



Saluting the Shingle

by Bob Steringer
MBA President

It rolls off the tongue now, sadly, as a historical fact: lawyers graduating in the early 2010s entered the worst legal employment market in a generation. As a result, we have seen a large percentage of recent graduates putting out a shingle

or banding together with similarly-situated colleagues. They are carrying historically high levels of student loan debt, and they arrived in the market with no experience or training in managing a business, attracting clients, or, for that matter, actually practicing law. They have stepped out onto the high wire, without a net.

And yet, for all the handwringing one sees in legal publications about the challenges facing this group of lawyers, we also know this: a solo or small-firm practice can lead to great success, both professionally and financially. One need only look at the vibrant solo and small firm practices in our community to have optimism about the future of our recent graduates who now follow in their footsteps.

In fact, it is not very difficult to imagine the increasing number of solo and small-firm practices sparking positive changes in our profession and in our community. There are numerous areas in which legal market stresses and outright failures are begging for solutions. With sophisticated legal consumers exerting greater pressure on lawyers and law firms to change the way they provide legal services, solos and small firms are well positioned to innovate in ways that larger firms are slow or loathe to do. An entrepreneurial solo practitioner or small firm, for example, can find profitable ways to replace the abominable billable hour, unbundle services to focus on core strengths, employ technology to operate and communicate more efficiently, and adopt project management practices to improve results and increase predictability in pricing.

But what is truly exciting is the possibility that this will be the generation of lawyers that finally begins expanding access to justice. Try to imagine a bigger market failure in our country than the lack of access to affordable, competent legal representation by an enormous percentage of our population. We know that Legal Aid is able to assist less than 20% of low-income Oregonians who need a lawyer and cannot afford one. The vast majority of our neighbors either cannot afford a lawyer or are unaware of how a lawyer could help solve problems they face. Self-representation is becoming the new normal and that, frankly, poses a grave threat to our profession. The question, then, is whether technological progress can drive down overhead expenses, facilitate communication, and increase the automation of routine tasks in ways that allow lawyers to make a living serving those who currently find professional legal services to be out of reach. Will the legal entrepreneurs of this generation be able to return lawyers to a central role in resolving the every-day legal problems of our citizens?

...solos and small firms are well positioned to innovate in ways that larger firms are slow or loathe to do.

About a quarter of Multnomah Bar Association members are solo practitioners, and another quarter practice in firms with two to six lawyers. Last year, former MBA President Dana Sullivan took action to make sure the MBA actively serves the unique needs of solo and small firm lawyers, at all stages in their careers. Having been part of a small group of lawyers who built a thriving law firm from scratch, Dana had first-hand knowledge of those lawyers' needs, which range from mundane matters like obtaining insurance coverage to technical matters like selecting practice management software and document management tools.

Under Dana's leadership, the MBA created the Solo and Small Firm Committee with a mission to provide programs and services of value to small firms and solo practitioners and to create a forum for those lawyers to share best practices in business, financial management and client service. The committee recognizes the tremendous diversity within its constituency, with lawyers practicing in myriad different practice areas and being at very different points in their careers, from those for whom the paint on the shingle is still wet to seasoned lawyers trying to manage bustling practices. Within the diversity of that community, though, there is no shortage of common challenges and opportunities.

For example, the committee has launched a new workshop series this year focused on four aspects of law practice. Prior to the date of this publication, the first workshop focused on practical and ethical considerations for attorneys in transition, be it a change in firm structure, slowing down a practice or retirement. This month's workshop will cover the use of insurance coverage to protect your business. In April, a panel will discuss service on nonprofit boards as a means of raising your profile and developing business. And in May, local practitioners will share their advice on cost-effectively staffing your practice and supporting it with technology. Workshops run 90 minutes, are only \$15 each, and lunch is included. Keep an eye out for details on the committee's fall series of workshops, which will focus on technology issues.

We hope that these programs, along with the MBA's services for all lawyers, will help solo practitioners and small firms thrive in today's legal market.

...what is truly exciting is the possibility that this will be the generation of lawyers that finally begins expanding access to justice.

mba|CLE

To register for a CLE, please see p.4 or go to www.mbabar.org and log in as a member to register at the member rate.

MARCH

3.29 Tuesday
Atticus Finch: Role Model, Racist or Realist?

Steve Griffith
Mariann Hyland
Peter Jarvis

3.30 Wednesday
Family Law Update
Judge Maureen McKnight
Thomas Bittner
Gary Zimmer

APRIL

4.5 Tuesday
The Care and Feeding of Small Businesses
Todd Cleek
Conrad Zubel

4.12 Tuesday
Clark County Court Update
Judge David Gregerson
Don Jacobs

4.13 Wednesday
Effective Strategies for Expert Depositions
Paul Conable
Chris Kayser

4.26 Tuesday
Updates on Real Property Documentation and Title Insurance in Oregon
Alan Brickley
Dustin Klinger
Jim Reinhart

4.27 Wednesday
Discovery – Let's Get Real
Bruce Rubin
Julie Vacura

4.28 Thursday
Calculating and Presenting Lost Profits Damages
Shannon Armstrong
Serena Morones

Save the Date

**MBA 110th Annual Meeting,
Dinner & Judges Reception**
Thursday, May 19
5-8 p.m.

Portland Marriott Downtown Waterfront
1401 SW Naito Parkway

Sponsorship opportunities available.
Contact Kathy at the MBA at 503.222.3275.



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DEADLINE for copy: The 10th of the month*

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*or the preceding Friday, if on a weekend.

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HOW TO MAKE YOUR SMALL FIRM SUCCESSFUL

A Winter Workshop Series

Held at the World Trade Center, Mezzanine Room, 26 SW Salmon St. from 12-1:30 p.m.

The MBA will apply for CLE credit as applicable. The sessions are set up to allow time for networking and questions and answers.

Lunch is provided. Please let us know if you have any special needs (vegetarian, vegan, etc.).

Register at www.mbabar.org. Workshops are \$15 for members and \$50 for nonmembers.

Session 2

How to Protect Your Practice with an Insurance Safety Net

Wednesday, March 16, 2016

This workshop will discuss various types of insurance protection, including, among others, excess professional liability, key person life and disability insurance, workers compensation, premises liability and fidelity bonds, etc. Speakers will include lawyers Val Tomasi from Tomasi Salyer Baroway, and Mike Farnell from Parsons Farnell & Grein. Ms. Tomasi will explain how carrying insurance is a smart business practice for back up and as part of a benefit package to retain talented staff. Mr. Farnell will discuss scope of insurance protection, coverage issues and usability matters. Also, how to obtain and keep appropriate coverages for a variety of risks.

Join us for an exciting discussion with those who have struggled with what kind and how much insurance protection is necessary vs. desirable. The goal is to provide attendees with useful, practical information about business insurance needs and desires.

Session 3

Nonprofit Board Service: Can it Build My Law Practice

Wednesday, April 27, 2016

Kay Abramowitz and Wendy Usher will lead a discussion of what's involved in serving on a nonprofit board and how you can be a great board member. Kay is a partner at Miller Nash Graham & Dunn LLP. In her many years as a solo practitioner before moving to a firm, Kay used nonprofit board service to help raise her profile in the community and develop business for her estate planning practice. Wendy has served as the Regional Development Director, Portland Metro for The Oregon Community Foundation for the past 11 years. She will share insights on how to identify opportunities for service and questions to ask before joining a nonprofit board.

Session 4

Supporting or Staffing Your Practice

Wednesday, May 25, 2016

In this workshop Charese Rohny, solo practitioner and Julie R. Vacura, founding partner of Larkins Vacura, discuss supporting your office with both software and people. You can learn from the panel and other lawyers how to most efficiently and cost-effectively staff or otherwise support a professional law practice. If you work from your home office, sublease from another firm, or have your own offices with partners and associates, there are financial and time efficiencies you can learn about in this workshop. Adina Matasar, of Matasar Law, PC will moderate. Come with specific questions that you have regarding your own office and ideas of how to improve efficiency and save costs.



Barran Liebman bowlers

Calendar

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

MARCH

10 Thursday

April Multnomah Lawyer deadline

11 Friday

MBA Judicial Brown Bag
See Announcements for details

OWLS Roberts-Deiz Awards

Dinner
www.oregonwomenlawyers.org

16 Wednesday

Solo/Small Firm Workshop
www.mbabar.org

APRIL

8 Friday

May Multnomah Lawyer deadline

12 Tuesday

YWCA Inspire Luncheon
See Announcements for details

27 Wednesday

Administrative Professionals Day
CLP Legal Citizen Award Dinner
See Announcements for details

Solo/Small Firm Workshop

www.mbabar.org

MAY

4 Wednesday

YOUthFILM Screening
www.mbabar.org

10 Tuesday

June Multnomah Lawyer deadline

12 Thursday

MBA OSCPA & OBA Golf Clinic & Networking Event
www.mbabar.org

19 Thursday

MBA Annual Meeting & Dinner
www.mbabar.org

25 Wednesday

Solo/Small Firm Workshop
www.mbabar.org

WinterSmash Raises Over \$15,000 for Multnomah CourtCare

by Kathy Modie

MBA Director, Events & Programs



What better way to raise money for a good cause than with a night of family fun, bowling, raffle prizes and a best bowling shirt competition? On Saturday, February 6, over 200 MBA members and their families participated in the MBA's 14th Annual WinterSmash fundraiser at AMF Pro 300 Lanes in Portland.

In the spirit of fun, teams gathered to vie for prizes based on their scores and outfits.

Best team score and the coveted bowling trophy went to the Barran Liebman team, with their top three individual scores combined at 499.

There were a lot of great bowling shirts again this year. Wyse Kadish edged out the competition to win the prize for best shirt with their bright cobalt blue t-shirts.

The prize winner for best individual score went to Chris Hawk from the Gordon Rees team, with a score of 198.

The team with the most players this year was Folawn Alterman & Richardson, with 29 bowlers signed up. Buchanan Angeli Altschul & Sullivan and Bodyfelt Mount both registered 20 or more bowlers.

The 2016 WinterSmash benefited Multnomah CourtCare, the free drop-in childcare for children of parents who have no other alternative than to take their children with them to court.

Thank you to Harrang Long Gary Rudnick for sponsoring the food and beverages again this year, and to our sponsors and all who participated. Thank you also to the WinterSmash Subcommittee, chaired by Sarah Petersen, for planning such a great event. Thank you, Rebecca Cambreleng, Jordan New, Evan Novotny and Kevin Parks for volunteering at the event.

Continued on page 14



Wyse Kadish bowlers show off their "best shirts"



The MBA will apply for 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.

Atticus Finch: Role Model, Racist or Realist?

Tuesday, March 29, 2016
3:00-5:00 p.m.

World Trade Center
Mezzanine Room
26 SW Salmon, Portland

Members \$60
Non-members \$95

Come for a full and open discussion of the best and the worst about fictional lawyer Atticus Finch as portrayed in Harper Lee's books, *To Kill a Mockingbird* and *Go Set a Watchman*.

For decades since the publication of *To Kill a Mockingbird*, lawyers have identified Atticus Finch - or at least Gregory Peck's portrayal of him in the 1962 film - as one reason they decided to become lawyers. *Mockingbird*, set in the 1930s, shows Finch accepting a court appointment to defend an African American against a rape accusation by a white woman in the face of rampant racism and public hostility from the community. For a substantial part of the twentieth century, it was probably one of the most widely read books dealing with race in America. *Go Set a Watchman*, which was written before the publication of *To Kill a Mockingbird*, but only published in 2015, looks at an older Atticus Finch, a grown-up "Scout" and the other citizens of Maycomb, Alabama, in the early years of the Civil Rights movement following *Brown v. Board of Education* (1954). Although, by present standards, Atticus Finch does not come across as well in *Watchman* as in *Mockingbird*, the two books taken together provide an excellent vantage point for considering the progress that has been made on diversity issues, as well as the many challenges that remain before us, and the personal and social issues that may help explain why many of those challenges seem so hard to address. And as a book narrated by a young female professional in the period before the women's rights movement, *Go Set a Watchman* has a good deal to say about past and present gender-based cultural biases.

This program will take advantage of the unique opportunity created by the two books to help us better understand our past, present and future as a profession and as individual lawyers. Panelists will be **Steve Griffith**, a trial lawyer recently retired from Stoel Rives, LLP; **Mariann Hyland**, Assistant Vice Provost for Academic Affairs at the University of Oregon; and **Peter Jarvis**, Holland & Knight, LLP, noted expert on professional ethics.

For more information:

Call Leslie Johnson, Kent & Johnson at 503.220.0717. For registration questions, call the MBA at 503.222.3275.

Family Law Update

Wednesday, March 30, 2016
3:00-5:00 p.m.

World Trade Center
Auditorium
26 SW Salmon, Portland

Members \$60
Non-members \$95

On March 30, the MBA will hold its annual two-hour Family Law Update. Multnomah County Chief Family Court **Judge Maureen McKnight** will be joined by **Thomas Bittner** of Schulte, Anderson, Downes, Aronson & Bittner, and **Gary Zimmer** of Zimmer Family Law.

Our speakers will provide family law practitioners with information on changes to Multnomah County Circuit Court procedures including ex parte practice, as well as valuable updates on appellate case law.

For more information:

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

The Care and Feeding of Small Businesses

Tuesday, April 5, 2016
3:00-5:00 p.m.

World Trade Center
Mezzanine Room
26 SW Salmon, Portland

Members \$60
Non-members \$95

This CLE will discuss significant issues attorneys should address when assisting their clients in starting up and growing a small business. The class will explore the importance of understanding your client's goals, their business, and their management and operational expectations, so that you can help them choose the appropriate business entity and craft a flexible management agreement. Our speakers will discuss how to deal with deadlocks and prepare exit strategies. They also will explore methods for incentivizing employees in growing companies and will discuss important tax concepts every small business attorney should know.

Our presenters include **Todd Cleek** of the Cleek Law Office and **Conrad Zubel** of Zubel Law Offices. Mr. Cleek has over twenty years' experience working with some of Oregon's most exciting and successful independent companies. Mr. Zubel's business practice focuses on advising small and family-owned limited liability companies.

For more information:

Call Ed Carlson, Carlson Law at 971.254.8907. For registration questions, call the MBA at 503.222.3275.

Clark County Court Update

Tuesday, April 12, 2016
12:00-1:00 p.m.

World Trade Center
Mezzanine Room
26 SW Salmon, Portland

Members \$30
Non-members \$50

Note: The MBA will apply for 1 OSB credit.

The 2016 Clark County Court Update will be presented by Clark County Superior Court **Judge David Gregerson** and Vancouver civil litigator **Don Jacobs**. This class is designed for anyone who practices in Clark County, whether on a regular basis or only on random occasions. Judge Gregerson will provide valuable information regarding new practices or changes to existing practices within the Clark County Court system. Mr. Jacobs will focus on the aspects of a civil trial in Clark County and how it may differ from civil trial practices in the Portland tri-county area.

If you currently practice in Clark County, or have been considering practicing in Clark County, this

CLE is a must for you. This class is geared toward practitioners with all levels of experience.

For more information:

Call Kyle Dukelow, Law Office of Kyle B. Dukelow at 503.288.1992. For registration questions, call the MBA at 503.222.3275.

Effective Strategies for Expert Depositions

Wednesday, April 13, 2016
3:00-5:00 p.m.

World Trade Center
Mezzanine Room
26 SW Salmon, Portland

Members \$60
Non-members \$95

Use of experts in a case can be critical to its outcome. This "how-to" CLE will offer practical strategies for preparing your experts for their deposition, including tips for how to assist experts with report writing and answering tough questions; how to effectively depose an expert; how to use the federal rules on experts to your advantage, and whether depositions of experts in state court are appropriate. Our dynamic panel will be **Chris Kayser**, Larkins Vacura, and **Paul Conable** of Tonkon Torp, both experienced business litigators and trial lawyers.

For more information:

Call Seth Row, Miller Nash Graham & Dunn at 503.205.2318. For registration questions, call the MBA at 503.222.3275.

Updates on Real Property Documentation and Title Insurance in Oregon

Tuesday, April 26, 2016
3:00-5:00 p.m.

World Trade Center
Mezzanine Room
26 SW Salmon, Portland

Members \$60
Non-members \$95

Please join us for a panel presentation regarding real property title insurance and deeds in Oregon. **Alan Brickley**, Retired (Emeritus) Counsel for First American Title Insurance Company, will discuss basic title insurance endorsements and recent issues and developments with title insurance policies in general. **Jim Reinhart**, in-house Regional Counsel for Lennar Corporation, a major residential developer, will discuss real property deeds and deed selection issues under Oregon law. **Dustin Klinger**, current OSB Real Estate & Land Use Section Secretary and a real estate transaction and business attorney and partner at Thede Culpepper in Portland, will discuss title insurance solutions to challenging title issues, escrow Instructions and dealing with parties from outside of Oregon as well as common miscommunications. The panelists will also comment on recent issues regarding real estate foreclosure development and evolving title insurance responses.

For more information:

Call Seth Row, Miller Nash Graham & Dunn at 503.205.2318. For registration questions, call the MBA at 503.222.3275.

Continued on page 4

Discovery - Let's Get Real

Wednesday, April 27, 2016
3:00-5:00 p.m.

World Trade Center
Mezzanine
26 SW Salmon, Portland

Members \$60
Non-members \$95

Update your skills in the art of conceiving and composing effective discovery requests in state and federal court, writing genuinely specific (with particularity) requests and objections, talking through disputes to avoid court, and how the 2015 amendments to the Federal Rules of Civil Procedure focusing on proportionality will, and will not, change your life. Our presenters are **Bruce Rubin**, Miller Nash Graham & Dunn LLP and **Julie Vacura**, Larkins Vacura LLP.

For more information:

Call Kyle Dukelow, Law Office of Kyle B. Dukelow at 503.288.1992. For registration questions, call the MBA at 503.222.3275.

Calculating and Presenting Lost Profits Damages

Thursday, April 28, 2016
3:00-5:00 p.m.

World Trade Center
Mezzanine
26 SW Salmon, Portland

Members \$60
Non-members \$95

This course will teach you fundamental steps for calculating lost profits, present information necessary to support key assumptions, summarize the legal framework that defines lost profits damages, and provide tips on presenting lost profits damages at trial. Damage expert **Serena Morones**, CPA, ASA, ABV, CFE has 20 years of experience calculating lost profits damages and testifying as a damage expert witness. Ms. Morones has helped lead some of Oregon's most complex commercial damage cases to successful conclusions through expert testimony or assistance with settlement. **Shannon Armstrong** is a shareholder at Markowitz Herbold PC. She represents clients in high-stakes business disputes in state and federal courts. Her cases involve a range of business issues including partnership disputes, fraud, unfair trade practices, contract and construction disputes, breach of fiduciary duty, and class actions. She has tried cases in state and federal court, argued key pretrial motions, taken and defended party and expert depositions, and managed commercial class action litigation.

For more information:

Call Mindy Stannard, McKinley Irvin at 503.487.1645. For registration questions, call the MBA at 503.222.3275.

All's Well That Ends Well: Settlement Agreements and Releases

Tuesday, May 3, 2016
3:00-5:00 p.m.

World Trade Center
Mezzanine
26 SW Salmon, Portland

Members \$60
Non-members \$95

All's well that ends well ... unless you've messed up. **Jan Kitchel**, Cable Huston, LLP and **Johnathan Mansfield**, Mansfield Law, will engage in a spirited discussion of wows, oops and oh-no's in the negotiating and drafting of settlement agreements and releases, from both the plaintiff and defense perspectives. Jan Kitchel has over 35 years of trial experience, and currently focuses his practice on personal injury and probate litigation. For the last 20 years, Johnathan Mansfield has represented and advised clients while practicing at some of the country's largest firms. His practice focuses on intellectual property litigation and advice, including patent, trade secret, trademark, copyright, and other intellectual property matters.

For more information:

Call Seth Row, Miller Nash Graham & Dunn at 503.205.2318. 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. Self-study materials from past CLE classes may be downloaded at www.mbabar.org.

CLE Registration Form

NAME _____	ACCOUNT NUMBER _____
FIRM _____	EXPIRATION DATE AND SECURITY CODE _____
ADDRESS _____	SIGNATURE _____
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PHONE _____	_____
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 p.m. the day before the seminar. 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:

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

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

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

Seminar Selection:

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

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- 3/30 Family Law Update**
 Class Registration (\$60 Members/\$95 Non)\$ _____
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- 4/5 The Care and Feeding of Small Businesses**
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- 4/12 Clark County Court Update**
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- 4/26 Updates on Real Property Documentation and Title Insurance in Oregon**
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- 4/27 Discovery - Let's Get Real**
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- 4/28 Calculating and Presenting Lost Profits Damages**
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- 5/3 All's Well That Ends Well: Settlement Agreements and Releases**
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 CD-ROM & Written Materials (\$60 Members/\$95 Non) ..\$ _____

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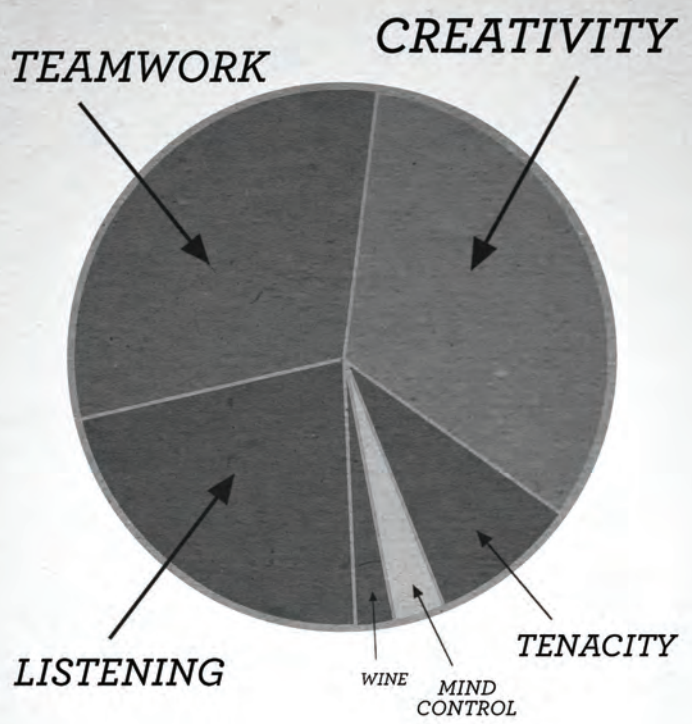
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Ethics Focus

Advance Waivers Effective Tool if Used Wisely

by Mark J. Fucile
Fucile & Reising



Advance waivers can be an effective practice management tool with benefits for both lawyers and their clients - if used wisely. As the name implies, an "advance waiver" is an agreement by a client waiving a particular set of conflicts before the specific circumstances giving rise to a conflict occur. They can be tailored narrowly or can be relatively broad. They offer firms the ability to take on clients who might otherwise present conflicts. They offer clients access to firms that might not be available without the assurance of an advance agreement on conflicts. For example, a firm with highly-specialized expertise that represents primarily high-tech start-ups that often negotiate with an industry leader might not otherwise be willing to take on a discrete project for that industry leader without an advance waiver in place.

In this column, we'll look first at the mechanics of advance waivers and then the limitations.

Mechanics

As noted earlier, advance waivers address future conflicts. They are generally permitted under Comment 22 to ABA Model Rule 1.7 (on which Oregon's current client conflict rule is patterned). Although Oregon's RPCs do not include accompanying comments, the OSB has recognized the viability of advance waivers in Formal Ethics Opinion 2005-122.

Because a client is being asked to waive a conflict that

has not yet occurred, the key to an effective advance waiver is the client's "informed consent." Comment 22 to ABA Model Rule 1.7 puts it this way: "The more comprehensive the explanation of the types of future representations that might arise and the actual and reasonably foreseeable adverse consequences of those representations, the greater the likelihood that the client will have the requisite understanding." OSB Formal Ethics Opinion 2005-122 echoes the ABA Model Rule comment (at 324): "Nothing in Oregon RPC 1.7 prohibits a blanket or advance waiver from ... a ... client as long as Lawyer adequately explains the material risks and available alternatives."

Limitations

There are five principal limitations on the use of advance waivers.

First, both the ABA Model Rule comment and the OSB ethics opinion stress that an advance agreement cannot waive a nonwaivable conflict. In other words, a firm couldn't use an advance waiver to represent both sides of the same case or transaction.

Second, both the ABA Model Rule comment and the OSB ethics opinion highlight that the waiver must meet the other requirements specified in the rules. In Oregon, that means that the client's informed consent must be confirmed in writing (under Oregon RPC 1.7(b)) and the process leading to the waiver must include a recommendation that the client seek review by independent counsel (under Oregon RPC 1.0(g)). When using an advance waiver, firms also need to remember that they still need to obtain a waiver (under Oregon RPC 1.7(b)) from the client whom the firm will be representing adverse to the client that granted the advance waiver.

Third, an accompanying ABA ethics opinion on which the Oregon opinion relies (ABA Formal Opinion 05-436) notes (at 5) that an advance waiver, "without more, does not constitute the client's informed consent to the disclosure or use of the client's confidential information against the client." To lessen client concern on this score, firms may wish to consider

voluntary internal screening of the respective teams handling the matters on each side of an advance waiver.

Fourth, the waiver will be limited to its terms. Therefore, if a conflict arises that is beyond the scope of the written agreement, that conflict must be analyzed separately and addressed by its own waiver (if the conflict is waivable and the clients involved consent).

Finally, and in many respects most fundamentally, an advance waiver will only be as good as the disclosure and informed consent on which it is based. This can effectively turn on the relative sophistication of the client involved. In short, what may work for a Fortune 500 corporation represented by in-house counsel may not be appropriate for "mom and pop." Comment 22 to ABA Model Rule 1.7 succinctly summarizes these respective poles:

"The effectiveness of such waivers is generally determined by the extent to which the client reasonably understands the material risks that the waiver entails. The more comprehensive the explanation of the types of future representations that might arise and the actual and reasonably foreseeable adverse consequences of those representations, the greater the likelihood that the client will have the requisite understanding. Thus, if the client agrees to consent to a particular type of conflict with which the client is already familiar, then the consent ordinarily will be effective with regard to that type of conflict. If the consent is general and open-ended, then the consent ordinarily will be ineffective, because it is not reasonably likely that the client will have understood the material risks involved. On the other hand, if the client is an experienced user of the legal services involved and is reasonably informed regarding the risk that a conflict may arise, such consent is more likely to be effective, particularly if, e.g., the client is independently represented by other counsel in giving consent and the consent is limited to future conflicts unrelated to the subject of the representation."

mba | ANNOUNCEMENTS

Free CLE Webcast to MBA Members

The video webcast of the seminar entitled "Accounting Literacy for Corporate Attorneys and Litigators" is now available in the Members Center at www.mbabar.org. The webcast 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 \$360 value.

Statement of Diversity Principles Available to Sign

The MBA Equality & Diversity Committee invites you to sign the Statement of Diversity Principles. Read and sign the diversity statement and pledge at www.mbabar.org/about-us/diversity.html.

MBA Judicial Brown Bag – March 11

Please join judges of the Multnomah County Circuit Court for a brown bag informal discussion. The topics of discussion will include civil case management, recent changes to the SLRs and UTCRs, and how things are going with Odyssey eCourt. Bring your lunch, questions, and suggestions to the downtown Multnomah County Courthouse, Room 130 (Jury Assembly Room), on Friday, March 11 at noon.

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.

YWCA Inspire Luncheon

On Tuesday, April 12, from 11 a.m. to 1 p.m. at The Nines in Portland, Michele Coleman Mayes, ABA Margaret Brent and Minority Corporate Counsel Association Trailblazer Award recipient and current vice president, general counsel and secretary of the New York Public Library, will speak at the YWCA's 24th Annual Inspire Luncheon. Reservations are available at www.ywcapdx.org/inspire or by calling 503.294.7457.

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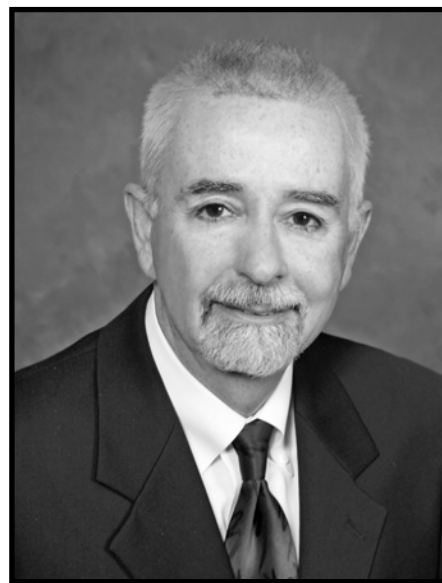
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Ball Janik LLP Congratulates Damien Hall!

Congratulations to Damien Hall for his recognition as one of the Portland Business Journal's Forty Under 40! Damien has been recognized for his professional achievements and his contributions to the Portland community.

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Brisbee & Stockton is pleased to announce **Sheri C. Browning** became a partner of the firm on January 1, 2016. Sheri is an experienced trial lawyer who will continue to focus her practice on providing advice on matters involving professional negligence. This includes the defense of professional litigation and licensing board matters on behalf of physicians, hospitals, lawyers and other professional practitioners.

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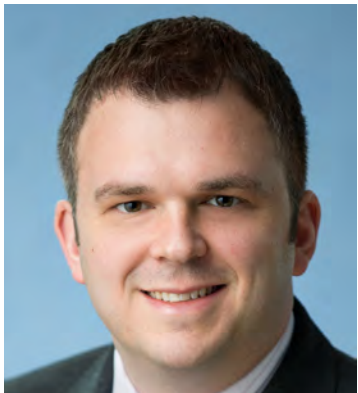
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Around the Bar



Kenneth Haglund Jr.

Lane Powell

Kenneth Haglund Jr. has been made a firm shareholder.

Haglund is the firm's financial institution industry group leader for corporate/community banking. He focuses his practice on public and private business corporations and financial institutions, with a concentration on securities and regulatory compliance, corporate governance, mergers and acquisitions, and corporate and real estate finance. In addition, Haglund is active in ongoing securities compliance for publicly traded companies, including securities disclosure obligations, periodic reporting and electronic data gathering analysis and retrieval filing requirements. Haglund also serves as the chair of the OSB Business Law Section.

Note: This is a correction of the original announcement that appeared in last month's Around the Bar column, which neglected to mention that Haglund had become a shareholder of the firm. The MBA regrets the error.



Hal Scoggins

Farleigh Wada Witt

Hal Scoggins was reelected president of the firm, effective in January. He will continue to serve on the executive committee and to focus his practice on financial services.



Frank Langfitt

Miller Nash

The firm has added experienced attorney **Frank Langfitt** to its premier litigation team. Langfitt joins as senior counsel, bringing



Stacey Martinson

a broad background and decades of experience in business and commercial disputes, including insurance coverage and corporate governance.

Partner **Stacey Martinson** was recently chosen to serve on the OSB Construction Law Section Board for the 2016-17 term. Martinson's practice emphasizes construction law, general business litigation and insurance recovery.

Klarquist Sparkman

Klarquist Sparkman, one of the largest and oldest intellectual property law firms in the region, is celebrating its 75th anniversary this year. The firm's history began in 1941 with a solo practitioner, Elmer Buckhorn, whose part-time practice brought in 10 cases that year. By 1947, a second partner, Orme Cheatham, joined, and by the end of the 1950s, the firm had five partners. Today, the firm's practice covers a broad range of technical expertise and legal experience in all facets of intellectual property acquisition, licensing and litigation. The legal team includes a combination of more than 50 attorneys and patent agents, led by a team of 32 partners.

Klarquist represents a broad range of clients, from solo inventors to midsize companies to some of the largest and most prestigious companies in the world. To learn more about the firm, visit www.klarquist.com.



Anne Milligan

Fisher & Phillips

The firm has added **Anne Milligan** as an associate attorney. Her practice includes all aspects of employment law and labor relations, providing advice and counsel to employers and businesses. She has represented clients in private, federal, and EEOC mediations.



Jeffrey Misley

Sussman Shank

Partner **Jeffrey Misley** was named chair of the OSB Agricultural Law Section.

Misley has represented clients in the agricultural industry for over 25 years. His clients include farmers, ranchers, growers, lenders, distributors and suppliers. He serves as general counsel for agricultural-related businesses and has successfully represented local agribusinesses in merger and acquisition transactions. He also has considerable experience in creditors' rights related to agricultural cases and the enforcement of lien and trust rights under state and federal law.



David W. Cramer

Gordon & Rees LLP

David W. Cramer has joined the firm's Portland office as an associate attorney. His practice is focused on labor and employment advice AND litigation and products liability, construction defect and other complex defense litigation.



Ryan Bounds

Ryan Bounds

The judges of the U.S. Court of Appeals for the Ninth Circuit have selected **Ryan Bounds**, a prosecutor in the United States Attorney's Office in Portland, to serve as an appellate lawyer representative to that court for a three-year term. There are 20 appellate lawyer representatives throughout the circuit, which comprises the nation's nine westernmost states, as well as Guam and the Northern Mariana Islands. The appellate lawyer representatives work with representatives to the 14 federal district courts of the circuit on issues affecting the judiciary and federal court practice.



David Rabbino

Tonkon Torp

David Rabbino was elected to the Youth, Rights & Justice (YRJ) Board of Directors. The nonprofit law firm provides children and their families in Oregon with legal representation and advocacy in the courts, legislature, schools and community. YRJ primarily serves children and youth in foster care who are abused, neglected, or in trouble; students who face challenges at school; and parents who need help keeping their families intact.

Rabbino is a litigator in the firm's environmental & natural resources practice group and has more than two decades of experience in environmental and natural resources law. He became involved in youth advocacy through his volunteer work with the firm's Changing Lives Forever program, which provides pro bono legal services to juvenile sex offenders who are deemed good candidates for removal from the lifetime listing and who need help to navigate the complex process.



Vicki M. Smith

Bodyfelt Mount

Vicki M. Smith, a trial lawyer and partner with the firm, has become an officer on the board of directors for the Oregon Association of Defense Counsel, Oregon's statewide association for defense attorneys.

As one of three officers leading the board of directors, Smith will act as secretary/treasurer in 2016, president-elect in 2017, and president in 2018.

Smith's law practice focuses on general civil litigation and insurance coverage matters in Oregon and Washington. Smith regularly handles cases involving insurance and surety bond coverage, construction defect, asbestos and professional liability claims. She also tries cases involving claims of personal injury, contractual indemnity, product liability and commercial breach of contract.



John Dunbar

Larkins Vacura

John Dunbar has joined the firm as a partner.

Serving under the last two Oregon attorney generals, Dunbar led a trial team that focused on many of the state's most important cases, including high-profile constitutional challenges, tort claims against the state, complex regulatory cases and environmental litigation. His deep exposure to a wide variety of legal conflicts equips him for all facets of his complex commercial litigation practice. His diverse background includes, for example, in-depth forays into healthcare issues, environmental disputes, intellectual property, consumer disputes, and regulatory litigation. He also has represented private clients and the state in conducting or defending various investigations, including representing the state in investigations by the U.S. Department of Justice.



Laura Salerno Owens

Markowitz Herbold

Laura Salerno Owens, an attorney and shareholder with the firm, has been named to the Rose Haven Board of Directors. Rose Haven is a nonprofit day shelter and community center serving women and children of all ages, regardless of need. Rose Haven welcomes women and children living on the streets and addresses their needs by offering life-sustaining services and assistance in obtaining them. The staff and volunteers have a passionate commitment to the empowerment, integration and self-sufficiency of the women they serve.

Salerno Owens represents clients in a variety of employment law issues including noncompetition/nonsolicitation agreements and trade secrets, wage and hour disputes, discrimination charges, sexual harassment allegations, and whistleblower claims. She also has experience litigating claims arising under the Family Medical Leave Act, the Oregon Family Leave Act and the Americans with Disabilities Act and

Continued on page 9

Around the Bar

Continued from page 8

representing clients before the Bureau of Labor and Industries and Equal Employment Opportunity Commission.



Lori Sills



Kimberlee Petrie Volm

Cosgrave Vergeer Kester

Lori Sills has joined the board of directors of Umbrella, a unique Portland-based fiscal sponsor nonprofit organization that works to encourage active street culture by providing nonprofit status, liability insurance, permitting assistance, and bookkeeping to projects like Better Block PDX, CycloFemme PDX, The Disaster Relief Trials, Shift, Skate Like a Girl, and The World Naked Bike Ride. Her law practice includes estate planning, probate and trust administrations, taxation, and business transactions.

Kimberlee Petrie Volm

has joined the firm as an associate attorney in the firm's professional liability and railroad practice groups. Her practice will focus on defending legal malpractice actions, Federal Employers Liability Act claims, and representing businesses and individuals in personal injury actions.

Since 2014, Petrie Volm has represented businesses and individuals in civil litigation matters in Portland and Chicago. She previously worked as a deputy public defender for the Office of Public Defense

Services as an appellate attorney, representing clients in the Oregon Court of Appeals and Oregon Supreme Court.

Petrie Volm volunteers with the MBA Imprint Program, which gives young attorneys the opportunity to engage with local high school students.

The Around the Bar column reports on MBA members' moves, transitions, promotions and other honors within the profession. The submission deadline is the 10th 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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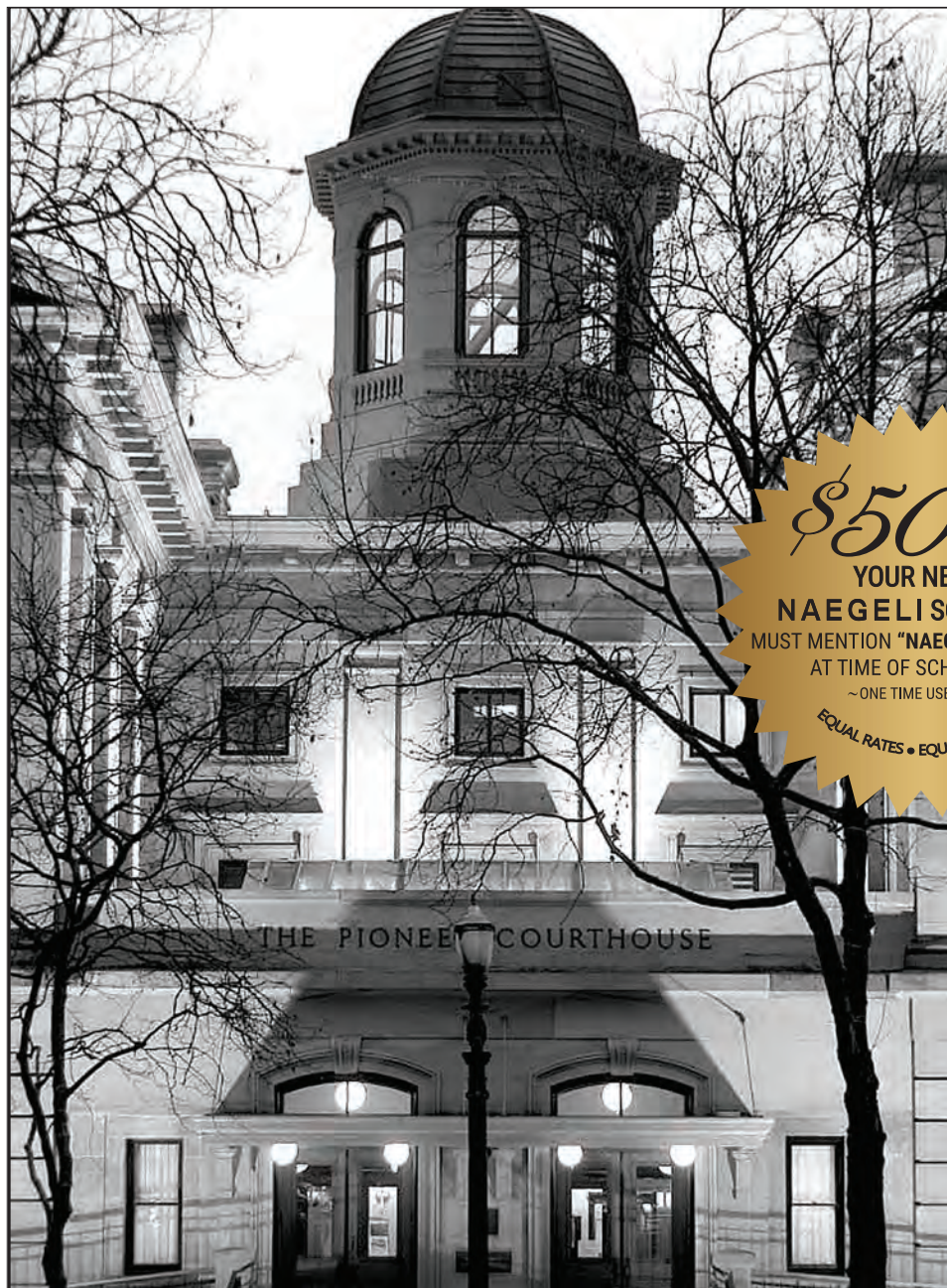
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Tips From the Bench

Writing to the Court in the Digital Age of eCourt

by Judge Marilyn Litzenger
Multnomah County Circuit Court

Writing professors teach their students to write in a manner that will capture the attention of and engage their reading audience. When you are writing to the court, in today's digital and electronic age, understand that judges' needs and objectives differ from those of the general screen-reading public. Every judge wants to make the right decision, not just a decision. Judges are busy; they must read quickly and often do not have time during their work day to read the materials submitted more than once.

Well-written briefs are key to persuading the judge that the law is on your client's side. Judges consider your arguments in a way that some observers have described as "aggressively skeptical." In their quest to discern the right interpretation of the law and reach the correct ruling, they search for gaps or weakness in a lawyer's analysis. Judges become even more skeptical when presented with sloppy and imprecise writing, inaccurate analysis, or anything that impedes their decision-making process and suggests what they are reading is unreliable. The quality of the briefing affects how easily an argument can be understood and retained by the judge. It also affects the writer's credibility, the judge's mood, and ability to concentrate on the merits of the arguments presented.

A well-written brief includes not just a recitation of the relevant rule of law and a description of the facts of your case. Well-written briefs include analysis of case law and an explanation of the reasoning that led the appellate court to reach its decision. Well-written briefs not only cite to a statute, they set forth the relevant text of the statute and explain the policy considerations that convinced the legislative body to enact the law. Well-written briefs describe trends in the law and explain why the law is trending in favor of your client's position. All of these qualities are even more important in today's paperless electronic filing environment.

In today's eCourt environment, reading on a computer or tablet screen is a necessity, but most judges still prefer paper or bench copies of your briefs. Studies show people do not read the same way on screens as they do on paper; rather, they read 10-30% slower. Unfortunately, the time allocated for judges to read briefs has not expanded by a corresponding 10-30%. Consequently, judges, like other digital readers, may catch themselves skimming text instead of reading it in-depth, as they would if they were provided a paper copy to take notes on. *TIP: Send the judge a paper or bench copy of your brief and supporting*



documentation. Multnomah County Supplementary Local Rule 5.015(6) requires you to do so.¹

Remember, paper copies allow a reader to see (and touch) more than one page at a time, a practice that isn't always possible in the electronic environment. Scrolling through multiple-page documents just isn't the same as being able to see the documents all at once, or being able to spread them out on a desk. Despite the difficulties of reading digital documents, the electronic environment also provides new tools that can be useful to a court in analyzing your argument. For example, hyperlinks embedded in text that take the reader directly to an exhibit, deposition excerpt or appellate opinion can save an incredible amount of time and serve as a substitute for the judge having to retrieve those materials from another source.

Finally, studies have found that "screen readers" are more likely to read and retain information in a short paragraph rather than a long one. Use this to your advantage by incorporating descriptive headings in your briefs that effectively communicate the summary of an argument. Likewise, consider using italics or other alternate font characteristics as a substitute for the judge highlighting the same key information on a paper copy. Write clearly and succinctly, but do not omit the textual analysis, reasoning, legislative history and policy statements that will persuade the court to rule in your client's favor. If your argument is important, make sure it is convincing (and make sure your judge has a paper bench copy).

¹ The Uniform Trial Court Rules address courtesy copies of electronically filed documents. **UTCRC 21.070(1)** permits courts to require courtesy copies "in the manner and time specified by the court." **Multnomah County SLR 5.015(5)** specifically directs litigants to "deliver a courtesy copy of the motion to the assigned motion judge." This must be done "not later than 7 days" after a date has been scheduled for the court to consider the motion. Courtesy copies of responding documents and any reply made to the response should be provided to the motion judge when they are filed electronically. Waiting until the day before the hearing does not allow the judge adequate time to consider your arguments.



News from the Courthouse

by John Casalino
Court Liaison Committee

Presiding Court Report New Courthouse

Presiding Judge Nan Waller and Trial Court Administrator Barb Marcille reported that the new courthouse is designed to meet the needs of the community and efficiently serve the justice system. The courthouse will be 17 floors tall. CourtCare and jury orientation will be on the first floor. High-volume courtrooms and public service areas will be on the lower floors of the building and the top 10 floors will be courtrooms, with four courtrooms per floor. There will be space for the District Attorney's Office, and the Office of Public Defense Services will also be in the building. The public defense space will include resources for defense lawyers such as access to appellate lawyers and space to meet with clients. The new courthouse will include a legal resource center to provide more support for self-represented litigants. Security and screening at the entrance to the courthouse are still being studied, and currently the sheriff is keeping track of how many people are entering the courthouse without being screened at security. This includes, judges, staff, lawyers and others. This data will be useful in designing security procedures for the new

courthouse. The total cost of the design and capital construction project for the new building will be \$300 million. The county is exploring options for use of or buyers for the existing downtown courthouse building.

eFiling and Local Rules

The electronic filing process is going well but feedback and suggestions for improvement are always welcome. Washington County is coming online in March, and the final remaining counties in eastern Oregon will begin operating in the new system in June. Lawyers are completing the certificate of readiness in compliance with UTCRC 5.100. "eCourt Open Hours" sessions are offered approximately twice a month for questions from the bar and law office staff. For a schedule of sessions, visit <http://courts.oregon.gov/Multnomah> and look for eCourt Open Hours in the yellow "eCourt Implementation" box.

The new Supplementary Local Rules (SLRs) became effective on February 1. They are also posted on the court website, noted above. The *Attorney Reference Manual* is being updated and input is welcomed to help make this a useful and practical resource for the bar.

Judicial Vacancies

There is a new judicial referee, Ben Johnston. Two new judges were appointed by Governor

Brown on February 9. Bronson D. James fills the vacancy created by the retirement of Judge Alicia A. Fuchs, and Leslie Bottomly will fill the vacancy that will be created when Judge Youlee Yim You assumes the position of Magistrate Judge at the U.S. District Court for the District of Oregon.

Report from Clackamas County Bar

Larry Peterson (CCBA President) and Angela Laidlaw (CCBA Vice President) reported on Clackamas County Court and their organization's events.

There are 246 members of the Clackamas County Bar Association. The Clackamas County Bar Association provides a variety of activities for its members including educational and social activities as well as public service opportunities. These activities include: Members' Dinner, the Fall CLE, Court Staff Appreciation Day, Law Day, The Mock Trial Competition, Keizer Stadium baseball game, the Oral History Project, the monthly Pub Crawl, the Poker Tournament and Appellate Court Dinner.

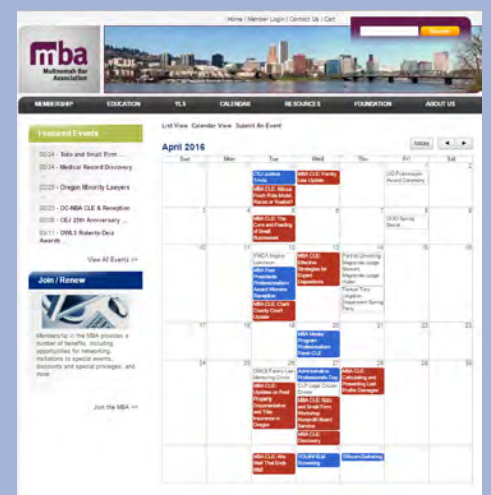
The Clackamas Expungement Clinic has been highly successful and is not limited to Clackamas County cases or residents. Additionally, the Clackamas County Bar has begun a social media project to reach more lawyers.

MBA Offers Free Event Publicity

The MBA website includes a unique feature: the ability for law-related organizations and nonprofits to add their social events to the MBA online calendar.

The MBA offers other organizations the ability to access our online calendar in order to provide one site where all law-related events can be listed to help prevent conflicts.

Please consider adding your social events to the MBA online calendar at the following link: <http://mbabar.org/Calendar/SubmitAnEvent.html>. Or, you may contact the MBA at mba@mbabar.org to add your item to the calendar.



Multnomah Law Library Looks to Future

by Rich LaSasso
Office and Foundation Administrator

“Change has come to the Multnomah Law Library, and if you haven’t been in for a while, I think it’s well worth the trip.”

-Martha Renick

That’s the conviction of Martha Renick, Multnomah Law Library’s director since 2013. Renick assumed the director position when the library’s chief librarian of 50 years, Jacque Jurkins, stepped down. Before beginning work at Multnomah Law Library, Renick was the director of the Marion County Law Library for 10 years. She previously worked in academic law libraries, after obtaining her law and masters in library and information science degrees.

The transformation at Multnomah Law Library is most obviously physical. Gone is the dirt-colored, duct-tape-patched carpet that greeted library visitors for the past couple of decades. New carpet, freshly painted walls, additional lighting, and a general cleaning, tidying and decluttering are among the changes that have improved the library environment.

More significantly, the library’s book collection has been extensively reduced and reorganized, an undertaking that was spurred by the closing of the branch library space next door three years ago, which left the library with twice as many volumes as could fit on its shelves. This necessitated a careful evaluation of the entire book collection: what existed only in hard-copy form, what received the most use, what could be made available online at a reasonable cost.

The need to use space more efficiently is part of the law library’s increased emphasis on online resources. The library now provides four computer terminals that patrons can use for legal research, in addition to a Wi-Fi network which they can connect to when using their own computers. The library has onsite public access to Westlaw, LexisNexis, HeinOnline, Practising Law Institute Discover

Plus and Bloomberg Law, among other online services.

As part of an effort to automate formerly manual processes, Renick installed an integrated library information system that keeps track of the library’s inventory of materials. Accordingly, the library’s quaintly anachronistic card catalog is now just a curiosity, and no longer the means of locating books. The new electronic catalog, which will eventually encompass resources available online, is accessible to the public through the library’s website at multlawlib.org.

These changes in library organization and materials have been accompanied by changes in library personnel. About two years ago Renick hired Rich LaSasso (yours truly, the author of this article) as special projects librarian. LaSasso, who had spent the previous 20 years as library manager and editor at local law firm Tonkon Torp, has devoted much of his time since joining Multnomah Law Library to reorganizing, culling and cataloging the library’s extensive collection.

Near the end of last year, Rebecca Sherman joined the library as reference and electronic services librarian. Sherman received a JD in 2012 and an MLIS with a certificate in law librarianship a year later. She spent two years prior to joining Multnomah Law Library as the research and faculty services librarian at Southern Methodist University. Sherman’s experience providing reference services and legal research instruction has proven especially useful in her current role assisting the library’s growing number of self-represented litigants. As electronic services librarian, Sherman is involved in revamping and expanding the Multnomah Law Library website. Soon Sherman will incorporate forms and guides for members of the public.

Whether a result of all the recent changes or not, the fact is the library is serving an



Martha Renick

increasing number of patrons, including attorneys. According to usage statistics, attorneys are checking out more books, requesting more document delivery services, and using the library’s online services like never before. “Some of these databases are prohibitively expensive for new attorneys and solo practitioners to purchase,” Renick points out.

Renick feels good about what she has accomplished, yet she knows more change is to come. The library will lose its home since 1914 when the old Multnomah County Courthouse is vacated and the new courthouse opens (according to plan) in 2020. It is not yet clear whether the library as we know it - a place that serves the legal research needs of the bar, as well as the lay public - will have a home in the new courthouse.

The court intends to create a “legal resource center” to assist self-represented litigants more comprehensively. The extent to which such a center would either expand or supplant the function of the library hasn’t been determined. While the library supports plans for a legal resource center, Renick firmly believes in the need for a strong, vibrant library to serve the largest concentration of attorneys in the state, as well as the many residents of Multnomah County.

Over the next several months, the library, the MBA, the court and the county will be involved in discussions to determine the shape of the Multnomah Law Library to come. Renick says, “I’d like to hear from members of the Multnomah Bar about what they want the Multnomah Law Library to be in the future.” Martha Renick may be reached at mrenick@multlawlib.org.

Don’t Forget the “Spacious, Modern” East County Courthouse (Free Parking Too!)

by Shane Abma
Court Liaison Committee



Litigators practicing in the Portland metro area are surely looking forward to the future opening of the new downtown Multnomah County Circuit Courthouse in 2020, complete with all the bells and whistles that come with a modern day courthouse. The current downtown courthouse is over 100 years old and is both functionally and structurally obsolete.

But savvy litigators using modern trial technology don’t have to wait until the new downtown courthouse opens to get the benefits of a modern courthouse. Rather, they need only travel 20 minutes east and take advantage of

of the downtown courthouse. Currently, Multnomah County Circuit Court judges rotate each month to preside over trials held at the East County Courthouse. (Note that trial call is still held in the downtown courthouse, even if the trial is scheduled for the East County Courthouse.)

Judge Stephen Bushong is a big proponent of the East County Courthouse. He notes that it is not only easily accessible, but has free parking for all trial participants - including jurors and witnesses. Cliff Wilson, a defense trial attorney with Smith Freed Eberhard P.C., recently tried a case at the East County Courthouse. He agreed that one of the biggest benefits (apart from the technology and space) was the “ample free on-site parking.”

Wilson describes the East County Courthouse as a “spacious, great facility” with “convenient technology offerings.” In addition to its modern amenities, Wilson said that the conference rooms attached to the courtrooms offer yet another advantage over the downtown courthouse. The conference rooms allow attorneys



the user-friendly, modern, state-of-the-art courthouse in East County on 185th and Stark - just one block from the light rail line.

The LEED GOLD-certified, \$19.6 million East County Courthouse opened in April 2012 with three modern courtrooms and a public plaza. Its three courtrooms are large, bright and designed for today’s modern trial technology needs. Although its usage continues to grow, many litigators are simply not aware of all it has to offer. That should change.

In October 2014, Multnomah County Circuit Court started a pilot project that began scheduling civil trials in the East County Courthouse during the first week of each month, provided the trial was scheduled for four days or less. Although four days or less may seem like a limitation, the vast majority of scheduled trials actually qualify.

Trials held at the East County Courthouse draw from the same jury pool as the downtown courthouse. The only difference is that a small number of potential jurors are told to report directly to the East County Courthouse instead

to meet privately with their clients and trial witnesses without having to do so in the hallway, as is often the case in the downtown courthouse. “I’d definitely use the East County Courthouse again,” said Wilson.

Judge Bushong believes that there is an “opportunity to grow the usage” of the East County Courthouse, which currently only uses one of its three courtrooms for civil trials. The other two are used for family court and misdemeanor proceedings. A family court judicial officer currently goes to the courthouse on Monday afternoons and all day Wednesday. The Family Court Services Office (which does mediations and evaluations) is also now in the East County Courthouse on Mondays. CourtCare, the free, drop-in childcare service, has been expanded to East County and operates on Monday afternoons and all day on Wednesdays.

Judge Bushong encourages lawyers to use the East County Courthouse when appropriate. He thinks “they will be delighted” if they do so.

MBA Golf Championship to Benefit the Volunteer Lawyers Project Monday, September 26, Portland Golf Club

The annual MBA fundraiser will be held at Portland Golf Club. The event includes lunch, dinner, contests and raffle. Sponsorship opportunities are available. Help raise \$20,000 for the Volunteer Lawyers Project at Legal Aid Services of Oregon.

Contact Pamela Hubbs for more information (503.222.3275, pamela@mbabar.org).



Last year’s championship was held at Tualatin Country Club

Ask the Expert Young Lawyers Section

Ask the Expert

*Dear Experienced Attorney:
I'm having second thoughts about practicing law. What should I do?*

Disenchanted Attorney

Dear Disenchanted Attorney, Unfortunately your feelings are not uncommon in this day and age. However, let me remind you that practicing law can be quite rewarding, and there are a lot of ways to rejuvenate your enthusiasm in law. Below are a few preliminary thoughts.

First, evaluate the source of your doubts. What is instigating these feelings? For instance:

- Is it the practice area? If so, fortunately the legal field is full of different practice areas. Prior Ask the Expert columns address how to get help in exploring those areas. See, e.g. the December 2015 *Ask the Expert* column. For example, if you are currently in litigation and dislike it, don't write off law completely. Perhaps you would prefer transactional work or a different subject of litigation.
- Is it your boss? Research indicates that the source of many of our woes at work arise from our superiors and company culture. If so, you will need to consider whether you can have a productive conversation about how to improve the working relationship or if you are better off looking for other positions.
- Along similar lines, are you disenchanted over some other aspect about your firm or job that is changeable? For instance, are you getting projects that you want? Are you getting more experience such as responsibility and management skills? Or do you feel that you are at a dead end? Again, you will need to consider whether your current position can change to permit your growth or if you need to seek new employment that can provide those opportunities for growth. For instance, if you are in private practice, consider whether you might be happier at a small firm, mid-size, or large law firm,

or if you would be happier as a solo practitioner. Also consider the pros and cons of working in the government, nonprofit, or a company in-house department.

Second, think back to the reasons and motivations of why you decided to go into law. Look back to cases or projects where you felt empowered. Think back to a client who was grateful for your hard work on a case. While law can be very demanding and at times tedious, the importance of the work of lawyers to our communities cannot be understated. As lawyers, we are trained to be skeptical and cautious, which can lead to pessimism, but don't forget about the positive experiences.

Third, seek those you trust for help and input. Talk to someone who will keep your confidences. Open up and tell that person about your feelings. If you reach out to a trusted and more senior attorney, you might realize that what you are experiencing is not unusual and might feel a bit relieved that this stage will pass. And if you believe that a systematic problem in the legal profession is discouraging you, consider joining a bar association or committee that can address those concerns. This can include serving on an MBA committee or OSB section, executive committee, or other association committee.

I also recommend reaching out to non-lawyers. You might be surprised that many of your feelings are common in other professions as well. For example, if you are disenchanted because of a demanding schedule, know that every profession will have stories of demanding clients and bosses, last minute "emergency" projects that destroy plans, etc. Sometimes it's just the nature of the beast. Finally, you must be honest with yourself about your intentions, goals, and prospects. To the extent you suffer from any doubt or uncertainty, put yourself in the best position possible to clarify or confirm your career path. Understand that there will likely be setbacks as you grow in your career but that is normal. After all, there are no overnight successes.

Brad Krupicka YLS Member Spotlight

by Tyler Bellis
YLS Board Treasurer

Born into a family of firefighters, it may be surprising to some that Brad Krupicka (U of O '10) pursued a career in the law. But it comes as no surprise to anyone who knows Brad that he devotes much of his spare free time to helping others and volunteering in the Portland legal community.

A native Oregonian, Brad was born and raised in nearby Canby, Oregon where his mother and father worked for the local fire department and Brad developed an early fondness for the great outdoors. During high school, Brad played football and participated in track and field, but also discovered his great passion for speech and debate that would guide his future academic and professional careers.

In 2002, Brad graduated high school and headed south to attend the University of Oregon where he captained the debate team and spent his summers fighting wildfires for the Department of Forestry. While in college, Brad also wrote for the university's political science newspaper, *Oregon Politique*, and graduated cum laude with dual degrees in Political Science and History. By the end of his undergraduate career, Brad had determined that he would attend law school and put his aptitude for debate to

good use as a litigator.

Before enrolling in law school, Brad spent a year in Eugene coaching the University of Oregon's debate team. He actively participated in moot court competitions while attending Lewis & Clark Law School, and gained litigation experience as a law clerk and legal extern for the Multnomah County Attorney's Office. After graduating from law school and passing the Oregon and Washington State Bar exams, Brad volunteered for the Northwest Workers Justice Project in Portland before accepting a judicial clerkship for the Hon. Henry Kantor of the Multnomah County Circuit Court. In addition, Brad spent the first year of his judicial clerkship employed as an assistant professor at Lewis & Clark College, teaching courses in general public speaking, argumentation and rhetoric.

In March 2013, Brad was hired by Preg O'Donnell & Gillett, where he practiced a wide range of commercial litigation, including construction defect and insurance defense law. In November 2015, Brad joined the law firm of Lindsay Hart, where he works as a civil litigator and handles primarily commercial



Brad Krupicka

litigation, employment law, professional negligence, wrongful death and products liability cases.

Brad is presently an active member of the MBA Young Lawyers Section. After chairing the MBA Membership Committee from 2013-14, Brad now serves as the current chair of the MBA YLS Pro Bono Committee. As a result of his heavy involvement with those committees, Brad co-founded and organized the MBA's first Battle of the Lawyer Bands, and has been instrumental in facilitating the MBA YLS Wills for Heroes program that provides local first responders with access to pro bono legal services.

Outside his busy work and volunteer schedule, Brad somehow makes time for his love of the great outdoors and Oregon sports teams by fishing, hiking and cheering on the Blazers, Ducks and Timbers.

Upcoming YLS Events

YLS Community Service Day
Saturday, March 19, 9 a.m.
Birch Trailhead on NW 53rd Ave.

RSVP today to attend the YLS Service to the Public Committee's next volunteer outing with the Forest Park Conservancy. The mission of the Forest Park Conservancy is to protect and foster the ecological health of Forest Park, maintain and enhance the park's extensive trail network, and to inspire community appreciation and stewardship of Portland's iconic urban forest. Volunteers will meet at 9 a.m. and will help restore Forest Park by removing invasive species around the Birch Trailhead on NW 53rd Ave., so come expecting to get a bit dirty! To volunteer or for information about the event, please contact Bryan Thompson at bryanthompson@dwt.com.



Lunch & Learn with the YLS
Thursday, March 24, 12-1 p.m.
Kells Irish Restaurant & Pub, 112 SW 2nd Ave.

Join your fellow young lawyers for a networking lunch and a presentation by renowned land use and real estate attorney Steve Janik of Ball Janik LLP discussing his path through the Portland legal community and strategies for young lawyers to further their legal careers, with emphasis on professional advancement, collegiality, and community involvement. Cost for lunch is \$20 - reserve your seat today! To register, please contact Shannon West at shannon@mbabar.org

Justice Trivia, Presented by the Campaign for Equal Justice
Tuesday, March 29, 5:30 p.m. pre-registration, 6 p.m. start
Kells Irish Restaurant & Pub, 112 SW 2nd Ave.

Help support Oregon's legal aid programs by participating in this fun fundraising event. Join us at Kells for trivia and light appetizers while supporting a cause important to our legal community. Doors open at 5:30 p.m. and trivia begins at 6 p.m. Register a team of five, or attend and form a team on the night of the event. The suggested donation is \$10 to participate, or \$5 for law students and unemployed or legal aid attorneys. Register at www.cej-oregon.org.



YLS Director Nominees

Two three-year positions start July 1. In the event of a contested election, a ballot will be sent to members. Only YLS members may vote for YLS Directors.



Tom Adams graduated from New York University School of Law and was admitted to the OSB in 2011. He practices personal injury and consumer law at Forum Law Group LLC. Tom joined the YLS CLE Committee in 2012 and served

as chair for the 2014-15 term. He was appointed to the YLS Board of Directors in early 2015 to fill a vacancy, and has since served as board liaison to the YLS Entrepreneur Committee and MBA Solo/Small Firm Committee. In addition to his work with the YLS, Tom is an Oregon Trial Lawyers Association Guardian and volunteers with both the Victim Rights Law Center and Big Brothers, Big Sisters.



Brad Krupicka graduated from Lewis & Clark Law School and was admitted to practice in Oregon in 2010. He works at Lindsay Hart LLP and practices in the area of civil litigation. Brad's MBA involvement began in 2011, when he joined and later chaired the MBA Membership Committee. Since that time, Brad has participated on the MBA Court Funding Committee and acted as the YLS Liaison to the LASO/OLC Pro Bono Awards Committee. He has served on and presently chairs the YLS Pro Bono Committee. Brad is also the Publication Liaison for of the OADC Construction Defect Practice Group, and is a member of the CEJ Associates Committee. He was also one of the founders of the Multnomah County Circuit Court Volunteer Researchers Program.

Immigration Counseling Service

YLS Pro Bono Spotlight

by Caitlin Shin
YLS Pro Bono Committee

Low-income immigrants and refugees often face significant difficulty in finding affordable, quality representation in immigration matters. Immigration law is complex and misinformation is abundant. Although professional legal assistance is important for securing the best possible outcome, cost can be an overwhelming barrier for those with limited resources. For over 35 years, Immigration Counseling Service (ICS) has worked to address these issues by providing Oregon's immigrant communities with low-cost quality professional legal services.

Founded in 1978, ICS is a not-for-profit immigration law firm. ICS assists clients with a wide variety of immigration-related processes, including adjustment of status, asylum applications, employment authorization, naturalization and citizenship, deferred action program requests, visas for crime victims, and defending removal proceedings. ICS can be involved at multiple stages of immigration proceedings, from completing forms and filing with the U.S. Citizenship and Immigration Services, to representation at U.S. Citizenship and Immigration Services interviews and before the Immigration Court. ICS also serves an active role in the community by providing free educational programs, publishing resources, and giving presentations on various immigration law topics.

ICS does particularly important work for unaccompanied immigrant

children facing deportation proceedings. These children are often fleeing poverty or dangerous circumstances on their own, without a parent or legal guardian. Many of these children satisfy criteria that would allow them to remain in the U.S. legally, yet face the daunting prospect of navigating the immigration system. In response to the large need for representation, ICS has a dedicated staff working with unaccompanied children and has developed a pro bono representation program for attorneys who wish to help.

Prior experience with immigration law is not required to participate in ICS's pro bono program. Immigrant children's cases can involve more than federal immigration law. Often these matters require filings in state family court. ICS provides training and guidance throughout the matter. Each child's situation is unique in both possible relief and the skills necessary to pursue it; ICS staff can follow up with an interested volunteer attorney to develop a case strategy and establish a reasonable expectation of workload and time demands. Participation in ICS's program not only helps attorneys comfortably gain experience in immigration matters, it helps provide vulnerable children with a more secure future.

If you have questions or an interest in the program, please contact Barb Babcock, ICS Executive Director at bbabcock@ics-law.org or directly at 971.302.6768.

YLS Community Service Day January Potluck in the Park Recap

by Amanda Loupin-Bartlett
YLS Service to the Public Committee

On Sunday, January 24, the YLS Service to the Public Committee organized volunteers to serve hundreds of free hot meals in downtown Portland with Potluck in the Park. Potluck in the Park is a grassroots organization dedicated to serving meals every Sunday to anyone in need, rain or shine, 52 weeks per year. Kristie Cromwell, Juan Jasso, Amanda Loupin-Bartlett, Nicole Mitchell, Sarah Spring, Kevin Stokes, and Shannon West volunteered their time for this worthy cause. To learn more about Potluck in the Park or to volunteer, please visit www.potluckinthepark.org.

Right: Nicole Mitchell and Juan Jasso



Kevin Stokes, Juan Jasso, Amanda Loupin-Bartlett, Shannon West and Nicole Mitchell

Estate Law Q&A With F. Jackson Lewis, Tonkon Torp

by Michael Willes
YLS CLE Committee

Why did you start working in the trusts and estates practice area?

I was a litigator and took on a pro bono estate litigation matter. We recovered a significant sum for our client, but we needed the help of the probate court to put in place further protections from predatory individuals. All parties had a refreshing concern for the interests of the client and the equities of the situation. I was hooked on the "helping families" aspect of the practice immediately.

What is the one thing you wish people would plan for but never think about before talking to you?

Retirement accounts. Lots of people make elaborate estate plans, but if they don't incorporate the retirement accounts, it can frustrate the whole plan.

What are the top three reasons everyone should see a trusts and estates lawyer?

(i) Make sure loved ones are provided for, (ii) provide a blueprint for dividing assets in a second family situation, and (iii) get tax advice.

What is the most interesting matter you've worked on?

I worked on a case related to the estate of DHL Express founder Larry Hillblom. They made a movie about the underlying



F. Jackson Lewis

case. I have also resolved disputes about paperweights and Hummel figurines, so it's not all glitz and glamour. Nobody does a gamboling lamb like Sister Hummel.

What do you find most rewarding about your practice?

The things I like best are (i) helping clients understand

Continued on page 18

YLS Drop-in Social Recap

by Sharae M. Wheeler
YLS Membership Committee

The YLS membership committee hosted its first social event of 2016 on January 13. Held at Ecliptic Brewing, young lawyers from Portland and Vancouver gathered to raise a glass to the MBA and the new year. The MBA provided delicious snacks and Miller Nash Graham & Dunn generously provided free drinks for everyone during the first half of the event. Thank you to everyone who attended.



Thank you to beverage sponsor Miller Nash Graham & Dunn LLP for supporting the event

WinterSmash

Continued from page 2

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See WinterSmash photos at www.mbabar.org/Membership/WinterSmash2016.html.



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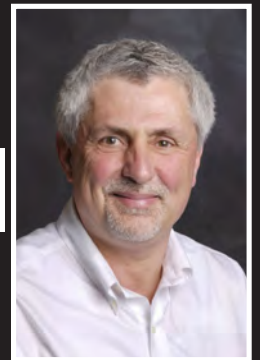


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The Corner Office PROFESSIONALISM

One of the glories of our constitutional democracy is our system of laws, including an independent judiciary. All over the world we see justice systems that are dysfunctional and corrupt. Yet even our own justice system is fragile because the citizens whose support it badly needs are less informed than we would like. One principle of the MBA Professionalism Statement is, "We will support activities to educate the public about the legal system." This principle recognizes that as "insiders," we have a special responsibility to make the legal system accessible and understandable to the people it aspires to serve.

Public ignorance about the legal system is not surprising. Our many layers of state and federal statutes, common law, constitutions, and administrative agencies are beyond the ability of lawyers to master. Law pervades our lives. Most ordinary citizens lack the knowledge necessary to participate effectively in this law-saturated society.

People do have a basic understanding that legislatures make laws and the police enforce them. What they lack is a grasp of how laws are interpreted. In fact, they lack even the basic idea that law has language in it that might need interpretation by judges and lawyers. This may be part of a more general civic ignorance attributable to No Child Left Behind, which has pushed schools to emphasize reading and math at the expense of civics and other social studies.

It may be part of an even more general obliviousness; surveys show one American in five thinks the sun revolves around the earth.

Ignorance about our courts quickly becomes lack of sympathy for them. People don't understand the judicial system, so they perceive it as the enemy. They dislike the jargon of the law, the bewildering court procedures, and the impenetrable world of the legal profession. Lacking knowledge, ordinary people are profoundly uneasy about what might happen to them in court. Because people don't understand the role of the independent judiciary in our constitutional order, they lump it together with law enforcement and prisons. Public trust in courts suffers as a result, as does the public's willingness to fund them adequately. This alienation from the courts may be part of the growing cynicism about government since the early 1980s.

Yet not all disaffection from the courts is based in ignorance. We must admit that many laypersons have reasons to avoid and even fear the judicial system. Accessing the courts can be prohibitively expensive. It costs wage-earners time away from work. Those who do approach the system can be frustrated by the inability of court staff to give legal advice. As more and more Oregonians are born outside of the United States, language can be a barrier. Even literacy can't be taken for granted. And of course, in every survey racial minorities

and poor people perceive that the rich and the white fare better in court.

What can lawyers do? The judicial system is the air we breathe. We should foster public trust and confidence in it so that it can remain strong and independent. Yet we lawyers might not be the best bearers of a message to trust the system and fund it adequately. We may be viewed as self-interested, whether we are practitioners or judges. We might be more effective in more targeted ways: Speak to classrooms of students; mentor students interested in law; donate to the Civic Education Fund of the Multnomah Bar Foundation; work in any way we can toward making legal services affordable. And above all, work to improve the justice system so that it comes closer to its ideals and is worthy of the support we want it to have.

The Corner Office is a recurring feature of the Multnomah Lawyer and is intended to promote the discussion of professionalism taking place among lawyers in our community and elsewhere. While The Corner Office cannot promise to answer every question submitted, its intent is to respond to questions that raise interesting professionalism concerns and issues. Please send your questions to mba@mbabar.org and indicate that you would like The Corner Office to answer your question. Questions may be submitted anonymously.



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www.mbabar.org and click on "About Us" and "Pro Bono."

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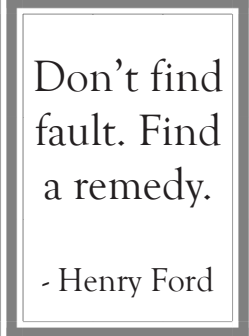
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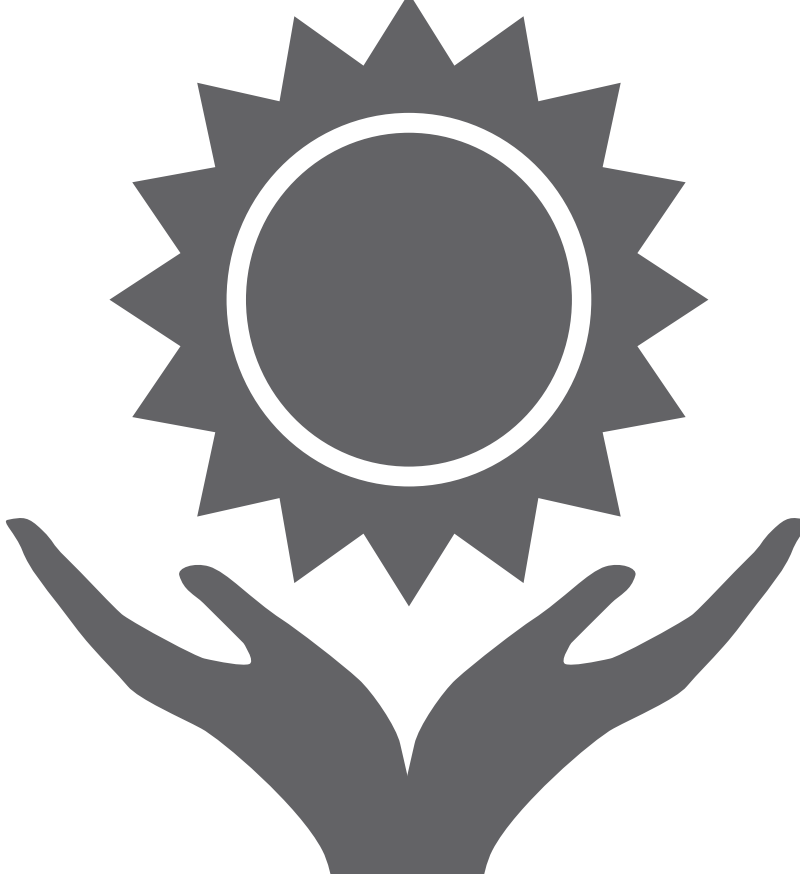
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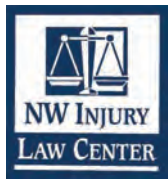
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Estate Law Q&A

Continued from page 13

difficult estate planning concepts so they can feel secure in the plan, and (ii) helping relieve clients suffering from a recent or anticipated loss.

What would you tell new lawyers considering starting an estate law practice?

Pay attention in tax class.

What are some of the pitfalls young lawyers face in your practice area?

It can be a highly technical area, but everyone dies so everybody wants an estate plan. The key is to make sure your skill level matches the complexity of the planning you are attempting. Seek assistance if you are in over your head.

What should young lawyers working outside your practice area know about trusts and estates?

The Rule in Shelley's Case. Just kidding.

What estate planning advice would you give to young lawyers dealing with their own finances?

Focus on retirement plans and be kind to your spouse.

What do you tell relatives who ask you questions about wills?

The proper spelling of my name for the substantial bequests they are surely contemplating. And I give them good advice if they ask for it. My sister-in-law is a pediatrician, so we more than break-even on free advice.

Mr. Lewis is one of the speakers scheduled for the upcoming Estate Law CLE Seminar Series, beginning April 14. See the enclosed flyer for the full schedule, or visit www.mbabar.org to register online

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^{*}Lew McCreary, "Kaiser Permanente's Innovation on the Front Lines," Harvard Business Review, September 2010.
[†]"Another American Way," The Economist, May 1, 2010.



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