



# MULTNOMAH LAWYER

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

November 2012  
Volume 58, Number 10



## Honored to be Your Executive Director

by Guy Walden  
MBA Executive Director

A few weeks ago the MBA Board hired me as the fifth executive director of the MBA. I am

honored to be taking on the role during such an important time for the organization and its members.

When I joined the MBA as its member services director in 1999 I had worked for a series of technology-related trade associations during the roaring dot-com bubble. My friends thought I was crazy to give up the excitement of cutting edge technology in favor of a bar association. I do occasionally miss the hype, but when I feel wistful about my hi-tech roots I just look at the long list of companies I used to work for that no longer exist and know that the MBA has far more relevance to the greater good. That said, I still miss Kozmo.com. How could a business plan that included free delivery of a candy bar to any address within an hour possibly go wrong?

Much has changed at the MBA in 13 years. We have about 1,000 more members than we did then. There are more committees, and more activities and events. The CLE program has grown by about a third in both the number of classes offered and the number of members who attend them. In 2006 we started the charitable Foundation. Most of the MBA's growth and success can be directly attributed to the spirit of community that exists among its members. The MBA and MBF together have over 24 committees and working groups that perform most of the vital functions of the organizations. One out of every eight current members has served on a board or committee in the last decade. That is a huge level of volunteer commitment and support.

While the organization has grown and remains stable, the Portland legal community faces a number of challenges. Our courthouse is structurally unsound and incapable of adequately serving the needs of the community. Our recently admitted members are saddled with crushing student loan debt and have limited prospects for gainful employment to relieve it. Meanwhile our more vulnerable citizens are unable to afford legal representation. What does all of this mean for the MBA?

Our need for a new courthouse is nothing new, but there does appear to be increased momentum toward making something happen. Multnomah County Commissioners Deborah Kafoury and Judy Shiprack are leading an effort to gather community feedback and support for renovation or new construction. Two

open house meetings in recent weeks provided MBA members as well as the general public an opportunity to weigh in on the possible solutions, and sometime this month the county commissioners are expected to draft a resolution in favor of a plan to move forward. At a cost of approximately \$250 million to renovate or rebuild, the biggest hurdle is, not surprisingly, financing. Look for the MBA Courthouse Committee to be very active in the coming months as we work with stakeholders to procure this critically needed resource. Financing possibilities include a public-private partnership as well as collaboration between the county, state and city governments. If you have suggestions or would like to get involved with the MBA's courthouse efforts, please let me know.

The current job market for new attorneys can only be described as brutal, especially when combined with the rising cost of law school tuition. The National Association for Law Placement recently reported that less than half of employed graduates obtained a job in private practice in 2011; and this is only the second time in 38 years that the number has fallen below 50%. While there is little that a voluntary bar can do to improve the job market, we can provide networking opportunities for our new lawyers seeking employment.

**"While the organization has grown and remains stable, the Portland legal community faces a number of challenges."**

The YLS Pro Bono Committee works on projects that provide pro bono participation opportunities for new lawyers. While networking and providing services pro bono are not substitutes for gainful employment, these activities do provide the contacts and experience that will help when job opportunities present themselves. In the meantime, the MBA will continue to make accommodations for lawyers who are in career transition.

The demand for legal services for those who can't afford them has increased significantly in the stagnant economy. The MBA has always done what it can to support Legal Aid, and we plan to increase those efforts. In addition to providing direct support and encouraging contributions via the Campaign for Equal Justice, we will be introducing new, and fun, fundraising efforts.

From a services perspective, my job is to ensure that members see a disproportionate return on their modest dues investment. MBA membership dues are still among the lowest in the country for a voluntary bar of its size, and we will continue to keep the cost of CLE and events low. I also plan to bundle additional services with membership. This year the MBA began including two hours of free CLE programming for those who renew their membership before December 15. Look for additional new member services soon.

While the MBA's volunteers do much of the heavy lifting for the association, its hardworking staff is another reason for the MBA's stability. I'm proud to be able to work with such a capable team. The MBA staff and my predecessors, including Judy Edwards and Mona Buckley, were instrumental in building the organization into what it is today.

In closing, I am excited to have the opportunity to help lead such a distinguished and energetic organization. Portland is unique, and the commitment our members show to their volunteer professional association is an example of why it is an exceptional place to live and work.

Now if only I can find a way to resurrect Kozmo.com as an MBA members' only service.

## mba|CLE

To register for a CLE, please see pages 3 and 4 or go to [www.mbabar.org](http://www.mbabar.org).

### NOVEMBER

**11.13 Tuesday**  
**Serving on a Nonprofit Board**  
Penny Serrurier  
Michele Wasson

### DECEMBER

**12.4 Tuesday**  
**Business Transactions in the Electronic Age**  
Eleanor Chin  
Matt Larson

**12.11 Tuesday**  
**Insurance Coverage: Fundamentals and Hot Topics**  
Mickey Knapp  
Megge Van Valkenburg

**12.12. Wednesday**  
**Representing Non-English Speaking Clients: Issues in the Law**  
Jessica Boell  
Kevin Díaz  
Peter Willcox-Jones

**12.18 Tuesday**  
**iPad Apps and Tips for the Courtroom**  
Kelly Andersen

**12.19 Wednesday**  
**Claim Prevention and Professional Responsibility**  
Steve Carpenter  
Mark Fucile

### JANUARY

**1.24 Thursday**  
**An Anatomical Look at Custody Evaluations**  
David Hobson  
Dr. Robert Loveland

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620 SW FIFTH AVE., SUITE 1220  
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## mba|EVENT

**Bench Bar and Bagels**  
**Thursday, November 29**  
**Schwabe Williamson & Wyatt**  
**1221 SW 5th Ave., Suite 1900**  
**7:30-8:30 a.m.**

Please join your colleagues and members of the judiciary for a light breakfast and coffee. This event is offered at no cost to MBA members and judges. Non members: \$5.

Special thanks to our sponsor:



Please RSVP to Kathy Modie,  
[kathy@mbabar.org](mailto:kathy@mbabar.org).

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**DEADLINE for copy: The 10th of the month\***

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

\*or the preceding Friday, if on a weekend.

### NEWSLETTER STAFF CONTACTS

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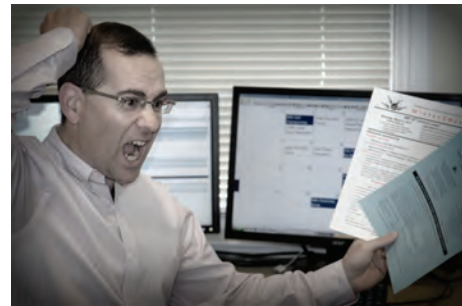
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# How to Not Mix Up Your Events

## Calendar Tips from your Friends at the MBA

by David Bean  
Wyse Kadish



Does it ever happen that two law-related events that you really want to go to are scheduled for the same time? Doesn't that just drive you batty? Recently, it happened to me for the umpteenth time. A great law firm social conflicted with a pro bono-related event. I wondered if there was a way this could have been avoided, so, I called my dear friends at the MBA. Sure enough there is. Sure enough there has been for a while. And, sure enough, I was clueless about it.

I suggested that the MBA should publicize the tool they use to assist members in avoiding such conflicts. Age-old lesson: don't suggest an idea for an article because inevitably you'll get asked to write it. (Off-topic, but I also suggest showing up for committee meetings because when you don't, inevitably you'll get volunteered to do something you might not want to do.)

So, here is what I learned from the MBA.

The MBA online calendar was created to assist the legal community in sharing their events. The online calendar includes non-MBA events that are relevant to everyone in the Portland legal community.

The MBA hoped that by offering one location for everyone in the legal community to post their events, some of the conflicts which occur every year between organization and firm schedules could be avoided. In addition, events listed in the MBA online calendar can be downloaded to members' individual Outlook or Google calendars.

Due to limited space, most non-MBA CLE seminars will not be included in the online calendar.

To learn more, you can visit the calendar here: [www.mbabar.org/Calendar/](http://www.mbabar.org/Calendar/).

To add your organization or firm's events to the online calendar, use this link: <http://mbabar.org/Calendar/SubmitAnEvent.html>.

If you have questions or concerns, please contact Carol Hawkins, [carol@mbabar.org](mailto:carol@mbabar.org), but remember: don't suggest an idea for an article unless you don't mind writing one.

## Member Resource Center

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

### Pro Bono Opportunities

Represent a Veteran pro bono case before the US Court of Appeals. The Washington, D.C. based Veterans Consortium Pro Bono Program is seeking volunteer lawyers in Portland to assist veterans who claim entitlement to VA benefits. Each lawyer agreeing to accept one case will receive free training, a veterans' law manual, a pre-screened case, and ongoing access to a mentor lawyer. Malpractice insurance is provided.

Visit [nvlsp.org](http://nvlsp.org) for details, and contact [probonoprogram@nvlsp.org](mailto:probonoprogram@nvlsp.org) to get involved.

### Update Your Directory Listing on the MBA Web Site

The MBA Web site includes an expanded online Membership Directory and members may now update their photos, include a bio,

add links to social networking sites and update practice area information online. To update your listing, login to the Members Center where you may use the email address currently on file in the MBA Directory as your user name. If you do not know your password, you may click on the "forgot password" link to have it emailed to you.

### MBA Member Discounts

#### LawPay

Reduced merchant credit card set-up fees and month-to-month contracts. 1.866.376.0950 [www.affiniscape.com/mbabar](http://www.affiniscape.com/mbabar)

#### Appaloosa Business Services

Member-only discounts on Web site design and hosting services. Paul Tichy 503.336.1388 [www.spottedhorse.com](http://www.spottedhorse.com)

# Calendar

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

NOVEMBER	DECEMBER
<p><b>11.2 Friday</b> <b>MBA Professionalism Award nomination deadline</b></p> <p><b>11.3 Saturday</b> <b>BOWLIO</b> Visit <a href="http://www.osbar.org/diversity">www.osbar.org/diversity</a> for details</p> <p><b>11.15 Thursday</b> <b>YLS New Admittee Welcome &amp; Social</b> Visit <a href="http://www.mbabar.org">www.mbabar.org</a> for details</p> <p><b>11.22 &amp; 23 Thursday &amp; Friday</b> <b>Thanksgiving Holiday</b></p> <p><b>11.23 Friday</b> Oregon State Courts are closed</p> <p><b>11.29 Thursday</b> <b>Bench Bar &amp; Bagels</b> Visit <a href="http://www.mbabar.org">www.mbabar.org</a> for details</p> <p><b>11.30 Friday</b> <b>MBA Judicial Brown Bag</b> Visit <a href="http://www.mbabar.org">www.mbabar.org</a> for details</p>	<p><b>12.11 Tuesday</b> Queen's Bench Holiday Luncheon Visit <a href="http://www.owlsqueensbench.org">www.owlsqueensbench.org</a> for details</p> <p><b>12.13 Thursday</b> <b>OMLA Annual Meeting</b> Visit <a href="http://www.oregonminoritylawyer.org">www.oregonminoritylawyer.org</a> for details</p> <p><b>12.24 &amp; 25 Monday &amp; Tuesday</b> <b>Christmas Holiday</b></p>

## JANUARY

**1.1 Tuesday**  
**New Year Holiday**

**1.18 Friday**  
Oregon State Courts are closed

## webcheck

Local bar organizations are welcome to add their metro area events to the MBA online calendar at this link: <http://mbabar.org/Calendar/SubmitAnEvent.html>

**Bank of the Cascades**  
Generous array of benefits specifically designed for attorneys. Elise Bouneff 503.499.5931 [www.botc.com](http://www.botc.com)

**The Bar Plan Online Court Bonds**  
MBA members can purchase a court bond online with 24-hour turnaround time. Cathy Ahearn or Deborah Eller at 1.877.553.6376 [www.mba.onlinecourtbonds.com](http://www.mba.onlinecourtbonds.com)

**Legal Northwest Staffing Specialists**  
Special pricing for support staff hiring. Anneke Haslett 503.242.2514 [www.legalnw.com](http://www.legalnw.com)

**LexisNexis**  
Special packages and pricing exclusively for MBA members. 1.800.356.6548 [www.lexisnexis.com](http://www.lexisnexis.com)

**MBA Insurance Plans**  
Member-negotiated group health and disability insurance structured specifically for lawyers and firms. Steve Doty 503.284.1331 [www.mbabar.org](http://www.mbabar.org)

**The Naegeli Reporting Corporation**  
Discounts on court reporting, video conferencing and videography. 503.227.1544 [www.naegeli-reporting.com](http://www.naegeli-reporting.com)

**Office Depot**  
Up to a 40% discount on select items. Jason Thorud 503.290.0273

**UPS**  
MBA members can save up to 26% on their express shipping courtesy of UPS. [www.savewithups.com/multnomahbar](http://www.savewithups.com/multnomahbar)

**Classified Advertising**  
In addition to publishing classified ads in the *Multnomah Lawyer*, the MBA posts all classifieds at [www.mbabar.org](http://www.mbabar.org). To obtain a quote, email your ad text to Carol Hawkins at [carol@mbabar.org](mailto:carol@mbabar.org).





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

## Advising Nonprofits and Serving on a Nonprofit Board

### *Navigating the Rules and Avoiding the Traps*

**Tuesday, November 13, 2012**  
**3:00-5:00 p.m.**

World Trade Center  
Mezzanine Room  
26 SW Salmon, Portland

Members \$55  
Non-members \$85

There are an increasing number of rules, regulations, excise taxes and other sanctions that can apply to a tax-exempt entity. Whether you serve on a nonprofit board or advise nonprofits as part of your law practice, it is important to know the rules that apply to various types of nonprofit entities.

**Penny Serrurier** and **Michele Wasson** of Stoel Rives will address best practices in the nonprofit area to help advisors, board members, and key staff avoid conflicts of interest and apply sound fiduciary oversight. This presentation will cover private foundations, public charities, trade associations, social clubs, and similar tax exempt entities. The speakers will outline the policies and procedures that help ensure a tax exempt entity is operating in compliance.

#### For more information:

Call Hollis McMilan, Attorney at Law at 503.972.5092. For registration questions, call the MBA at 503.222.3275.

## Let's Get Technical: Business Transactions in the Electronic Age

**Tuesday, December 4, 2012**  
**3:00-5:00 p.m.**

World Trade Center  
Mezzanine Room  
26 SW Salmon, Portland

Members \$55  
Non-members \$85

Do you know about and use the latest, greatest technology to make your transactional work more efficient? Have you ever navigated a data room or conducted a virtual closing? There are powerful tech tools available to make our transactional drafting and due diligence easier. There are risks and unintended consequences associated with today's gadgets and gizmos. Join veteran commercial litigator **Eleanor Chin** of Davis Wright Tremaine and M&A attorney **Matt Larson** of Duffy Kekel for a discussion on the tips and traps of technology in transactional lawyering.

#### For more information:

Call Todd Cleek, Attorney at Law at 503.706.3730. For registration inquiries, call the MBA at 503.222.3275

## Insurance Coverage: Fundamentals and Hot Topics

**Tuesday, December 11, 2012**  
**3:00-5:00 p.m.**

World Trade Center  
Plaza Conference Room  
26 SW Salmon, Portland

Members \$55  
Non-members \$85

The MBA presents a two-hour program on insurance coverage. Panelists representing both insurer and policyholder perspectives will discuss basic insurance coverage principles as well as recent developments and current trends. First party property coverage and third party liability coverage issues will be addressed. Any attorney encountering insurance coverage issues - whether frequently or only occasionally - should attend this program.

Our speakers are **Megge Van Valkenburg** and **Mickey Knapp**. Megge chairs Bullivant Houser Bailey's insurance coverage group and has represented insurers in coverage disputes for over 20 years. Mickey's practice focuses on representing individuals and businesses who have coverage disputes with their insurers. He has practiced law in Oregon for almost 30 years.

#### For more information:

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

## Representing Non-English Speaking Clients: Issues in the Law

**Wednesday, December 12, 2012**  
**3:00-5:00 p.m.**

World Trade Center  
Mezzanine Room  
26 SW Salmon, Portland

Members \$55  
Non-members \$85

#### NOTE: This class will be worth two Access to Justice credits.

Navigating the U.S. legal system is complex for anyone, and even more so for non-English speaking clients. Our speakers will address common problems in representing non-English speaking clients, and resources and tips to address those problems. Topics to be addressed include racial profiling, representing non-English speakers in depositions and at trial, choosing an effective interpreter and immigration issues to keep in mind during representation. Our speakers are **Kevin Díaz**, Legal Director, ACLU of Oregon, **Jessica Boell**, Immigrant Law Group and **Peter Willcox-Jones**, Cosgrave Vergeer Kester.

#### For more information:

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

## iPad Apps and Tips for the Courtroom, the Office, and on the Road

**Tuesday, December 18, 2012**  
**3:00-5:00 p.m.**

World Trade Center  
Plaza Conference Room  
26 SW Salmon, Portland

Members \$55  
Non-members \$85

The iPad has revolutionized the practice of law for those attorneys willing to discover its vast potential, not only for use in trial but also for improving productivity in the office, at home, and on the road. This two hour presentation will explore numerous helpful apps and provide tips on how to use them most effectively, including how to use the Keynote app for opening statements and final arguments, the iAnnotate app for studying documents, the TrialPad app for presenting evidence in the courtroom, as well as how to use such apps as Errands, Dropbox, PDF Expert, Evernote, Pages, Notability, Penultimate, UPad, Adobe Ideas, Maps, Google Earth, OmniGraffle, Teleprompt+, Air Sketch, Jot! Whiteboard, and more.

The simplicity of the iPad and of these apps now make it possible for any attorney to organize and present information in an electronic format with no additional costs. In addition, this presentation will explore the emerging science of teaching (and learning) by harnessing the power of digital images.

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 Don Jacobs, Attorney at Law at 360.695.1624. For registration inquiries, call the MBA at 503.222.3275.

### MCLE Reporting Period Deadline Approaching?

The MBA CLE online library features hundreds of hours of high-quality, relevant programming available for download 24 hours a day, 7 days a week – often at **only \$25 per credit hour**. To browse archived seminars visit [www.mbabar.org](http://www.mbabar.org) and select "Education" from the main menu.

*CLE Class Registration on next page*

## Managing Your Risk: The Intersection of Claim Prevention and Professional Responsibility

**Wednesday, December 19, 2012  
3:00-5:00 p.m.**

World Trade Center  
Mezzanine Room  
26 SW Salmon, Portland  
Members \$55  
Non-members \$85

**NOTE: This class will be worth two ethics credits.**

This two-hour program will examine the intersection of law firm ethics and claims management. Attendees will learn practical ways to lessen the risk of both regulatory discipline and civil claims.

Our speakers are **Steve Carpenter** of the Professional Liability Fund and **Mark Fucile**, Fucile & Reising. A former civil litigator, Steve provides confidential assistance to Oregon attorneys who have a malpractice claim or who are concerned that they may have made a mistake that will lead to a claim. Mark counsels and trains lawyers, law firms and corporate and governmental legal departments on professional ethics and attorney-client privilege issues, is retained as an expert witness in these areas, handles law firm-related litigation and defends lawyers before courts and regulatory agencies throughout the Northwest.

**For more information:**  
Call the MBA at 503.222.3275.

## An Anatomical Look at Custody Evaluations

**Thursday, January 24, 2013  
3:00-5:00 p.m.**

World Trade Center  
Mezzanine Room  
26 SW Salmon, Portland  
Members \$55  
Non-members \$85

This two hour class will examine what evaluators want to see from lawyers and what lawyers need to know from evaluators. The presentation will include an examination of how to prepare your client for an evaluation and how to prepare the evaluator for your case. In addition, there will be a discussion of how to prepare an evaluator for trial and how to present an evaluation to the court.

Our speakers are **David Hobson** and **Dr. Robert Loveland**. David has been practicing since 1985 and practices exclusively in the area of Family Law. Dr. Loveland is a licensed psychologist who has been conducting custody, parenting plan, and forensic evaluations for child protection or adoption issues since 1978. He has been recognized as an expert witness in these matters in jurisdictions across Oregon and Washington.

**For more information:**  
Call Dan Margolin, Stephens Margolin at 503.546.6374. For registration questions, call the MBA at 503.222.3275.

## Multnomah County Presiding Court Update 2013

**Tuesday, January 29, 2013  
3:00-5:00 p.m.**

World Trade Center  
Mezzanine Room  
26 SW Salmon, Portland  
Members \$55  
Non-members \$85

In this two-hour update session the Multnomah County Presiding **Judge Nan Waller** and court staff will discuss the 2012 Supplemental Local Rules for Multnomah County Circuit Court and other issues unique to practicing in Multnomah County. This seminar is designed for attorneys at all levels of experience and questions are strongly encouraged.

**For more information:**  
Call the MBA at 503.222.3275.

### Earn CLE Credit While you Fly Home for the Holidays

The MBA now offers most two-hour CLE classes in downloadable MP3 format, and any classes can be viewed via streaming online video.

In a few minutes you can obtain the audio file and written materials and copy the files to your iPod, MP3 player or other portable device. Or you can stream the video to your device instantly.

To download or watch a class,  
visit [www.mbabar.org](http://www.mbabar.org)

A time-saving service of the Multnomah Bar Association

Photocopy, complete and mail or fax the registration form 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 at [www.mbabar.org](http://www.mbabar.org).

## Registration Form

Receive a \$5 Discount when registering online at [www.mbabar.org](http://www.mbabar.org).

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FIRM _____	EXPIRATION DATE AND SECURITY CODE _____
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OSB# _____	_____

**Member Status:**  
 MBA Member  
 Non-Member

**Payment Options:**  
 Check  VISA  MasterCard  
 American Express

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](http://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.

**11/13 Advising Nonprofits and Serving on a Nonprofit Board**  
Class Registration Online (\$50 Members/\$80 Non)  
 Class Registration (\$55 Members/\$85 Non) ..... \$ \_\_\_\_\_  
 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ \_\_\_\_\_

**12/4 Let's Get Technical: Business Transactions in the Electronic Age**  
Class Registration Online (\$50 Members/\$80 Non)  
 Class Registration (\$55 Members/\$85 Non) ..... \$ \_\_\_\_\_  
 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ \_\_\_\_\_

**12/11 Insurance Coverage: Fundamentals and Hot Topics**  
Class Registration Online (\$50 Members/\$80 Non)  
 Class Registration (\$55 Members/\$85 Non) ..... \$ \_\_\_\_\_  
 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ \_\_\_\_\_

**12/12 Representing Non-English Speaking Clients**  
Class Registration Online (\$50 Members/\$80 Non)  
 Class Registration (\$55 Members/\$85 Non) ..... \$ \_\_\_\_\_  
 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ \_\_\_\_\_

**12/18 iPad Apps and Tips**  
Class Registration Online (\$50 Members/\$80 Non)  
 Class Registration (\$55 Members/\$85 Non) ..... \$ \_\_\_\_\_  
 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ \_\_\_\_\_

**12/19 Managing Your Risk**  
Class Registration Online (\$50 Members/\$80 Non)  
 Class Registration (\$55 Members/\$85 Non) ..... \$ \_\_\_\_\_  
 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ \_\_\_\_\_

**1/24 An Anatomical Look at Custody Evaluations**  
Class Registration Online (\$50 Members/\$80 Non)  
 Class Registration (\$55 Members/\$85 Non) ..... \$ \_\_\_\_\_  
 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ \_\_\_\_\_

**1/29 Multnomah County Presiding Court Update 2013**  
Class Registration Online (\$50 Members/\$80 Non)  
 Class Registration (\$55 Members/\$85 Non) ..... \$ \_\_\_\_\_  
 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ \_\_\_\_\_

**Total due** ..... \$ \_\_\_\_\_



Up to 2 FREE hours of MCLE credit  
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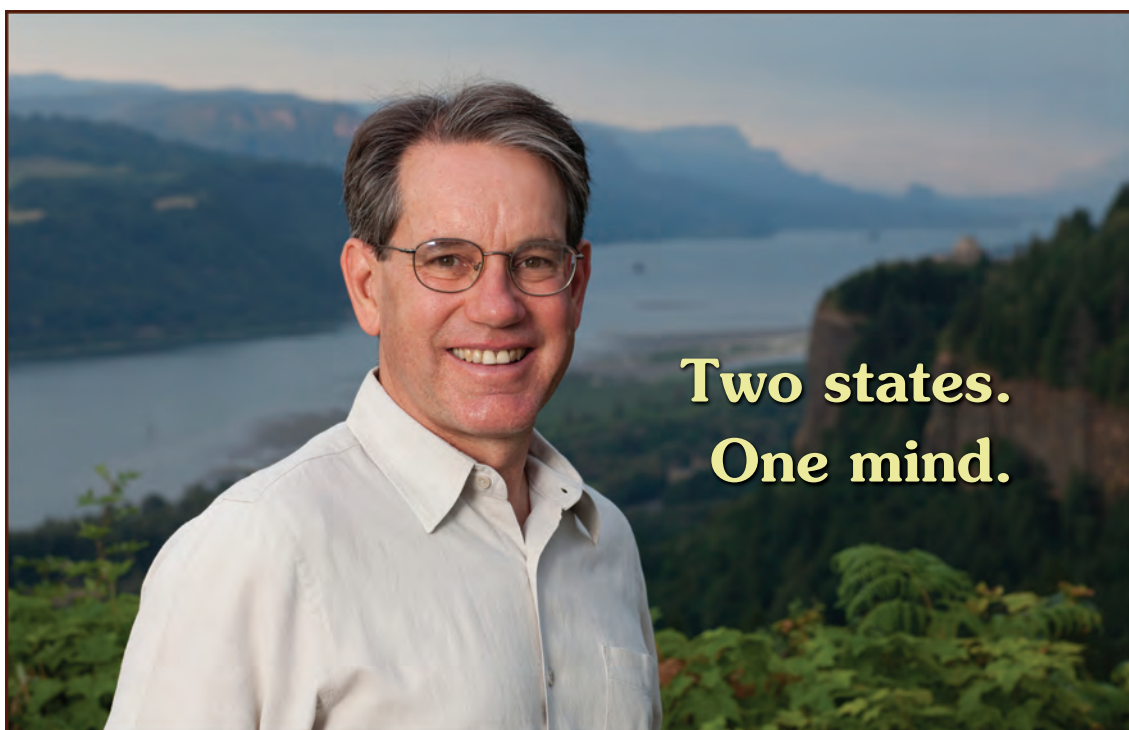
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## Ethics Focus

### Changing Horses in Midstream Modifying Fee Agreements

by Mark J. Fucile  
Fucile & Reising



There are many reasons lawyers change fees over the course of a matter, ranging from anticipated events to simple greed. The key to making a change enforceable, however, is usually to have agreed with the client in advance on the contingencies that will trigger an increase rather than attempting to impose a change unilaterally. In this column, we'll first survey the law governing fee modifications and then turn to practical steps available at the outset of a representation to anticipate and build contingencies into a fee agreement.

#### General Considerations

Fee modifications weave together three areas of the law.

First, once formed, an attorney-client relationship is a fiduciary one. The Oregon Supreme Court in *Sabin v. Terrall*,

**"...once formed, an attorney-client relationship is a fiduciary one."**

186 Or 238, 250, 206 P2d 100 (1949), explained the resulting impact on fee modifications:

"An attorney is not prohibited from contracting with his client respecting his fees, and

a contract thus made after the commencement of the relation of attorney and client is not per se void, but it will, by reason of the confidential nature of the relation, be closely scrutinized by the courts." (Citation omitted.)

Second, the RPCs impose constraints on fee changes that run in the lawyer's favor. RPC 1.5(a) prevents a lawyer from charging "an illegal or clearly excessive fee" and OSB Formal Ethics Opinion 2005-69 (at 161) finds that "[a] fee is 'illegal or clearly excessive' if it exceeds the amount previously agreed on." RPC 1.7(a)(2) addresses conflicts between a client

**"...the RPCs impose constraints on fee changes that run in the lawyer's favor."**

and the lawyer's business interest. OSB Formal Ethics Opinion 2005-97 (at 234) picks up this theme and counsels that "[a] modification of a fee agreement in a lawyer's favor requires client consent based on an explanation of the reason for the change and its effect on the client." The Court of Appeals in *Welsh v. Case*, 180 Or App 370, 382-83, 43 P3d 445 (2002), touched on but did not squarely address when the business transaction rule - then DR 5-104(A) and now RPC 1.8(a) - may be triggered with a fee modification. OSB Formal Ethics Opinion 2005-97 (at 234), however, concludes that one of the key elements of RPC 1.8(a) must be met with a fee modification - requiring that it "must be objectively fair."

Third, substantive contract law also applies to fee agreements. *Eagle Industries, Inc. v. Thompson*, 321 Or 398, 404-14, 900 P2d 475 (1995), for example, includes a lengthy analysis of contract novation in the context of a fee modification. Similarly, *Varner v. Eves*, 164 Or App 66, 72-73, 990 P2d 357 (1999), discusses

the application of the parol evidence rule to an asserted oral modification of a fee agreement. General rules of contract construction of particular relevance to fee modifications include the requirement that modifications be supported by consideration and construing ambiguity against the drafter (who is almost always the lawyer).

#### Practical Steps

The authorities noted above don't say that lawyers may never renegotiate fees - just that any resulting modifications will be closely scrutinized and may be unenforceable if they don't meet the high bar involved. Given that risk, the practical point for anticipating and addressing possible change is in the original fee agreement. When contingencies for change are wired into the original fee agreement, they aren't "modifications." Rather, they are circumstances that were disclosed, bargained-for and supported by consideration from the outset.

Providing a mechanism for periodic hourly rate adjustments or a higher contingent fee on appeal are ready examples of monetary provisions that can be anticipated and included at the outset. Reserving an advance

**"Providing a mechanism for periodic hourly rate adjustments or a higher contingent fee on appeal are ready examples of monetary provisions that can be anticipated...."**

fee deposit for later in a case, such as 90 days before trial, is an equally ready example of a non-monetary provision that can also be included in an original agreement. The key is that these provisions were agreed upon by the client and the lawyer at the beginning of the representation rather than imposed unilaterally by the lawyer later.

## mba | ANNOUNCEMENTS

#### November 30<sup>th</sup> MBA Judicial BrownBag Topics

Join the MBA for a brownbag with Multnomah County judges in the Multnomah County Courthouse, Room 208 on Friday, November 30 at noon to discuss the following topics: the Civil Case Management Program; eCourt and its effect on the SLRs; and a report on the Expedited Jury Trial Program.

#### 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](http://www.mbabar.org/assets/documents/profcertorder.pdf).

#### Noon Bicycle Rides

Take a noon break for a short, fast ride with hills. Meet 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 just meet at the start.

#### Federal Judge Positions Available

The Court of Appeals for the Ninth Circuit invites applications from highly qualified candidates for the position of **Bankruptcy Judge for the District of Nevada**. This position will be available on August 1, 2013. The selection process may take up to 10 months to complete. The official duty station for this position will be in Las Vegas, NV.

The term of office is 14 years with a possible renewal appointment subject to reappointment procedures. The current salary is \$160,080 per annum. Relocation expenses are not reimbursable.

The District of Nevada Bankruptcy Judge Application (specifically for use with this recruitment) may be downloaded from [www.ca9.uscourts.gov](http://www.ca9.uscourts.gov). Applicants are advised to allow for sufficient time to complete and submit the application. One completed and signed original (and one copy) must be sent to the Office of the Circuit Executive. One scanned version of the completed application must be uploaded to the Ninth Circuit Bankruptcy Judge Application System (<http://judgeship.ce9.uscourts.gov>). Applications must be in the format required by the Ninth Circuit and received by 5 p.m., Thursday, November 8.

The Court of Appeals for the Ninth Circuit invites applications from highly qualified candidates for the position of **Bankruptcy Judge for the Eastern District of Washington**. This position will be available on September 9, 2013. The selection process may take up to 10 months to complete. The official duty station for this position will be in Spokane, WA.

The term of office is 14 years with a possible renewal appointment subject to reappointment procedures. The current salary is \$160,080 per annum. Relocation expenses are not reimbursable.

The Eastern District of Washington Bankruptcy Judge Application (specifically for use with this recruitment) may also be downloaded from [www.ca9.uscourts.gov](http://www.ca9.uscourts.gov). Applicants are advised to allow for sufficient time to complete and submit the application. One completed and signed original (and one copy) must be sent to the Office of the Circuit Executive. One scanned version of the completed application must be uploaded to the Ninth Circuit Bankruptcy Judge Application System (<http://judgeship.ce9.uscourts.gov>). Applications must be in the format required by the Ninth Circuit and received by 5 p.m., Thursday, December 6.

The Court of Appeals uses an open and competitive selection process. All applications are screened by a Merit Screening Committee, which selects a limited number of applicants for interview and contacts their references. From the initial group of interviewees, selected applicants will be referred for further interview by a Judicial Council committee, which then submits a recommendation of nomination to the Court of Appeals. The selected nominee will be required to satisfy FBI and IRS background investigations prior to appointment.

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

To be considered, letters of reference (though optional) must be submitted with the original (and copy) application and must be uploaded with the scanned application.

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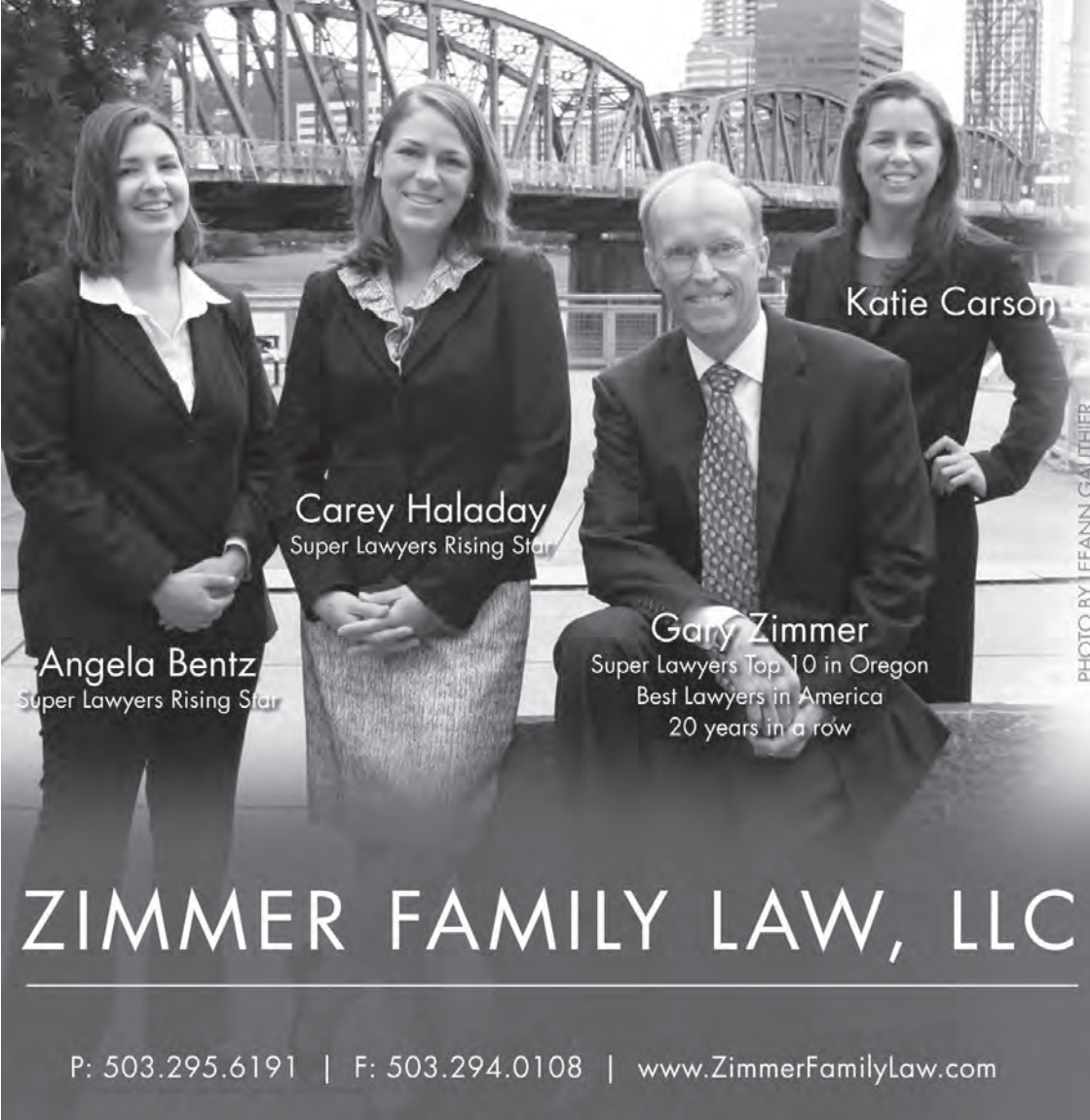
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## Around the Bar



Elise Brickner-Schulz



Claire Brown



Elisa Dozono

### Miller Nash

The firm has again been named one of Oregon's most philanthropic companies by the *Portland Business Journal*. The publication annually celebrates community service and corporate giving among the state's businesses.

The director of legal support services, **Elise Brickner-Schulz**, has been appointed to the board of directors of Cascade AIDS Project (CAP). The appointment is effective immediately.

Founded in 1983, CAP is the oldest and largest community-based provider of HIV services, housing, education, and advocacy in Oregon and southwest Washington. The organization is governed by a voluntary board of directors who represent both the diversity of who the agency serves and the expertise and networks needed to ensure CAP's continued success.

Partner **Elisa Dozono** has been appointed chair of the Oregon Lottery Commission, which oversees the governance of the Oregon Lottery. Gov. John Kitzhaber nominated her to the position, and the Oregon Senate confirmed the appointment.

Dozono focuses her legal practice on business litigation and government relations.



Peter Mohr



Molly Honoré



Matthew Joseph

### Tonkon Torp

The Metro Council has appointed water and environmental lawyer **Peter Mohr** to the Natural Areas Program Oversight Committee, which monitors Metro's use of bond funds made available for property acquisitions under its Natural Areas Program. Committee members are asked to share their professional experience and perspective to ensure that bond measure expenditures are effective and efficient.

Mohr is a member of the firm's Law, Energy, and Environmental & Natural Resources practice groups. Much of his legal practice focuses on assisting public and private sector clients with matters involving water supply and management permitting, compliance, protection and transactions.

The firm has hired **Claire Brown, Molly Honoré** and **Matthew Joseph** as associates. Brown joins the firm's Business Department. Honoré is a member of the Litigation Department. Joseph also has joined the Business Department.



Robert Manicke

### Stoel Rives

Germany's honorary consul for Oregon and Idaho is now **Robert Manicke**, the firm's lead partner for state and local tax matters. Manicke grew up in the Pacific Northwest but lived in Germany for three years while in high school and college.



Erica Glaser

### Erica Glaser

**Erica Glaser** has been voted chair-elect of the Alameda Elementary School Foundation, the fundraising arm of Alameda Elementary School. The foundation, like others of its kind, gives back one third of all money raised to the Equity Fund to be distributed across Portland Public Schools.

Glaser focuses her practice on litigation, personal injury, and ADR. She regularly serves as an arbitrator in court-annexed arbitrations.



Traci Ray

### Barran Liebman

**Traci Ray** has been named the executive director of the firm. She chairs the OSB Pro Bono Committee, serves on the board of the MBA YLS as the president-elect, and is on the board of the Campaign for Equal Justice.



Daniel Timmons

### Marten Law

**Daniel Timmons** has joined the firm as an associate attorney, where his practice will focus on environmental permitting and compliance, energy, and natural resources litigation. He may be reached at 503.241.2644 or [dtimmons@martenlaw.com](mailto:dtimmons@martenlaw.com).



Dan Eller

### Schwabe Williamson & Wyatt

**Dan Eller**, a shareholder at the firm, has been selected to receive this year's Mentor of the Year Award from the New Tax Lawyer Committee of the OSB Taxation Section.

The section provides a forum for sharing information about federal and state issues, and helps promote professionalism, leadership, and continuing legal education for its members and other attorneys practicing tax law in Oregon. Each year, the New Tax Lawyer Committee recognizes the efforts of one truly outstanding mentor with the Mentor of the Year Award.

Eller focuses his practice in the areas of tax and business law. He advises clients with both transactional and controversy matters. His transactional

practice has its emphases on real property development transaction structuring; general personal and business tax advice and planning; and tax-exempt entity formation, qualification, and operation.



Paul Migchelbrink

### Farleigh Wada Witt

**Paul Migchelbrink** has been appointed chair of the firm's real estate practice group. He concentrates his practice in the areas of real estate, business, intellectual property and commercial lending. In his real estate practice, Migchelbrink handles a wide array of matters including representing buyers and sellers in the purchase and sale of real property, landlords and tenants in commercial leasing transactions, and developers and property owners involved in commercial and residential development projects.

### Glazer & Associates

**Larry Peterson** has joined the firm. His practice emphasizes personal injury, divorce, and civil litigation.

*The Around the Bar column reports on MBA members' moves, transitions, promotions and other honors within the profession. The deadline is the 10<sup>th</sup> of the month preceding publication or the previous Friday if that date falls on a weekend. All items are edited to fit column format and the information is used on a space-available basis in the order in which it was received. Submissions may be emailed to [carol@mbabar.org](mailto:carol@mbabar.org).*

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# MBA 2012 Golf Events Raise Over \$15,000 for the VLP

## October – MBA Golf Championship to Benefit the Volunteer Lawyers Project

Nearly 100 golfers enjoyed Columbia Edgewater Country Club on a beautiful October day, playing in the 15<sup>th</sup> Annual MBA Golf Championship and with the support of our generous sponsors, helping to raise our total to over \$15,000 for the VLP.

In the Firm Division, the low gross winner was Wallace Klor & Mann PC - Lawrence Mann, Sky Wallace, Jr., Jeff Capener and Chris Bishop. The low net winner was Garvey Schubert Barer – Gary Grenley, Paul Trincherro, Nancy Cooper & William Keeler.

In the Open Division, the low gross winner was the team of Paul Duden, Bill Geny, Richard Urrutia & Kim McClendon. The low net winner was the team of Aaron Crowe, Dave Crowe, Gary Crowe & Jeff Mutnick.

Traveling trophies go to the 1<sup>st</sup> Place Firm low gross and low net teams and to the 1<sup>st</sup> Place Open low net team. Congratulations, all!

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1st Place Low Net Firm - Gary Grenley, Nancy Cooper and William Keeler (not pictured, Paul Trincherro)



1st Place Low Gross Firm - Sky Wallace and Jeff Capener (not pictured, Lawrence Mann and Chris Bishop)



1st Place Low Net Open - Aaron Crowe, Jeff Mutnick and Gary Crowe (not pictured, Dave Crowe)

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Our thanks to Mercedes-Benz of Portland for providing a new smart car for our hole-in-one prize!

## August – Golf Clinic & Networking Event at RedTail Golf Center

The MBA, Oregon Society of CPAs and Oregon Bankers Association joined forces to offer a golf clinic and networking event in August. The evening was for golfers of all levels of experience and brought lawyers, accountants and bankers together to practice on the driving range, get pointers from the pros and sharpen their skills with the use of a Trackman golf aid device. This after-work event included appetizers and an opportunity to network and socialize in a relaxed setting.

Thanks to our generous sponsors, this event was also a fundraiser for the VLP.

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## June – Riverside Golf and Country Club Event

Forty golfers enjoyed an afternoon of golf, appetizers and collegiality at beautiful Riverside.

First place honors went to the team of Bill Tomlinson, Jim Damis, Greg Pfister and Paul Lodine. Low Net winner was Jim Oliver; Low Gross went to Paul Lodine. Women's long drive went to Lindsey Shaffer; Men's long drive to David Hubbs. Women's KP winner was Zeta Rennie and Men's was Greg Pfister.



David Bean, Michael Licurse, Helen Pruitt and Chuck Pruitt; Riverside



Andy Aubertine, Scott Sorensen-Jolink, Steve Larson, Gary Berne; Riverside



David Bean, Michael Licurse, Helen Pruitt and Chuck Pruitt; Riverside

## July – Family & Friends at Edgefield

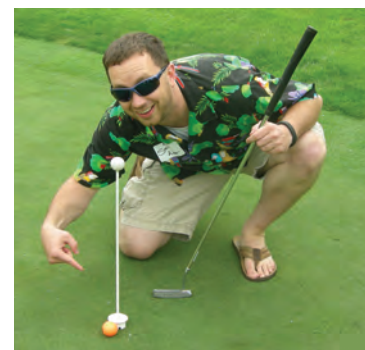
The Family & Friends golf outing brought experienced golfers, beginners, kids and non-golfers alike out for an afternoon of sunshine, fun and pitch and putt golf, followed by food, drink and prizes.

Thank you "Fun" judges Hon. Mark Gardner, Crunchy Blackhurst and MBA Past President Steve Blackhurst for your good humor and keen eyes; Aruna Masih, Kim Sugawa-Fujinaga and Bill Walsh from co-sponsor Oregon Women Lawyers Foundation, for running the putting contest and donating wonderful prizes; Prize Sponsor Aufdermauer Pearce Court Reporting, for fabulous prizes for both skilled and fun categories; and everyone who helped make this event a success!

First place team: Jim Oliver, Brandon Pearce, David Pearce, Judge Mark Gardner  
Putting contest: Men, Scott West; Women, Kim Sugawa-Fujinaga  
First place: Men, Tyler Volm; Women, Aruna Masih  
KP: Men, Tyler Volm; Women, Liz Rhode Motley; Children, Emmett Coughlin-Glaser  
Most Colorful Attire: Men, Soren Coughlin-Glaser; Women, Crunchy Blackhurst; Children, Zoe Coughlin-Glaser  
Most Creative Swing: Men, Raife Newman; Women, Aruna Masih; Children, Emmett Coughlin-Glaser



Steve Yoshida and Liz Rhode with Signe, Edgefield



Scott West with winning putt, Edgefield



Cedric Brown and Aruna Masih, Edgefield



Jon Corey and Jim Oliver, Golf co-chairs, Edgefield

## May – Lawyers & Law Students Event

Sunshine and 16 teams of lawyers and law students turned out for the MBA Lawyers & Law Students golf event at Langdon Farms Golf Club. The focus of the event was to give law students an opportunity to meet and network with the Portland area legal community and to increase diversity in the profession.

The winning Low Net team included Judge Ken Walker, Mike Tooley, Zach Everman, UO and Alex Spinks, Lewis & Clark. The Low Gross team included Rick Glick, Jason Sierman, Willamette, John Powers and Nate Larsen, Lewis & Clark. Women's long drive went to Allie Overton, Willamette, Women's KP to Traci Ray, Men's long drive to Colin Andries and Men's KP to Scott Sorensen-Jolink.

Lewis & Clark, Willamette and UO law schools teamed with the MBA to keep the registration affordable for students. OLIO and the OSB Diversity & Inclusion Department helped promote the event, which included a raffle for the Volunteer Lawyers Project (VLP) at LASO. Prizes were generously donated by Langdon Farms Golf Club, Allora Italian Restaurant, Tom Chow, Golfsmith, Shane Swilley, Titleist, Tualatin Island Greens and Ira Zarov.



## Tips From the Bench

by Judge Stephen K. Bushong  
Multnomah County Circuit Court

### Keeping Secrets

Clients usually want information they consider confidential to remain confidential throughout discovery and trial. Attorneys will do their best to satisfy their clients' wishes. They may request protective orders to maintain confidentiality and require confidential documents to be filed under seal. But efforts to keep things secret are limited by the "open courts" clause of Article I, section 10, of the Oregon Constitution. That clause provides in part: "No court shall be secret, but justice shall be administered, openly and without purchase, completely and without delay[.]"

### Protective Orders and Filing Documents "Under Seal"

On August 23, 2007, then-Presiding Judge Dale Koch issued a policy statement that addresses the interplay between the "open courts" requirement of the Oregon Constitution and stipulated protective orders that require parties to file documents designated as "confidential" under seal. That policy statement, available at [www.mbabar.org/Resources/PracticeMaterials.html](http://www.mbabar.org/Resources/PracticeMaterials.html), remains in effect.

Under the policy statement, stipulated protective orders that require parties to file documents designated as "confidential" under seal may be returned to the parties unsigned. The proper procedure for sealing documents is to present at ex parte a motion for an order allowing a document or file to be filed under seal. The presiding judge will more likely sign an order sealing a specific document than an order sealing an entire file. Under the policy, filing under seal may be authorized where the parties show:

- a specific prejudice or harm that will result if the order is not signed or the document not filed;
- statutory, constitutional, or other authority for the presiding judge to seal the document; and
- that there are no other means available to protect the information in the document under the circumstances.

Any order allowing such a motion will be narrow in scope to insure that the only information withheld from public inspection is information expressly authorized by law to be sealed. For example, trade secrets might be protected, but internal emails and other "private" communications may not qualify for any statutory protection.

### TRO and Preliminary Injunction Hearings

Parties seeking or opposing a motion for a temporary restraining order or preliminary injunction may want to submit evidence that the party wishes



to keep confidential. The best practice is to confer with opposing counsel and ask the presiding judge at or before the date set for "call" for the show cause hearing to enter a protective order and order allowing certain exhibits to be filed under seal in accordance with the policy described above. If that cannot be done, the party seeking to maintain confidentiality should ask the judge hearing the motion to receive the evidence subject to an agreement or order to keep the evidence confidential and use it only for purposes of the litigation pending further order of the court. Then work out the terms of a stipulated protective order with opposing counsel, and ask the presiding judge to enter an order allowing specific documents to be filed under seal in accordance with the policy described above. If you want to designate testimony as confidential, consider hiring a court reporter to transcribe the hearing, then designate in the transcript the specific testimony you want to be treated as confidential under the terms of the protective order.

### Confidential Trial Exhibits

Using confidential documents as trial exhibits can pose additional challenges for an attorney attempting to keep a client's secrets. In *Doe v. Corp. of Presiding Bishop*, 352 Or 77 (2012), the Oregon Supreme Court held that "Article I, section 10, does not compel the trial court to release to the public trial exhibits that are subject to a protective order or entitle the public to have access to trial exhibits at the close of trial." 352 Or at 86. The court did not "attempt to catalogue ... the complete range of circumstances in which a court permissibly may exercise its authority to limit the disclosure of exhibits ... at the close of trial." *Id.* at 101.

Trial exhibits that were properly designated as "confidential" before trial under the policy discussed above may remain confidential at the close of trial. Under *Doe*, the fact that documents were received as trial exhibits does not automatically remove the protection and require public disclosure. But exhibits that may have been designated as "confidential" that are not trade secrets or would not otherwise qualify for protection might be subject to public disclosure at the close of trial absent specific authority and circumstances that would allow the court to limit disclosure.

## News from the Courthouse

by Jeanne Chamberlain  
Court Liaison Committee member

### Presiding Judge's Report

Presiding Judge Nan Waller opened her comments by thanking the MBA and its board for again partnering with the court to sponsor a legislative breakfast for the Multnomah County legislative delegation. This year the focus was on court programs to serve and protect vulnerable persons through abuse prevention restraining orders, guardianships and conservatorships and providing services and assistance to vulnerable self-represented

**"... 85% of domestic relations cases have at least one side self-represented and 23% of civil actions...."**

litigants. A part of the program identified a vision at the local level to increase the utility of the law library to meet the needs of those who represent themselves, while maintaining research and support services appropriate for today's lawyers. Judge Waller said that 85% of domestic relations cases have at least one side self-represented and 23% of civil actions, not including small claims and landlord tenant matters, have at least one self-represented party. The court-MBA legislative breakfast meeting this year was attended by county commissioners as well as legislators.

Judge Waller reported that the first of two public meetings set by Commissioners Shiprack and Kafoury on the replacement or remodel of the Multnomah County courthouse building was held in September. The second meeting was in October. Judge Waller thanked the attorney members who spoke at these meetings on the need for a new courthouse.

The new civil case management rules for cases filed on or after February 1 are proceeding through the implementation cycle. These rules eliminate repeated Presiding Judge

Call appearances to give case status reports. The repetitive call appearances are replaced with an Initial Case Management Conference early in the life of the civil action, at which a motion judge is assigned, and a later Trial Readiness Conference for the parties to report on the status of the action and to set a trial date. The Initial Case Management Conferences have been conducted weekly since late March, and now the Trial Readiness Conferences are being held as cases mature toward trial. Following the Trial Readiness Conference, cases will be set on the Presiding Judge's Call Calendar for a "date certain" trial assignment. Judge Waller said that the court is looking for feedback from the trial bar on how the new system is working for the parties. She said there will be a general review of the new system in the first quarter of 2013; reports on the system from the trial bar will help to determine if adjustments are necessary in process or timing of the events.

Judge Waller told the committee that the recent opinion in *State v Fuller*, which extends the right to jury trial to theft misdemeanors that have been given violation offense status at arraignment under ORS 161.566, will have an impact on the court. The size of the impact, however, is not yet assessed and will take a couple of months to determine fully.

Doug Bray told the committee that a partnership with the City of Portland and the One Stop Domestic Violence Center made it possible to develop an online, web-based Family Abuse Prevention Act (FAPA) forms set for individuals seeking these protective orders in the Multnomah County Circuit Court. This form was developed by TurboCourt using its proprietary document assembly software with oversight and assistance by Martha Strawn Morris, director of the One Stop Center, Robin Selig, Oregon Law Center, and Judge Maureen McKnight. The form is hosted on the TurboCourt website and is free to the parties. The system is of tremendous assistance to self represented litigants and to

the court. The party may use the system anywhere there is access to the internet and the documents it produces provide clear and legible information. TurboCourt is the product selected by the Oregon Judicial Department for the Oregon eCourt program, and the FAPA form gives a preview of its potential.

Doug Bray also noted that the East County Courthouse is now a document filing center for civil actions and small claims matters. As of October 15, domestic relation case filings, except FAPA applications, can occur in the East County Courthouse. The final steps in moving to establish the East County Courthouse as a full-service filing center for attorneys practicing in that area will be the addition of probate, guardianship, conservatorship and forcible entry and detainer case documents; this additional service should occur by January 2013. Due to the need for a timely ex parte hearing, FAPA applications will continue to be filed in the downtown courthouse until further notice.

Doug Bray commented on the change in jury service from one day to two days, or one trial.

**"...Judge Marcus is retiring effective November 30."**

The new two-day summons began being used in September, with the first date for two-day service on Monday, October 1. This change will remain as a cost-reduction effort until resources can be restored.

Judge Waller noted that Judge Marcus is retiring effective November 30. During his almost 23 years on the circuit court bench, he has worked diligently to promote evidenced-based decision making for judges in criminal sentencing and for the application of technology to give judges the tools they need to make informed decisions on release decisions and sentences in criminal actions. He was an early leader and remains a tireless advocate for the Oregon eCourt Program.

## Have you renewed your MBA membership for 2013?

The MBA is a volunteer-driven membership association for attorneys, by attorneys. Join for 2013 today and continue to enjoy the benefits of MBA membership. To renew, log in to your profile at [www.mbabar.org](http://www.mbabar.org) and visit the Members Center. We look forward to serving you in the New Year.

Please contact us at 503.222.3275 with any questions regarding your membership.



# Stocking the Judiciary

## Lindsay Hart Celebrates 75 Years

by Cliff Collins

The distinguished litigation law firm Lindsay Hart Neil + Weigler, celebrating its 75th anniversary this year, has a knack for attracting and developing outstanding lawyers, many of whom have gone on to leadership positions in industry, the bar, and government.

Perhaps the firm's most unusual distinction is the contribution it has made toward stocking Oregon's judiciary.

Five former firm lawyers now serve on Oregon's highest courts: on the Oregon Supreme Court are Chief Justice Thomas Balmer and Associate Justice Jack Landau; and on the Oregon Court of Appeals are Chief Judge Rick Haselton, Judge Robert Wollheim, and Judge Rex Armstrong.

In addition, three Lindsay Hart attorneys have served on Oregon's District and Circuit Courts, including Multnomah County Circuit Court Judge Janice Wilson, former District Court Judge William Snouffer, and Kristena LaMar, a senior circuit court judge.

The secret ingredients that make the firm what partner Glen McClendon calls the "cradle of judges" are a combination of

people and culture, these alumni judges say.

"I think it was a firm that tried to hire the smartest, most interesting people that we could," says Balmer, who was with the firm from 1982-93. The personalities of the founding partners also was key. "They were in general more actively engaged in politics and public life than the lawyers at other mid- and large-size firms at that time. It really was a very exciting place to be. There were a lot of interesting lawyers working there."



Chief Justice Tom Balmer

Lindsay Hart also was "one of the first firms to hire a woman who was a successful litigator," he says. "Carol Hewitt was hired in the early '70s and was an

important draw for women. She became a sought-after business litigator around the country."

For Haselton, who was at the firm from 1980-94, the firm's "public service commitment" also stood out, he says. "The range of community involvement was incredible." And that was combined with two other important elements: the firm created an atmosphere that "feels like family," and partners immediately gave associates a lot of responsibility. Hewitt had a case going before the U.S. Supreme Court, and she assigned Haselton the task of writing the first draft of the brief. "I hadn't been there six months," he emphasizes. "They gave me that kind of responsibility right out of the chute. They treated you like a grownup."

Wilson, who became a partner in the firm, says senior attorneys expected a lot of newcomers, but they also were dedicated mentors. "Their doors were always open. They were giving lawyers significant opportunities, much more so than our contemporaries." Even as a new associate, she was allowed to cross-examine witnesses, give closing arguments, and take depositions. The firm allowed her to gain "experience as a lawyer, to develop skills and get a reputation in the bar to be appointed" to the bench, she says. "Those people inspired me. The place really was quite amazing.

There was something remarkable about it, something special."

Founding partner Dennis Lindsay spent 56 years at the firm and took part in nearly every hiring decision, says Haselton, who credits Lindsay with much of the "eclectic" mix of people and practices that came to make up the firm. "He had a real touch" for hiring people with diverse backgrounds and abilities, he says. "It was just a fun place to be."

"We learned so much from (the four founding partners) about how to practice law and deal with clients, how to solve a client's problem rather than just do the transaction," adds Balmer. "There are a lot of Oregon lawyers and judges who learned the craft of practicing law at Lindsay Hart. It continues to be a very good firm which works with clients the firm has had for decades."

Wilson remembers that founding partner Carl Neil, who represented people in Mississippi in 1966 in civil rights cases, told her when she was interviewing for a job with the firm that if making a lot of money was your priority, you could make more going elsewhere.

Instead, the ethic and culture of Lindsay Hart was that the practice was "a profession, a calling," he told her. "There was a very strong notion that public service is important," Wilson says.

"It was an ideal place to be," remembers Haselton. "It could not possibly have been better. I wish that every young lawyer could have that experience. I feel like I was fortunate to have been in that firm."

For most of the firm's history, members have consciously chosen to keep its number of attorneys relatively small, in order to preserve the "enjoyable work environment" that its past and present members prize, says partner Thomas McDermott. One result, adds managing partner Robert Palmer, is that the firm "has the talent to represent its litigation and business clients successfully with fewer attorneys, which helps provide more personal service for less cost."

The only drawback, if you could call it that, to hiring vibrant, dynamic lawyers was that they possessed a wide range of interests, and those interests sometimes led to new opportunities outside the firm, Balmer notes.

But to the benefit of the city, county, and the state of Oregon, several of those alumni have chosen to take the skills and experience they developed at Lindsay Hart to the bench. And as the firm observed its 75th anniversary with a reunion held in October, that gift of accomplished judges is one of its greatest legacies.

## Book Review

### Show the Story, The Power of Visual Advocacy

by William S. Bailey & Robert W. Bailey

Reviewed by Steve Larson  
Shareholder at Stoll Berne



After having read numerous uninspiring text books about trial advocacy while in law school, many lawyers are reluctant to read, let alone purchase, another book on trial advocacy. *Show the Story* is a book that should cause trial lawyers to re-examine this issue.

The Bailey brothers explain what social psychologists have long known: humans are wired to absorb information through stories, and in today's visual world, words alone are not enough. Television dominates how we receive information. We expect information to be communicated in an informal, interesting, and compact form, with high entertainment and production values, and visual shorthand. The importance of visual imagery has only grown stronger as the digital age has unfolded. YouTube is now the second largest internet search

engine, and more and more jurors and judges are using computers, smart phones and tablets to visually obtain information.

After explaining the importance of visual communication to the reader in Part One of *Show the Story*, the authors then provide a road map for lawyers to develop a visual story in Part Two. The book shows you how to think like a film director. It advocates a trial preparation process in which lawyers write the story, and think of a way to visualize the facts as the story is written.

The book teaches lawyers how to visually (1) establish the story's settings, (2) introduce characters to create a conflict, (3) present the story's theme, (4) show the parties' actions, and (5) show the choices made. Part Two of the book also integrates some of the "Rules of the Road" and "Reptile" methods advocated by Rick Friedman, Patrick Malone and David Ball in their trial advocacy books, which are targeted more at the plaintiff personal injury practitioner. However, this part of the book is still rich with ideas, illustrations and concepts that will be of benefit to all trial lawyers, whether novice or experienced.

Part Three of *Show the Story* provides tools and techniques for

creating the visual story. This part of the book is the perfect fit for attorneys practicing in the fields of personal injury and wrongful death, as several chapters deal with the most effective types of visuals that pertain to these cases, including computer illustrations and animations.

Other trial lawyers may want to skip some of these chapters, but there are suggestions in other chapters in Part Three that will prove useful in any type of case, such as (1) examples of sequencing information from simple to complex, (2) advice about overuse and the most effective use of PowerPoint, (3) how to use graphic devices and color to draw attention, (4) using visual tables and timelines to orient jurors to the overall structure of the case, and (5) how to effectively work with graphic artists. At the end of each chapter there are "take aways" that are bullet point summaries of the key points taught in the prior chapter. These "take aways" not only help the reader digest the information that was just read, they also will assist the reader in identifying chapters or portions of chapters that may have information more applicable to their practice.

Part Four of *Show the Story* provides guidance on how to lay a proper foundation so you can get the judge to allow the use of your graphic presentation. This part of the book discusses evidentiary standards and how they can be used to your advantage. Part Four also provides information from a judge's perspective, including how deposition video can give a punch to impeachment.

The book is almost like an encyclopedia of information about telling a story visually. If you look at the following table of contents, you will see what I mean.

#### Table of Contents

##### Part One: Visual Learning

1. Our Visual World
2. Communicating Visually

##### Part Two: Show the Story

3. Thinking Like a Film Director
4. Establishing the Story's Settings
5. Introducing Characters Visually
6. Presenting the Story's Rule of Theme
7. Setting Up the Conflict
8. Showing the Standards
9. Identifying Character Choices and Actions
10. Re-creating Climactic Moments
11. Seeing the Big Picture

##### Part Three: Visual Tools and Techniques

12. Making Your Case Stick
13. How Tech Savvy Should I Be?
14. Employing the Locus in Quo
15. Building the Theme
16. Creating Computer Illustrations and Animations
17. Working with Computer-Graphics Specialists
18. Avoiding the Pitfalls
19. Examining Computer-Illustration Case Studies
20. Creating Illustrations from Source Material
21. Using Google Earth

##### Part Four: Visual Foundation

22. Hearing a Judge's Perspective
23. Dealing with Evidentiary and Ethical Issues

24. Enhancing Reality
25. Expanding Traditional Evidence Rules
26. Winning an Admissibility Knife Fight
27. Turning the Weapon Around: Defense into Offense
28. The Future Is Now

#### Appendices

- A. Defending with Visuals
- B. The Defense Playbook

The authors certainly know their subject. Bill Bailey is an outstanding trial lawyer in Seattle. He is the author of articles on trial techniques and an adjunct professor at Seattle University Law School. His numerous awards include Best Lawyers in America, Washington State Association for Justice Trial Lawyer of the Year, and National Law Journal Litigator of the Month. Bill teamed with his brother, Robert, to produce the book. Robert, who lives and operates his litigation consulting business Trial by Design in the San Francisco Bay Area, is a nationally recognized trial consultant who concentrates on story development and visual communication.

The book is not cheap with a suggested retail price of \$125. However, given the rewards of being successful at trial, especially after expending tens of thousands of dollars in time, it is a relatively small expense. If the price tag causes too much sticker shock, you can get a copy through an inter-library loan.



# Job Young Lawyers Section

## Introductions

by Duke Tufty  
YLS President



Change is all around us. The legal profession, the economy, politics, and, sadly, even the weather. The MBA has experienced some changes recently too. We have a new executive director and new YLS board member. I'd like to take a moment to welcome them and recognize the contributions of their predecessors.

On behalf of the YLS, I would like to welcome Guy Walden as the MBA's new executive director. Guy is no stranger to the MBA. He has been an integral staff member at the MBA for over 13 years and has long been a supporter of the YLS and its objectives. Last year, Guy was particularly supportive of the YLS's desire to modernize the MBA's website and was instrumental in moving the project forward and ensuring that the new website was a hit. I am looking forward to working with and supporting Guy in his new role at the MBA.

Guy has some big shoes to fill. Judy Edwards served as the executive director for the last 10 years and left the MBA for a short sabbatical earlier this summer. Judy was a big supporter of the YLS and its membership. As the editor of the *Multnomah Lawyer*, she valued the YLS' contributions and ensured that the YLS content was featured prominently. Judy - thank for all that you did for the MBA and YLS.

## MBA Mentor Program

The MBA Mentor Program is available to all YLS members, not just first-year lawyers. Applications for the MBA Mentor Program, which pairs YLS members with esteemed and experienced MBA members for a six-month period, may be found at [www.mbar.org](http://www.mbar.org) and are due by December 3. Mentoring matches will be made in December. A

I would also like to welcome Sean Ray as a new YLS board member. Sean has been a veritable super star of the YLS since graduating from the U of O School of Law in 2007. He's the current YLS Articles Editor and member of the MBA Golf Committee. He was recognized by the YLS Award of Merit in 2011, chaired the YLS Membership Committee last year, and emceed the 2012 YLS Summer Social. When not striving to make the YLS better, he works at Barran Liebman and spends time with his fantastic wife Traci. I'm looking forward to working with Sean and seeing if there is any way to get him more involved with the MBA. Sean will complete Sean Currie's position on the board ending in July 2014.

I also want to recognize Sean Currie's contributions to the YLS and thank him for his hard work and dedication. Sean became very involved with the YLS soon after graduating from Gonzaga Law School in 2008. After being a key member of the Professional Development and Education Committee, he became co-chair of the committee in 2010 and became a member of the YLS board in 2011. While a member of the board, Sean was a consistent contributor, a driving force behind the first two YLS summer social events, and helped shepherd the merger between the YOUthFILM Project and Service to the Public committees earlier this year. Sean recently left for Europe and is planning on returning in early 2013. I'm very thankful to have had Sean on the board and hope that he has a fantastic time in Europe.

kickoff reception will be held in January where the YLS attorneys will meet their mentors for the first time. An additional social and CLE program will be scheduled during the six-month program.

If you have any questions, please contact Kathy Modie at [kathy@mbar.org](mailto:kathy@mbar.org) or 503.222.3275.

## Maximize Your Work and Life

by David Nolan  
YLS Futures Committee member



What is work-life balance? This phrase makes me think of a scale in which every hour worked should be offset by an hour of play. But the real world doesn't work that way. Whether you're a hardworking associate or partner in a firm, a sole practitioner, otherwise employed, or even unemployed, the concept of work should be a source of enjoyment, not a source of stress. Don't get me wrong, a certain amount of stress is necessary for our well-being, but too much stress can take years off our life.

Like many attorneys, I have invested a large amount of time and money on my education. My goal is to be able to leverage that investment for financial payoff and a career I enjoy.

The best advice I have ever received for balancing work and life is simply this: "Maximize what you enjoy doing, minimize what you don't like to do." This is a perspective one should have in any career, but especially for lawyers. We tend to work insane hours and forget about why we chose a career in the legal field. Maximizing what you enjoy doing in life can take years to accomplish, but it is worth the effort. In the meantime, no matter what your work situation, you can apply these simple items:

1. Plan your week: Identify the major projects, appointments, etc. of your work week, place onto your calendar the personal items you need to accomplish (e.g. kids' school meetings, house projects, etc.), and don't forget to add recreational time. The latter is especially important regardless of how busy you are. Find a hobby, sport, or activity you enjoy.
2. Find time for physical activities: A recent study in the *Journal of Occupational & Environmental Medicine* shows that employees who work out at least two and half

hours each week are more productive and find greater job satisfaction. I recommend finding a physical activity you enjoy such as biking, running, hiking, etc. and doing it regularly.

3. Learn to recognize when you need a break: When faced with a frustrating project or hitting a wall while working, one of the best things you can do is get up and take a five minute walk.
4. Set personal goals for the year, for five years, for 10 years: Setting and focusing on completing personal goals you want to accomplish can have a dramatic effect on your daily focus. Don't forget to revisit these goals on a regular basis.
5. Time to relax is critical for everyone: Take the time to sit back and enjoy the moment. Let go of what needs to be accomplished tomorrow and relax. If it helps, take time to write out a list of what you are going to accomplish tomorrow, set it on your desk, and walk away for the evening or weekend.

This is your life to live. Find your personal balance in life, enjoy this moment in time, and plan for the future.



On October 10, the Lawyers' Campaign for Equal Justice teamed with the MBA Young Lawyers Section to present this year's Party Under the Stars, which was hosted by Perkins Coie. A raffle was held, and bidders won over 20 donated gift packages - including gift certificates to Portland restaurants, local beer and wine baskets, networking lunches and Blazers tickets. Raffle ticket sales raised \$3,590, which went directly to supporting legal aid services in Oregon.

## mba yls | EVENT

**YLS Community Service Day**  
Oregon Food Bank  
Thursday, November 29  
6-8:30 p.m.

Help us fight hunger and join the MBA Young Lawyers Section Service to the Public Committee at the Oregon Food Bank on Thursday, November 29 from 6:00 - 8:30 p.m. We will organize and package food donations for people in need throughout Oregon.

Friends, family, and children over the age of 16 are welcome to join us.

To sign up or for more information contact Tracy Hooper at [th@hs-legal.com](mailto:th@hs-legal.com).



## Tips on an Organization's Pro Bono Program

by Valerie Berg  
YLS Pro Bono Committee



### Why Have a Pro Bono Program

It's no secret that dedicating time to pro bono work and participating in pro bono activities promote a fundamental purpose of the legal profession—supporting and defending access to justice for all. More than helping our community, pro bono work allows lawyers (solo practitioners and firms of all sizes) to network, market their own skills and learn new areas of the law. What may be surprising, however, is the amount of work required to successfully work for free. For individuals or organizations interested in starting or improving your pro bono involvement, this article provides tips for a successful program and resources for getting involved.

### How to Have a Successful Pro Bono Program

Dedicating time and resources to pro bono work is a rewarding challenge. In these difficult economic times, increased levels of poverty have exacerbated the need for pro bono work, while financial ability to fund such work has become increasingly constrained. However, a major advantage to pro bono work is that it can be crafted to fit within the bounds of any organization's or individual attorney's personal goals and limitations.

At the individual level, one major challenge becomes dedicating extra time to pro bono work on top of your current work demands. One way to achieve this balance is by using your legal expertise to help organizations. For example, for the past four years Andrew Schpak, a partner at Barran Liebman, has been providing pro bono services to the Hollywood Theatre working on some of the theatre's legal matters. In his role, he has drafted and revised personnel policies, created and implemented employee evaluation systems, and regularly provided legal advice to the executive director. But using existing legal knowledge is not the only way to get involved with pro bono efforts; pro bono efforts can include supporting community organizations for which you have a passion. For example, Nelson Adkin II, a founding partner of the firm, has dedicated his time to supporting and aiding various arts programs' labor negotiations,

including the Portland Opera, the Oregon Ballet Theater, The Oregon Symphony, and the Oregon Children's Theatre, some for over 25 years. Such dedication and leadership has proven both admirable and vitally important to the arts community.

For organizations wanting to maintain a successful pro bono program, Sandy Hansberger of the Campaign for Equal Justice has some helpful insight. First, Sandy cautions that creating a pro bono program within your firm requires more than taking new pro bono cases. To have a successful pro bono program, Sandy advises developing the program and training materials, having adequate staff for intake and prioritization of new cases, and maintaining resources to keep the program going. Establishing a pro bono committee within your firm to facilitate your efforts is a great idea. Second, Sandy suggests connecting with Legal Aid Services of Oregon to evaluate what areas have the most community need, since effectively serving the low-income community's legal needs necessarily requires knowing what needs actually exist. Lastly, Sandy suggests that if creating a new pro bono program is more than your organization can do right now, you can always help by having members of your organization participate in established, long-standing pro bono programs offered by Legal Aid.

To find out how to get involved in established pro bono programs, you can do the following:

- Look at Legal Aid's Volunteer Lawyers Project's list of existing projects and get involved in something that peaks your interest;
- Accept pro bono cases off of the list serve;
- Attend the annual OSB Pro Bono Fair to become involved in existing programs; and/or
- Attend free CLEs to learn the laws relating to the pro bono work.

Whatever your efforts, one thing is for certain: pro bono work and activities are necessary to maintain equal access to justice and support our community, every attorney's obligations. In the words of Hansberger, participating in the community's pro bono efforts equates to "participating in maintaining the integrity of the justice system." For more information on ways to get involved, visit the Pro Bono Section of the MBA website, [www.mbar.org/AboutUs/ProBono.html](http://www.mbar.org/AboutUs/ProBono.html).

Valerie can be reached at [vberg@barran.com](mailto:vberg@barran.com)

## Kelly Harpster Pro Bono Spotlight

by Nina Englander  
YLS Pro Bono Committee

In mid-2010, soon after Kelly Harpster left the law firm of Davis Wright Tremaine to start her solo practice, she received a call from Phil Querin, then a partner at her former firm. He suggested that she consider a new - and growing - area of law: foreclosure defense. Kelly took Querin's suggestion, and ran with it. "When I took my first foreclosure case, there were very few cases in Oregon challenging foreclosures and abusive loan servicing practices," she says. Now, a substantial portion of Kelly's caseload involves helping homeowners at risk of foreclosure. She handles many cases on a pro bono basis. "So many people come to me with such emotional trauma. They are dealing with the loss of their home, and they cannot afford legal help," she explains. "It's difficult to turn people away."

Foreclosure cases involve complex issues of law, and there is a shifting legal landscape in Oregon. By representing homeowners in foreclosure proceedings, Kelly has been at the forefront of developing the law. "So many cases are state-law dependent," she explains. "There

is a lot of room for lawyers to be creative." She also spends time educating clients, resolving issues with loan servicers, and helping homeowners avoid pending foreclosures without litigation. "Litigation is a last resort," she says, "and the economics rarely favor the homeowner."

Foreclosure defense involves serious, often heartbreaking, facts. Kelly explains that many homeowners, despite doing everything right, have had their homes foreclosed upon. "There is a huge power imbalance between the parties involved in foreclosures," Kelly says. "It's enough to keep you up at night." Misinformation is another huge challenge. "Homeowners have so much bad information by the time they get to me," Kelly says. Despite the obstacles, Kelly has had tremendous success helping clients avoid the loss of their homes to foreclosure.

Kelly has also been working on systems change. She was part of a working group of consumer attorneys who proposed legislative changes based on lending abuses she had observed. Those changes became part of Oregon's foreclosure



Kelly Harpster

mediation program, which was passed by the legislature in 2012. She helped develop the rules implementing the program, and has traveled around the state training foreclosure mediators and housing counselors.

Kelly finds her work extremely rewarding. "I love what I do because I am doing something that I believe matters," she says. "This is an area of the law where my skill set can really make a difference." And she advises attorneys looking to do more pro bono work to choose an issue that moves them. "The trick to doing pro bono work is finding something that you care about." She sees her work right now as an opportunity. "The foreclosure crisis is finite. It's not every day that you're in a position to step up and make a contribution. I am right now, so I will."

## mba yls | EVENT

**New Admittee Social**  
The Heathman Hotel  
Symphony/Opus Room  
1001 SW Broadway, Portland  
Thursday, November 15  
5:30 - 7 p.m.



The YLS Membership Committee will host a social on November 15, from 5:30-7 p.m. to welcome lawyers who have recently been admitted to the OSB.

Appetizers and refreshments will be provided.

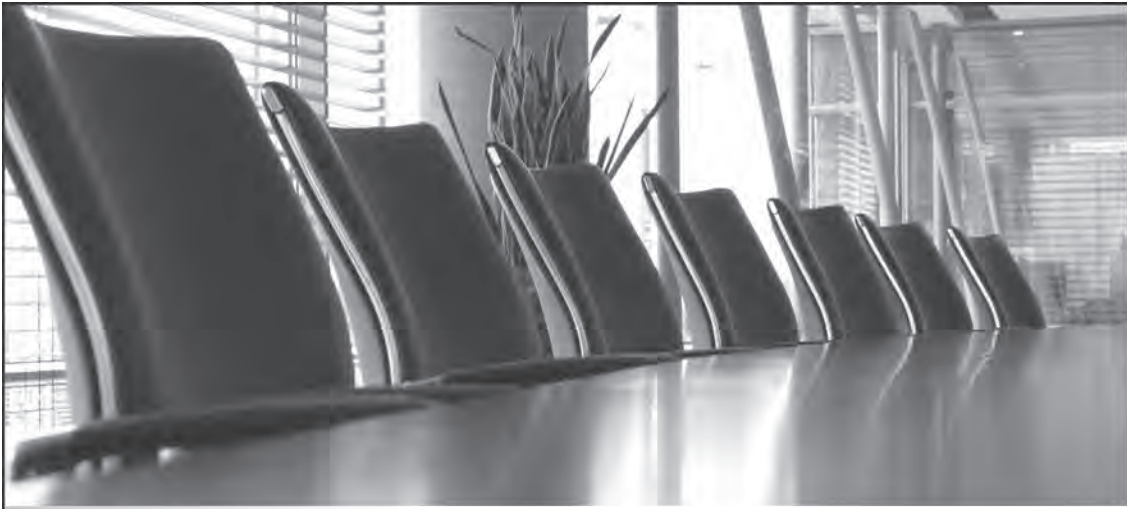
Please bring your colleagues and join us on November 15 to meet and welcome lawyers recently admitted to the OSB.

The event is generously sponsored by LexisNexis.

## webcheck

Any YLS member may sign up to receive a mentor through the MBA mentor program: <http://www.mbar.org/assets/documents/menteesignupform.pdf>





# Barker

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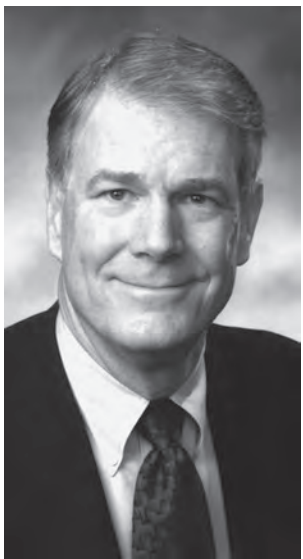
# MBA Offers Long-Term Care Insurance to Members

by Mary Osborn  
MasterCare Solutions

Paying for something you're never intending to use would be wasteful. Who would do it? The truth is there's only one instance when you make a decision to pay for something you're hoping never to use ... insurance. If you think about it, you have car insurance but you avoid accidents. You insure your home but you'd rather never have a fire or a flood. Insurance is something we buy with the unspoken hope we'll never really need it. But, it's smart to have it. It's also smart to have long-term care insurance because if you have an accident, suffer a stroke or have a debilitating illness like Alzheimer's disease, the cost can be enormous. A study by the American Association for Long-

Term Care Insurance revealed that one out of 10 people who apply between the ages of 50 to 59 are declined. The percentage of applicants who are declined almost doubles for individuals 60 to 69, and it's 45% for those who are 70 and older.

Through its partnership with MasterCare Solutions, the MBA offers members long term care insurance. Members and eligible family participants have access to discounted rates and streamlined underwriting, and can choose from multiple insurance companies. To learn more, contact the MBA's representative Mary Osborn, at 503.998.5902 or at mary.osborn@comcast.net. Her website is www.maryosborn.com.



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**KEITH S. DUBANEVICH**  
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Keith Dubanevich concentrates his practice on complex dispute resolution. He has extensive experience handling multi-state antitrust cases, consumer litigation, and securities disputes. He was recently Associate Attorney General and Chief of Staff at the Oregon Department of Justice where he led the creation of a civil rights unit, managed securities litigation including multiple cases against financial services companies, was co-author of amicus briefs in U.S. Supreme Court regarding the Affordable Care Act, and supervised antitrust investigations and prosecutions. Keith has represented small and large companies including foreign companies engaged in disputes around the globe, as well as in arbitration and litigation in state and federal courts. Keith has over 25 years of experience and has appeared in more than a dozen different jurisdictions around the country.



**JOSHUA L. ROSS**  
Shareholder

Licensed in Oregon and Washington, Josh represents individuals and businesses in a broad range of commercial disputes, including unlawful trade practices, fraud, securities, class actions, and contract disputes. Josh is a long-time volunteer with LASO's Domestic Violence Project, a recipient of the MBA's Haglund Pro Bono Award and YLS Award of Merit, and is an Arbitrator with Multnomah County Circuit Court. Josh joined Stoll Berne in 2005 after clerking for Hon. Rick Haselton of the Oregon Court of Appeals.



**JENNIFER S. WAGNER**  
Shareholder

Jen represents clients in all aspects of commercial litigation, including securities and financial fraud litigation, shareholder disputes, contract disputes, class actions and employment matters. Jen has been recognized by *Oregon Super Lawyers* as a Rising Star and is listed in *Best Lawyers in America* for commercial litigation. Jen joined the firm in 2002 after graduating first in her class from Lewis and Clark Law School.

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The Oregon State Bar is searching for a Disciplinary Counsel and Director of Regulatory Services who will be a leader in professional responsibility. The Bar invites all interested applicants to submit a cover letter and resume. Submission information is provided below.

We will be looking for a candidate who has:

- Experience managing professional-level employees;
- Experience managing a department/program;
- Excellent communication and relationship-building skills; and
- Significant experience in trial and appellate courts.

For full details about the position's responsibilities and requirements, go to OSB Job Opportunities at [www.osbar.org/osbcenter/openings.html](http://www.osbar.org/osbcenter/openings.html).

Bring your vision and let us see if our needs are a good match with your education and experience. The start date for this position will be early February 2013. The salary will be between \$97K and \$115K depending on the individual's experience. The Bar offers excellent benefits including voluntary 6% participation in the PERS program.

**Submission Information** - Give us an opportunity to review your material. Send your resume with a cover letter to Christine Kennedy, Director of Human Resources - DC, Oregon State Bar, PO Box 231935, Tigard, OR 97281. Fax to 503.598.6985 or email (MS Word format only) to [hr@osbar.org](mailto:hr@osbar.org). There is no closing date for applying. We will accept applications until the position is filled.

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#### Board of Bar Examiners Executive Director and Admissions Director

The Oregon State Bar is searching for a Board of Bar Examiners Executive Director and Admissions Director who will be a leader in the bar admissions program. The Bar invites all interested applicants to submit a cover letter and resume.

For full details about the position's responsibilities and requirements, go to OSB Job Opportunities at [www.osbar.org/osbcenter/openings.html](http://www.osbar.org/osbcenter/openings.html).

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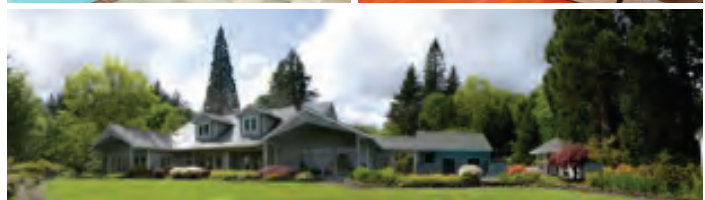


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The residence features a gracious foyer, formal living room with fireplace, wet bar and dining room with french doors to patio. A spacious chef's kitchen with eat-in nook, family room/den with fireplace and built-in bookcase, has views to pool and yard. The master suite looks out to flower gardens, view of Mt. Hood, a covered patio and offers a newly updated bathroom with wood cabinets, slab marble counters, separate subway tiled shower, soaking tub, and his/her walk-in closet designed by Portland Closets. Second main level bedroom suite with hardwood floors, built-ins and remodeled bath. Lower level apartment has full kitchen, family room with fireplace, bedroom/bath and separate entrance. Two spacious bedrooms with views and full bath finishes the upper level.



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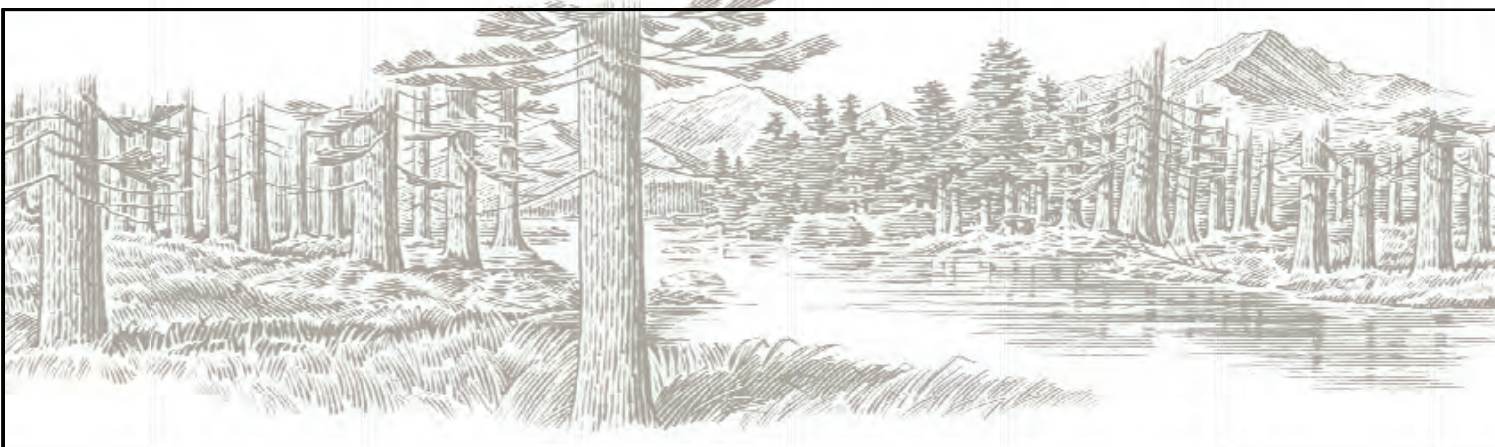
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## Multnomah Bar Foundation

### Civic Education Videos Earn Top Honors

by Pamela B. Hubbs  
Office and Foundation Administrator

**Award winners**

We are proud to announce *The Court System* and *The Courthouse* videos took some of the top honors at the National Association of Telecommunications Officers and Advisors (NATOA) Government

Programming Awards, held last month in New Orleans.

The NATOA competition is one of the most prestigious national competitions in government programming. This recognition speaks highly of the quality work of MetroEast, the MBF and its partners.

“The Multnomah Bar Foundation Board is delighted that MetroEast Community Media won the first place NATOA Public Education award for ‘The Court System’

video, and second place NATOA Community Awareness award for ‘The Courthouse’ video” says Ed

law, and improving the quality and administration of the legal system.”

**About this project**

We’ve been working with MetroEast Community Media to produce the series and have designated \$50,000 for the project. The final videos on civic engagement and

responsible civil discourse are in production and will be released at the end of the year.

**Behind the scenes**

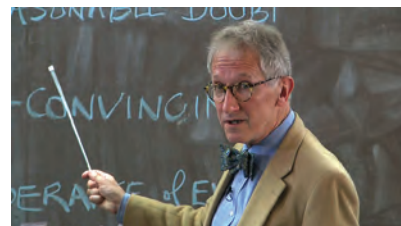
We are grateful to Bus Project, League of Women Voters, City Club and mediator Jim Park for their help in developing some of the video content. We also appreciate Classroom Law Project’s involvement in developing a set of discussion questions for classroom use.



Harnden, MBF president. “The goal is to educate the public as to how our courts work, and the importance of the court system in a functional democracy. Our hope is that the videos will reach schools and households statewide via cable, online, and through other distribution channels. Civic education communications are central to the MBF mission of increasing the public’s understanding of the legal system, promoting civic education, public participation and respect for the

**Distribution**

Our goal is to reach middle and high school students, new voters and a wide general audience. The videos will be shared statewide with schools, shown on cable access TV and available online. MetroEast is creating a distribution plan to share the productions with similar agencies in Washington, Idaho and Alaska. The MBF and Civic Education Fund will be credited on each of the videos.



To view *The Courthouse*, *The Court System* and *Voting 101* videos, visit [mbabar.org/Foundation/CivicEducation.html](http://mbabar.org/Foundation/CivicEducation.html).



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