



On Brevity

by Greg Moawad
 MBA President

The late Herb Caen was a columnist for the *San Francisco Chronicle*. He wrote a column that graced the paper six days a week for almost 52 years, before it was reduced to five days a week. That column - un-ironically titled "Herb Caen" - was a pipeline for readers to get access to

information about the most recent San Francisco happenings (of both the gossip and import variety) and Mr. Caen's sometimes seemingly random brilliance.

Mr. Caen significantly impacted the American lexicon and culture during his more than 60-year career. It is said he first used the term "beatnik" and was responsible for popularizing the term "hippie." He also coined the term "Baghdad by the Bay," in describing the quite independent culture of San Francisco.

He also had a semi-regular portion of his column devoted to people he dubbed "Namephreaks," because their given names were somehow bizarrely matched or linked to their jobs. Like divorce lawyer Philander Beadle, dentist Ronald Rott or my personal favorite: Cardinal Rapsong, the Vatican spokesman charged with communicating the Catholic Church's 1996 decree against rock music.

He also popularized the ellipsis in print. While his column was almost always 1,000 words, often only the opening portions appeared to be a singular connected item - with the remainder appearing as a series of only occasionally connected random thoughts and bits of information ... separated by ellipses. Caen occasionally referred to himself as a "three-dot journalist," due to his penchant for the then-unusual punctuation scheme. (Caen was ahead of his time on this short-burst form of journalism - which would have well served today's ADHD population.)

It was between these ellipses that Caen could pass along small tidbits of news, random bits of gossip or one of his often insightful cultural observations. On some of these short entries, Caen would provide the underlying information only, letting it stand for itself - "... Robert Shields, the Union Sq mime who was slugged Tues. by Mr. Uptight of '71, discovered yesterday he has a broken nose; he'll be out of action for a week or so..." He would also pass along funny tidbits he had heard from others, both untrue and true: "... Politician cajoling his silent audience after his luncheon club speech, such as 'Don't be afraid to ask dumb questions - they're easier to answer than intelligent ones....' or, truthfully: "During the Robert Watt Miller's gala party at the B'lingame Club Sat. night, Mrs. Turner McBaine said to the chairman of the board of one of our mightiest corporations: 'Say, your wife is looking for you.' Mr. Chairman, taking a firmer grip on his highball: 'Well, I'm not looking for HER' (See, they're no different from the rest of us)."

And at other times, he would offer insight as only he could: "No matter what the Dow-Jones does, things are always looking up for Stockbroker Bernie Pechter. Because of a back ailment, he spends

It is said he first used the term "beatnik" and was responsible for popularizing the term "hippie."

his mornings supine on the floor of his Shearson, Hammill office, phone at ear, eyes on ceiling.... Caenfucius say: Supine people never prone to argue."

But for all the contributions he may have made to journalism or to our culture, the one thing I most admired most was his ability to weigh in with a very short comment or phrase after a tidbit of news which left no doubt in his readers' minds what his position on the matter was: "... One of the city's firefighters is undergoing a sex change operation - female to male - and the SFFD has risen to the occasion. Asst. Chief James Cavellini issued a three-page memo to the troops, pointing out in essence that 'it is the duty and obligation of the Department to ensure that all employees and members of the public are respectfully treated as members of the gender to which they identify.' Highly civilized..."

His simple commentary informed the reader, often brilliantly, of his position. Caen didn't need pages, paragraphs or even sentences to communicate his views. Often a word or two was sufficient. Agree or not, you always knew where he stood.

While a great number of us rely on language to convince another of our position - which is very different than Mr. Caen's role - we could all use a little Herb Caen to help distill and better focus our communication. Think about it.

Caen didn't need pages, paragraphs or even sentences ... a word or two was sufficient.

MBA Board of Directors Slate Announced

The MBA Nominating Committee announces its slate of new directors for the term of July 1, 2013 - June 30, 2016. A profile of each candidate is included on p. 11 and a voting ballot will be sent to members.

Maya Crawford, Legal Aid Services of Oregon
 Eric L. Dahlin, Davis Wright Tremaine LLP
 Akira Heshiki, Standard Insurance Company
 Elizabeth C. Knight, Dunn Carney Allen Higgins & Tongue LLP

The MBA Board elected the following officers for the July 1, 2013 - June 30, 2014 term:

Richard Vangelisti, President
 Helen Hierschbiel, Treasurer
 Dana Sullivan, Secretary

YLS Board of Directors Slate Announced

The YLS Executive Committee announces its slate of new directors for the term of July 1, 2013 - June 30, 2016. A profile of each candidate is included on p. 12 and a voting ballot will be sent to members.

Paige A. De Muniz, Gevurtz, Menashe, Larson & Howe, PC
 J. Mackenzie Hogan, Harris & Bowker LLP
 Tyler J. Volm, Elliott Ostrander & Preston PC

The YLS Board elected the following officers for the July 1, 2013 - June 30, 2014 term:

Traci Ray, President
 Jeanne Sinnott, President-Elect
 Valerie Colas, Treasurer
 Micah Steinhilb, Secretary

mba|CLE

To register for a CLE, please see pages 3 and 4 or go to www.mbabar.org.

MARCH

3.19 Tuesday An Employee by Any Other Name

Proper Characterization of Staff and Contractors

Jason Orme
 Kris Peterson
 Andrew Schpak

3.20 Wednesday Annual Family Law Update

Judge Maureen McKnight
 Thomas Bittner
 Gary Zimmer

3.21 Thursday The Life Cycle of a Law Firm Starting and Leaving a Firm or Retiring

Beverly Michaelis
 Dee Crocker

APRIL

4.9 Tuesday Clark County Presiding Court Update

Judge Richard Melnick
 Don Jacobs

4.24 Wednesday Annual Probate Court Update

Judge Katherine Tennyson
 Judge Rita Batz Cobb
 Judge Robert Herndon
 Tim McNeil

4.30 Tuesday Working Effectively With In-House Counsel

Matt Levin
 Paul Loving

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Save the Date!

MBA 107th Annual Meeting, Dinner & Judges Reception
Tuesday, May 28
5-8:30 p.m.
Portland Marriott Downtown Waterfront
1401 SW Naito Parkway

MBA Board of Directors

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Gregory T. Moawad

Secretary

Sheila H. Potter

Treasurer

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Directors

Duke Tufty

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Samuel C. Kauffman

Cedric R. Brown

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Christopher J. Kayser

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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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Why You Should Want to be a CASA

by Gary I. Grenley
Garvey Schubert Barer



How many times have you read an article in the paper about a child who was abused, abandoned, left with a predator? The child might be a 3-year-old boy or a 10-year-old girl. We read these stories every week and wonder why more isn't done to help these innocent kids. You wish you could help, but how?

If you want to help a child in need, if you want to assist an overcrowded, undermanned juvenile judicial system, if you want to enhance your legal skills and gain more courtroom experience, consider learning more about an organization called CASA. Court Appointed Special Advocates train volunteers to advocate for children who are removed from their homes through no fault of their own.

Imagine a 5-year-old girl, Amanda, is asleep at home. In the middle of the night, police appear. Her parents are arrested for drug possession and trafficking and Amanda is removed and placed in a temporary foster home. Amanda is scared and feels all alone. She is allowed to place a stuffed animal and a few personal items into a plastic garbage bag. This is a typical scenario when children are removed from their homes.

Who is there to help Amanda? Who learns all about her circumstances, speaks to her teachers, family members, therapists, attorneys and DHS staff? A CASA volunteer gets to know the child and her individual situation. A CASA advocates for the child to ensure the best outcome possible.

Court Appointed Special Advocates for Children, is a 501c(3) organization dedicated to training and providing volunteers to advocate for children who became wards of the state and its judicial system due to abuse or neglect. The CASA program works primarily with the Multnomah and Washington Circuit Courts, but there are CASA programs in every county in Oregon. CASA volunteers are appointed by the family law judges in charge of cases in the system when they believe the children could benefit from the CASA's dedication, assistance and advocacy in seeking an outcome in the best interests of the child. Judges benefit from CASAs assigned to their cases,

and tend to listen carefully to their recommendations and comments. But there is a terrible shortage of CASA volunteers in Oregon - we currently serve about 725 kids, although more than 4,000 are now in the juvenile system.

In early 2004, I decided to become a CASA volunteer and commenced training. I was surprised how easy it was to schedule the 35 or so hours of training over some two months, and completed my CASA training that spring. Within days of being sworn in, I was assigned a case in Multnomah County involving two young boys who were taken into foster care a year earlier. Judge Nan Waller requested a CASA be appointed to be her "eyes and ears" to better understand the dynamic relationships involving the Oregon DHS, biological mom and dad, foster parents and, most importantly, the children themselves. I am happy to report that, after several years of court involvement, the case was closed and the boys were successfully reunited with their family.

While being a lawyer is by no means necessary in order to become a CASA, having some familiarity with the judicial system and comfort being in a courtroom setting helps. Above all, a CASA needs a measure of common sense, a fondness for children, and a desire to help speak for the needs of youngsters who are thrust into an unfamiliar system through no fault of their own. Being allowed to advocate for young people with little voice of their own has been a privilege and honor - and certainly the most rewarding contribution I have ever made. I continue serving this worthwhile organization today by serving on its board of directors.

When I speak to lawyer colleagues about being a CASA, I find great curiosity, which is not surprising given the interest in public service most lawyers have. I commend CASA for your consideration, particularly for those of you who have raised kids of your own. I can assure you of three things: (1) the time commitment is much less than you might imagine; (2) your training and experience as a lawyer perfectly equips you to be an effective CASA; and (3) you will never do anything more gratifying and fulfilling as a volunteer.

If you are interested in CASA, either as a potential volunteer or for a worthwhile charitable donation, you may visit the website at casahelpskids.org. There is a link to inquire about volunteerism, but I welcome your calls at Garvey Schubert Barer 503.228.3939, as would Lynn Travis, the Program Director for CASA, at 503.988.4160.

Calendar

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

MARCH

3.2 Saturday

ACLU of Oregon Liberty Dinner
Visit www.aclu-or.org for details

3.7 Thursday

YLS PDE Seminar:
Workers Comp
Visit www.mbabar.org for details

3.8 Friday

OWLS Awards Dinner
Visit www.oregonwomenlawyers.org for details

3.13 Wednesday

CEJ Pub Trivia by ShanRock's Triviology
Visit cej-oregon.org for details

3.28 Thursday

YLS Drop-In Social
See p. 13 for details

APRIL

4.4 Thursday

YLS PDE Discussion: The Art of Rainmaking
Visit www.mbabar.org for details

4.5 Friday

MBA & YLS Board voting closes

4.19 Friday

Oregon Court Closure

4.24 Wednesday

Classroom Law Project Legal Citizen Award Dinner
Visit www.classroomlaw.org for details

4.26-27 Friday-Saturday

Oregon Attorney Assistance Program Women's Wellness Retreat
Visit www.oaap.org for details

4.29-5.4 Monday-Saturday

YLS Community Law Week
Visit www.mbabar.org for details

MAY

5.2 Thursday

YLS YOUthFILM Project Screening
Visit theyouthfilmproject.org for details

5.28 Tuesday

MBA Annual Dinner & Meeting
Visit www.mbabar.org for details

Román D. Hernández OHBA Paul J. De Muniz Professionalism Award Recipient

The Oregon Hispanic Bar Association (OHBA) honored Román D. Hernández, a shareholder with Schwabe, Williamson & Wyatt, with the 2013 Paul J. De Muniz Professionalism Award.

Hernández is a founding member of the OHBA and has devoted a significant amount of time to civic and community involvement with specific emphasis on Hispanic issues. His contributions to the Hispanic community and the Oregon legal profession are outstanding. From humble beginnings, Hernández has worked to become a nationally recognized leader in Hispanic issues and a top legal professional in Oregon.

Hernández is a former president of the Hispanic National Bar Association (HNBA) and a former chair of the board of The HNBA Legal Education Fund, which identifies and provides financial assistance to worthy programs that address education and the law within the U.S. Hispanic community and legal profession. He is also past president of the board of the Portland Hispanic Chamber, and has served on Governor Ted Kulongoski's Transition Steering Committee, as a board member for OHSU, on the U.S. Magistrate Judge Merit Selection Panel of the U.S. District Court



Román D. Hernández

for the District of Oregon, and as a board member of the Oregon Community Foundation. Hernández was recently appointed to a three-year term on the board of directors of the Portland Branch of the Federal Reserve Bank of San Francisco.

Hernández has been recognized by many business publications and groups for both his commitment to the community and to business development and growth, and he serves as a role model for the Hispanic legal community and community at large.

OHBA is the local affiliate of the Hispanic National Bar Association. More information about the OHBA can be found at www.oregonhispanicbar.org.

The MBA congratulates Román Hernández on his award.



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.

An Employee By Any Other Name: Proper Characterization of Staff and Contractors

Tuesday, March 19 2013
3:00-5:00 p.m.

World Trade Center
Mezzanine Room
26 SW Salmon, Portland

Members \$55
Non-members \$85

Mischaracterization of employees as independent contractors is an increasingly audited issue for Oregon employers. Spend an afternoon with employment attorney **Andrew Schpak**, Barran Liebman and veteran CPAs **Jason Orme** and **Kris Peterson**, of Talbot, Korvola & Warwick, exploring the best practices for establishing employee classification. Learn about your client's exposure for an incorrect classification and what to expect when the Department of Labor or IRS call.

For more information:

Call Todd Cleek, Cleek Law Office at 503.706.3730. For registration questions, call the MBA at 503.222.3275.

Annual Family Law Update

Wednesday, March 20, 2013
3:00-5:00 p.m.

World Trade Center
Auditorium
26 SW Salmon, Portland

Members \$55
Non-members \$85

On March 20 the MBA will hold its annual two-hour Family Law Update. **Judge Maureen McKnight**, the Chief Family Court Judge for Multnomah County, will be joined by **Thomas Bittner** of Schulte, Anderson, Downes, Aronson & Bittner and **Gary Zimmer** of Zimmer Family Law. Our speakers will provide family law practitioners with information on changes to Multnomah County Circuit Court procedures well as valuable updates on appellate case law.

For more information:

Call Daniel Margolin, Stephens Margolin, at 503.546.6374. For registration questions, call the MBA at 503.222.3275.

The Life Cycle of a Law Firm *How to Start a Firm, Leave a Firm, or Retire from the Practice of Law*

Thursday, March 21, 2013
3:00-5:00 p.m.

World Trade Center
Auditorium
26 SW Salmon, Portland

Members \$55
Non-members \$85

Understand your liability exposure and ethical responsibilities when transitioning into or out of a firm. Tips and practical advice from the practice management advisors at the Professional Liability Fund.

Beverly Michaelis provides confidential practice management assistance to Oregon attorneys to reduce their risk of malpractice claims, enhance their enjoyment of practicing law, and improve their client relationships through clear communication and efficient delivery of legal services. **Dee Crocker** has been a PLF Practice Management Advisor since 1992 and has over 30 years of experience in the legal field, including 14 years as a legal secretary, three years as a secretarial supervisor to over 50 legal secretaries, and three years as a law office manager.

For more information:

Call Daniel Margolin, Stephens Margolin, at 503.546.6374. For registration questions, call the MBA at 503.222.3275.

Clark County Presiding Court Update

Tuesday, April 9, 2013
3:00-5:00 p.m.

World Trade Center
Mezzanine Room
26 SW Salmon, Portland

Members \$55
Non-members \$85

This year's Clark County Presiding Court Update will be presented by **Judge Richard Melnick** and local practitioner **Don Jacobs**, Attorney at Law. This class is designed for anyone who practices in Clark County, whether on a regular basis or only on rare occasions. Judge Melnick will provide valuable information regarding new practices or changes to existing practices within the Clark County Court system. Mr. Jacobs will focus on the aspects of a civil trial in Clark County and how it may differ from civil trial practices in the Portland tri-county area. If you currently practice in Clark County, or have been considering practicing in Clark County, this CLE is a must for you. This class is geared toward practitioners with all levels of experience.

For more information:

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

Annual Probate Court Update

Wednesday, April 24, 2013
3:00-5:00 p.m.

World Trade Center
Auditorium
26 SW Salmon, Portland

Members \$55
Non-members \$85

The MBA presents the 2013 Annual Probate Update, featuring the following panel members: **Judge Katherine Tennyson**, Multnomah County; **Judge Rita Batz Cobb**, Washington County; **Judge Robert Herndon**, Clackamas County; and **Tim McNeil**, Davis Pagnano McNeil et al. Mr. McNeil will provide an update of recent case law and legislation. The judges and staff will discuss current practices and procedures in the tri-county metro area. This CLE is a must for all probate practitioners and/or their staff.

For more information:

Call Todd Cleek, Attorney at Law at 503.706.3730. For registration questions, please call the MBA at 503.222.3275.

Working Effectively With In-House Counsel

Tuesday, April 30, 2013
3:00-5:00 p.m.

World Trade Center
Mezzanine Room
26 SW Salmon, Portland

Members \$55
Non-members \$85

Unlike law firms, companies do not revolve around their lawyers. In-house counsel often wear multiple hats and are working on important business decisions as well as legal tasks. **Paul Loving**, Sports and Entertainment Counsel for adidas, and **Matt Levin**, a commercial litigator at Markowitz, Herbold, Glade & Mehlhaf, will share unique strategies for how to create and maintain effective working relationships with in-house counsel. Mr. Loving and Mr. Levin will discuss the role of the legal department as part of the larger organization, strategies in building an efficient outside counsel/in-house team, how to create value for the in-house legal department by leveraging your expertise, and how to help an in-house legal department become a profit center.

For more information:

Call Shannon Armstrong, Markowitz, Herbold, Glade & Mehlhaf at 503.295.3085. For registration questions, call the MBA at 503.222.3275.

CLE Class Registration on next page

In-House eDiscovery for Law Firms (Large and Small)

**Wednesday, May 1, 2013
3:00-5:00 p.m.**

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

Recent legal trends and improvements of technology make it possible for law firms to control and manage their clients' electronically stored information internally, thus better protecting clients' sensitive information and reducing or eliminating dependence on expensive outside eDiscovery vendors. An incidental consequence of the inevitable evolution towards lawyer-management of eDiscovery processes is the opportunity to make in-house eDiscovery an additional profit center for law firms.

Differentiate your law firm by developing defensible and repeatable in-house capabilities to collect, review, produce, and present electronic evidence at trial. Incrementally bring more eDiscovery services in-house for better quality of work, control of the process, increased law firm revenue and cost savings for your clients. This CLE is very practical with many computer demonstrations.

Tom Howe has been a practicing attorney for over 25 years, licensed in Washington and Oregon. He helps law firms, corporations, and government

clients with electronic discovery. He has written four books (law and technology) and speaks at legal conferences throughout North America and technology conferences around the world.

For more information:

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

Multnomah County Trial Practices Seminar

**Wednesday, May 8, 2013
3:00-5:00 p.m.**

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

This year's program will feature presentations by **Judges Stephen Bushong, Jean Maurer and John Wittmayer**. Topics will include motion practice, jury selection, briefing, jury instructions, making and arguing objections, managing witnesses and exhibits, handling presentation media and other procedural and practical issues faced by trial lawyers. The panel will also identify and discuss approaches for avoiding significant trial practice mistakes that Multnomah County judges frequently encounter. The program is designed for attorneys at all levels of experience, and practitioners are strongly encouraged to take advantage of this excellent opportunity to ask questions. Please join us for this informative discussion.

For more information:

Call the MBA at 503.222.3275.

The Power of Presentation

Best practices, winning techniques and industry-leading tools

**Wednesday, May 29, 2013
12:00-1:00 p.m.**

World Trade Center
Mezzanine Room
26 SW Salmon, Portland
Members \$25
Non-members \$40
Co-Sponsored by LexisNexis Sanction

This one-hour seminar is intended to provide practical and useful suggestions to practicing litigators about technology tools for the courtroom. **Mike Hahn** is Senior Director Product Management for LexisNexis Sanction. He has provided consulting services for such landmark matters as United States v. Timothy McVeigh, the Washington DC Sniper Task Force and United States v. Hirko (Enron Broadband Trial).

This one-hour seminar will address a number of trial presentation topics including:

- **Past and Present Technology**
A brief overview of traditional courtroom presentation techniques, addressing their strengths and weaknesses and an analysis of new tools including trial presentation software, timeline software, and 3-D animation.
- **Contingency Plans**
A review of important backup measures to keep technology running smoothly throughout trial.
- **PowerPoint in Opening Statement and Closing Argument**
Sample slides to illustrate thematic techniques.

For more information:

Call the MBA at 503.222.3275.

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

Registration Form

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

NAME _____	ACCOUNT NUMBER _____
FIRM _____	EXPIRATION DATE AND SECURITY CODE _____
ADDRESS _____	SIGNATURE _____
CITY _____ STATE _____ ZIP _____	BILLING ADDRESS FOR CARD (if different) _____
PHONE _____	_____
OSB# _____	_____

Member Status:

- MBA Member
 Non-Member

Payment Options:

- Check VISA MasterCard
 American Express

Registration forms with payment must be received in the MBA office by 3:00 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.

3/19 An Employee By Any Other Name
Class Registration Online (\$50 Members/\$80 Non) _____
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 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ _____

3/20 Annual Family Law Update
Class Registration Online (\$50 Members/\$80 Non) _____
 Class Registration (\$55 Members/\$85 Non) \$ _____
 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ _____

3/21 The Life Cycle of a Law Firm
Class Registration Online (\$50 Members/\$80 Non) _____
 Class Registration (\$55 Members/\$85 Non) \$ _____
 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ _____

4/9 Clark County Presiding Court Update
Class Registration Online (\$50 Members/\$80 Non) _____
 Class Registration (\$55 Members/\$85 Non) \$ _____
 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ _____

4/24 Annual Probate Court Update
Class Registration Online (\$50 Members/\$80 Non) _____
 Class Registration (\$55 Members/\$85 Non) \$ _____
 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ _____

4/30 Working Effectively With In-House Counsel
Class Registration Online (\$50 Members/\$80 Non) _____
 Class Registration (\$55 Members/\$85 Non) \$ _____
 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ _____

5/1 In-House eDiscovery for Law Firms (Large and Small)
Class Registration Online (\$50 Members/\$80 Non) _____
 Class Registration (\$55 Members/\$85 Non) \$ _____
 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ _____

5/8 Multnomah County Trial Practices Seminar
Class Registration Online (\$50 Members/\$80 Non) _____
 Class Registration (\$55 Members/\$85 Non) \$ _____
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5/29 The Power of Presentation
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<http://mbabar.org/AboutUs/ProBono.html>.



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Super Lawyers Rising Star

Gary Zimmer
Super Lawyers Top 10 in Oregon
Best Lawyers in America
20 years in a row

Katie Carson

PHOTO BY JEFFANN GAUTHIER

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Merrill Maiano

Wyse Kadish is delighted to welcome Merrill Maiano as a new associate attorney. Merrill earned her J.D. from Lewis & Clark Law School in 2007. After graduation, she clerked for the supreme courts of Alaska and Oregon and later served as an Assistant Attorney General at the Oregon Department of Justice. She joins us from her solo practice in Portland. At Wyse Kadish, Merrill will continue to focus on estate planning and administration.



Katharine West


Wyse Kadish is proud to announce that Katharine L. West has been elected a partner of the firm. Katharine earned her J.D. from Stanford Law School in 1997. She joined Wyse Kadish as a senior associate in January of 2011, where her practice focuses on estate planning, estate and trust administration, and protective proceedings. Congratulations, Katharine!



Wyse Kadish LLP

621 SW Morrison St., Ste 1300
Portland, OR 97205

Phone: (503) 228-8448
www.wysekadish.com



DALLAS DELUCA **JOSEPH FRANCO** **CHAD COLTON**

If you've met them, it's probably obvious why they're our newest shareholders.

All three have earned respect both within our firm and in the legal community. Well done!

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mba | ANNOUNCEMENTS

March is Open Enrollment Month for the MBA Health Plan

Those not currently enrolled in the MBA Health Plan can sign up this month, 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, 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 website, or call Northwest Employee Benefits at 503.284.1331 with questions.

Statement of Diversity Principles Available for your Signature

The MBA Equality and Diversity Committee invites you to sign the Statement of Diversity Principles. Read the statement at www.mbar.org/assets/diversitystatement.pdf, and demonstrate your commitment to diversity by signing the statement online at www.mbar.org/AboutUs/DiversityPledge.html.

Noon Bicycle Rides

Take a noon break for a short, fast ride with hills. Meet at SW Yamhill and Broadway between noon and 12:10 p.m. on Mondays and Thursdays. Contact Ray Thomas at 503.228.5222 with questions, or just meet at the start.

CEJ Plans Trivia Night

On March 13, the Associates Committee of the Campaign for Equal Justice presents "Trivia for Justice!" Join the fun at Kells Irish Restaurant & Pub downtown for pub trivia led by ShanRock's Triviology. Doors open at 5:30 p.m. and trivia begins at 6 p.m. Suggested donation is \$10 per person, and teams of up to five people are welcome. Visit www.cej-oregon.org for contest details.

Classroom Law Project Delivers Books

Portland law firms Lane Powell, Ater Wynne and Markowitz Herbold et al, in collaboration with the National Center for State Courts, funded the costs of publishing 900 copies of *The Graphic Novels*, which introduce students to various aspects of the judicial system. The Classroom Law Project delivered the books to schools throughout the state. This book is part of a national program begun by former U.S. Supreme Court Justice Sandra Day O'Connor and supported here by former Chief Justice Paul De Muniz and Justice David Brewer from the Oregon Supreme Court.

Ninth Circuit Bankruptcy Judgeships Available

The U.S. Court of Appeals for the Ninth Circuit invites applications from highly qualified candidates for two bankruptcy judgeships for the District of Arizona. These positions will be available in March and April, 2014, respectively. Please be aware that the selection process may take up to 10 months to complete. The official duty station for these positions is in Phoenix. The appointees, however, may be required to hold regular calendars anywhere in the district, as needed.

The term of office is 14 years with a possible renewal appointment subject to applicable reappointment procedures. The current salary is \$160,080 per annum. No relocation expenses are payable.

The District of Arizona Bankruptcy Judge Application (specifically for use with this recruitment) may be downloaded from www.ca9.uscourts.gov. Applicants are advised to allow for sufficient time to complete and submit the application. One original must be sent to the Office of the Circuit Executive and one scanned version of the application must be uploaded to the Ninth Circuit Bankruptcy Judge Application System (<https://judgeship.ce9.uscourts.gov>). Applications must be in the format required by the Ninth Circuit and received by 5 p.m., Thursday, April 25.



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OWLS Roberts-Deiz Awards Dinner Judge Jean Kerr Maurer and Julia E. Markley Honored

Judge Jean Kerr Maurer will receive the OWLS 2013 Justice Betty Roberts Award and Julia Markley will receive the OWLS 2013 Judge Mercedes Deiz Award. The Justice Betty Roberts Award recognizes an individual whose personal and professional conduct promotes women in the legal profession and the community. The Judge Mercedes Deiz Award recognizes an individual whose personal and professional conduct promotes minorities in the legal profession and the community. Both Judge Maurer and Markley's exemplary careers make them outstanding role models and very deserving of these awards.

In January 2008, Judge Maurer became the first woman to serve as the presiding judge for Multnomah County. She supports, promotes and mentors both women and men. She has coached mock trial teams through the Classroom Law Project and she has taught at Lewis & Clark Law School. She served on the General Fairness Task Force of the Oregon Supreme Court and the OSB. She has used her role

on the bench to work to improve the judicial system's response to domestic violence. She has offered guidance on career-life balance to many and encouraged women to seek public office or the bench, to put themselves forward for promotions or partnerships, and to demand more responsibility in their professional roles.

Markley, a partner with Perkins Coie, is a founding member and the first elected president of the Oregon Asian Pacific American Bar Association. She does a significant amount of volunteer work, including her involvement with OWLS (she is a former board member and current judicial work group member), the ACLU of Oregon, the National Asian Pacific American Bar Association, the Oregon Minority Lawyers Association, and Filipino Lawyers of Washington. She encourages minority lawyers to consider the judiciary and reminds legal professionals of the benefits of a diverse and representative judiciary.

The MBA congratulates Judge Jean Maurer and Julia Markley on



Judge Jean Kerr Maurer



Julia E. Markley

their awards. Both awards will be presented on March 8 at the sold-out Roberts-Deiz Awards Dinner.

Information extracted from an article which appeared in the Oregon Women Lawyers Winter 2013 AdvanceSheet by Laura Craska Cooper, OWLS treasurer and the managing partner of the Bend office of Ball Janik.

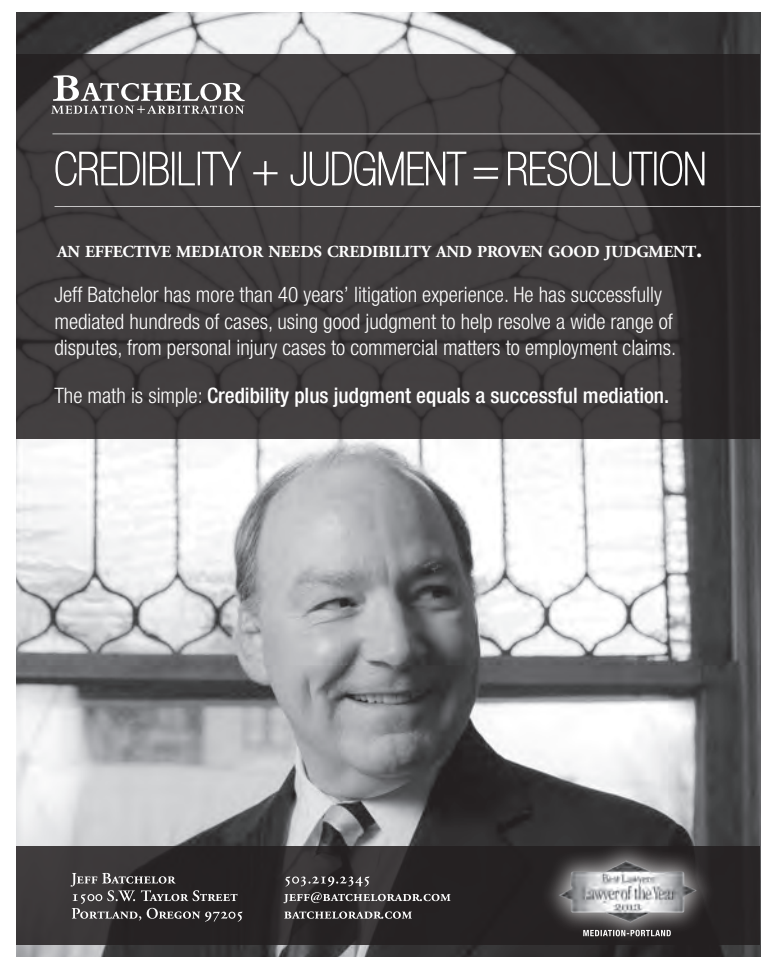


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Ethics Focus

**“Nonrefundable”
Reminder:
They Can Be Refundable**

by Mark J. Fucile
Fucile & Reising



The Oregon Supreme Court has long held that even “nonrefundable” flat fees can, in fact, be refundable if the work involved was not performed completely. Similarly, the OSB has long made that same point in its primary ethics opinion on the subject. In late 2010, the fee rule - RPC 1.5 - was amended to make this even more specific. At the time, the Board of Governors noted that, notwithstanding the injunctions from both the Supreme Court and the Bar, “the

...even “nonrefundable” flat fees can, in fact, be refundable if the work involved was not performed completely.

foregoing principles are elusive to many practitioners.” That point was aptly illustrated last year when the Supreme Court disciplined a lawyer for failing to return a “nonrefundable” fee after performing comparatively little work on a matter. In this

column, we’ll look at both the authority that permits the use of flat fees paid in advance and the circumstances under which they are refundable.

Flat Fees Paid in Advance

OSB Formal Ethics Opinion 2005-151 emphasizes (at 548) that “[t]he Oregon RPCs do not prohibit fixed fee agreements.” In fact, they are common in many practice areas ranging from criminal defense to estate planning. Flat fees can either be paid in advance or paid in arrears when the work is completed. If they are paid in advance, then like any other advance they must normally be deposited into the lawyer’s trust account until the work or agreed milestones are completed.

If, however, a flat fee is to be considered as “earned on receipt,” then RPCs 1.5(c)(3) and 1.15-1(c) require that it be put

Flat fees can either be paid in advance or paid in arrears when the work is completed.

in the lawyer’s general account *provided* the client first entered into a written agreement in line with RPC 1.5(c)(3):

“[A] fee denominated as ‘earned on receipt,’ ‘nonrefundable’ or in similar terms [is not permitted] unless it is pursuant to a written agreement signed by the client which explains that: “(i) the funds will not be deposited into the lawyer trust account, and “(ii) the client may discharge the lawyer at any

time and in that event may be entitled to a refund of all or part of the fee if the services for which the fee was paid are not completed.”

If a written agreement complying with RPC 1.5(c)(3) is not in place, then Formal Ethics Opinion 2005-151 notes (at 549) that, even if the lawyer calls the fee “earned on receipt,” “the funds must be placed into the trust account and can only be withdrawn as earned.”

...the fee must not be ‘clearly excessive’ at both the time the client and attorney enter into an agreement and at the time that the attorney charges and collects the fee....

Refunding “Nonrefundable” Payments

The Supreme Court last year in *In re Obert*, 352 Or 231, 243, 282 P3d 825 (2012), both summarized the longstanding Oregon case law noted above and succinctly explained the reason even “nonrefundable” fees must be refunded (in whole or in part) when the work involved is not completed:

“RPC 1.5(a) provides that ‘[a] lawyer shall not enter into an agreement for, charge or collect an illegal or clearly excessive fee or a clearly excessive amount for expenses.’

Importantly, the fee must not be ‘clearly excessive’ at both the time the client and the attorney enter into an agreement and at the time that the attorney charges and *collects* the fee.... Thus, a fee could be reasonable at the time the parties enter into the agreement but ‘clearly excessive’ when the attorney collects that fee....

“This court has held that a lawyer violates RPC 1.5(a) when the lawyer ‘collects a nonrefundable fee, does not perform or complete the professional representation for which the fee was paid, but fails promptly to remit the unearned portion of the fee.’” (Citations omitted; emphasis in original.)

The question of what portion - if any - of the fee that the lawyer is entitled to keep turns under both the Supreme Court’s decisional law and Formal Ethics opinion 2005-151 on the degree to which the particular tasks covered by the flat fee agreement have been “substantially completed.”

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Around the Bar



Timothy J. Resch

Samuels Yoelin Kantor

Timothy J. Resch has been appointed the managing partner for the firm. Resch, who joined the firm in 1996, is a civil litigator with domestic and international expertise.



Román D. Hernández



Laura Maffei



Jennifer Woodhouse



Timothy Haslach

Schwabe Williamson & Wyatt

Román D. Hernández, a shareholder, was recently appointed to the board of directors of the Portland Branch of the Federal Reserve Bank of San Francisco.

Laura Maffei, a shareholder in the firm, was recently elected

to serve as the 2013 chair of the Environmental & Natural Resources Section of the OSB. The purpose of the section is to provide high-quality legal education. Maffei focuses her practice on environmental and natural resource law.

Jennifer Woodhouse recently joined the firm's Tax Practice as an associate. She will focus her practice in the area of state and federal tax controversies and estate planning. Woodhouse currently serves on the OSB Taxation Section Executive Committee.

Timothy Haslach, a shareholder, was recently appointed as co-chair of the policy subcommittee of the ABA Technology Standardization Committee. Haslach is chair of Schwabe's Technology Trade Association and Industry Initiatives team. He focuses his practice on the formation and development of technology related trade associations, where he acts as general counsel to some of the largest national and international technology specification bodies, or as special counsel to Fortune 500 companies involved with these entities.



Kathryn F. Gapinski

Aaby Family Law

Kathryn F. Gapinski has joined the firm as an associate attorney. Gapinski's addition has expanded the firm's practice areas to include probate and estate planning matters, include estate planning for sam- sex couples.



Richard Allan

Marten Law

Richard Allan has joined as a partner in the firm. He has more than 20 years of experience representing utilities, developers and other Northwest businesses with their environmental, land use and natural resource issues. He is experienced in the acquisition, siting, expansion and operation of power, manufacturing and real estate projects. Allan may be reached at rallan@martenlaw.com or 503.241.2643.



Randy Arthur

Dunn Carney et al

Randy Arthur was appointed to the Lake Oswego Planning Commission.



Marcus Eyth

Davis Wright Tremaine

Marcus Eyth, an attorney in the firm's Real Estate Practice, has been promoted to partner. Eyth advises and represents project owners, designers, contractors and construction managers on all aspects of private and public construction and supply contracting. His practice includes drafting and negotiating construction and design contracts, assisting clients on day-to day project issues and dispute resolution, including mediation, domestic and international arbitration (including ICC) and litigation. He counsels clients on procurement issues, including contract reviews, bid protests, navigating the FARs and local regulations unique to public contracting, and preparing claims including requests for equitable adjustment.



Kristin Olson and Scott Brooksby

Olson Brooksby

Kristin Olson and Scott Brooksby have formed a civil litigation defense firm, which focuses on the defense of high exposure personal injury and business tort litigation, with an emphasis on product liability cases. Olson and Brooksby are experienced jury trial lawyers.

Bullivant Houser Bailey

Stephen F. Cook, Bullivant's Business Practice Group Leader and a senior shareholder at the firm, will add the role of deputy director and general counsel for Columbia Land Trust to his work



Stephen F. Cook

as an attorney. He will bring many years of conservation and environmental commitments to the Vancouver, Washington-based trust as he continues work for clients at Bullivant.

Columbia Land Trust conserves wildlife habitat, working forests and productive farmland through acquisition of ownership and conservation easements in the Columbia River Valley, and has conserved more than 20,000 acres. Bullivant is a long-time supporter of the land trust, including pro bono work and as a sponsor of the land trust's annual Wild Splendor event.

DASCENZO Intellectual Property Law

Todd French has joined as an intellectual property attorney. He has substantial experience as a scientist and a business executive. His practice focuses on patent and trademark procurement, as well as client counseling.



Sarah L. Bimber

Stoel Rives

Sarah L. Bimber has joined the firm's Health Care Team, where she focuses on health care regulatory and corporate matters.



Tyler Anderson

Miller Nash

Tyler Anderson has joined the firm's Business Practice Team. Anderson brings a range of experience to his new position, from providing representation in a variety of business transactions to advising on product marketing and labeling regulations.

Stoll Berne

Rob and Mara Shlachter received the Oregon Area Jewish Committee's (OAJC's) 2012 Maurice D. Sussman Award at a dinner in their honor in December, 2012.

OAJC presents the award annually in memory of the late Maurice Sussman to honor individuals whose personal lives and community contributions exemplify the high standards set by Sussman and the OAJC.

Schlachter is a partner in the firm. He served as a board member of the Jewish Federation of Greater Portland for almost 20 years and was president from 2001-03. He was on the board of the Mittleman Jewish Community Center during its renovation. He also helped establish Hillel in Portland in 2008, and presently is a member of the Oregon Jewish Community Foundation and Greater Portland Hillel boards.

Formerly a nurse who has been active in women's reproductive rights since 1969, Mara is now a Judaic artist and active volunteer and has worked extensively in the community. She established a Portland team for the Maccabi Games, a weeklong sporting event for 13 to 16-year-old Jewish athletes. Both the Schlachters have coached mock trial for 15 years.

Gevurtz Menashe

Family law firm **Gevurtz Menashe** moved from the U.S. Bancorp Tower to the 4th and 5th floors of the Fleischer-Mayer building in Old Town/ Chinatown in February. Shareholders of the law firm purchased the 38,000 square-foot building and an adjacent parking lot from the Bill Naito Company in November, 2012. It is located at 115 NW 1st Ave. Since its purchase, the building has undergone major renovation by SERA Architects and Fortis Construction.

The Fleischer-Mayer Building, constructed in 1906, was designed by architect, Edgar Lazarus, as an office and warehouse serving nearby waterfront commerce. The Twentieth Century Romanesque-style building has inset brickwork and beautifully arched windows.

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

Healthcare Reform 101 The Individual Mandate and Medicaid Expansion

by David O'Brien
Group Health Insurance Committee Chair



According to the U.S. Census Bureau, roughly 50 million Americans were uninsured when the Patient Protection and Affordable Care Act (PPACA) became law in 2010. This article, the second of a three-part series on healthcare reform, will focus on how the individual mandate and the expansion of Medicaid under PPACA are designed to



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significantly reduce the number of uninsured in America.

To best understand how PPACA will reduce the number of uninsured, it helps to know how Americans currently get their health insurance. The most recently released information from the U.S. Census Bureau showed 260 million people were covered by private or government health insurance in 2011 (or a combination of both). Private health insurance covered 197.3 million people - the majority coming from employment-based health insurance, which covered 170.1 million. Government health insurance covered 99.5 million - of which 50.8 million were covered by Medicaid. The individual mandate will require certain uninsured people to buy private health insurance. Meanwhile, the expansion of Medicaid will allow individual states to choose to expand Medicaid eligibility to a much broader segment of the population. Both provisions take effect in January, 2014

The Supreme Court upheld the constitutionality of PPACA's individual mandate under Congress's power to "lay and collect taxes." The individual mandate requires certain uninsured individuals to purchase at least a minimum level of private health insurance for themselves and their dependents. Failure to do so will result in a penalty tax. In 2014, the assessed amount will be \$95 per adult per month and \$47.50 per child per month - up to \$285 for a family per month or 1.0% of family income, whichever is greater. In 2015, the penalty will increase to \$325 per adult per month, and \$162.50 per child per month - up to \$975 per month for a family or 2.0% of family income, whichever is greater. By 2016, the penalty will be \$695 per adult per month, and \$347.50 per child per month - up to \$2085 per month per for a family, or 2.5% of family income, whichever is greater. This penalty will need to be reported on the individual's federal tax return and will be collected by the Internal Revenue Service. The individual mandate will not apply to those uninsured: (1) whose religion is opposed to acceptance of benefits from health insurance;

(2) undocumented immigrants; (3) incarcerated individuals; (4) members of an Indian tribe; (5) whose family income is below the threshold requiring a tax return; and (6) who pay more than 8% of their income for health insurance.

Those subject to the individual mandate will be required to purchase at least a Bronze level private health insurance plan on the open market or through a state based or federally run exchange. A Bronze level plan, on average, would cover 60% of an individual's out-of-pocket healthcare costs. This is the minimum value plan individuals can purchase and are assigned the following metal actuarial level: 70% for a Silver plan, 80% for a Gold plan, and 90% for a Platinum plan. Premiums for individual plans will be based on level of coverage, age, geography and tobacco use. Starting in 2014, individuals will not be denied insurance or be subjected to higher premiums based on preexisting conditions or claims history. Qualified individuals entitled to subsidies or tax credits under PPACA must purchase insurance through the state based exchanges in order to receive those benefits. As mentioned in the first article in this series, Cover Oregon (the state based exchange) provides a calculator on their website which shows if an individual or family qualifies for financial assistance - www.coveroregon.com/calculator.php. Individual plans available on the exchange will be priced the same as similar plans offered on the open market by the carriers. The Congressional Budget Office (CBO) anticipates that 11-12 million uninsured people will be required to purchase insurance under the individual mandate by 2016.

While the Supreme Court upheld the individual mandate, it limited the federal government's ability to require states to expand Medicaid coverage under PPACA to nearly all people under age 65 whose income falls below 133% of the federal poverty line. The Supreme Court held that the federal government cannot threaten to decrease or eliminate federal Medicaid funding to the states if they don't adhere to the Medicaid expansion provision

of PPACA. States, therefore, can choose whether or not they will participate in Medicaid expansion.

In Oregon, the issue of expansion is before the Oregon Health Policy Board and should be decided by the time this article is published. Many believe the board will approve the Medicaid Advisory Committee recommendation to expand Medicaid coverage. According to the website www.medicaidexpansion.com, an online news source tracking this issue, "there are 292,000 uninsured adults who will be eligible for the Medicaid expansion program [in Oregon]. If [Oregon] expanded its Medicaid program, and starts the Medicaid expansion initiative, 252,000 individuals will be eligible for Medicaid expansion. 41,000 are currently eligible for Medicaid under [Oregon's] program but are not enrolled."

For states that do accept Medicaid expansion, the federal government will pick up 100% of additional costs from 2014 through 2016. That amount will be gradually reduced to 90% by 2020. A number of states have accepted the expansion, including Vermont, Washington, Hawaii, Arizona, Nevada, Missouri, North Dakota, Ohio and Colorado. Some state governors have vowed not to accept expansion. It is projected that as many as three million fewer people would likely be insured because of the Supreme Court ruling on Medicaid expansion.

In 2010, the CBO estimated that PPACA would lead to 32 million additional people being insured by 2016, and 95% of legal nonelderly residents having insurance coverage by 2021. While a number of factors will determine the act's actual impact on the number of uninsured, the individual mandate and Medicaid expansion provisions of the PPACA will certainly lead to more Americans with health insurance coverage.

David O'Brien manages the human resource function at Hart Wagner LLP. He is the current chair of the MBA Group Health Insurance Committee, on which he has served since 2008. The final article of this three-part series will address the PPACA employer mandate.

In Memoriam The Honorable Philip T. Abraham October 22, 1928 - January 2, 2013

Philip T. Abraham, a longtime Multnomah County judge, died January 2nd.

Abraham spent his law career in Multnomah County. He was appointed as a Portland municipal judge in 1964 and retired as Multnomah County chief criminal judge in 1996.

One of seven children, Abraham was born in Portland. He graduated from the University

of Oregon and served in the U.S. Army during the Korean War. Following his discharge, he received his law degree from Lewis & Clark Law School.

Abraham is survived by his wife Patti, seven children and 14 grandchildren.

March is Open Enrollment Month for the MBA Health Plan

Members participating in the MBA Health Plan may make changes, and those currently not on the MBA plan may enroll.

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Tips From the Bench

Lincoln's Advice on Winning Complex Cases Tips for Handling Business and Employment Cases

by Judge Jerome LaBarre
Multnomah County Circuit Court



I have now spent many years searching for the best approach to be used to effectively plaintiff or defend complex business and employment cases. I feel that my time on the bench has given me better insights than I had when I was a practicing lawyer. However, in recently reading about Abraham Lincoln's 25-year career as a trial attorney, I feel that I have gotten even better insights, which are particularly useful in complex business and employment cases.

The central problem an attorney faces from the outset on these cases is that they are usually a big mess. In many corporate and employment cases, the facts are convoluted and the documents and electronic data are massive. Things can be highly technical and confusing to the trier of fact. So whether you are on the plaintiff's side or on the defendant's side, what are some things you can do to improve your chances of success? It turns out that questions like this have always challenged trial lawyers. The inspiring movie *Lincoln* gives insights into the man when he was president. But before that he was a prairie lawyer in Illinois in the 1840s and 1850s, who honed his skills by riding the circuit and winning jury trials. Lincoln the lawyer can teach us a lot about winning cases today. Here are five tips from someone who was touched by genius both as president and as a trial lawyer. I have tried to apply his lessons to today's complex cases.

1. Get to the Heart of the Matter

On complicated cases such as corporate, securities or executive employment disputes there is almost always the problem of too many choices. An attorney must decide what claims for relief to plead, what themes to focus upon, what damages to seek, what facts to try to develop in discovery, and so on. The way most lawyers seem to decide these questions is to throw in every possible thing they find. The rationale in the beginning is that you need to keep all of your options open. And of course you tell yourself that you can always cut things out later. Strangely however, once the complaint is filed in the courthouse the ideas which were once merely afterthoughts tend to become cast into concrete. Lincoln's success as a trial lawyer and as president was a product of his getting to the simple essence of things. He never used

the kitchen-sink approach of dumping all of the facts in front of the jury. From the start in a complex case, you must aim for the final presentation at trial or in arbitration. It's all about narrowing and simplifying.

2. Let Your Theme Emerge From Your Key Facts

It's tricky but essential to come up with a good theme in a complicated case. Lincoln was gifted in putting his case into simple focus and in organizing his facts for clarity. He used directness of thought to great effect. After organizing his best facts, the theme he needed to win the case just naturally rose to the surface. Today we would call it an "elevator speech." But now, just as in Lincoln's time, what is needed is a compelling but short statement of why justice cries out for your client's side to win. This is especially true in the bone-dry world of business litigation.

3. Prepare, Prepare, Prepare

Lincoln had a capacity for hard work and preparation. In writing the Gettysburg Address, he spent many hours preparing a speech which took only a few minutes to deliver. Lawyers handling discovery in complicated cases get used to wallowing in the multitudinous. It takes a lot of hard work. Mostly one is met with the mundane. But by watching carefully, every once in a great while a lawyer will spot a "smoking gun" document or elicit a key admission in a deposition which makes it all worthwhile. To me, this is like digging for gold with an ice pick. If you are able to grab such a nugget, then hold onto it for dear life. When you get near final resolution, you can use this piece of gold in your settlement brief, in your case theme and in your final argument, all too winning effect.

4. Use Plain English

Complex business and employment cases are by their very nature filled with jargon, technical details and dense legal terminology. To win, you must clearly communicate and present a compelling case that has the ring of truth and justice. If your case is only filled with technicalities, this cannot happen. So the complex must be made simple. You must use plain-speak to translate the big words down to a level that the trier of facts can understand.

Continued on page 19



News from the Courthouse

by Terry Wright
Court Liaison Committee member

Presiding Judge/Trial Court Administrator's Report

Judge Waller reported that over the weekend of February 2nd, 17 judges moved to new chambers and courtrooms in the courthouse. These courtroom shuffles arise as vacancies occur and seniority rankings among the judges change. Vacant courtrooms are claimed in seniority order. In any period of changes in the members of the court there will also be a related courtroom shuffle.

Judge Waller told the committee that Amy Holmes Hehn was sworn into office in January. Judge Holmes Hehn holds the position which was vacant due to Judge Richard Baldwin's election the Oregon Supreme Court. Judge Beth Allen was sworn in on February 1. Judge Allen holds the position which has been vacant since the retirement of Judge Michael Marcus. Governor John Kitzhaber has posted a third open judicial position which is vacant due to Judge Janice Wilson's retirement in January. In addition, Judge Michael McShane has been re-nominated by President Barack Obama to the 113th Congress to fill a vacant judicial position on the United States District Court for Oregon. If Judge McShane is confirmed by the Senate early in the 2013 year, it is probable that the Governor will use the current posting to fill both positions.

Judge Waller reported that on the surface things are going well at the court. All civil cases scheduled for trial on the presiding court's call calendar are being assigned out to available judges. However, due to the loss of staff from the funding reductions in the current biennium, the court is struggling to get filed papers entered in OJIN and made available in case files to for the judges, parties and the

public. The court is currently approximately three weeks out in getting civil judgments submitted to the presiding court signed, filed and entered. The judge noted there used to be two full-time clerks processing these documents, and now there is only one who must split the work time between courtroom duties and processing submitted documents.

Judge Waller reminded committee members that it would assist the court if lawyers would call presiding court if their cases are on the call calendar and the dispute is settled so that the case can be removed from the call calendar. Otherwise, if no party appears at call, her staff must spend time telephoning the parties to determine why there was no appearance.

In February, the board of county commissioners will receive a report regarding the feasibility of setting up a public/private partnership for building and maintaining a new courthouse.

The judicial department has begun its work for the Legislative session. The session begins with a gap between the Governor's recommended budget and the chief justice's recommended budget. For general fund revenues, this gap is \$57.6 million when all of the chief justice's packages above the current service level are included. The chief's priorities are to maintain the current service level, restore lost jobs, continue implementation of Oregon eCourt, funding the new court of appeals panel, and judicial compensation. During the session, individual legislators must be educated on the importance of funding adequately the Oregon's judicial branch. The legislature is particularly receptive to stories about how the courts and budget cuts have impacted individuals and businesses.

Judge Waller encouraged committee members and others to let legislators know of these stories. Judge Waller said that the appointment of Representative Jennifer Williamson to chair the Public Safety Subcommittee of Ways and Means is very

encouraging. Representative Williamson is an attorney with extensive legislative experience.

Lawyer volunteers from the OSB's program to match attorneys with volunteer opportunities are assisting judges at the courthouse. These volunteers help to reduce the impact on the court from the loss of five judicial clerks. Their service is appreciated greatly. Judge Waller also noted that volunteer assistance is needed in working with self-represented litigants and will be central to plans for a public legal resource center.

Doug Bray reported that is an evaluation of the new civil case management system underway. He noted that the initial case management conference and the trial readiness conferences take staff and judicial resources for this work but there are off-setting efficiencies in other areas. There will be a long-term look at this impact, the time to disposition for cases in the new system, and general acceptance by the parties of the new processes. Overall people seem satisfied with the system.

Beginning in March, civil cases may be sent to the East County Courthouse. In addition, jury summons are being modified to summon jurors directly to that courthouse rather than being summoned to the downtown courthouse and then assigned to the East County Courthouse, as is the current practice. Judges McKnight and Waller will be presiding over a new truancy court at night at the East County Courthouse, in conjunction with local school districts. This court will operate one evening each month and was developed with the school districts located in the eastern end of Multnomah County.

Doug reported that Referee Lewis Lawrence is retiring after serving for more than 25 years. His position will not be replaced immediately to help accumulate funds to restore some of the lost clerk resources

Continued on page 14

Judge Brian Dretke

10th Judicial District

by Jeffrey Bowersox
Court Liaison Committee member

Judge Brian Dretke was born in Riverside, California, the middle child of a small family. His mother was a teacher with a master's degree who was staying at home to raise her children and his father was a civil engineer who built highways. His family moved as his father's job duties demanded and he graduated from high school while living in Tulsa after spending middle school in Shreveport, LA. By this time his dad had gotten his master's from Stanford and the family had lived in Texas while

...he laughs that his 2012 elk was sighted and brought down while at home from his T.V. room balcony....

dad was chief of construction for the Department of Energy's Super Collider project. Judge Dretke is the only lawyer on either side of his family.

He learned to hunt early in life and now hunts deer and elk in Eastern Oregon using a muzzleloader. Patience and planning are skills he believes are honed while hunting - though he laughs that his 2012 elk was sighted and brought down while at home from his T.V. room balcony while wearing gym shorts.

Brian knew he was going to become a lawyer while working as an undercover narcotics officer for the Tulsa police department. As he recalls it, his time on the witness stand

consisted of being asked, "What happened? What happened next? Then what happened?" He figured he could do at least as well as that particular prosecutor while being better paid. While in law school, the breadth and depth of the intellectual feast became manifest to him. Thus developed his love of the law and it has driven him since.

He started his practice in the Union County District Attorney's office in 1993 and prosecuted there for a couple of years before moving to Lane County and working in the D.A.'s office there. He returned to Union County about a year later - this time as chief deputy. He later started his civil practice, when he joined the firm of Mautz Baum Hostetter & O'Hanlon. Not too long thereafter he began his solo practice in La Grande.

In an early civil practice experience, he was asked to represent a large group of homeowners with claims against Union Pacific Railroad, which was alleged to have contaminated a shallow aquifer beneath the city of La Grande. By coincidence, one day Brian met Gene Hallman on a street corner in downtown Portland and Gene offered to help on the environmental case. Along with other's assistance, a plaintiffs' trial team was assembled and the case was prosecuted. Working together on that case led Brian and Gene to

form a law partnership together that lasted until Brian went on the bench. Brian credits Gene with mentoring him in trial work for personal injury and death cases. Judge Dretke now had time and resources available to strategize case prosecution and to discover and develop evidence in a way that was not possible for most cases in the high-volume

Judge Dretke has the distinction of obtaining the highest personal injury verdict ever rendered in Wallowa County arising from the tortious transmission of an STD by a prominent local politician.

litigation that prosecutors juggle on a daily basis. He found great satisfaction in trying cases and helping his clients through very difficult life struggles.

Judge Dretke has the distinction of obtaining the highest personal injury verdict ever rendered in Wallowa County arising from the tortious transmission of an STD by a prominent local politician. When you hear the very interesting story surrounding the case, Judge Dretke makes sure that you realize there are two components to the distinction: largest verdict AND largest uncollected verdict in Wallowa County.

As an attorney, Judge Dretke tried well over a hundred jury trials and half again as many bench trials. That is an uncommon experience for many lawyers and it has assisted him on the bench. Judge Dretke was appointed to the trial court bench in 2012. When recounting the phone call he received from the Governor, he vividly remembers the mix

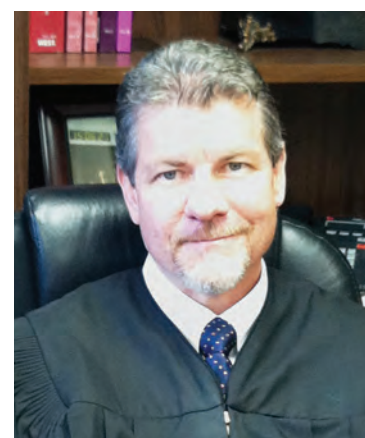
of emotions he felt - elation and anxiety being prominent. Despite his anxiety, he knew that the decision was right for him. His experiences as a lawyer had significantly shaped him. It seemed a good time to give back to the legal community and to the larger population that depended on the judiciary - even though the general population probably gave little thought to how important the court system is.

Judge Dretke tests that proposition after every trial. He talks with the members of every jury to learn how they view the service they performed and he questions the jurors about lawyer performance and behavior during trial. He shares this information with the trial attorneys. Judge Dretke's thoughts about jurors as a lawyer have been confirmed by his experience on the bench. Collectively, juries are very smart. They quickly separate the wheat from the chaff and they read witnesses well; jurors understand witness motivation

A trial judge's work life can be somewhat isolating. He spends about seven hours a day actually on the bench.

and bias. Lawyers do not need to dumb-down their presentation for most cases. Jurors resent being spoon fed and having basic concepts repeated over and over throughout a trial.

Judge Dretke misses some aspects of private practice, perhaps especially the opportunity to gather with friends and colleagues to talk about cases and strategies. A trial judge's work life can be somewhat isolating. He spends about seven hours a day actually on the bench. Almost all



Judge Brian Dretke

of his legal research and opinion writing occurs after hours and on the weekends. Because every case is of critical importance to the parties involved, he refuses to take any shortcuts. He thoroughly reads every brief submitted and he studies all of the relevant cases prior to issuing an opinion. He's concerned about the lack of resources available to the judiciary. Courts are short-staffed and his assistants have an incredible workload. He is concerned about burnout for all involved in process. Good people who work hard are being laid off because of the budgetary crisis.

His advice to new trial lawyers: (a) Buy *Evidentiary Foundations*. Read it. Read it again. Use it for trial preparation. Bring it to every hearing and every trial. (b) Don't be a jerk. To anyone. At any time. Ever. It is not productive. (c) Showing your temper is not the same thing as showing passion for your case. They are easily distinguished by the judge and jury. You will pay dearly for the former. (d) Don't object just because you can. Be selective. You may be right, but objections are disruptive and not appreciated by the jury.

MBA Director Nominees

Four, three-year MBA director positions start July 1. A ballot will be sent to members.



Maya Crawford

Maya Crawford, Legal Aid Services of Oregon, graduated from Lewis & Clark Law School and works as the supervising attorney for the Volunteer Lawyers Project, where she oversees five pro bono projects and 700 pro bono attorneys.

Maya currently chairs the MBA Professionalism Committee. Her other service to the MBA includes service on the Multnomah Bar Foundation Board and Grants Committee. She also served on the MBA Pro Bono Task Force and chaired the YLS Membership Committee.

Maya is a board member of the Queen's Bench and Oregon Women Lawyers. She is on the OSB Pro Bono Committee and serves as a mentor for the MBA program and Lewis & Clark Law School's 1L Mentor Program.



Eric Dahlin

Eric Dahlin, a litigator at Davis Wright Tremaine, graduated from U of O School of Law.

Eric's involvement with the MBA includes a current term on the Courthouse Committee, past service as a chair and member of the Court Liaison Committee, service on the Equality & Diversity Committee and the Professionalism Committee (which he also chaired).

Eric also volunteers as a Multnomah County Circuit Court pro tem judge hearing summary judgment motions, and serves as an arbitrator in the county. He is a pro bono general counsel to the Portland Metropolitan Area Boys and Girls Club and is on the board of directors for Operation Nightwatch. He coaches the Jefferson High Mock Trial Team and is a member of the OSB Litigation Section Executive Committee and the House of Delegates.



Akira Heshiki

Akira Heshiki, Standard Insurance Company, graduated from Lewis & Clark Law School. Her practice areas are insurance regulation, ERISA and FMLA.

Akira is a current member of the MBA Judicial Screening Committee. She previously served as chair of the MBA Membership Committee.

Akira is active in the OSB Diversity Section, where she most recently co-chaired the Convocation on Equality 2011. At Standard Insurance Company, she is a co-founder and leadership team chair for the Celebrating Racial and Ethnic Diversity Employee Research Group and the founder and a team member of the Artists in Residence at the Standard project. Her ABA involvement includes the ABA Legal Opportunity Scholarship Committee, and she is a member of the Tort Trial & Insurance Practice Section who serves on various committees.

Elizabeth Knight, Dunn Carney, graduated from the U of O School of Law. Her practice focuses on commercial litigation, legal malpractice, and insurance.

Elizabeth has served on various MBA and YLS committees. Her most recent committee service was on the MBA Court Liaison



Elizabeth Knight

Committee. Prior to that, she was a member of the Judicial Screening and the Equality and Diversity Committees. She also served on the YLS Board, was a YLS Award of Merit recipient, and was on the YLS Pro Bono Committee. Her other community service includes the Campaign for Equal Justice and the OSB Client Fund Committee. She was in the 2009 class of the Portland Business Alliance's Leadership Portland program.



Young Lawyers Section

You Learn Something Every Day...

by Duke Tufty
YLS President



... Particularly when you send out a survey to the entire YLS. Thank you to everyone that participated in the survey! We really appreciate it.

We learned that members come to YLS events for many different reasons: networking, to meet new people, to catch up with friends, to learning something, and to have fun. Not surprisingly, there was a strong preference for events during the weekday evenings at locations that were downtown, or very close to downtown. We also found out that the most common reason (by far) for not attending more YLS gatherings was being too busy. Sadly, this is not something that the YLS can remedy. Making time to attend YLS (or other events of interest) is an important investment in your future to build your network and stay connected. We promise to do our best to make the events worth your time.

Most importantly, the survey highlighted some opportunities for the YLS to put on different kinds of events, beyond the typical happy hour. There was considerable interest in organizing a YLS get-together at a sporting event (Timbers anyone?) or a local museum. We also found out that smaller format events focused on an activity or learning something new resonated with the YLS membership. Keep your eye out for opportunities going forward to improve your skills in the kitchen, to paint a masterpiece, or to make a ceramic mug for your morning coffee.

YLS members also are looking to brush up on their

public speaking. Over half of respondents expressed interest in learning more about Toastmasters. As a big fan of Toastmasters, I'm looking forward to making it easier for our members to find a Toastmasters group.

The survey also uncovered a desire for the YLS to put together tables at bar and civic events so that our members could attend them in good company. Attending a bar meeting or City Club Friday Forum at a YLS table makes sense: you can meet fellow YLSers, potentially meet other attendees, and attend a great event at the same time.

The biggest surprise that came out of the survey was that a hair over half of the respondents rarely attended YLS gatherings. We want to see more of you at events and are going to act on the results of the survey to make sure that we are doing all we can to bring more of you out.

We received some comments that respondents were not aware of the YLS organizing very many events. As a reminder, the MBA maintains a comprehensive calendar for the MBA and YLS, as well as other local organizations of interest to our membership. The YLS typically organizes at least one networking event and one community service opportunity each month, and offers one or more CLE programs specifically tailored to the interests and needs of YLS members. Although we send out emails promoting our activities and highlight them in the *Multnomah Lawyer* each month, we also encourage you to periodically check the MBA calendar on the website to make sure you don't miss an event.

It's not too late to suggest an idea for an event. Feel free to email me if you have a comment or suggestion. Better yet, join the Membership Committee of the YLS or MBA and help us plan and organize networking opportunities going forward.

YLS Director Nominees



Paige De Muniz

Three three-year positions start July 1. A ballot will be sent to members. Only YLS members may vote for YLS Directors.

Paige De Muniz graduated from Willamette University College of Law and was admitted to the OSB in 2008. She is a family law attorney at Gevurtz Menashe. Paige joined the YLS YOUthFILM Project Committee in 2010 and now chairs the YLS Service to the Public Committee. She is a member of the Development Committee of the YWCA of Great Portland.



Mackenzie Hogan

Mackenzie Hogan graduated from the U of O School of Law and was admitted to the OSB in 2010. He works at Harris & Bowker LLP and practices in the areas of business, probate, estate planning and real estate. Mackenzie has been a member of the YLS Membership Committee since 2010 and currently serves as chair of that committee. He was the recipient of the 2012 YLS Award of Merit was formerly a student representative for Pro Bono for the ABA 12th District.



Tyler Volm

Tyler Volm graduated from Lewis & Clark Law School and was admitted to the OSB in 2008 and Washington Bar in 2009. He works at Elliott Ostrander & Preston, PC and practices in the area of business law. Tyler has been a member of the YLS Professional Development & Education Committee since 2011 and currently serves as chair of that committee. He also serves on the MBA Golf Committee, is the current president of the Lewis & Clark Recent Graduate Council and on the Executive Committee for the Gus J. Solomon Inns of Court.

Mark Wada Pro Bono Spotlight

by Michael Fuller
YLS Pro Bono Committee member

This month's spotlight focuses on Portland attorney Mark Wada and his various pro bono contributions.

Mark is a partner at downtown firm Farleigh Wada Witt. His interest in giving back began as a law student volunteering at legal aid after his first year of law school.

A few years later, as a young attorney in the mid-80s, Mark offered pro bono legal services to what would eventually become the Oregon Food Bank. "I grew up on a family farm in Ontario and focused my practice in corporate matters, so working for [the Food Bank] was particularly appealing," he said. Mark's pro bono legal work included the merger of two food banks into what is now known as Oregon Food Bank. "One of the projects that stands out in my mind is the opportunity to work on the Blues Festival." In addition to handling a myriad of contracts related to

this event, Mark also represented Oregon Food Bank in establishing its rights to the festival, which continues as a celebrated Portland tradition each summer.

In 2000, when Mark's daughter was diagnosed with cerebral palsy, he started exploring pro bono opportunities within the United Cerebral Palsy Association. "If people fully understood the services [UCP] is able to provide the community, they'd be blown away," he says. Mark's contributions to UCP took the form of various legal and non-legal projects. "I was able to help in a legal capacity by drafting contracts and leases," says Mark, "and later as a member of the board." As the board's development chair, he helped brainstorm fundraising ideas, including what would become the first annual "Walk and Roll" event.

In recent years Mark expanded his pro bono efforts to



Mark Wada

benefit the Children's Healing Art Project and the Children's Relief Nursery. "It's incredibly rewarding to help make positive changes early in someone's life and watch the change in the trajectory of a life," says Mark of the children's organizations. "And it's a chance to be a little entrepreneurial, using a mix of your legal talents, contacts in the community and other skills - it's so cool to watch it all come together and really benefit the community."

For opportunities to join Mark and the MBA Young Lawyers Section in volunteering at the Children's Relief Nursery, contact Jennifer Woodhouse at jwoodhouse@schwabe.com.

YLS Membership Events

The YLS Membership Committee started out 2013 on the right foot, by hosting a drop-in social at Kells Irish Restaurant & Pub downtown. On January 17, members of the YLS turned out to meet new members, network and socialize. The Membership Committee would like to extend a special thank you to Kells for their continued support of YLS functions.

Photos at right:
January YLS Drop-in Social attendees



Adina Matasaru

Why She Gives

by Sean Ray
YLS Board

The YLS Articles Editor sat down with Adina Matasaru, the winner of the Campaign for Equal Justice's "Why I Give" contest and associate at Dunn Carney, to discuss the CEJ and other interesting things.



Adina Matasaru

You won the Campaign for Equal Justice's "Why I Give" contest. I encourage everyone to visit the Campaign for Equal Justice's website to view your winning entry (www.cej-oregon.org). A big part of the reason you stated that you give to the CEJ stems from your childhood in a Communist country. Where were you born?

AM: Romania, which at the time I was living there was a Communist country. It has since become a democracy again.

(Jokingly) Does Joe McCarthy know you're here?

AM: (*Hesitates*) Um ... he's dead. And has been for more than 50 years. Although he probably would have liked a political dissident from a Communist country asking for asylum in the United States.

In all seriousness, though, what was it like as a child living under a Communist regime?

AM: My parents were never members of the Communist Party which caused not just persecution but denial of access to basic rights. One's party membership was directly linked to the amount of food the family received, the type of housing one lived in, the job one was given, the wages for a given job, and so on. My family struggled for survival and was subjected to persecution and indignities.

How has that upbringing shaped the attorney you are today?

AM: I saw so much injustice all around me. As a child I knew the police were not there to protect us, but to spy on us and find reasons to hurt us. My parents were very careful with conversations in our home as our house was always bugged. We listened to "Europa Libera," or "Free Europe," which was against the law. My father is a very wise man and he explained to me that one can break an unjust law and still have integrity. Looking back, I admire his strength and wisdom. At age five, in the middle of an argument with my parents, I declared I was going to become a lawyer. I wanted to change the system, give access to the voiceless, and make sure laws were not oppressive but protective and fair. Those principles still guide me every day.

Now I read somewhere, probably the internet, that you're actually from Transylvania. Is that true?

AM: Yes, except it's Transilvania, you need to roll your "R"s.

So level with me: is *Twilight* really based on a true story?

AM: I've actually have never read the books or seen the movies, but I understand the concept of vampires. Can I tell you a secret? No one in Transilvania knew of vampires when I was growing up. I had never even heard the word. I know it's hard to believe. Now, werewolves are most definitely real and there are many stories about them in Transilvania. Bram Stoker just got it wrong.

But it sounds like Taylor Lautner got it right; he can do no wrong in my book. The Campaign year comes to a close at the end of this month. Why is it important for young lawyers to give to the Campaign to help the CEJ realize its goal for the year?

AM: In the *NY Times* this weekend, there was an article about needed changes in educating new lawyers. Paula Littlewood, a task force member and the executive director of the Washington State Bar Association, is quoted as saying, "The consuming public cannot afford

lawyers, and the profession needs to figure that out and own it. Our hope is to provide more access." She was talking about providing limited license legal technicians, but her point about the public not being able to afford attorneys is absolutely true. I believe the CEJ is one way to provide the public access to justice, and we as a profession must own it. I encourage everyone to dig deep and donate as much as they can. In Communist Romania, the scales of justice were tipped in favor of the Communist Party. In our country, the scales are tipped against the individual who cannot afford legal representation. Those are both great injustices, and even though the reasons are different, the effect is the same.

The contest was to describe the reason(s) you give to the campaign in 40 words or less. By my count, you came in one word under the limit at 39. Did you ever think about trying to fit that last word in?

AM: My original answer had 41 words, and the only way I could make it fit was with 39 words. At 1 a.m. when I drafted my answer, it was the best I could come up with.

In 40 words or less, can you describe the biggest snub at last month's Grammy Awards?

AM: The biggest surprise to me was not that Chris Brown stayed seated during the standing ovation following Frank Ocean's big win, but that Chris Brown even had a seat there to begin with. Was his girlfriend nominated or something?

Look at that. 39 words again. Impressive. Any final thoughts on the Campaign for Equal Justice before we wrap up?

AM: I just mailed another check in and doubled my donation. This is personal to me because I would never have had access to great education and the legal system had someone not opened up their checkbook and donated. I always think of how many children live in our community and could grow up to contribute and enrich us all, if only they had the opportunity, if only they were not denied basic access.

Thank you for taking the time to share your moving story and fascinating journey with us, and congratulations on winning the CEJ's "Why I Give" contest.

mba yls | EVENT

YLS Drop-In Social

¡Oba! Restauranté

555 NW 12th Ave., Portland

Thursday, March 28

5:30-7 p.m.

The YLS Membership Committee will host a drop-in social on Thursday, March 28, from 5:30-7 p.m. at ¡Oba! in the Pearl District.

Appetizers will be provided. Swing by to mingle and network with other young lawyers.

Simplify to Increase Productivity

by Eva Marcotrigiano
YLS Futures Committee (and OSB
Quality of Life Committee Secretary)



Life has become quite complicated in today's age, significantly due to some of technology's byproducts - information overload and distractions galore. The sensations of being overwhelmed and not knowing where to start can be crippling, whether you are in the office or at home. Furthermore, there never seems to be enough time to get all of your work done, let alone time to do the things you enjoy most.

It may be time to simplify your life at work *and* at home. For those committed to such an endeavor, the rewards include increased effectiveness, improved relationships, and general sense of balance.

Unsure of where to start? Here are some quick, fairly easy ideas to implement:

- Choose a designated place for your keys, cell phone, purse, computer bag, water bottle, etc. at home and at the office. Commit to using your chosen areas and you will stop wasting time looking for such easily misplaced items (because you were distracted by checking your email on your phone when you set your keys down, and now they are somewhere around here....).
- Clear off your desk at work, your kitchen and bathroom counters, and your coffee table. While you may be used to seeing certain things there, ask yourself if it truly belongs there. Even if it does belong, visual clutter is distracting. On the days at work where

I am unsure where to start, I take everything but the computer off of my desk (ok, I leave the tape and the stapler). Somehow, it makes determining what will be worked on first and then getting down to business more manageable.

- Organize and plan out your day, week, and month. Determine ahead of time how you are going to spend your time - do not let the day's interruptions and distractions control you. Along the same lines, use to-do lists. Personally, I am a diehard Evernote fan (evernote.com).
- Analyze your commitments and remove yourself from the ones that have become unnecessary or no longer rewarding. Use that time to spend reconnecting with your true friends - you know, the ones you value so much, who are so dear to your heart, and yet you have not connected with them in six months ... or longer.

For more information on simplifying to regain time and productivity, resources are available in every format, from books to podcasts to blogs. Examples include: *Shed Your Stuff, Change Your Life* and *Never Check Email in the Morning* (juliemorgenstern.com); *Simple Living - 30 days to less stuff and more life* (lovingsimpleliving.com); *Get it Done Guy - Quick and Dirty Tips to Work Less and Do More* (quickanddirtytips.com).

Good luck on your path back to productivity. In the words of Thoreau: "It is astonishing as well as sad, how many trivial affairs even the wisest thinks he must attend to in a day; how singular an affair he thinks he must omit. When the mathematician would solve a difficult problem, he first frees the equation of all encumbrances, and reduces it to its simplest terms. So simplify the problem of life, distinguish the necessary and the real."

YLS Horoscope

With March underway it may seem nearly impossible that the first quarter of the year is nearing completion. You will find that the seeds you have been planting are gradually growing, allowing you to reap the benefits of your planning, persistence and hard work. As the sun begins to shine longer, your days will start to feel less stressed and you will have more time to enjoy your pursuits and your colleagues, including attending a YLS event. Now is a good time to take on a new challenge that will help you as well as others. You have the energy to cruise through this month, with less weight on your shoulders and more confidence in yourself.

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



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News from the Courthouse

Continued from page 10

to the judges. This means that circuit court judges will cover an additional courtroom.

Equality and Diversity

Nicole Nowlin attended the meeting on behalf of the MBA Equality and Diversity Committee. She indicated that committee members are attending a meeting of all of the MBA Committees with a fourfold purpose:

- to discuss how diversity impacts and relates to the committee's work
- to discuss how the committee can contribute to and support diversity in its work
- to solicit what the committee is already doing related to diversity work and future plans
- to provide information about the Equality and Diversity Committee and its work

She indicated that one plan the committee has is to pull together a day-long CLE/summit to bring together representatives from various diversity groups. She also indicated that the committee has a budget to assist in promoting diversity and diversity awareness. The committee is also interested in being involved in pipeline projects, and has been attempting to get lawyers to speak in public schools. The OSB is working to pull together statistics on diversity in the bar.

Committee members had little to add, although Judge Waller talked about steps the court is taking on the topic of diversity. She indicated that the court has organized a series of noon CLEs for judges on diversity issues. An example is a recent one in which representatives with Interpreter Services talked about culture and history, and how those may affect litigant's behavior.

eCourt Implementation

Implementation of eCourt is on the MBA Board's agenda. Among other topics, they will be reviewing issues around access on-line to court documents; what types of court filed documents will be available to the bar and to the general public, and what will not be. There is an 18-month timeline for implementation of the system in Multnomah County; the schedule has begun and May, 2014 is the target. In 2014, and prior to implementation, there will be training provided for lawyers on eFiling, eService and access to case information and documents.

Spring Judicial BrownBag

The committee chose the date of May 17 for the spring judicial brownbag. Potential topics discussed were civil motion practice and progress on moving toward a new courthouse.



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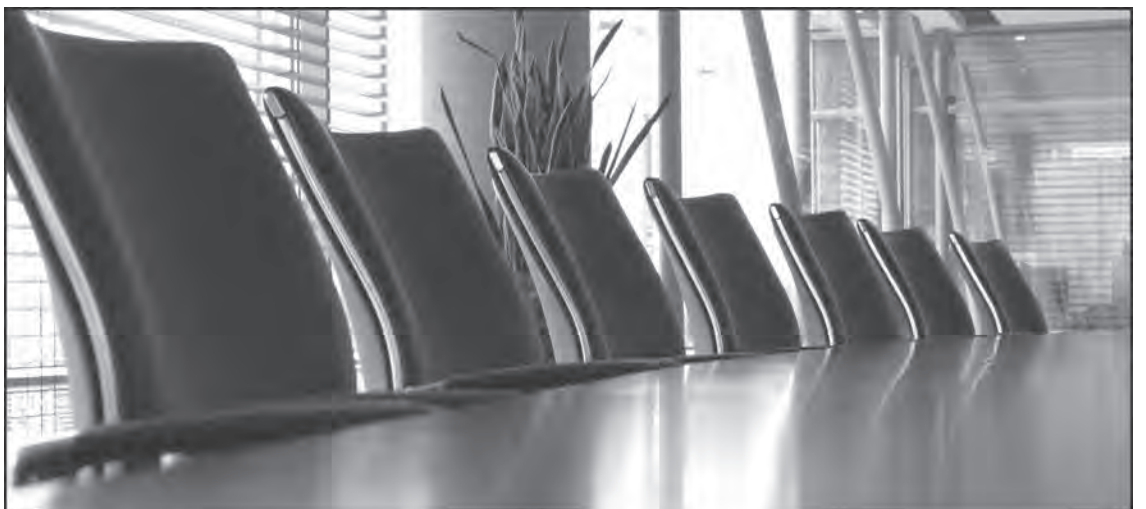


Jason's litigation practice will continue
to focus on defending companies
and individuals in matters involving
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Look Beyond Your Desk There's a Whole World Out There and You're Needed

I am writing this on a Monday afternoon. My desk is covered with client files, I have been in court for three hours in a hearing on a single case in which things are going less than well, done another short hearing (disaster averted there), and met with a client to discuss his case and his future. There is a lot that hangs in the balance for that young man and I am worried for him. Not surprisingly, the due date for this column is today and so this Monday is shaping up to be like most other Mondays. It's hard to find even a moment to come up for air. Many of us have Mondays like this and sometimes days like this turn into a whole week or more of "non-stop fun and excitement."

What's a busy lawyer to do? Crazy as this might sound, the answer is to look beyond the four corners of the desk and give more. Call it taking a "professionalism break." Obviously this is not a break from exercising professional judgment, but instead taking a break from the routine of legal work to engage in other rewarding aspects of our profession.

As lawyers, we are capable of more than our day-to-day obligations in client matters. We have special training, skills and experience that can be of benefit to others. We have a lot to contribute. To keep ourselves focused on only the matters that cross our desk is a waste of talents and abilities that could be of benefit to others who lack these attributes. We can and should make a difference.

Here are some examples to illustrate the point. Despite all that was going on today, I noticed in the *Multnomah Lawyer* that there was an internship program available for new lawyers. Learning about this led me to think of a young man that I am mentoring. It seemed like a perfect fit. I sent him a quick email and told him about it. He got right back to me and was clearly excited. He had not heard of the program was very interested in pursuing it. In fact, it made his day to hear about it. Presently he is unemployed and he is looking for a way to gain

Continued on page 18



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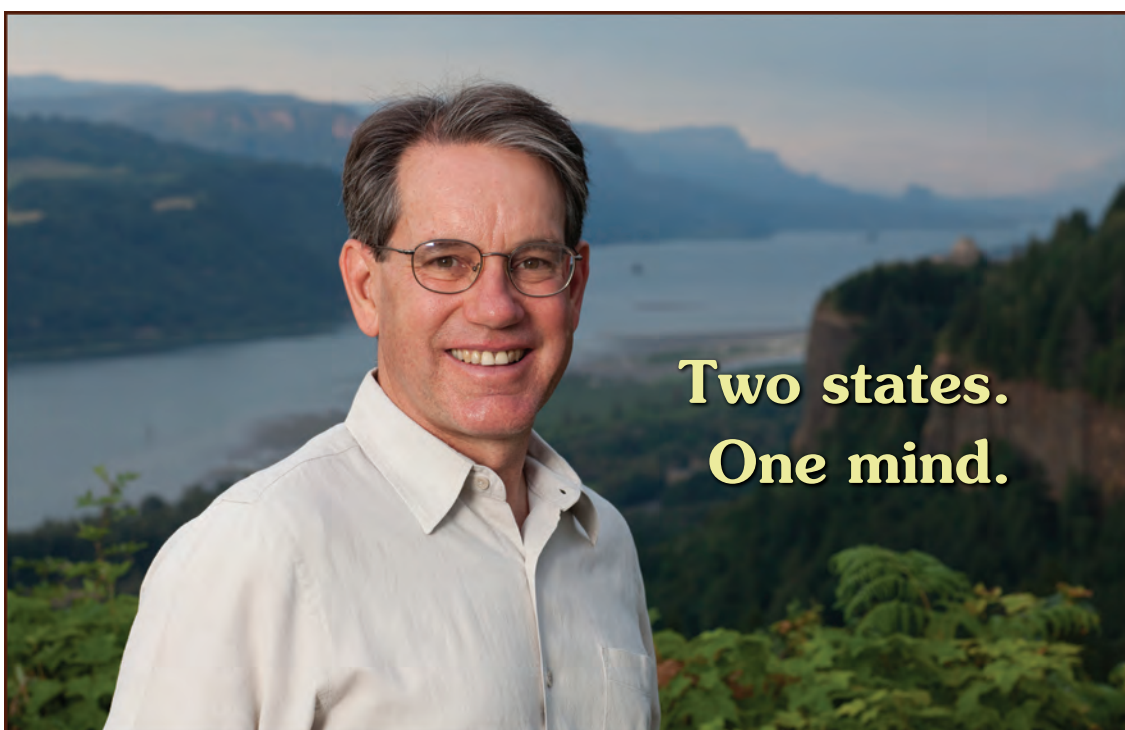
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The Corner Office

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experience. My "professionalism break" took less than 10 minutes and maybe it will help this young man begin his career.

Mentoring is just one thing that we can do as professionals. There is so much more. Recently I had the remarkable experience of seeing some other lawyers take time out of their schedules (quite a lot of time in this example) to handle a pro bono matter for a death row inmate in Oregon. Given their litigation skills, I knew the representation would be handled well but the odds were extremely long. They prevailed in obtaining relief and spared the man from facing an execution due to serious constitutional violations in his

trial. Without reservation, I can say that those lawyers took some of their time, looked away from their desks, and saved a life.

Of course, not everyone has the time and resources to work on a death penalty case in their "spare time." Still, there is always some time, away from your desk, that you can use to help others. Almost always, it is a benefit to both you and the person you are helping. It just feels good to change things up a bit from the daily routine and make a positive difference.

At the very least, we as lawyers can lend our voices to current debates. Having the capability to synthesize complex sets of information and reduce confusion to reasoned order is one of the things that most of us are good at. That skill alone can be of benefit. Aiding

a neighborhood association to resolve an issue, presenting at a local school on an issue of civics, or government, taking a side in a debate on a civil rights issue, these are all things that can constitute a "professionalism break."

In a rewarding way these breaks force us to look beyond our immediate tasks and look beyond things like billable hours. When we do so, we become, in a very real sense, contributors to justice, fairness, and equality, making a difference in a world beyond our desks, a world that needs our help.



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Tips From the Bench

Continued from page 10

Lincoln boiled everything down to simplicity and brevity. He never shot over the heads of the trier of fact. In my 14 years on the bench, again and again I have seen lawyers lose the attention of jurors when they do not heed this warning.

5. Concede The Small Points

Lincoln ignored the facts and arguments which did not matter. He counseled: "concede, concede, concede" when things were unimportant to his overall presentation. He always zeroed in on the winning facts and arguments that were central to his case. I see many lawyers in court who want to fight over every picky little thing. This is a mistake. Save your efforts for what really counts. Lincoln realized that it is more important to win the war than some trivial little battle.

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The Debut of Civic Engagement 101

by Pamela B. Hubbs
Office and Foundation Administrator



Still from Civic Engagement 101 video

The MBF is proud to announce the release of Civic Engagement 101, the fifth in the MBF civic education video series.

City Club of Portland and the Bus Project.

Generously funded by MBA members through the Civic Education Fund, this short video was created in partnership with MetroEast Community Media and with the involvement of

The video's primary message is that informed, engaged citizens keep our democracy strong and thriving and when we work together, we can bring about significant, positive changes as close to home as our own neighborhoods and schools, or as sweeping as the civil rights movement of the sixties.

The video features youthful hosts and crisp graphics to appeal to the target audience of middle and high school students and the general population. Also featured is former MBF director



Jim Westwood as The Professor



Still from Civic Engagement 101 video

and Signature Project Committee Chair **Jim Westwood**, who reprises his video role of professor to share Alexis de Tocqueville's teachings on American society and the power of voluntary associations.

Earlier pieces include the award winning The Court System and The Courthouse, as

well as Voting 101 and a voting PSA. To view these online, visit themultnomahbar on YouTube or go to the Foundation section of the MBA website and scroll to Civic Education.

For more information, contact Pamela Hubbs at 503.222.3275 or pamela@mbabar.org.



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