



MULTNOMAH LAWYER

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

July/August 2012
Volume 58, Number 7



From the President

by Greg Moawad
MBA President

As I stand poised to attempt to fill the shoes of Past President Blackhurst and the other amazing individuals who have led this organization, I can't help but feel a little lost at sea. The list of our former presidents is a veritable

Who's Who of the Portland legal scene. My predecessors have included judges, managing partners, elected officials, philanthropists, executive directors and many a successful business person. Why am I in this ocean of talent, barely clinging to this buoy? What common thread do

"The list of our former presidents is a veritable Who's Who...."

the individuals on that list share with me? (As an aside - this is where I can hear my wife's voice, offering almost sarcastically, "You also require oxygen to survive.")

While she has a good point, there is more to it than that. I, like all of our presidents and board members, current and past, have a desire to serve. We have a desire to work to better our entire community - focusing on the law-related areas where we can make an impact. Whether it's volunteering to participate in the Judicial Screening Committee (more on that later), raising funds for CourtCare (to allow low-income families the same unfettered access to justice many others enjoy), supporting the Volunteer Lawyers Project (see above) or any of the other incredible opportunities this organization has to offer - the common thread between us is that we have chosen to get involved and volunteer. But it wasn't always that way for me.

My path to volunteerism is as embarrassing as it gets. I was a young lawyer in the Multnomah County District Attorney's office when I was approached by then-Chief Deputy and MBA Board Director Helen Smith. Ms. Smith asked me if I was a member of the Multnomah Bar Association. "The what?" I replied - not joking. As always - she came prepared: she slid an application in front of me and asked me to sign up. She was recommending me to participate in the Judicial Screening Committee. Dutifully, I signed up - writing my own check for dues - and I showed up for my first MBA committee meeting, not quite sure what to expect. And, as it turned out, there was nothing to fear. The people were incredible, the time commitment was reasonable - and you even got free coffee at the occasional meeting.

"My path to volunteerism is as embarrassing as it gets."

What surprised me more than anything, though, was the sense of pride I took in helping to shape the bench. My proverbial light bulb went "on" - by volunteering with the MBA, I had an opportunity to truly impact my community by working to make the bench reflect what our community deserved from it. And that same sense of accomplishment carried through each of my subsequent committee appointments, chairperson-ships and board member appointments. There is nothing quite like the feeling I get knowing that I am

contributing to the ongoing development and refinement of our community at large - even by simply focusing my efforts in an area I am certainly comfortable: the law. (And to think that had I not been prodded to get involved, I may not have ever learned that.)

With that, I ask each of you to take a moment and reflect: Our membership is comprised of about 4,500 attorney members. Each year, the MBA gets about 200 volunteers from that population. But we could always use more. Especially this year.

As many of you know, there are a number of issues facing our membership and our state this year that were not as significant in years past. Whether it is court funding, finding and hiring a replacement for the inimitable Judy Edwards, a new courthouse in Multnomah County or judicial independence - we have many frontiers for those of you that have been waiting for the right opportunity to step into a more active role in your community.

"If you've got the skill, we likely need it. We just need to know that you're interested...."

As the father of a three-year-old, I know how precious family time can be - and how diverse the needs for your attention can become when juggling "discretionary" efforts with day-to-day life. That said, a number of the

opportunities presented to us as pressing issues this year may not require long-term or significant time commitments. This year we may be looking for volunteers to coordinate the public, business community and legislative efforts. We may be looking for individuals who have specific expertise in fundraising or political polling. I could also envision us needing the skills of a number of volunteer political strategists. If you've got the skill, we likely need it. We just need to know that you're interested in volunteering.

In short - there is a sea of talent here. Come on in, the water's fine. You also never know what YOU will get out of it.

Now, if I could only find where President Blackhurst put the pens....

mba|EVENT

2012 Battle of the Lawyer Bands A Charity Fundraiser for Multnomah CourtCare

Thursday, August 23

7:00-11:00 p.m.

Kennedy School

5763 NE 33rd Ave., Portland, OR

Bands comprised of at least one Oregon lawyer will compete for the title of "Best Oregon Lawyer Band." Judges from the MBA legal community will decide the winner at the end of all the performances. Join us and cheer for your favorite band! Crowd applause is a part of the judging criteria.

mba|CLE

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

SEPTEMBER

9.19 Wednesday
Deception in Negotiation and Mediation
Jeff Merrick

9.27 Thursday
Child Abuse Reporting
Amber Hollister

OCTOBER

10.4 Thursday
The Anatomy of a Derivative Action
Chris Kayser
Susan Marmaduke
Julie Vacura

10.24 Wednesday
Public Speaking for Attorneys
Judge Janice Wilson
Laura Dominic

10.25 Thursday
The Care and Feeding of Commercial Litigation Clients
Tom Gerber
Lisa Kaner

10.30 Tuesday
Effective Cross Examination
Judge Michael McShane
Judge Eric Bergstrom

See pp. 3-4 for CLE schedule and registration.

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DEADLINE for copy: The 10th of the month*

DEADLINE for ads: The 12th of the month*

*or the preceding Friday, if on a weekend.

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Congratulations, Award Recipients

The May MBA Annual Meeting, Dinner and Judges Reception recognized exemplary volunteers and the MBA Professionalism Award recipient Edwin A. Harnden. In addition to Ed, nine outstanding volunteers were recognized. The MBA Award of Merit was presented to Michael Crank and Mary Rower. The

YLS Award of Merit was given to Mackenzie Hogan. Pro Bono Awards recognized David Canary, Bernard Chamberlain, Gary DeFrang, Jon Fritzler, Natalie Hedman and Elizabeth Lemoine.

Congratulations to all the very deserving award recipients!



Steve Blackhurst and Nick Kampars with MBA Merit Award recipient Mary Rower (Mike Crank not pictured) and YLS Award of Merit recipient Mackenzie Hogan



Steve Blackhurst with Pro Bono Award recipients Elizabeth Lemoine, Natalie Hedman, Jon Fritzler, Gary DeFrang and David Canary (Bernard Chamberlain not pictured)

Thank you to MBA Annual meeting sponsors

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Photos by Dan Carter

webcheck

See additional photos from the dinner at www.mbabar.org/membership/annualdinner2012.html.

Calendar

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

JULY

7.4 Wednesday
Independence Day Holiday
MBA closed

7.20 Friday
MBA Family & Friends
Golf Outing
Visit www.mbabar.org
for details

AUGUST

8.2 Thursday
OMLA Annual Auction at WTC
Visit www.oregonminoritylawyer.org
for details

8.9 Thursday
MBA Golf Clinic & Networking
Event at RedTail
Visit www.mbabar.org
for details

8.23 Thursday
MBA Battle of the Lawyer
Bands at Kennedy School
Visit www.mbabar.org
for details

SEPTEMBER

9.3 Monday
Labor Day Holiday
MBA closed

9.8 Saturday
YLS Pro Bono Pedal 2012
Visit www.mbabar.org
for details

9.12 Wednesday
MBF Social at Barran Liebman
Visit www.mbabar.org
for details

Fool, by Christopher Moore

Book Review

by Jim Reinhart
Davis Wright Tremaine



If Tom Stoppard and George Carlin had collaborated on a novel, it likely would have been much like *Fool*, by Christopher Moore. To select an idea for a book, Moore seems to pick a topic and then add "and make it funny." To him, funny certainly means "irreverent," occasionally means "crude," and constantly means "profane," but also means "dialogue you have to read a second time after you've stopped laughing."

Fool is Shakespeare's *King Lear*, but told from the perspective of the king's court jester, "Pocket." The familiar story is there, but also much more. The king, his daughters, other royals and a ghost all make their appearances. The rationale for having a ghost is stated as "There's always a bloody ghost." It helps to know the basics of Shakespeare's great tragedy to follow Moore's plot, but this story stands on its own. Read carefully with a good knowledge of the Bard's plays, many other of his stories and characters can also be found in this novel.

Pocket is not who he thinks he is and he does a good job of fooling others as well. He is in love with the king's daughter, Cordelia. The king's decision to divide his kingdom separates more than was planned. Cordelia is banished

to France, where she marries a French prince (named "Jeff"). Pocket then nobly plots the other characters against each other in ways that would make Shakespeare proud. The result is intrigue, royal and common affairs (in graphic detail that would make Mel Brooks blush), and Shakespearean poisonings, with plenty of misdirection thrown in.

Wearing a codpiece on his head, carrying a puppet named "Jones," and hiding daggers behind his back, Pocket crudely narrates the story. His back story is both sad and disgusting, a dimension left entirely open by Shakespeare and then invented in a way Moore does so well in all his books. The dialogue combines Shakespearean vocabulary with British slang for an American audience. It might take Gore Verbinski directing Johnny Depp to someday pull this off as a movie. Pocket's large and slow sidekick, Drool, is a bit too literal for most conversations, but the jokes around his escapades are cringingly funny. If there is a flaw to the other characters, it is that Moore used up his depth of creativity with Pocket and Drool and the others are mere stereotypes.

Moore will likely never write another book such as *Lamb* and probably not one as witty as *A Dirty Job*, but *Fool* holds its own. Adding to the story of *King Lear* "and make it funny" means dark comedy and medieval porn to Christopher Moore. The language is profane, the characters vulgar and the scenes are crude. He does not care if you are offended, so do not bother. The rest of us will enjoy the humor. A sequel is in the works, combining *The Merchant of Venice* with *Othello*, so be prepared.



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

Deception in Negotiation and Mediation

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

World Trade Center
Plaza Conference Room
26 SW Salmon, Portland

Members \$55
Non-members \$85

NOTE: This class will be worth two hours of ethics credit.

An attorney's duties of honesty, zeal and confidentiality intersect when negotiating. Attorneys can be tempted to exaggerate, minimize or otherwise deceive and certain puffing is permissible. However, when attorneys cross the line into impermissible deception, severe consequences can befall both attorney and client.

Join **Jeff Merrick**, Attorney at Law for this two-hour presentation. Attendees will acquire knowledge of the "bright lines" plus a framework for analyzing the gray areas. Once attorneys understand the controlling law, they can use it as a positive tool to serve clients instead of merely fearing discipline, civil liability or criminal punishment if they cross the lines. This seminar is recommended for both experienced and new attorneys.

For more information:

Call Jennifer Nelson of Littler Mendelson at 503.221.0309. For registration questions, please call the MBA at 503.222.3275.

Child Abuse Reporting

Thursday, September 27, 2012
12:00-1:00 p.m.

World Trade Center
Auditorium
26 SW Salmon, Portland

Members \$35
Non-members \$55

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

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

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

Amber Hollister, Deputy General Counsel of the OSB will present a lively and practical discussion of the issues.

For more information:

Call the MBA at 503.222.3275.

The Anatomy of a Derivative Action

Thursday, October 4, 2012
3:00-5:00 p.m.

World Trade Center
Plaza Conference Room
26 SW Salmon, Portland

Members \$55
Non-members \$85

From beginning to end, litigation of shareholder disputes is always challenging particularly for closely-held companies. Join seasoned commercial litigation trial attorneys **Julie Vacura** and **Chris Kayser** of Larkins Vacura and **Susan Marmaduke** of Harrang Long Gary Rudnick, as they explore the thorny legal, factual and strategic issues that arise from the filing of the complaint to the trial of a derivative suit of a closely-held corporation. The CLE will examine the types of claims to file and not to file, the equitable relief available, the role of corporate counsel, the use of the statutory buy-out provision to preempt litigation and strategies for presenting claims at trial and preserving entitlement to attorney fees.

For more information:

Call the MBA at 503.222.3275.

Public Speaking for Attorneys

Wednesday, October 24, 2012
3:00-5:00 p.m.

World Trade Center
Mezzanine Room
26 SW Salmon, Portland

Members \$55
Non-members \$85

What are the most common public speaking mistakes litigators make in the courtroom? What is the number one non-verbal indicator of credibility? How do you keep from using distracting fillers such as "um," "like," "so," and "you know"? How loud should you speak and what effect does pitch have on a listener? When is it better to read a presentation, memorize it or wing it? What are effective tactics for dealing with situations where you have to improvise?

Come hear **Judge Janice Wilson** and **Laura Dominic**, Senior Consultant at Tsongas Litigation Consulting, reveal how even the most confident, talented advocates can stumble in oral advocacy, and get some tips for improving your own arguments and presentations.

For more information:

Call Heidee Stoller of Ater Wynne at 503.226.8616. For registration questions, call the MBA at 503.222.3275.

The Care & Feeding of Commercial Litigation Clients

Thursday, October 25, 2012
7:30-10:00 a.m.

Red Star
Club Room
503 SW Alder, Portland

Members \$55
Non-members \$85

NOTE: Registration fee includes breakfast. Breakfast available at 7:30 a.m., class begins at 8:00 a.m.

The MBA presents a breakfast program on managing commercial litigation clients. The key to most successful commercial litigation relationships is understanding the client's goals and setting realistic expectations. A number of common client misconceptions exist. Learn how to effectively respond and avoid traps. Any attorney involved in commercial litigation should attend this program.

Our speakers are **Tom Gerber**, Bullivant Houser Bailey and **Lisa Kaner**, Markowitz Herbold Glade & Mehlhaf. Tom's practice has emphasis in equipment leasing, inventory and other personal property financing, defense against construction liens, commercial collections, workouts and other specialized creditor/debtor matters. Lisa has served as lead or co-lead counsel in a wide range of complex commercial cases representing both plaintiffs and defendants. Her practice areas include securities litigation, complex contract disputes, business fraud, insurance coverage and employment.

For more information:

Call Sim Rapoport of iBridge LLC at 503.906.3933. For registration questions, please call the MBA at 503.222.3275.

Effective Cross-Examination with Judge Michael McShane and Judge Eric Bergstrom

Tuesday, October 30, 2012
3:00-5:00 p.m.

World Trade Center
Mezzanine Room
26 SW Salmon, Portland

Members \$55
Non-members \$85

Join Multnomah County Circuit Court judges **Michael McShane** and **Eric Bergstrom**, both experienced trial attorneys and judges, as they discuss effective cross-examination techniques. Humorous real-life examples from actual transcripts will be incorporated into the presentation.

For more information:

Call the MBA at 503.222.3275.

Streaming CLE Video Available

The MBA CLE program is available via online streaming video. Attend MBA CLE classes without leaving the office, or stream the video to your desk at a later date.

To learn more visit <http://www.mbabar.org/Education>



mba|EVENT

MBA Family & Friends Golf Event

Friday, July 20

Tee times begin at 2:00 p.m.

McMenamins Edgefield, Troutdale

Bring clients, family and friends and enjoy 9 holes of short par 3 golf in a relaxed setting. No expertise necessary! This fun, casual event is ideal for new golfers, non-golfers and children. A putter and pitching wedge are the only clubs needed and may be rented at the course for \$2 each. There will be a putting contest, raffle for the VLP, fun contests and prizes. Raffle, awards and no-host food and drink follow golf. Co-sponsored by OWLF. Prizes sponsored by Aufdermauer Pearce Court Reporting. Adults \$25, children under 17 \$10.



Register by July 10 at mbabar.org/assets/golf.pdf or call Pamela Hubbs at 503.222.3275.

mba|EVENT

Golf Clinic & Networking Event

Thursday, August 9

5:30-7:30 p.m.

Red Tail Golf Center, Beaverton

Relax after work and socialize with accountants and bankers while you work on your swing with a Trackman golf aid device, get pointers from the pros and hit range balls to your heart's content.



A joint venture with the OSCP and OBA, the event is 5:30 – 7:30 p.m. and ideal for golfers of any level. \$20 includes complimentary club rental, **unlimited** range balls, appetizers and a cash bar. Sponsorship opportunities are available.

Register by July 30 at mbabar.org/assets/golf.pdf or call Pamela Hubbs at 503.222.3275.

Photocopy, complete and mail or fax the registration form with payment to the MBA to reserve your space. Or register online and receive a \$5 discount. Self-study materials from past CLE classes may be downloaded at www.mbabar.org.

Registration Form

Receive a \$5 Discount when registering online at www.mbabar.org.

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- MBA Member
- Non-Member

Payment Options:

- Check VISA MasterCard
- American Express

Registration forms with payment must be received in the MBA office by 3:00 p.m. the day before the seminar, or the "at the door" registration fee will apply (see fees for each class and fill in the blank on registration form). Registration forms may be mailed or faxed to the address or number below. Accommodations available for persons with disabilities; please call in advance for arrangements.

Photocopy registration and mail or fax with payment to:

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

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

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

Seminar Selection:

Please select the seminar(s) you wish to attend. Written materials for each class are included with registration. Pre-registration with payment is required to reserve a space; at-the-door registrations are accepted if space is available; an additional \$5 charge will apply.

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 - 10/25 The Care and Feeding of Commercial Litigation Clients**
Class Registration Online (\$50 Members/\$80 Non)
 Class Registration (\$55 Members/\$85 Non) \$ _____
 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ _____
 - 10/30 Effective Cross-Examination**
Class Registration Online (\$50 Members/\$80 Non)
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- Total due** \$ _____

MBA First Thursday Joint Social with Specialty Bar Associations

Over 70 people gathered at Perkins Coie for the "First Thursday" social on June 7, which was co-hosted by the MBA Membership Committee, OWLS and Perkins Coie. Attendees heard from state and local bar associations that

support and celebrate diversity in the legal profession and enjoyed drinks and light finger foods before heading out into the Pearl District to participate in First Thursday festivities.



Megan Livermore and Liani Reeves at the First Thursday Social



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Congratulations!

Folawn Alterman & Richardson LLP is pleased to congratulate Courtney Dippel on being named partner with the firm. A practicing lawyer by day and published author by night, Courtney believes the best trial lawyers, like writers, are outstanding storytellers.

Courtney can be reached at courtney@FARlawfirm.com or (503) 546-4630.

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Ethics Focus

Cloud Computing: Confidentiality and Coverage

by Mark J. Fucile
Fucile & Reising



Lawyers have used off-site storage for a long time. Traditionally, “off-site storage” meant a physical location (ranging from professionally managed facilities to individual storage units) where lawyers stored their closed files. More recently, “off-site storage” has evolved into “cloud computing,”

“...‘off-site storage’ has evolved into ‘cloud computing...’”

where documents are stored electronically on remote servers managed by independent vendors and accessed via the Web. Some firms use electronic storage as back-up, some as a primary means of accessing documents and some do both. The economic driver is the potentially lower cost associated with electronic rather than paper storage. The technological driver is the ability to access files virtually anywhere.

While offering an innovative solution to file management, this application of “cloud computing” also presents new challenges to protecting client confidentiality - especially when the storage sites involved are being managed by independent vendors. The OSB addressed these issues last year in Formal Ethics Opinion 2011-188. The Professional Liability Fund, in turn, created an exclusion for associated data loss earlier this

year. In this column, we’ll look at both confidentiality and coverage.

Confidentiality

The new ethics opinion weaves together two concepts that are neatly captured in the heading to a key section of the comments to ABA Model Rule 1.6, the confidentiality rule: “Acting Competently to Preserve Confidentiality.” We have duties under RPC 1.1 and 1.6 to, respectively, competently represent our clients and to protect their confidentiality both during and after a representation. Further, although we can use nonlawyers to assist us, we have a duty under RPC 5.3 to adequately supervise them so their work will be consistent with our ethical and fiduciary obligations.

Opinion 2011-188 emphasizes (at 2) that although we can delegate the technical task of storage to an appropriately qualified vendor, we cannot delegate the ultimate responsibility for protecting client confidentiality: “Lawyer may store client materials on a third-party server so long as Lawyer complies with the duties of competence and confidentiality to reasonably keep the client’s information secure within a given situation. To do so, the lawyer must take reasonable steps to ensure that the storage company will reliably secure client data and keep information confidential.”

“...the lawyer must take reasonable steps to ensure that the storage company will reliably secure client data and keep information confidential.”

Opinion 2011-188 also emphasizes (at 3) that the duty to evaluate the adequacy of a vendor’s security measures is dynamic rather than static: “Although the third-party vendor may have reasonable protective measures in place to safeguard the client materials, the reasonableness of the steps taken will be measured against the technology ‘available

at the time to secure data against unintentional disclosure.’ As technology advances, the third-party vendor’s protective measures may become less secure or obsolete over time. Accordingly, Lawyer may be required to reevaluate the protective measures used by the third party vendor to safeguard the client materials.”

Coverage

Although cloud computing offers both convenience and accessibility, it also comes with a risk that we are becoming all too familiar with in a wide variety of contexts: hacking and associated data theft.

“...cloud computing offers both convenience and accessibility, it also comes with a risk ... hacking and associated data theft.”

In response, the PLF amended its base policy this year to add a specific exclusion - Exclusion 22 - for data loss: “This Plan does not apply to any CLAIM arising out of or related to the loss, compromise or breach of or access to confidential or private information or data. If the PLF agrees to defend a SUIT that includes a CLAIM that falls within this exclusion, the PLF will not pay any CLAIMS EXPENSE relating to such CLAIM.”

The accompanying comments note that Exclusion 22 applies to both electronic and traditional storage. In announcing the new exclusion, the PLF stressed that this is a problem that malpractice carriers are grappling with nationally and that it is searching for a solution appropriate for Oregon practice. In the meantime, however, firms not otherwise covered through a general liability or excess policy that includes such coverage will need to balance the utility of off-site storage with the corresponding risk.

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.



Troy Moody

His family played a big part in his life and he loved anything athletic and outdoors, including nature itself and riding his tractor.

He leaves his wife of 18 years, Marsha, and a daughter and son.

mba | ANNOUNCEMENTS

Take a Matter that Matters

Sign the MBA 2012 Pro Bono Pledge at mbabar.org/AboutUs/ProBono.html and commit to taking at least one pro bono case this year.

September is Open Enrollment Month for the MBA Health Plan

Those not currently enrolled in the MBA Health Plan can sign up in September, so now is a good time to compare your existing plan to the MBA’s. While the MBA plan is not immune from the continued rise in premiums nationally, MBA premium increases are below the national average and the plan remains competitive for many MBA members. You may review a summary of current rates on the MBA Web site, or call Northwest Employee Benefits at 503.284.1331 with questions.

Oregon Minority Lawyers Association Auction is August 2

The 13th Annual Summer Social and Fundraising Auction is on Thursday, August 2 at 5:30 p.m. at the World Trade Center in downtown Portland. Admission is \$10 for lawyers, judges and professionals and \$5 for law students. For more details, to register or to make a donation, visit www.oregonminoritylawyer.org.

Legal Aid Receives Grant

The Portland Regional Office of Legal Aid Services of Oregon received a \$32,200 grant from the Roscoe C. Nelson, Jr. Fund for Pro Bono Law Services to the Poor administered by the Oregon Community Foundation. Roscoe C. Nelson, Jr. practiced law in Portland for 52 years and helped the poor by providing free legal services throughout his career. His family members and friends established the fund to honor this tradition. The purpose of the endowment is to connect volunteer lawyers with low-income people in need of legal services in Multnomah County.

Bullard Law launches the Unofficial World Series of Kickball; An online fundraiser benefiting Morrison Child and Family Services

Morrison Child and Family Services launched the first Unofficial World Series of Kickball fundraising campaign on June 1. The primary goal of the campaign is to raise awareness and funds for the programs that Morrison provides to more than 5,000 children and families throughout Oregon.

The social aspect of the program will run online through August 19 at the tournament on Alpenrose Field. Bullard Law and Morrison are anticipating 20 to 30 teams to participate. Visit Team Sign-up to start your own team and team-giving page. Then, visit the Bullard Law Facebook page or the Morrison Facebook page to see how your team stacks up to the others.

Oregon Hispanic Bar Association Spring Social

Thursday, May 17, the Oregon Hispanic Bar Association (OHBA), together with sponsor Miller Nash, hosted its spring social at JJH Law in the Pearl District. The well-attended event included local attorneys, judges, state representatives, law students and members of the Latino business community.

The OHBA represents the voice of Latinos in Oregon’s legal community. It operates in Oregon to encourage Latinos to become attorneys, retain Latino legal professionals, raise the awareness of Latino legal issues, and support Latino law students and legal professionals.



(R-L) Judge Kathryn Villa-Smith, Multnomah County Circuit Court and Jesús Miguel Palomares

MBA Seeks Public Member for Judicial Screening Committee

Non-attorney members of the public are invited to apply for a three-year term on the MBA Judicial Screening Committee. This MBA committee confidentially screens judicial and pro tem candidates for appointment to the Multnomah County Circuit Court bench. Public member criteria information and application may be found at www.mbabar.org.

MBA Noon Time Rides

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.

In Memoriam Troy Moody A trailblazer and friend of the MBA

by Judy A.C. Edwards

The Portland legal community lost a good friend when Troy suddenly passed in May. We miss his warm smile, energetic approach to everything and congenial attitude.

The *Oregonian* obituary, written by his wife, Marsha Naegeli-Moody, described his trial technology accomplishments thusly. “...Troy invented an entire system for showcasing and winning lawsuits. He single-handedly revolutionized the way a trial is presented to a jury or judge. He was a man who had a vision way before his time.

Troy was Executive President and CEO of Naegeli Trial Technologies, which became respected throughout the entire country. He was sought after on the most prominent and important cases for his expertise in consulting and trial presentation....”

Troy Sigmund Moody grew up one of four brothers on a farm in Gresham, attended Portland State University and was a certified trial presenter and certified in legal video. He started his trial work in 1988.

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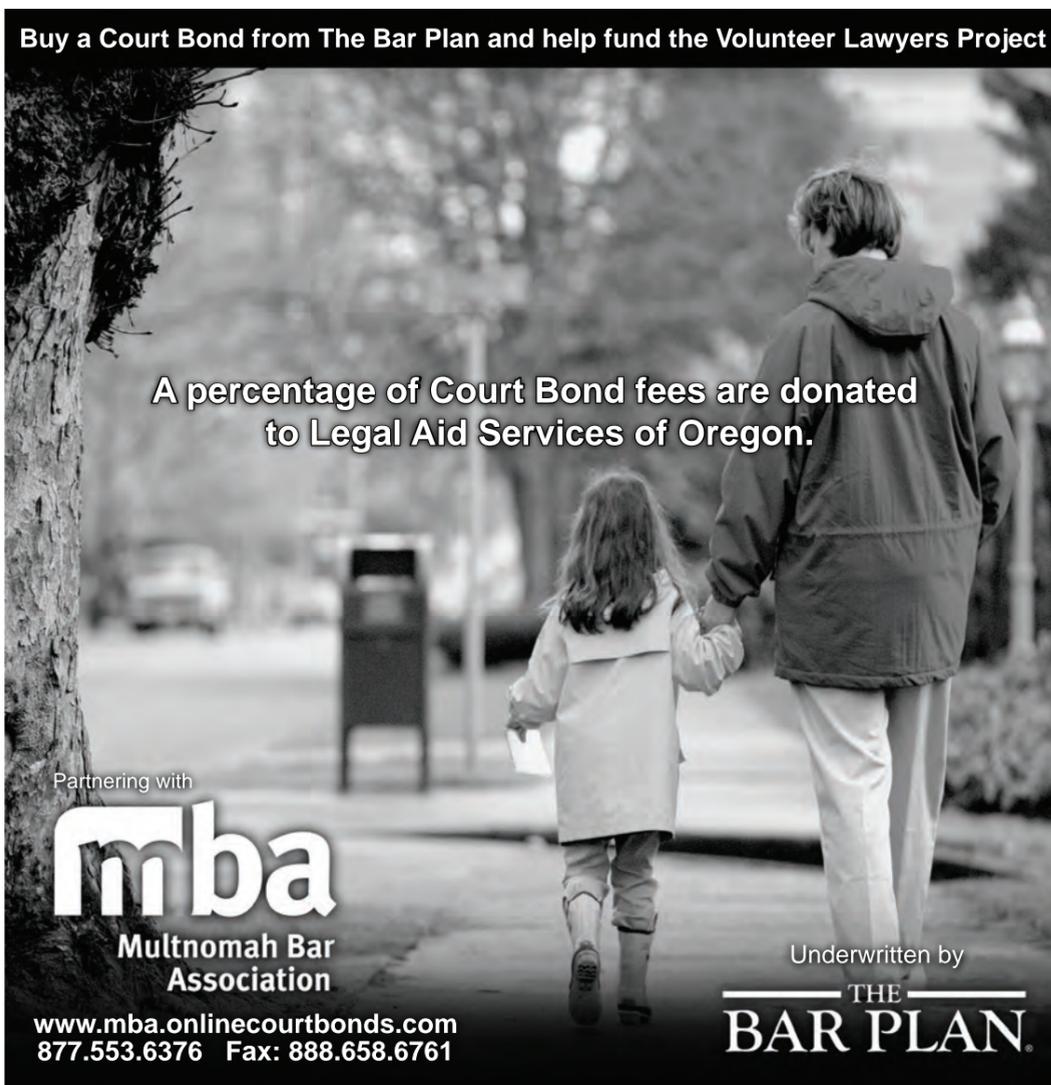
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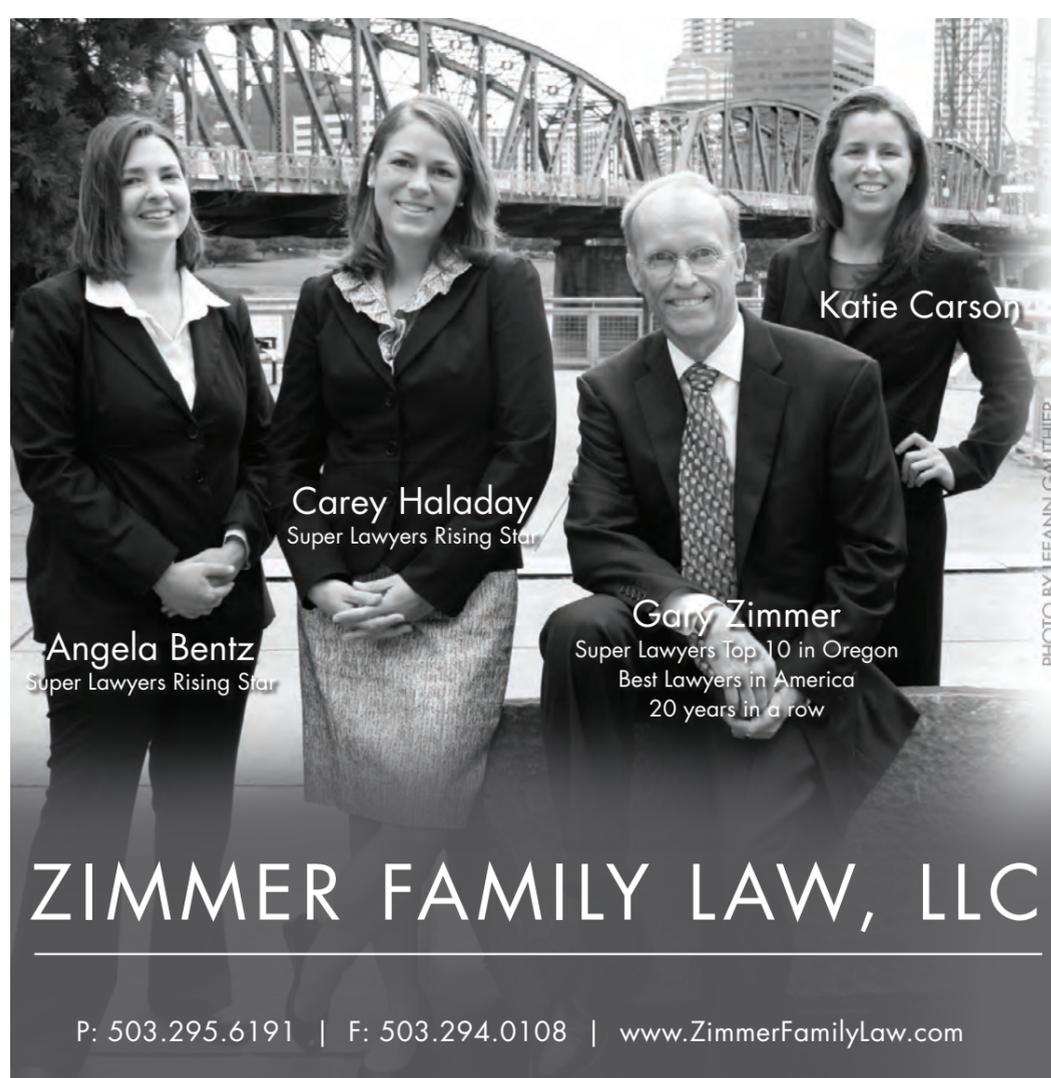
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Around the Bar

Michael Schrunk

U of O School of Law's Frohnmayer Award for Public Service honored Multnomah County District Attorney **Michael Schrunk**. The annual award recognizes a graduate, faculty member or friend whose public service brings honor to Oregon law. Schrunk, an MBA past president, was presented the MBA Professionalism Award in 2011.



Melissa Healy

Stoel Rives

The Board of Oregon Law Center (OLC), the Lawyers' Campaign for Equal Justice and the firm announce that partner **Beverly Pearman** has been elected president and chair of the OLC. Pearman focuses her professional practice on complex business and environmental litigation, has long supported efforts to improve legal aid delivery to disadvantaged groups.

Melissa Healy joins the firm as an associate in the Labor and Employment group. Her practice focuses on providing advice in employment law matters, representing management in employment litigation and providing traditional labor support to employers.



Sean P. Ray and Laura Salerno Owens



Andrew Schpak

Barran Liebman

Sean P. Ray and **Laura Salerno Owens** are new associate attorneys.

Ray represents management in employment matters. In addition to litigation, he also works with employers to draft and revise their employee handbooks. He is the MBA YLS Membership Committee Chair and is on the Campaign for Equal Justice Associates Committee and the CourtCare Advisory Committee.

Salerno Owen's practice focuses on employment litigation and advice. She is a Ninth Circuit Lawyer Representative for the District of Oregon and is the co-chair of the Young Lawyers Committee of the Oregon Chapter of the Federal Bar Association.

Andrew Schpak, a partner representing management in employment law matters, has been reappointed as the MBA delegate to the ABA House of Delegates until August 2014, at which time his new term as the chair of the ABA Young Lawyers Division will begin.



Ron Clark

Bullivant Houser Bailey

Shareholder **Ron Clark** has been re-elected to the firm's board of directors for a three-year term.



Alyssa Engelberg

Fisher & Phillips

Alyssa Engelberg has joined the firm as an associate.

Miller Nash

Elisa Dozono was recognized at the April *Portland Business Journal's* annual Orchid Awards luncheon, honoring Oregon's women of influence.

Dozono focuses her practice on business litigation and government relations. She is president of the Oregon Asian Pacific American Bar Association (OAPABA).



Beverly Pearman



Elisa Dozono



John Casey Mills



Alix Rosenbaum

Firm partner **John Casey Mills** and associate **Alix Rosenbaum** both begin leadership positions with local diversity organizations. Mills joins the board of directors for Partners in Diversity, an organization whose mission is to help recruit professionals of color to the Portland region and retain them. Rosenbaum joins the board for Oregon Area Jewish Committee, a nonprofit group that strives to advance justice, build community and promote understanding.

Mills heads the firm's bankruptcy practice. He represents lenders, borrowers, creditors, creditor committees and debtors in a variety of bankruptcy-related matters.

Rosenbaum focuses her practice on intellectual property, general business and corporate law, helping clients with the myriad of legal issues arising from protecting their valuable assets and completing business transactions.



Todd Cleek

Cleek Law Office

Todd Cleek has been elected to the Venture Portland Board of Directors. Venture Portland is a key partner in implementing the city's economic development plan and has supported Portland's

unique business districts through trainings, grants and promotion for over 25 years.



Brett Mersereau

Mersereau Shannon

Brett Mersereau has become a partner in the firm. His practice focuses on legal malpractice defense and public-body tort and contract defense.



Samuel J. Kuzma

Gevurtz Menashe Larson & Howe

Samuel J. Kuzma has joined the firm as an associate, where he will focus his practice on divorce, custody/parenting time and child support.



Walt Grebe



Rebecca Lindemann

Schwabe Williamson & Wyatt

Walt Grebe, a shareholder, recently received the Silver Beaver Award from the Cascade Pacific Council of the Boy Scouts of America.

Recipients of the Silver Beaver Award are registered adult leaders who have made an impact on the lives of youth through service given to the council. The award is given to those who implement the Scouting program and perform community service through hard work, self-sacrifice, dedication, and many years of service. The

Silver Beaver Award is the highest honor given by local councils of the Boy Scouts of America.

Rebecca Lindemann, an associate, recently joined the leadership board for the YWCA of Greater Portland. Lindemann focuses her practice on complex litigation matters, primarily in the area of products liability.

Radler White Parks & Alexander

A new real estate, land use and corporate firm has formed to offer strategic counsel and transactional support for real estate and land use projects, representing both private developers and public clients. **Barbara Radler** (partner) has practiced law in Portland since 1982. Her practice focuses on sophisticated real estate transactions, leasing, financing, acquisitions, sales and the law affecting real estate brokers and property managers.

Christe White (partner) has built her own land use practice. She is an industry expert in seeking, obtaining and defending development approvals for her clients.

Tim Parks (partner) provides comprehensive, business-oriented counsel that includes the ability to assess the tax implications, investment risks and financial opportunities of a wide range of business and real estate transactions.

Dina Alexander's experience with large-scale development projects allows her to advise clients on issues that arise in all stages of a project's life cycle, including land acquisition, joint ventures, equity and debt financing, construction and design contracts, leasing and sale matters. She has also developed unique experience representing clients in public/private partnerships.

Steven Hultberg (of counsel) practices real estate and land use law. He is located in the firm's Bend office. He has significant land use entitlement experience and broad real estate transactional knowledge.



John Coletti

Paulson Coletti

John Coletti has been inducted as a member to The Inner Circle of Advocates in recognition of his exemplary achievements as a plaintiff's trial attorney. Founded in 1972, The Inner Circle of Advocates is an invitation-only group of 100 of the best plaintiff trial lawyers in America who are selected for their character, experience, and success in the courtroom.

Mandatory Arbitration and New Civil Case Management A Sprint to the Finish

by Lisa Almasy Miller



By now, those of you who handle civil litigation in Multnomah County know about the civil case management process that Judge Nan Waller spearheaded since taking the helm as presiding judge. You know that all cases filed on or after February 1, 2012, are subject to the new case management process which includes civil cover sheets, initial case management conferences and trial readiness conferences. What you may not know is how these new rules impact your handling of cases that are referred to mandatory arbitration (i.e., those cases where the damages sought by the plaintiff are plead at \$50,000 or less).

Section Chapter 36 of the Oregon Revised Statutes and Chapter 13 of the Uniform Trial

Court Rules govern mandatory arbitration. Despite the fact that UTCR 13.160 provides that “[a]pproximately two months are allocated for the arbitration process,” the reality is that in recent years, the average time-to-award is over 240 days from the filing of the case. That’s eight months! As a result, those cases that ended up being appealed after arbitration were well over a year old by the time they were tried. This is one of the reasons the new civil case management procedures became necessary.

Under the new rules, the **hearing in cases referred to arbitration must take place within 180 days of the date of filing.** Additionally, arbitration awards must be filed within 205 days of filing. Judge Edward Jones, who is currently in charge of the arbitration department, has stated in writing: “Starting with cases filed after February 1, 2012, the court will not approve the setting or resetting of arbitration hearing dates to any date more than 180 days from the filing of the case.”

It bears repeating that the hearing and award filing deadlines are based on the date the complaint was filed - not the date the case was transferred to arbitration.

So what does this mean for litigators? It means two things: (1) you’ll have to fast track your arbitration cases; and (2) plan to go to arbitration without, perhaps, all of the discovery you’d like to have.

Fast tracking means:

- **Service of your complaint** on all defendants will have to be done as expeditiously as possible after the complaint is filed. You cannot docket your case for 30 days to follow up.
- **Extensions in filing a first appearance**, if granted, will have to be limited to a few days. Why? Because if defendant’s first appearance is a Rule 21 motion, time will be eaten up waiting for a motion hearing.
- **Documentary discovery requests and responses** thereto will need to be handled promptly. (Perhaps, for example, as plaintiff’s counsel you may want to serve your request for production with the complaint, and as soon as defense counsel is identified, send copies of all documents you know will be requested of you.)
- **Determining a date for depositions** of the parties will need to be handled very early on so as to accommodate the lawyers’ schedules.
- **Kill two birds** (or even three!) with one stone, and **talk about the selection of an arbitrator and a date for a hearing** as

you organize the discovery. You don’t have to wait for the court’s list of arbitrators to be generated before discussing which arbitrator you’d like.

- **While you’re at it, talk about what stipulations**, if any, you might reach so the issues in the case can be narrowed.
- **Come to arbitration with your costs and attorney fee petition prepared** (just in case you win) since the arbitrator has limited time to get those issues resolved.

Then, with respect to case preparation, ask yourself whether you need to take a half-day deposition, or can you get what you really need in one hour? (Finding an available hour in one’s schedule is likely to be easier to accomplish than half a day and you can always agree to a second, more thorough deposition down the road if necessary.) Do you need to take the deposition of the defendant or fact witnesses in an admitted-liability case? Is it necessary to get a medical examination of the plaintiff or is it something that can be obtained after the hearing if there is an appeal? Limiting discovery to the essentials is something that is easily

accomplished as long as both sides cooperate with one another and act professionally.

So, what happens if opposing counsel does not cooperate and you’re faced with a hearing date with little or no discovery? Will you get a set-over? The simple answer is, yes, but only if the new date is within 180 days of the filing date. If the date you want is more than 180 days out, your request will be denied.

You will then have two options: (1) go to the hearing with what you have and present the best case possible, or (2) do not appear for the hearing, get an award filed against you for not participating, and file an appeal and request for trial de novo after the award is filed. Of course, there are many good reasons to go to arbitration on the smaller cases (cost-effectiveness, no need to call expert witnesses, less intimidating for clients, etc.) so failing to participate in arbitration has some significant drawbacks.

The new rules are going to take some getting used to - that’s the nature of any new procedure. But the 180-day window is manageable as long as both sides work with each other to get the necessities done in a timely and efficient way.

MBA BrownBag eCourt Implementation

by Ryan Bounds

Court Liaison Committee member



On May 18, the MBA Court Liaison Committee hosted its semiannual Judicial BrownBag lunchtime forum in the presiding judge’s courtroom of the Multnomah County Circuit Court. Presiding Judge Nan Waller was joined by Judge John Wittmayer and Chief Family Court Judge Maureen McKnight. They described the capabilities of the Oregon eCourt system. When it is up and running, Oregon eCourt will permit state-court litigants to file their pleadings over the Internet and to serve all other parties to the case at the same time. Nonparties who are following a case also will be able to download the parties’ filings (to the extent they do not include protected information).

In these ways, eCourt will be similar to the PACER system already used in the federal courts. Electronic filing alone is expected to reduce staffing needs, paper use, and wait times significantly for the Multnomah County Circuit Court. Moreover, unlike the federal system, Oregon eCourt will support judicial and law-enforcement operations by automating reports to relevant

agencies and permitting judges and court administrators to analyze the way different types of cases are being resolved. Eventually, the new system will improve the resolution of cases involving self-represented litigants by using online dialog boxes to guide them through the creation and filing of pleadings. Oregon eCourt was rolled out for the first time in June in Yamhill County. Other counties will follow later in the year, with Multnomah County and other large counties set to implement eCourt next year.

Lisa Norris-Lampe, a staff attorney with the Oregon Supreme Court and chair of the Oregon eCourt Law and Policy Work Group, followed the discussion of the eCourt system with a presentation on the recent and anticipated changes to the Uniform Trial Court Rules (UTCR) to adapt them to the use of Oregon eCourt. The work group drafted what is now UTCR Chapter 21 (Filing and Service by Electronic Means) as well as the current Draft UTCR Chapter 22 (Remote Electronic Access to Case Documents), which was posted for public comment this spring and should be finalized this fall. The overarching objective of the new rules is to facilitate access to court records by the parties as well as the public - either over the Internet or on courthouse terminals - while preserving the privacy of protected information (such as Social Security numbers and the names of minors).

Continued on page 17

The Corner Office PROFESSIONALISM

We have all heard the advice to avoid hastily drafted emails sent to opposing counsel in the heat of a frustrating moment. It is indeed an advisable practice when dealing with a contentious issue or counsel to draft an email and then to let it simmer before sending it. It is a good idea to let it sit overnight, or at least for a few hours, and then review the email to ensure that it contains the professional tone and content you undoubtedly seek. But I have a different idea: Don’t send an email at all.

In response to an email I had sent, I once received an email from opposing counsel saying “Why don’t you pick up the phone and call me like a professional?” Leaving aside the obvious irony of that email, the message is a good one. Instead of sending an email, which may be misinterpreted as to tone and which by its nature limits an interaction to one-

sided bursts, consider picking up the telephone and having a conversation (or better yet, arrange a meeting). We are all professionals, and one of the great pleasures of practicing in this legal community is the civility with which we interact with one another. A certain measure of that civility and professionalism is often lost with the detachment that comes with email.

I can recall many instances in which a phone call remedied or likely prevented misunderstandings and fostered professional relationships. A phone call has repaired working relationships with opposing counsel after an email that was perceived as, but not at all intended to be, a threat. A phone call has better explained positions taken and clarified the underlying reasons. A phone call has taken the place of a defensive email to challenge seemingly personal

and unnecessary allegations in a proposed pleading. All were met with professionalism and understanding - if not always agreement. To be sure, all of this theoretically can be accomplished in writing, but there is simply no replacement for the relationship building that occurs through personal contact, and the resulting fostering of professionalism.

With email and other technology, there seems to be less and less personal interaction among lawyers. A case or transaction can go on for months, or longer, without ever meeting the lawyer on the other side. Telephone contact may be the only personal interaction lawyers have. In light of that reality, it is all the more important to use the telephone rather than email. Make it a practice to call opposing counsel to introduce yourself and to get to know opposing counsel at the outset of a case or transaction. If a dispute arises, try a phone call as your response of first resort.

Remember, whether representing clients in transactions or in litigation, we, as lawyers, are often in adversarial positions. But despite our obligation to zealously represent our clients, we are not adversaries. Having personal rather than email contact can help remind us of that fact.



UPS and the MBA congratulate
Stephanie Barrie
of Gresham Family Law on winning
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Tips From the Bench

Making the Most of Multnomah County's Initial Case Management Conference

by Judge Marilyn Litzenberger
Multnomah County Circuit Court

Multnomah County Circuit Court's new civil case management rules have been in effect for six months (for cases filed after February 1, 2012). The implementation of Initial Case Management Conferences (ICMC) has been well received by most who have participated. Occasionally there have been a few bumps in the road, but the court and counsel are learning from those experiences. Here are a couple of ideas to make the most of the ICMC:

- (1) Call the judge's staff at least one day before your scheduled ICMC date to advise whether the parties intend to appear by telephone or in person;
- (2) if more than one party intends to appear by telephone, make sure the court is advised in advance and confirm arrangements for the teleconference with the judge's staff;
- (3) plan to use the appearance date/time to confer with opposing counsel or self-represented litigants on a discovery plan (discuss document production issues, deposition scheduling and the like);
- (4) use the opportunity for early settlement discussions or at least open the door to those discussions;
- (5) if you have a busy trial calendar, consider conferring on a couple of dates to "hold" for trial.

To *præcipe* or not to *præcipe*?

The long time-honored "*præcipe* rule" in Multnomah County does not apply to civil cases subject to the new SLRs. Using a *præcipe* is still good practice, however,

"...the blue color paper makes your motion stand out from other matters sent to the judge's chambers."

because the blue color paper makes your motion stand out from other matters sent to the judge's chambers. Moreover, the



præcipe form satisfies the court's requirement that the moving party send the motion judge and other parties of record some type of written confirmation of the date and time scheduled for any motion hearing. As a professional

"...a copy of the written confirmation should also be served on parties that have not formally appeared on the record..."

courtesy, a copy of the written confirmation should also be served on parties that have not formally appeared in the record, but are known to the moving party at the time the motion is scheduled for hearing with the motion judge's staff. Written confirmation will eventually be replaced by the new eCourt system in 2013. So, when you are deciding whether "to *præcipe* or not to *præcipe*" consider erring on the side of tradition and use the *præcipe* form that continues to be required for cases filed before February 1, 2012. One final important tip related to motion scheduling: Please wait until the Monday following the ICMC assignment of the motion judge before you contact the judge's staff to schedule a motion hearing. The judge's staff will not receive word that your motions have been assigned to that judge until Monday morning at the earliest.

Deciphering OJIN docket entries for Case Management Conferences

The first entry in your case's OJIN docket will be the complaint itself. The second entry is a scheduling entry for the ICMC. The date of the ICMC is available as soon as the complaint is filed. Once scheduled in OJIN, the

ICMC date/time will not be moved, absent extraordinary circumstances, so plan ahead. To make things easier, you need not appear in person at the ICMC; telephone appearances are accepted and encouraged and the ICMC should take no longer than 10 minutes of your time. Failing to appear for the ICMC altogether, however, operates as a waiver of the non-appearing party's opportunity to file a motion to disqualify the motion judge assigned at the ICMC. One more tip: If the OJIN docket indicates the first "hearing case management" has been canceled, that means a motion has been filed and the ICMC has been moved to an earlier date so a motion judge can be assigned. It does not mean the ICMC itself has been canceled altogether.

The Expedited Motion Docket

Motions to have a motion heard on an expedited basis are presented to the assigned motion judge if your case was filed after February 1, 2012. If your case was commenced before February 1, 2012, you should present your request for an expedited hearing to the presiding judge in Room 208 during *ex parte* hours in the morning or afternoon. These procedures replace the daily 11:30 a.m. "expedited motion docket."

Other Frequently Asked Questions

The court is collecting a list of frequently asked questions about the new civil case management rules and intends to post those questions and answers on its civil webpage. You can help by submitting your questions to me (Judge Litzenberger) or to Judges Matarazzo, Nelson or Rees.

Acknowledgment of Troy Moody

Some of you were fortunate to have worked with Troy Moody of The Naegeli Reporting Corporation in preparing your case for trial and presenting it to a jury. Others of us had the pleasure of observing Troy's high standards of professionalism in

"His untimely death is a huge loss to his family and to all who had the pleasure of working with him."

our courtrooms. His untimely death is a huge loss to his family and to all who had the pleasure of working with him. He exceeded expectations by always being early to the courtroom (not just on time), by being prepared not only with a Plan A, but also with a Plan B (for technology failures), by acting as a role model with his calm demeanor and willingness to help everyone in the courtroom (even the other side's lawyers who weren't paying for his services), by bringing the trial judge into the future (with real time court reporting) and by creating an environment designed to enhance jurors' understanding of the evidence and his client's theory of the case. I will miss Troy's smiling face in my courtroom and I know others sitting on the bench will too.

Ed Harnden 2012 MBA Professionalism Award Recipient

Ed Harnden's acceptance speech at the MBA 2012 Annual Meeting follows.

I am deeply honored and humbled by this award, and truly appreciative. And I must admit that as I was growing up on a farm in Philomath shoveling hay (my Mom said I should not use the "s..." word), milking cows and pulling lumber on the green chain, I would never have expected to have the chance over the years to work with such an astoundingly talented and professional group as all of you.

With all due deference to Lou Gehrig, I am without a doubt one of the luckiest people in the world and am overwhelmingly grateful for the opportunities I have been given. I am lucky to love what I do, the thrill of having the chance to be and work as a lawyer. I am

"I am lucky to love what I do, the thrill of having the chance to be and work as a lawyer."

truly lucky to have been given the opportunity to help solve, or at least attempt to help solve, problems that vex our neediest citizens, and to work with groups that make a difference in the lives of so many every day. I have had not only the luck, but the great privilege and honor, to work with and be mentored by great litigators and practitioners; to engage with people who are amazingly brilliant, energetic and passionate about the causes they believe in; to appear before judges who are unequalled anywhere in the country in their skill, ability and commitment to justice; and to have the phenomenal support of a firm in undertaking those endeavors that we hope will enhance the profession and our community.

And I am so lucky and blessed to have a wonderful family that pushes me, and joins me in working toward making a difference. A family that fully adopts John F. Kennedy's belief that: "One person can make a difference, and every person should try." They are my core team of support. I will never be able in my lifetime to earn enough credits to pay the debt I owe them for putting up with my interminable night flights, being late, attending self-proclaimed "fun" bar events, preachy inspirational sayings and at times, my outright grumpiness at not making enough progress. In particular, I would like to introduce you to my Mom, who even at 90 still tries, although not very successfully, to teach me to "Stop whining and just get it done." She is the original Nike "Just Do It" person, always positive, energetic and engaged. She showed me by her actions that you cannot be overcommitted if you believe in what you are doing, and what you are doing is making a difference.

It is not often that one has the chance to stand before colleagues,



Steve Blackhurst congratulates Ed Harnden on receiving the Professionalism Award

friends and family to receive an award that each of you deserves. Professionalism and all that it, and the practice itself, calls for is not an individual pursuit, although it relies on individual effort, action and responsibility, but requires a recognition that we all have a joint responsibility for our common future and the common future of our profession. Professionalism is all about affecting people's lives in a positive manner, and the opportunities to do that as a group are boundless.

I thought a lot about what I might say that would even in part sum up what professionalism is and what it means to me. We are blessed to live and practice in a state where professionalism is a hallmark of our practice, not just a list of things to check off; where we have an exceptional judiciary and bar committed to the ideals of professionalism; and where every bar organization has adopted, and lives by, the Rules and Codes of Professionalism. It would be easy to talk at length about each of the points of professionalism contained in the aspirational comments and creeds of the MBA, OSB, OADC, OTLA and other groups, and they are very important as a daily reminder of conduct which is the baseline for how we should act. But a baseline is just that, a starting point.

What defines us as a profession,

"...what makes us stand out as a beacon to those who look to us for solutions, for thoughtful and honest resolution of problems...is our commitment...."

as Oregon lawyers, and what makes us stand out as a beacon to those who look to us for solutions, for thoughtful and honest resolution of problems, for a path out of situations that are at times to them seemingly hopeless, is our commitment:

- o To going beyond the baseline;
- o To being involved in making sure that our profession adheres to its core principles of excellence, honesty, integrity and service;
- o To taking the necessary steps to take care of the justice system that is in significant peril from funding shortfalls;
- o To providing leadership in our communities, whether NGOs, nonprofits, the political arena, schools, civics education or in your own neighborhood;

Continued on page 11

Multnomah Bar Association Executive Director

The Multnomah Bar Association, a voluntary bar with more than 4,600 members, seeks an executive director to help lead and manage the organization and its foundation. This 106-year-old nonprofit association, which highly values professionalism and collegiality, serves the legal community in Portland, Oregon. We seek a bright, energetic chief executive who has a good track record working with volunteers, board members and staff. Management experience at a nonprofit is a plus. Good communication skills, financial savvy, and enthusiasm are qualities we are looking for in our executive director. Applicants should e-mail a cover letter and resume to Steven K. Blackhurst at skb@aterwynne.com.

Ed Harnden

Continued from page 10

- o To fighting for the right of every person to have access to justice; and
- o To being the guardians of justice that is our mandate.

And I suggest that all of that takes passion, commitment, involvement, a profound desire to “do what is right” and plain old hard work.

As you can tell, I am firmly of the belief that it takes all of us doing this together to make our profession what we all believe it should be, to truly be considered “professionals.” But there are

“...it takes all of us doing this together to make our profession what we all believe it should be, to truly be considered ‘professionals.’”

those who have led the way and to whom we can look as pillars and heroes of the profession, as our mentors for professionalism. It is always dangerous to start down the selection path, because as I sat and listed those who have been important to my growth, and that of the profession as a whole, I rather quickly was in the hundreds. But let me start with just a few of the beacons that we can emulate:

- People like Katherine O’Neil and her founding of OWLS, a watershed event for the practice and a milestone for women lawyers. For those of us who are old enough to remember the days when there were few, if any, women judges, women partners, or even women practitioners, her work in putting together a team of individuals to conquer that situation was and is a remarkable display of involvement and professionalism.
- People like Don Marmaduke, Charlie Merten and Jake Tanzer, who with great personal sacrifice and danger used their legal skills in the South in the 1960s in leading the efforts to protect the rights of others.
- People like Sandy Hansberger, Tom Matsuda and David Thornburgh, who work thousands of hours each year to make inroads into providing legal services to those mired in poverty, to whom they are true angels of help.
- People like Henry Hewitt, who is involved in and provides service to the community to an extent that is awe-inspiring. And as a member of the profession saw that it was his duty and the duty of all of us, to put his shoulder to the wheel and to use an extraordinary amount of time beyond his other community activities to put in place a structure (the Campaign For Equal Justice) to raise the funds necessary to keep Legal Aid functioning in a time of crisis. And that professional effort has resulted in literally thousands of Oregon attorneys moving to the top of their priority list this core professional duty of helping to provide access to justice.

- People like Elisa Dozono, who exudes my ideal of professionalism at every step. She is not only a skilled and highly professional business litigator, but works to promote the success of women lawyers through OWLS and Emerge Oregon, of minority lawyers through OMLA, and of Asian-Pacific lawyers through the Asian Pacific Bar Association; the courts through her work with the FBA and ABA; and the non-lawyer community through her work with MERC, Albina Opportunities Corporation, and the Cascade Aids Project.

- People like Andrew Schpak, who as a young attorney has headed up the MBA YLS, and now the ABA YLD, and energized them to take on the mantle of involvement and commitment to the profession. And his efforts to develop and implement the Oregon state-wide new lawyer mentor program will be at the heart of professionalism in the future.

I call on each of us to go the next step. Emulate the actions of the people I have mentioned and those on your list. Continue

“I call on each of us to go the next step. Emulate the actions of the people I have mentioned and those on your list.”

to take to heart our profession’s core values. Our every act as professionals, as leaders of the bar, as members of the community, will echo into the future. We just need to make sure that those echoes are good ones, that the footprints we are leaving behind in our work with others are those that we are proud of and ones that will make our profession and communities better.

I close with a quick story that I learned from elders in the Warm Springs tribal community with whose kids my family and I rodeoed when I was growing up, and which Steve Wax recounted in his book. An elderly tribal chief was telling his grandson about life. “A fight is going on inside each of us,” the chief told the boy. “It is a terrible fight between two wolves. One wolf is evil, filled with greed, ego, arrogance and anger. The other wolf is good, aiming toward hope, compassion, generosity, humility and the desire to help others. The same fight is going on inside you.” The grandson thought about it for a minute, and then asked his grandfather: “So, which wolf will win?” The old chief replied simply, “The one you feed.”

“...as we go about our work...make sure that we are feeding and pushing the best of our instincts...to be professionals in the highest sense of our calling.”

I would simply ask that as we go about our work and our endeavors we make sure that we are feeding and pushing the best of our instincts to touch and enhance lives, to be professionals in the highest sense of our calling.

Thank you again for this great honor.

In Memoriam Randall B. Kester Oregon Supreme Court Justice Retired partner of Cosgrave Vergeer Kester witnessed historic changes

Attorney Randall Kester, MBA Past President and former Oregon Supreme Court justice and retired partner at Cosgrave Vergeer Kester, passed away at the age of 95 on May 31. “It was an honor to work with him,” says Managing Partner Jill Laney. “Randall exemplified the best of the legal profession. He maintained the highest of ethical standards and was a pillar not only of our firm, but of the entire legal community. All of us at the firm extend our deepest sympathies to his family, friends, and colleagues.”

Kester began practice as an associate with Maguire, Shields, Morrison & Biggs -Cosgrave Vergeer Kester’s predecessor - in 1940. He taught at Lewis & Clark Law School from 1947-56. Kester served as an Oregon Supreme Court Justice from 1956-58.

He then became General Solicitor for Union Pacific

Railroad’s Northwestern District, eventually rising to Senior Counsel. In 1981, he resumed full-time practice with Cosgrave, Kester, Crowe, Gidley & Lagesen, which became Cosgrave Vergeer Kester in 1990. In 2006, he became “active emeritus” with the OSB.

Kester was a frequent speaker and author, writing articles for most of his life and compiling a history of the firm and its clients dating back to 1934. He participated in and was honored by numerous professional organizations during his career, including the American Academy of Appellate Lawyers.

He was also active in the larger community, steering the Mt. Hood Ski Patrol through the war years of 1944-45 and donating his time and energy to the Portland Chamber of Commerce, City Club of Portland, Oregon Ethics



Randall B. Kester

Commons, National Ski Patrol, Oregon Symphony Association, United Way, Willamette University, Oregon Independent Colleges Foundation, Portland Committee on Foreign Relations, Pacific Crest Trail Association and Boy Scouts of America. He enjoyed hiking, climbing, skiing, bicycling, boating, canoeing, whitewater rafting, photography, reading and writing.

Kester earned his AB in Political Science from Willamette University in 1937 and his JD from Columbia University Law School in 1940. He was admitted to the OSB, the U.S. District Court for Oregon, the Ninth Circuit Court of Appeals and the U.S. Supreme Court.

New MBA Officers Elected One year terms start July 1



Gregory T. Moawad

Gregory T. Moawad, Director of Public Safety at Oregon Health & Science University, is president. Formerly a Multnomah County Deputy District Attorney, Greg graduated from Lewis & Clark Law School in 1994. He has been on the board since 2009.

Greg chaired the MBA Membership and Judicial Screening committees and 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.

Sheila H. Potter, Deputy Chief Trial Counsel of the Oregon Department of Justice, is secretary. Her practice includes defense and plaintiff’s work for the State of Oregon, as well as assisting in the management



Sheila H. Potter

of the Trial Division. Formerly at Bullivant Houser Bailey PC, Sheila graduated from the University of Colorado Law School in 1999; she was admitted to the OSB the same year. She has been on the board since 2010.

Sheila’s MBA service includes chairing the MBA Professionalism Committee and serving on the Court Liaison and Judicial Screening committees. She is a barrister member of the Owen M. Panner Inn of Court.



Richard J. Vangelisti

Richard J. Vangelisti, Vangelisti Kocher LLP, is treasurer. Richard graduated from Southern Methodist University Law School in 1995. He practices plaintiff’s personal injury law and is admitted to practice in Oregon and Washington. He has been on the board since 2010.

Richard chaired the MBA Judicial Screening Committee. He serves as a mentor for the MBA Professionalism Committee’s Mentor Program and is a member of the Oregon Bench and Bar Joint Commission on Professionalism. Richard previously served as president of the Oregon chapter of the Federal Bar Association and continues to serve as a board member. He also served as a co-chair and lawyer representative to the Ninth Circuit Judicial Conference.



Steven K. Blackhurst

Steven K. Blackhurst, Ater Wynne, continues on the MBA Board as past president.



Young Lawyers Section

New YLS Officers Elected One year terms begin July 1



Duke Tufty

Duke Tufty, YLS President for 2012-13, is an alcohol regulatory attorney at Davis Wright Tremaine. He graduated cum laude from Lewis & Clark Law School and is admitted to the Oregon and Washington bars. Duke has been a member of the YLS Professional Development and Education Committee and its chair. He is a member of many alcohol regulatory and hospitality industry associations and completed the Portland Business Alliance "Leadership Portland" program in 2010.



Traci Ray

Traci Ray, President-Elect, works at Barran Liebman, where she is the Director of Marketing, Client Services & Events. She graduated from the U of O School of Law in 2007 and passed the bar that same year. Traci has been actively involved in the YLS, serving as a member of the Pro Bono Committee in 2009, co-chair of the Professional Development and Education Committee in 2010, and on the board since 2011. She is the current OSB Pro Bono Chair and is a proud Campaign for Equal Justice Board Member.



Sarah M. Petersen

Sarah M. Petersen, continues as Treasurer. Sarah graduated from Lewis & Clark Law School and was admitted to the OSB in 2008. She now works in the Career & Professional Development Center at Lewis & Clark Law School as graduate advisor, working closely with recent graduates to help them make the transition from law student to lawyer. Sarah has been a member of the YLS Futures Committee and served as its co-chair for 2009-10. She joined the YLS Board in 2010.



Valerie Colas

Valerie Colas, Secretary, graduated from the University of Miami School of Law and was admitted to the OSB in 2009. She works at the Office of Public Defense Services representing parents in juvenile dependency appeals. Valerie joined the YLS Board in 2011 and chaired the YLS YOUthFILM Project Committee in 2010-11. She also served on the YLS Membership Committee and as a court tour guide for the Classroom Law Project.

Nicholas A. Kampars, Davis Wright Tremaine, continues on the YLS Board as past president.

The Imprint Program has Another Great Year

by Julie Nimnicht
YLS Service to the Public Committee

The Imprint Program concluded on May 2 with a celebration. Imprint pairs volunteer lawyers with students at Parkrose High School. Through the program, students and volunteers are assigned a book to read together and they exchange four letters about the book and about life with their pen pals throughout the spring semester. Each attorney forms a one-on-one relationship with his or her student, allowing the student to learn more about college and careers while interacting with a positive role model. At the end of the semester, the students and their respective mentors meet in person for an end-of-the-year party to celebrate their Imprint experience.

A total of 90 students from Parkrose High School participated in Imprint this year - the highest turnout yet! Ms. Ediza, the Parkrose High School teacher who coordinates

the program with the YLS Service to the Public Committee each year, declared the 2012 Imprint Program to be a great success. According to Ediza, the students really appreciate the opportunity to learn about their pen pals and particularly enjoy asking volunteers questions about life beyond high school. Ediza noted that the students who participate in the program tend to finish the semester stronger than the students who opt not to participate. "It keeps the students interested and engaged because they have so many things to look forward to throughout the semester," she said. "They're excited to receive their volunteers' letters every few weeks, and



Imprint Program year-end party



greatly anticipate the party at the end of the year where they get to meet their pen pals."

Thanks to all of the volunteers who participated in this year's Imprint Program. The program means so much to the students involved. I hope some of this year's volunteers will consider signing up again next year. For those who were unable to participate this time around, please look out for details about next year's program, which will kick off in January 2013.

Elizabeth Hallock Pro Bono Spotlight

by Craig Foster
YLS Pro Bono Committee

Sometimes the best way to help a client reach her goals is by providing the tools she needs to reach them herself. Innovative Changes (IC\$), an Oregon nonprofit corporation based in Portland, knows this all too well. Established in 2009, IC\$ was created to help low-income individuals and families, and those who otherwise lack adequate access to capital or financial services, manage short-term financial needs in order to achieve and maintain household stability.

IC\$ offers financial education, responsible small-dollar consumer loans, credit building techniques and asset building opportunities. Additionally, the organization recently launched the Pro Bono Community Collaborative (PBCC) in an effort to provide more comprehensive and high-quality services to the low-income communities served by IC\$. The PBCC seeks to engage volunteer professionals (like attorneys, bankers and accountants) with deep knowledge of legal and financial systems to serve as resources to IC\$ clients, such as by:

- Serving as a general resource (or mentor) for community-based organization staff whose expertise in certain areas may be limited but who witness daily, the impact that lack of access to resources has on low-income people;
- Speaking at meetings that bring together nonprofit service providers and financial educators;

- Teaching workshops and seminars on specific topics for IC\$ clients on subjects such as immigration law, bankruptcy and retirement planning;
- Participating in online forums or writing blogs/articles; or
- Providing confidential one-on-one advising and/or representation to clients.

Some local professionals, like Elizabeth (Liz) Hallock, have stepped up to meet that need. After learning about the PBCC's opportunities for professionals through the listserv for Oregon Women Lawyers, Liz jumped right in and led a seminar focused on the financial issues faced by victims of domestic violence. Recognizing that financial pressures can be an obstacle to escaping abuse, the seminar provided participants with information on steps and documents involved in taking legal action (such as divorce), explained how to find an attorney and addressed strategies for self-care during the process. Liz plans to continue her work with the PBCC in an upcoming seminar on issues relating to debt management.

After studying classical art and archaeology at Princeton University, Liz obtained her J.D. from the University of San Francisco in 2009. No stranger to public interest work, Liz has worked for a number of organizations including the Marin County D.A. office, California Reinvestment



Elizabeth Hallock

Coalition, California Death Penalty Appellate Project, USF Child Advocacy Project and Karnataka State Department Child Trafficking Program in India. Liz has also worked for several nonprofit special education law firms in New York and Oakland, and she is licensed before the Veterans' Federal Board of Appeals, maintaining a legal practice assisting individuals obtain their veteran benefits.

Environmental justice is a passion of Liz's. She has been a legal advisor to The Alliance of Forest Workers and Harvesters since 2009, and she is the founder of Cancer Rights Northwest, which provides legal resources and environmental justice for cancer patients, survivors and their families. She has also worked extensively with two other organizations focused on related sustainability issues, Lawyers for Food, Justice and Friends of the Hood River Waterfront.

When she's not working, you might find Liz kayaking, practicing yoga or rock climbing.

Cindy Gaddis YLS Member Profile



you an idea of where I moved from, the town had one health clinic where I worked as receptionist and billing clerk. Patients would call in the morning to see if they should come in to give a blood sample. I would look out the window to see that we were socked in with clouds and reply, "Not today." If the valley was socked in, there was no way to fly blood samples out to the doctor in Juneau.

1. Where are you originally from?

I grew up in Seattle, WA. It was a lot smaller then. As a kid, I took the city bus all over town.

2. Where did you attend college and law school?

I stayed in Seattle for college at the University of Washington. Then, I moved to Austin, TX. While I was there, I earned a Master's in Education, although that's not why I moved to Texas at all. But UT is an amazing school and in-state tuition was so cheap! I had to take advantage of it. After attending those giant state schools, both with student populations upwards of 40,000, attending Lewis & Clark for law school was wonderfully intimate and personal.

3. Other than the MBA YLS, what brought you to Portland?

I relocated to Portland after spending the winter in rural Alaska. Portland has urban amenities, such as hospitals, cinemas, grocery stores and public transportation. To give

4. Tell us about what you are doing right now. How are you making the world a better place?

I just opened up a solo practice in employment law. The world will be a better place when employees' rights are respected. My role is to help those employees assert their rights.

5. Who would win at high stakes Texas Hold'em Poker? Pick celebrities.

Colbert. Stephen Colbert.

6. How did you first get involved with the YLS?

When I clerked at Multnomah County Attorney's office with Bernadette Nunley (then-YLS Secretary), she told me about the organization and how rewarding she found it to be involved. So I made a point of volunteering for a YLS committee when I joined the MBA.

7. What do you like about the YLS?

What's not to like? Young or not-so-young lawyers in their first years of practice

all working and socializing together to make Multnomah County the best place to practice law now and in the future? It's nothing less than inspirational.

8. What do you think the YLS needs more or less of?

YLS committees need fewer acronyms. My committee, the Service to the Public Committee (YLS-STP), is a perfect example of this. A brief name that doesn't call for an acronym would make it more approachable and identifiable.

9. What have you found most surprising about being involved with the YLS?

It's surprising how much my committee accomplishes in just one short meeting each month.

10. Has your YLS membership helped with your professional or personal goals?

Absolutely. My committee-mates encouraged me to go ahead with starting my own practice, offering advice and support during the planning stage. Now, my practice is up and running.

11. What activities do you like to pursue away from the office?

I am committed heart and soul to my ladies' outdoor soccer team of seven years, the Belle Bottoms. I also read voraciously, currently participating in Rose City Reader's European Reading Challenge 2012. May I highly, highly recommend Ismet Prcic's *Shards*?

12. In the past year, what have you personally done to "keep Portland weird"?

On my birthday, I donned a vintage cloche hat and went to the Hat Museum.

Pro Bono Pedal Saturday, September 8

by Andrew Ginis
YLS Pro Bono Committee

It's that time of year where we try to pack a winter's worth of pent-up energy into every last beautiful weekend. Hopefully by now you've seen the flyers for our bike ride to benefit the Volunteer Lawyers Project (VLP) at Multnomah County Legal Aid. We have two routes: an easy four miles in the beautiful Alameda neighborhood for families with young children, and a very manageable 10-mile route. Routes will be clearly marked, with volunteers supervising the few busy intersections. After the ride, we'll gather for refreshment, merriment and music in Grant Park.

We've been very pleased by the level of interest on the part of riders and the generosity we've seen on the part of both firms and individuals. As our event draws near, I wanted to

make one last appeal in print for sponsorships from firms or individuals, and remind riders to register promptly so that we may best plan for a successful event. Furthermore, we would like to challenge riders to help register as many people as possible by posting the registration form in your office or passing our emails along to your listservs, as any little bit of assistance goes a long way. We appreciate your help and generosity, and we hope to see as many of you as possible in September for our fun event!

To register for the event, complete and return the flyer included in this newsletter. Prospective sponsors are encouraged to contact Andrew at 503.893.9257. Visit mbabar.org/ypls/probonopedal.html for more details.

YLS Summer Social

The Second Annual YLS Summer Social was held on June 14 at the Brasserie Montmartre to celebrate the hard work of YLS committee chairs, members and volunteers. Nick Kampars was thanked for his leadership as YLS President. A dinner buffet and refreshments were enjoyed while remembering the achievements of the year. Over 80 people attended the event, including some recent graduates studying for the bar and summer associates. Thank you Sean Ray for emceeding the event and thank you to everyone who attended!

Thank you to Barran Liebman and Davis Wright Tremaine for supporting this event.

A Jungle Gym in the Jungle 2012 Multnomah CourtCare Campaign Raises over \$96K

Over \$96,000 was raised during the campaign to fund the free childcare program at the Multnomah County Courthouse. The CourtCare Campaign raised about \$60,000 from large firms and organizations, \$10,000 from small firms and \$19,500 from February's WinterSmash benefit bowling event. The MBA contributed \$5,000 and the YLS raised \$710 at their annual CourtCare raffle.

The MBA wishes especially to thank **Amy Angel**, Barran Liebman LLP, for chairing the campaign.

The **CourtCare Proudest Pride Award** for the largest donation from a firm went to **Davis Wright Tremaine**. The **CourtCare Loftiest Leap Award** for the largest donation per capita went to **Buchanan Angeli et al.**

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Robbie Manhas, David Bechtold, Bonnie Calhoun, Laura Salerno Owens and Stacy Lee at the YLS Summer Social



Gavin Bruce and Micah Steinhilb



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For its pro bono design and development of construction documents for the CourtCare East space in the new East County Courthouse.

The firm was selected by the county to design the new courthouse, which is LRRD Gold certified. The Leadership in Energy and Environmental Design (LEED) provides the building owner with practical and measurable green building design, construction, operations and maintenance solutions.




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Tim DeJong Punk Rock Lawyer

That Tim DeJong spends his free time studying may not surprise you. It's the subject matter of his studies that may come as a surprise: punk rock. For the last year, DeJong has spent a lot of free time memorizing lyrics to punk rock songs as a member of the band *PDX Punk Rock Collective*. "If you see me driving in my car and I look like I'm singing, I'm practicing for our next show," DeJong says.



Tim DeJong (right) rocks

DeJong is not an obvious choice to be in a punk rock band. For one thing, he's 46 years old and works hard at practicing law. He is a shareholder in the Stoll Berne law firm with more than 20 years' experience litigating complex business, securities and intellectual property cases.

For another, his musician's resume is, he volunteers, not impressive. "My punk rock resume is pretty limited. I put a band together to add a little spice to the parents' weekend talent show at my college in 1984. That band lasted one night. I tried to form other bands, but we never got further than playing a house party." DeJong sold his electric guitar for law school spending money in 1988. He didn't own a guitar again until he was 40.

And there is the matter of a closet full of suits. "I know - I'm not exactly punk rock on the outside, right," jokes DeJong. "But I think most people who took the music seriously when they were kids will tell you that it never leaves you."

DeJong's extensive punk rock record collection is proof of that. He says he has not counted his vinyl records. "My wife will tell you I've got way too many and that I should stop collecting records immediately. Almost all of them are original pressings from the late 1970s and early 1980s. I care for them like the important historical artifacts they are. And I play them regularly."

The English band *The Clash* was the first punk band to catch his attention, and he still has that first record. "Who knows why I identified with English kids singing songs like, 'I'm So Bored With the USA.' I remember thinking, 'If I was them I'd be bored with the USA, too. I mean, we're everywhere, telling everyone what to do and taking over their televisions.'

When I was a kid, it was part of establishing my independence. Only years later did I really appreciate how impressive it is that inexperienced kids with no resources made extremely creative music. A lot of it has really stood the test of time."

PDX Punk Rock Collective is proof positive. They play only cover songs from what DeJong describes as the "golden era" of punk rock, from 1977 to the early 1980s. Bands they cover include, of course, *The Clash*, and other well-known punk bands such as *Stiff Little Fingers*, *Black Flag* and the *Sex Pistols*. They also cover lesser-known Portland bands *The Wipers* and *Poison Idea*. They have an extensive song list,

and have played several three-hour sets. The band typically plays one or two shows per month and has played most of the small and medium sized clubs in town, such as Dante's, Plan B, Backspace and East End.

Whereas most bands have three or four members, *PDX Punk Rock Collective* currently has six. "The idea of the collective is to share the stage," DeJong says. The composition of the band changes depending on the song. Most of the members have multiple talents. Three can play the drums, four play bass and five play guitar. They range in age from mid-30s to early 50s.

DeJong, the only lawyer in the band, mostly sings but also plays some guitar. "I played guitar on stage for the first time at age 46. I only played guitar on one song, and I'm sure I put in as much time practicing that one song as I would spend preparing for an important court hearing."

The reaction from his peers in the legal profession has been positive. "After people get over the surprise, I can usually sense what I like to think is a new respect on some level. It takes more guts at my age, and with my limited experience, to get on stage and belt out a song than to make a closing argument to a jury. Some lawyers go to Toastmasters to improve their public speaking skills. Playing punk rock to a live audience is a lot more fun to me."

A connection DeJong sees between the band and his law firm is a commitment to charitable causes. "Obviously, we're not doing this for the money - and that's a good thing because the pay is lousy," DeJong says. "But if we can have fun and raise money for a good cause, that is

an evening well spent." They have played fundraisers for JOIN (a Portland nonprofit connecting the homeless to a home), Meadowood Springs Speech & Hearing Camp, Portland Radio Authority and the Timbers Army. The band donates the proceeds of T-shirt sales to the Rock'n'Roll Camp for Girls.

"I've seen a few lawyers enjoying themselves in the audience and I hope to see more. But if any judges plan to come, I hope they'll give me advance written notice of their intent to appear," DeJong says. "Seriously, I really don't have much talent, but I do love the music, and being in a band exposes me to people I would never get to meet as an attorney."



Words can't describe how it feels losing to a better argument. There's just not a lot to say. "Better luck next time?" No, next time make sure you have the better argument.

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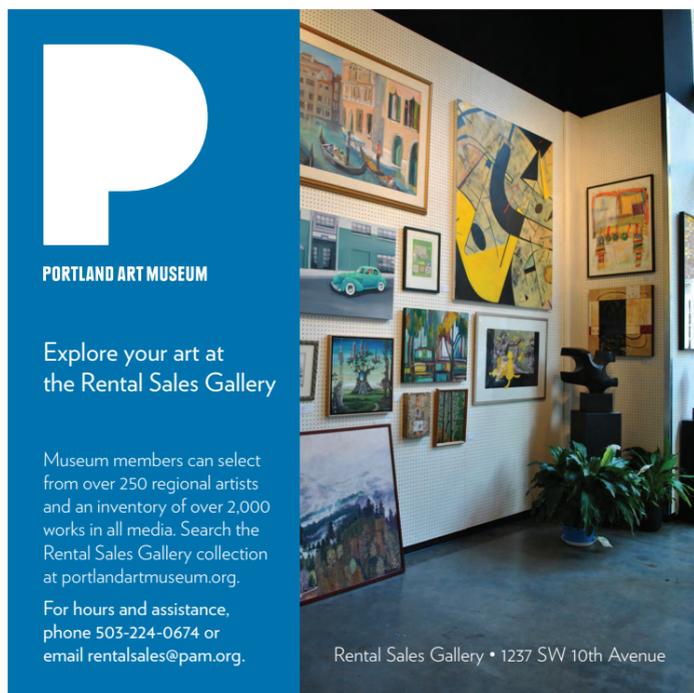
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Continued from page 9

To balance those priorities, the draft rules would require filers either to segregate protected information from the main body of court filings or to file two versions of the same document: one with the protected information redacted for public access and another without redactions for the court and parties. Norris-Lampe emphasized that fine-tuning the degree of access to court documents for different groups (the public, journalists, lawyers, and parties) is a complex process that must take account of legal restrictions, privacy interests, and system limitations as well as the public nature of the proceedings.



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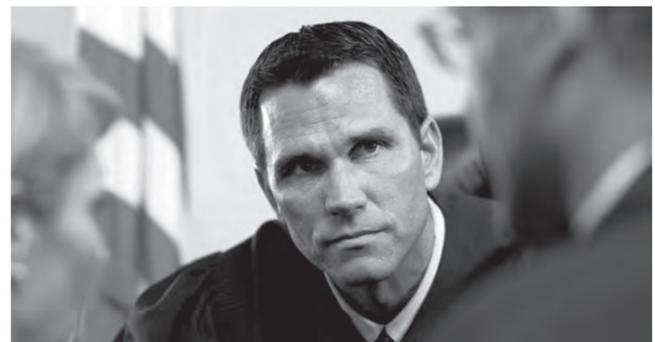
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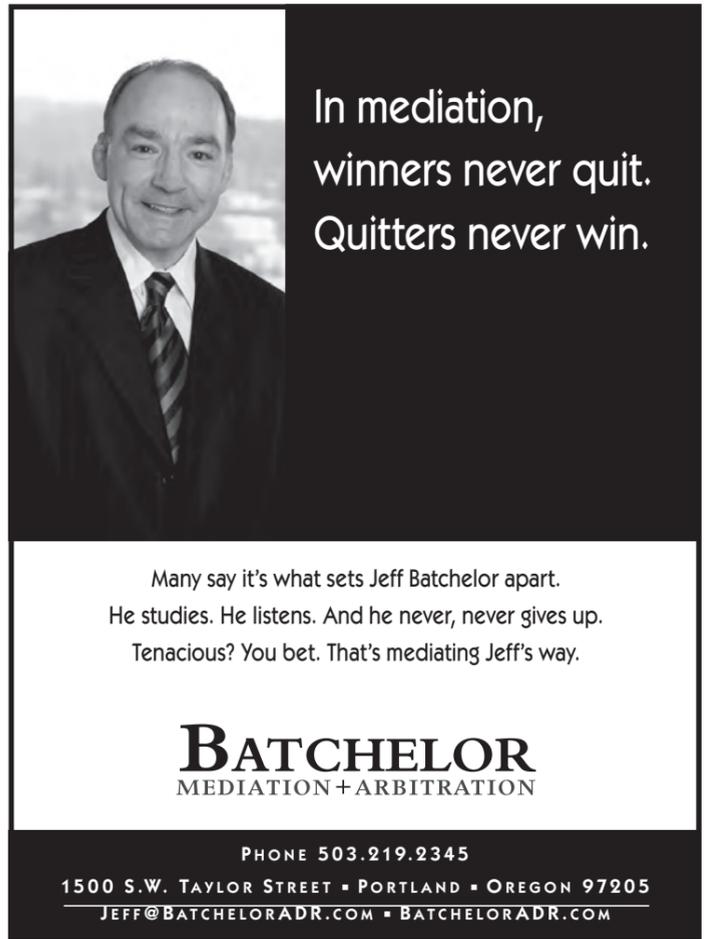


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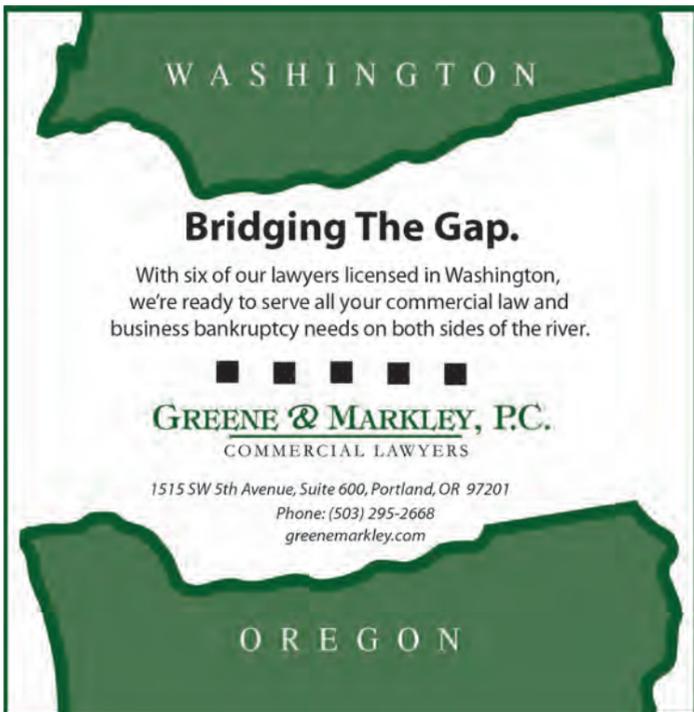


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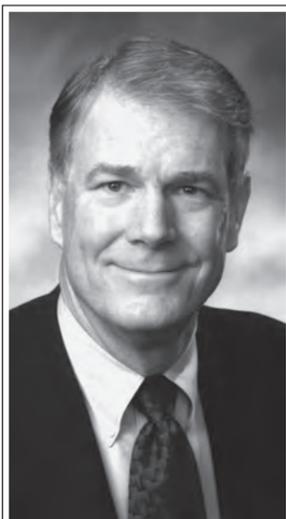


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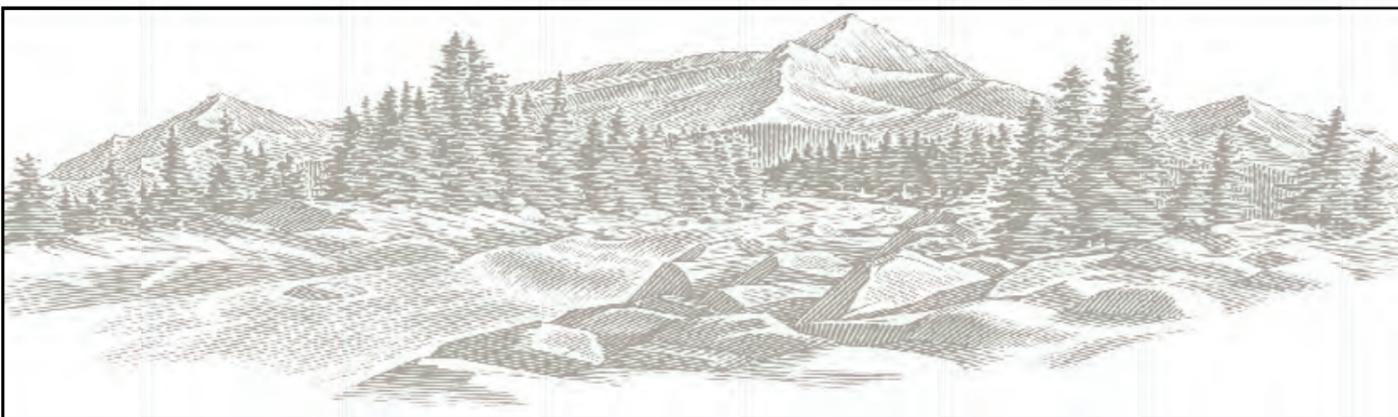


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by Edwin A. Harnden
MBF President



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