



## MBA Expands Services to Solo Practitioners & Attorneys in Smaller Firms

by Dana Sullivan  
MBA President

One of my goals as MBA president is to identify ways in which the MBA can expand or improve the services that we offer our members. In my own experience as a small firm practitioner, I have often wondered why there are so few formal avenues for solo and small firm practitioners to exchange ideas and to develop a referral network among themselves. While the OSB has a Sole & Small Firm Practitioners Section, and many organizations have listservs that allow their members to connect virtually, there are not many forums in which lawyers from different practice areas can come together on a regular basis to discuss practice management issues unique to small firms and forge relationships with one another.

The majority of MBA members are solo practitioners or attorneys working in smaller firms. Our most recent membership survey revealed that nearly 40% of our members are in firms with between one and six attorneys. Another 15% of MBA members practice in firms of between 7-19 attorneys. In recent years, the number of solo practitioners and small firms in Portland has been growing rapidly in light of the trend among recent law school graduates to hang out a shingle rather than await an associate position, which may be hard to come by.

**The majority of MBA members are solo practitioners or attorneys working in smaller firms.**

The questions that came up when my partners and I formed our firm just over six years ago seemed endless: What options are available for reception services if you do not wish to hire a full-time receptionist? What sort of copying machine should we get, and should we buy or lease? What alternatives might there be to hiring full-time associates? Who should we hire to prepare our tax returns, manage our employee benefits programs or provide our IT support? What forms of advertising provide the most bang for your buck? Now that our firm is well established, questions continue to crop up. It is hard for any single attorney or small group of attorneys to keep abreast of new marketing opportunities, or developments in practice management or trial presentation software or other technological advances while at the same time focusing on the needs of our clients. There simply are not enough hours in the day. And it is clear that new and different questions will continue to come up as our practice evolves. For example, I have recently had conversations with several different colleagues who are nearing retirement and are struggling with succession planning.

It struck me that the MBA is in a unique position to provide a forum for lawyers who work on their own or in small firms to network with one another and exchange ideas about how to effectively manage a small business while providing the best possible service to our clients. We have approximately 1,730 members who are solo practitioners or practicing in a firm with six or fewer attorneys. Among this segment of the MBA's membership are attorneys who

specialize in real estate transactions, business matters, employment law, domestic relations, criminal law, consumer law, and numerous other specialty areas. Some represent plaintiffs and others defendants. While there may not be much commonality among the substantive legal areas in which we practice, we all share experience with the challenges of running a small business. We all look to other lawyers in the community for referrals. The MBA also has a large number of members who are new lawyers practicing on their own or with law school peers who are in need of guidance regarding the practical aspects of establishing a practice.

In an effort to address what I believe to be a need within our local legal community and to add to our offerings of services to the small firm lawyers and solo practitioners who make up more than half of our membership, the MBA has formed, for the first time, a Solo & Small Law Firm Committee. The MBA Solo & Small Law Firm Committee's mission is to provide programs and services of value to small firms and solo practitioners and to create a forum for them to exchange best practices in business, financial management and client service. The committee will be planning a series of brown bag lunch meetings featuring speakers who will address topics of interest to attorneys practicing on their own or in small firms. The lunches are also intended to foster relationships among attorneys with different practice areas so that those who attend can expand their referral networks. Attorneys can also use these gatherings as an opportunity to solicit feedback from colleagues about thorny issues they may be grappling with. These lunches will be free to MBA members.

The Solo & Small Law Firm Committee will be chaired this year by former MBA President Mike Greene, and the committee is comprised of wonderful attorneys from a variety of practice areas and experience levels. They have been charged with the task of designing the programming for the first year and brainstorming about what other services the MBA can offer to those of us practicing in small firms or on our own. I am grateful to Mike and his fellow committee members for their help in launching this program. Stay tuned for additional details about the lunches and other developments.

**...we all share experience with the challenges of running a small business.**

## mba | EVENT

### Bench Bar and Bagels

Thursday, November 13  
Tonkon Torp  
888 SW 5th Ave. Suite 1600  
7:30-8:30 a.m.

The MBA hosts the sixth annual "Bench Bar and Bagels." 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: \$10.



Please RSVP to Kathy Modie,  
kathy@mbabar.org.

## mba | CLE

To register for a CLE, please see page 3 or go to [mbabar.org](http://mbabar.org) and log in as a member to register at the member rate.

### NOVEMBER

**11.5 Wednesday**  
**Child Abuse Reporting**  
Amber Hollister  
Joe O'Leary

**11.12 Wednesday**  
**A Litigator's Guide to Preservation**  
Kathryn Clarke  
Meagan Flynn

**11.18 Tuesday**  
**The Portland Harbor Superfund Site Demystified**  
Max Miller  
J.W. Ring

### DECEMBER

**12.2 Tuesday**  
**Using Technology to Eliminate, Automate, Delegate, Do**  
Tom Howe

**12.3 Wednesday**  
**Sports Law: Winning Strategies**  
Paul Loving  
Michael Phillips  
Stephanie Vardavas

**12.9 Tuesday**  
**Nontraditional Law Practices The New Frontier**  
Sheila Blackford  
Helen Hirschbiel

**12.18 Thursday**  
**Fire & Other First-Party Insurance Claims**  
Doug Bragg  
Rob May  
Fred Millard

### JANUARY

**1.14 Wednesday**  
**Mandatory Training to Become a Multnomah County Arbitrator**  
Presiding Judge Nan Waller

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**DEADLINE for copy:** The 10th of the month\*  
**DEADLINE for ads:** The 12th of the month\*

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

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## 5th Annual MBF Fall Social Celebrates Civic Engagement

by Pamela Hubbs  
Office and Foundation Administrator

The MBF celebrated its 2014 grant recipients, civic engagement supporters and a successful CourtCare campaign at the October event, generously hosted by Davis Wright Tremaine. MBF President Tim Volpert awarded CourtCare campaign trophies to Buchanan Angeli Altschul & Sullivan for the most CourtCare funds raised per capita from a firm, and to Davis Wright Tremaine for the firm that raised the most in total contributions.

Guests included the legal community and law students, representatives from grant recipients, including the Bus Project Foundation, Classroom Law Project, League of Women Voters of Oregon, the MBA YLS Service to the Public Committee, MetroEast Community Media, Sponsors Organized to Assist Refugees, and Volunteers of America Oregon, which operates Multnomah CourtCare for the MBA.

Visit [www.mbabar.org](http://www.mbabar.org) or contact Pamela Hubbs at 503.222.3275 to learn more about the MBF.



Dana Sullivan accepts the CourtCare trophy on behalf of Buchanan Angeli Altschul & Sullivan; pictured with Tim Volpert



Paul Southwick accepts the CourtCare trophy from Tim Volpert on behalf of Davis Wright Tremaine



Paige Lancourt and Rebecca Gladstone of League of Women Voters of Oregon with Attorney General Ellen Rosenblum

## Free Event Publicity

When the MBA's most recent website launched, it included a unique feature: the ability for law-related organizations and nonprofits to add their social events to the MBA online calendar.

The idea behind the MBA offering other organizations the ability to access our online calendar was to create **one** site where all law-related events could be listed to help prevent conflicts.

Please consider adding your social events to the MBA online calendar at the following link: [mbabar.org/Calendar/SubmitAnEvent.html](http://mbabar.org/Calendar/SubmitAnEvent.html). Or, you may contact the MBA by emailing us at [mba@mbabar.org](mailto:mba@mbabar.org) to add your item to our online calendar.



# 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

**11.6 Thursday**  
USDC Historical Society Annual Dinner  
Visit [www.usdchs.org](http://www.usdchs.org) for details

**11.8 Saturday**  
Youth Rights & Justice Wine & Chocolate Extravaganza  
Visit [www.youthrightsjustice.org](http://www.youthrightsjustice.org) for details

**11.13 Thursday**  
Bench Bar & Bagels  
See p. 1 for details

**11.19 Wednesday**  
New Admittee Social  
See p. 12 for details

**11.27-28 Thursday-Friday**  
Thanksgiving Holiday

## DECEMBER

**12.3 Wednesday**  
YLS Lunch & Learn  
See p. 12 for details

**12.4 Thursday**  
OSB Award Luncheon  
Visit [www.osbar.org](http://www.osbar.org) for details

**12.5 Friday**  
Mentor Program sign ups due

**12.10 Wednesday**  
YLS Drop-In Social & Toy Drive  
See p. 12 for details

**12.14 Sunday**  
YLS Zoolights  
Visit [www.mbabar.org](http://www.mbabar.org) for details

**12.25-26 Thursday-Friday**  
Christmas Holiday

## 2014 Battle of the Lawyer Bands a Great Success

The McMenamens Kennedy School gymnasium was rockin' on October 2 when six bands competed for the title of "Best Oregon Lawyer Band 2014."

- 1. autoRepublic** - Rich Roberson, Kurt Tandan and Tim Glackin
- 2. The Four Hot Kings** - Jack Dekovich, Derek Edmondson, Nate Watson, Curtis Steibel and Toby Bergman
- 3. Giving Dangerously** - Holly Puckett, Sandy Hansberger, Shari Nilsson and Toste Nilsson
- 4. Habeas Corpse** - Tim DeJong, Tony Kullen, Houston Bolles and Maxwell Bolles
- 5. The Painted Teeth** - Christopher Fanning
- 6. Hollowdog** - Jon Martz, Rich Norkunas, Stuart Margolis, Scott Sobel and John McMeekan

The judges and crowd enjoyed all the bands, and in the end Hollowdog was named Best Oregon Lawyer Band 2014. Jack Dekovich of The Four Hot Kings received the James Britt Award for Best Individual Performer.

Thank you to Miller Nash LLP, Schwabe Williamson & Wyatt, Day & Koch LLP and Harrang Long Gary Rudnick P.C. for sponsoring the event.

Thank you to our judges: Judge Cheryl Albrecht, Todd Cleek, Ben Cox, Alice Garrett and Kevin Parks.

And thank you to everyone who attended and helped raise approximately \$1,300 for Multnomah CourtCare.



Hollowdog band members pictured with Battle of the Lawyer Bands M.C. Kellie Johnson

**mba** MEMBER BENEFIT  
Multnomah Bar Association

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Special packages and pricing exclusively for MBA members in solo or small firms.



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.

## Child Abuse Reporting

Wednesday, November 5, 2014  
12:00-1:00 p.m.

World Trade Center  
Auditorium  
26 SW Salmon, Portland  
Members \$35  
Non-members \$55

**Note:** This class will be worth one hour of child abuse reporting credit.

The MBA presents its annual seminar on child abuse reporting requirements. This program is intended to help lawyers meet their legal responsibilities as mandatory reporters, while maintaining their ethical obligations to clients. Questions to be addressed include the following:

- What are the reporting requirements?
- How do I recognize reportable child abuse?
- What is it that I'm really supposed to do?
- What happens if I make a report of abuse?
- What happens if I don't report when I should have?

**Amber Hollister**, Deputy General Counsel of the OSB, and **Joe O'Leary**, Deputy Director of the Oregon Youth Authority will present a lively and practical discussion of the issues.

### For more information:

Call the MBA at 503.222.3275.

## A Litigator's Guide to Preservation

Wednesday, November 12, 2014  
3:00-5:00 p.m.

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

The facts may make or break a case at trial, but the legal rules of preservation can make or break the case on appeal. Whether there's a risk that the other side may appeal a verdict for your client or a fear that a fabulous case may fail because of a bad ruling by the trial judge, a trial court judgment is not always the end. Effective litigators need to understand the key requirements for preserving the ability to challenge trial rulings on appeal. Join appellate attorneys **Kathryn Clarke** and **Meagan Flynn** for this informative discussion.

### For more information:

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

## The Portland Harbor Superfund Site Demystified

Tuesday, November 18, 2014  
3:00-5:00 p.m.

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

Whether you are a business litigator or a transactional lawyer, your clients and practice may be impacted by the Portland Harbor Superfund Site, one of the largest and most complex Superfund sites in the country. Join two distinguished environmental law practitioners, **Max Miller**, Tonkon Torp and **J.W. Ring**, Ring Bender, who will demystify the law and the science behind this site and give practical insights into how the assessment of liability and the selection of the remedy may impact a broad range of businesses.

### For more information:

Call Seth Row, Parsons Farnell & Grein LLP at 503.222.1812. For registration questions, call the MBA at 503.222.3275.

## The Lifestyle Lawyer: Using Technology to Eliminate, Automate, Delegate, Do

Tuesday, December 2, 2014  
3:00-5:00 p.m.

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

Successful lawyers use technology and manage their time effectively to reach their goals. While efficiency is important, effectiveness is the key! See how technology can increase your productivity, and how to choose the right system for your law firm. Learn essential ways to manage time to help you get more done and be more effective. Benefit from valuable tips and strategies to become a high performer, such as creating a plan, developing habits, eliminating unimportant tasks, learning to say "no," and using computers and smartphones effectively to increase productivity and deal with information overload. Work smart, not hard. Included with this CLE are over 20 Microsoft Word and Excel documents.

A trial lawyer with a deep technical background, **Tom Howe** has over 25 years of experience in law and technology. He is one of the leading e-discovery lawyers in the country, providing legal/technology consulting and expert witness services to some of the largest law firms, corporate legal departments, and e-discovery vendors in the United States. Tom is a regular keynote speaker at legal and technology conferences around the world, and has authored five books on law and technology.

### For more information:

Call the MBA at 503.222.3275.

## Sports Law: Winning Strategies for Representing Athletes & Sports Businesses

Wednesday, December 3, 2014  
3:00-5:00 p.m.

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

The MBA is pleased to present a two-hour sports law program moderated by **Will Glasson** of the University of Oregon. Our panelists will address issues routinely encountered in sports law. Topics to be discussed include:

- Representation of athletes when working with the NCAA, leagues, teams, drug testing agencies, and sponsors
- Representation of leagues and teams
- Representation of manufacturers in negotiations and disputes with other OEMs, athletes, and teams
- Licensing, product liability, import/export, sales channels, Foreign Corrupt Practices Act, confidentiality, and IP (e.g., trademark and branding) issues

Our well-qualified panel of attorney speakers are **Stephanie Vardavas** of Row99.com, **Paul Loving** of The Consul Group, and **Michael Phillips** of Davis Wright Tremaine. Stephanie is a former AGC of both Major League Baseball and Nike, and has 35 years of experience in the sports industry. Paul is Special Counsel at adidas and also represents individuals as well as companies in connection with sports marketing issues. Michael represents domestic and international clients in securities, mergers and acquisitions, general corporate and business law in the life sciences, outdoor recreation, and high tech industries.

### For more information:

Call Sim Rapoport, Attorney at Law at 503.906.3933. For registration questions, call the MBA at 503.222.3275.

**Register using the form on the next page**



## MEMBER BENEFIT

### LawPay

Access to low-fee merchant credit card services. Minimum contract period for MasterCard and Visa services are waived.

## Nontraditional Law Practices The New Frontier

**Tuesday, December 9, 2014  
3:00-5:00 p.m.**

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

**Note: This class is worth 2 hours of ethics credit.**

The legal marketplace is changing. Consumers are now demanding or can only afford limited legal representation. So too is the definition of the workplace. Due to the downturn in the economy or the desire to work independently, lawyers are working from home and/or maintaining virtual offices. In this program, our panelists – **Sheila Blackford** from the Professional Liability Fund, and **Helen Hierschbiel** from the Oregon State Bar, will discuss the ethics and other practical considerations of alternative fee agreements, unbundling of legal services, and working from home and/or maintaining virtual offices.

**For more information:**

Call Sarah Brown, Holtey Law at 503.224.9878.  
For registration questions, call the MBA at 503.222.3275.

## Fire and Other First-Party Insurance Claims

**Thursday, December 18, 2014  
3:00-5:00 p.m.**

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

First Party insurance claims are those made by an insured against his or her own insurance company. Typical examples of first-party claims are those made against a homeowner's insurance policy to recover for losses arising from a fire, theft, water or wind damage, etc. Other examples of first party claims arise from health insurance coverage, business policies, and auto policies. The panel of speakers, **Fred Millard**, **Doug Bragg** and **Rob May** will provide two perspectives on the claim handling process, including review of typical property insurance policies, common coverage issues, presentation of the Claim to the Insurer, the Insurer's investigation, adjustment, and claim denial followed by litigation and/or contractual appraisal. The program will also address under what circumstances the insured is entitled to recover statutory attorney fees and prejudgment interest. We will also discuss statutes of limitation and other conditions and prerequisites that must be met before initiating litigation against an insurer.

**For more information:**

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

## Mandatory Training to Become a Multnomah County Arbitrator

**Wednesday, January 14, 2015  
3:00-5:00 p.m.**

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

Basic training to qualify for Multnomah County Arbitration Panel. Participation is a requirement for inclusion on the list of court appointed arbitrators.

This program will feature Multnomah County **Presiding Judge Nan Waller** and a panel of experienced arbitrators who will explain and discuss the statutes, rules, case law and ethical issues governing court-annexed arbitration in Multnomah County. The program will provide step-by-step advice on scheduling arbitration hearings and dealing with postponements, resolving pre-hearing evidentiary and discovery disputes, handling summary judgment and other pre-hearing motions, conducting arbitration hearings, dealing with attorney fees and costs and preparing and filing arbitration awards.

**For more information:**

Call John Ostrander of Elliott, Ostrander & Preston at 503.224.7656. For registration questions, call the MBA at 503.222.3275.

*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).*

### CLE Registration Form

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

NAME _____	ACCOUNT NUMBER _____
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**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 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.*

**11/5 Child Abuse Reorting**

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- CD-ROM & Written Materials (\$35 Members/\$55 Non) .. \$ \_\_\_\_\_

**11/12 A Litigator's Guide to Preservation**

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- Class Registration (\$55 Members/\$85 Non) ..... \$ \_\_\_\_\_
- CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ \_\_\_\_\_

**11/18 The Portland Harbor Superfund Site Demystified**

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- Class Registration (\$55 Members/\$85 Non) ..... \$ \_\_\_\_\_
- CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ \_\_\_\_\_

**12/2 The Lifestyle Lawyer**

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- Class Registration (\$55 Members/\$85 Non) ..... \$ \_\_\_\_\_
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**12/3 Sports Law**

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- CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ \_\_\_\_\_

**12/9 Nontraditional Law Practices - The New Frontier**

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- Class Registration (\$55 Members/\$85 Non) ..... \$ \_\_\_\_\_
- CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ \_\_\_\_\_


**12/18 Fire and Other First-Party Insurance Claims**

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

**1/14 Mandatory Training to Become a Multnomah County Arbitrator**

- Class Registration Online (\$50 Members/\$80 Non)
- Class Registration (\$55 Members/\$85 Non) ..... \$ \_\_\_\_\_
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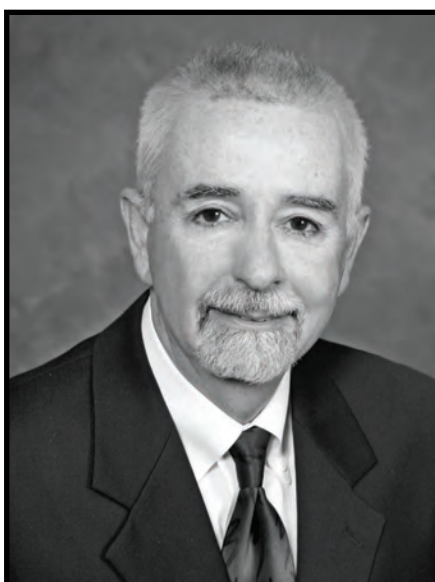
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# mba | ANNOUNCEMENTS

## MBA Board Nominees Sought

As an MBA member who has participated in events and committee service, are you interested in serving on the MBA Board? If so, please contact Executive Director Guy Walden, [guy@mbabar.org](mailto:guy@mbabar.org).

## Take the Multnomah County Central Courthouse Survey

The Multnomah County Board of Commissioners will be making decisions about the new courthouse location, look and functions. The community is asked to participate in the survey at the link below to help provide the commission with much-needed input. [multco.us/central-courthouse/news/take-central-courthouse-community-survey](http://multco.us/central-courthouse/news/take-central-courthouse-community-survey)

## New Free CLE Content for Members

The video webcast of the seminar entitled "Appellate Tips for Success" is now available in the Members Center at [mbabar.org](http://mbabar.org). The seminar is worth two hours of general OSB MCLE credit. MBA members receive access to a rotating selection of six different CLE seminars each year – a \$300 value. The free webcast content is refreshed every two months, so stay tuned!

## Commitment to Professionalism

The recently revised 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 at: [www.mbabar.org/assets/documents/resources/freq-requested/profcertorder.pdf](http://www.mbabar.org/assets/documents/resources/freq-requested/profcertorder.pdf).

## McDowell Rackner & Gibson Receives OWLS Workplace Leader Award

The firm is certified as a Women Business Enterprise by the Oregon Office of Minority, Women and Emerging Small Business. In forming their firm, the partners consciously sought to create a firm that fully reflected their values and identities. They sought to shed some of the hierarchical structures common in traditional law firms, and to create a practice that is more cooperative and collegial. Junior lawyers are encouraged to take on greater responsibility, and to have more client contact as early as possible rather than being hindered by the career and ego needs of the more senior lawyers. They created a work environment where lawyers at all levels of the practice, as well as staff, participate significantly in all types of management decisions on a consensus model, and where all are encouraged to develop their skills in a way that honors their potential.

## Take a Matter that Matters

Sign the 2015 MBA Pro Bono pledge at [www.mbabar.org/about-us/pro-bono.html](http://www.mbabar.org/about-us/pro-bono.html) and commit to taking at least one pro bono case this year.

## 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.

# Top 10 Law Firm Collections Challenges and How to Solve Them

by Frank Strong  
Communications Director,  
Business of Law Software Solutions,  
a division of LexisNexis

In a recent *Legal Talk Network* podcast focused on law firm invoicing and collections, moderator Christopher T. Anderson remarked that upwards of 20% of legal bills are past due. What is it that's contributing to this ongoing law firm collections challenge?

Some data we both collected and presented at a LexisNexis® Juris® User Group meeting may provide useful insight into the causes of past due legal bills. It may also provide some ideas for forming a strategy to reverse this trend.

It's worth noting, the Juris product is a robust legal specific billing, accounting and financial management software – and the user group often consists of industry veterans like Gail Thomas who previously offered these tips and techniques for law firm billing software on this blog.

Please note – that this data was derived from what amounts to a focus group, and customer feedback, rather than survey data (though we're planning a survey on this topic soon). Even so, a handful of industry experts, weighing in based on their experience, are insightful.

So what did this group say were the top 10 contributing factors to law firm collection problems?

**1. Slow to act.** Too slow to take action on past due accounts – and denial the problem even exists in some cases.

**2. Fear of client attrition.** Concern or fear for losing a client (as a result of asking them to pay their bill). As pricing strategist Toby Brown pointed out at an ABA TECHSHOW presentation, many attorneys simply are not comfortable having conversations about fees.

**3. Communications channels.** Slow speed of communication

(think U.S. Mail vs email or electronic billing).

**4. Overconfidence.** Overreliance on process, procedures and software – no system is bulletproof.

**5. Flip side of negotiation.** Too quick to negotiate or accept alternative payments (Mr. Anderson for example, has commented that providing discounts to past due clients is rewarding the behavior).

**6. Firing clients.** Not knowing when to "cut the cord" to a chronically past due client.

**7. Data and analytics.** A lack of reporting analysis – and the inability to identify trends and indications of past due clients.

**8. Documentation.** Failure to track the key steps and activities that comprise a collection process.

**9. Responsibility.** Accountability must extend beyond just the accounting staff.

**10. Adhering to policy.** Implementing a policy or procedure and sticking to it. Other contributing factors this group cited but did not list in the top 10 included:

- a) the assignment of a collections role – that collections "is no one's job,"
- b) a lack of clear policies
- c) procedures are often set by individual partners or billing attorneys, which may lead to variation, as opposed to establishing a firm-level policy.

## How to Develop a Law Firm Collections Strategy

Once a firm becomes cognizant of its collection challenges, the next step is to determine what to do about it. A six step process – the outcome of which is the image presented above – was recommended by one of the conference presenters.

**1. Define the scope of the problem.** This means collecting and analyzing data about client

and billing activities so a firm is aware of what they are dealing with – to "know what you have."

**2. Conduct an internal review.** Even if a partner believes they understand what the issues are, it's worthwhile to interview law firm staff to see if your understanding matches the rest of the law firm's employee understanding. In this step, gaps are usually identified between what should be happening and what is actually happening.

**3. Perform root cause analysis.** This step involves digging into the details of past due accounts – communicating with clients to understand why they haven't paid for legal services rendered. Is the issue financial hardship? A disputed charge? Lack of detail on time entries?

**4. Identify law firm revenue leaks.** Here the process is to understand the law firm's role in the billing practice – are there write downs, write offs or billing adjustments? What do these numbers look like in aggregate by client, staff and the responsible billing attorneys?

**5. Assess resource requirements.** What resources will correcting the problem require? More staff? Different talent? Technology for data tracking, analysis and reporting?

**6. Communicate the findings.** After a thorough review, document both quantities and qualitative findings with graphics and supporting tables that identify:

- Aggregate collection problem
- Future at-risk client accounts
- Other revenue opportunities
- A proposed process workflow
- How the collections process effectiveness will be measured.

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| <p><b>KAISER</b></p> <ul style="list-style-type: none"> <li>• 3 HMO Plans</li> <li>• 1 PPO Plan</li> <li>• 1 H.S.A. Plan</li> <li>• Covers alternative providers</li> </ul>                 | <p><b>Dental and Vision</b></p> <ul style="list-style-type: none"> <li>• MODA (see any dentist)</li> <li>• Willamette Dental</li> <li>• Kaiser Dental</li> <li>• Vision Service Plan (VSP)</li> </ul> |

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## Ethics Focus

### Don't Do This at Home Conflict Waivers for Malpractice

by Mark Fucile  
Fucile & Reising



Although all lawyers are charged with knowing the Rules of Professional Conduct, most lawyers don't deal with conflict waivers every day. Still fewer do so against the backdrop of the always difficult circumstance of possible malpractice. If we think that we may have committed malpractice, we have important regulatory and fiduciary duties to inform the client concerned and to obtain the client's consent if we are to continue on the matter involved. Although errors often trigger understandable embarrassment, this is not a situation where a lawyer can stick his or her respective head in the sand or should be rifling through the firm word processing system for something that looks like the right kind of waiver form.

Oregon lawyers have wise counsel a phone call away at the Professional Liability Fund. The PLF can assist lawyers with both evaluating a particular situation and providing an appropriate template for any required conflict waiver. In this column, we'll first survey the regulatory duties involved and then discuss contacting the PLF.

#### Regulatory Duties

Under RPC 1.4 - the "communication rule" - we have a duty to keep our clients apprised of material developments in their matters. Therefore, if a material "bad" event occurs, we have a responsibility to let our client know and to, in the phraseology of RPC 1.4(b), explain it

"to the extent reasonably necessary to permit the client to make informed decisions[.]" Not all "bad" events, of course, involve malpractice. Simply because a motion was denied, for example, does not in and of itself imply anything about the skill with which the losing side argued. Further, we are permitted a reasonable period of time to evaluate a situation so that we can present the client with both the "bad" event and the range of resulting options in context. At the same time, the Oregon Supreme Court noted in *In re Obert*, 336 Or 640, 89 P3d 1173 (2004), that simply saying nothing is not an option and, at its most extreme, may fester into misrepresentation by omission.

Under RPC 1.7(a)(2) - the "conflict rule" - we have a duty to obtain a conflict waiver from our client if we have committed an arguable material error and wish to continue on the case. Again, not all errors or omissions necessarily trigger a conflict. The Oregon Supreme Court put it this way in *In re Knappenberger*, 337 Or 15, 28, 90 P3d 614 (2004): "Many errors by a lawyer may involve a low risk of harm to the client or a low risk of ultimate liability for the lawyer, thereby vitiating the danger that the lawyer's own interests will endanger his or her exercise of professional judgment on behalf of the client." The Supreme Court in *Knappenberger* declined to draw a bright line on when a conflict waiver is necessary in this context, noting (at 29) that a "conclusion will depend on the facts and circumstances of each case." If that threshold is crossed, however, the OSB in Formal Ethics Opinion 2005-61 concluded that a lawyer must obtain a conflict waiver from the client to continue on the matter.

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#### Contacting the PLF

If we have committed what may arguably be a material error or omission, then we have a contractual duty under Section

VII of the PLF Plan to notify the PLF. The same requirement would typically apply to excess carriers as well. The failure to do so could, in a given situation, put coverage at risk.

Beyond any contractual duties, contacting the PLF can be critical for two other reasons.

First, the PLF can help you gauge the nature of the problem, provide options (including, in some circumstances, "repair counsel") and can assist you in determining whether or not it makes sense to withdraw or stay on. The PLF brings both a wealth of experience and a professional detachment that a lawyer caught in the middle of this kind of problem simply cannot replicate. Under most circumstances, consultation with claims counsel at the PLF will be protected from later discovery by the work product rule and, if outside counsel is appointed, the attorney-client privilege.

Second, if you wish to stay on, the PLF also has a form conflict waiver available on its website. The template contains the "boilerplate" required by RPC 1.7 and points to where the individual lawyer will need to insert his or her explanation of the particular facts involved. The PLF template notes that it is not asking the client to waive any claim. Rather, the template explains that client consent is necessary for the lawyer to remain on the matter. Although some clients change lawyers in this circumstance, others welcome an avenue for a long-serving lawyer to continue.

#### Summing Up

Telling clients about mistakes is never easy. But, in those circumstances, it is essential that we inform our clients and that we use appropriate waivers if it makes sense to stay on the matter concerned.

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## Around the Bar



Adele Ridenour

**Ball Janik**

Adele Ridenour, a litigator in the firm's construction practice, received the University of Oregon's inaugural Outstanding Young Alumnus Award. This award was created to recognize graduates who have made significant career, leadership and/or service contributions to the community, the law school or the legal profession within 10 years after graduation.



Jeffrey Cronn



Steven Wilker



Melina LaMorticella

**Tonkon Torp**

Firm partner Jeffrey Cronn has been elected to the board of directors of Oregon Humanities. Cronn chairs the firm's business department. His practice emphasizes merger and acquisition transactions, and corporate and business matters.

Litigator Steven Wilker has been elected to the Classroom Law Project's Board of Directors. His legal practice includes civil and constitutional law, intellectual property, information privacy and security, financial services, media technology law and complex commercial litigation.

Melina LaMorticella joined the business immigration practice group. She represents regional and international companies in employment-based immigration and naturalization matters.

Matthew Joseph has also joined the business immigration practice group. He has been a member of the firm's business department.



Emily Shults

**Bullard Law**

Emily Shults has made partner at the firm. Her practice focuses on litigation defense, employee management and training.



Bill Miner

**Davis Wright Tremaine**

Bill Miner has been named partner-in-charge of the firm's Portland office.



Thomas Sondag

**Lane Powell**

Thomas Sondag is firm vice-president. His practice focuses on appellate litigation, representing clients in state and federal courts. He chairs the firm's appellate practice group and the Portland litigation group.

**Miller Nash**

The firm will combine with Graham & Dunn, with offices in Seattle, Washington and Long Beach, California, effective January 1, 2015. Graham & Dunn was founded in 1890 and represents businesses all across major industries. The combined firm, Miller Nash Graham & Dunn, will have offices in all three west coast states, offering clients expanded services.



Brittany Medlin

**Dunn Carney**

Brittany Medlin has joined the firm as a business attorney. Her practice will focus on business and commercial law, and real estate and estate planning law.



Christopher Ray

**Fitzwater Meyer Hollis & Marmion**

Christopher Ray has joined the firm as an associate. His practice will focus on Medicaid, special needs trusts, and guardianship and conservatorship issues.



Julie Vacura

**Larkins Vacura**

Larkins Vacura is delighted to announce and celebrate the induction of Julie Vacura into the American College of Trial Lawyers, an honor given to only the top 1% of attorneys in any state in the nation. The firm is proud of her continued successes in the courtroom and equally proud of her many peer recognitions.

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

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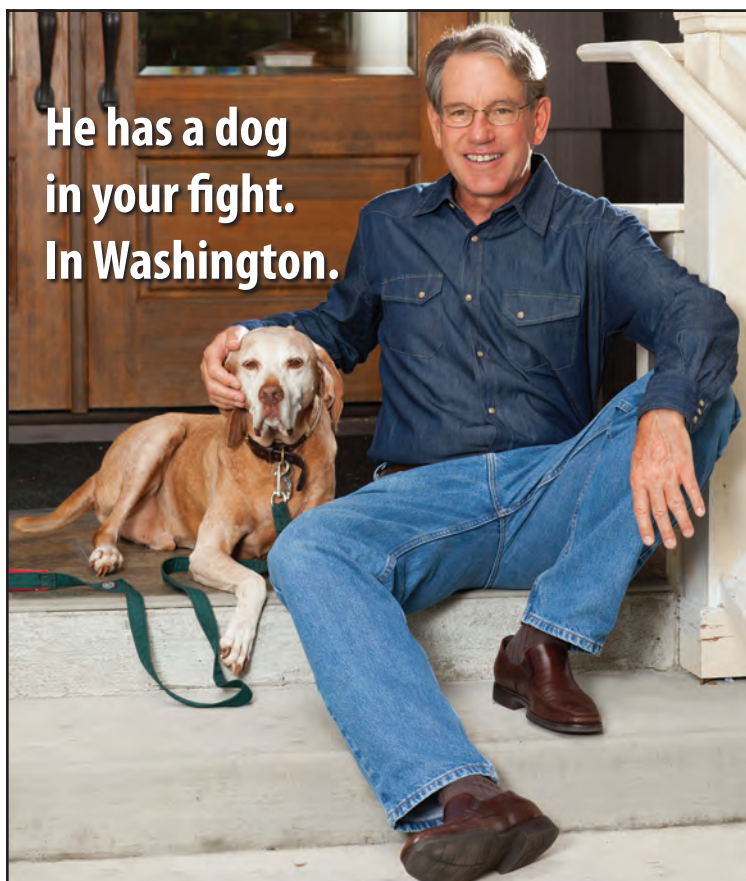


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## Tips From the Bench

by Judge Katherine Tennyson  
Multnomah County Circuit Court

Probate has an almost deserved reputation for being rather static. It is true that many of the leading authorities reside in very dusty reporters in my chambers; however, there are several big innovations presently occurring or about to occur in Multnomah County and you should be aware of them.



### Guardianship Monitoring Program

With the passage of HB 4114 in the 2014 legislature, judges now have clear authority in conservator/guardian cases to appoint volunteer monitors to independently confirm that fiduciaries are meeting their obligations to protected persons. Before passage of this bill, the Multnomah County Court and Special Advocates for Vulnerable Oregonians conducted a pilot project involving 21 cases. The results were astounding, in that approximately 35% of these cases needed the attention of the court, including removal and replacement of the guardian in three cases. Judge Waller has now signed the required presiding judge's order establishing the program for our county. If you represent a guardian, expect to see a volunteer monitor on one of your cases soon.

### Fiduciary Class

Non-professional fiduciaries are the frequent objects of negative attention from the court, based upon the mistakes they make in performance of their duties. In a proactive effort to both avoid those mistakes and engender better performance by fiduciaries, an educational requirement is now part of the appointment process. This requirement will be phased in in two parts. As of July 15, all newly-appointed guardians and conservators and any previously-appointed guardians and conservators who are the subject of the county's show cause process are required to take the class. Once the new supplemental local rules take effect in February 2015, this requirement will be applicable to all case types, including personal representatives and court appointed trustees. This

type of educational requirement is not novel; indeed, Idaho and Washington already require a class. However, clients cannot meet this requirement by taking a class in another state. As a result, your clients can access the class both in person and online.

### eFile and Serve

The eCourt conversion continues apace and we are all adjusting to and beginning to thrive in the new way of doing business. Here are some tips from the probate department staff to assist you as you adapt to File & Serve:

1. Cover letters are not eFiled with the pleadings, so anything of substance previously conveyed in a letter must be eFiled in declaration or affidavit form.
2. Do not eFile separate pleadings in one "batch." These bundles cannot be separated on our end. For example, if you submit an order with other documents, the order cannot be separated and processed. It is best to submit each document with a case caption separately.
3. Do not file exhibits to pleadings in landscape (sideways) format as we cannot rotate them. Make sure your documents are properly imaged so that they are readable.
4. Use the correct case number and include a case number in "envelopes" of documents. If a document is submitted without a case number on the envelope, it creates a whole new file and is a mess to correct.
5. You must correctly label the documents you file. Accuracy is necessary so that the documents are entered into the case properly, and to avoid unnecessary fee assessments.



## News from the Courthouse

by Renee Stineman  
Court Liaison Committee

### Presiding Judge's Report and Courthouse Update

#### New Courthouse

Judge Waller reported that the site nomination process for the new courthouse location had closed on September 22. The county is evaluating the proposed sites, but there will be no announcement for several weeks on potential locations.

A cross-governmental group has been formed to support the new courthouse project. The group consists of legislative, executive and judicial branch representation from the state and the county level. The group is co-chaired by Rep. Jennifer Williamson and Sen. Chuck Thomsen. The purpose of the group is to keep all decision makers for the new courthouse's funding and construction informed and involved on the project.

The next stage in the new courthouse design process is under way. With the completion of the Program Plan by the National Center for State Courts in August, Day CPM Services, the county's owner's representative, with HDR Architects, will begin the "reference design" phase. The reference design "blocks and stacks" the program space allocations in a hypothetical

structure on a hypothetical site to determine both fit and relative location in a new courthouse structure. From the reference design work, there will be initial indications of the size of the facility and number of floors required.

There is an assumed spending limit on the new courthouse of \$250 million. This is a limit of what will be funded within state and county resources. With this cap on the project, not all functions contained in the program plan can be located in a new courthouse structure. Currently, the district attorney's office and the circuit court programs for parking, traffic, small claims and landlord-tenant cases are outside of the new courthouse functional plan, to fit within the \$250 million dollar expenditure limit.

Judge Waller said that there is some political risk that the state bond partial funding created in 2013 for new or remodeled courthouses will not maintain legislative support. She said that during the 2015 session there may be a need for the MBA to take an active role in supporting this legislative commitment to the new courthouse.

Judge Waller encouraged MBA members to take the Multnomah County Survey on the new courthouse. The survey is located at [multco.us/central-courthouse/news/take-central-courthouse-community-survey](http://multco.us/central-courthouse/news/take-central-courthouse-community-survey). Over 1,000 responses to the survey have been received to date.

### Other News

**Civil docket:** All civil cases are being sent out for trial on the assigned trial date. Currently, there are four to five civil matters going to trial per week in Multnomah County. Trials are starting on the scheduled dates; judges are available to try civil cases. The new date-certain civil scheduling process is working very well. Be aware that a "date-certain" trial date selected at a trial readiness conference is a date-certain; there are no more "regular course" set-overs.

**Criminal docket:** The court continues to work on the Justice Reinvestment Project, which provides incentives to counties to reduce prison population by helping judges make informed decisions up front about risk assessment, to get people into the proper services, and help them within the community.

**eFiling:** UTCR changes have been made relating to eFiling. These changes are available on the Multnomah County Circuit Court website. December 1 is the date on which eFiling becomes mandatory for all OSB members in the counties with File & Serve in operation. Training is available; see the Multnomah County Circuit Court website for dates and links to File & Serve training and document resources.

## NOTICE TO JUDGE PRO TEM APPLICANTS

The MBA Judicial Screening Committee reviews applications for Multnomah County pro tem and fulltime judicial candidates. The committee typically meets the third Tuesdays of September through May or June. It does not meet during the summer.

Pro tem renewal candidates are asked to submit their applications at least three months (preferably four) in advance of the expiration date of their current appointments so that the committee may complete its work in a timely manner. The pro tem applicants are screened, and the committee's recommendations are sent to the presiding judge, who forwards her recommendation along with the application materials to the Supreme Court for consideration at a regular meeting.

There are two forms for pro tem candidates to complete; both may be obtained by visiting [www.mbabar.org/Resources/FrequentlyRequestedDocuments.html](http://www.mbabar.org/Resources/FrequentlyRequestedDocuments.html) or by emailing Carol Hawkins at [carol@mbabar.org](mailto:carol@mbabar.org).



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# Multnomah Bar Foundation for Trial Lawyers

## The Message and the Messenger

by Charles S. Tauman



This column is written for trial lawyers - those of us who spend our time (and make our living) predominantly in the trial courts. While we are certainly not "better" or "more active" or "more civic minded" than other lawyers, our interests at times differ, at least as to priorities. Our priorities tend to focus on the justice system. The credibility (and therefore, success) of what we do depends, in a large part, on the credibility of the justice system, in particular, the credibility of the judges and structures that make the system run. It is axiomatic that the credibility of lawyers as a group - and trial lawyers as a subset - is not especially high these days. While we may have a great product to sell (Oregon's justice system), we are not the best sales people to effectively communicate the message - and that's where the Multnomah Bar Foundation comes in.

The MBF has two somewhat co-equal priorities: (1) CourtCare - the unique system in the Multnomah County courthouses that provides drop-in childcare services to anyone using the courthouse: parties, witnesses, jurors and, yes, even lawyers and (2) Civic Engagement - grants and programs to improve the credibility of Oregon's civic life (with emphasis on reaching young people).

CourtCare is a wonderfully useful service to the bench, bar and citizenry whose life circumstances brought them to the courthouse. Established in 2001, it's free, open to all and provides a safe, professional and nurturing environment to children of trial participants whose options are limited (often to plopping their children in the back of the courtroom where they may witness parts of life from which we, as a society, seek to shield them). CourtCare's benefits to trial lawyers are obvious. It eases the minds of parties, witnesses and jurors; it keeps children with their inevitable distractions out of the courtrooms; and it minimizes the trauma that court appearances can cause young children. It's a great and innovative program run by professionals and financed, in large part, by your donations to the MBF. It sends judges, courthouse participants and the public-at-large a critical message - that government can accomplish some

of its most important business without unnecessarily disrupting (and at times, scarring) the lives of parents and children. Learn more about CourtCare and its recent expansion to the East County Courthouse at [www.mbar.org/foundation/courtcare.html](http://www.mbar.org/foundation/courtcare.html).

The MBF Civic Engagement program really has two parts. One is the initiatives of the MBF itself. The MBF has produced a video series on democracy issues covering the themes of voter registration and the importance of being an informed voter, civic engagement, responsible civil discourse, what goes on in the courthouse, impartial courts, rule of law, the balance of powers and the various kinds of courts and how they fit into public safety. All told, the MBF has produced five videos suitable for showing on TV, in classrooms and before civic organization audiences - either with or without a moderator.

Of particular importance are two productions, *The Courthouse* and *The Court System* which took top honors at the 2012 National Association of Telecommunications Officers and Advisors Government Programming Awards. *The Court System* was awarded first place in the "Public Education" category and *The Courthouse* was awarded second place in the "Community Awareness" category. *Voting 101*, a short video and PSA in one, was awarded first place in the "Democracy in Action" category at the 2013 Hometown Media Awards, a national competition that recognizes the best in community media programming. All videos are accessible on the MBF website at [mbar.org/foundation/civic-education.html](http://mbar.org/foundation/civic-education.html). Currently, the foundation is concentrating its efforts on the distribution and dissemination of these high-quality videos - to middle schools and high schools and to civic groups in the Portland area. You can help in that effort if you have connections with such organizations - your child's school or a civic group to which you belong. Just let us know, make the connection and we'll do the rest.

The other major (and continuing) effort of the MBF is the grants program. The MBF makes grants to local civic organizations to support programs that support and further civic engagement by Oregon citizens, engagement that reflects positively on the justice system. A review of a few of the grants provided this year and last shows how our work engages great messengers in disseminating the important messages required to engender the respect and credibility Oregon's justice system so richly deserves.

Elders in Action received \$8,000 for Basics of Civics 101 to teach older adults in underserved communities the fundamentals of civic life and government including the justice system.

Sponsors Organized to Assist Refugees received \$4,000 for its Voter Education Project to teach low-income, newly naturalized citizens about the democratic process and voting in Oregon.

Northwest Family Services received \$2,500 for its "Four Cities Peer Court," a restorative justice program for low-level first time youth offenders where volunteer teens serve as peer attorneys and jury members.

Bus Project Foundation received \$8,000 for Democracy Cup to support a competition to teach high school students about the legal system and voting - including voting registration.

League of Women Voters received \$4,000 to produce the monthly series, "Government in Our Daily Lives," with expert panelists examining the legal, political, economic and social aspects of our justice system. The programs are public, televised and available online.

Classroom Law Project received \$9,000 for the Mock Trial project and its acclaimed "We the People: The Citizen & the Constitution" program.

MetroEast Community Media received \$4,000 to produce a Spanish language video/PSA promoting civic education, democracy and the justice system.

All MBF grants over the last nine years can be reviewed at [www.mbar.org/foundation/grants/html](http://www.mbar.org/foundation/grants/html).

And the ingenious thing about the MBF grants is that they provide the precise message needed to improve the public opinion environment and citizen commitment to the justice system from the precise messengers who themselves have the most credibility with their audiences. While the beneficiaries of the MBF grants may at first appear to be the grantees themselves (and, of course, the relationship between the practicing bar and those organizations), viewed in a broader perspective, the real beneficiaries are the trial lawyers whose very existence (or at least success) depends on the justice system's viability and credibility. These grants engage ordinary citizens in justice issues, keep them informed about the benefits of a strong, independent judiciary and persuade them that Oregon's judges and court system are (1) working, (2) fair and open and (3) worthy of supporting at the ballot box. This is a message that money can't buy. Just kidding: YOUR money can help get the best messengers to disseminate the best messages. And now for the ask.

The MBF is organizing a year-end campaign directed specifically to trial lawyers (and other solo and small firms). Had a good year this year? Looking for a tax-deductible year-end

# New Multnomah County Courthouse

## NOW is our chance to weigh in

by Renee Stineman

Court Liaison Committee



Multnomah County is replacing its central courthouse (currently located on SW 4<sup>th</sup> Ave.). The existing courthouse was built about 100 years ago, when the county population was a fraction of what it is today. The courthouse is now structurally unsound and functionally obsolete. Learn more about concerns with the existing courthouse at: <https://multco.us/central-courthouse/multnomah-county-courthouse-faq>.

Discussions about the need for a new courthouse began decades ago. The project finally gained momentum in 2013, when the legislature committed to \$15,000,000 in initial funding for the project. After initial funding approval, the Multnomah County Board of Commissioners contracted with the National Center for State Courts (NCSC) to assist with studying long-term needs and planning for the new courthouse. NCSC's report is available at: [courts.oregon.gov/Multnomah/docs/AboutUs/NewMultnomahCountyCourtHouseNCSCFinalReport.pdf](http://courts.oregon.gov/Multnomah/docs/AboutUs/NewMultnomahCountyCourtHouseNCSCFinalReport.pdf).

Based on NCSC's research and recommendations, it is expected that a number of offices and certain high traffic courts currently located within the central courthouse will be located outside of the new courthouse. This change will allow for a smaller courthouse and will reduce construction costs.

The State of Oregon and Multnomah County will split the cost of construction for the courthouse equally. The

plan for funding this joint obligation continues to evolve. Most recently, the Multnomah County Board of Commissioners approved an Interim Intergovernmental Agreement with the Oregon Department of Administrative Services. This agreement provides that the state's portion of the construction be funded through various bond sales projects occurring between 2015 and 2019.

The search for a site for the new courthouse is currently underway. The decision makers are not yet focused on a specific location; however, the general area for the courthouse has been limited to the area bounded on the west by I-405, on the south by the Ross Island Bridge, on the east by 12<sup>th</sup> Ave. and on the north by the Broadway Bridge. The county issued a request for information, seeking information about development opportunities for the new courthouse. The deadline for responses was September 22. It is expected a site will be selected by the end of this year.

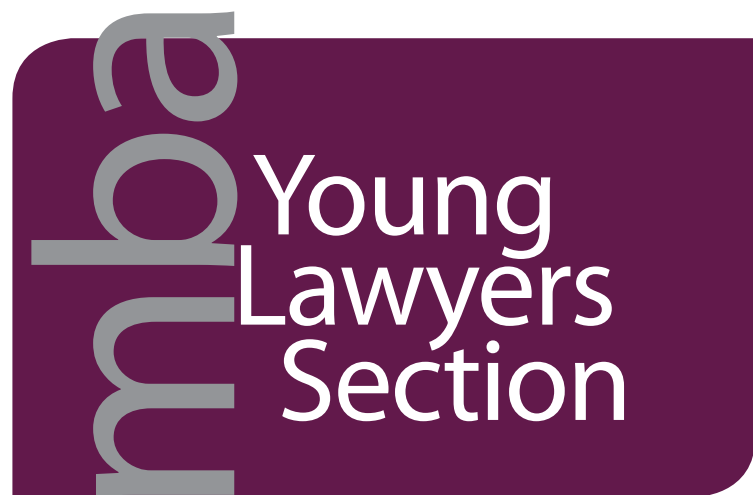
The planners for the new courthouse encourage everyone to take the central courthouse community survey at [multco.us/central-courthouse/news/take-central-courthouse-community-survey](http://multco.us/central-courthouse/news/take-central-courthouse-community-survey). The survey, which takes less than five minutes to complete, is intended to gather opinions from a cross-section of the community, lawyers and non-lawyers alike. So far, more than 1,000 responses to the survey have been received. The survey questions focus on topics including courthouse location, amenities and appearance. At the end, survey-takers are invited to write in comments. The responses to the survey will assist the planners in their next steps of this project, which include selecting a site and developing a design for the new courthouse.

The anticipated completion date for the new courthouse remains in the first half of 2020.

contribution - one that will really make a difference in your life and in your practice? Look no further than the MBF. Please respond positively and generously to this campaign. When you get your letter, email and/or call from the MBF, please give what you can. Give because it's what's best for your practice, give because it's what's best for Oregon judges, give because it's helping to build the type of society and culture that we all want to live and to practice in. You can donate

easily and painlessly online for CourtCare at [www.mbar.org/foundation/donate-to-courtcare.html](http://www.mbar.org/foundation/donate-to-courtcare.html) and for Civic Education at [www.mbar.org/foundation/donate-to-civic-education-fund.html](http://www.mbar.org/foundation/donate-to-civic-education-fund.html). And did I mention that contributions to the MBF are tax-deductible?

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# Young Lawyers Section

## Ask the Partner

Dear Partner,

How were you able to maintain a work/life balance as your career developed and transitioned?

Associate

Dear Associate,

You probably learned first-hand in law school that maintaining a school/life balance isn't easy. Now that you're an associate, maintaining a work/life balance can be even more difficult. In fact, there's no "can," no mere possibility: Day in and day out, it is more difficult, plain and simple.

Since working in a law firm can be a very trying environment [Ed. Note: pun very obviously intended,] stress runs high on a daily basis and can be felt throughout the firm, from the managing partner all the way to the new temp. Our clients require that we work hard and consistently perform up to their expectations, so we have to require of ourselves and each other that we all maintain that high level of productivity and consistently high quality work product, and all that effort does not come without cost.

The firm can also be a very competitive place, especially for an associate. You're relatively new to all of this, and as an associate you're not only working collaboratively with the partners, staff, and other associates, but you're also competing each and every day, both with the other associates in your class and, more importantly, with yourself.

If you want to strike a solid, healthy work/life balance, the first question to ask is of yourself, and it should be: "Is this for me?" Despite your current situation, the question requires a good deal of consideration and introspection. If the answer is "yes," then you should be able to support your answer with a sufficient response to the follow-up question: "Why?" You don't need to convince anyone else - you're already hired, you're

here, you've earned this career opportunity - but it's important to be absolutely honest with yourself. If you can't, you are quite frankly very likely to burn out and move on to something else - either another firm or another career, one way or another - and be miserable in the meantime.

Assuming you're in the right place to begin with, the question becomes how to deal with all the stress and put in all the hours while also maintaining your own peace of mind.

The answer is actually much more simple than you may realize: **Set priorities.**

Work is a priority. Your family is a priority. For nearly everyone, those are the two most important factors in your life to not merely deal with, but to actively consider and attend to on a daily basis. Finding time for even these two priorities can be difficult at times, but working efficiently, scheduling effectively, and communicating diligently can help you to keep with the priorities you've set.

Beyond work and family, everyone is different and has a variety of different interests and activities that keep us motivated and happy. Once you've triaged whatever activities or interests are important to you, coordinating and scheduling your time commitments among those priorities becomes imperative.

Here at the office, with an 1,800 billable hour requirement, we expect you to devote a large amount of your time to work. If you're spending all that time here anyway, however, there are some things you can do to make the best of it: Sit in a comfortable chair. Listen to music. Exercise regularly. Stretch frequently. Take the stairs occasionally. Tell jokes. Eat healthy meals. Drink water. And, most importantly, work diligently and efficiently so you can spend more time out of the office.

Partner

## Kimberly McCullough YLS Member Spotlight

by Benjamin Cox  
YLS Board Director

Kimberly McCullough is one of those people who manages to accomplish so much, she may just be superhuman.

After receiving her undergraduate degree from the University of Washington in 1999, she worked in Yellowstone National Park and led ski and mountain adventures in Telluride. She taught English in Guangzhou, China, for a year before working several years as a paralegal at Ball Janik. After a secretary encouraged her to attend law school, she realized practicing law was her calling. She graduated cum laude from Lewis & Clark Law School in 2013 and began as an associate with Davis Wright Tremaine.

When she's not working with DWT's litigation group, she staffs the legal clinic at Outside/In, a social service agency for homeless youth, and volunteers her time with ACLU of Oregon and the MBA YLS Pro Bono Committee. She also serves on the board of Lewis & Clark's Oregon Justice Resource Center (OJRC), which assists with trial and appellate litigation on behalf of low-income defendants and prisoners.

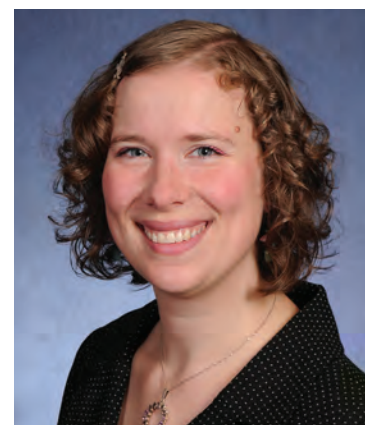
McCullough credits DWT with actively encouraging her volunteer work. "DWT fosters a culture of

giving back to the community and rewards us for our efforts. I'm incredibly proud to work at a firm that truly values pro bono and community service."

McCullough's work with ORJC led to her helping to establish the Oregon Innocence Project (OIP) in 2014, a joint project with the Metropolitan Public Defender. Oregon had been the only state lacking such an organization dedicated to overturning wrongful criminal convictions. Beyond volunteering to make OIP a reality, McCullough attended the Innocence Network 2014 National Conference, featuring inspiring presentations from Innocence Project co-founder Barry Scheck, as well as from other advocates and exonerated prisoners.

While serving on Lewis & Clark's *Law Review*, Kimberly authored a Comment discussing the right to record police activity. Published just prior to the police killing in Ferguson, Missouri, that touched off protests and drew national and international attention to the issue, her article has since been promoted by the National Press Photographer's Association and may be found at <http://bit.ly/1sdC4JJ>.

I asked Kimberly for her recommendations for lawyers



Kimberly McCullough

interested in volunteering but unsure of where or how to start. "The OSB and MBA websites both have a lot of great opportunities listed. Pick something you really care about. That helps with motivation. And figure out a way to get time blocked off for pro bono on your schedule. You have to either make it habitual, or treat it like your normal work and set deadlines, otherwise it will keep getting pushed to the side. It may take time, but it is so rewarding that you'll be happy you made it happen."

McCullough lives in northeast Portland with her husband Matt, who volunteers with ACLU of Oregon, provides music instruction to juvenile offenders, and staffs Lines for Life. When she isn't working, Kim crafts, dances, DJ's, and spends time in nature. What would she do with a few extra hours in her day? "Advocacy work for artists and musicians."

## YLS Upcoming Events

**New Admittee Social**  
Wednesday, November 19  
Red Star Tavern  
503 SW Alder St.  
5:30-7:30 p.m.

The YLS Membership Committee will host a social on November 19 from 5-7 p.m. at Red Star Tavern to welcome lawyers who have recently been admitted to the OSB.

Appetizers and refreshments will be provided. Please bring your colleagues and join us to meet and welcome the newly-admitted attorneys. Attendance is free - to register, contact Ryan Mosier, 503.222.3275 or [ryan@mbabar.org](mailto:ryan@mbabar.org).

**Lunch & Learn with the YLS**  
Wednesday, December 3  
Bottle + Kitchen at Hotel Rose  
50 SW Morrison St.  
12-1 p.m.

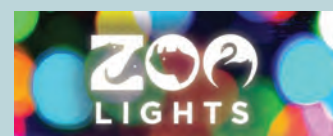
The lunch will provide great networking, and a presentation from Judge Henry Kantor, Multnomah County Circuit Court, about everything young lawyers need to know about appearing in Multnomah County Court. Cost is \$20 and includes a lovely lunch and dessert. Hotel Rose provides free valet parking. To register, please contact Shannon West, 503.222.3275 or [shannon@mbabar.org](mailto:shannon@mbabar.org).



**YLS Drop-in Social & Toy Drive**  
Wednesday, December 10  
Portland Prime  
121 SW Alder St.  
5-7 p.m.

Celebrate the Season and mingle with your fellow Young Lawyers. Please bring a new unwrapped toy for Toys for Tots and help bring holiday cheer to children in our area. No RSVP is necessary.

**YLS visits Zoolights and Portland Children's Museum**  
Sunday, December 14  
4015 SW Canyon Rd.  
5:30-7:30 p.m.



Come join the MBA and YLS at the Portland Children's Museum and the Oregon Zoo for ZooLights. This event is open to all ages. The fun starts at the Children's Museum across the parking lot from the zoo entrance. Refreshments will be provided before heading over to the zoo to enjoy the lights.

## Multnomah Circuit Court's Volunteer Attorney Program

by Bradley Krupicka  
YLS Pro Bono Committee

This month, the Multnomah County Circuit Court's Volunteer Attorney Program celebrates two years of partnership with the ONLD Practical Skills through Public Service Program (PSPS) and is seeking new applicants.

The Volunteer Attorney Program has provided invaluable experience for many new and young Oregon attorneys while they look for full-time legal positions. Under the supervision of Multnomah County Circuit Court judges and judicial clerks, the volunteer attorneys perform research on a variety of legal issues for active civil and criminal cases. The volunteers analyze the motion briefs, write bench memos, and attend judicial hearings where the issues are argued and decided.

Generally, the volunteer attorney and the supervising judge discuss the volunteer's work, the parties' arguments, and ultimately the judge's ruling. Often there is also an opportunity for the volunteer to draft the order that becomes part of the case record. During the program's initial two years, a dozen volunteers have written over 100 bench memoranda for sitting circuit court judges.

The program provides not only an opportunity for volunteer attorneys to hone their research, writing, and advocacy skills, but also to gain a better understanding of how the local court system works - a practical benefit typically gained only through many years of courtroom experience.

While a unique and invaluable legal experience for newer attorneys, the Volunteer Attorney Program also aims to foster interest in public interest work throughout the bar.

According to current volunteer Sam Walton, the program "opened my eyes to the breadth of services offered by the court, and the various programs aimed at rehabilitation rather than punishment. Programs like Success Through Accountability Restitution & Treatment Court and the DUI Intensive Supervision Program kept me inspired and reminded me why I chose to go to law school in the first place."

## 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.mbabar.org](http://www.mbabar.org) and are due to the MBA by December 5. Mentoring matches will be made in Decem-

ber. Of course, the program also provides newer attorneys an opportunity to interact and network with judges and seasoned practitioners in a substantive, professional setting, and some volunteers have secured judicial clerkships and firm positions on the strength of their experience.

According to former volunteer attorney and current judicial clerk Lauren Moser, "the skills I learned during my time volunteering were invaluable and, I'm sure, one of the reasons I was hired full-time."

The program does not require a lengthy commitment, as it works with individual volunteers' schedules. Generally ranging from 20 to 40 hours per week for a few months, the volunteer attorney experience can be a great springboard for those looking to develop skills and experience in Multnomah County before parlaying it into their next opportunity and moving on.

### Curious about the Volunteer Attorney Program at our Courthouse?

Feel free to contact the three volunteer supervisors at any time. Current contacts include:

- Lauren Moser, [Lauren.R.Moser@ojd.state.or.us](mailto:Lauren.R.Moser@ojd.state.or.us)
- Sean Pank, [Sean.M.Pank@ojd.state.or.us](mailto:Sean.M.Pank@ojd.state.or.us)
- Shannon Beutel, [Shannon.M.Beutel@ojd.state.or.us](mailto:Shannon.M.Beutel@ojd.state.or.us)

### Know a Young Lawyer who may want to Volunteer with PSPS?

For more information about volunteering, send interested OSB admittees to [www.osbar.org/onld/practicalskills.html](http://www.osbar.org/onld/practicalskills.html). PSPS accepts applications year-round. To complete an application, the new attorney will send the following to [ONLD@osbar.org](mailto:ONLD@osbar.org):

- Contact information – including name, phone number and email address
- OSB number
- Cover letter describing your interest in the PSPS program
- Resume

ber. A 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@mbabar.org](mailto:kathy@mbabar.org) or 503.222.3275.

## YLS Pro Bono Pedal

More than 50 riders turned out to participate in the 4th Annual Pro Bono Pedal fundraiser held on Saturday, September 20. Following the 12-mile ride around East Portland, everyone joined the after-party at Velo Cult Tavern & Bike Shop for refreshments. Thank you to our riders and volunteers for making this another successful year.

The YLS Pro Bono Committee would also like to thank the following sponsors for their generous support:


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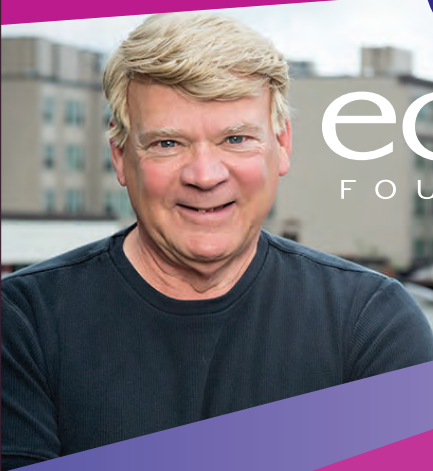
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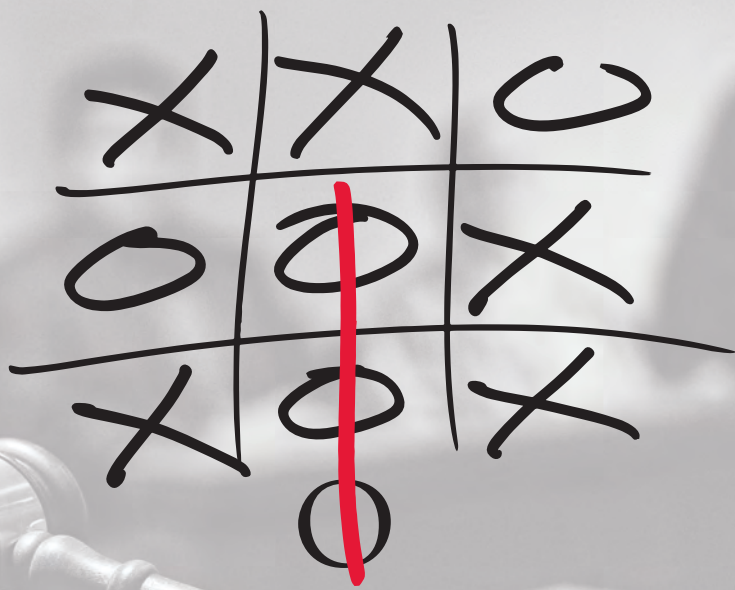
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## Raising the Bar Important Changes to the MBA Professionalism Statement

Last May, the MBA Professionalism Committee proposed, and the MBA Board of Directors approved, three important changes to the MBA's Commitment to Professionalism. These changes reflect our growing awareness that true professionalism requires committed and active conduct by MBA members to improve the legal community.

First,

**"We will not engage in or condone unlawful or unethical discrimination."**

Previously, the Commitment to Professionalism had simply stated that "We will not engage in unlawful discrimination." The new language, quoted above, raises the bar. Professionalism requires more than simply refraining from illegal discrimination or agreeing to abide by the Rules of Professional Responsibility. Professionalism is more than the bare minimum. The law and the ethical rules set the floor. Let's aim higher. Professionalism requires an active commitment to refrain from discrimination if it crosses any ethical norm. We should not engage in discrimination. Nor should we "condone" it. If possible, call out improper discrimination when you see it committed by others, and do not condone or acquiesce.

Second,

**"We will treat all persons with courtesy, fairness and respect, without regard to any distinguishing personal characteristics such as gender, race, ethnicity, disability, sexual orientation, gender identity or expression, social or economic status, military status, age, national origin, or religion."**

Previously, the commitment urged us to be courteous, fair, and respectful, an absolutely appropriate aspiration. The new language, quoted above, makes that commitment more universal: *everyone*, regardless of their background, deserves to be treated with courtesy, fairness, and respect. Justice is blind. And as lawyers and judges working in the legal community, our commitment to treating all persons we encounter with dignity should not hinge or waver on anyone's personal characteristics.

Third,

**"We will work to ensure access to justice for all segments of society."**

One true measure of any legal system is how well that system takes care of its disadvantaged participants. The new language, quoted above, asks MBA members to acknowledge that basic truth and work to ensure access to justice for all segments of our community.

Of course, the Commitment to Professionalism, like it has for years, continues to urge MBA members to promote integrity and professionalism in many other ways. These new additions raise the bar ... and the bench ... and hopefully ensure that the greater community will have positive experiences when they find themselves working with the justice system or the legal community.

A printed copy of the Commitment to Professionalism is available free for all MBA members. The statement is printed on quality 11"x14" parchment paper and is suitable for framing. Please reconfirm your commitment to professionalism. Order your Professionalism Statement today! An order form can be found at [www.mbabar.org](http://www.mbabar.org).

# COMMITMENT TO PROFESSIONALISM

**We are committed to professionalism; we believe that lawyers should solve problems, not create them. Accordingly, we will conduct ourselves in a manner consistent with the following principles:**

- ◆ We will promote integrity and independent judgment. As officers of the court, we will work to support the effectiveness and efficiency of the legal system.
- ◆ We will treat all persons with courtesy, fairness and respect, without regard to any distinguishing personal characteristic such as gender, race, ethnicity, disability, sexual orientation, gender identity or expression, social or economic status, military status, age, national origin, or religion.
- ◆ We will accurately represent the law to the court and our clients, to the best of our abilities.
- ◆ We will accurately represent the facts and our authority to bind the client.
- ◆ We will only pursue litigation, engage in conduct, or take positions that have merit.
- ◆ We will act in a timely fashion.
- ◆ We will support a diverse bench and bar.
- ◆ We will not engage in or condone unlawful or unethical discrimination.
- ◆ We will represent our clients' best interests while seeking to resolve matters with a minimum of legal expense to all involved.
- ◆ We will explain the fee arrangement to our client at the beginning of the representation.
- ◆ We will support activities to educate the public about the legal system.
- ◆ We will work to ensure access to justice for all segments of society.

*Adopted by the Multnomah Bar Association as of June 1, 2004.  
Updated by the Multnomah Bar Association on May 7, 2014.*

# Court Bonds

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#### Oregon City Office

John Henry Hingson III has an office available in his building at 409 Center St., Oregon City. Close to elevator; off-street parking; law library; conference room; share copier, fax, etc. with three other lawyers. 503.656.0355.

### Positions

#### Experienced Family Law Attorney

McKinley Irvin is looking for an experienced family law attorney to join us in the Portland office of our outstanding and highly rated firm. This is a great opportunity for a seasoned attorney with years of experience practicing family law who is a member of the Oregon State Bar; and, ideally, a member of the Washington State Bar as well.

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If this has captured your attention, we'd like to hear from you. You are more than welcome to just send an email or call us to continue the exploration. You can also send along a cover letter, resume, and writing examples if you're ready to do that. You can reach Richard Sherman, SPHR, our Director of HR, at careers@mckinleyirvin.com, or directly at 800.398.1519. All inquiries will be treated confidentially.



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## MBA Mentor Program Frequently Asked Questions

#### Is the MBA Mentor Program compatible with the OSB New Lawyer Mentoring Program (NLMP)?

Yes, it is possible to participate in both programs either with the same mentor or a different mentor.

#### Who can participate as a mentee in the MBA Mentor Program?

Any MBA YLS member, whether or not they are signed up for the NLMP, may participate as mentees.

#### Who can participate as a mentor in the MBA Mentor Program?

Oregon bar members in good standing, with reputations for competence and for conducting themselves ethically and professionally, and with at least

seven years of practice, may participate as mentors.

#### Is there a fee to participate?

The MBA Mentor Program is free for all participants.

#### If I am participating in the NLMP, will I be assigned the same mentor for the MBA Mentor Programs?

That's up to you. Let us know your wishes on the MBA sign up form and we'll match you appropriately.

#### If I am participating in the NLMP why would I also sign up for the MBA Mentor Program?

The MBA program offers additional opportunities for networking and obtaining free CLE credit available exclusively to people participating in the MBA program.

#### How are mentors and mentees matched?

Mentors are matched with mentees by MBA Professionalism Committee members based on the responses given on the sign up form. Let us know if you would like the same mentor you have in the NLMP. If you're not signed up for the NLMP, let us know what's important to you in a mentor - practice area, firm size, gender, etc. We'll do our best to match you appropriately.

#### How do I sign up?

Complete and return the sign up form available at [mbabar.org/Resources/News/122/Details/](http://mbabar.org/Resources/News/122/Details/). Forms are due to the MBA by December 5.

Learn more about the OSB NLMP at [www.osbar.org/nlmp](http://www.osbar.org/nlmp).

If you have questions about the MBA Mentor Program, please contact Kathy Modie at the MBA at 503.222.3275.



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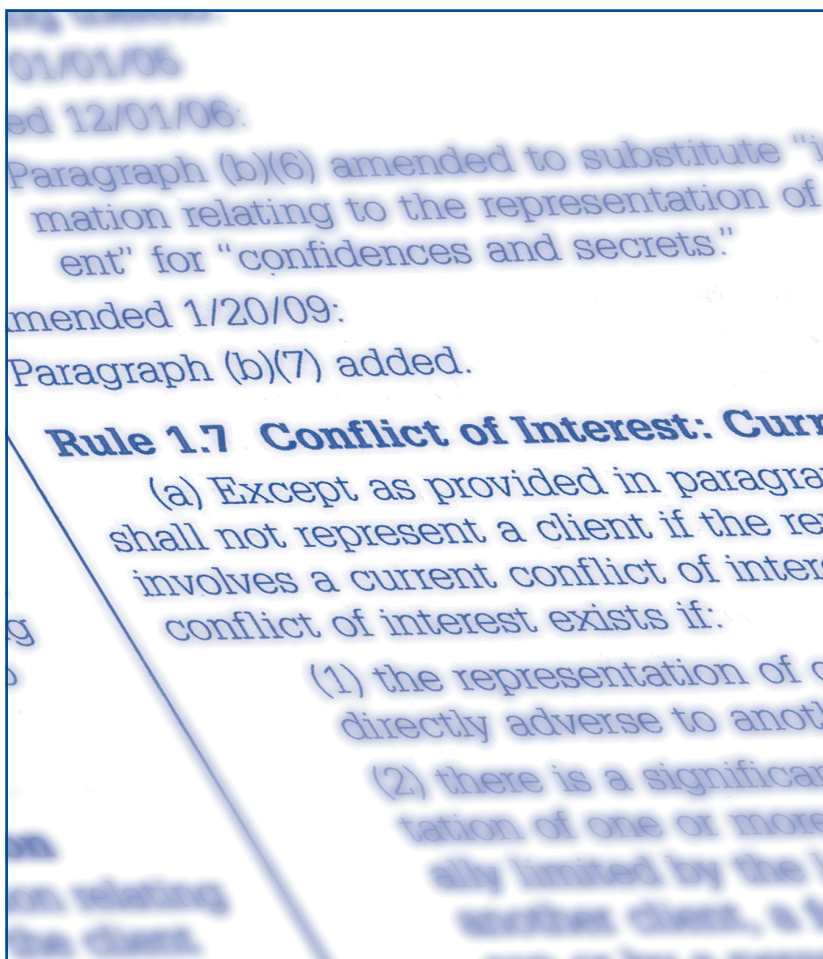
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Thanks to the following lawyers and law students who donated their pro bono services recently via the Volunteer Lawyers Project, the Senior Law Project, law firm clinics, the Oregon Law Center, the Nonprofit Project, St. Andrew Legal Clinic, Catholic Charities Immigration Legal Services, Lewis & Clark's Small Business Legal Clinic, Children's Representation Project, and Changing Lives Forever Project. To learn more about pro bono opportunities in Multnomah County, go to [www.mbabar.org](http://www.mbabar.org) and click on "About Us" and "Pro Bono."

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Dallas focuses his practice on business law, including taxation, estate planning, intellectual property, food and beverage, and trademarks. With an LL.M in Taxation, Dallas provides clients with in-depth tax analysis, evaluation, and planning, particularly in the areas of complex partnerships and advanced estate planning.

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Victor focuses his practice on corporate and real estate transactions, commercial and public finance, and economic development. He is co-chair of the firm's Banking and Finance Practice Group, and regularly represents financial institutions and borrowers in connection with loan transactions.

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## MBA Golf Raises \$18,000 for the VLP

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

The 17<sup>th</sup> Annual MBA Golf Championship was held at The Oregon Golf Club and raised over \$17,000 for the VLP at LASO. In the Firm Division, the low net winner was Klarquist Sparkman LLP – Steve Joncus, Mike Jones, Ray Klitzke and Derek Toddy. The low gross winner was Wallace Klor & Mann PC – Lawrence

Mann, Kelly O'Halloran, Schuyler Wallace and Sky Wallace. In the Open Division, the low net winner was the team of Phil Bunting, Steve Maurer, Tom Purcell and Dan Rowan. The low gross winner was the team of Aaron Crowe, Dave Crowe, Matt Donohue and Jeff Mutnick. Traveling trophies go to the 1<sup>st</sup> Place Firm low net and low gross teams and to the 1<sup>st</sup> Place Open low net team. Congratulations, all!



Championship - Firm Low Net winners Ray Klitzke, Derek Toddy, Mike Jones and Steve Joncus (not pictured)

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### August – Lawyers & Law Students Event

Lawyers and law students were paired up at the MBA Lawyers & Law Students golf event at Langdon Farms Golf Club. The focus of this 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 Bill Geny, Jamison McCune and Willamette students Andrew Fitch and Derek Nelson. The winning low gross team included Mike Tooley, Aaron Krienert and Willamette student Tarron Anderson. Long drive went to Harvard student Jonathan Rogers and KP to Colin Mackenzie. Lewis & Clark and Willamette law schools teamed with the MBA to keep the registration affordable for students. The event was sponsored by Littler Mendelson and raffle prizes were donated by Langdon Farms Golf Club, HRCentral Corporation, Jim Oliver, Dan Rowan and Tyler Volm.

### July – Family & Friends at Edgefield

The Family & Friends golf outing brought experienced golfers, beginners, kids and non-golfers alike out for an afternoon of sun, fun, pitch and putt golf and wonderful prizes. First place team was Kathy Root, Dan Rowan and Tyler Volm, first place individual Mike Farrell and Kathy Root, putting contest Bill Walsh, Aruna Masih and Hudson Osborne. KP

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Continued on p. 20

## MBA Golf

*Continued from page 19*

went to Dan Rowan, Kathy Root and Justin Morrish. Most Colorful Attire: Krista and David Noland (pictured) and Sage Farrell. Most Creative Swing: Scott Osborne, Jen Kilgore and Justin Morrish. Thank you to "Fun Judges" Judge Adrienne Nelson and Judge Ken Walker; OWLS Foundation



*OWLS Foundation volunteers and golfers - Aruna Masih, Diane Rynerson, Trudy Allen, Glen Pullen*

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

The MBA, Oregon Society of CPAs and Oregon Bankers Association joined forces to offer an after-work golf clinic and networking event in May. The evening brought lawyers, accountants and bankers together to socialize, hit unlimited buckets of balls and get pointers from the pros. Thank you to our generous sponsors: Harrang Long Gary Rudnick PC, Martin, Bischoff, Templeton, Langslet & Hoffman LLP, Barran Liebman LLP, Cosgrave Vergeer Kester LLP, HRCentral Corporation and Capital Pacific Bank.



*Tom Purcell at RedTail*



*Edgefield winners - Most Colorful Attire, Krista Noland and David Noland*

volunteers Diane Rynerson, Glen Pullen, Trudy Allen and Aruna Masih; Prize Sponsor Aufdermauer Pearce Court Reporting; and raffle prize donors OWLS Foundation, Littler Mendelson, Jim Oliver, Dave Hubbs and the MBA Golf Committee.

## June – Riverside Golf and Country Club Event

Golfers enjoyed an afternoon of golf and collegiality at Riverside Golf and Country Club. First place honors went to the team of Steve Larson, Jay Chock, Toby Borst and Scott Pratt. Steve Larson and Tyler Volm tied for low net; low gross went to Sky Wallace.

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