



MULTNOMAH LAWYER

MULTNOMAH BAR ASSOCIATION

1906

Lawyers associated for justice, service, professionalism, education and leadership for our members and our community. March 2009 Volume 55, Number 3



Back to the Future

By Michael Dwyer, President, Multnomah Bar Association.

It's hard to imagine now, 100 years later, what it must have been like to be a lawyer in the first decade of the 21st century. To listen to veteran judges and lawyers tell it, the practice of law was beset by darkness and confusion, as lawyers who had been trained almost

exclusively as trial lawyers were cast into a world without many trials and pondered their futures.

"Those were difficult times," said Andrew Schpak, now in his early 130's and the presiding judge of Multnomah County Court. "I was a youngster then. But I remember how many of the lawyers in the first decade of the century were confused by the seemingly overnight change that came over the landscape for trial lawyers. One day a trial lawyer tried cases, the next all trials vanished. Lawyers didn't know where to turn. We had been trained how to try cases, not how to settle them. Yet in hindsight, that's what we needed."

Schpak, who insists on standing when interviewed to exercise a knee that he blew out playing kickball as a baby lawyer, was President of the YLS of the MBA in 2009, the year he cites as a watershed mark for the profession and the Portland community. "That program was the start. The MBA brought those three giants to town – Riskin, Cloke and Mcfarlane – and the clouds parted. Suddenly lawyers had a vision of their expanded role – trial lawyer if necessary, but skilled settlement lawyer too."

We looked it up in the MBA archives, housed here in the gleaming new courthouse. In 2009, exactly 100 years ago, the MBA, in conjunction with Willamette College of Law, hosted what was described at the time as a groundbreaking program and workshop. It took place at the site of what was then called The Governor Hotel in late April and was billed as "Conflict Resolution in the 21st Century."

"This was a huge deal back then," says Justin Leonard, the YLS President who succeeded Schpak and is now, at 129, still going strong as Oregon's junior US Senator. "Remember, law schools trained everyone as trial lawyers, and our adversary system moved everyone toward trial. There wasn't much focus on settlement until the very end of the case. And even then, most of us were settling cases as if we were going to trial – argue the strengths of your case, never admit weakness or share information, make absurdly high or low demands and hang tough until the end. And never try to determine the mutual interests of both parties, or you'd be considered a weakling. It's hard to think now how primitive our settlement skills were."

Kimberly Griffith, who at 133 is widely praised as one of the most successful hybrid (trial and negotiation) lawyers and mediators in our community, and served on the board with Schpak, agrees. "We gave little thought to settlement skills until that MBA program. It was the start of the revolution. After that, if you didn't have cutting-edge knowledge and skills for negotiation, you were only considered half a lawyer. You could specialize in trial or negotiation, but if you wanted to do both, you needed to make sure your expertise in negotiation was at least the equal of your trial skills."

At the time of the program in 2009, Macfarlane (then a law professor at the University of Windsor) had written an important book called *The New Lawyer: How Settlement is Transforming the Practice of Law*. In it she detailed the evolution of the lawyer's role from trial advocate to what she called a "conflict resolution advocate." Macfarlane wrote that the work of the 21st century lawyer would be fundamentally altered as a lawyer's responsibilities expanded from trial lawyering to include consensus-building and problem-solving.

Macfarlane never wanted lawyers to surrender their traditional strengths, such as evaluating a case, analyzing large amounts of new information, conducting legal research, strategic planning, effective oral communications and evaluation of the potential outcome. But in an age when most cases settled, she foresaw lawyers' need to acquire additional skills focused around negotiation, including listening and communications skills, building rapport and trust, and using emotional intelligence.

The other presenters – Ken Cloke and Leonard Riskin – are legendary today in the conflict resolution community, and even then had international reputations as mediators, writers and teachers. Cloke, who had mediated conflict around the planet, had just written his latest book - *Conflict Revolution: Mediating Evil, War, Injustice and Terrorism* – and recently founded Mediators Beyond Borders, which sent mediators to the far

Continued on page 7

save the date!

resolving conflict
in the 21st century

Tuesday and Wednesday, April 28-29

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Center for Dispute Resolution, Santa Monica

Leonard Riskin

University of Florida, Levin College of Law

Julie Macfarlane

University of Windsor, Ontario, Canada

Watch for details!

MBA and YLS Board of Directors Slate Announced

See Election Ballot Inside

A profile of each candidate is included on p. 9 and a voting ballot is included as an insert in this issue of the *Multnomah Lawyer*.

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MBA CLE

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

March

Tuesday, March 3

The Corporate Representative Deposition

Gary Berne
Steve English

Thursday, March 5

Clark County Presiding Court Update

Judge Robert Lewis
Don Jacobs

Wednesday, March 18

That's Privileged! Or Is It?

George McKallip Jr.
Rick Pope

April

Wednesday, April 1

Multnomah County Presiding Court Update

Judge Jean Maurer

Tuesday-Wednesday,

April 28 and 29

Resolving Conflict in the 21st Century

Kenneth Cloke
Leonard Riskin
Julie Macfarlane

Thursday, April 30

Annual Probate Update

Judge Katherine Tennyson
Judge Rita Cobb
Judge Robert Herndon
Tim McNeil

In This Issue

Letters to Editor..... p. 3
The Corner Office..... p. 3
Calendar..... p. 3
Announcements..... p. 4
Ethics Focus..... p. 4
Around the Bar..... p. 7
Tips from the Bench..... p. 8
News from the Court..... p. 8
Profile: Judge Dale Koch..... p. 9
MBA and YLS Board..... p. 9
YLS..... p. 10
Classifieds..... p. 14
Multnomah Bar Foundation... p. 16

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THE MULTNOMAH LAWYER is published 11 times per year by the Multnomah Bar Association, 620 SW Fifth Ave. Ste. 1220, Portland, OR 97204 503.222.3275

An annual subscription is included in member dues or may be purchased for \$20. Letters, award and news items, and announcements are welcome. Articles by members are accepted. All submissions may be edited for length, clarity and style, are published on a space available basis, and at the editor's discretion. Views expressed in articles represent the authors' opinion, not necessarily the MBA's. The publication does not purport to offer legal advice.

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*or the preceding Friday, if on a weekend.

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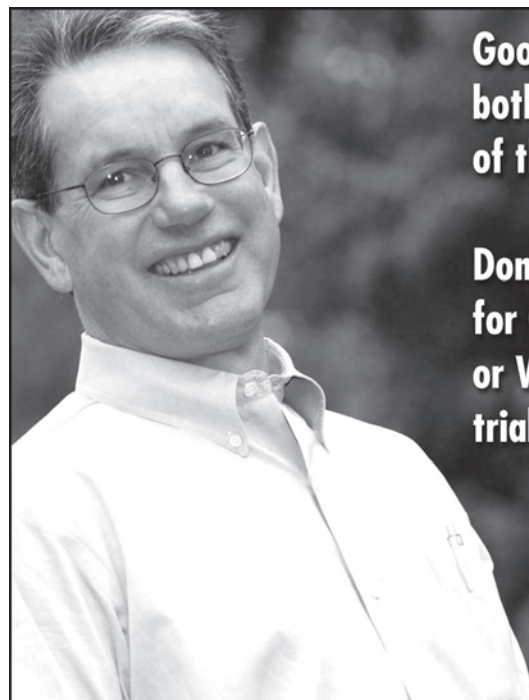


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LETTERS to the EDITOR

To Our Readers:

We have had a flurry of responses to the February front-page column by Caitlin Dwyer, "On the Threshold." We thank our readers for sharing their thoughts with us. We welcome letters to the editor. Please contact me at any time. We aim to be responsive to our members and their needs.

Judy Edwards
Editor and Executive Director

I enjoyed the article written by Caitlin. It is so important to hear from her generation's perspective about the present and future. I am grateful she places such high regard on our country's strong foundation in the rule of law.

Andrea J. Anderly
Gevurtz Menashe et al

I loved her article. You (Michael Dwyer) must be so proud of her!

Jean K. Maurer
Presiding Judge

What do I need to do to get permission to submit this to various national legal organizations for publication? I think it is well worth circulating among members of our profession on a broader scale than just Oregon. Please let me know.

Peter C. Richter
Miller Nash

Dear Editor:

Regarding the February 2009 cover article by Mr. Dwyer's daughter, while she seems like a very accomplished and sincere young woman, it is a dangerous road for the MBA to essentially endorse national political

candidates through front-page articles written by non-lawyers. There is no pretense of neutrality in the article. The author writes that through President Obama's "integrity in the campaign, largely restraining from smear attacks and maintaining dignity in his bearing, he reminded us how to act like Americans. He has given us hope. We are a house in ruin. On January 20, we began to build again."

There are many who believe that John McCain's life of service to this country, including his military service, and his often bipartisan approach also "reminded us how to act like Americans."

The point is that the MBA should stay out of politics, regardless of the side taken by it or its representatives. On its website, the MBA states that its purpose is to provide "a forum for lawyers to gather together for collegiality, to improve the justice system, to provide law-related community service and to access services and benefits that strengthen professionalism, satisfaction and success." I thus fail to see how a political article by a non-lawyer fits with the MBA's mission.

Thank you.
John Kaempf
Brooksby Kaempf PC

She's a wonderful talent! You and Jane must be so pleased!

Julia M. Hagan
Gevurtz Menashe P.C.

Yet another Dwyer column has resonated with me - although this one is from Caitlin. I certainly remember a delightful young lady when I had the pleasure of meeting some years ago. How

proud you must be - what an extraordinary young lady. Kudos - and a brilliant idea to have her write the column!

Julie D. Elkins
Zipse Elkins & Mitchell

Judy Edwards, Editor: I was surprised to read and take exception to the decision to publish Caitlin Dwyer's piece on the front page of the latest edition of the *Multnomah Lawyer*. While I'm sure her father is undoubtedly very proud of her accomplishments, the inclusion of that article is inappropriate on many levels:

It is an abdication of the association president's responsibility to, personally, discuss, opine or inform members of the bar as to matters of general and pertinent professional interest. It is shameless promotion of an individual (having connections/status) not afforded other members of the bar and their family members

It patronizes a political point of view that I assure you is not shared by many bar members - the *Multnomah Lawyer* should not be a vehicle for such pandering. Even if I agreed that "We are a house in ruin," "our country has fallen into shambles," the former administration "demanded our allegiance to ... conspiracy theory or blind loyalty," such shrillness is unproductive in this forum.

Continued on page 6

CALENDAR

For a complete MBA calendar, please visit www.mbabar.org.

March

3 Tuesday, MBA Board meeting

Tuesday, Campaign for Equal Justice Awards Luncheon
Visit www.cej-oregon.org for details.

Tuesday, MBA CLE Corporate Depositions
See insert or register at www.mbabar.org.

5 Thursday, YLS Summit and Fundraiser for CEJ
See p. 10 for details.

Thursday, MBA CLE Clark County Presiding Court Update
See insert or register at www.mbabar.org.

6-7 Friday-Saturday, OCDLA Seminar - Impact
Visit www.ocdla.org for details.

10 Tuesday, April Multnomah Lawyer deadline

13 Friday, OWLS Awards Dinner
Visit www.oregonwomenlawyers.org for details.

16 Monday, MBA Health Insurance Open Enrollment Meeting
Hilton Hotel. See details in ad on p. 12.

Monday, YLS and Barran Liebman Social featuring author Jeff Benedict
Visit www.mbabar.org for details.

17 Tuesday, YLS Board meeting

18 Wednesday, MBA CLE Client / Work Product Privilege
See insert or register at www.mbabar.org.

21 Saturday, YLS Service to the Public - Friends of Trees
See p. 10 for details.

28 Saturday, YLS Service to the Public - Oregon Humane Society
See p. 10 for details.

April

1 Wednesday, MBA CLE Multnomah County Presiding Court Update
See insert or register at www.mbabar.org.

Wednesday, MBA Board election ballot deadline

4 Saturday, YLS Service to the Public - Oregon Humane Society
See p. 10 for details.

7 Tuesday, MBA Board meeting

10 Friday, May Multnomah Lawyer deadline

15-18 Wednesday-Saturday, Oregon Rendezvous 2009

17-18 Friday-Saturday, OCDLA Juvenile Law Seminar
Visit www.ocdla.org for details.

18 Saturday, YLS Service to the Public - Oregon Humane Society
See p. 10 for details.

4/20-5/8 Monday-Friday, CourtCare Campaign
Watch for details.

21 Tuesday, YLS Board meeting

22 Wednesday, MBF Board meeting

4/27-5/2 Monday-Saturday, Community Law Week

28-29 Tuesday-Wednesday, MBA Resolving Conflict in the 21st Century Seminar
Watch for details.

The Corner Office

There are an increasing number of cases in our courts where one side is represented by counsel and the other side is pro se, or as some prefer, "self-represented." Besides the practical problems this may cause in having an adversary who is often unfamiliar with the law and/or legal procedure, it can be taxing to your professional demeanor. It is safe to assume that the non-professional litigant may not always act in a professional manner.

Unresponsiveness (or über-responsiveness), personal attacks, frivolous claims and assertions may make a simple case difficult and expensive. While the ethical responsibilities to a pro se litigant remain the same as to a represented party, does it affect our professional responsibility?

As attorneys, our professional demeanor should not change based upon who the counsel is

on the other side. Politely declining to engage in a battle of rhetoric and irrelevancies can serve to short circuit an out of control pro se. Do not belittle unrepresented litigants, but suggest that they speak with qualified legal counsel if they are significantly off base. Always be very clear that you are not giving them legal advice.

Follow up communication with a pro se litigant with written confirmation of what was discussed - for clarity and to protect yourself. Where ignoring inappropriately phrased demand or pleading will not materially prejudice your client, give the self-represented party some leeway. Discourteous remarks, taking advantage of the self-represented party's lack of legal sophistication or other unprofessional behavior may damage your reputation with the court.

It will never hurt your reputation or your client to treat a self-represented litigant civilly and fairly. The truest test of one's professionalism may be in facing the unprofessional litigant.

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. 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. The MBA will protect the anonymity of those submitting questions.



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Ethics Focus

By Mark J. Fucile, Fucile & Reising.

Spring Cleaning: File Retention & Destruction



When we open a new file we usually don't give much thought to when we will eventually close it and when we will dispose of it still later. Both, however, raise important issues for overall firm risk management. The first forms a key dividing line between whether a client is classified as "current" or "former" for conflict purposes. The second raises equally significant questions about both how long we should keep files and the means chosen to dispose of them. In this column, we'll look at both aspects of this version of "spring cleaning."

Closing Files

With most matters, we know when we have come to the end of a specific project - the advice sought has been given, the transaction has been closed or the final judgment has been entered. In many instances, the next work for a client flows seamlessly from the last. At least in some situations, however, we may not necessarily see the client again even if we got a very good result. For example, we might have done a great job in a case for an out-of-state company, but that firm might have only very occasional operations here. In that situation, it is important to document the completion of the representation and to close our file so that if circumstances change over time and another client asks us to take on a matter against the company, that in my example we represented in the past, we aren't left wondering whether it is a current or a former client.

The distinction between classifying someone as a current or a former client is significant when it comes to the need for conflict waivers. *Current clients* have the right to object to any representation a lawyer proposes to take on adverse to them. This right flows from the broad duty of loyalty lawyers owe their current clients. *Former clients*, by contrast, have a much narrower right to object. Under RPC 1.9, former clients can only block an adverse representation by denying a conflict waiver when the new work is the same or substantially related to the work the lawyer handled earlier for the former client or would involve using the former client's confidential information adverse to the former client. Absent one

of those two triggers, a lawyer is permitted to oppose a former client *without* seeking a waiver. If you have completed a project for a client and you think it is relatively unlikely that you may see the client again, a polite "end of engagement" letter thanking the client for the opportunity to handle the completed matter *and* letting the client know that you are closing your file may play a key role later in classifying the client as a former client.

Disposing Files

The Rules of Professional Conduct don't specify how long we need to keep a file once a matter is closed. RPC 1.15-1(a) and case law (see, e.g., *In re Spencer*, 335 Or 71, 58 P3d 228 (2002)), remind us that we have a duty to safeguard clients' original documents that are entrusted to us. Assuming that we have returned the originals to the clients at the completion of the representation, the question then becomes - how long do we need to keep files and how do we dispose of them?

How Long? There is no uniform standard. The Oregon Professional Liability Fund (PLF) has a very useful set of guidelines available at www.osbplf.org. The PLF generally recommends retaining most files for at least 10 years. That corresponds to the 10-year statute of ultimate repose for legal malpractice claims under ORS 12.115(1) (see, e.g., *Davis v. Somers*, 140 Or App 567, 915 P2d 1047 (1996)), and, in most circumstances, provides a practical measure for the outer boundaries of the continuing relevance of the material in the file concerned. The PLF's guidelines are also careful to note and give excellent practical examples of files (such as matters relating to minors) that should be kept for longer periods.

How to Dispose? Under RPC 1.9(c), our duty of confidentiality continues beyond the end of an attorney-client relationship and, indeed, even continues beyond a client's death. See OSB Formal Ethics Op 2005-23. Therefore, we need to take care in choosing the methods to dispose of files when the appropriate time comes. This generally means we should shred paper files and do the equivalent to electronic files. Firms are permitted to use outside services

ANNOUNCEMENTS

MBA Membership Renewal Due

If you haven't yet renewed your membership for 2009, please renew either online at www.mbar.org/membership.php or by printing the renewal form found online and faxing or mailing it to the MBA office with payment. MBA bylaws require members who have not renewed by March 1 to be taken off the membership roster, including the online directory. If you are unsure if you've renewed or not, please call Ryan Mosier at 503.222.3275.

MBA Bicycle Rides

Noon time bicycle rides - short fast rides 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 meet at the start.

St. Andrew Legal Clinic Announces New Directors

Attorneys John F. McGrory Jr., partner at Davis Wright Tremaine, Kathryn L. Villa-Smith of Gevurtz Menashe and Michael A. Yates, shareholder at Yates, Matthews & Eaton, have joined the clinic's board of directors.

Oregon Law Institute of Lewis & Clark Law School Board Adds New Directors

Katherine Heekin of The Heekin Law Firm and Matthew A. Levin of Markowitz, Herbold et al have joined the board. New officers are Jeffrey G. Condit, Miller Nash, President; Hon. Marilyn E. Litzberger, Multnomah County Circuit Court, Vice President; Martin F. Medeiros II, Swider Medeiros Hayer, Secretary; and James E. Mountain Jr., Harrang Long et al, Past President.

Oregon Lawyers Against Hunger Celebrates a Decade and \$1M for Oregon Food Bank

Oregon Lawyers Against Hunger (OLAH), a nonprofit group of attorneys dedicated to supporting the Oregon Food Bank (OFB) mission to eliminate hunger, celebrated its 10th anniversary by raising \$1 million for the OFB in 2008.

OLAH members donate time volunteering at shelters and food drive events, raise money and collect donations for OFB, which is the hub of a statewide network of 915 local hunger-relief agencies.

"More than 200,000 people per month eat meals from emergency food boxes," said Tim Calderbank, president of OLAH and a construction/real estate development attorney at Bullivant Houser Bailey. "It is our way of belonging to something bigger and providing needed assistance for our community."

In the fall 2008 OLAH Food and Fund Drive, the top five firms that raised the most funds included Lane Powell, Stoel Rives, Bullivant Houser Bailey, Klarkquist Sparkman and Ball Janik.

Upcoming Oregon Criminal Defense Lawyers Association Seminars

On March 6-7, IMPACT: Motions, Challenges and Arguments for Trial and Sentencing will take place at the Salem Conference Center. April 17-18 is the annual Juvenile Law Seminar at the Best Western Agate Beach Inn in Newport. Visit www.ocdla.org for more details.

Multnomah County Family Law Group

This group meets monthly in the first floor conference room of the US Bancorp Tower (Big Pink, 111 SW 5th Ave.) On March 30, Linda Scher will teach the group how to

best utilize the online parenting plan guides found at www.ojd.state.or.us/parentingplan.

If you would like to receive an email invitation (RSVPS required) to this and other luncheons, please contact David Bean at dib@meyerwyse.com

Willamette University College of Law Hosts International Law Conference

The fifth biennial International Law Weekend - West conference is March 6-7. The two-day program will address a broad range of international law topics, emphasizing human rights, the importance of law in international relations and the impact of globalization on the practice of law. The conference is free and open to the public. A nominal fee is charged for some conference meals. For more information, contact Chris Strum at 503.370.6877 or cstrum@willamette.edu.

OSB Construction Law Section Free Lunch CLE Seminar Series

The series will provide a new construction law practitioner background on the important, basic issues and concepts at work within the field. The sessions are being held at Smith, Freed & Eberhard, 111 SW 5th Ave., Portland, in the ground floor training room. The sessions start at noon and are usually scheduled to last 50 minutes. To reserve a seat for a particular session or the whole series, contact Jessica Berg at 503.227.2424 or jberg@smithfreed.com.

On March 19, the session will last until 1:30 p.m. and the topic is "Reading Plans and Specifications." On April 16, the topic is "Construction Delay Claims."

to handle the destruction (see OSB Formal Ethics Op 2005-141) as long as appropriate steps are taken to ensure that the outside services understand and comply with the duty of confidentiality.

Mark Fucile of Fucile & Reising handles professional responsibility, regulatory and attorney-client privilege matters and law firm related litigation for lawyers, law firms and legal departments throughout the Northwest. His telephone and email are 503.224.4895 and Mark@frllp.com.

save the date!

MBA 103rd Annual Meeting, Dinner & Judges Reception

Thursday, May 7
5-8:30 pm

Marriott Portland Downtown Waterfront
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MBA Group Insurance - Update

By Stephen J. Connolly, Garvey Schubert Barer & MBA Group Insurance Committee Chair.



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

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

With health care costs rising faster than the rate of inflation, health insurance is becoming an increasingly large expense for law firms. The MBA recognizes this struggle and works very hard each year to keep the rate increases

on its plans as low as possible. Rate increases are primarily due to increased health care costs (i.e., medical inflation), which are currently trending upward at almost 15% per year. Notwithstanding this substantial upward trend, there will be less than a 10% rate increase for most of the MBA medical plans this year and less than a 4% increase for the Kaiser medical plans. There will be no rate increase, for the third year in a row, for the ODS dental and the VSP vision insurance plans offered through the MBA program.

The MBA has redesigned two of its plans this year to be "Value Based Plans," which are plans designed with benefits that encourage healthy behaviors. The "Value Based Plans" are based on the philosophy that by treating health risks early, you can avoid health complications and costs down the road. The goal of these new "Value Based Plans" is to eliminate financial barriers and red tape so that more members will take advantage of preventive care and disease management

opportunities, which will, in turn, help them achieve and maintain good health in the long run.

The MBA has also added "alternative care benefits" to all of the Kaiser plans, which covers visits for chiropractic care, acupuncture, naturopathic care, and massage therapy. You may choose from more than 650 alternative care providers throughout the Kaiser service area and don't need a referral from Kaiser to get care. When you need alternative care, you just choose a provider from the alternative care provider list and call for an appointment.

If you have any questions about the MBA health insurance program, you should contact our plan administrator, Northwest Employee Benefits, at 503.284.1331, or go directly to its Web site at www.nebi.com. If you have any suggestions for the MBA health insurance program, contact the MBA Associate Executive Director, Guy Walden, at 503.222.3275.

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Letters to the Editor

Continued from page 3

As Ms. Dwyer discloses, “I am not a lawyer,” so unless she has some specific expertise or experience that may be of value, professionally, to association members she should not have been invited, even as a guest writer. General giddiness about President Obama’s anticipated presidency would not qualify.

I hope that in the future there will be more editorial restraint.
*Roger K. Harris
 Harris Berne Christensen*

Michael: I feel a statement that one often hears on talk radio is an appropriate introduction “long time listener first time caller”. I merely wanted to write and commend your daughter on her wonderfully written article for the *Multnomah Lawyer* and you for the good sense to have the article printed. You must be very proud.

*Craig A. Nichols
 Nichols & Associates*

Your daughter Caitlin’s article was great. What a start she has in life. You must be very proud. Great job.

*Jeffrey M. Kilmer
 Kilmer, Voorhees & Laurick*

I read your daughter’s column in the *Multnomah Lawyer*. What a well written and heartfelt piece. How proud you must be of her!

*Ann K. Chapman
 Vanden Bos & Chapman*

Please pass along my gratitude to her. I love that she accepted the Mult Lawyer writing opportunity (and that you offered it to her). Well done.

*Bernadette Dieker Nunley
 Assistant County Attorney
 Office of the Multnomah County Attorney*

OUTSTANDING article by Caitlin Dwyer. Very well said.

Please pass along to her that my faith in the future of our nation received a boost after I read her article. If she is representative of her generation, we will work through our current adversity and undergo yet another transformation.

Thank you for providing us with her viewpoint.

I just wanted to drop a quick note and tell you something you already know very well ... Caitlin is a wonderfully gifted writer. What a refreshing piece. Thank you for sharing with us.

*Shawn N. Menashe
 Gevurtz Menashe et al*

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AROUND THE BAR

ROBERT J. MCGAUGHEY
Paul J. Blechmann joined the firm as an associate, where he will assist individuals and businesses in litigating investment and broker fraud actions and employment termination disputes.



Steven L. Shropshire

JORDAN SCHRADER RAMIS
Steven L. Shropshire has been elected managing shareholder of the firm. Shropshire joined Jordan Schrader Ramis in 2001 and was named a shareholder in 2004. He will continue his practice in water rights and natural resources law, real estate and agribusiness.



Michele E. Stone

MARKOWITZ, HERBOLD ET AL
Michele E. Stone has become an associate with the firm, where her practice will focus on complex civil and business litigation.

DAVIS LAW FIRM
Paul C. Galm joined the firm, which will continue to handle estate, business, real estate and collection matters.



Aaron Kirk Douglas

BULLIVANT HOUSER BAILEY
Aaron Kirk Douglas has been hired by the firm as marketing manager, where his responsibilities will include marketing the firm's employment practice, the intellectual property practice and the recently formed arts, entertainment and sports law group.

Douglas will work under the direction of Marketing Director, **Wendy Hughson**.



Mark Johnson

JOHNSON & LECHMAN-SU
Mark Johnson has been re-elected as Oregon's State Delegate to the ABA. In addition to chairing Oregon's delegation in the house, Johnson serves by appointment of the ABA President on the ABA Standing Committee on Professional Discipline and on the planning committee for an ABA summit conference on diversity in the profession, to be held in June.

Johnson practices in the areas of appellate litigation, family law and legal ethics.



Nancy L. Mensch



Kyoko K. Wyse

MEYER & WYSE
 Two new associates have joined the firm. **Nancy L. Mensch** will focus her practice on estate planning, probate and trust administration and **Kyoko K. Wyse** will work in the areas of family law and general litigation.



Lee Nusich

LANE POWELL
 The Naa Amerley Palm Education (NAPE) Foundation has announced the first recipients of the **Lee Nusich** Scholarship. The scholarship was named for Lee Nusich, Counsel to the Firm in Lane Powell's Portland office and a member of NAPE's Advisory Board, as a tribute to both his and the firm's support, which were instrumental in obtaining funding for the scholarships.

The Lee Nusich Scholarship Fund will help students in Ghana attend Ghanaian Universities by providing monetary assistance with tuition, textbooks, and residential facility user fees. The scholarship is specifically for students considering business or science courses at the senior secondary school level and business administration and computer science at the university level.

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

Law Firm Directs Cy-pres Funds to CEJ



The local law firm of Slater Ross has arranged for a generous cy-pres contribution in the amount of \$170,000 to be contributed to the Lawyers' Campaign for Equal Justice, the fundraising arm for Oregon's civil legal aid programs, to be used to provide legal help to low-income Oregonians in housing matters.

The contribution of cy-pres funds comes from a class action lawsuit that Michael Ross and Christopher Slater litigated in Multnomah County. Slater Ross represented a class of 30,000 tenants who were being overcharged by landlords and a billing company. The settlement agreement provided that any money left over from the distribution of the fund, after the class members were given notice, would be sent to the Oregon Law Center for the purpose of providing Fair Housing education, training and advocacy.

The Oregon Law Center will use the Slater Ross contribution to fund a three-year Fair Housing Staff Attorney position. "For the first time, Oregon will have an attorney position entirely dedicated to doing fair housing and fair lending work for low-income Oregonians," said Ed Johnson, the Housing Litigation Coordinator for the Oregon Law Center. "This money will allow us to do outreach and education on housing discrimination in vulnerable communities. It will also increase our capacity to represent low-income victims of housing discrimination."

More information about Slater Ross is at www.slaterross.com. To learn more about the Campaign for Equal Justice, please visit www.cej-oregon.org.

President's Column

Continued from page 1

reaches of the globe to help educate local populations with mediation and negotiation skills to resolve conflict. And Riskin, who was the first to map the mediator's evaluative-facilitative grid, and whose book *Dispute Resolution and Lawyers* was a staple of conflict resolution trainings, had just moved to the University of Florida Law School after establishing the prestigious ADR program at the University of Missouri-Columbia.

At the day-long program on April 29, Riskin spoke about the 10 essentials all negotiators must know, Cloke talked about the language of conflict and Macfarlane talked about the New Lawyer in the 21st century. The following day, April 30, Macfarlane gave a daylong workshop for 50 lawyers.

"After that program I never thought about lawyering the same way again," Schpak said, sitting down now. "It blew open my conception of what it meant to be a lawyer." Leonard, still muscular and handsome, agreed: "It reminded me why I went to law school. It helped me recapture the vision and idealism."

"Here's the difference," Griffith said, while stroking her long white hair and leaning on her cane. "From that day forward, lawyers, judges and mediators – often working in an interdisciplinary way with other professionals such as psychologists and financial planners – began to deeply study sophisticated settlement

strategies, including strategic, interest-based negotiation. We began to consider the needs and interests of *both* parties to create a beneficial outcome *for our client*. Instead of preparing for trials in cases that would likely settle, we began to focus greater attention on conflict resolution, even in the early stages of the case as part of a comprehensive assessment of client needs."

"I think," Senator Leonard said, "after that program back in April 2009, negotiation was no longer treated as a weak sister to its muscular big brother – trial. Instead lawyers who possessed sophisticated settlement and negotiation skills became respected in their own right as highly as trial lawyers, just as over time we came to value skilled international negotiators as highly as shrewd war generals. There was still a need for both trial lawyers and negotiators, but after that program we weren't always geared primarily for war. We began to learn skillfully how to value and make peace."

"I feel badly for all the lawyers who never attended, and never raised the level of their settlement skills," Griffith said. "You know what happened to them over the years."

"Glad we didn't make that mistake ourselves," Leonard said.

"Wouldn't it be cool if we could go back in time and do that program all over again," Judge Schpak said. "Time travel maybe."

Tips from the Bench

By Judge Jerome LaBarre, Multnomah County Circuit Court.

Settlement Judges: Special Help for Special Cases Tips on How to Succeed

So you hit a wall in trying to settle your big case. The clients on both sides are mired in impasse. Both direct negotiations and private mediation failed. This is when a settlement judge might be able to help. Not every case justifies the use of our scarce judicial resources. But for the right case, this could be the right solution. On our court, in addition to our Chief ADR Judge, the Hon. Kristena LaMar, I am one of a number of judges in the Civil/Criminal Division who sometimes work as settlement judges. If you want to move in this direction, here are some tips to consider.

Judges Are Different Than Private Mediators

Private mediation is well understood. There are many similarities between it and a judicial settlement conference. But there are also important differences. Settlement judges work in a more formal world. Judges can be evaluative as well as facilitative. My settlement conferences take place on the 7th floor of the Multnomah County Courthouse. I direct one side to wait in the courtroom and the other side to wait in the jury room. I meet with them in my chambers. Trial is the default alternative to a settlement. This quickly becomes obvious to all.

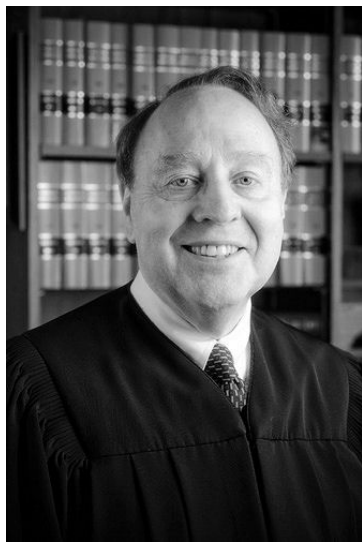
Judicial dockets are busy and the time available for settlement conferences is usually limited compared to what occurs in private mediations. A premium needs to be placed on preparation and efficiency. This is true for both the lawyers and for the judge. Therefore, I impose the following requirements both pre-conference and at the settlement conference itself.

The Pre-Conference Letter Requirement

In my chambers, once the preliminary scheduling and acceptance procedures are completed, we send out guidelines on what is to be contained in a short confidential letter to be submitted to me by each side. Essentially, the letter must set forth the attorney's candid evaluation of the crucial issues; the obstacles to resolution; and, a proposed "road map" to settlement of the case. The letter should not be about legal positioning. Instead, it should be about what is really needed to assist the court in facilitating settlement.

The Settlement Conference

Some of the important things which can help in achieving a settlement at the conference are the following:



- 1. Have Proof of the Dollar Figures Ready.** Medical specialists, lost wages, lien amounts, economic damages and the like all need to be documented and laid out by plaintiff's counsel.
- 2. Reveal Past Settlement Offers.** My own experience is that I can work best as a settlement judge if I can come in to break an impasse. The parties should have already tried to settle the case before they enlist the help of the court.
- 3. Have Authority To Settle.** Key decision makers need to be physically present. Each of them needs to be armed with realistic settlement authority. In the case of insured defendants, this usually means an adjuster who is supervisory level or above.
- 4. Analyze Your Case and Prepare Your Clients.** Attorneys are the professionals who know their own case best. Just as when a medical doctor recommends surgery and obtains informed consent, I believe that an attorney should make a settlement recommendation to the client. This must occur prior to the settlement conference.
- 5. Breaking Impasse.** Focus on interests, not on positions. Determine how the impasse has come about. Is it a disagreement between counsel or the clients? Does it arise from different views of the facts or the law? Or is it really about a non-legal consideration such as unresolved emotional issues?
- 6. Obtaining Finality.** Once settlement has been achieved, my practice is to put a summary of the terms of the settlement on the record and have each party and attorney orally state on the court record approval of the terms. Instantly, a binding enforceable agreement comes into existence. There can be no backing out, even though the formal settlement documents are not completed until later.

Asking a trial judge to act as a settlement judge can make all the difference. Who better knows what juries are actually doing in the courthouse? But this powerful tool should be used sparingly. And counsel need to be well prepared to efficiently move the process forward.



By Heidi Moawad, Multnomah County DA's Office and Court Liaison Committee member.

Courthouse Update

The interim legislative committee on courthouse facilities had its last meeting in January of this year. Although there was a desire to establish a permanent committee focusing on courthouse maintenance, repair and replacement – the inability to fund a staff person to support it will keep it from going forward. It appears that since the Multnomah County Courthouse is not "shovel ready," there is little hope that the stimulus package will move a new courthouse forward.

Presiding Judge "Tour"

Member Dana Scheele shared her experience with Judge Maurer's visit to her firm, Hoffman Hart. Scheele said that it was an excellent discussion and the

information exchange was very helpful and she encourages other civil firms to invite the judge to come speak. MBA Executive Director Judy Edwards agreed and shared a similar experience from when Judge Maurer met with the managing partners meeting.

Tips from the Bench

The rotation of judges seems to help with topic selection. MBA members are reminded, however, that the MBA Web site has a link for suggesting topics for the "Tips from the Bench" column.

Spring Judicial Brown Bag

This year's spring brown bag will be at noon on Friday, May 8 (location and topic TBD). There was some discussion regarding whether or not the session

should focus on civil or criminal issues. Heidi Moawad of the DA's office and Chris Howard from Metropolitan Public Defenders both noted that criminal-specific sessions are available through the DA's office and OCDLA so the need for a criminal-focused topic may not be there. Additionally, Chair Anne Talcott pointed out that it is a good opportunity for civil lawyers to get to speak with judges, an opportunity that civil lawyers do not have as often as the criminal practitioners do.

MBA Web site

The MBA continues to request feedback about the Web site's content in general - if you have a suggestion, please contact the MBA.

How is the Economy Affecting Your Firm? How can the MBA assist you?

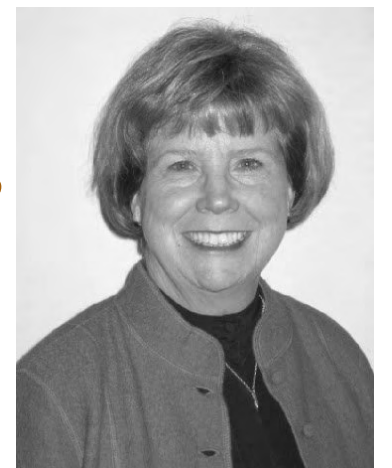
By Judy A. C. Edwards, Executive Director.

In an effort to be responsive to our members' needs, we try to focus on initiatives that may help you. We have the ability to tap affinity/business partners (Bank of the Cascades, Legal NW, Office Depot, are among our partners) and other collaborators to create new or refine existing member services to meet your needs. The sole reason for the MBA to exist is to support its members. But, we need your help.

Action Requested

Please send me an email with your input and/or answers to the following questions. You have my word that all responses will be kept in utmost confidence. Send to judy@mbabar.org.

- Is work remaining stable for your firm? If so, why do you think that is? If not, what do you suspect are the factors behind the instability? Please share your thoughts on how the MBA might provide guidance or assistance to firms experiencing instability in the current economy.
- Is there a firm issue or challenge regarding the economy, or otherwise, with which the MBA might be able to offer assistance? What things worry you or keep you up at night? What kinds of services might be helpful?
- Do you have a line of credit? If so, have you had to access it? If not, do you know that the best time to be approved for a line of credit for operating your firm is when you do not need it? Please share your suggestions on how you believe the MBA could help with this topic.
- Have your accounts receivables increased substantially? Are your outstanding invoices extending to a longer timeline?
- Are you reducing the number of lawyers and/or support staff in your firm? Are you filling positions when employees leave? Do you know that the MBA's affinity partner, Legal NW provides MBA members with discounted employee placement services and guarantees? Please send me suggestions on how the MBA might help you train lawyers and/or support staff.



- What type of technology support or training could the MBA provide to your lawyers and/or support staff? Please give us ideas for suggested topics, days and times that are best for you.
- How is the work/life balance in your firm? Does your firm culture encourage work/life balance in the current economy? Please forward any ideas, thoughts or suggestions on this issue to me.

Good luck to you in building your firm's success. Please always contact me with your ideas. A full, regular electronic survey of members will be conducted later this year. For now, we wanted to "take the temperature" of the financial health of our members and their firms and identify any ways in which the MBA may be able to provide support.

Judy Edwards may be reached by calling 503.222.3275 or by sending an email to judy@mbabar.org.

Retrospective Profile - Dale Koch, Multnomah Circuit Court Judge

By Todd Van Rysselberghe, Kennedy Watts et al and Court Liaison Committee member.

February 1 marked another milestone for one distinguished Multnomah judge. **Judge Dale Koch** joined the ranks of Oregon's senior circuit judges after devoting the past 37 years to the law.

Judge Koch grew up in Oregon with his mother and oldest brother. He graduated from Springfield High School in 1964, and went on to obtain degrees from the University of Oregon and U of O School of Law. (To some he is known as a "Double Duck.") Judge Koch has been a member of the OSB since 1971.

In 1972, a position in the Multnomah County District Attorney's Office brought Judge Koch to Multnomah County. It was here Judge Koch formed a close friendship with another young deputy named Frank Bearden. He spent four years in the District Attorney's Office, where his experience included more than 50 jury trials, including a murder trial with another young lawyer, Marshall Amiton, as opposing counsel.

Judge Koch entered private practice in 1976. After handling a variety of matters, he focused his practice in the area of family law. In 1985, he formed a family law partnership with Elizabeth

Welch, which continued until she became a circuit court judge.

After serving the role of an attorney for 21 years, Judge Koch was appointed to the circuit court in 1992. In 2002, he was appointed by the Chief Justice to serve as the presiding judge of Multnomah County after being selected by his judicial colleagues. He was the presiding judge for nearly six years.

During his 16 years on the bench, Judge Koch applied his experience to matters beyond the courtroom. In 1998, he was elected to the Board of Trustees of the National Council of Juvenile and Family Court Judges. He became an officer in 2003 and was installed as the president in 2006. In 2005, Judge Koch was elected to the Board of Directors of the National Center for State Courts. He has also co-chaired the National Judicial Institute on Domestic Violence Advisory Committee and is a past chair of the Oregon State Family Law Advisory Committee and the Judicial Conference Family and Juvenile Law Committee.

In 2000, the Chief Justice honored Judge Koch with the Juvenile Court Champion award.



Judge Dale Koch

Judge Koch has been pleased to see the increased gender diversity on the bench in Multnomah County. He sees cultural, racial and gender diversity on the bench as a keystone to a fair and equitable judicial system.

Looking forward, Judge Koch plans to continue serving the court as a senior judge and as a private mediator. He hopes to spend more time at a vacation home in central Oregon and traveling with his wife. It is also a fair bet that his routine will include more time on the golf course, including rounds with his fellow retirees - Judges Amiton and Bearden.

Nominated for MBA Director

Three four-year positions start July 1. Please look for the self-mailer election ballot inside this issue.



Carol Bernick, Davis Wright Tremaine, graduated from the University of Virginia Law School in 1989. She practices in employment law, including wage and hour class actions, discrimination, wrongful discharge and she provides employment law advice and training for employers.

Carol is a current member of the MBA Court Liaison Committee, chaired the MBA Judicial Screening Committee in 2004-05 and previously served on the MBA Professionalism Committee. She also served on and chaired the former MBA Committee on the Status of Women in the Profession.

Carol has provided pro bono advice to various community organizations, including Stand for Children, Mercy Corps, Planned Parenthood of the Columbia/Willamette, ART, Community Action Organization, Housing Development Council, Northeast United Soccer Club. She has also frequently spoken at CLE seminars and has served as a Community law Week volunteer.

Julia M. Hagan is a shareholder with Gevurtz Menashe, where she practices in the areas of family and juvenile law and guardianship of minors. She is a 1984 graduate of Lewis & Clark Law School and a 1979 graduate of Santa Clara University.



Julia is the current chair of the MBA Judicial Screening Committee. She chaired the MBA Court Liaison Committee in 2005-06. She was the MBA Representative to the Multnomah County Advisory Committee on Courthouse Security and Emergency preparedness from 2007-08 and is the MBA liaison to the Multnomah County Criminal Justice Advisory Committee. She is the current chair of the OSB Juvenile Law Section.



Gregory Moawad, Multnomah County District Attorney's Office, graduated from the Lewis & Clark Law School in 1994. He is assigned to a Violent Crimes Unit.

Greg is the current chair of the MBA Membership Committee and chaired the MBA Judicial Screening Committee in 2006-07. He previously served as a member on the Attorney General's Task Force on Elder Abuse, as Faculty for the National Advocacy Center, and was a Lecturer for the National District Attorney's Association.

Nominated for YLS Director

Three three-year positions start July 1. Please look for the self-mailer ballot insert inside this newsletter. Only YLS members may vote for YLS Directors.



Nicholas A. Kampars graduated from Willamette University College of Law and was admitted to the OSB in 2006. He is an associate at Davis Wright Tremaine and practices in the areas of employment, litigation and governmental relations. Kampars was a member of the YLS Pro Bono Committee in 2007-08, coordinated the Attorneys for Youth and Outside In projects for that committee, and also served as a member of the Legal Aid Services of Oregon - Oregon Law Center's Pro Bono Committee. He was appointed to the YLS Board in 2008 to fill a vacancy, which expires this year.



Yumi Minagawa O'Neil graduated from Lewis & Clark Law School and was admitted to the OSB in 2003. She is an Education and Training Analyst at Multnomah County Circuit Court, overseeing the training of the judicial clerks and supervising the floater clerk program. O'Neil has been on the YLS Professional Development & Education Committee since 2006, currently serving as chair of that committee. She is also a member of the YLS Futures Committee, the OSB Leadership College Advisory Board and OWLS.



Bernadette Dieker Nunley graduated from Lewis & Clark Law School and was admitted to the OSB in 2007. She advises the Multnomah County Public Library, handles Animal Services administrative hearings, and litigates employment and tort lawsuits for the Multnomah County Attorney's office. Nunley is chair of the YLS Futures Committee and volunteers with the YLS Imprint Program. She also serves as a mentor with the Lewis & Clark Law School Mentor Program and is a member of OWLS.

The YLS would like to thank



for the generous sponsorship of the YLS seminar "sustainability in the Legal Field"

The Pros and Cons of Contract Lawyering

By Aaron J. Cronan.

The legal profession is nothing if not tied to tradition. The very principle of *stare decisis* is based upon adherence to the decisions that have come before. We tend to resist new technology (reference the firms that did not have computers for associates as late as 2002), and we revel in the use of dead languages like Latin and Law French. It is not surprising that the legal community as a whole is a bit resistant to a new type of legal practice gaining momentum: the contract lawyer.

The traditional career path for a lawyer has primarily been binary: an associate position at a firm with the aim of making partner, or striking out on your own with your name on top of the letterhead. But the third option of working on contract has steadily gained viability over the past 20 years. What was once uniformly viewed as the domain of attorney-mothers who needed flexibility is now on the cusp of becoming a tempting business model for practitioners and firms alike.

Portland has a core of pioneer contract attorneys who have garnered a new level of respect for this new model and have proven that one can make a respectable

living working on contract. A handful of these attorneys were interviewed about their own experiences and thoughts on contract lawyering. Most initially worked in law firms, some were also partners. Although each of them came to working as a contract attorney through various paths, they all had very similar thoughts about the pros and cons of this form of practice.

This article is in two parts in the interest of space. The second half will follow in next month's newsletter.

Pro - Flexibility: The number one pro of contract work is flexibility; you choose where, when and how you work. There is no expectation to stay at the office until the partner goes home, nor is there pressure to work on the weekends unless that's when you prefer to work or the project calls for it.

Con - Lack of Security: The flipside of flexibility is the risk that there may be no work next week. Without the safety net of a salary, cash flow may be a little more variable than some are prepared to handle. Another major consideration for anyone self-employed is health insurance.



Shouldering the cost of insuring a family may increase the risk of leaving the firm. However, firms are just as susceptible to market changes as any other industry. As we have seen in just the last 10 years, a traditional firm job may not carry more security in the long term.

Pro - Projects v. Case Load: Most contract work is project based and contributes pieces to the greater matter with little to no ongoing responsibility for the ultimate outcome. The stress level is significantly lower than carrying your own case load from start to finish. This project format may suit some attorneys very well.

Stay tuned for the riveting conclusion next month in part 2.

YLS Sponsors New Advanced Litigation Series this Spring

By David Gilbert, Stewart Sokol & Gray and YLS Committee PDE Committee member.



For the past several years, the YLS Professional Development and Education Committee has sponsored the Young Litigators Forum, a series of hour-long CLEs designed to help new litigators learn some basic trial skills not necessarily taught in law school. Past series have been very well-attended. Now, the committee is building on the success of the Young Litigators Forum by offering a new Advanced Litigation series this spring. "The idea for the series stemmed from feedback from a few judges and YLS CLE evaluations that newer lawyers needed more development of trial skills," says Committee Chair Yumi O'Neil.

Like the Young Litigators Forum, the Advanced Litigation series will seek to give an overview of practical litigation skills by experienced practitioners and judges. Like the Young Litigators Forum, it will consist of a series of hour-long lectures over the course of nine weeks. What makes this series different? It is advanced! While still aimed at the litigator who has been practicing five years or fewer, this series covers topics that a brand new lawyer may be less likely to encounter. "Our Winter CLE series - the Young Litigators Forum - already addresses the fundamentals of litigation, so we thought that offering beyond-the-basics litigation CLEs would take it up a notch," explains O'Neil.

Many lawyers believe that a jury trial case can be won or lost on voir dire, but how to conduct an effective voir dire can be a mystery to a young lawyer. For this reason, the series will include a class by Judge Kathleen M. Dailey of the Multnomah County Circuit Court. She will share some practical lessons gained from her experience as a trial lawyer and as a judge. Her lecture will include such topics as:

- Dos and Don'ts - Delving into Bias and Attitudes and not Trying the Facts
- Building Rapport - Getting the Jury Venire to Talk

- De-selection - Focus on What Matters Most

Other scheduled topics and speakers include:

- Federal Court Nuts and Bolts, with Judge Ann Aiken
- Simplifying a Complex Case, with Richard Stone and Michael Seidl
- Dealing with Experts from Beginning to End, with Julie Vacura

The series begins on April 4 and will take place on subsequent Thursdays for nine weeks. The classes are from noon-1 p.m. at the Standard auditorium. Look for the flyer advertising the new series in this issue of the *Multnomah Lawyer*.



YLS Teams up with Local Organizations to Offer Volunteer Opportunities

Friends of Trees

Help beautify Willamette Park. Friends of Trees is looking for volunteers to plant trees in Willamette Park along the South Portland Riverbank on Saturday, March 21 from 8:45 a.m. to 1 p.m. Volunteers will help to restore a natural area, and generally have fun in the mud. Come join your fellow MBA members in this fun springtime opportunity. Crew leaders will guide groups of volunteer planters. Volunteers of all ages are welcome, and no previous planting experience is necessary. The meeting location is SW Macadam Ave. and SW Nebraska St., Portland. To sign up, please contact Winter Drews at WinterKortum@gmail.com.

Oregon Humane Society

Want to help homeless pets in the Portland area find new homes? Please join the YLS Service to the Public Committee at the Oregon Humane Society on one of three Saturdays - March 28, April 4 or April 18 from 1-3 p.m. Family, friends and children over the age of 12 are welcome to join us. Our volunteer sessions will give the animals the attention they need and the social skills to help them find new homes. To volunteer at the Oregon Humane Society or for more information, please email Gina Delahunt at gdelahunt@ueainc.com.

Be on the lookout for future events with organizations like DoveLewis, SOLV and more!

YLS and Barran Liebman to Host Author Jeff Benedict March 16

The YLS and Barran Liebman are teaming up to host Jeff Benedict, author of *Little Pink House: A True Story of Defiance and Courage*, the story of *Kelo v. City of New London*, on March 16 from 5:30-7 p.m. The book reading and reception will be hosted by Barran Liebman at their office, 601 SW 2nd Ave. Ste. 2300. Complimentary food and beverages will be provided by the firm.

Attendees should check in at the security desk at the main floor of the building, and let security know that they are attending the MBA event at Barran Liebman.

All MBA members are invited to this event. Please join us on March 16 to welcome Jeff Benedict to Oregon, learn about *Little Pink House: A True Story of Defiance and Courage* and socialize with friends and colleagues. To learn more about the book, visit www.wsj.com and search "Evicted, But Not Without a Fight" for the *Wall Street Journal* book review.

Space is limited to 50 people. To RSVP or for more information, please contact Kathy Maloney at kathy@mbabar.org.

YLS Dropout Prevention Program Visits Classrooms

The YLS Dropout Prevention Program is in full swing, with lawyers visiting middle and high school classrooms around the city. Teachers, students and volunteers have all reported back with positive experiences and many more

schools are currently finalizing appointments. The volunteer pool this year is a fantastic group and open appointments are often filled within minutes of posting.

The program held its orientation meeting last month courtesy

of Schwabe Williamson & Wyatt. The contributions of attorney volunteers are greatly appreciated and have made the Dropout Prevention Program successful.

WinterSmash Raises \$16,000 for CourtCare

By Kathy Maloney, MBA Director, Events and Programs.



What better way to raise money for a good cause than with a night of family fun, bowling competition, raffle prizes and a best bowling shirt competition? On Saturday, February 7, about 250 lawyers, judges and their families participated in the MBA's Seventh Annual WinterSmash fundraiser at AMF 20th Century Lanes in Portland.

In the spirit of fun – with hints of fierce competitiveness – teams gathered to vie for prizes based on their scores and outfits.

Best team score went to the YLS Board, with their top three scores combined at 534. They beat out the Harrang Long et al team by only three points to take home the coveted bowling trophy. Gevirtz Menashe won the prize for best shirt, with all teammates sporting vintage bowling shirts.

The prize winner for best individual score went to Joanne Austin from Harrang Long et al, with a score of 201. Joanne says she had not previously broken 100. Way to go, Joanne! Other notable high scores were Andrew Schpak with a 196, and Jim Hurley and Troy Moody, both with scores of 190.

The team with the most players again this year was Harrang Long et al, with 37 bowlers signed

up. Barran Liebman, Gearing Rackner Engel and Portland NLG all had about 20 bowlers each.

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

Thank you to our sponsors and all who participated. Thank you to the Fun Committee for planning WinterSmash: Hwa Go, Chair, Colin Andries, Jeff Crawford, Judge Paula Kurshner, David Malcolm, Jeff Matthews and Eric Meyer. Thank you Sylvia Stevens and NALS of Portland, for selling raffle tickets at the event.

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YLS Board with their trophy for high team score



Harrang Long Gary Rudnick bowlers

Schwabe Strives to be Part of the Solution

By Carmen Calzacorta and Regina Hauser.

This article continues our series on what firms are doing in the areas of sustainability, firm management, work/life balance and other topics of interest to our members. If you would like to submit an article for this series, please contact Judy Edwards at judy@mbabar.org.

Reports regarding the effects of global warming, loss of habitat and stressed natural resources appear daily in the media. Schwabe, Williamson & Wyatt's commitment to being a part of the solution instead of contributing to the problem goes beyond the typical and expected efforts to reduce waste and energy consumption. As a Sustaining Member of The Oregon Natural Step Network, Schwabe has shown its commitment to

improving office operations with the goal of long-term sustainability through adoption of the Natural Step framework. Companies that embrace this framework are committed to constantly re-thinking and re-creating their organizations to be more innovative, strategic and effective.

Vendor and Building Management Programs

Some of Schwabe's most innovative sustainability programs have resulted from insisting that vendors change long-standing operational practices. For example:

- Office supply companies now deliver supplies in reusable totes and deliveries are restricted to two days per week.

- Cleaning crews use green products and are aware of the firm's recycling processes.
- There are now policies for catering services, including:
 - ♦ using metal silverware and washable dishes;
 - ♦ asking caterers to reduce excessive packaging;
 - ♦ serving lunches on trays, which eliminates individual packaging; and
 - ♦ encouraging the use of caterers that use locally grown organic products.

One of the more unusual waste-reduction programs is a result of collaborating with the Starbucks located in the PacWest building.

PRO BONO VOLUNTEERS

Thanks to the following lawyers and law students, who donated their pro bono services in January via the Volunteer Lawyers Project, the Senior Law Project, Community Development Law Center, law firm clinics, the Oregon Law Center, the Nonprofit Project, St. Andrew Legal Clinic, Catholic Charities Immigration Legal Services, Lewis & Clark's Small Business Legal Clinic, Children's Representation Project and Attorneys for Youth. To learn more about pro bono opportunities in Multnomah County, check out the Pro Bono Opportunities in Oregon handbook, available at www.mbabar.org/docs/ProBonoGuide.pdf.

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The program is simple: Schwabe supplies Starbucks with mugs that can be used by its employees; these are then washed and returned to Starbucks for continued use.

Additionally, Schwabe has worked closely with building management to install water-saving faucets and low-energy, motion-sensor lighting.

Energy Reduction and Climate Change Initiative

One of the most extensive efforts to reduce energy consumption has been the use "virtual servers." Although not always possible for security reasons, multiple computer servers can run off of one computer, which uses less electricity and reduces the need for heating and cooling required by large multi-computer systems. To date, Schwabe has eliminated 10 servers and is purchasing far less hardware than in the past.

Schwabe also was an early adopter in purchasing carbon offsets. And, to make sure the offsets create true environmental benefits, the firm adheres to guidelines established by The Climate Trust. Offsetting electricity used by the firm costs about \$10,000 annually and offsets approximately 1,000 tons of carbon.

Last summer, with the planting of 100 trees by employees, the firm

kicked off its Climate Change Initiative to advise clients in this continually changing arena. The initiative encompasses broad issues, including carbon trading, clean air, clean technologies and renewable energy legislation.

Employee Commuting

The largest impact that many businesses have on the environment is made by employees commuting to and from work. Through its Transit Pass Program, 52 percent of Schwabe employees now use mass transit for their daily commutes. Additionally, the firm:

- worked with building management to provide free bicycle parking spaces;
- Zipcars available to employees who need a car during the day; and
- participates in the City of Portland's Smart Trips Downtown program.

Paper Reduction

In addition to these more innovative programs, Schwabe has established a goal to reduce paper usage per attorney by 10 percent over the next 12 months. Programs to achieve this goal include: converting copiers and printers to double-sided image default and increasing the

Continued on page 13

MBA Group Health Insurance Open Meeting

Learn more about the MBA health insurance plans at the March 16 meeting.

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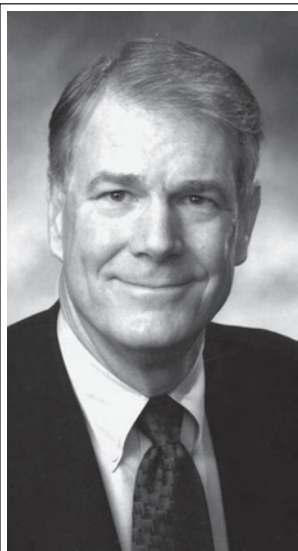
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Continued from page 11

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Being Part of the Solution

Although Schwabe is a large law firm, its sustainability programs can be implemented by firms of any size. If all MBA member law firms implemented just a couple of these (or other) initiatives, there would be a tremendous positive impact on our environment. In addition to helping clients pursue sustainability in conjunction with their business objectives, law firms can make sustainability an important part of how they operate on a day-to-day basis.

Carmen Calzacorta is a shareholder in the Portland office of Schwabe, Williamson & Wyatt, and is a member of the firm's Climate Change Initiative.

Regina Hauser is the executive of The Oregon Natural Step Network, which was formed to support Oregon business, governmental, and educational organizations interested in using The Natural Step (TNS) framework for sustainability.

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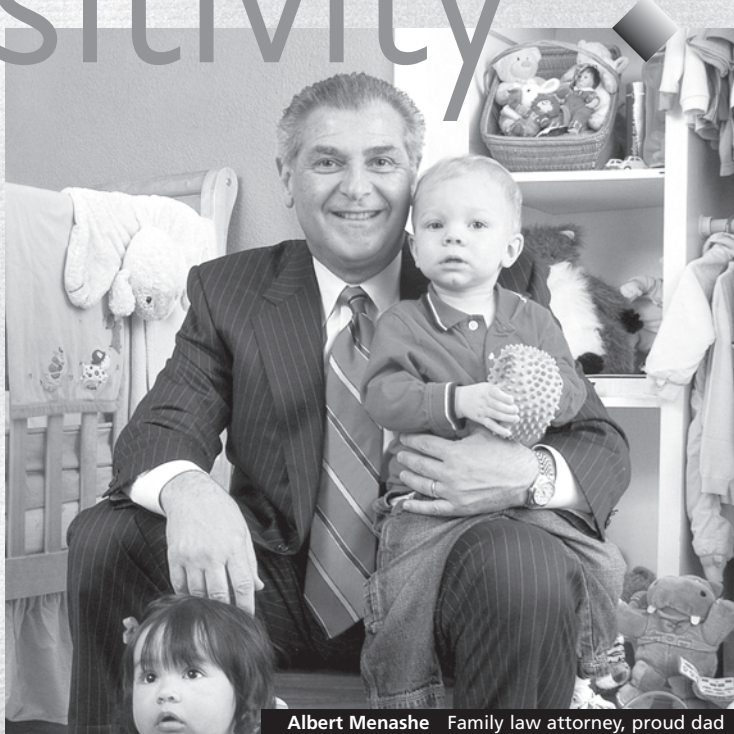


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The Multnomah Bar Foundation Board of Directors is Growing!

By Pamela B. Hubbs, Office and Foundation Administrator.

The Multnomah Bar Foundation (MBF) has elected five new directors to its board: **Loree A. Devery**, Tonkon Torp; **Edwin A. Harnden**, Barran Liebman; **Cashauna M. Hill**, Wiles Law Group; **Margaret D. Kirkpatrick**, NW Natural; and **Christine L. Zemina**, Bateman Seidel et al. In this edition, we'll meet two of them.

Ed Harnden, managing partner at Barran Liebman, has a longstanding record of public service. A champion of legal aid services, Ed chairs the Campaign for Equal Justice and works with our Congressional delegation to increase legal aid funding through the LSC. Ed values leadership mentoring, providing CLE presentations and serving on



the board of the OSB Leadership College. He serves on various local school committees, including ex officio on the board of the Portland Schools Foundation and assisting in fundraising efforts. Ed shares, "I love my practice, am tremendously lucky to be a part of

a firm that encourages community participation and find the work of the MBF to be exactly what I have been looking for as a part of my efforts to make a difference."

Cashauna Hill, Wiles Law Group, practices insurance defense law in the area of construction defect litigation. Cashauna currently serves on the YLS Service to the Public Committee, co-chairs the Imprint Program, is a member of the Law School Outreach Committee, Oregon New Lawyers Division, an associate on the Owen M. Panner Inn of Court and a coach with the Jefferson High School Mock Trial Team. When asked about volunteering, Cashauna responds, "I serve my communities to express my

gratitude for the blessings in my life. I particularly enjoy working with communities of color and other historically marginalized groups ... I am also a strong believer in the importance of mentoring ... All of my service activities provide me with



opportunities to learn and grow and I am honored to have those experiences."

Returning board members include **Judge Adrienne C. Nelson**, Multnomah County Circuit Court, President; **Thomas C. Sand**, Miller Nash, Vice President; **Natalie L. Hocken**, PacifiCorp, Secretary/Treasurer; **Ruth Beyer**, Stoel Rives, Immediate Past President; **Peter H. Glade**, Markowitz Herbold et al; **Michael A. Greene**, Rosenthal & Greene; **Kelly T. Hagan**, Schwabe Williamson & Wyatt; **Katherine H. O'Neil**, Graff & O'Neil; and **Michelle S. Druce**, Wilshire Credit Corporation, MBA Board Liaison.

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