



MULTNOMAH LAWYER

MULTNOMAH BAR ASSOCIATION

1906

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

November 2009 Volume 55, Number 10



Leaving Legacies - Stephen B. Herrell Award

By Leslie Kay, MBA President.

In Multnomah County we are blessed with a collaboration of judges, attorneys and advocates who dedicate their time, energy and passion to ending family violence in our community. Domestic violence is a pattern of ongoing hurtful, manipulative or

controlling activities, including physical, sexual, psychological, emotional and verbal abuse. Domestic violence occurs in all socio-economic groups, religious groups, races, ethnic groups and within heterosexual and same-sex relationships. It affects people of all ages and physical abilities. In the overwhelming majority of cases, men commit the violence against women. In Multnomah County, more than 13% of the population experiences domestic violence. The toll of domestic violence on victims and children is incalculable.

In 2006, the Multnomah County Family Violence Coordinating Council created the Stephen B. Herrell Award to honor people who work to end domestic violence and to improve the safety of women and children in Multnomah County. The Herrell Award recognizes the legacy of the late Judge Stephen B. Herrell, who served on the Multnomah County bench for 19 years and was one of the founders of the Multnomah County Family Violence Coordinating Council in 1987. The council acts as a coordinating body for domestic violence intervention and is made up of representatives from the District Attorney's Office, Metropolitan Public Defenders, Legal Aid Services of Oregon, domestic violence service providers, Multnomah County Domestic Violence Coordinator's Office, law enforcement, the court and a host of other collaborative partners.

Retired Judge Dale Koch, a 2007 Herrell Award winner, commented in a documentary film about the award that "it was Judge Herrell who set the standard and gave judges the permission, in essence, by his own conduct, to step out of the courthouse and into the community." Judge Koch, Presiding Judge Maurer and Judge McKnight, who was the first chairperson of the Family Violence Intervention Council, and the family law bench, have tirelessly participated in the collaborative initiative to end family violence.

Janet Buckmaster, an advocate from Legal Aid Services of Oregon (LASO), was one of the three 2009 Judge Herrell award winners. Janet has devoted 30 years to supporting countless domestic violence survivors in accessing the civil legal system. It is likely that those who have volunteered as pro bono attorneys for the Domestic Violence Project (DVP) of LASO, a project partially funded by MBA members, have encountered Janet. The DVP is a pro bono project in which volunteer attorneys represent clients in contested protective order hearings. Most domestic violence survivors only receive a few days' notice of their restraining order hearings. Janet screens clients, matches them with lawyers and assists them by retrieving police reports and other essential evidence for hearings. She supports new volunteer lawyers by providing them with legal information and community resource information that enables the attorneys to

represent the clients effectively. Sarah Crooks, Rich Vangelisti and many other MBA members are long-time pro bono volunteers for the DVP, taking out time from their very busy practices to assist individuals who are truly in crisis and scrambling to keep their children safe, housed and fed.

The Herrell Award is about honoring those who work to end family violence and the importance of a coordinated community response. Volunteer lawyers are part of this effort by donating precious time and energy to work that can literally save the lives of vulnerable people. The award also represents something more: Judge Herrell was a jurist who took his passion for justice beyond the four walls of his courtroom and positively impacted scores of women and children. Without the shared dedication and inspiration of judges, attorneys and advocates, the work of creating a safe place for victims to rebuild their families would not go on.

To volunteer for the Domestic Violence Project, call Andreea Szabo at Legal Aid Services of Oregon at 503.224.4086.

To donate to the Domestic Violence Project, designate the Volunteer Lawyers Project on your MBA membership form.

2010 MBA Professionalism Award Nominations Sought

The MBA Professionalism Award is one of the highest regarded honors an attorney in our area can receive. Do you know a lawyer who is a pleasure to work with as both an ally and an adversary, who regularly goes well beyond minimum ethical and professionalism standards, who constantly mentors others and works to improve the quality of our practice as a whole? We strongly encourage you to nominate him or her for the 2010 MBA Professionalism Award. Any MBA practicing attorney member, except a member of the MBA Professionalism Committee or the MBA Board of Directors, is eligible to receive this award.

Past esteemed recipients include Raymond Conboy, Thomas H. Tongue, Randall B. Kester, Frank Noonan Jr., Donald W. McEwen, Don H. Marmaduke, Noreen K. Saltveit McGraw, Thomas E. Cooney, John D. Ryan, George H. Fraser, Barrie Herbold, Walter H. Sweek, Daniel E. O'Leary, Mark R. Wada, Sandra A. Hansberger, Robert C. Weaver, Walter H. Grebe, Susan M. Hammer, Carl R. Neil, Jeffrey M. Batchelor and Judy D. Snyder.

Former nominees may be and often are re-nominated. To propose an outstanding attorney for this year's award selection process, please complete and return the nomination form insert in this issue or contact Kathy Maloney, Professionalism Committee staff liaison, kathy@mbabar.org for more information.

MBA CLE

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

November

Thursday, November 12
Civil Jury Trial Recommendations
Judge Janice Wilson
Michael Simon

Tuesday, November 17
Persuasive Oral and Written Advocacy: Perspectives from the Bench
Judge John Acosta
Judge Kathleen Dailey
Judge Janice Stewart

Thursday, November 19
High Tech Ethics
Mark Fucile

December

Tuesday, December 1
Bankruptcy Primer for Non-Bankruptcy Attorneys
Martin Meyers
Richard Parker

Tuesday, December 8
Leave Law Alphabet Soup: FMLA, OFLA, ADAA, OMG!
Jennifer Bouman
Jason Weyand

Wednesday, December 9
Court Fee Changes
Judge Thomas Kohl
Judge Jean Maurer
Judge Steven Maurer

Tuesday, December 15
Legal Ethics - Recent Developments
Roy Pulvers
Peter Jarvis

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Member Resource Center

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

Courthouse Watch

(This new regular feature provides MBA membership with current information about the efforts to provide citizens with safe and efficient access to justice.)

We learned this year that Multnomah County has given up on using the site selected in 2007 for a new downtown courthouse. This news was disappointing because, despite the reservations many felt about building a courthouse at the foot of the Hawthorne Bridge, at least a long overdue decision had finally been made.

Currently, the County has no plans to move forward with the planning of a new downtown Courthouse. Instead, the Multnomah County Commissioners have issued a "Request for Competitive Proposal Quotes" for a study to "determine the economic, logistical and redevelopment viability of renovating the downtown courthouse, while simultaneously maintaining a substantial portion of operations in the building." In other words, the Commissioners are looking at implementing a seismic upgrade to the building while trying to conduct court business there at the same time.

Meanwhile, the County's plan to replace the deplorably inadequate East County Courthouse has recently taken a small step forward. Multnomah County Commissioners approved \$800,000 for the schematic design of a court building significantly smaller in size and budget to the one proposed last year. The real test comes in April 2010 when the commissioners vote on building vs. leasing space for the East County Courthouse.

For more information about past courthouse reports, studies, photos of the downtown Multnomah County Courthouse and other court-related information, go to <http://www.mbabar.org/courts.htm>.

Pro Bono Opportunities

The Young Lawyers Section is seeking volunteers to assist with the Nonprofit Project, a legal resource for nonprofits in the Portland community. Nonprofit corporations are screened and paired with volunteer attorneys who handle single-issue, non-litigation business law matters, such as contracts, corporate governance and real estate. Typical projects include reviewing bylaws, articles of incorporation, employment agreements and leases and providing advice on employment and intellectual property matters. This is a great opportunity for transactional lawyers or anyone else interested in supporting our local nonprofit groups.

For more information, please contact Alicia Bell at 503.276.2166.

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In addition to publishing classified ads in the *Multnomah Lawyer*, the MBA now posts all classifieds at www.mbabar.org. To obtain a quote, email your ad text to Carol Hawkins at carol@mbabar.org.

CALENDAR

For a complete MBA calendar, please visit www.mbabar.org. To add organization or firm events to the MBA online calendar, contact Carol Hawkins, carol@mbabar.org.

November

3
Tuesday, MBA Board meeting

10
Tuesday, December *Multnomah Lawyer* deadline

Tuesday, YLS Board meeting

12
Thursday, MBA CLE – Civil Jury Trial Recommendations
See insert or register at www.mbabar.org.

Thursday, YLS New Admittee Social at Kells
See p. 10 for details.

17
Tuesday, MBA CLE – Persuasive Oral and Written Advocacy
See insert or register at www.mbabar.org.

19
Thursday, MBA CLE High Tech Ethics
See insert or register at www.mbabar.org.

26-27
Thursday-Friday, Thanksgiving Holiday
MBA closed.

December

1
Tuesday, MBA Board meeting

Tuesday, MBA CLE Bankruptcy Primer
See insert or register at www.mbabar.org.

4
Friday, Judicial Brown Bag Summary Judgments
See p. 8 for details.

8
Tuesday, YLS Board meeting

10
Thursday, January 2010 *Multnomah Lawyer* deadline

15
Tuesday, MBA CLE – Recent Legal Ethics Developments
See insert or register at www.mbabar.org.

16
Wednesday, MBF Board meeting

25
Friday, MBA closed

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NEW ON THE SHELF

By Jacque Jurkins, Multnomah Law Librarian.

THE OREGON CONSTITUTION: 150 Years in the making. Course materials from the Oregon Law Institute May 15, 2009 program in Portland. (*KF 4550 O7O73 1 2009)

LITIGATING AUTO ACCIDENT CASES. Course materials from the Oregon Law Institute May 8, 2009 program in Portland. (*KF 1290 A8 O7O73 2009)

CHASING PAPER: The key to learning about and loving discovery by Janet S. Kole. Published by the ABA Section of Litigation, 2009. (KF 9650 K65)

ELECTRONIC EVIDENCE AND DISCOVERY: What every lawyer should know now, 2d ed. by Michele, C. S. Lange,

and Kristin M. Nimsger. Published by the ABA Section of Science & Technology Law, 2009. (KF 8947 L36)

NINE PRINCIPLES OF LITIGATION AND LIFE by Michael E. Tigar. Published by the ABA Section of Litigation, 2009. (KF 8915 T55)

MODEL NONPROFIT CORPORATION ACT, 3d ed. Official text with official comments and statutory cross-references, adopted August 2008, edited by William H. Clark. Published by the ABA Section of Business Law, 2009. (KF 1388 M63)

AN ESTATE PLANNER'S GUIDE TO LIFE INSURANCE, 2d ed. by Louis A. Mezzullo. Published by the ABA Section of Real Property, 2009. (KF 1175 M39 2009)

MISREPRESENTATION IN THE LIFE, HEALTH AND DISABILITY INSURANCE APPLICATION PROCESS:

A national survey edited by Joseph M. Hamilton. Published by the ABA Tort Trial & Insurance Practice Section, 2009. (KF 9368 M57)

RLUIPA READER: Religious land uses, zoning and the courts edited by Michael S. Giaimo and Lora A. Locero. Published by the ABA Section of State and Local Government Law, 2009. (KF 5698 R57)

THE PRIVILEGE OF SILENCE: Fifth Amendment protections against self-incrimination by Steven M.

Salky. Published by the ABA Criminal Justice Section, 2009. (KF 9668 S25)

RESPONDING TO NATIONAL SECURITY LETTERS: A practical guide for legal counsel by David P. Fidler and Sarah Jane Hughes. Published by the ABA Section of Business, Cyberspace Law Committee, 2009. (KF 4850 F53)

THE ABA GUIDE TO INTERNATIONAL BUSINESS NEGOTIATIONS: A comparison of cross-cultural issues and successful approaches, 3d ed. by James R. Silkenat, Jeffery M. Aresty and Jacqueline Klosek. Published by the ABA Section of International Law, 2009. (KF 1976 A72 2009)

THE LAW FIRM ASSOCIATE'S GUIDE TO CONNECTING WITH YOUR COLLEAGUES by Barbara Miller and Martin Camp. Published by the ABA Law Practice Management Section, 2009. (KF20300 M35)

PREPARING FOR REENTRY: What lawyers need to know to navigate the road ahead after a career break by M. Diane Vogt. Published by the ABA, 2009. (KF 298 V64)

THE BUSY LAWYER'S GUIDE TO SUCCESS: Essential tips to power your practice by Reid F. Trautz and Dan Pinnington. Published by the ABA Law Practice Management Section, 2009 (KF 318 T73)

Ethics Focus

By Mark J. Fucile, Fucile & Reising.

A Delicate Subject: Judicial Disqualification



In June, the US Supreme Court issued a widely publicized judicial disqualification decision, *Caperton v. A.T. Massey Coal Co.*, ___ US ___, 129 S Ct 2252, 173 L Ed2d 1208 (2009). The facts in *Caperton* were extreme. Caperton had obtained a \$50 million judgment against Massey in a West Virginia state trial court. Massey's chairman then contributed over \$3 million to a little known candidate opposing a sitting member of the West Virginia Supreme Court. Massey's candidate won and then cast the deciding vote in overturning the judgment. Caperton had attempted to disqualify the justice, but the justice refused to recuse himself. The US Supreme Court reversed and remanded, finding that these extreme facts violated Caperton's federal due process rights.

Most of us will never face a situation as unusual as *Caperton*. At the same time, it would not take too many trips to trial call in our own presiding court to learn that judicial disqualification occurs relatively often. In this column, we'll survey judicial disqualification in Multnomah County Circuit Court. With that focus, it is important to note that procedures vary in other courts - including state trial courts in smaller judicial districts (by statute those under 100,000 in population), state appellate courts and federal courts. Oregon draws a distinction between disqualification "for prejudice" and disqualification "for cause." See *Hanson v. Oregon Dept. of Revenue*, 294 Or 23, 27, 653 P2d 964 (1982). The former is governed by ORS 14.250 and is by far the more common variant. The latter is governed by ORS 14.210.

Disqualification "For Prejudice." ORS 14.250 allows a party to seek disqualification of an assigned judge if the party or the party's attorney "believes that such party or attorney cannot have a fair and impartial trial or hearing before such judge." In *State ex rel. Kafoury v. Jones*, 315 Or 201, 205, 843 P2d 932 (1992), the Oregon Supreme Court emphasized that the requisite "belief" is subjective, "not the objective truth of that belief." Under an accompanying provision, ORS 14.260(1), the moving party must simply file a supporting affidavit made on "good faith and not for the purpose of delay" mirroring the operative language quoted from ORS 14.250. In that event, disqualification follows unless the judge involved or the presiding judge of the district

concerned "challenges the good faith of the affiant and sets forth the basis of such challenge." A hearing then takes place before a disinterested judge, with the judge whose disqualification is sought bearing the burden of proving "that the motion was made in bad faith or for the purposes of delay."

In practice, the threshold for disqualification "for prejudice" is very low, with the Oregon Supreme Court describing it last year in *State v. Pena*, 345 Or 198, 203, 191 P3d 659 (2008), as an "exercise of legislative grace." Timing, however, is another matter. Under ORS 14.270, motions must be made "at the time of the assignment of the case to a judge for trial or for hearing upon a motion or demurrer." Oral notice must be given at the time of assignment and the motion and supporting affidavit must be filed by the close of the next judicial day. Multnomah County SLR 7.045(1) specifies that the motion must be made at either trial call or the case scheduling conference, depending on how the judge is first assigned to the case. (SLR 7.045(2) addresses disqualification of judges assigned to motions.) ORS 14.270 bars motions once "the judge has ruled upon any petition, demurrer or motion other than a motion to extend time in the cause[.]" See, e.g., *In re Kluge*, 335 Or 326, 341-42, 66 P3d 492 (2003). These deadlines are construed strictly, with the Supreme Court in *Pena* finding that a motion filed a day late was time-barred. A party is only allowed two disqualification motions "for prejudice" per case by ORS 14.270.

Disqualification "For Cause." ORS 14.210 outlines standards for disqualification "for cause," principally conflicts ranging from financial or other personal interests of the judge to the judge's prior work as an attorney on the matter involved. The statutory categories in ORS 14.210 generally parallel those included in the conflict provisions of the Code of Judicial Conduct (JR 2-106) and the conflict laws applying to public officials (ORS 244.120(1)(b)). Because conflicts triggering disqualification "for cause" either may not have arisen or may not

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ANNOUNCEMENTS

If your firm or organization would like to have an event listed in the MBA online calendar, www.mbar.org/calendar.htm, email Carol Hawkins, carol@mbar.org.

MBA Noon Time Rides
Gather at SW Yamhill and Broadway between noon and 12:10 p.m. on Mondays and Thursdays. Contact Ray Thomas at 503.228.5222 with questions, or meet at the start.

Judicial Brown Bag December 4
Please plan to bring your lunch and attend a noontime discussion about Summary Judgments in Room 208 of the Multnomah County Courthouse.

ABA Offers Local CLE Seminar – Writing Techniques for Winning Cases
On November 13, Portland Marriott City Center, Gary Kinder will teach a class emphasizing the importance of ethics in writing a persuasive brief. For more details or to register, visit www.abacle.org/kinderwritingtechniques.

OWLS Invites Nominations for Roberts-Deiz Awards
Oregon Women Lawyers is inviting nominations for the 18th Annual Justice Betty Roberts and Judge Mercedes Deiz Awards. The awards recognize and celebrate the accomplishments of individuals in promoting women and minorities in the legal profession and community in Oregon. The recipients will be honored at the annual awards dinner on Friday, March 12, 2010 at the Governor Hotel in Portland. Nominating forms are available at www.oregonwomenlawyers.org and are due by November 18 to Angela Franco Lucero, fax 971.204.0261, email angela@tkatlaw.com.

St. Andrew Legal Clinic Benefits from Wine Auction
Leaders in the legal and business communities came together in September to enjoy fine wine and raised \$90,000 for legal services for low-income families. The Markowitz Herbold – Gevurtz Menashe "Taste for Justice Wine Auction" benefited St. Andrew Legal Clinic (SALC), a

30-year-old nonprofit law firm providing legal services to low-income families in Multnomah, Clackamas, Washington and Columbia Counties.

Multnomah County Family Law Group Meetings
The Multnomah County Family Law Group meets monthly in the first floor conference room of the US Bancorp Tower. On November 23, Mark Kramer & Associates will speak on "Stalking Orders - How to Get Them - How to Get Rid of Them." To receive emails announcing future activities, please contact David Bean at dib@meyerwyse.com.

OCDLA Winter Conference and Holiday Dinner at Benson
"The Evidence Code: It's Elementary, My Dear Watson" is December 4-5 at the Benson Hotel in Portland. Barbara Babcock speak at OCDLA's December 4 annual holiday dinner. For more information or to register for either event, visit www.ocdla.org.

MBA Golf Championship Raises Over \$8,000 for VLP



1st Place Low Gross Firm and friend - Sky Wallace, Jeff Capener, John Klor and Schuyler Wallace with Golf Chair Kathy Root (not pictured Lawrence Mann)



1st Place Low Net Firm – Ben Lenhart, Bob Calo, Jill Long (not pictured Stuart Cohen)



1st Place Low Net Open - Bill Wiley, John Magliana, Kimball Ferris, Mark Foat

Nineteen teams braved the cold and wet for top honors at the 12th Annual MBA Members Golf Championship on September 16 at Pumpkin Ridge Golf Club. Thanks to our generous sponsors, tournament participants and the hard work of the Golf Committee Chair Kathy Root, Championship Co-Chairs Dylan Cernitz and Kelly Evans and the Golf Committee, the event raised over \$8,000 for the Volunteer Lawyers Project at LASO.

In the Firm Division, the low gross winner was Wallace Klor & Mann – John Klor, Lawrence Mann, Schuyler Wallace and Sky Wallace. The low net winner was Lane Powell – Bob Calo, Ben Lenhart, Jill Long and Stuart Cohen (Landye Bennett Blumstein).

In the Open Division, the low gross winner was the team of Dylan Cernitz, Matt Donohue, Kelly Evans and Chris Webb. The low net winner was the team of Kimball Ferris, Mark Foat, John Magliana and Bill Wiley.

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Campaign for Equal Justice Begins 2009-10 Fundraising

By Maya Crawford, Campaign for Equal Justice.

The Campaign for Equal Justice (CEJ) has kicked off its 2009-10 fundraising drive, which runs through February. The CEJ is a nonprofit that supports Oregon's legal aid programs, including the Multnomah County Office of Legal Aid Services of Oregon and the Portland Office of the Oregon Law Center. These offices, along with offices in 18 other communities around the state, represent low-income clients with high priority civil legal needs for housing, income maintenance and protection from domestic violence.

At a recent CEJ event, legal aid client Rajdeep Kaur made moving remarks on the positive effect legal aid representation has had on her life. Rajdeep came to the US several years ago to enter into an arranged marriage following the customs of her family. She was subjected to physical violence at the hands of her husband and was kept a prisoner in her own home. Rajdeep told the story of how she saved quarters from doing laundry, and one day was



Rajdeep Kaur and Leslie Kay

able to escape from her house with her young son. She took a bus to the Immigration Services building and they referred her to legal aid. Legal aid helped Rajdeep to obtain a divorce and gain custody of her son. Rajdeep reported that she and her son are safe and that she is working as a certified nurse's assistant while going to school to become a registered nurse. She thanked the lawyers in the room for contributing to the CEJ, and said that she would not be where she is today without the support of legal aid.

Leslie Kay, Regional Director of the Multnomah County LASO office and MBA President, introduced Rajdeep. She remarked that the legal aid attorneys who worked with Rajdeep were impressed by her courage, confidence and personal growth. Kay also reported that legal aid is seeing an increase in both the incidence and severity of domestic violence being reported by their clients.

David Thornburgh, Executive Director of the Oregon Law Center echoed that fact and

went on to state that, "Due to the recession, there has been a large increase in the number of Oregon families receiving food stamps and Temporary Assistance to Needy Families (TANF)." Thornburgh explained that "people who qualify for

these benefits are also income eligible for legal aid, so we look to these statistics as indicators of the increase in Oregon's poverty population." Thornburgh stated that, "Between October 2007 and

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Ethics Focus

Continued from page 4

be known at the time a judge is first assigned to a case, the timing and procedures discussed above controlling disqualification “for prejudice” do not apply. See *Lamonts Apparel, Inc. v. SI-Lloyd Associates*, 153 Or App 227, 235, 956 P2d 1024 (1998). JR 2-106(D) permits waiver of conflicts by the parties upon disclosure if they agree that “the judge’s relationship is immaterial or that the judge’s financial interest is insubstantial[.]”

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.

Campaign for Equal Justice

Continued from page 5

June 2009 there has been a 37% increase in applications for these benefit programs, and during this same time period there has been a 100% increase in the number of two-parent families applying for these benefits.”

According to Ed Harnden, chair of the CEJ Board of Directors, “Lawyers in Multnomah County are the backbone of the campaign.”

He noted that “the recession is hard on all of us, but low-income Oregonians need our help now more than ever.” To help motivate giving, Harnden pointed out that, “new and increased contributions will be matched one-to-one by a \$40,000 Leadership Challenge. Please help us send the message that Multnomah County lawyers believe in justice for all.”

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AROUND THE BAR



Theresa Hollis

FITZWATER MEYER

Theresa Hollis has become a partner of the firm. Her practice emphasizes guardianship and conservatorship proceedings, probate estates, trust administration, and estate planning. She specializes in emergency (temporary) guardianships and conservatorships.



Deanna L. Franco

BUCKLEY LECHEVALLIER

Deanna L. Franco joined the firm as part of the business, real estate and estate planning practice groups. Franco's practice focuses on providing counsel to individuals and business owners in the areas of estate planning, probate and trust administration, guardianship and conservatorship matters, entity formation and general business planning, as well as commercial and residential real estate transactions.



Anne Talcott

SCHWABE WILLIAMSON & WYATT

Anne Talcott, a shareholder in the firm, was recently appointed chair of the 2011 Defense Research Institute (DRI) Annual Meeting, which will be held in Washington, D.C.

Talcott focuses her practice on complex business and product liability litigation. She defends a broad range of clients in business disputes, class actions, mass torts,

and automotive, pharmaceutical and medical device product liability litigation. Talcott has been Schwabe's lead trial lawyer in product liability and business tort cases and regularly defends wrongful death, catastrophic injury and punitive damage claims.



Loren Podwill

BULLIVANT HOUSER BAILEY

Shareholder **Loren Podwill**, has been elected President of the Gus J. Solomon Inn of Court. The Solomon Inn, named after long time Oregon US District Court Judge Gus Solomon, consists of more than 80 local judges, lawyers and law students and is part of the National American Inns of Court. Previously, Podwill served on the Executive Committee as Secretary-Treasurer.

Established in 1988, the Solomon Inn of Court promotes excellence in legal advocacy through discussion, analysis and education. Podwill will continue to work with member judges and lawyers to improve the understanding and execution of American law and to promote professionalism.



Laura B. Rufolo

LAURA B. RUFOLO

Laura Rufolo, an attorney at Johnson & Lechman-Su, announces the opening of Oregon Family Law Forms, LLC. Her new business provides completed divorce, custody and dissolution of domestic partnership forms to people who submit their information via www.oregonfamilylawforms.com. She continues to practice family law at Johnson & Lechman-Su.

LANE POWELL

Steven B. Ungar has been reappointed Chair of the Oregon State Lottery Commission.

Ungar is co-chair of the firm's white collar criminal defense and regulatory compliance practice. He represents business entities



Steven B. Ungar



JoAnn Lee Kohl

and individuals who are facing regulatory enforcement problems, governmental investigations and criminal prosecutions. He is also a member of the long term care and senior housing industry team, where his focus is health care fraud and abuse (Medicare and Medicaid), internal investigations and compliance programs.

JoAnn Lee Kohl has joined the firm as an attorney in the business law practice group. Kohl focuses her practice in

the areas of corporate law and governance, technology and intellectual property, mergers and acquisitions, venture capital, debt financing and other business transactional matters. She advises start-up ventures and mature companies in a range of industries including software, clean technology, education, renewable energy and medical devices.



James F. Marron

SUSSMAN SHANK

James F. Marron has become an associate in the litigation practice group. For nearly a decade, he has concentrated on creative resolutions of business and construction disputes whether in arbitration, mediation, trial or in the appellate courts. He has represented developers, owners, contractors, subcontractors, suppliers and architects. Marron will focus his practice on commercial and residential construction defect matters, construction litigation, lien foreclosures, public contracting disputes and insurance coverage analysis and disputes.

DAVIS WRIGHT TREMAINE Partner **John DiLorenzo** has taken over as chair for the government affairs practice



John DiLorenzo

group for Lex Mundi, www.lexmundi.com, the world's leading association of independent law firms. He assumes the role after two years as chair-elect for the practice group.

DiLorenzo also co-chairs Davis Wright Tremaine's firm-wide government relations practice group. He represents and advises clients on lobbying for state and federal legislation, campaign finance, government ethics, initiatives and referenda, insurance recovery actions, response to environmental claims, appellate cases, and a variety of litigation matters. He has argued or briefed more than 50 significant appellate cases.

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 preceding 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.

The Corner Office

The Rules of Professionalism are Universal

The MBA Professionalism Committee hosted a CLE for criminal law practitioners at the Multnomah County Courthouse on Friday, October 9. More than 50 prosecutors and criminal defense attorneys attended the two-hour session. All the seats in the courtroom were filled and a lively discussion of professionalism scenarios ensued.

The panelists included Presiding Judge Jean Maurer, Judge Tom Ryan, Pro Tem Judge Julia Philbrook and Professor Bruce Green, chair of the Ethics Gideon & Professionalism Committee

of the ABA Criminal Justice Section and Fordam Law School Professor. As expected, the interactive program invited enthusiastic participation resulting in a sharing of ideas on issues commonly faced in the criminal law arena. The hypotheticals, although created by Professor Green based on East Coast cases, had universal appeal and application. Judge Maurer cited Oregon case law demonstrating that issues of professionalism are not geographically unique.

All of the panelists gave opening and concluding remarks. One common thread

noted the collegiality of the Multnomah County criminal law practitioners and their positive effect on accomplishing the business of the court in an atmosphere of trust and respect among peers. The overwhelming conclusion of the participants is that this program is worth repeating. The committee hopes to make this an annual event. Many thanks to the panelists for sharing their knowledge and experience and to the Multnomah County Circuit Court for providing a forum for the program.

Tips from the Bench

By Judge Youlee You, Multnomah County Circuit Court.

After finishing a three-month rotation as the CPC judge, I have made the following observations that I would like to share with criminal law practitioners:

Do not LOFT a case that is definitely going to be a plea:

Do not leave a case on the trial docket if you know for certain it is going to be a plea. Doing so takes up valuable space on the trial docket and could cause another trial to get bumped. If you know your case is going to be a plea, set it on the further proceedings docket as a plea.

Thursday trial settings: If your case is set for trial on Thursday, check to see whether it really will be a one-day trial. Many cases are left on for a Thursday trial date but really should be reported as one and one-half or two day trials. Unless the case is really a one-day trial, do not leave it on for a Thursday setting. If you expect the trial will last more than a day, move it to a day earlier in the week. DUII cases should never be set for a Thursday trial date.

Obtaining medical records for a hearing: If you wish to set a hearing regarding medical records (e.g., a motion to quash or an *in camera* inspection), in addition to following any other procedures required by law or court rule, set the matter on the CPC further proceedings docket at least one week after the date on the subpoena. Please also provide a copy of the subpoena to the CPC judge's staff. That way, court staff will have sufficient time



and notice to obtain the medical records before the hearing.

Do not call off a trial without the court's permission:

Occasionally, attorneys have determined that they will need a continuance and will excuse their subpoenaed witnesses before obtaining permission from the court. Set-over requests must be granted by the court. Therefore, unless the state is dismissing its case, do not call off or dismiss your witnesses without first receiving an order from the court as to whether the request set-over has been granted.

File your motions on time: On a few occasions, I was asked to grant continuances because the attorneys recognized late in the case that there were motions that needed to be filed but they had failed to file them in a timely manner. Do your best to identify motions early in the case so that the trial does not have to be delayed (or, in the worst case scenario, your request for continuance is denied).

Another Successful Absolutely Social

More than 250 lawyers, judges, sponsors and law school students gathered at the University Club on October 14 for the fall Absolutely Social - The Grape Escape. Judge Jean Maurer's birthday was celebrated with a birthday cake and singing. The event featured wine tastings from Northwest wineries selected by Matt Levin and Matt Donahue (filling in for Albert Menashe). A team blind wine tasting was also offered. Nine teams participated, and the winning team of Ted Broberg, Chris Burnett and Lori Le Cheminant each took home a bottle of wine. Over \$1,000 and 122 pounds of food were collected for the Oregon Food Bank - thanks to all those who contributed!

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Absolutely Social attendees wish Judge Maurer a happy birthday



Margaret Leiberan, Deanna Jensen, Lee Pritchard, Gemma Yost and Mindy Stannard



By Eric Dahlin, Davis Wright Tremaine and Court Liaison Committee member.

**Presiding Judge's Report
Increased Court Fees**

Judge Maurer reported that the new court fee structure – the judicial stabilization fund – went into effect on October 1 and the initial new process ran relatively smoothly. The court is feeling its way through how to best implement the new fee structure, so the specific procedures are still a work in progress. Judge Maurer stressed that it is crucial that all state court practitioners go to the OJD Web site - <http://courts.oregon.gov/OJD> - to confirm what fees will apply to their filings. There are many memos and emails floating around the legal community that describe the new system, but the OJD Web site is the only definitive source for information on the new fees.

Lawyers are encouraged to use the OJD site tool for calculating the various fees owed by the party filing an appearance, and the party should attach a copy of the completed calculation page to demonstrate how the filing fee was calculated so that the Multnomah County Circuit Court clerks' office does not have to do the math for each filing.

The chief justice drafted an order to establish exemptions from the new fee structure - such as cases in which the claims are less than \$10,000, orders for the appointment of a guardian ad litem, and default judgments - and that order is available on the OJD site. This order also allows the presiding judge discretion in certain circumstances to mitigate the amount of fees.

It is important to note that the goal of this new fee program was to increase access to justice by creating a revenue source that would allow the courts to stay open on Fridays; it was not designed to limit access to justice in any way.

eCourt Update

Judge Maurer reported that on September 23, the court began the process of scanning files for the FED Court and Small Claims Court. The newly-scanned files are now available electronically.

The goal is that within one year, all FED and small claims files will have been scanned so that they are available electronically. Scanned paper files will be destroyed. The next step in the eCourt process is to start scanning all regular civil filings in 2010, followed by criminal filings within a year from now. Judge Maurer stressed that this phase of the eCourt system is not an e-filing system like the e-filing system in federal court; this is, for now, simply a document management system to provide quick and easy access to the files electronically. An e-filing system similar to the system used in federal court is in the works, but it is likely two and a half years away.

Retirement

Judge LaMar has announced she will retire on October 31.

County Liaison Reports

Andrea Anderly reported that Clark County Judge

Robert Harris is retiring, and that a number of lawyers have expressed interest in appointment to that position.

Web site

Judy Edwards reported that the MBA has started a "Courthouse Watch" feature on the Web site and also in the *Multnomah Lawyer*, which will report activity on the proposed new east county and downtown courthouse.

Courthouse Update - East County Courthouse

Judge Maurer reported that the Multnomah County Commissioners recently committed \$800,000 for design schematics for a new east county courthouse, which would potentially be placed on county property at 185th Avenue and Stark St. Judge Maurer is cautiously optimistic that this means there will eventually be a new east county courthouse.

Fall Brown Bag

The fall brown bag event, open to MBA members, will take place on Friday, December 4, at noon at the Multnomah County Courthouse, Room 208). The topic will be summary judgment motions. Judge Henry Breithaupt and a number of pro tem judges who regularly hear summary judgment motions have agreed to participate as speakers, and Judge Maurer also plans to attend to answer questions about the process.

DECEMBER 4 MBA JUDICIAL BROWN BAG

Featuring Judge Henry Breithaupt, Judge Jean Maurer, pro tem judge Tom Christ and pro tem judge Nena Cook. This brown bag provides MBA members an opportunity to have an informal discussion with our judges. The main topic of discussion will be summary judgment motions, but feel free to ask questions on other subjects as well. Please bring your lunch and your questions to presiding court (courtroom 208) on Friday, December 4 at noon.

Profile – Judge Karin Immergut, Multnomah County Circuit Court

By Sheila Potter, Bullivant Houser Bailey and Court Liaison Committee member.



ongoing interest in criminal justice, rehabilitation, and recidivism - and she realized that she would need a law degree to do the work that she would find most fulfilling.

Immergut chose Boalt Hall School of Law for its public-interest focus.

She graduated in 1987 and moved to Washington, D.C., where she worked as an associate at Covington & Burling, a firm known for its policy work and its dedication to pro bono efforts.

About a year into her job at Covington & Burling, Immergut took a trip to Los Angeles to visit friends. She found time during her trip for informational interviews with the US Attorney's Office in L.A. - and the following week, she was offered a position as an assistant US attorney in that office. As much as Immergut had enjoyed her work as a commercial litigator, she was drawn to criminal justice and saw prosecution - when handled "wisely, thoughtfully, and ethically" - as a chance to affect people's lives for the better.

So Immergut accepted the job and spent the next six years in Los Angeles as an assistant US attorney, initially handling smaller cases and then working her way up to Deputy Chief of the Narcotics and Money-Laundering Section within three years. After five years, she was the

chief of the training unit, charged with overseeing the new assistant US attorneys, while still trying major narcotics cases in court.

But after six years in Los Angeles, Immergut was ready for a change of pace and a greater balance of life and work. During a visit to Vermont in 1994, she met with two former federal prosecutors who were working at Gravel & Shea, a firm in Burlington - and when she returned to Los Angeles, the Gravel & Shea firm offered her a job. She spent almost two years with that firm in Vermont, trying a wide range of civil cases, from contract breaches to medical malpractice to adverse possession disputes.

In 1996, Immergut moved back across the country, to Portland - and here, her peregrinations have come to an end. She joined the Multnomah County District Attorney's office, where she knew she could try a lot of cases, while getting to know a lot of lawyers in her new city.

As a deputy district attorney, Immergut started in the felony drug unit, where she gained experience in trying cases quickly and efficiently, sometimes only having received the file the night before. The fast pace of the job required her to step before a jury without having extensively prepared for every case, and later permitted her to try major felonies and white-collar criminal cases that she had developed from the start.

She moved across the street in 2001, joining the US Attorney's office in Portland as an assistant US attorney in the District of Oregon, where she had the chance to dig deeply into every case, and where she could expand her practice to include more writing and appellate work. She served for two years under now-Judge Michael W. Mosman, before she was sworn in as the US Attorney for the District of Oregon on October 8, 2003.

As the US Attorney for Oregon, Immergut led the office through her belief in the power of wise, thoughtful and ethical decisions and actions by its prosecutors. Immergut wanted the US Attorney's office to take an active and visible role in solving problems, and so she reached out to the public, who often did not understand who the federal prosecutors were or what they do, while building ties to the law enforcement community and legal community.

Under Immergut, the US Attorney's Office for Oregon was the first in the nation to actively participate in the Federal Re-Entry Court. Through that program, the prosecutors, the defense counsel, the court, and the treatment providers work together as a team to help drug addicts make the transition from prison to a life in the community.

The office also expanded its focus on environmental crimes, methamphetamine abuse, and financial fraud crimes in its jurisdiction, under Immergut's lead. But she is perhaps proudest of the intelligent and capable women and men that she hired to work in the office. "The legacy you leave is the people you hired," she said.

Judge Immergut stepped down from her position this summer, and joined the bench in September, where she can continue to serve her longtime goal of making a positive impact on the world around her, but in a new way. She is committed to treating all who enter her court with dignity and respect, no matter who they are - just as she did as a lawyer, and just as she expects the lawyers in her court to do.

Lawyers can expect Judge Immergut to give their cases her prompt and full attention, to work hard, and to be fully prepared for every matter before her - and she expects the same from the lawyers who appear before her. She will work hard on the pleadings and evidence submitted for her review, and she expects that the attorneys will work hard to review and perfect their pleadings and evidence before her - and to try hard to resolve their disputes before taking them up with the court.

Judge Immergut is excited about the new challenges before her. "I've liked every job I've ever had," she said - and, so far, she likes this one too.

A lifetime of seeking to make the greatest positive impact on her community has led Judge Karin Immergut to her new position as a Multnomah County judge. Immergut startled more than a few people when she declared her interest in serving as a county judge, from her position as the United States Attorney for the District of Oregon. But her appointment to the bench actually marks one more step in Judge Immergut's path of public service, which began after college.

The first in her family to attend law school, Judge Immergut was born to a Swedish mathematician (her mother) and an Austrian chemist (her father). She grew up in Brooklyn, New York, and then went to Amherst College, where she double-majored in psychology and Spanish literature.

After college, she spent two years in the New York City Urban Fellows Program, working on justice and juvenile justice policy issues. That work played into her

Kathy Maloney Celebrates Ten Years with MBA

By Judy A. C. Edwards, MBA Executive Director.

One of the delights of working for the MBA is the people, volunteers of course and those with whom I work. **Kathy Maloney** is one of our MBA brightest stars. She draws people to the MBA because of her disposition and desire to serve members.

Kathy, MBA Director of Events and Programs, started with the MBA in August 1999. She previously worked for nearly six years at an association management company that contracted with a dozen associations. While there, she learned the basics of working with volunteers and how to serve multiple needs of the several associations she supported. Although she enjoyed

the responsibilities and the people she worked with, she found it a challenge to switch focuses from one organization's mission to the next.

It was difficult to make the decision to leave the multi-association management position. "Having the courage to move on, being willing to take some chances, even when it's scary makes it difficult, and it's important to recognize that the first new position may not be perfect and be willing to move on."

The events she plans include the fall Absolutely Social, and if you attended it this year you were one of the 300, the most ever, to attend the event. Attendees praise her calm, organized way in which she pulls off these big events - all for the enjoyment of others. She also is responsible for the WinterSmash that benefits Multnomah CourtCare, the MBA annual meeting and board retreat. Working with the YLS is especially satisfying for her, seeing young lawyers develop their skills and relationships outside their offices. She works with the YLS board, membership, service to the public, futures and YOUthFilm committees and the MBA equality, professionalism and membership

committees, managing partners roundtable, mid-size firm roundtable and helps support the MBA board.

Outside the MBA, she loves her running, and has run in three Portland marathons, finishing all three and in 2008 she qualified for the Boston marathon. She's planning on running it in the spring of 2010. She ran track and cross country in the ninth grade and "was horrible but just kept at it. I wasn't good at other sports; running doesn't require eye/hand coordination. I'm terrible at golf and tennis." One day in 2000 she happened to be downtown on the day of the marathon and she got excited about running again. "For the first two marathons, I participated in a six-month training program through Portland Fit. Each week they increase your miles until your longest run prior to a marathon is 21 miles." She tries to be half-marathon ready at all times. Her weekly training schedule includes a long run on the weekend (minimum eight miles) plus shorter weekday runs.

She also enjoys reading, mostly fiction and often thinks the book



she just finished is her favorite. One of her most recent favorites is "Water for Elephants." When the weather is nice she hikes, attends outdoor concerts and goes to the beach; in the winter she likes snow skiing, but doesn't want to risk injury. She and her two sisters all enjoy getting together. Although Kathy doesn't travel as much as she'd like, she thoroughly enjoys it. She's been to Europe and recently celebrated a milestone birthday with a college friend in Hawaii, who also had a birthday.

Her best mentoring advice: "My parents definitely instilled a strong work ethic and the importance

of getting to work on time." She adds "Don't be afraid to make decisions and mistakes. I've been encouraged to grow a lot at the MBA and I'm now more comfortable with new skills and giving opinions and speaking up." Qualities we admire in her are: resourcefulness, dependability, courtesy, kindness, thoughtfulness and respectfulness. Qualities she thinks are important in a person are: honesty, integrity, loyalty, sense of humor, general good outlook on life and treating others the way you want to be treated.

Thank you Kathy! We couldn't do all we do without you.



Collaborative Law: A Structured Resolution Out of Court

By Collin C. McKean, Gevurtz Menashe et al and Futures Committee Co-Chair.

In his "State of the Courts" address in January, Chief Justice De Muniz reported on the Oregon Courts' response to the dual stresses on the Oregon judicial system: a soft economy and increasing population. Our courts do an outstanding job with the resources allotted, but with the increasing caseload and attendant challenges to processing the caseload, Chief Justice De Muniz vocalized his support of creative responses, including dispute resolution through alternative dispute resolution (ADR). He believes ADR is a viable option to "prevent the cost and delay of jury trials" in Oregon.

The fact is, ADR is already an integral part of our judicial system (i.e. mandatory mediation and arbitration) and ADR options have been growing in popularity in recent years as the judicial system becomes more and more taxed. Nowhere is ADR more popular than among sophisticated parties involved complex disputes. Such is the case not only because ADR offers an alternative to the delays involved in the litigation process, but also because ADR options provide unique opportunities to create long-term sustainable resolutions through consensus, if not by interdependent interests. One form of ADR creating inroads in a wide array of complex disputes is Collaborative Law (CL).

CL can be an effective alternative to litigation where the dispute

involves long-term relationships and/or ongoing mutual concerns. Central to CL is the requirement that parties sign an agreement at the outset requiring confidentiality and providing that each attorney representing a party will be disqualified should the CL option fail and litigation ensue. The CL model contemplates the use of experts as facilitating a resolution by educating parties on complex issues, by developing financial plans and by supporting parties, where appropriate.

The CL model was pioneered by Stu Webb, a family law attorney practicing in Minnesota, who found value in the traditional English solicitor/barrister model of practice where the solicitor had more client contact and the barrister was the advocate in court. (See endnote for video link). Family law matters are just one example of disputes benefiting from the CL option as they routinely involve various interests ranging from financial investments to the difficult issues faced by divorcing parents, and other complex interests, such as closely held business interests.

The CL model is not suitable to all types of disputes, but offers an alternative to litigation that keeps the decision making power in the hands of the stakeholders, rather than a judge or a jury. CL is being chosen by parties over litigation in matters ranging from family law to commercial disputes, to potential actions for

To view the video: "Stu Webb, the Godfather of Collaborative Law," see www.cuttingedgelaw.com/video/video-stu-webb-godfather-collaborative-law.

negligence. (See public resources for the International Academy of Collaborative Professionals at www.collaborativepractice.com.) For some cases, the non-adversarial structure is a key ingredient which allows for efficiency in the discovery process, for compensation and joint planning to address future issues. The CL model is being exported as a viable form of alternative dispute resolution in other judicial systems including Canada, the United Kingdom and Australia. (See collected news articles at www.collaborativepractice.com/_t.asp?T=Stories.)

The CL option is welcomed by many parties as an alternative to avoid some of the costs inherent to the adversarial process. It is also an opportunity for attorneys to counsel clients who are negotiating unavoidable legal transitions, while conserving mutual resources, maintaining important relationships, and/or continuing ongoing business interests. As the number of complex disputes grow in Oregon, and as Oregon caseloads increase, it is likely that parties will continue to select the CL option, not only for efficient resolution of legal disputes, but also as a way to obtain sustainable resolutions to complex issues.

Successful September Social

By Marisol Cordero-Goodman, Hanna Strader PC and YLS Membership Committee.

On September 17, the YLS Membership Committee co-hosted a wine tasting event at Blackbird Wine Shop with the Financial Planning Association and the Oregon Society of CPAs. The event was well attended and provided young lawyers with an opportunity to mingle with other professionals in an informal setting.

As part of the evening, sample wines from Bergstrom Winery were presented by Winemaker Josh Bergstrom. Blackbird Wine Shop gave away three certificates for wine tasting for 20 persons and an art sculpture. The YLS would like to acknowledge the support of the Financial Planning Association and the Oregon Society of CPAs and give a special thanks to Josh Bergstrom of Bergstrom Winery and Blackbird Wine Shop House.

Thank you to all who participated. We look forward to seeing you again next year!



Find upcoming events and YLS event photos at www.mbar.org/ysevents.htm

Young Lawyers Section to hold New Admittee Social at Kells

The YLS Membership Committee is holding a social on November 12, from 5:30-7 p.m. to welcome lawyers who have recently been admitted to the OSB.

The social will take place at Kells Irish Restaurant & Pub, located at 112 SW 2nd Ave., Portland. Appetizers and refreshments will be provided. Please bring your colleagues and join us on November 12 to meet and welcome lawyers recently admitted to the OSB.



YLS Professional Development and Education Committee Update

Congratulations to the YLS Professional Development and Education Committee for putting on a very successful fall CLE series, "Common Legal Issues in a Down Economy." Special thanks go to our volunteer speakers, who presented on the hot topics of bankruptcy, representing debtors/collectors, negotiation with creditors and arbitrating collections cases. Stay tuned for registration information regarding the Winter Young Litigator's Series, which begins in January 2010.

School Programs Seeking Volunteers

The YLS Service to the Public Committee invites you to volunteer for one of our back-to-school programs that connects young lawyers with kids. The *Imprint Program* pairs middle and high school students with volunteer attorneys to read a novel and correspond through letters. Through the letters, volunteers and students are able to develop mentor relationships and friendships, culminating in a year-end luncheon to meet in person. The *Dropout Prevention Program* sends volunteers into high school classrooms to lead a discussion on the value of education and staying in school. Both programs were hugely popular last year, and we hope to match that success this year.

Please contact the following people to get involved: For the Imprint Program, committee chairs Jeanne Sinnott at jeanne.sinnott@millernash.com or Christiane Fife at cfife@schwabe.com; for the Dropout Prevention Program, committee chair Raife Neuman at raife.neuman@gmail.com.

Mentor Program

Take advantage of one of the most rewarding benefits the MBA offers its newer members - a six-month mentorship with a seasoned attorney. Go to www.mbar.org by December 1 and answer a few questions about the type of mentoring you could use right now in your career. Contact Kimberly Griffith at kgriffith@cvk-law.com if you have questions.

YOUthFILM Project – Save the Date!

The annual film screening and awards ceremony for this year's YOUthFILM Project will be May 6, 2010, at the Hollywood Theatre in Northeast Portland. The student filmmaking project, which is part of Community Law Week, encourages local youth to express themselves creatively, while learning more about our government and justice system. This year's theme is "Emerging Challenges and Enduring Traditions in the 21st Century." To find out more, go to www.theyouthfilmproject.org or contact Ted Broberg at tsbroberg@stoel.com.

Thanks to Community Service Day Volunteers

The YLS Service to the Public Committee would like to thank our great volunteers who teamed up with Children's Relief Nursery (CRN) for the New Seasons' Benefit BBQ on August 29 and 30. The weekend was a huge success, with the following volunteers assisting in the sale of over 1,000 burgers and raising \$8,500 for CRN: Ann Ledgerwood, Lucy Forsten, Cora Forsten (Lucy Forsten's wife), Elizabeth McBreen, Hong Dao, Jodie Ayura, Kristofer Parker, Michele Buck-Romero, Mike Romero (Michele's husband), Ricky McBreen, Tanith Balaban, and Tyler Volm.

How the MBA Screens Judicial Applicants - Part 2

By Richard J. Vangelisti, Vangelisti & Kocher and MBA Judicial Screening Committee Chair.



Part 1 of this article, which appeared in the October issue of the *Multnomah Lawyer*, dealt with the screening process for appointments to the bench made by the Governor. Part 2 deals with the process to screen pro tem judges.

In the case of an applicant for a judge pro tem position, the JSC votes on whether an application should be "approved" or "disapproved." Those applicants who receive more than 50 percent of the votes of the committee members present are approved for recommendation. The recommendation is transmitted to the presiding judge of Multnomah County, who in turn transmits the application to the Oregon Supreme Court with the recommendation of the presiding judge and the MBA JSC. The final decision to approve or deny an application for a judge pro tem is made by the Oregon Supreme Court.

The MBA expressly prohibits discrimination in its various guises. In evaluating applicants, the JSC is governed by this non-discrimination provision: "Applicants shall be evaluated without regard to race, religion,

color, national origin, sex, age, sexual orientation, marital status, disability, political affiliation, expunged juvenile record, family relationship, or any other non-merit factor." The committee members of the JSC are made aware of this policy, the process and the relevant criteria by which all candidates are screened.

Confidentiality is critical to the work of the JSC. Without confidentiality the JSC could not function. As with the attorney-client privilege with which we are all familiar, confidentiality of the committee's investigations and deliberations is necessary to reach fair and accurate determinations. In the case of investigations, committee members must assure references that confidentiality, as to their identity and information, will be maintained. These assurances pave the way for gathering complete and accurate information about an applicant. The JSC has a strong reputation for maintaining confidence with sources of information; and this reputation has provided a free flow of information. No one is going to provide helpful and necessary critical feedback on an applicant if there is a chance that one day that person might have to appear before a judge of whom they may have been critical.

In JSC meeting discussions, the committee members also maintain confidences within the committee. Again, confidentiality is key to full and frank discussions about an applicant's qualifications. Confidentiality protects committee members from any form of "lobbying" by or for

an applicant either before or after a determination is made. Confidentiality also protects applicants. For example, at times certain information learned in the investigation process may be information that the applicant would not want shared between references or with the public at large.

The MBA has considered providing feedback to applicants who express such an interest. This consideration, however, is far outweighed by the need to provide an assurance of confidentiality to references who in exchange, provide vital information. Moreover, an applicant who desires feedback can ask references or other members of the bar for information.

Earlier this year the JSC was faced with a difficult task – reviewing 63 applicants for three circuit court vacancies. This workload was far more demanding than usual, and required that its members devote many volunteer hours to investigating and evaluating the applicants. Great credit goes to Julia Hagan, our JSC chair this past year. For its dedication, hard work and service, the MBA presented an Award of Merit to the entire JSC at our annual spring dinner.

The JSC process may be found at www.mbabar.org/documents.htm. The MBA is always open to ideas on improving the process. Please contact MBA President Leslie Kay or me with any thoughts.

PRO BONO VOLUNTEERS

Thanks to the following lawyers and law students, who donated their pro bono services in August and September 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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volunteer lawyers project supported by MBA members

The following MBA members supported the Volunteer Lawyers Project at Legal Aid Services of Oregon at a rate higher than the \$25 minimum check-off amount when paying their 2009 dues.

All MBA members who donated to the check-off campaign have helped to provide access to justice for community members who might not otherwise receive legal assistance. The MBA thanks you all.

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All MBA members who donated to the check-off campaign have helped to provide funds for civics education projects. The MBA thanks you all.

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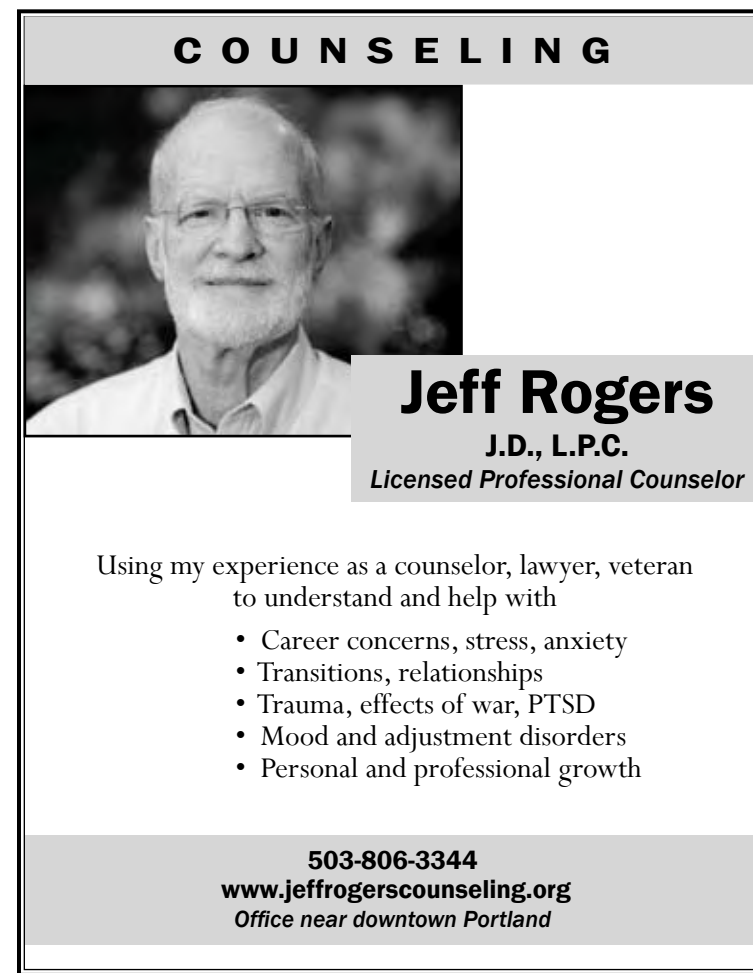
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Student Leadership Initiative Engages Teens

By Pamela B. Hubbs, Office and Foundation Administrator.



The League of Women Voters of Portland, in partnership with the Northeast Coalition of Neighborhoods (NECN), used a



Lauren McCartney, NECN staff takes notes as Youth Creator Miranda Marks leads group in interactive exercise.

\$4,375 grant from the Multnomah Bar Foundation (MBF) to offer "Student Leadership Initiative - The Portland Plan" to introduce students to the work and value of public participation in government. Using planning for Portland's future as the subject of the exercise, the students were given feedback opportunities and instruction on how to effect those plans.

Thirty high school students from Jefferson and De La Salle North Catholic high schools and Trillium Charter School met on September 29 at the Curious Comedy Theater in Northeast Portland to discuss the

plan and contribute their ideas for Portland's future.

Keynote speakers were Imani Muhammad, founder of the NECN Community Youth Hotline; Jeri Williams, Neighborhood Program Coordinator in Portland's Office of Neighborhood Involvement; and Ernesto Domingues, a young man who began interacting with government as a teenager to seek solutions to problems affecting youth.

The students worked in small groups to discuss several action areas important to the Portland Plan - community design, neighborhoods, housing and human health. The student-planned program included a PowerPoint presentation, interactive exercises,

follow up reports and lunch. The students' recommendations were delivered to Portland's Bureau of Planning and Sustainability (BPS).

The successful event was organized by students in the NECN's Youth Creators program and BPS Youth Planners, under the guidance of Pamela Phan, BPS Youth Program Coordinator, volunteers and staff from the NECN and volunteers from the League of Women Voters of Portland. Feedback was very positive and the BPS plans to use the program as a template for future events.

To learn more about the MBF and the programs it funds, contact Pamela Hubbs at 503.222.3275 or pamela@mbabar.org.

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