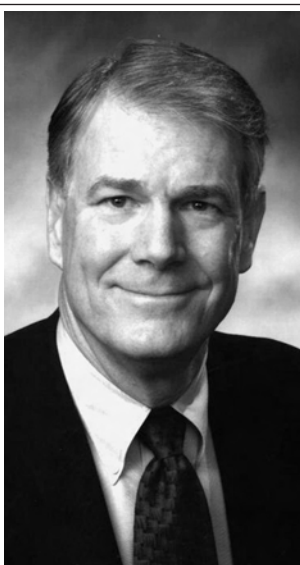
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IMPORTANT DATES

Ad/Materials Close. Feb. 18, 2011
Publication. Mar. 17, 2011
Awards Dinner. Mar. 17, 2011

Finalists

- **Thomas W. Brown**, a partner with Cosgrave Vergeer Kester LLP
- **Walter Grebe**, chairman emeritus and shareholder in Schwabe, Williamson & Wyatt
- **Edwin A. Harnden**, a managing partner with Barran Liebman
- **Charlie Harris**, senior housing project manager with CASA of Oregon
- **David B. Markowitz**, a shareholder in Markowitz, Herbold, Glade & Mehlhaf PC
- **Josh Marquis**, Clatsop County District Attorney
- **Albert A. Menashe**, managing shareholder in Gevurtz Menashe
- **Jessica Mindlin**, national director for training and technical assistance with Victim Rights Law Center
- **Carl R. Neil**, a partner with Lindsay Hart Neil & Weigler LLP
- **Martha O. Pagel**, a shareholder in Schwabe, Williamson & Wyatt LLP
- **Dennis P. Rawlinson**, a partner with Miller Nash LLP
- **Peter C. Richter**, a partner with Miller Nash LLP
- **Concetta Schwesinger**, Oregon District Attorneys Association, child support liaison
- **Jody Stahancyk**, senior shareholder in Stahancyk, Kent & Hook
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Hon. Julie E. Frantz

board. Currently, Judge Frantz is a director on the Habitat for Humanity Portland/Metro East and the I Have a Dream Foundation boards.

Leslie Nori Kay, Regional Director for the Multnomah County Office of Legal Aid Services of Oregon, served as 2009-10 MBA President. Leslie's practice area is poverty law. She served on the OSB Elder Law Section Executive Committee and chaired the OSB Affirmative Action Program Committee.

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