



Do You Want to Preserve a Full-Time Court System?

by Steve Blackhurst
MBA President

After he wrote *Tom Sawyer*, Mark Twain was a much sought-after speaker on the lecture circuit. In his after-dinner speeches, Twain could always get a laugh by making fun of America's politicians. While Twain did not originate this saying, he loved to tell his audiences, "No man's life, liberty, or property is safe while the legislature is in session."

I used to think that Twain's critique of the legislative branch was a cheap shot. Many years ago I worked on Capitol Hill, for both Republicans and Democrats, and had great respect for the people who worked there. The Senators and Congressmen from Oregon frequently worked together to pass legislation that was in the best interest of our state. Now, at least with respect to the current Congress, Twain's perspective seems apt. Twain also said, "Suppose you were an idiot. And suppose you were a member of Congress. But I repeat myself."

That goes too far ... I hope.

With respect to the Oregon legislature, however, Twain's cynicism is misplaced. With rare exceptions, the men and women who serve in the legislature are honorable and well intentioned. Oregon is not like Illinois, New Jersey or Louisiana and I hope it never becomes like them.

The problem with the Oregon legislature is not corruption, but an inability to budget sensibly in an era of declining revenues. Common sense suggests that the legislature is responsible for setting priorities among competing interests. In an era of declining revenues, the legislature, at a minimum, needs to properly fund those core functions of government, including the judicial branch. Instead, our legislature seems to favor across-the-board budget cuts that do not discriminate between core governmental functions and those governmental programs or agencies that may be nice, but are not critical.

When Oregon's economists repeatedly project declining state tax revenues, one would think that all units of state government would try to determine how they could function more efficiently with less revenue. Under the leadership of Chief Justice De Muniz, Oregon's courts accepted this challenge and have been undertaking changes to provide judicial services to our citizens at less cost. The courts' move toward digitizing court filings through the eCourt project is one example of this quest for greater efficiency. Unfortunately, the legislature's fiscal analysts appear unable or unwilling to differentiate among departments and agencies that have achieved greater efficiency, and those that continue to do business as they always have. By making across-the-board budget cuts, agencies that refuse to change are in essence rewarded for continuing the status quo.

This short-sighted way of budgeting has harmful consequences. Let me give you an example: When the most recent recession hit, the Oregon Judicial Department froze all non-essential travel and reduced its travel expenses by 35%. By contrast, most state agencies did not reduce their travel budgets and some even spent more on travel. See "Recession doesn't slow travel on the public's dime by Oregon government officials," *The Oregonian*, December 17, 2011. When it came time for the Ways and Means Committee to recommend further budget cuts, however, the committee's fiscal analysts ignored the budget savings achieved by the Judicial Department, and recommended across-the-board budget cuts to balance the budget. As a result, the judicial branch was punished for becoming more efficient and now may not receive the funding it needs to carry out its mission.

The legislature needs to remember that the Oregon Judicial Department is a separate, co-equal branch of government, not a state agency. The functions the judicial branch perform are qualitatively different from those performed by the DMV, the Tourism Bureau or the Fish and Wildlife Commission. By continuing to cut the budget of the Judicial Department, the legislature is endangering public safety. When vulnerable citizens need restraining orders to prevent domestic violence or court intervention to prevent child abuse, those citizens do not deserve to find that the legislature has closed the doors to the courthouse. Access to justice in Oregon needs to be more than a slogan.

My law practice focuses on disputes between businesses. When court budgets are cut, civil litigation is relegated to the backburner because the courts must deal first with serious criminal cases. Keeping the courts open so that they can promptly resolve business disputes is critical to Oregon's economic recovery.

Get Involved

By now you are probably asking what can I or anyone else do to change the state's short sighted budget process. I have three suggestions.

First, let Governor Kitzhaber know that you agree with him that it is imperative to renovate the state budget process and streamline state government. Let him know that you want him to follow through on his promise to do both. See "Running on empty," *The Oregonian*, January 11, 2012.

Second, encourage more lawyers to serve in the legislature and contribute to their campaigns. As I write this, the only lawyer-legislators from the Portland-area are Matt Wand from Gresham, Shawn Lindsay from Hillsboro and Chris Garrett from Lake Oswego. I know that at least three other lawyers are running for the legislature this year, but we need to encourage more lawyers to serve, especially on the Ways and Means Committee. Regardless of their politics or the nature of their practices, lawyers know that keeping the courts open full time is simply not something that can be debated.

Third, we as lawyers need to be better advocates for our courts. The days when the budget of the judicial branch was negotiated in private by the chief justice and the chairs of the Ways and Means Committee are over. If we value our courts, all of us need to get on board to let our clients, our friends and neighbors and our legislators know that the courts need to be open full time, so that the citizens of Oregon have access to justice.

mba|CLE

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

FEBRUARY

2.28 Tuesday
High Tech Courtroom Presentations on a Low Tech Budget
Kelly Andersen

2.29 Wednesday
Complex Litigation Management and Procedural Strategies
Paul Conable
Matt Donohue
Tim DeJong
Susan Eggum

MARCH

3.1 Thursday
The Securities Fraud Case
Tom Hutchinson
Scott Shorr

3.7 Wednesday
Mergers and Acquisitions: The Devil is in the Details
Steve Bennett
JoDee Keegan

3.8 Thursday
ERISA Benefits Litigation: Basics and Hot Topics
Judge John Acosta
Megan Glor
Katherine Somervell

3.20 Tuesday
Labor & Employment Law Update
Richard Meneghello

3.21 Wednesday
Annual Family Law Update
Judge Maureen McKnight
Thomas Bittner
Gary Zimmer

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See insert for all things YLS.

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mba|ANNOUNCEMENT

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*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 Winter 2012

- **Multnomah County** contracted with the inici Group, Inc to provide the Board of County Commissioners a comparison analysis of various delivery options to replace the existing downtown courthouse. These options will be evaluated and compared to the current renovation proposal based on a number of factors. The report is scheduled to be completed March 2012.
- **The State Justice Institute** awarded a \$40,500 grant to Multnomah County, working in partnership with the Oregon Judicial Department, to update the 2002 Courtroom Requirement Projections for future Multnomah County courtroom needs. It is anticipated this study will be completed by April 2012.
- **The East County courthouse** is expected to open April 2012.
- **The MBA has updated its courthouse committee**, which will resume meeting in early 2012 to create a strategy for continuing to advocate for a new or remodeled Multnomah County Circuit Court downtown courthouse.
- **The study by SERA Architects** that examined the feasibility of renovating the current downtown courthouse while maintaining substantial court

operations was finished mid-2011. The SERA study includes the following findings.

- ✓ Such a renovation would likely be completed in four and one-half to six years. 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 phasing in of all new building and telephone systems. Construction would be done two floors at a time starting at the top, with staging on Salmon St., which would be closed during the renovation. The goal would be to design for contemporary courthouse standards where possible. The report indicates that certain operations would be moved out of the building during construction and some would be permanently removed to other buildings.
- ✓ The renovation could add 75,000 sq. ft. There are 39 courtrooms now. Depending upon how space is used and which functions remain in the building, two more courtrooms could be added if the DA's office is in the building, six more if the DA's office is permanently moved out of the building. The study suggests moving traffic court, most court records and the law library out of the building during construction. It is undetermined whether or not they would move back into the building or be housed separately.
- ✓ Three elevators would be added for in-custody persons, a separate new one for court staff and the four public elevators in the main lobby would be renovated.

Pro Bono Opportunities

El Programa Hispano's Low Income Tax Clinic is presently seeking attorneys to help low-income Latinos and other low income taxpayers with federal tax issues. Pro bono volunteers provide advocacy before the IRS or in court on tax collection disputes, audits and a variety of other federal tax issues. Training and translation services provided, and case-specific assistance available. This program is also approved for PLF insurance coverage.

For more information or to volunteer email Joaquin Pastor at jpastor@catholiccharitiesoregon.org or contact by phone at 503.489.6828.

New MBA Web Site

In January, the MBA launched a new Web site. The online Membership Directory has been expanded and members may now update their photos, include a bio, add links to social networking sites and update practice area information online. The calendar has been improved and includes non-MBA events that are relevant to anyone in the Portland legal community. Visitors can add events to their Outlook or Google calendars through the site. Events may also be submitted for inclusion using the link at the top of the calendar. To login to the Members Center, you can use the email address currently on file in the MBA Directory for your user name. If you do not know your password, you may click on the "forgot password" link to have it emailed to you.

Calendar

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

FEBRUARY

2.2 Thursday
YLS Drop-In Social
See insert for details

2.8 Wednesday
CEJ 21st Annual Awards Luncheon
Visit www.cej-oregon.org/ for details

2.10 Friday
March Multnomah Lawyer deadline

MBA & YLS Board Self-Nominating Petitions due to MBA
See p. 4 for details

2.17 Friday
Deadline for Pro Bono Award nominations
See insert for details

2.25 Saturday
MBA WinterSmash at 20th Century Lanes
See insert for details

MARCH

3.9 Friday
April Multnomah Lawyer deadline

OWLS Roberts-Deiz Awards Dinner
Visit www.oregonwomenlawyers.org for details

3.10 Saturday
Lewis & Clark Public Interest Auction
Visit http://law.lclark.edu/student_groups/public_interest_law_project/ for details

ACLU Foundation of Oregon Liberty Dinner
Visit aclu-or.org/dinner for details

3.21 Wednesday
CEJ Movie Night: My Cousin Vinnie
Visit www.cej-oregon.org for details

3.30 Friday
YLS YOUTHFILM project film deadline

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Ethics Focus

What Can You Say? Seeking Court Permission to Withdraw

by Mark J. Fucile
Fucile & Reising



Imagine this scenario:

You have been doing a great job for a very “difficult” client. As the case has progressed, however, the client has been increasingly uncooperative, hasn’t gotten you important information in a timely fashion, and, to add insult to injury, hasn’t paid your bill. You’ve finally reached your limit (both personal and financial) and have decided to withdraw. Now seems like a good time because there are no imminent deadlines and trial is a ways away. The rules in the court where you are litigating the case require you to seek court permission to **“You’d like to tell the judge that your client has been a total pain....”**

withdraw. You’d like to tell the judge that your client has been a total pain and has stiffed you to boot. Any problems?

However cathartic it might be, the confidentiality rule, RPC 1.6, constrains our ability - at least in open court (or open court filings) - to reveal confidential client information in support of a motion to withdraw.

This past year the OSB issued an ethics opinion that walks through the “dos and don’ts” of what you can tell a court when seeking permission to withdraw. The opinion, Formal Ethics Opinion No. 2011-185, is available at www.osbar.org. In this column, we’ll look at what you can - and can’t - say in open court when withdrawing and the procedural options available if the court requires a more detailed explanation.

What You Can and Can’t Say

Many state (see, e.g., UTCR 3.140(1) and ORS 9.380(1)(b)) and federal (see, e.g., Oregon federal district LR 83-11(a)) procedural rules require court approval for a lawyer (or firm) to withdraw. When court rules require judicial approval, the professional rules - RPC 1.16(c) in particular - require compliance with those court-mandated procedures.

In our scenario, there are ample grounds to withdraw and timing is not an issue. RPC 1.16(b)(5) and (6), for example, allow a lawyer to withdraw when the client makes the representation “unreasonably difficult” and hasn’t paid the lawyer. At the same time, RPC 1.16(d) requires a lawyer to withdraw in a way that “to the extent reasonably practicable . . . protect[s] a client’s interests[.]” RPC 1.6(a), in turn, requires lawyers to protect client confidentiality and defines the scope of that duty broadly to include “information relating to the representation of a client[.]”

Formal Ethics Opinion 2011-185 counsels that these twin duties significantly constrain **“...twin duties significantly constrain what a lawyer can say....”**

what a lawyer can say - in either court filings or in open court - about the reasons motivating

the lawyer’s withdrawal. The opinion (at 3) suggests following the guidance in Comment 3 to ABA Model Rule 1.16 by limiting the stated reasons to: “[P]rofessional considerations require termination of the representation[.]”

What If the Court Wants More?

Formal Ethics Opinion 2011-185 notes (at 4) that if the court requires more, a lawyer can respond to a judicial directive “to the extent ‘reasonably necessary’” (under RPC 1.6(b)(5)). The opinion also advises, however, that the lawyer must do so in a way that continues to protect the client.

“...the lawyer must do so in a way that continues to protect the client.”

A prudent approach that takes into account both of these objectives is to seek an ex parte, in camera hearing in chambers with the judge - with the record of the chambers conference then sealed afterward. Most reasonable opposing counsel will stipulate to this procedure and both state (see, e.g., Multnomah County SLR 1.165, 5.036) and federal (see, e.g., LR 3-8, 3-9) court rules permit this approach. If there is concern about revealing information to the trial judge, it is also possible to ask that another judge conduct the chambers conference and decide the motion. Both Oregon (see, e.g., *Frease v. Glazer*, 330 Or 364, 4 P3d 56 (2000)) and federal (see, e.g., *United States v. Zolin*, 491 US 554, 109 Sct 2619, 105 LEd2d 469 (1989)) law generally hold that disclosure of otherwise confidential information to a court in camera does not waive privilege.

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.

MBA Launches New Web Site

The MBA has launched a new Web site. Our primary goal is to make it easier for members to access the ever-increasing amount of content available on the site. We have added a number of new features and will continue to expand them in the coming months.

The online Membership Directory has been improved and may now include biographical information and links to social networking sites. Members may also update their photo, include links to social

networking sites and update practice area information online. Physical addresses are automatically used from the OSB or from the MBA database for non OSB/MBA members.

The calendar has been expanded and includes non-MBA events that are relevant to anyone in the Portland legal community. Visitors may add events to their Outlook or Google calendars through the site. Events may be submitted for inclusion using the link at

the top of the calendar. Because of limited space, most non-MBA CLE seminars will not be included at this time.

To login to the Member Section, you can use the email address currently on file in the MBA Directory. If you do not know your password, you may click on the “forgot password” link to have it emailed to you.

We hope you will enjoy the new site. If you have suggestions for how we can improve it, or for what content you would like us to add, please email Guy Walden at guy@mbabar.org, or call us at 503.222.3275.

mba | ANNOUNCEMENTS

Commitment to Professionalism

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

Comment Period for UTCRs Ends in March

The state courts are in the process of adopting new Uniform Trial Court Rules (proposed UTCR Chapter 22) that set additional standards for security, confidentiality, and access to information in filed court documents. The public comment period on these proposed rules runs 49 days from publication of notice in the Oregon Advance Sheets. The text of the proposed 2012 UTCR changes is at: <http://courts.oregon.gov/OJD/programs/utcr/utcrules.page>.

Jewish Learning Institute CLE Series

A series of CLE seminars entitled Money Matters, based on Talmudic ethics, is taking place on Wednesdays, 12-1:30 p.m. through February 29th. Visit <http://myjli.com/index.html> for details.

March 10 ACLU Foundation of Oregon Liberty Dinner

The Saturday, March 10 dinner at the Portland Hilton and Executive Tower is a fundraiser to support the ACLU’s work promoting and defending civil liberties and civil rights for all Oregonians. The dinner speaker is Dan Savage, well known for his syndicated column “Savage Love.”

A highlight of the evening will be the presentation of the Charles F. Hinkle Distinguished Service Award to longtime ACLU volunteer Doris Ennis. Ennis has given 38 years of service as a volunteer with the ACLU.

To purchase tickets, visit to aclu-or.org/dinner or contact Gail Anderson at 503.552.2101 or ganderson@aclu-or.org.

Fiction Writing Competition for Lawyers and Physicians

SEAK, Inc. is sponsoring its fiction writing competition for physicians and lawyers. The purpose of the competition is to encourage participants to become more interested in and adept at writing fiction. Visit www.seak.com for details.

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.

Appeals Court Seeks Applications for Bankruptcy Judge

The Court of Appeals for the Ninth Circuit invites applications from highly qualified candidates for the position of bankruptcy judge for the Northern District of California. This position will be available on December 1. The selection process may take up to 10 months to complete. The official duty station for this position will be in San Francisco, CA.

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

Application forms and more information may be obtained by contacting the address and/or telephone/fax numbers listed below. The Northern District of California Bankruptcy Judge Application (specifically for use with this recruitment) may also be downloaded from our website at www.ca9.uscourts.gov. Applicants are advised to allow for sufficient time to complete and submit the application. Applications must be in the format required by the Ninth Circuit and received by 5 p.m., Thursday, March 22. All letters of reference (optional) must be submitted with the original application.

mba | ANNOUNCEMENT

MBA and YLS Board Elections

The MBA bylaws provide for a slate of director candidates to be presented to the membership at least 60 days prior to the annual meeting. The slate of candidates will be printed in the March issue of the *Multnomah Lawyer*.

The bylaws also allow for nominations for the MBA and YLS Boards from the membership at large. A nominating petition, endorsed by the nominee and at least 10 other MBA members, **must be received by 5 p.m. on Friday, February 10, in the MBA office.**

Voting will close on Friday, April 6. Winners will be officially announced at the MBA Annual Meeting on Monday, May 21.

webcheck

Preview the MBF civic education video series at www.mbabar.org/Foundation/CivicEducation.html. Read more on page 16.

Presiding Judge Nan Waller



Although many of you already know the Honorable Nan Waller, formerly chief family court judge, we think you might appreciate a little insight into what is on her mind as she begins her new role as presiding judge.

Judge Waller grew up in Portland and attended the same high school, Lincoln, as her grandmother and children. She left the area to go to school at Smith College, but ended up transferring to and graduating from Stanford University. Next stop, U of O Law School.

She practiced as a legal aid services attorney in Montana right after earning her JD and later practiced at the Metropolitan Public Defender's office. Subsequently, she worked as a referee and was appointed to the Multnomah County Circuit Court in 2001 by Governor Kitzhaber.

What do you like most about being a judge?

After more than 20 years of being on the bench first as a referee

and for the last 10 as a judge I can honestly say that there is little that I don't like about being a judge. I have never been bored – I get to hear interesting stories and learn about a wide range of subjects every day. I like helping people resolve their disputes either through trial or settlement conferences. I love watching good lawyers in action laying out their case step by step and I like the intellectual challenge of solving legal problems that come my way. As a judge I have also had the privilege of working on system improvements with a goal of improving the outcomes of people coming before the court.

What will be the biggest challenges moving from chief family judge to presiding?

I will immediately be dealing with the potential of more budget cuts as we prepare for the February legislative session. Given the prior reductions we have had to take, any further cuts will be devastating. We have a bench and staff who are committed to making our court work efficiently and effectively for the people we serve. It is very hard when we do not have the resources and staff to live up to the standards we have set for ourselves. Figuring out ways to continue to do quality work that we expect while keeping up morale will be a challenge. Luckily, I know that I will have lots of support in facing this challenge from the

judges, staff and Doug Bray, our Trial Court Administrator. I know that the bar will also continue their support of our court. It has been very gratifying to have so many lawyers asking how they can help and offering suggestions on how to deal with the reductions.

What types of cases will you continue to handle?

At this time I plan to keep my retained cases and to cover some of each of the courts different dockets. Realistically, time will tell how that plays out. It helps me if I'm actually taking cases to have a better understanding of what works and what doesn't. I hope to continue to do settlement conferences.

What are the qualities you admire most about judges?

Beyond being well-grounded in the law and the rules that provide a framework for decision making, what I really admire is the ability of a judge to conduct a proceeding or trial in a manner that will leave every litigant believing that they have had a fair hearing. Judges who are patient, respectful to everyone in the courtroom and allow litigants to put on their case instill confidence in our justice system no matter what the outcome of the case. I admire judges who define their role beyond being on the bench 'calling the balls

and strikes'. I have had great role models of judges who believe that they have a responsibility to use their positions as community leaders to convene and lead system improvements.

What qualities do you admire the most in lawyers who come before you?

There are lawyers who walk into the courtroom and you know you are in for a treat – they are well prepared, professional in their demeanor both in and out of the courtroom and are able to set out their case in a straightforward and understandable fashion. Good lawyers are good educators for the court and for a jury.

What tips do you have for our members?

Take the Code of Professionalism as a guide for how you conduct your practice. The Code of Professionalism is not intended to be just up on the wall in a nice frame. It is a guide for interactions and responsibilities of lawyers in their practices. It is important for lawyers to know the court rules (UTCRC, SLR) and follow them. Anticipate the legal or evidentiary issues that are likely to come up and be prepared to address them. If you are going to write a memo, get it into judges ahead of time so they have time to read it. If there are preferences

that judges have indicated on their state Web pages, be familiar with them. Take the responsibility to confer seriously as opposed to an obligation that has to be checked off for the purposes of submitting an affidavit. Finally, get involved in bar activities and take advantage of our great legal community.

What types of pro bono work can judges do?

While they cannot practice law, judges participate in a variety of pro bono activities. We have judges who speak to community groups and school groups on our justice system and the rule of law. Judges serve as coaches and judges for Classroom Law Project activities. Judges serve on boards, committees and commissions that are both law and non-related. Judges volunteer during Community Law Week, especially at the "Tell it to the Judge" day. Judges volunteer for community organizations like Meals on Wheels to improve the circumstances of people in our community.

We look forward to working with Judge Waller and we wish her great success in her new role.

2012 LASO/OLC/MBA Pro Bono Awards

Nomination Deadline February 17

A good deed deserves recognition. Nominate your peers, yourself, a law firm or legal organization for awards honoring pro bono service. The Legal Aid Services of Oregon (LASO) / Oregon Law Center (OLC) / MBA Pro Bono Awards annually recognize attorneys, law firms, and attorney organizations that have shown an extraordinary commitment to pro bono work. If you know someone who has been making a difference through pro bono work, make a nomination today. Three categories will be recognized on May 21 at the MBA Annual Meeting and Dinner. The nomination deadline is **Friday, February 17.**

The Senior Law Project Volunteer of the Year Award recognizes those showing a special commitment through the Senior Law Project, Multnomah County's longest running pro bono program at over 30 years. The 2011 award went to Diane Gould for her work above and beyond the average volunteer with the Senior Law Project.

The Michael E. Haglund Pro Bono Award recognizes a young lawyer (under 36 or in the first six years of practice) who shows commitment to pro bono through LASO, OLC or MBA YLS pro bono projects. This award honors the founder of the Volunteer Lawyer Project managed by LASO and OLC. Certified projects include the Bankruptcy Clinic, Domestic Violence Project, Pro Se Assistance Project, Senior Law Project, Legal Aid Night Clinic, Community Development Law Center, ProBonoOregon Listserv, Neighborhood Legal Clinics, YLS Nonprofit Project and Attorneys for Youth. The 2011 award went to Tom Chow who, since passing the bar in 2007, has worked more than 475 hours helping more than 75 clients through five of LASO's seven pro bono projects.

The Pro Bono Award of Merit recognizes those who have set an inspiring example for the legal community through

Continued on page 7

MBA 10th Annual WinterSmash

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and Multnomah CourtCare Fundraiser

Saturday, February 25
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10 minutes from downtown Portland

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Around the Bar



Román Hernández

Schwabe, Williamson & Wyatt
Román Hernández, the former Hispanic National Bar Association National President, was recently appointed to serve as its representative to the ABA House of Delegates.



Drew Hagedorn



Michael Millender

Tonkon Torp

Drew Hagedorn and **Michael Millender** have been elected to firm partnership.

Hagedorn, a member of the firm's Government Relations & Public Policy Practice Group, offers comprehensive government affairs services for clients.

Millender's practice focuses on tax and employee benefits matters. He is a member of the Taxation Practice Group and represents corporations, partnerships and limited liability corporations in federal, state and local tax matters and the structuring of business transactions. Millender is also a member of the Executive Compensation & Employee Benefits Practice Group, where he counsels clients on retirement, fringe benefit and equity-based plans, and represents clients in tax and benefits disputes with the IRS and other authorities.

Business attorney **Marco Materazzi** has been elected to a two-year term on the OSB Executive Committee, Securities Section.

Materazzi practices in the firm's Business Department, where he focuses on mergers and acquisitions and securities offerings.



Marco Materazzi

In addition to his professional activities, Materazzi is engaged in community service. He recently was elected to the board of the Peninsula Children's Center.



Jon P. Stride



Gregory L. Powell

Litigator **Jon P. Stride** has been elected to a three-year term on the board of the Oregon Association of Defense Counsel. Stride practices in the Litigation Department, where he represents businesses and individuals in a variety of disputes before state and federal courts. His practice has particular focus on intellectual property and other complex issues.

Gregory L. Powell has been appointed chair of the Financial Services Practice Group. A partner in the firm's Business Department, Powell's practice is focused on regulatory and compliance matters for broker/dealers and registered investment advisers. He also serves as general counsel to closely-held companies and has represented businesses of all sizes in securities and corporate finance matters as well as mergers and acquisitions.



Scott Shorr

Stoll Berne

Scott Shorr, a trial and appellate attorney who specializes in complex business, securities and consumer class action litigation, has been named managing shareholder. In his new role, he will take a lead in strategic planning, personnel management and community relations, among other responsibilities. He will share the post with **Keith Ketterling**.

Shorr was the arguing counsel before the U.S. Supreme Court in *GEICO General Ins. Co. v Edo and Safeco Ins. Co of America v Burr*. He practices in state and federal trial court, all appellate courts and before the Financial Industry Regulatory Authority.

Shorr has represented both individuals and businesses in matters involving securities fraud, executive compensation, unfair trade practices, trade secret litigation, contract disputes, breach of fiduciary duty and other related matters.



Edmund Clay Goodman

Hobbs Straus

The National American Indian Housing Council has named **Edmund Clay Goodman** as its First "Lawyer of the Year." The council created the award "to acknowledge the important contributions made by the legal profession in the field of tribal housing."

Goodman has represented Indian tribes, tribal organizations and tribal housing entities for more than 20 years.



Jennifer Kampsula

Jennifer Kampsula

Jennifer Kampsula joined the Fort Vancouver National Trust as its Director of Gift Planning. She was the 2004 recipient of the Trust's General George C. Marshall Public Leadership Award and is a member of the Trust's Marshall Award Recipients Society. She may be reached at the Fort Vancouver National Trust, O.O. Howard House, 650 Anderson St., Vancouver WA 98661, 360.992.1815, jennifer.kampsula@fortvan.org.



Justin D. Leonard



Daniel R. Webert

Ball Janik

Attorneys **Justin D. Leonard** and **Daniel R. Webert** have been elected partners of the firm.

Leonard's principal areas of practice are bankruptcy and creditor rights. He regularly represents bankruptcy trustees, regional banks and other creditors and business debtors in litigation and workouts.

Leonard has been active in many bar and community service organizations. In 2009-10, he served as president of the MBA YLS. His current activities include serving on the Executive Committee of the OSB Debtor-Creditor Section, as a board member and regular volunteer for the Legal Aid Services Pro Bono Bankruptcy Clinic, and as a board member for Oregon Lawyers Against Hunger.

Webert's practice focuses on residential and commercial construction litigation and the representation of community associations. He is an integral member of the firm's regional and growing national practice emphasizing design and construction defect claims.

Webert is a member of the Litigation and Tort and Insurance Sections of the ABA, and the Construction Law Sections of the Oregon and Washington state bars. He is active in the Oregon and Washington chapters of Community Association Institute and Oregon Washington Community Association Managers.



Jennifer Gates

Landye Bennett Blumstein

Three lawyers at the firm have been named to its 2012 Management Committee: **Stuart Cohen**, **Karna Gustafson** and **Richard Yugler**.

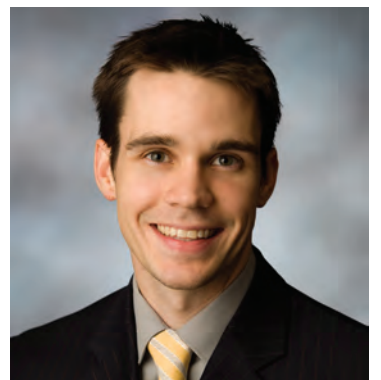


Jason Wright

In addition, the firm named **Jennifer Gates** and **Jason Wright** as equity partners.



Sean C. Gay



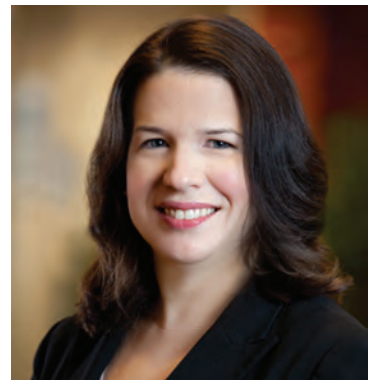
Geoffrey B. Tichenor

Stoel Rives

The firm has named new partners.

Sean C. Gay, Construction and Design, has substantial experience drafting and negotiating construction and design contracts. He also has extensive public contracting experience, having litigated bid protests and contract disputes.

Geoffrey B. Tichenor, Environmental Compliance, has broad experience representing clients before state and federal agencies. He helps clients navigate the maze of requirements that arise under state and federal environmental laws applicable to air emissions, water discharges, storage tanks, waste management, contaminated lands, chemical storage and spills.



Denise Gorrell

Samuels Yoelin Kantor

Denise Gorrell has been named a partner at the firm. She will join the business and litigation practice groups.

MBA Member Discounts

Continued from page 3

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To obtain a quote, email your ad text to Carol Hawkins at carol@mbabar.org.

2012 Pro Bono Awards

Continued from page 5

their pro bono service. The 2011 award was presented to two recipients: Amy Pedersen, for her longstanding commitment to the Stoel Rives/LASO Night Clinic and its clients and Bill Miner, for his individual pro bono work for clients as well as his work fostering and promoting a culture of pro bono work at Davis Wright Tremaine.

Any attorney, law firm, or attorney organization doing exemplary pro bono work, except members of the LASO/OLC Pro Bono Committee, is eligible. Renomination of former nominees is welcome. Factors considered in selecting awardees include pro bono work done in the last year, number of years doing pro bono work, willingness to take emergency cases, mentoring of other volunteers and work to promote pro bono work.

Nominations must be received by Friday, February 17. To make a nomination, visit www.mbabar.org, or contact William Penn, wpenn@clark.edu.



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Tips From the Bench

Reflections on Juries Jury Trial Skills Still Matter

by Judge Jerome LaBarre
Multnomah County Circuit Court

Some things never fade in importance. Litigators still need to know how to handle a civil jury trial from beginning to end. This may seem counter-intuitive. With the drastic decline in civil jury trials in recent years it would be logical to conclude that these skills are no longer important. But that would be a fallacious assumption. Here are three reasons why jury trial skills remain important even if you rarely try such cases.

1. Jury Skills Give Credibility in Settlement Negotiations

In handling litigation, you prepare for war but hope for peace. If you are perceived as a “paper tiger” the other side has little to fear in pushing an unfavorable settlement upon your client. When you make your “drop dead final” settlement offer, you have got to have credibility when you say that you will win at trial if the case is not settled. If you are clueless on how to try a case this will show and will hurt you badly. This is not just a theoretical problem.

There are now an estimated 9,200 practicing lawyers in the tri-county area. Yet for a number of years there have been only an average of about 100 civil jury trials per year tried in the Multnomah County Circuit Court. Far fewer are tried each year in USDC-OR. Do the math. You will see that very few lawyers are now trying civil jury trials with any regularity. The obvious conclusion from this is that if you are knowledgeable - or better yet experienced - in trying a case to a jury you will get better settlement results. No one is afraid of paper tigers.

2. Jury Trials Help with Case Evaluation Insights

In over four decades of involvement in civil jury trials I have concluded this. Good instincts for case evaluation are the mark of highly successful litigators. This skill plays out at every stage of a case, from beginning to end. In essence this means being able to separate the cases which are winners from those that are losers. Not only do you need to decide whether you will prevail on your theory of the case but also what amount you should estimate as a reasonable recovery. Classically,



this is done by looking at what kind of a verdict a jury is likely to return if the case is tried. After that, one needs to scale back to a reasonable settlement figure.

But what if you are clueless about juries? Very simply, you cannot make predictions about what a jury will do if you know nothing about the jury trial process. It is not just a matter of reading jury verdict reports. You must be able to visualize how your client's case will play to a jury to do the best job of case evaluation. For plaintiff's lawyers financial success depends upon this. For defense lawyers this is crucial in avoiding a disastrous verdict.

3. Jury Skills Translate to Arbitration and Mediation

Today, for every civil case tried to a jury there are many hundreds which are arbitrated or mediated. Of course there are specific skills to learn for ADR. However, in my opinion, well honed trial skills also translate into both arbitration and mediation success. Good persuasion is the challenge which you face in trial and in other forms of dispute resolution.

There is no better way to develop good skills in persuasion than by learning about trying cases to a jury. True, the specific techniques and rules vary greatly between jury trials and ADR. Also, there are many special skills which you need in your toolbox to either arbitrate or mediate. But at the end of the day it all comes down to convincing the decision maker of the merits of your position. In the world of persuasion there is no greater challenge than being able to convince a jury to award your client a verdict.

In conclusion, litigators still need jury trial skills. The new expedited civil jury trial authorized by UTCR 5.150 is one way to start gaining jury trial experience. Give it a try.

Correction:

In my December “Tips from the Bench” column, I equated service by fax with service by hand; but the rules provide (ORCP 9F) that in fact, service by fax is equivalent to service by mail for purposes of ORCP 10C. Therefore, in the context of giving notice of a proposed order or judgment, an additional three days is added to the period after service before the faxed-served judgment or order can be presented to the court, just as if the fax had been mailed to the other party. (This, by the way, contrasts with the treatment of service by email, where permitted under ORCP 9G; email service is effective when receipt is confirmed.) I apologize for contributing confusion when I wanted to shed light, and thank attorney Matthew Whitman for calling this to my attention.

Judge Leslie Roberts

News from the Courthouse

by Eric Dahlin
Davis Wright Tremaine

Presiding Judge's Report

Presiding Judge Nan Waller became the newest elected and confirmed presiding judge for the Multnomah County Circuit Court in January, replacing Judge Jean Kerr Maurer, who had been presiding judge for the prior four years. Judge Maurer is still serving as a circuit court judge in the regular trial rotation. Judge Waller most recently served as the chief family court judge. Judge Maureen McKnight is the new chief family court judge, effective January 1. Judge Julie Frantz continues as the chief criminal judge. Within the family court, Judge Katherine Tennyson continues her role as the chief judge for probate and protective proceedings.

New Multnomah County Case Management Supplementary Local Rules

The new Multnomah County Supplemental Local Rules (SLRs) 2.011, 7.011 and 7.015 take effect on February 1 and will apply to all civil cases filed on that date or later. The new rules change how the court will manage civil cases. The essence of the new rules are (1) a civil case docket cover sheet is required to be filed at the same time any new lawsuit is filed, (2) there will be a single judge assigned to a case for all pretrial motions (other than summary judgment motions), and, (3) there will be an early initial case management scheduling conference for every case and a later trial readiness conference in lieu of the current practice of multiple call dates for case status reporting. The full text of the 2012 SLRs is at: <http://courts.oregon.gov/Multnomah/>.

Although the new rules are in final form, the committee of judges who developed the rules is working on best practices to implement the rules; the committee is purposefully being flexible in the implementation of the rules to best adapt to feedback the court receives. Judge Waller reported that she is attending the committee meetings as well as representatives of the Oregon Association of Defense Counsel and the Oregon Trial Lawyers Association. The goal for the procedures around SLR 7.011 and 7.015 is to establish processes that serve all parties effectively. The presiding judge said that she is open to suggestions regarding the new rules; she asks the MBA membership to provide feedback to her and the

committee as the processes are published and implemented.

To educate the bar about the new SLRs, the MBA held a lunch-time seminar in December for nearly 100 lawyers and paralegals in presiding court. The brownbag informed the bar of the intent of the new rules and was also quite helpful for the judges presenting because the audience members raised issues that the court will address in the implementation of the rules.

East County Courthouse

Judge Waller reported that the East County Courthouse is on schedule to open in April. She and Doug Bray are still working on securing the state funding for the purchase of furniture, equipment and computers for the new courthouse; that funding is mandated by statute. The East County Courthouse will include CourtCare space which will be similar to the downtown facility.

eCourt

The eCourt implementation begins with Yamhill County Circuit Court in June, 2012. Following Yamhill County, the second wave of implementation in “early adopter” counties will occur in late 2012. Multnomah County will begin implementation at the end of the early adopter cycle in mid-2013 with civil cases being the first case type implemented. It will take approximately 1.5 years for all of the Multnomah County case types to be in the Oregon eCourt environment.

UTCRC

The state courts are in the process of adopting new Uniform Trial Court Rules (proposed UTCRC Chapter 22) that set additional standards for security, confidentiality and access to information in filed court documents. The public comment period on these proposed rules runs 49 days from publication of notice in the *Oregon Advance Sheets*. The text of the proposed 2012 UTCRC changes is at: <http://courts.oregon.gov/OJD/programs/utcr/utcrules.page>.

The new UTCRC seeks to address the accessibility online of sensitive but public information. The proposed rule sets varying degrees of access to documents online. For example, lawyers who are counsel of record for a particular case will have the highest level of public access to their case, and a member of the public who is not involved in a particular case would have the lowest level of access and thus may not be able to view certain sensitive documents from external locations. If a public document is not available online, the document will be available for viewing via internal kiosks at

the courthouse; the public will have access to public records in the courthouse as they do today.

Court Funding

Chief Justice De Muniz asked members of the bar and the business community to contact legislators to educate them about the role of the courts and how “fully functioning courts” are essential to preserve access to justice and why it is crucial that court funding - which has been cut repeatedly already over the last several years - not be cut more.

For the current biennium, the legislature held back 3.5% of the state court's funding, with the idea that if the revenue projections improved, that amount would be restored to the Oregon Judicial Department's budget, but if the projections did not improve that amount would be cut from the court's budget. The legislature will decide in the February session whether this funding will be restored or if the amounts already held back will be a further permanent cut in resources for the last 15 months of the 2011-13 biennium.

Oregon eCourt is funded by bond sales and the purchase and installation of the system is paid from the proceeds of these sales; eCourt is not a general fund obligation except as the debt service on the bonds is due. Oregon eCourt will provide a large component of ensuring access to justice because it allows the public greater access to the courts through web-based services for document assistance, filing and payments. Also, the new system will help the courts run more efficiently in the face of the current and possible future legislative reductions in resources; electronic filing and documents permit efficiencies in service not possible in a paper-based world.

The chief justice is aware that the legislature is faced in February with making difficult decisions with the limited resources available, but is hopeful that he and the bar-business group can convince the legislature of the importance of funding the courts.

Expedited Jury Trial System

Judge Waller reported there have been six cases that have gone through the expedited jury trial system to trial. The lawyers and the judges in all of those cases seem to have found this to be a positive experience.

WinterSmash

The MBA's Annual WinterSmash, a bowling party which benefits CourtCare, is February 25, from 6-9 p.m. at the 20th Century Lanes. Visit www.mbar.org for details.

Judicial Profile

Judge Erika Hadlock

Oregon Court of Appeals

by Ryan Bounds
Assistant US Attorney
District of Oregon

Judge Erika Hadlock became Oregon's newest appellate judge when Governor Kitzhaber appointed her to the Court of Appeals last July. Despite her many professional accomplishments as a lawyer, Judge Hadlock's path to the bench was somewhat unconventional. She set out as a **"...Judge Hadlock's path to the bench was somewhat unconventional."**

young college graduate in pursuit of a career not in the law but in the hard sciences.

Judge Hadlock comes from a family of scientists - her father was an atmospheric physicist at the Hanford nuclear plant in eastern Washington - and she always intended to be a scientist herself. To that end, she resolved early to study at Reed College in Portland, which featured an academically rigorous and hands-on science curriculum.

After initially studying biology, Judge Hadlock ultimately obtained her undergraduate degree from Reed in chemistry. She then began her professional life as a chemist, taking a job with a small firm in Clackamas. Life as a chemist had its rewards - including a trip to Moscow, Russia, in the twilight of the Cold War - but Judge Hadlock came to conclude within a few years that the chemist's life was not for her. Eventually, she recounts, she could no longer avoid the realization that the industrial chemicals with which she worked "smell bad, are bad for you and make your clothes dissolve."

Swapping the hazards of harsh solvents for those of winters in upstate New York,

Judge Hadlock matriculated at Cornell Law School in 1988. Already married by then (her husband of 25 years is a sergeant with the Multnomah County Sheriff's Office), Judge Hadlock focused intently on her studies and on her responsibilities as a managing editor of the *Cornell Law Review*. Those responsibilities were unusually heavy during her tenure: Her volume of the *Law Review* published nine issues - half again as many as usual. The work left her with less time than she would have liked to pursue clinical or externship work while in school, which she commends as a good opportunity for practical training and community service. Judge Hadlock did take advantage of the opportunity, however, to pursue a certificate in Public Law at Cornell. She knew even in law school that her primary interest was in public service.

Having borrowed heavily to fund her education, Judge Hadlock did not seek government employment immediately after joining the bar. Instead, she joined the litigation group at Bogle & Gates in 1991, where she spent the next four years working primarily on environmental and commercial disputes. The firm gave Judge Hadlock a wide variety of opportunities, including her first chance to work with Bogle & Gates' appellate specialist, Rex Armstrong, who left the firm to join the Court of Appeals in 1994. Judge Hadlock had by then started considering her path to partnership. She became increasingly convinced, however, that she wanted to focus on matters of public concern and probably

lacked the entrepreneurial spirit needed for partnership.

In 1995, Judge Hadlock saw an announcement in *The Oregonian* for a vacancy at the Appellate Division of the Oregon Department of Justice, which represents the state in all appellate matters before the state and federal courts. She decided to apply and got the job, despite her admitted dearth of experience in criminal law. Judge Hadlock spent the next three years focusing on civil matters while getting up to speed on the criminal side. She greatly enjoyed being a generalist - something she still enjoys - with the ability to take responsibility for cases across the broad scope of the Appellate Division's docket.

Despite her enthusiasm for the work at the Appellate Division, Judge Hadlock was intrigued by the idea of working as a neutral, **"...[she] was intrigued by the idea of working as a neutral...."**

rather than as an advocate, and eventually took a job as an administrative law judge for the Oregon Bureau of Labor and Industries, where she handled civil-rights and wage-and-hour claims. Judge Hadlock recalls that the work there was gratifying and "hands on," because the administrative law judge, although a neutral arbiter, often plays an active role in developing the record through questioning witnesses. She spent the following two years helping resolve disputes and developing an expertise in employment law, but she found she missed the opportunities to be a generalist working in broad areas of the law, including the criminal realm. She resolved to return to the Department of Justice as soon as she was able.

In part to burnish her credentials for the next available opening at the Justice Department, Judge Hadlock took advantage of an opportunity to familiarize herself with federal practice by serving as a judicial

clerk for U.S. District Court Judge Anna Brown. Judge Brown was quickly impressed with Judge Hadlock's work ethic, writing ability, and dedication to the rule of law. "She is a poster child for the judicial process," Judge Brown recently noted. In her estimation, Judge Hadlock was blessed with "the intellect and ability to express herself clearly" while remaining "very sensitive to the process that trial lawyers and trial judges go through" in creating the record on appeal. Discussing Judge Hadlock's appointment to the Court of Appeals, Judge Brown concluded that Judge Hadlock was "perfectly suited for the job."

In 2001, a vacancy arose at the Appellate Division of the Oregon Department of Justice, and Judge Hadlock seized the chance to return to her old colleagues. With the benefit of her broader experience and additional years of practice, she soon moved into a supervisory role in the office. For several years, Judge Hadlock served on the Appellate Division's management team, working on high-profile appeals and helping to manage budget, personnel, and other administrative matters at the division. She later stepped down from the management team, however, partly with the aim of spending more time back in the courtroom.

Mission accomplished. When she discusses her first few months on the Court of Appeals,



Judge Erika Hadlock

Judge Hadlock's enthusiasm is unmistakable. She speaks of the court's judges and staff with deep respect, emphasizing that they are "incredibly hardworking" in their efforts to keep abreast of the court's massive docket. She describes that effort as akin to "trying to keep a flood under control." She acknowledges the task will be all the more daunting once she is able to hear all of the matters in which Oregon itself is a party - which she cannot yet do as a former lawyer for the State.

Still, Judge Hadlock emphasizes, she would not exchange her place on the court for anything. It is "nice," she says, "to be able to see everything the court does." It is a view Judge Hadlock is eager to share. She believes all Oregonians would be better served by improved access to the court and its judges, and she looks forward, for her own part, to reaching out to citizens and members of the bar throughout the state.

Judge Hadlock's Practice Tip

When planning an appeal, focus on identifying the trial court's ruling (not just the legal reasoning or conclusion) that you believe was erroneous. In other words, what did the trial court do that you believe was wrong? Once you have done that, you should easily be able to meet many of the other requirements for a proper appeal, including setting out the applicable standard of review, demonstrating that you preserved the claim of error in the trial court and explaining what the appropriate remedy will be if the Court of Appeals agrees that the trial court's ruling was erroneous.

Convocation on Equality

by Judge Angel Lopez

In November, 2001, the OSB, MBA and Oregon Women Lawyers (OWLS) hosted a daylong meeting to examine barriers to advancement experienced by racially and ethnically diverse lawyers within our membership. Approximately 150 attendees strategized and developed recommendations or "best practices." The OSB Diversity Section was created from one of several recommendations that developed at the event.

On November 4, 2011, approximately 10 years later, we reconvened for a daylong event to examine legal diversity within our profession. The 2011 Convocation on Equality expanded the focus of legal diversity to include the status of disabled and LGBT

lawyers, as well. Panels and workshops focused on how to promote diversity and inclusion within the profession, promote best practices for recruitment retention and advancement of diverse lawyers and to foster a culture of inclusion within our bar membership. The 2011 Convocation was a resounding success. Approximately 400 people attended the event, held at the Oregon Convention Center.

The program began with a stirring introduction by Kellie Johnson to the video presentation: "Decade of Diversity." "Decade" consisted of compelling and sometimes poignant insights by bar leaders and others explaining why promoting diversity should be a core function of the bar. Among those who presented

welcome remarks were the Hon. Edwin Peterson, who directed the 1994 Oregon Supreme Court Report on Racial and Ethnic issues in our justice system. Setting the tone for the day was keynote speaker, Paula Boggs, General Counsel for Starbucks Coffee. In closing, the Hon. Ellen Rosenblum gave thoughtful remarks for introspection and inspiration. Finally, Former



Governor Ted Kulongoski was honored with a special award recognizing his groundbreaking judicial appointments which have greatly added to the diversity on the bench. Throughout the day, attendees had the option of attending three tracks: one track dedicated to legal employers, another which closely examine the dynamics of bias within the

profession, and a third track dedicated to skill building for diverse attorneys.

The 2011 Convocation was two years in the making. The steering committee consisted of judges Richard Baldwin, Angel Lopez, Adrienne Nelson, David Schuman and Janice Wilson. Attorney members were David Bartz, Gerry Gaydos and Linda Meng. At the direction of the steering committee, 12 committees were established. Attorneys Diane Schwartz-Sykes, Akira Heshiki and Emilie Edling were responsible for communicating between the steering committee and standing committees and for keeping the planning process on track.

The OSB, specialty bars and over 27 law firms and community partners helped fund the program and kept the registration fee affordable.

As expected, the working tracks elicited many ideas

regarding what steps should be next taken. All ideas were duly recorded. In January 2012, the convocation steering committee will meet to debrief. We will then consider and evaluate all ideas generated. The result of the debrief will be to make appropriate recommendations to the OSB Board of Governors, the Bench, and legal employers for implementation of ideas and suggestions, as well as to evaluate what steps remain to finalize the toolkit of best practices for recruitment, retention and advancement of diverse lawyers developed at the 2011 Convocation.

The steering committee thanks all the program committee members, sponsors, the MBA and the countless others who made this an incredibly successful and meaningful event.

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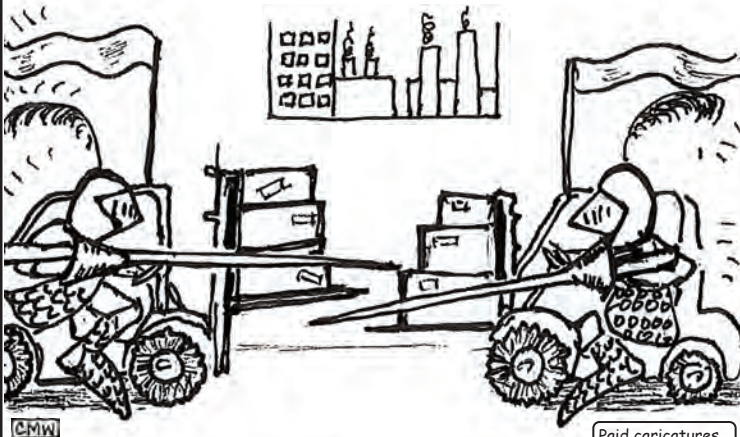
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Oregon eCourt An Update

by Paul J. De Muniz
Oregon Supreme Court
Chief Justice

Published in the November, 2011 OSB Bulletin "Parting Thoughts;" reprinted with permission.

Oregon is making great strides toward implementing a statewide Oregon eCourt system, Oregon's effort to create a statewide electronic courthouse and replace our aging and increasingly outdated OJIN system.

The Judicial Department has contracted with Tyler Technologies to implement its Odyssey system in all Oregon circuit courts, following a competitive bidding process.

"This 'single-solution provider' approach will provide a single integrated system...."

This "single-solution provider" approach will provide a single integrated system and reduce the cost and risk of Oregon eCourt.

We plan to install Odyssey in Yamhill County Circuit Court in June 2012. In the following year, we will expand into Multnomah,

Jackson, Crook, Jefferson and Linn Counties as early adopter courts. All Odyssey components, including eFiling, ePayment and online document and schedule access - would be fully available in each county for all case types following each local implementation. After the early adopter courts are completed, we anticipate rolling out Odyssey on a regional basis throughout the state - a three-year process, contingent on legislative funding.

As you may know, the legislature is expanding its oversight of state technology projects, including Oregon eCourt. I agreed with legislative leadership earlier this year to an aggressive schedule of plan updates and other steps to further reduce the risk of implementing this comprehensive technology upgrade and business transformation process. The last two reports from the Oregon eCourt Quality Assurance provider have noted declining

program risks - making Oregon eCourt a safer public investment.

Tyler has successfully implemented the Odyssey system in six states - including Minnesota, Indiana and New Mexico - and also in large county-run court systems, including Miami, Dallas, Detroit, Atlanta and Las Vegas. Oregon would join a large community of Odyssey users with whom to share experiences, fixes and upgrades.

"The Oregon eCourt Program already has produced multiple benefits for the courts and legal community."

The Oregon eCourt Program already has produced multiple benefits for the courts and legal community. In addition to the complete eCourt system in Oregon's appellate courts, we have improved user-based Web sites for all circuit courts, provided wireless access in every courthouse, expanded video conferencing capacity statewide and established better information security and data backup for disaster recovery.

Once Oregon eCourt is implemented, members of the bar will realize additional benefits. Having eFiling will mean fewer trips to the courthouse

and the ability to file cases and documents from anywhere at any time. Having ePayment will reduce transaction costs. Having schedules and documents available online will reduce phone calls, court visits and delays while court staff look up information, search for paper files and make copies. In turn, court staff will be able to focus on processing cases instead of receiving documents and payments. These steps will improve access.

Members of the bar who practice in multiple judicial districts will see a uniform, statewide case numbering system, more standardized business practices among courts, same-look, user-friendly Web sites for each circuit court and other improvements.

Implementing Oregon eCourt will provide yet more benefits. Law enforcement agencies will have immediate access to protective orders. Judges and court staff will have access to all cases involving an individual or family. They will know if a parent in a custody case is under a protective order, whether a probationer appearing in one county has pending criminal cases in another county, or whether a person paying a traffic ticket owes other court-imposed debts in other cases.

Having better information will produce better outcomes.

Implementing a functioning Oregon eCourt system will be increasingly important in order to maintain access to justice as Oregon continues to face declining

"Technology is one of the few ways we can preserve capacity and services...."

budget resources. Technology is one of the few ways that we can preserve capacity and services in the face of staff furloughs and layoffs due to budget reductions and still strive to fulfill our mission of providing fair and accessible justice services that protect the rights of individuals, preserve community welfare and inspire public confidence.

This exciting culmination of efforts could not have been accomplished without the dedicated support and involvement of not only Oregon's state judges and court staff, but also the input and enthusiasm of members of the bar.

I am looking forward to the day when all Oregonians have the benefits from a functioning eCourt system in Oregon - better access, better information and better outcomes.

The Corner Office PROFESSIONALISM

"The only bad thing about burning your bridges behind you is that the world is round."

- Unknown (quote located at www.allshortquotes.com)

The Portland legal community prides itself on being, for the most part, a professional, collegial group of people. It helps that we are relatively small; forget about six degrees of separation - we're likely in the two-degrees of separation category. As a result, most members of our bar recognize that it is imprudent to "burn a bridge" in our community.

Still, relationships can break down or be destroyed. Sometimes, a relationship disintegrates slowly due to neglect or the press of business. We might forget to keep in touch with the mentor who was so helpful during our first year of practice, for example. Or we might lose touch with a co-counsel who had been a great person to work with. Sometimes, a bridge is burned in a flash, such as when law partners split on difficult terms.

Regardless of whether the "burn" was intentional or inadvertent, it benefits no one,

least of all the people who did the "burn" and those who were "burned" in the process.

One reason why someone "burns" a bridge is because keeping in touch with people, even those we admire and respect the most, isn't easy. It requires time and energy. It requires focus and energy. It's easier sometimes to bill another hour as opposed to sharing a lunch with someone. Yet maintaining a professional, cordial relationship with someone is one of the easiest ways to ensure a bridge never burns, and it benefits the legal community, too.

Second, maturity, or a lack of understanding how people operate in a business environment, may result in a burned bridge. Yet just as ignorance of the law is no excuse when it comes to defending against criminal charges, a lack of thoughtfulness about how one's actions may affect others is not credible, either.

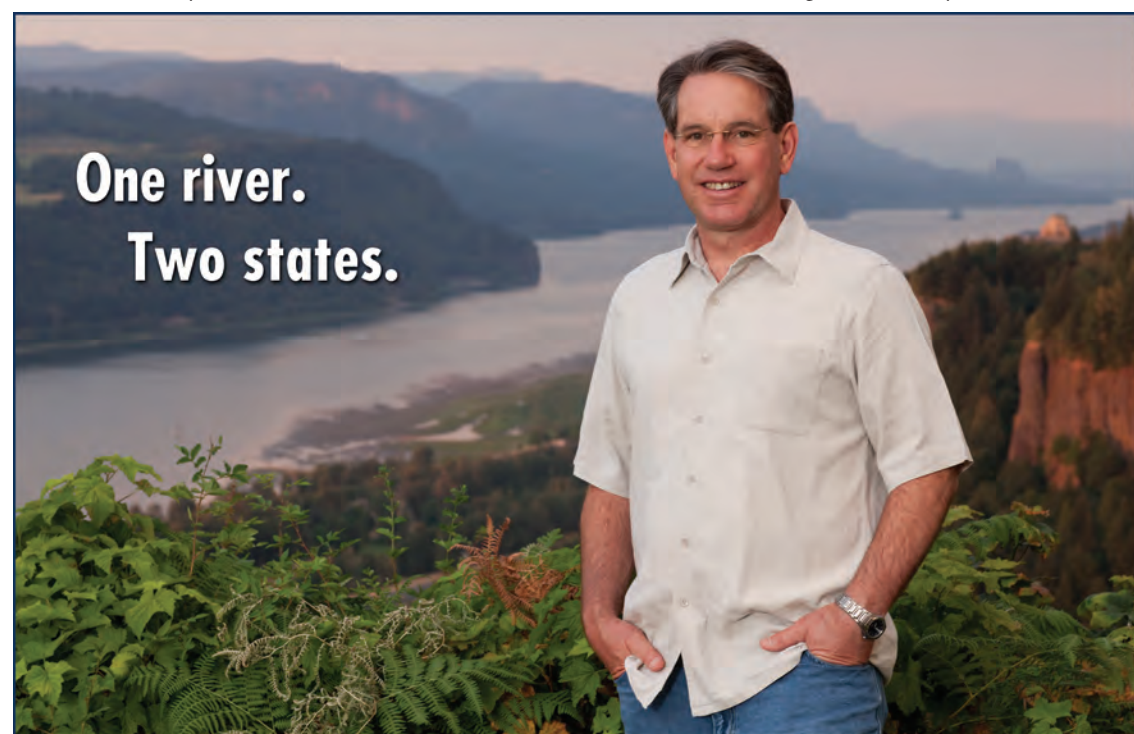
For example, departing a law firm for whatever reason has a ripple effect on both the person who departs and the law firm. The obvious way to minimize the ripple effect is to work out as smooth of a transition with the old law firm as possible. Give notice. Talk to colleagues, and talk to staff (some of whom in both categories will likely have hurt feelings). Address transition issues, including client needs and deadlines, up front. For those who believe "transition" means "grab as many clients as possible while bolting out the door," think again. Exiting with grace and professionalism, even if personally difficult, will be professionally rewarding and have a long-lasting positive impact on the departing attorney's reputation.

For newer lawyers, there are two key lessons to be learned. First, remember that the relationships you make with other members of the bar during your first years of practice have great value and are worth the time and energy to maintain. You never know when you may need to call on that person for a referral, a

piece of advice about an area of law you do not practice, or simply just an opportunity to talk to someone about a situation in your professional life.

Second, the next time you end a relationship with a lawyer or a law firm, whether through inadvertence or intentional plan, think about whether you truly need to burn any bridges, and whether your actions could burn a bridge. Once a "bridge" is "burned," you run the risk of being viewed negatively by others as you proceed in your career. Whether a truly "burned bridge" can be repaired depends on many things, not the least of which is whether the old law firm or individuals on the other side have the capacity to forgive. Fortunately, most of us do. Unfortunately, most of us never forget.

For more seasoned, experienced lawyers, you must set the standards for our less-experienced colleagues who have never witnessed a transition, or who have yet to understand the value of long-term professional relationships. Talk to your lesser-experienced colleagues about the value of long-term relationships with mentors, mentees, and other members of the bar. Otherwise, the "bridges" that have been "burned" in this legal community mean nothing, and will continue to serve as a "charred" reminder of how easy it is to forget just how special the Portland legal community is.



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MBA OJD Letter of Support

The MBA Managing Partners Roundtable met recently to learn about court funding cuts and what lawyers can do to encourage the legislature to support the OJD. The following letter was sent to the Oregon legislative leadership.

January 12, 2012

Dear Senate President Courtney, House Co-Speakers Hanna and Roblan and members of the Joint Ways and Means Committee:

The undersigned are representatives of the Multnomah Bar Association's Managing Partner Roundtable. The Roundtable is a group of law firm leaders from many of Oregon's largest law firms. While our group does not typically engage in the political process, we are compelled to write you to express our grave concerns about the funding threat currently facing the Oregon Judicial Department (OJD).

We understand that \$11.5 million of the OJD's 2011-2013 biennial budget allocation is currently at risk. Chief Justice De Muniz has informed us that the proposed cut could, among other serious consequences, force Oregon's courts to close their doors one day a week.

As you know, the OJD represents Oregon's third branch of government. Nonetheless, our budgeting process treats it like an executive branch agency. As a result, in recent years, Oregon's judicial system has experienced a number of significant cuts.

We care about this issue because our businesses and the clients we serve depend on a fully funded, functional and stable court system to generate revenue and jobs in our state. Functional and stable courts provide the certainty and rule of law that are essential ingredients of a favorable business climate. Without functional courts, that certainty becomes elusive, leading businesses to seek out other states to operate or expand. If the legislature

makes further harmful cuts to the judicial branch, you risk deepening our state's economic crisis by impairing our business environment.

We also care about this issue because it impacts Oregon's most vulnerable citizens. The proposed cuts would seriously impact the ability of the public to access courts in times of crisis for matters including domestic violence restraining orders, child abuse and neglect cases and guardianships and protective proceedings. These cases are time and staff intensive, but their speedy resolution is critical to the parties involved – parties who would likely have no other alternatives if the courts are closed or too busy with other matters to hear their cases.

As you prepare for the February session, we ask that you work hard to restore funding for Oregon's court system. We understand that Chief Justice De Muniz will be bringing forward a specific funding request that is designed to keep our judicial branch funded at adequate levels. We support that request and ask that you please protect this important – and co-equal – branch of Oregon government.

On behalf of all the undersigned, we thank you for your efforts and your service to the great State of Oregon.

Sincerely,
MBA Managing Partner
Roundtable Co-Chairs

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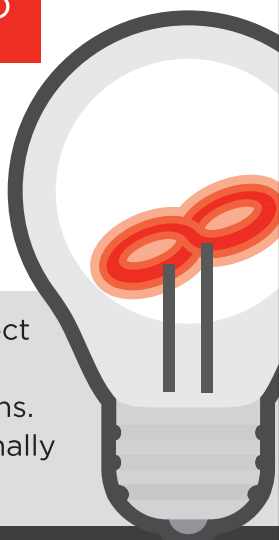


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"Glowing" Reviews for MBA YLS ZooLights Event

by Mackenzie Hogan and Sean Ray
YLS Membership Committee

When you think back to the most reported news stories of 2011, a few immediately come to mind: the uprisings in the Middle East, the Occupy Portland movement's five-month encampment in downtown parks, and Kim Kardashian's two months of marital bliss. However, one story went largely ignored by the mainstream media this last December (this publication excluded). It's a story of families, fraternization

overcrowded MAX trains and jam-packed parking lot could not deter the legal community revelers as they flocked to the Oregon Zoo for the first inaugural event. MBA members and their families of all ages attended, from five months to seventy-five years, to witness the animals aglow in holiday lights and to enjoy hot chocolate, cookies, hot dogs and other tasty treats as they mingled with other legal professionals and their families.



boxes filled with nonperishable food items had been collected by the MBA and YLS.

The event was a success in large part to the generous sponsors. The event would not have occurred but for the



Sarah Creem, Traci Ray, Emily Hogan and their daughters at ZooLights

among peers, and illuminated wildebeests. It's the story of the birth of the ZooLights MBA YLS family-friendly social.

Despite the aforementioned media bias, the event, held on December 20, 2011, was a smashing success. The

The family-friendly event also served as a canned food drive to benefit the Oregon Food Bank. Individuals who attended and brought a can of food received a \$5 gift card redeemable anywhere in the Zoo, including toward admission. At the end of the event, over three

contributions from some of Portland's finest firms: **Barran Liebman, the Corey Law Group, Davis Wright Tremaine, Gevurtz Menashe, and Miller Nash.**

"ZooLights allowed the MBA/YLS to throw a family-friendly event that was very different from anything we had done in the past," said Mackenzie Hogan, veteran YLS Membership Committee member and chief planner of the event. "It was great to see such a wide array of members of the Portland legal community and their families interact. Hopefully this event is something that can continue for years to come."

This New Year, hopefully everyone resolved to attend at least one YLS social event this year. We'll see you there.



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





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Multnomah Bar Foundation

It's a Wrap!

Civic Education Video Project Update

by Pamela B. Hubbs
Office and Foundation Administrator

The first two videos in the MBF civic education video series are finished and will be distributed to schools statewide, broadcast on a network of TV access stations, and posted on YouTube and educational, news media and civics groups' Web sites. To see a video preview, visit www.mbar.org/Foundation/CivicEducation.html.

"The Courthouse" takes the viewer through the various activities in the courthouse, demonstrates disagreements settled in a civil environment, fines paid and children in free childcare, away from emotionally charged courtroom scenes.

"The Court System" focuses on the differences between the state circuit court, court of

appeals and Oregon Supreme Court, and federal district and appeals courts.

The MBF has enlisted MetroEast Community Media to produce the series with a \$50,000 grant from the Civic Education Fund (formerly the MBA 100th Anniversary Community Gift Fund). The goal of the series is to help educate our citizens about the rule of law, independence of the judiciary and the importance of juries.

Currently in pre-production, the MBF and MetroEast are

working with the League of Women Voters of Portland



and Oregon and the Bus Project Foundation on a video focused on voting and why it's important to be an informed voter. The voting video will be released this spring and will feature how to register to vote and be informed and will explain the voting process and ballot measures.



Future videos will address civic engagement and calming civil discourse.

webcheck

To see a video preview, visit www.mbar.org/Foundation/CivicEducation.html.



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Seminars are worth 2 OSB credits unless otherwise noted; 2 Washington MCLE credits can be obtained independently. Registrants who miss the seminar may request the written materials. Substitutions are welcome. Registration fees are non-refundable.

Please see the descriptions of MBA CLE seminars and events on both sides of this insert. Photocopy, complete and mail or fax the registration form (see the opposite side) with payment to the MBA to reserve your space. **Or register online and receive a \$5 discount.**

Self-study materials from past CLE classes may be downloaded from the MBA website at www.mbabar.org.

February 28, 2012 Tuesday 3:00-5:00 p.m.

High Tech Courtroom Presentations on a Low Tech Budget

World Trade Center
Mezzanine Room
26 SW Salmon, Portland

Members \$55
Non-members \$85

Research shows that juries pay greater attention to visual exhibits. Presenting evidence or arguments on an easel or foam board is not as interesting or engaging as viewing the same information on a screen in a digital format. Juries today are expecting attorneys to present their cases through technology. Witnesses can potentially be more effectively cross-examined when their deposition testimony is displayed before the jury, rather than simply being read out loud from the transcript. Not every client has the financial resources to hire an outside company to put together such a presentation. Current technology, however, does make it possible for attorneys to advance their client's case themselves in a cost effective manner for their clients.

Our speaker will discuss:

- The pros of presenting evidence and arguments in a video/audio format.
- The potential risks of trying to "do it yourself" and what to do when things go wrong.
- The equipment you will need if you decide to take this route for your trial presentation.
- Helpful apps for trial lawyers.

This two-hour presentation will be led by attorney **Kelly Andersen**, who speaks on this topic regularly. Mr. Andersen has been practicing law in Oregon since 1979, and was named as an Oregon Super Lawyer in 2007, 2009 and 2010. He practices in Medford.

For more information: Call Melissa Ward, Spooner & Much at 503.467.4039. With registration questions, call the MBA at 503.222.3275.

February 29, 2012 Wednesday 3:00-5:00 p.m.

Complex Litigation Management and Procedural Strategies

World Trade Center
Plaza Conference Room
26 SW Salmon, Portland

Members \$55
Non-members \$85

What is a complex case, and how do you wade through its procedural intricacies? Four seasoned Portland attorneys will discuss their thoughts and strategies on all stages of the complex case. Moderated by **Paul Conable** of Tonkon Torp, the panel will walk through the evaluation of a case as complex, discovery and trial. **Matt Donohue** of Markowitz, Herbold, Glade & Mehlhaf, **Tim DeJong** of Stoll Berne, and **Susan Eggum** of Cosgrave Vergeer Kester will provide practical advice on strategies and case management, as well as a few war stories. Audience questions are welcome. A must for litigators, in-house counsel and anyone else confronting the multifaceted case.

For more information: Call Aukjen Ingraham, Cosgrave Vergeer Kester at 503.323.9000. With registration questions, call the MBA at 503.222.3275.

March 1, 2012 Thursday 3:00-5:00 p.m.

The Securities Fraud Case: Plaintiff and Defense Perspective

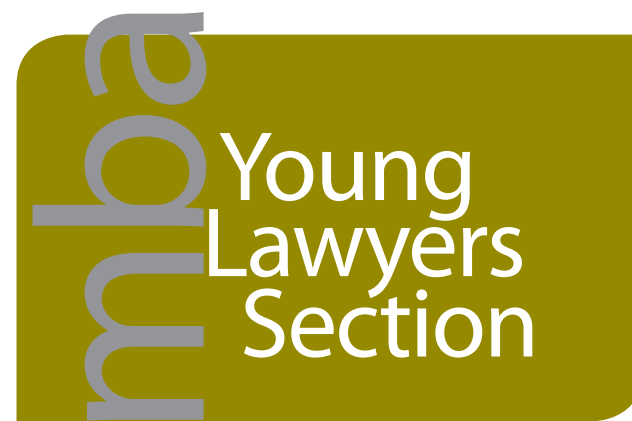
World Trade Center
Mezzanine Room
26 SW Salmon, Portland

Members \$55
Non-members \$85

Scott Shorr of Stoll Berne and **Tom Hutchinson** of Bullivant Houser Bailey will discuss how to spot securities claims and issues, the decisions relating to arbitration or litigation, and simplifying a securities case for an arbitrator or jury. They have years of experience litigating these cases on the plaintiff/investor and defendant/seller side. They will give background for both securities and general business litigators on common issues that arise in securities fraud cases and a short update on recent Oregon and federal securities law developments.

For more information: Call Jennifer Wagner, Stoll Berne at 503.227.1600. With registration questions, call the MBA at 503.222.3275.

CLE Classes continued on next page



The Career Path Less Traveled

by Traci Ray
Barran Liebman

As much as we'd all like the fairy tale job story to be our reality, the truth is, the fairy tale is rarely the common experience. Getting creative in finding work can be daunting, but very rewarding. In this first article of a series on job hunting, Jim Miner, General Counsel for Western Construction, and Mackenzie Hogan, an associate with Harris & Bowker, share their unique career paths using temporary staffing agencies.

Jim is a father of three who moved to Oregon from California in 2007 to take the Oregon bar. Jim did not know anyone in Oregon, let alone in the legal community. During those three frightful months between taking the bar and getting his results, Jim found that not only law firms, but workplaces in general, were not hiring. "I felt desperate. I wasn't a lawyer yet, so law firms were not interested and I was overqualified for other jobs." So, Jim went to a staffing agency to try and find something, anything, to help support his family. He was led to believe that he would not get a call back from the staffing agency, but miraculously, he got a call from a local construction company that needed help with paperwork for a few weeks. Although not his dream job, Jim took the opportunity. "I ended up passing the bar while on my two-week job, and the president [of the company] approached me with a new offer to work on streamlining the contracts that all the managers were using on the jobs." Jim took the job, and soon became the company's official legal counsel. He worked his way up, proving that he was competent and cost-saving, taking on 90% of the legal work that was previously going to outside counsel. Jim doesn't consider himself lucky to have found Western Construction. "Luck isn't enough," says Jim. "It's about what you do with a lucky opportunity that matters." Jim has been Western Construction's General Counsel for over four years now, and he describes his job as "completely satisfying." His advice to young lawyers is simple: "Think outside the box and put yourself out there. Be patient, develop



relationships, and bring value to any opportunity presented. You have to put any ego aside, perhaps take less money to get in the door, but all you need is one chance."

Mackenzie Hogan, and his lawyer wife, Emily Hogan, both graduated from U of O School of Law. "I graduated law school just as the bottom fell out of the legal job market in Portland. I had applied for a few things the spring before graduation and the summer while studying for the bar and had no luck landing anything. Usually I didn't even hear back on my applications," notes Mackenzie. As this cycle continued, he began to realize that he needed to consider other options for the immediate future. "After scouring craigslist, the U of O and Lewis & Clark Career Center Web sites, the OSB and MBA Web sites, monster.com and Oregonlive, I decided that a change in tactics was needed."

Mackenzie had heard about other people using temporary staffing agencies, so he tested the waters. He applied to various agencies and was soon set up with an interview at Harris & Bowker. They needed help catching up on some corporate matters, client correspondence and filing. "It just so happened that the day I interviewed with the firm, the secretary quit. So, instead of starting the following Monday, I got a call later that day asking me to start the next day and to fill in for the secretary until they hired a replacement. Eventually we hired a replacement for the secretary and I was hired on full-time as a paralegal for the firm and eventually became an associate."

A happy ending? Yes. Storybook? No. "At the end of the day I learned that while gaining employment through a temp agency might not appear to be the most glamorous way to land a job, once you get your

Continued on last page of insert

mba|CLE

March 7, 2012
Wednesday
3:00-5:00 p.m.

World Trade Center - Mezzanine Room
26 SW Salmon, Portland

Members \$55/Non-members \$85

Mergers & Acquisitions: The Devil is in the Details

Join veteran dealmakers **JoDee Keegan**, partner at Dunn Carney Allen Higgins & Tongue and **Steve Bennett**, partner at Powell McCulloch & Bennett for an in-depth discussion of the key documents and provisions appearing in today's business sale transactions. Our discussion will review specific examples of the language and impact of key components in current purchase documents.

For more information: Call Todd Cleek, Attorney at Law at 503.706.3730. With registration questions, call the MBA at 503.222.3275.

March 8, 2012
Thursday
3:00-5:00 p.m.

World Trade Center - Mezzanine Room
26 SW Salmon, Portland

Members \$55/Non-members \$85

ERISA Benefits Litigation: Basics and Hot Topics

The MBA presents a two-hour program on Employee Retirement Income Security Act (ERISA) insurance litigation. ERISA broadly preempts otherwise applicable state law and gives the federal courts jurisdiction over most lawsuits relating to group health, disability and life insurance. Many practitioners are unaware of ERISA's significant impact on such lawsuits – until it is too late.

A vast body of case law exists regarding a myriad of ERISA issues, including preemption, removal, exhaustion, time limitations, standard of review, discovery limitations and no jury trials. This program will address these and other issues, including recent developments. The class will be presented by **Judge John Acosta**, United States District Court, **Megan Glor**, Attorney at Law and **Katherine Somervell** of Bullivant Houser Bailey. Any attorney who may be involved in litigation relating to group health, disability or life insurance should attend this program.

For more information: Call Sim Rapoport of iBridge at 503.906.3933. With registration inquiries, call the MBA at 503.222.3275.

March 20, 2012
Tuesday
3:00-5:00 p.m.

World Trade Center - Mezzanine Room
26 SW Salmon, Portland

Members \$55/Non-members \$85

The Top 12 Labor & Employment Law Updates for 2012

As always seems to be the case, the past 12 months have seen some monumental changes in the area of labor and employment law. Oregon lawyers will once again need to adapt their practices to deal with the changes. Come to this presentation to learn the top 12 things that have changed or will be changing for 2012, including a case law update, new statutes and regulations, and other national and local trends that are sure to be on the horizon for employment lawyers. This class will be taught by **Richard Meneghello**, the managing partner in the Portland office of Fisher & Phillips LLP.

For more information: Call Jennifer Nelson of Littler Mendelson at 503.221.0309. For registration questions, please call the MBA at 503.222.3275.

March 21, 2012
Wednesday
3:00-5:00 p.m.

World Trade Center - Mezzanine Room
26 SW Salmon, Portland

Members \$55/Non-members \$85

Annual Family Law Update

On March 21 the MBA will hold its annual two-hour Family Law Update. **Judge Maureen McKnight**, the new Chief Family Court Judge for Multnomah County, will be joined by **Thomas Bittner** of Schulte, Anderson, Downes, Aronson & Bittner and **Gary Zimmer** of Zimmer Family Law. Our speakers will provide family law practitioners with information on changes to Multnomah County Circuit Court procedures well as valuable updates on appellate case law.

For more information: Call Caroline Harris Crowne of Tonkon Torp LLP at 503.802.2056. For registration questions, please call the MBA at 503.222.3275.

Registration Form

Receive a \$5 Discount when registering online at www.mbabar.org.

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Registration forms with payment must be received in the MBA office by 3:00 p.m. the day before the seminar, or the "at the door" registration fee will apply (see fees for each class and fill in the blank on registration form). Registration forms may be mailed or faxed to the address or number below. Accommodations available for persons with disabilities; please call in advance for arrangements.

Photocopy registration and mail or fax with payment to:

Multnomah Bar Association
620 SW Fifth Ave., Suite 1220 ■ Portland, OR 97204
503.222.3275 ■ Fax to: 503.243.1881

Register online and order or download MBA self-study materials at www.mbabar.org.

Reduced fees for unemployed members are available and are assessed on a case-by-case basis. For details, call the MBA at 503.222.3275.

Seminar Selection:

Please select the seminar(s) you wish to attend. Written materials for each class are included with registration. Pre-registration with payment is required to reserve a space; at-the-door registrations are accepted if space is available; an additional \$5 charge will apply.

2/28 High Tech Courtroom Presentations

- Class Registration Online (\$50 Members/\$80 Non) _____
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 CD-ROM & Written Materials (\$55 Members/\$85 Non) ..\$ _____

2/29 Complex Litigation Management & Procedural Strategies

- Class Registration Online (\$50 Members/\$80 Non) _____
 Class Registration (\$55 Members/\$85 Non)\$ _____
 CD-ROM & Written Materials (\$55 Members/\$85 Non) ..\$ _____

3/1 The Securities Fraud Case: Plaintiff & Defense Perspective

- Class Registration Online (\$50 Members/\$80 Non) _____
 Class Registration (\$55 Members/\$85 Non)\$ _____
 CD-ROM & Written Materials (\$55 Members/\$85 Non) ..\$ _____

3/7 Mergers & Acquisitions: The Devil is in the Details

- Class Registration Online (\$50 Members/\$80 Non) _____
 Class Registration (\$55 Members/\$85 Non)\$ _____
 CD-ROM & Written Materials (\$55 Members/\$85 Non) ..\$ _____

3/8 ERISA Benefits Litigation: Basics and Hot Topics

- Class Registration Online (\$50 Members/\$80 Non) _____
 Class Registration (\$55 Members/\$85 Non)\$ _____
 CD-ROM & Written Materials (\$55 Members/\$85 Non) ..\$ _____

3/20 The Top 12 Labor & Employment Law Updates for 2012

- Class Registration Online (\$50 Members/\$80 Non) _____
 Class Registration (\$55 Members/\$85 Non)\$ _____
 CD-ROM & Written Materials (\$55 Members/\$85 Non) ..\$ _____

3/21 Annual Family Law Update

- Class Registration Online (\$50 Members/\$80 Non) _____
 Class Registration (\$55 Members/\$85 Non)\$ _____
 CD-ROM & Written Materials (\$55 Members/\$85 Non) ..\$ _____

Prefer Tapes & Written Materials (instead of CD)

Total due\$ _____

Communication Breakdown Professional Use of OSB Listserv Technology

by Tom Noble
Oregon Legal Center and
YLS Futures Committee



The OSB email Listservs are a tremendous tool and resource for both newer attorneys and seasoned practitioners. For a small yearly fee, an attorney can belong to any number of Listservs and be able to instantly access and engage a vast network of fellow practitioners for their collective resources and knowledge.

As more young attorneys struggle to find work, many are beginning to hang their own shingle. For many of these tech savvy entrepreneurs, Listservs will serve as a life-preserver and the growing reliance on this form of communication will surely cause them to grow in importance over time. Here are three things an attorney should always keep in mind when using any form of Listserv technology.

Use Caution When Posting

The rules of professionalism apply to Listserv communication. The Hon. John V. Acosta, a popular lecturer on professionalism, cautions attorneys that “[c]ommunication should be

respectful not just during in-person exchanges but also when commenting over the Internet.” He further adds that “in typical use, electronic communication is fast and leaves little time for deliberate reflection and objective self-editing.” Remember that reputations are hard to build and easy to tear down.

Personal opinions on areas such as politics or religion are never appropriate on a listserv post. Even though the number of attorneys posting may seem small, each post is sent to every Listserv member. This audience will be quick to judge the attorney whose comments could be viewed as crass or offensive. The Listserv is a tool to access an online community and not a forum for a practitioner to voice personal opinions on areas unrelated to the practice of law.

Besides personal opinions, attempts at humor should be avoided. Judge Acosta argues that “communicating through one’s computer, laptop, iPad or other device, instead of talking to a person, brings an abstract quality to the discussion that allows us to forget that there are real people involved in the conversation.” The abstract nature of electronic communication when sent to large body of diverse practitioners almost guarantees that your joke or funny comment will be found offensive by at least someone. In addition, be mindful of the fact that attorneys from all over the state, and not just the Portland

Metro area, use the Listserv. As a general rule, Judge Acosta advises practitioners to “avoid posting any comment you would not be willing to make in-person to a group of respected colleagues.”

Reply vs. Reply ALL

While some responses may be relevant to the entire group, many are better directed towards individual Listserv members. Judge Acosta suggests you “[T]hink about your own reaction to receiving posts (or emails) from others, the subject of which has nothing to do with you. If you tend to view those communications as disruptive, annoying, or thoughtless, then there is a high probability that others will similarly view your “reply all” post that concerns only a particular member.” Before sending your response to the entire group, consider whether your post would be of interest to all Listserv members.

Protect Client Confidentiality.

A common area of posting involves throwing out a hypothetical to the other Listserv members seeking help on an issue involving his or her client. When such help is sought, avoid disclosure of unnecessary background information. If disclosure is necessary, do so in an individual email and not on the Listserv. In many cases, a simple request for a referral will suffice.

Conclusion

While the Listservs are incredibly useful to the practice of law, they should be used responsibly. Remember that once a message has been sent, it cannot be retrieved. Your postings to colleagues are an extension of your professional self. Be respectful and you will likely be respected.



Tyler Volm Pro Bono Spotlight

by Abra Cooper
Schwabe, Williamson & Wyatt

Tyler Volm began his work with Lewis & Clark Law School’s Small Business Legal Clinic (SBLC) as part of a clinic course during his third year at the law school. Four years later and now an attorney with Elliott, Ostrander & Preston in Portland, Volm continues to serve pro bono clients through the clinic. “While in law school, I really enjoyed my experience at the SBLC. After I graduated, staying involved with the SBLC as an attorney volunteer was an easy choice because I knew people at the SBLC and already knew what kinds of opportunities it provided for attorneys.” As a practicing attorney, Volm estimates he has performed approximately 50 hours of pro bono service through the SBLC, working with six different clients.

The SBLC has provided business transactional legal advice to new and emerging businesses since 2006. A majority of the businesses served by the SBLC are owned by women, minorities and recent immigrants. The SBLC handles client intake, and then matches the clients with student and attorney volunteers. According to Volm, “the SBLC is very well-run. The staff works hard to make it what it is.” All of the clients are seeking assistance with matters that are transactional in nature. While Volm’s practice does include general litigation, more of his work is transactional. “SBLC clients are often seeking assistance with things like reviewing leases, drafting operating agreements and entity formation. Some of it is basic stuff for attorneys, but for SBLC clients it is complex, and many would not be able to afford to hire attorneys for assistance,” says Volm. The time commitment varies with each client. “Some clients only require a single meeting at the SBLC, with some document drafting and email exchanges to follow. With others, I’ll have follow-up communication and meetings at my office.”

For Volm, all of his clients have been memorable because of how grateful each has been for his assistance. Like a low-income Latino couple he recently



Tyler Volm

helped get their business off the ground, SBLC clients “want to do right, they want to run legitimate businesses. When they don’t get legal help at the outset, things often go wrong later and cost the business money, its license, or its reputation. Without the SBLC, some of them would not be able to afford to do so.”

The SBLC and his clients have been just as grateful for Volm’s participation. “Tyler has been an amazing champion for the SBLC and our clients. He goes above and beyond the call of duty when meeting with our microenterprise clients,” says Rebecca Martinez Griffin, Operations Manager for the SBLC. “If I am ever in a bind and need an attorney to help one of our clients, Tyler is always a phone call away.” Volm’s clients share Martinez Griffin’s sentiments. “[Volm] helped us select a business entity, draft an intellectual property contract, and negotiate our lease. We wouldn’t have been able to afford these essential services, and we are so grateful!” says Annie Maribona, co-owner of Fat Fancy, LLC.

Volm plans to continue volunteering with the SBLC. He is especially appreciative of his firm’s support of his work with the SBLC. “Having my firm’s support really makes providing pro bono services that much easier.” He encourages other young attorneys to follow suit. “Volunteering at the SBLC is a great opportunity for young attorneys to be involved in the whole process, from intake to the closing letter and to get client contact.”

For more information about the SBLC, email sblc@lclark.edu or visit the clinic’s Web site, go.lclark.edu/sblc.

YLS Gathers Toys for Tots

On December 14, the YLS held its annual Holiday Drop-in Social and toy drive at Thirsty Lion. Toys were gathered for the US Marine Corps Reserve Toys for Tots Program. Marines collected toy and monetary donations, as well as the boxes of toys previously donated by local firms. The program has helped children during the holidays since 1947, and all donated toys stay in the local community. Thanks to the overwhelming generosity of MBA law firms and individual members, many local families experienced the joy of the holiday season with the gift of toys for their children.

A special thanks to McEwen Gisvold for sponsoring the collection boxes this year, and to the following toy collectors and their firms:

Melissa Healy and Traci Ray / Barran Liebman LLP
Meghan Moran and Nicholas Kampars / Davis Wright Tremaine LLP
Elijah Van Camp / Brisbee & Stockton LLC
Nicholas Wheeler / Cosgrave Vergeer Kester LLP
Susan Hiler / Gevurtz Menashe Larson & Howe PC
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Sara Cassidey / Bodyfelt Mount LLP
Ashley Whittaker / Chenoweth Law Group PC
Jodie Ayura / Hiefield Foster & Glascock LLP
Tyler Bellis / McEwen Gisvold LLP



YLS members at the Holiday Social

YLS Member Profile

Charley Gee

YLS Futures Committee member



early. I worked a little bit for Don Corson and did OTLA student outreach. Now I'm back at STC as an associate attorney.

4. How did you hear about the YLS?

I heard about it from an email right after I joined the MBA.

5. What do you like about the YLS?

I appreciate the opportunity to meet many young attorneys from different practice areas and life backgrounds.

6. What do you think the YLS needs more of? Less of?

There should be more participation by younger attorneys, especially those who want to make practicing in Multnomah County better than it already is, which is great.

7. What would make Multnomah County practice better?

The county needs better funding and access to justice. Just an example, before I was able to get an attorney access card, I waited in line for an hour to enter the courthouse. There were only two deputies available to screen all of those people. A person who wants to file a small claims lawsuit will see that as another barrier to the halls of justice. They might have to take time off work, find daycare for their

children, and then they can't even enter the building? It is symbolic of the larger access to justice problem.

8. What does the Futures Committee do, and why did you choose to be on it?

The committee works on closing the inter-generational gap, focusing on the needs of today's young lawyers and future lawyers. The generation gap in America in general right now is interesting to me, and it is reflected in the legal community. There are differences in work ethic, views regarding work/life balance, and quality of life philosophies that will be reflected in the way the legal industry evolves. I am also very interested in technology in litigation.

9. Has your committee membership helped with your professional or personal goals? If so, how?

It has helped me professionally because I strive to practice in Multnomah County for the rest of my life, and I have met people who I otherwise may never have met.

10. What have you found most surprising about volunteering for the committee?

The efficiency of the meeting process.

11. What is your favorite YLS event or activity? Why?

Last year I tried to do the pro bono pedal, but I got there and was missing the connector pin for my dog trailer so I wasn't able to ride. It was still my favorite

event. Everyone was smiling even though it was 42 degrees and raining.

12. If you were president of the YLS, what would you do with your unbridled power?

I would encourage YLS members to make connections with law students to extol the virtues of the YLS, and encourage law students to work hard building connections within Multnomah County while they are still in school.

13. What are you currently reading (non-legal)?

I'm reading *Clash of Kings* the second book in the *Song of Fire and Ice* series, with my wife (we have our own book club). Also the *Walking Dead* comic book series.

14. What is your favorite restaurant?

Lonesome's Pizza.

15. What do you do for fun, and don't say work?

I read a lot. I am also learning how to brew beer. I work on my house, bike, hike, camp and fish.

16. Tell us something about yourself that not that many people know?

I was born with my left foot twisted in, and had to wear a brace in kindergarten to fix it.

17. What do you like about Portland?

I think Portland is the best city in the U.S. because of the climate and the people here who proudly make the town weird.

18. What is the closest you ever came to accidental death?

When I was 19, I rolled a Honda Civic on a gravel road. It drug my arm between the roof and the ground for about 100 feet. I still have road rash scars.

19. What volunteering or community activities do you participate in outside of the YLS?

I am the president of the board of a nonprofit called Umbrella. Its mission is to encourage Portland street culture by providing nonprofit status, accounting and banking services for various projects. The World Naked Bike Ride is the biggest project. Bike Train organizes rides for kids and their families to get to school, to encourage bike riding. Skate Like a Girl is a female-positive skateboarding project.

20. If you could be any other Oregon bar member for a day, living or dead, who would you be?

I would be a public defender, just because it seems like such an "in the trenches" job and I would like to experience that for a day.

21. Do you think a person with a face tattoo could ever draw an impartial jury?

If they had the right lawyer.

22. What makes you angry?

Injustice, stupid mistakes and motor vehicle traffic.

1. What is your name?

Charley Gee

2. Where are you from?

Dallas, Oregon. It's a town about 15 miles outside of Salem.

3. What college and law school did you go to?

I went to PSU and got a bachelor's in Philosophy. I switched from Physical Anthropology, which is focused on the development and evolution of human beings. The idea was to work on forensic identification of human bodies, but it was kind of a grim and non-realistic career choice. I got a job at Swanson, Thomas and Coon (STC) during college as a file clerk. They started giving me more responsibility and I developed an interest in the law. I went to law school at the U of O and took summer courses because I knew I wanted to finish

Community Service Day Report

Nearly a dozen MBA members volunteered at 6:15 a.m. on Friday, December 30, to serve breakfast at the Blanchet House of Hospitality. The group served biscuits and gravy to a packed dining hall. The YLS Service to the Public Committee helped organize the event as part of its ongoing Community Service Days program. To learn more about the Blanchet House or to volunteer, visit <http://blanchethouse.org/>.



YLS Trivia Night

On January 19, the YLS Membership Committee co-hosted a trivia night and social gathering at the NW location of Lucky Lab with the Financial Planning Association and

the Oregon Society of CPAs. Approximately 50 members from the three organizations enjoyed pizza, salad and beer while networking and later teamed up to compete in a trivia

session hosted by Portland's own Shanrock's Triviology. Trivia victors won a Shanrock trophy, in addition to bragging rights.

This is the second time this year that the YLS has paired up with the FPA and OSCP to organize an event for young professionals, and the collaboration is likely to continue given the attendees' positive feedback. All three organizations would like to thank the Lucky Lab and Shanrock's Triviology for supporting the trivia event, along with all the attendees who turned out to make it a great time.



Trivia Night attendees

The Career Path Less Traveled

Continued from first page of insert

foot in the door good things can happen." Coming out of law school, Mackenzie was looking for something permanent involving transactional work. He took a job as a secretary that led him to an associate position. "It just so happens that I landed at a firm where I get to practice law with great people and really enjoy my job. It's cliché - not everyone can wake up in the morning and look forward to going to work, but I can."

Mackenzie's advice to young lawyers, "You never know if a temporary opportunity is going to lead to something bigger and better, which is why you cannot underestimate the value of doing a good job. Working hard as a temporary employee is how I got where I am and looking back now, I am happy with the path my career has taken."

Traci Ray is the Director of Marketing, Client Services & Events at Barran Liebman, an employment, labor & benefits law firm. She is a member of the OSB, and a board member for the MBA Young Lawyers Section. Traci can be reached at tray@barran.com.

mba yls | EVENT

YLS Drop-In Social

**Paddy's Bar & Grill, 65 SW Yamhill, Portland
February 2, 5:30-7:30 pm**

Please join the YLS Membership Committee for a Drop-In Social on Thursday, February 2, in the back room at Paddy's Bar and Grill, located at 65 SW Yamhill in downtown Portland. Stop by after work to catch up with your friends, make some new connections, or catch up with those you haven't seen for awhile.