



A New Courthouse is Coming

by Eric Dahlin
MBA Board Secretary and
Courthouse/Court Funding
Committee Chair

Forty-seven years ago, consultants for Multnomah County first recommended building a new downtown courthouse.

Now, after 28 studies and numerous false starts, a new downtown courthouse finally is being built, and will be open for operations in the spring of 2020. Following is an overview of where we started and where we are going with respect to the courthouse project.

Obsolete building

Most everyone who spends time in the downtown courthouse realizes it is inadequate. The courthouse was built more than 100 years ago - when the county's population was one third its current size and the demands on the courthouse were considerably less - and now it is structurally and functionally obsolete.

The building does not meet current seismic codes, which puts the hundreds of employees who work in the courthouse and the thousands of people who visit it every week as jurors, witnesses, litigants, and observers at risk in the event of an earthquake. There are significant security concerns for both the public and the court staff, given the courthouse's limitations on separating criminal defendants from judges and witnesses, and the limitations for efficient and safe transportation of prisoners to and from jails. The courthouse lacks basic infrastructure such as enough electrical outlets or an adequate phone system, let alone the technology needed to operate in today's technology-based society. Simply put, a new courthouse was needed yesterday. Fortunately, after so many years of waiting, a new courthouse will be here soon.

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needed yesterday.

A new courthouse does not just benefit lawyers and judges; it impacts the entire community. The courthouse is one of the few places the public is compelled to enter, whether serving on jury duty, being subpoenaed to testify at trial, or being a party in their own case. While every public building should be safe, it is particularly important that buildings the public is required by law to enter are safe.

To those who admire the history and architecture of the current courthouse and wonder why it is not being remodeled and upgraded: renovation was studied exhaustively, but ultimately rejected because the cost would have been prohibitive and the disruption to court operations too great. Moreover, given the limitations based on the existing footprint and shell of the building, the overarching safety and functional concerns could not have been resolved adequately. In short, the century-old courthouse could not be renovated to meet 21st century needs. No decisions have been made for what to do with the existing courthouse, which is on the National Register of Historic Places, once the new courthouse is complete; the county will start that process in 2016. The building could be used by the county or sold and renovated by a new owner.

Site selection

One of the most challenging decisions was selecting a site as there were few suitable central city sites offered by their owners for the new courthouse. The county looked at sites throughout the downtown area - including blocks owned by the city of Portland and the federal government - as well as the inner east side. The county ultimately selected, in April, the L-shaped lot at the west end of the Hawthorne Bridgehead, next to the Veritable Quandary restaurant (the courthouse will be built around the VQ and the adjacent Jefferson Station building).

This site was preferred by the county commissioners as well as the MBA Board of Directors because of, among other reasons, its location and proximity to public transportation and to the Justice Center. An added benefit is that the county already owns the land, which resulted in a multi-million dollar savings because the county did not have to purchase new property.

The courthouse is expected to be open for business in the spring of 2020.

The county commissioners chose a construction manager/general contractor project delivery method for construction of the courthouse. In July, the commissioners selected SRG Partnership for architecture and engineering services, and Hoffman Construction as the construction manager/general contractor. Both firms are based in Oregon and have extensive experience with new construction in downtown Portland. SRG is working closely with CGL-RicciGreene, a New York architecture firm that specializes in designing state and federal courthouses of similar size and complexity. There will be multiple open houses at various times in 2016 for the public to review the design and to make comment. The ceremonial groundbreaking is likely to occur in late 2016, with construction starting in 2017. The courthouse is expected to be open for business in the spring of 2020.

Timeline

The budget for the project is approximately \$250 million, with the county and the state each paying roughly half. In June, the county commissioners allocated \$28.1 million to fund the work being done in fiscal year 2016, and the legislature committed \$17.4 million for work done in the 2015-17 biennium, mainly design and engineering work. This is in addition to the \$15 million the legislature provided in 2013 and the \$3.27 million the county provided in 2014-15. The county will also contribute the \$10.4 million it receives from the sale of the Morrison Bridgehead site later this year. The legislature will be asked to contribute an addition \$93 million in the next biennium and the county will contribute the remaining amount to complete the project.

Funding

The budget for the project is approximately \$250 million, with the county and the state each paying roughly half. In June, the county commissioners allocated \$28.1 million to fund the work being done in fiscal year 2016, and the legislature committed \$17.4 million for work done in the 2015-17 biennium, mainly design and engineering work. This is in addition to the \$15 million the legislature provided in 2013 and the \$3.27 million the county provided in 2014-15. The county will also contribute the \$10.4 million it receives from the sale of the Morrison Bridgehead site later this year. The legislature will be asked to contribute an addition \$93 million in the next biennium and the county will contribute the remaining amount to complete the project.

Thank you!

The MBA thanks the Multnomah County Commissioners and the Oregon State Legislature for their leadership and commitment to seeing this important work through the finish line. Many elected officials in the past have attempted to tackle this thorny project, but despite their best efforts were unable to get the job done. The current Commissioners and Legislature have broken the gridlock and have achieved concrete, impressive results.

The MBA would like to give special thanks to Multnomah County Chair Deborah Kafoury and Commissioner Judy Shiprack along with Senate President Peter Courtney, House Speaker Tina Kotek, Senator Richard Devlin, and Representative Jennifer Williamson, all of whom have been staunch supporters of the project. In addition, the MBA thanks Multnomah County Circuit Court Presiding Judge Nan Waller who has been a tireless advocate for the court and the courthouse project.

For additional information about the courthouse, please visit www.multco.us/central-courthouse.

mba|CLE

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DECEMBER

12.2 Wednesday Environmental Transactions 101

Cheyenne Chapman
Hong Huynh
Patrick Rowe

12.9 Wednesday How to Effectively Present and Defend PIP and UM/UIM Claims

John Bachofner
Michael Smith

12.16 Wednesday Lawyers in Transition: How to Avoid the Ethical and Practical Pitfalls of Legal Recruiting

Dayna Underhill
Will Case

JANUARY

1.20 Wednesday Criminal Practice in Multnomah County

Judge Ed Jones
Lane Borg

1.21 Thursday What Family-Law Trial Lawyers Should Know About the Appellate Process

Judge Rebecca Duncan
Laura Graser

1.28 Thursday Direct Negotiation Strategies and Techniques

Lori Deveny
Chris Kent
Jenna Mooney

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SAVE THE DATE!

MBA 14th Annual WinterSmash

A Family Friendly Bowling Event

Saturday, February 6
5-8 p.m.

AMF Pro 300 Lanes
3031 SE Powell Blvd

NEW
LOCATION!

A Multnomah CourtCare
Fundraiser



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Who You Help When You Give to the MBF

by Tyler Anderson
MBF Board



In last month's edition of the *Multnomah Lawyer*, Multnomah Bar Foundation (MBF) President Bonnie Richardson asked that most essential of questions, "why?" Why do you, or should you, give to the MBF? One of the most compelling reasons for the continued generosity of members of our bar to the MBF is the high caliber of the organizations that receive MBF grants, and the incredible work through which they put that money to use. One of the grant recipients mentioned in last month's article that I have the pleasure to discuss in more detail this space is Oregon Tradeswomen, Inc. (OTI).

OTI is a nonprofit dedicated to promoting success for women in the trades through education, leadership, and mentorship. Founded in 1989 by an operating engineer, an elevator contractor, and two carpenters, OTI is now composed of nearly 400 members representing a variety of specialties within the building, mechanical, electrical, and utility trades.

OTI offers a number of resources and opportunities for engagement for its members. One of these is the T.O.O.L.S. (Tradeswomen Organized for Outreach Leadership and Support) Program, which is focused on civic education and engagement for women in the trades. When OTI submitted its grant application to the MBF, the synergy between the T.O.O.L.S. Program and the MBF mission to partner with organizations on projects that help increase the public's understanding of the legal system, foster respect for the rule of law, and promote civic education and participation was abundantly clear. While the process of determining which organizations out of the many deserving applicants is always difficult work for the MBF Grants Committee, the ultimate decision to select OTI as one of this year's grant recipients was made with great enthusiasm.

A real privilege that has accompanied serving on the MBF Board is the opportunity to become more familiar with the work and impact partner organizations engage in. In the case of OTI, I had such an opportunity in early June of this year when I attended some of the programming for Construction Equity Day at the state capital in Salem. This was a full day of programming where members had an opportunity to learn more about the role of government and law in Oregon as it relates to their professions. Some of the

speakers included the director of training and apprenticeship from the Bureau of Labor and Industries, and various legislators who were able to provide context on the lawmaking process and the work of various committees, including the House Committee on Higher Education, Innovation and Workforce.

On a macro level, the breadth and depth of the programming OTI provides to its members like Construction Equity Day and the T.O.O.L.S. Program was striking. However, it was when looking at the micro level of what OTI is and does where I saw the real importance of the MBF mission and partnership. In the room at the capital, I saw the faces of people who are truly pioneers and making "firsts" happen. They may be the first in their family to own a business, complete a higher education program, or enter into a trade. In being first, there are often a number of unknown elements that, while not insurmountable by any stretch, can be difficult to address if it is not something an individual or business is ready to tackle in a strategic manner.

Equipping OTI's members with the tools necessary for successfully navigating these challenges is part of the value proposition the MBF grant provides. While the legal and regulatory system can be daunting at first glance, programs like T.O.O.L.S. enable participants to understand their



Multnomah Bar Foundation

rights as a business owner or employee, their role as active citizens in pursuing change when appropriate (be it through serving on an advisory committee, lobbying work, or the initiative process), and being able to identify those matters where they need the expertise of good legal counsel. OTI is an organization that helps its members achieve generational changes in their own lives and those around them, and the partnership with MBF is an essential component in accomplishing this objective.

Diving deeply into the mission and makeup of OTI gave me both clarity and conviction in answering "who" we help when we give to the MBF. It could be a friend, a neighbor, or someone who just needs a little push in the right direction. In learning who we help, it also provides insight into why we help. This bar is fortunate to have incredible resources at its disposal, both in terms of the knowledge of its membership and the financial resources we can bring to the table when engaging a cause. Providing a person with the tools necessary to achieve their goals is an endeavor that is unquestionably worthy, and for that reason I am proud to see the MBF's partnership with OTI.

Calendar

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

DECEMBER

8 Tuesday

Queen's Bench Holiday Lunch
www.owlsqueensbench.org

9 Wednesday

YLS Drop-in Social and Toy Drive
www.mbabar.org

10 Thursday

January 2016 Multnomah Lawyer deadline

OSB Awards Luncheon
www.osbar.org

25 Friday

Christmas Holiday

JANUARY

1 Friday

New Year Holiday

8 Friday

February Multnomah Lawyer deadline

18 Monday

Martin Luther King Jr. Holiday

22 Friday

MBF Letters of Inquiry due
www.mbabar.org

2016 Pro Bono Award nominations due
www.mbabar.org

FEBRUARY

6 Saturday

WinterSmash
See p. 1

Bench Bar & Bagels

In the early morning of November 12, members of the MBA and judiciary gathered at Tonkon Torp LLP for this year's "Bench Bar & Bagels" event. In the relaxed atmosphere, attorneys and judges started their day catching up with colleagues and making new acquaintances over pastries and coffee; the seventh year for this fun event.

Bench Bar & Bagels was generously sponsored by Tonkon Torp.



Kirk Roberts, Presiding Judge Nan Waller, Bridget Donegan, Michael Rose and Caroline Harris Crowne



Gloria Trainor, Judge Beth Allen and Jim McVittie



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.

Environmental Transactions 101

Wednesday, December 2, 2015
3:00-5:00 p.m.

World Trade Center
Mezzanine Room
26 SW Salmon, Portland

Members \$55
Non-members \$85

Selling and buying real properties and other business assets with potential environmental problems can present some significant liability issues. As with any challenge, being knowledgeable and having the right information will help parties through the transaction. This CLE will focus on identifying key liability issues and methods to mitigate potential liability that may arise in a business transaction from both the seller's and buyer's perspectives. Please join **Hong Huynh** of Miller Nash Graham & Dunn, **Patrick Rowe** of Sussman Shank, and **Cheyenne Chapman** of the Oregon Department Environmental Quality for a thoughtful discussion, including:

- Liability concerns
- Defenses and mitigation tools
- Seller vs. buyer contracting perspectives
 - As-is
 - Representations and warranties
 - Indemnification
 - Insurance
- Prospective Purchaser Agreement

For more information:

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

How to Effectively Present and Defend PIP and UM/UIM Claims

Wednesday, December 9, 2015
3:00-5:00 p.m.

World Trade Center
Mezzanine Room
26 SW Salmon, Portland

Members \$55
Non-members \$85

This seminar is designed to assist the practitioner in assessing claims relating to Personal Injury Protection (PIP) benefits and Uninsured Motorist/Underinsured Motorist (UM/UIM) coverage. The presenters, **John Bachofner** of Jordan Ramis PC and **Michael Smith** of Gatti, Gatti, Maier, Sayer, Thayer, Smith & Associates will address presenting, pleading, proving and defending such claims.

The presenters will guide you through the process and address these types of claims from both the plaintiff and defense perspectives. The presenters will also address the effect of various ORS provisions relating to both PIP and UM/UIM coverage and claims, including minimum coverage, time limitations, order of benefits, application of coverage and proof of loss. The speakers will also address changes to Oregon's PIP and UIM statutes that take effect in 2016.

If you handle motor vehicle cases, regardless of your level of experience, do not miss this seminar.

For more information:

Call Alex Williamson, Prange Law Group LLC at 503.595.8199. For registration questions, call the MBA at 503.222.3275.

Lawyers in Transition: How to Avoid the Ethical and Practical Pitfalls of Legal Recruiting

Wednesday, December 16, 2015
3:00-5:00 p.m.

World Trade Center
Plaza Room
26 SW Salmon, Portland

Members \$55
Non-members \$85

Note: This class is worth 2 hours of ethics credit.

Lawyers moving from one job to another can create a host of potential problems for themselves and their employers. This two-hour program will address the most common ethical issues that arise from attorney recruiting and lateral hiring, as well as practical tips for law firms and their prospective employees about how to avoid problems in recruiting, hiring, and firing attorneys. If you are considering merging practices, hiring or firing an attorney, or moving to a new job, this seminar will be invaluable. **Dayna Underhill**, partner at Holland & Knight, LLP and **Will Case**, Recruitment Manager at Schwabe, Williamson & Wyatt will address a variety of topics such as:

- How to identify and avoid conflicts of interest when hiring a new lawyer or merging practices;
- How to communicate with clients and other attorneys about lateral hiring and terminations
- What level of due diligence an employer should conduct when hiring new lawyers and laterals.

For more information:

Call Alex Williamson, Prange Law Group LLC at 503.595.8199. For registration questions, call the MBA at 503.222.3275.

Criminal Practice in Multnomah County

Wednesday, January 20, 2016
3:00-5:00 p.m.

World Trade Center
Mezzanine Room
26 SW Salmon, Portland

Members \$60
Non-members \$95

Criminal cases in Multnomah County involve an intricate set of dockets, tracks, programs and agencies. Join Multnomah County **Chief Criminal Judge Ed Jones**, Lane Borg of Metropolitan Public Defender Inc., and representatives of county agencies to learn how to navigate through this system and optimize your service to your clients.

For more information:

Call Kevin Sali, Kevin Sali LLC at 503.329.3598. For registration questions, call the MBA at 503.222.3275.

What Family Law Trial Lawyers Should Know about the Appellate Process

Thursday, January 21, 2016
3:00-5:00 p.m.

World Trade Center
Mezzanine Room
26 SW Salmon, Portland

Members \$60
Non-members \$95

Most family law cases stay at the trial court level, but not all do. Appellate issues can come up unpredictably. Whether your client might benefit from an appeal, or might benefit from avoiding an appeal, what happens in the trial court has a critical effect on the appellate lawyer's ability to either reverse a bad ruling against your client, or hold on to the client's win. Even attorneys who may never set foot in an appellate court need to have a practical knowledge of the appellate process, such as how to identify an issue that might interest the appellate court, how to structure the record to preserve it for appellate review, and how to coax useful findings of fact from the trial judge to encourage (or discourage) an appeal.

Join **Judge Rebecca Duncan** of the Oregon Court of Appeals and family & appellate lawyer **Laura Graser** as they discuss issues, such as:

- Using recent appellate cases, and the appellate standard of review, to frame your trial court arguments;
- Strategies and practice tips for optimizing the record in the trial court;
- Considering whether and when to bring an appeal, or a cross-appeal;
- Filing (and e-filing) - and serving - notices of appeal;
- The obligations of trial attorneys and trial courts to ensure that trial exhibits are available for appeal;
- What the trial judge rule on while an appeal is pending, and what judgment enforcement actions are permissible (or prohibited) while an appeal is pending;
- The types of issues that are most likely to result in successful appeals.

For more information:

Call Kevin Sali, Kevin Sali LLC at 503.329.3598. For registration questions, call the MBA at 503.222.3275.

To register for these classes, see page 4.

Direct Negotiation Strategies and Techniques

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

World Trade Center
Mezzanine Room
26 SW Salmon, Portland

Members \$60
Non-members \$95

Reaching a great settlement through direct negotiation can help clients avoid the costs and time of mediation but can be especially challenging for litigators. The experienced panelists at this CLE, **Lori E. Deveny**, Attorney at Law; **Chris Kent**, Kent & Johnson, LLP; **Jenna L. Mooney**, Davis Wright Tremaine LLP, will provide practical advice for successfully advocating for clients in direct negotiations.

For more information:

Call Bridget Donegan, Larkins Vacura LLP at 503.542.3107. For registration questions, call the MBA at 503.222.3275.

THE CLOCK IS TICKING...



Renew your MBA membership by December 31 to receive a FREE \$50 credit toward MBA CLE programming. Attend a CLE in person, watch a video webcast online or listen to a seminar on your computer or smartphone.

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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.

12/2 Environmental Transactions 101

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12/9 How to Effectively Present and Defend PIP and UM/UIM Claims

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1/20 Criminal Practice in Multnomah County

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1/21 What Family Law Trial Lawyers Should Know About the Appellate Process

- Class Registration (\$60 Members/\$95 Non)\$ _____
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1/28 Direct Negotiation Strategies and Techniques

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Total due\$ _____

Registration forms with payment must be received in the MBA office by 3 p.m. the day before the seminar. Registration forms may be mailed or faxed to the address or number below. Accommodations available for persons with disabilities; please call in advance for arrangements.

Photocopy registration and mail or fax with payment to:

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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.




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The video webcast of the seminar entitled "Commercial Leasing – Landlord and Tenant Perspectives" is now available in the Members Center at www.mbabar.org. The webcast is worth two hours of general OSB MCLE credit.

MBA members receive access to a rotating selection of six different CLE seminars each year - a \$300 value.

Statement of Diversity Principles Available to Sign

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

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.

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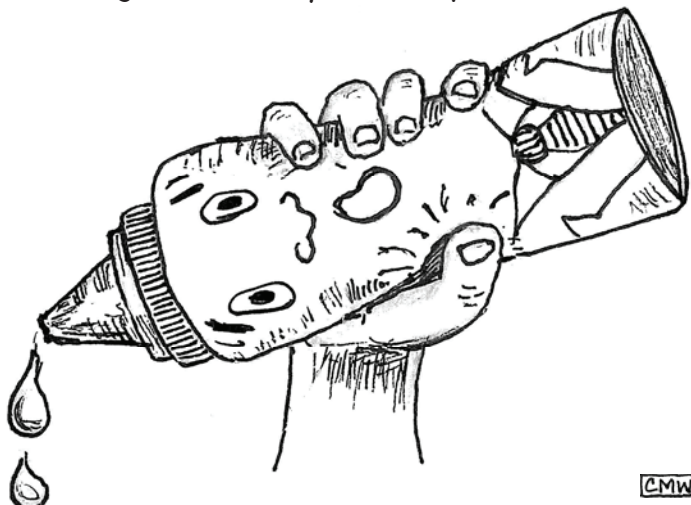
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Ethics Focus

“Retainer” A Word in Need of Retiring

by Mark J. Fucile
Fucile & Reising



Lawyers have long and loosely used the word “retainer” when describing a wide range of financial arrangements with their clients. *Black’s Law Dictionary*, however, defines a “retainer” narrowly as “[a] fee that a client pays to a lawyer simply to be available when the client needs legal help during a specified period or on a specified matter.” Whatever most lawyers think of when they use the word “retainer,” it is probably *not* the very rare instance described in *Black’s*. To add a further wrinkle to this semantic confusion, “retainer” nowhere appears in the Oregon Rules of Professional

...an advance fee deposit is a sum that a client pays in advance....

Conduct. What lawyers usually mean when they say “retainer” is either an advance fee deposit or a prepaid fixed fee. They are distinctly different concepts and neither resembles *Black’s* definition of a “retainer.” In this column, we’ll look at both.

Advance Fee Deposits

Advance fee deposits are used in a wide variety of practices. They can be coupled with hourly fees, fixed fees (that are paid in arrears) and even the cost-component of contingent fee agreements (when the client has agreed to remain responsible for costs advanced). They are most often collected at the outset of a representation, but - with appropriate terms in a fee agreement - can also be reserved generally or to specific mileposts in a representation such as a set number of days before trial. Advance fee deposits can be a single fund that the lawyer draws on for payment or “replenishable” periodically as fees are billed so that the deposit becomes the equivalent of “last month’s rent.”

As the phrase implies, an advance fee deposit is a sum that a client pays in advance that will then be billed against as work on the matter progresses. Because an advance fee deposit

is not the lawyer’s money until it has been earned or the costs involved incurred, advance fee deposits must be placed into trust under RPC 1.15-1(a) and (c). Under those same rules, funds on deposit may only be transferred to the lawyer’s business account as fees have been earned or costs advanced. OSB Formal Opinions 2005-117, 145, 149 and 172 (among others) discuss the mechanics of advance fee deposits and related trust accounting in detail. They are all available at www.osbar.org.

Prepaid Fixed Fees

Fixed fees are common in many practice areas where the nature of the service is predictable, such as a fixed amount for a simple will. As noted earlier, some fixed fees are paid in arrears - in other words, the fixed fee is charged after the agreed work has been performed. In other instances, however, lawyers may

Fixed fees are common in many practice areas where the nature of the service is predictable....

charge fixed fees that are paid in advance and considered “earned on receipt.” Criminal defense is a frequent example.

Although the Oregon Supreme Court had developed case law holding that fees denominated as “earned on receipt” could only be used when agreed in writing with the client and were refundable (at least in part) if the services were not performed, the Board of Governors, in sponsoring an amendment to the RPCs in 2010, noted that “the foregoing principles are elusive to many practitioners.” The House of Delegates concurred and the Supreme Court adopted the standards as RPC 1.5(c)(3):

“(3) a fee denominated as ‘earned on receipt,’ ‘nonrefundable’ or in similar terms [is prohibited]

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.”

RPC 1.15-1(c) was amended in the same package to mirror the trust account component in RPC 1.5(c)(3)(i).

OSB Formal Opinion 2005-151, which was amended in 2011 to incorporate RPC 1.5(c)(3), discusses fixed fees generally and

...the client may discharge the lawyer at any time and in that event may be entitled to a refund....

their “earned on receipt” variant in detail. Reflecting the new rule, Opinion 2005-151 emphasizes that such treatment must be explained in writing to the client at the outset of a representation. Further, because the fee is considered “earned on receipt,” it must be deposited into the lawyer’s business account rather than the client trust account.

The Oregon Supreme Court in *In re Obert*, 352 Or 231, 282 P3d 825 (2012), relied on both its own long-standing case law and RPC 1.5(c)(3) in disciplining a lawyer who, after collecting a prepaid fixed fee, did not refund it when the matter resolved essentially without the lawyer’s involvement. The Supreme Court reasoned that when the services contemplated under a prepaid fixed fee are not performed, the fee becomes “clearly excessive” under RPC 1.5(a) because the prohibition in that rule specifically extends to the *collection* of an excessive fee. The Supreme Court also disciplined the lawyer for not having a written fee agreement with the client that spelled-out the prepaid fee.



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Around the Bar



Kenneth Stephens



Rocky Dallum



Justin Denton



Tyler Harkness

Tonkon Torp

Founding partner **Kenneth Stephens** was selected to receive the James B. Castles Leadership Award for 2015 from the OSB Business Law Section. The annual award was established in 1998 and recognizes outstanding business lawyers who have made significant contributions to the public. Stephens is the second founding partner to receive the award. In 2000, it was awarded to the late Brian Booth.

Stephens, who retired in 2014, is a founding partner of the firm. For over four decades, his practice focused on corporate financings and the secondary securities markets. Engagements in his final years of practice included mergers and acquisitions, corporate governance projects and investigations, shareholder disputes and take-over contests, as well as the formation of domestic and international joint ventures and consulting in securities litigation. In the 1970s, Stephens served as assistant counsel to the U.S. Senate Committee on Banking, Housing and Urban Affairs in connection with its Securities Industry Study.

Throughout his career, Stephens consistently provided leadership and committee service to his law firm, the legal profession and his community. In 2012, Stephens traveled to Riga, Latvia where he volunteered his time to teach an international business law course at the University of Latvia. He frequently served

on the firm's managing board, including several terms as chairman. Between 2003 and 2014, Stephens provided close to 1,000 pro bono hours to a diverse range of clients. He is currently a board member for Portland Piano International.

Firm partner **Justin Denton** is chair-elect of the OSB Business Law Section. Denton practices general business and corporate law. Much of his practice focuses on counseling family-owned and other closely held businesses. He chairs the firm's closely held business practice group and is a member of the firm's mergers & acquisitions group.

Tyler Harkness has joined the business department, where he will be working with a variety of practice groups, including corporate finance, mergers and acquisitions, taxation and corporate governance.

Attorney **Rocky Dallum** has joined the board of directors of the Oregon Student Foundation, which provides support to the student-led Oregon Student Association.

Dallum is a member of the firm's government relations & public policy practice group, which delivers bipartisan local, state and national lobbying services to organizations in Oregon and beyond. He brings a combination of business law and Oregon political experience to his practice that is valued by the firm's diverse clients.



Nadia Dahab

Stoll Berne

Nadia Dahab is a new associate attorney with the firm's litigation group. Her practice focuses on complex business litigation and class action disputes, and includes issues of consumer protection, securities fraud, and intellectual property.



Stephen Deatherage



Anna Joyce



Seamus Molloy

Markowitz Herbold

Stephen Deatherage and **Anna Joyce** have joined the firm as of counsel, and **Seamus Molloy** has joined the firm as a law clerk. Deatherage joins the firm after practicing business litigation at a large regional firm for more than 15 years. He is an experienced trial lawyer whose practice focuses on researching, briefing, and arguing complex motions in federal and state trial courts, as well as representing clients before federal and state appellate courts. He has extensive law and motion practice experience, and is adept at formulating legal briefing strategies that frame the legal issues before the trial court, maximize the possibility of a favorable outcome on those issues, and preserve them for possible appellate review. Joyce is an attorney with 14 years of experience practicing law.

Prior to joining the firm, Joyce worked at the Oregon Department of Justice (DOJ), Appellate Division, finally serving as the solicitor general.

Molloy recently joined Markowitz Herbold from the U.S. District Court for the Western District of Washington where he served as a law clerk to the Honorable Ronald B. Leighton. He is licensed to practice in Montana and will be sitting for the Oregon State Bar exam in February 2016.



Kathryn Smith Root

Gevurtz Menashe

Kathryn Smith Root was awarded the Department of Homeland Security United States Coast Guard Public Service Commendation In October, during the ABA Family Law Section Fall Conference, held in Portland. This commendation was awarded in recognition of "notable services that have assisted greatly in furthering aims and functions of the Coast Guard." Root is a dedicated leader who has devoted her professional career to assisting others. Her 30 years of managing various charitable and professional pursuits, pro bono counseling, and work as a family law attorney made her a worthy recipient of this honor. This award recognizes her sustained contributions of service and exceptional efforts with the U.S. Coast Guard's Thirteenth District's Legal Assistance program from 2001 to 2015.

As a firm shareholder, Root focuses her family law practice on divorce and post-divorce cases involving complex property and financial issues, interstate and international child custody disputes, Hague child abduction matters, and relocation. She is a leading authority on interstate and international custody in the US, having handled more than 100 contested interstate custody cases. She also litigated the first petition filed in the U.S. District Court for Oregon under the Hague Convention in 1997, and she is highly knowledgeable about international divorce and child custody disputes.



Ian Christy

Miller Nash Graham & Dunn

Ian Christy has joined the firm's business litigation practice team. Christy's background includes broad-based litigation with experience in representing U.S. and international clients. His practice will focus on general commercial litigation, insurance litigation, employment disputes and copyright litigation.

Hart Wagner

Brandon Kammer, Sean Hughey and Lindsay Howk Duncan have joined the firm as associates.

Kammer is a litigator on the firm's professional liability, medical malpractice and health law teams. He primarily



Brandon Kammer



Sean Hughey



Lindsay Howk Duncan

represents medical practitioners and healthcare facilities, devoting much of his practice to defending physicians against frivolous lawsuits.

Hughey's practice emphasizes medical malpractice defense, personal and premises liability, product liability, and employment defense.

Duncan's practice focuses on legal malpractice defense, medical malpractice defense, health law and appellate law. In addition to defending lawyers in malpractice lawsuits, Duncan represents long-term care facilities, often defending the nurses and caregivers in their employ.

Continued on page 9

Around the Bar

Continued from page 8



Catherine Barker

Barker Family Law

Catherine Barker announces the formation of Barker Family Law LLC, specializing in divorce, parenting time and all other aspects of family law.



Lori Sills

Cosgrave Vergeer Kester

Lori Sills has joined the firm as an associate in the business practice group. Her practice specialties include estate planning, probate and trust administration, taxation and business transactions.

Anthony Dal Ponte

Pacific Seafood Group, a family-owned seafood processing and distribution company headquartered in Clackamas,



Tony Dal Ponte

recently hired attorney **Tony Dal Ponte** as deputy general counsel to join its department of legal and strategic affairs.

Christopher K. Robinson

Property tax attorney **Christopher Robinson** announces the addition of two associate attorneys to his well-established practice, building a collaborative and sustainable team for the future of the firm. Joining Robinson are his son, newly minted attorney **Alex Robinson**, and seasoned civil litigator **Sam Zeigler**, who brings substantial property-tax experience to the table.

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



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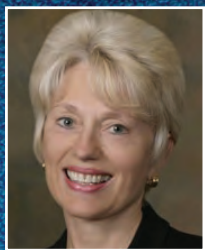
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Tips From the Bench

Mediation and Other Dispute Resolution Methods in Family Court

by Judge Maureen McKnight
Multnomah County Circuit Court



A recent MBA CLE prompted a question about mediation in family law cases. That query and recent revisions to our Supplementary Local Rules (SLRs) on this topic prompt what I hope is a helpful primer on mediation and other dispute resolution methods in our Family Court.

Mediation The general rule is that participation in mediation is mandatory before any court hearing occurs to establish or modify custody or parenting time. Unless that requirement is waived due to domestic violence, the existence of a no-contact or protection order, or other compelling cause, a custody/parenting-time matter on the trial assignment docket will not be assigned out unless mediation has occurred. Case-type exceptions to the general mandate are set out in SLR: mediation is not required for protection order cases (in fact, statutes forbid it); hearings to *enforce* custody or parenting time (contempt, expedited relief under ORS 107.434, or orders of assistance under ORS 107.437); matters to determine the status quo, pre- or post-judgment (ORS 107.097 or 107.138); or immediate danger orders (ORS 107.097 or 107.139). On retained cases and other individual matters coming to the attention of a judicial officer, a judge may exercise discretion to order mediation in that particular case even if the matter is not covered by the SLR mandate.

Mediation may be done by the county's Family Court Services office in Room 350 of the courthouse or privately. If done privately, the parties must ensure in 2016 that a *Certificate of Required Dispute Resolution* is filed, detailing completion of this step. (See the new SLRs for this form.) The Family Court Services office files its own certificate in mediation matters it handles. We do check for the filing of the certificate at the time of trial assignment. If mediation was done at the time of the original judgment, it must nevertheless be done again for any modification proceeding before a hearing will occur.

Participation in mediation means that the parties appeared for the process (usually in person but sometimes by phone or otherwise) and participated in good faith. An agreement is not required. What is said in mediation is confidential by statute: ORS 107.785 and 36.220.

Other Methods Some method of dispute resolution is also required for spousal support

and property/debt division cases. The 2016 SLRs clarify and expand on terms first set out in the 2015 rule. A choice of methods is available. The parties may mediate privately, as Family Court Services does not provide this service outside of custody and parenting time issues. For private mediation, the new SLRs anticipate the possibility of the court determining the allocation of fees in appropriate cases. The court also maintains a list on its local website of private mediators meeting qualifications set by order of the chief justice and who handle financial mediation, and more. But settlement conferences are also a possibility, either a judicial settlement conference (which has a statutory \$100 per person fee under ORS 21.215, deferrable on court order) or a neutral-assisted settlement conference, facilitated by a third party, perhaps an attorney. Arbitration is also an option. Whatever the method, compliance must be documented in the *Certificate of Required Dispute Resolution* that is required by the 2016 rule. As with mediation of custody and parenting time, participation in a dispute resolution process for spousal support and property issues may be waived because of domestic violence or other similar grounds described above. And in 2016 we will be checking for this certificate for cases on the trial assignment docket. Unlike in child custody and parenting time matters, compelling cause could justify allowing a spousal support or property case to proceed to hearing despite non-compliance with this rule. But attorneys are well-warned to address the non-compliance before the Trial Assignment appearance rather than relying on this last-minute argument to the court. We are aware of the limited settlement options, particularly for the low-income, and are working actively to increase that capacity.

Certificate of Compliance The certificate required in 2016 must be filed at least seven days prior to the date of trial assignment, if the case is not retained, or seven days before the date set for hearing or trial on a retained-judge matter. Again, attorneys will want to familiarize themselves with the template set out in the 2016 SLR forms.

Probate For practitioners handling probate proceedings, be sure to be familiar with the mediation requirements set out in SLR 12.045.



News from the Courthouse

by Steven Powers
Court Liaison Committee

Presiding Court Update

Presiding Judge Waller and Trial Court Administrator Barbara Marcille reported that the courthouse continues to run smoothly.

New Courthouse: The design team is validating the "program plan" for the new courthouse, which currently includes 40 courtrooms and 50 chambers in the new structure. As reported earlier, the current program plan moves the four high-volume courtrooms (small claims, landlord tenant, and two traffic/parking courtrooms) as well as the District Attorney's Office to a location outside of the new structure given current space and monetary limitations. One of the next major steps for the new courthouse will come up during the 2017 legislative session, when authorization for \$93 million in Article XI-Q bonds will be needed.

Streamlined Civil Jury Pilot: With the withdrawal of the proposed SLRs for the streamlined civil jury pilot program, the committee is reevaluating the pilot program with the participation of OTLA and OADC, and will be looking for more widespread bar support. Stay tuned.

Workload Study: The court is participating in a statewide workload study, which will provide valuable information about staff and judicial needs prior to the 2017 legislative session.

eCourt Changes and Updates: Please do not put a title or name under the signature line in proposed orders or judgments. System functionality has changed. When an order or judgment is signed by a judge, the printed name of the judge also appears. Another change is that electronic notice is now sent when orders are signed. The

court advised that if a proposed order has not been entered as unsigned, attorneys should look at unsigned document in OJCIN for a note about why the document could not be signed. Additionally, the upcoming UTCR 5.100 change requiring a certificate of readiness will help the court to process orders more efficiently. The proposed UTCR is posted on the court's website, and will go into effect in January.

Judicial Officers: Newly appointed Family Law Judge Patrick Henry and newly hired Referee Monica Herranz have started in their new positions, and hit the ground running. The court is in the middle of the recruitment process for another new referee. The court made considerable efforts to notify specialty bars and get the word out to increase the pool of applicants, and welcomes feedback on how to attract a pool of candidates that is reflective of the community.

Procedural Justice: The court is continuing efforts to assess and improve the integrity of our justice system in Multnomah County and to incorporate the principles of procedural justice. These concepts are important considerations in planning for the new courthouse.

Employee Awards: TCA Marcille initiated a quarterly award program for courthouse employees who go above and beyond the call of duty. With all the stress of implementing eCourt and absorbing staff cuts, the awards program is one small way to recognize employees who help fulfill the mission of the court and ensure procedural justice. There is also an opportunity for "spot" awards, so if someone is extraordinarily helpful or worthy of special recognition for a job well done, just ask to talk to a supervisor so you can nominate someone for an award by filling out a card.

Update on Washington County Circuit Court

Danielle Hunsaker

Danielle Hunsaker provided an update on the Washington County Circuit Court. One of the top priorities in Oregon's 20th judicial district is to add a new judicial position. Currently there are 14 authorized circuit court positions compared to 38 authorized positions for Multnomah County Circuit Court. Washington County has the highest judge-to-population ratios and would still have the highest ratio even with a new judicial position. The last new position was created in 2003, and the county population has added ~80,000 residents since then. Although the chief justice's proposed budget for the 2015-17 biennium added the position, as well as one for Multnomah County, no new positions were funded by the legislative assembly. Although the attempt failed, Washington County has since added a new courtroom in anticipation of a new position and will try again in the 2017 legislative session.

Hunsaker also noted that the Washington County Circuit Court is continuing its re-engineering process. Aided by an assessment by the National Center for State Courts, the assessment is a top-to-bottom project that ranges from court management and leadership issues to case management and what the court can do differently to meet the changing needs of the public. In this ongoing re-engineering process, the Washington County Civil Bench/Bar Committee is working to identify changes that could be made to improve the civil litigation process and case management. The committee would appreciate hearing any feedback or suggestions that the bar has on these issues. To contact the committee, please email wccbbc@gmail.com.

The Honorable Stacie Beckerman U.S. Magistrate Judge District of Oregon

No one who knows Stacie Beckerman and her strong track record of hard work, public service, and willingness to try a different approach to achieve better results was surprised at her selection to be our newest federal magistrate judge. Beckerman was sworn in as a United States Magistrate Judge for the District of Oregon in January. A 13-person committee selected Beckerman, a former assistant United States attorney, for the position after a nine-month review process. At her investiture in June, Chief Judge Ann Aiken noted that Beckerman is the first new female judge in the District of Oregon in the 21st century. Beckerman, now 43, is also the youngest member of the federal bench in Oregon.

Stacie Beckerman was born and raised in Cedar Rapids, Iowa. She earned a degree in political science with highest distinction from the University of Iowa. After college, she was inspired to attend law school by her father, a general practice lawyer who took on many low- and no-paying clients in their community. Beckerman graduated cum laude from Harvard Law School in 1998 and began her legal career practicing at Verner, Liipfert, Bernhard, McPherson & Hand in Washington, D.C., where she served clients on Capitol Hill. Beckerman returned to Boston to join Skadden, Arps, Meagher, & Flom LLP in 1999 as a litigation associate. She subsequently worked for Skadden Arps in Palo Alto until 2006, where she focused her practice on securities class actions, shareholder derivative actions, and insurance defense. While at Skadden Arps, Beckerman balanced her corporate litigation practice with pro bono work she handled after hours, litigating a voting rights case in Louisiana and trying a civil rights case on behalf of a California prison inmate. Beckerman was recognized with multiple awards for her pro bono work.

Beckerman and her husband, Dr. James Beckerman, moved to Oregon in 2006 after the birth of their first child. Beckerman began her legal career in Oregon working in the Appellate Division of the Oregon Department of Justice, where she handled appeals on a variety of criminal and civil matters. She began working as an Assistant United States Attorney (AUSA) for the District of Oregon in 2008, prosecuting white collar and violent crimes. She spent the majority of her years in the U.S. Attorney's Office focusing on the prosecution of child pornography and sex-trafficking offenses. Also while an AUSA, Beckerman found the time to teach an environmental prosecution seminar and a clinical internship as an adjunct professor at Lewis & Clark Law School.



The Hon. Stacie Beckerman

In addition to raising two sons and excelling at a demanding legal career, Beckerman has also managed to find the time to do significant volunteer work. Beckerman has served on the Board of Directors for the Sexual Assault Resource Center, the Board of Directors for the Queen's Bench, in the OSB House of Delegates, and volunteered for the Classroom Law Project. Beckerman was secretary of the Queen's Bench when she was appointed to the bench. Given the demands of her new job, she briefly considered resigning, but instead agreed to serve as president in 2016 because she felt that the Queen's Bench monthly lunch series had helped her personally connect with lawyers outside of her office and learn about issues facing the community. Instead of continuing the sit-down lunch series at the Sentinel Hotel, Beckerman, with characteristic industriousness, has revamped the 2016 lunch series to reduce the cost of the lunch and better connect interested lawyers and law students not just with one another, but also with direct volunteering opportunities in the community. The 2016 lunch attendees will pay approximately half the cost of the 2015 lunch, will have a chance to tour the Multnomah County Detention Center, will receive an hour of training to learn how to meet the legal needs of domestic violence survivors, and will also learn how to help homeless youth and many other often-marginalized groups in the Portland area.

At her investiture in June, Beckerman looked out on a packed audience that included not just her family and colleagues - but many children. She told everyone that she wanted to invite children to her investiture so that they could see it is possible to achieve their dreams with hard work. She told her young guests that she had a dream of becoming a judge and worked to make it come true. Beckerman told them that before they raced out to achieve their dreams, they should first get their parents to take them to the reception and load up on some root beer.

Portland Hosts ABA President for Inaugural Visit

by Traci Ray
Barran Liebman

On October 26, Portland played host to American Bar Association (ABA) President, Paulette Brown. President Brown's visit marked the first time an ABA President has visited our state while in office. Brown, the ABA's first female president of color, has been recognized by the *National Law Journal* as one of "The 50 Most Influential Minority Lawyers in America" and by the *New Jersey Law Journal* as one of the most "Prominent women and minority attorneys in the State of New Jersey."

The day was packed with events that highlighted our state and profession. The morning began with a breakfast with local bar leaders, managing partners, diversity bar members, and representatives from the visit sponsors, including the MBA, OSB and Oregon Women Lawyers. Ed Harnden, Barran Liebman's managing partner, was the emcee of the breakfast, and all attendees welcomed President Brown and shared with her their local affiliations with our bar associations and described what



Boys & Girls Club Welcome Banner

sets the Oregon bar apart. The discussion centered around the themes of professionalism, our statewide support of Oregon's Campaign for Equal Justice, our unparalleled passion for pro bono services, and our ongoing meaningful efforts to promote diversity within our profession. MBA President Bob Steringer, managing partner of Harrang Long Gary Rudnick, stated that "Gathering our state and local bar leaders together with President Brown provides a wonderful opportunity to discuss the important goals we share, especially the promotion of diversity and inclusion in our profession and the expansion of access to justice for those with limited means."

After the breakfast, President Brown accompanied Janice Morgan, Executive Director of Legal Aid Services of Oregon (LASO), to the Urban League Multicultural Senior Center for a pro bono event that was led by MBA Board director Maya Crawford, the Statewide Pro Bono Manager for LASO. "It was a wonderful experience to have ABA President Brown in Portland to kick-off National Celebrate Pro Bono Week. We appreciate her dedication to access to justice and we're honored to have her participate in one of our Senior Law Project pro bono clinics," noted Crawford. President Brown, along with volunteer

attorney Julie Rowett, met with two pro bono clients to work on their wills and housing issues. President Brown shared that "Lawyers provide more pro bono service than any other profession," and "Pro bono work not only improves the profession and advances the rule of law, it also shows the nation that lawyers matter, and helps make our nation's pledge of 'justice for all' a reality." President Brown was proud that the clinic at the Urban League Multicultural Senior Center event kicked off the ABA's new initiative: "And Justice for All: An ABA Day of Service." The initiative intends to assemble tens of thousands of lawyers to volunteer during National Celebrate Pro Bono Week, celebrated across the nation during the week of October 25, and to increase legal services for poor and vulnerable people.

President Brown met with the local media after her pro bono efforts to discuss legal issues affecting Oregonians and to continue promoting National Celebrate Pro Bono Week, and then it was off to the Implicit Bias CLE where she sat on a panel with Erik Girvan, Professor at the University of Oregon School of Law, and Dante James, City of Portland Human Rights Bureau Director. Our very own Judge Adrienne Nelson from the Multnomah County Circuit Court was the CLE moderator, and the lead organizer of President Brown's entire visit. Nelson observed "The Implicit Bias CLE was attended by over 70 lawyers, law students, and administrators. The discussion



Boys & Girls Club Visit

about implicit bias and its impact was timely and so well-received that the OSB and MBA are working together to build upon their discussions and efforts regarding implicit bias as well as making plans to involve the CLE attendees who expressed interest in continuing the dialogue and working together to address this important topic." The Library Room at The Sentinel Hotel was full, and all attendees were treated to a fantastic, interactive, educational discussion.

President Brown's day did not end after the CLE; instead she was whisked off to the local Boys & Girls Club - a tradition for her as she makes it a priority to visit a Boys & Girls Club in every city she visits. Shayda Le, Sam Hernandez, Judge Nelson and MBA Board director Andrew Schpak, the immediate past president of the ABA Young Lawyers Division and colleague of President Brown, accompanied her. Schpak commented, "I have always been impressed by



Traci Ray, Hon. Adrienne Nelson, and ABA President Paulette Brown

President Brown's energy and her dedication to public service and connecting to members from around the country. But honestly, I was floored by the amount of time she dedicated to outreach and public service during her short visit to Oregon. During our time at the Boys & Girls Club, it was immediately apparent that the kids were curious about her career path, interested in learning more about how to become a lawyer and what being a lawyer entails. The kids were inspired, and I could tell that they were envisioning themselves taking a career path similar to President Brown's. The entire visit was incredibly motivational, and President Brown's priorities are making a difference in the lives of people across the country, not just in the lives of ABA members."

After a full day in Oregon, President Brown boarded a flight back to New Jersey where she spent just enough time to repack her bag and then headed abroad. It was a pleasure to host her and highlight all of the things about our bar association that make us such a superb professional community. A sincere thank you

to our sponsors, the MBA, OSB and Oregon Women Lawyers - President Brown's successful visit was made possible by the support of three awesome organizations.

Additionally, thank you to Judge Adrienne Nelson and Ed Harnden for their leadership and efforts in both the planning stages and execution of the events, and to everyone who helped with each event on the schedule and those who were able to attend.

YLS Young Lawyers Section

Ask the Expert

Dear Experienced Attorney:

I recently passed the bar, and I feel like I don't know anything about practicing law! Where do I go for help?

One of the justified criticisms of law school is that it may teach you the law, but does not prepare you to practice law. Do not fret, because we were all in the same boat, and many do not have a law firm to show us the ropes. So first of all, relax, because you are in good company. Second, these resources are available, and mostly free of charge.

First, there are the gray hairs, the mentors. The OSB has a mandatory mentoring program. This is a good start, but do not limit yourself. Ask around to find the best fit for you. The MBA also has a strong mentoring program that is more informal than the OSB's. It may be a good fit for you.

Not everyone thrives in a traditional mentor/mentee relationship. One of the most overlooked sources for help is your peers. They know what you are going through, and they may need help too. Try emailing specific questions to a small group of lawyers who are around your experience level, but who seem like they might know what they are doing. I guarantee that one or two will be happy to answer, or at least commiserate. It's a win/win either way. If you prefer talking to a live human, try to find a new lawyer "support group," because they do exist. Go to a YLS social and ask around.

Another place to find help is on listservs, such as the MBA YLS, OTLA, or OWLS listservs. I do not recommend posting questions that you can find the answer to with a quick Google search. Do your research first. If you are not comfortable sending messages to a large group of people at a time, try asking a couple of regular posters privately. Also remember that some listservs have searchable archives.

Another way to learn is, of course, CLEs. Yes, it is true that many CLE speakers assume the audience knows the basics, but sometimes you get lucky and pick up practical skills that are immediately helpful. The YLS is now hosting an Entrepreneur Academy that tries to fill the educational gap between law school and substantive law CLEs. Some of the topics include: business planning, technology, retaining clients, becoming comfortable with the courthouse, marketing, and finding low cost resources. Look for more details in the *Multnomah Lawyer* soon, or better yet, reach out to those of us involved in the YLS.

Finally, the OSB and the PLF also have useful, low-cost resources that are available online, including the PLF's law practice management series. Be sure not to overlook these valuable resources that are not as commonly available to practitioners in other states.

It takes work to find and utilize these resources, but they are there. Good luck.

Animal Aid YLS Community Service

by Brett Applegate

YLS Service to the Public Committee

The November YLS Community Service Day was held at the Animal Aid cat shelter on November 7. The volunteers had a great time hanging out with the kittens and cleaning the shelter. Animal Aid's shelter is a no-kill, free-roam facility in Southwest Portland. Learn more by visiting animalaidpdx.org.



Brett Applegate, Grace Giampietro, Justine Thede, Lindsay Short, James Fisher, Kimberly Fisher and McKinley Fisher

Jessica McConnell Pro Bono Spotlight

by Tim Lawson

YLS Pro Bono Committee

For individuals beset by mounting debt, filing for bankruptcy can serve as a lifeline. However, after a bankruptcy case is completed, a debtor may not re-file for another eight years. Thus, proper legal and financial guidance is crucial to fully realize the "fresh start" that bankruptcy provides. To assist low-income members of the community, the Debtor-Creditor Section of the OSB, in partnership with Legal Aid Services of Oregon, runs a free Bankruptcy Clinic to pair debtors with local bankruptcy attorneys.

Jessica McConnell, an associate at Greene & Markley, P.C., has regularly taken on clients through the Bankruptcy Clinic for the past seven years. As a specialist in tax controversies and debtor representation, this pro bono work is a natural extension of Jessica's practice. Depending on the complexity of their case, Jessica spends anywhere from 20 hours to over 100 hours on each pro bono bankruptcy. Rather than immediately filing, Jessica takes a hard look at her client's situation to properly plan and to ensure that he or she files at the optimum time. Delay is beneficial in situations where tax debts are involved, the client is due a tax refund, or where a client has

major upcoming expenses, such as medical bills related to an ongoing health problem.

One of the most time-consuming events in bankruptcy occurs when a creditor files an adversary proceeding to prevent a debt from being discharged. Adversary proceedings are a lawsuit within the bankruptcy case, and these can throw off a debtor's fresh start and can cause the time demands on the attorney to balloon. Some pro bono attorneys may limit the scope of their representation to exclude adversary proceedings, but Jessica will generally stick with her clients when possible. In one of Jessica's most rewarding pro bono cases, her client, a mother of five struggling to hold down her job amidst a battle with cancer, was hit with two adversary proceedings from the state concerning alleged overpayments of public benefits. Through Jessica's experience in dealing with large governmental creditors, she was able to negotiate settlements and avoid costly litigation.

Jessica also believes in a more holistic approach to her pro bono clients, giving them additional attention by going through budgeting and exploring whether



Jessica McConnell

her clients are eligible for public assistance. In doing so, Jessica helps her clients to become self-sufficient and gives them the best chance to avoid future financial distress.

All of this is immensely rewarding work. Jessica greatly enjoys working with these clients, whom she describes as well-intentioned people whose situation was caused by bad luck in business, or often by major unexpected losses or illness. Her work through the clinic is not only personally satisfying, but the variety of pro bono cases she has worked on over the past seven years have contributed to her growth as a skilled and well-rounded attorney for taxpayers and debtors.

The next Portland Bankruptcy Clinic occurs on December 15. Any interested attorneys should visit the clinic's website for more information at www.osb-dc.org/bankruptcyclinicportland.php.

Blanchet House YLS Community Service

by Alison Brown

YLS Service to the Public Committee

On Friday, October 30, the YLS Service to the Public Committee organized a volunteer opportunity at Blanchet House in downtown Portland. Joanna Robinson, Florence Mao, Kelley Washburn, Dayna Jones, Joel Geelan, and Alison Brown volunteered their time to help with the breakfast service. The Blanchet House provides free, hot meals for individuals who are unable to provide for themselves. They serve three meals a day, six days a week, and welcome volunteers at each meal service. Please check www.blanchethouse.org for available volunteer spots.



Florence Mao and Dayna Jones

Joel Geelan, Joanna Robinson, Dayna Jones and Kelly Washburn



Kimberly Fisher

Erica Menze YLS Member Spotlight

by Holly Hayman
YLS Board

After meeting Erica Menze, I knew that I had met one of Portland's premier young lawyers. I got to know Erica through our involvement in the MBA YLS. Initially, I was drawn to her abundant energy. As I got to know her better I discovered her passion for athletics and sports law. How those pursuits led her to Portland is a compelling story and I was inspired to share it.

Erica's focus on sports law stems from her career as a college athlete. Erica, originally from Sherman, Illinois, played competitive soccer in high school and continued to play through college. She received a full ride scholarship to St. Ambrose University in Iowa, based on her academic and athletic abilities. During her senior year, the St. Ambrose soccer team made it to nationals, and their first round game was against Concordia in Portland. Erica was attracted to Portland and the Pacific Northwest after that first visit. She and her soccer team had prepared for nationals in snow and freezing temperatures, normal conditions for November in Iowa. When she arrived in Portland, with 50-degree temperatures, iconic neighborhoods, and lush green landscapes, she was immediately drawn to the area. Although her team lost that game, Portland left a powerful impression on her.

After graduating magna cum laude with degrees in sports management and marketing from St. Ambrose, Erica followed her passion to law school at

Marquette University. Marquette University Law School offered a sports law program in which Erica became heavily involved. During law school Erica was a member of Marquette's *Sports Law Review* and graduated with a certificate in Sports Law.

Marquette's sports law program is distinguished in part because it provides numerous internships for students in major athletic organizations and companies. Erica seized an opportunity to pursue her career in sports law in Portland, and was selected for a semester long externship with NIKE, Inc., and a position as a visiting student at Lewis & Clark. During her externship she availed herself of many of the wonderful outdoor activities Portland specifically offers its residents. She rode her bike from one end of the city to the other and hiked through the Columbia River Gorge and Forest Park. When her husband, Ryan Menze, visited her during that semester they hiked Angel's Rest trail in the Gorge. As they were admiring the view from the top of Angel's Rest they decided that Portland was the place for them.

Erica, her husband, and their dog Nadie, arrived in Portland in 2012. Erica became immediately involved in the legal community by volunteering her time with Legal Aid Services of Oregon Bankruptcy Clinic, Lewis & Clark Small Business Clinic, and St. Andrew Legal Clinic. Erica also became an active member in the MBA YLS, where she served as a member of its Continuing Legal Education Committee.



Erica Menze

The Portland area has benefited greatly from the addition of Erica's boundless energy to our legal community. Erica also finds the time and discipline to write sports law-focused articles. Her piece "Labor Law Leads to Efficient Operations in the NFL" was published in *The Jurist* in 2011.

Erica and her family continue to grow and thrive here in Portland; she and Ryan just added puppy Loki to their family. You can find Erica and her husband riding their bikes year-round, hiking in the summer, and snowshoeing in the winter. When the demands of being a young associate attorney and volunteer afford her some free time, she plays soccer for a couple of recreational teams.

When I asked Erica what non-legal related aspects she and her family liked most about the Portland area she answered emphatically, "We love spending time outside. We love the prospect of driving a short distance to play in the snow without having to deal with shoveling driveways or scraping car windows. We love being able to drive to the beach so easily, too. And, I really love the rain. Plus, people here put an emphasis on being active. It's a pretty amazing place."

New Admittee Social

by Andrea Meyer
YLS Membership Committee

On November 5, the YLS hosted the annual New Admittee Social at Altabira Tavern. The event gave new admittees to the Oregon State Bar and the YLS leadership an opportunity to mingle in an informal setting. Altabira provided delicious food and the location made it easy for new bar admittees to attend after having just finished the Learning the Ropes CLE, which took place at the Oregon Convention Center. In

attendance were MBA President Bob Steringer, YLS President Mackenzie Hogan, and the committee chairs for each of the YLS committees. Julie Vacura, chair of the MBA Solo & Small Firm Committee, also spoke. The committee chairs spoke to the group about the benefits that MBA membership provides to new attorneys in Oregon and promoted meaningful ways to become involved with the MBA. It was a great way to welcome our new attorneys!



New lawyers mingle at the Eastlund Hotel

MBA Golf Raises over \$11,000 for the VLP

August – MBA Golf Championship to Benefit the Volunteer Lawyers Project

The 18th Annual MBA Golf Championship was held at The Oregon Golf Club and raised \$11,650 for the VLP at LASO. In the Firm Division, the low net winner was Klarquist Sparkman LLP - Joe Jakubek, Steve Joncus, Mike Jones and Ray Klitzke. The low gross winner was Wallace

Klor & Mann PC - Jeff Capener, Lawrence Mann, Kelly O'Halloran and Sky Wallace. In the Open Division, the low net winner was the team of Tim Dack, Steve Maurer, Roscoe Nelson and Dan Rowan. The low gross winner was the team of Matt Donohue, Jack Dukeminier, Jeff Mutnick and Brian Yarne. Traveling trophies go to the 1st Place Firm low net and low gross teams and to the



MBA Golf Championship: Taylor Sand, David Noland, Brian Jolly and Scott Howard.

1st Place Open low net team. Congratulations, all!

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August – Lawyers and Law Students Event

Lawyers and law students were paired up at the MBA Lawyers & Law Students golf event at Langdon Farms Golf Club. The focus of this event was to give law students an opportunity to meet and network with the Portland area legal community and to increase diversity in the profession. The winning low net team included Josh Lamborn, Steve Milla, and Willamette

students Torey Wambold and Andrew Blood. The winning low gross team included Tom Sand, Robin DesCamp, Doug Chiapuzio and Lewis & Clark student Mac Corthell. Men's Long Drive went to Steve Milla, Women's to Robin DesCamp; Men's KP to Lewis & Clark student Taylor Lewis and Women's to Robin DesCamp. Thank you Lewis & Clark Law School, Willamette University College of Law and Barran Liebman LLP for supporting law students' participation; to Langdon Farms Golf Club, Tom Purcell, Dan Rowan, and Robin DesCamp and Tom Sand for donating prizes; and to everyone who helped promote this opportunity for lawyers and law students to connect.

July – Family and Friends at Edgefield

The Family & Friends golf outing brought experienced golfers, beginners, kids and non-golfers alike out for an afternoon of sun, fun, pitch and putt golf and wonderful prizes. First place team was Hwa Go, Dayna

Continued on page 19

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The Professional Liability Fund is offering Oregon lawyers free use of a conference room located at 520 SW Yamhill Street, Suite 1025, Portland, Oregon. To reserve this space and learn more details about this free conference room space, go to the PLF website, www.osbplf.org, and click on Practice Management, then Oregon Lawyers' Conference Room.

Special thanks to the law firms of Jaqua & Wheatley and Perkins Coie for their donations of books for the OLCR library wall.

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The Corner Office PROFESSIONALISM

Dealing with unrepresented parties is both commonplace and problematic. The reality is that more often than not the other party will not be represented. In transactional matters, the idea is to reach a negotiated result. In litigation, trials are the exception and negotiated settlements are the norm. So, you find yourself negotiating with self-represented parties. What approach works and keeps one within the bounds of our ethical and professional duties? Two tenets of the MBA Professionalism Statement are that we will represent our clients' best interests while seeking to resolve matters with a minimum of legal expense to all involved and we will treat all persons with courtesy, fairness, and respect. The OSB Statement of Professionalism encourages us to promote the image of the legal profession in the eyes of the public; to avoid tactics that are intended to delay, harass, or drain the financial resources of any party; and to be courteous and respectful to our clients and to adverse litigants and their counsel.

How do we balance the aspirational goals of professionalism with the strictures of the Oregon Rules of Professional Conduct without sacrificing our ability to be effective? For starters, ORPC 4.4(a) admonishes us to refrain from means that have no substantial purpose other than to embarrass, delay, or burden a third person. ORPC 4.3 directs us in negotiating with unrepresented parties. (Of course, if the party is represented, ORPC 4.2 limits our conversation with a party who appears without the presence of counsel to inquiries as to

the party's attorney's name and contact information.) ORPC 4.3 admonishes us to refrain from giving legal advice to the opposing party, other than to suggest retaining an attorney. So, how can we proceed with negotiations? An approach often used is to point out the facts and the law that seem applicable and undisputed and to suggest appropriate settlement terms to the other side. Empirically speaking, this is often not effective. First, an unrepresented adversary will not be aware that we are not allowed to tell a lie. They would be surprised to learn that ORPC 4.1 requires truthfulness. They would be astonished to discover that Oregon has not adopted the MRPC's comments including Comment 2 that would allow us to transmute a fact into something that is not strictly speaking a "material fact" (sometimes labeled puffery). Efforts to educate one opponent on such matters will likely be unproductive, as well as unpermitted legal advice.

So, if one cannot point out the applicable statute or a pithy passage from the controlling case to one's adversary, then what? How about suggesting that we feel confident or that we have a strong case or defense? How is that not legal advice - your accurate assessment of the merits and likely outcome of the dispute? As a side note, how can one provide "insight" into the applicable law and its application to the matter at hand to the other side without walking into a conflict of interest - providing legal advice to opposing sides in violation of ORPC 1.7(a)(1)?

Consider a courteous and respectful approach wherein the goals of the respective parties are explored. You may achieve a resolution. On those occasions when the other side indicates that they cannot accede to terms that your client considers acceptable, consider relating in a manner consistent with ORPC 4.1 the result that you will seek and the procedural steps that you will pursue to achieve that result. It is not inappropriate to explain that you cannot ethically provide legal advice to competing sides to a dispute and make or renew a suggestion that your opponent may wish to consult with counsel of his or her own choosing. You might be surprised to learn that the rate at which you can achieve a satisfactory settlement is not diminished and you will not have to experience any nagging concern as to whether you provided a somewhat lesser level of legal advice to your unrepresented opponent.

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

Help the MBF Raise \$50,000 for Civic Engagement

by Pamela Hubbs
Office and Foundation Administrator

A primary purpose of the MBF is to encourage people to get involved in their communities and to understand the importance of voting, jury duty and the political process. Since 2006, the MBF has awarded over \$320,000 in grants to nonprofit organizations with programs dedicated to increasing citizen involvement. Our goal this year is to raise \$50,000 for 2016 grants. Your support will make it happen. Your tax-deductible gift to the Civic Education Fund supports programs and projects that encourage understanding of the justice system and respect for the rule of law.

Donors who contribute by December 31 will be acknowledged in the February 2016 Multnomah Lawyer. To donate, please use the insert in this issue, visit www.mbabar.org/Foundation/Donate.html

or contact Pamela Hubbs at 503.222.3275. Visit www.mbabar.org/Foundation/Grants.html for more information about the programs funded by the MBF.

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2015 Multnomah CourtCare Campaign Raises Over \$95,000

The campaign to fund operations at the free childcare program at the downtown and East County courthouses raised \$95,100. About \$63,000 was raised from large firms and organizations, and approximately \$12,000 from small firms and individuals. WinterSmash raised an additional \$19,000 and Battle of the Lawyer Bands \$1,100.

The MBF wishes to thank all supporters, the CourtCare coaches and the MBF CourtCare Campaign Committee. Special thanks to Amy Angel, MBF Vice President, for chairing the campaign the last four years.

The **CourtCare Proudest Pride Award** for the largest donation from a firm, lawyers and staff went to **Davis Wright Tremaine LLP**. The **CourtCare Loftiest Leap Award** for the largest donation per capita went to **Buchanan Angeli Altschul & Sullivan LLP**. Trophies were awarded at the October MBF Game Night.

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Positions

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A small civil litigation law firm in downtown Portland with an emphasis on insurance defense and insurance coverage work, is seeking a litigation associate with 2-5 years' experience in a civil litigation practice. This attorney will actively assist shareholders in all aspects of litigation and will have the opportunity to develop his or her own client base and pursue areas of law that are of particular interest to them. Candidates should have excellent analytical, writing and communication skills and be willing to work in a team environment. Interested candidates should submit a cover letter, resume, and writing sample to Klarice Benn via email at kbenn@abbott-law.com.

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Is currently seeking an attorney with 3+ years of estate planning and administration experience. We are dedicated to providing opportunities for women/men who are looking for flexible hours, however this position would require a weekly schedule that would add up to a minimum of 3 full days. FMHM is a boutique law firm located in SE Portland that provides a supportive, collegiate environment with room to grow your practice. Interested applicants should send a resume and cover letter to our office coordinator, Alyssa Fitzwater (afitzwater@fitzwatermeyer.com).

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Requirements:

- Juris Doctor. Qualified candidates must be and remain licensed to practice law and in good standing in Oregon. Washington license is a plus.
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To apply, please submit a cover letter, résumé, law school transcript (unofficial is acceptable), and writing sample by e-mail to Michelle Baird-Johnson, Director of Recruiting and Professional Development, at MNRecruiting@millernash.com. EOE

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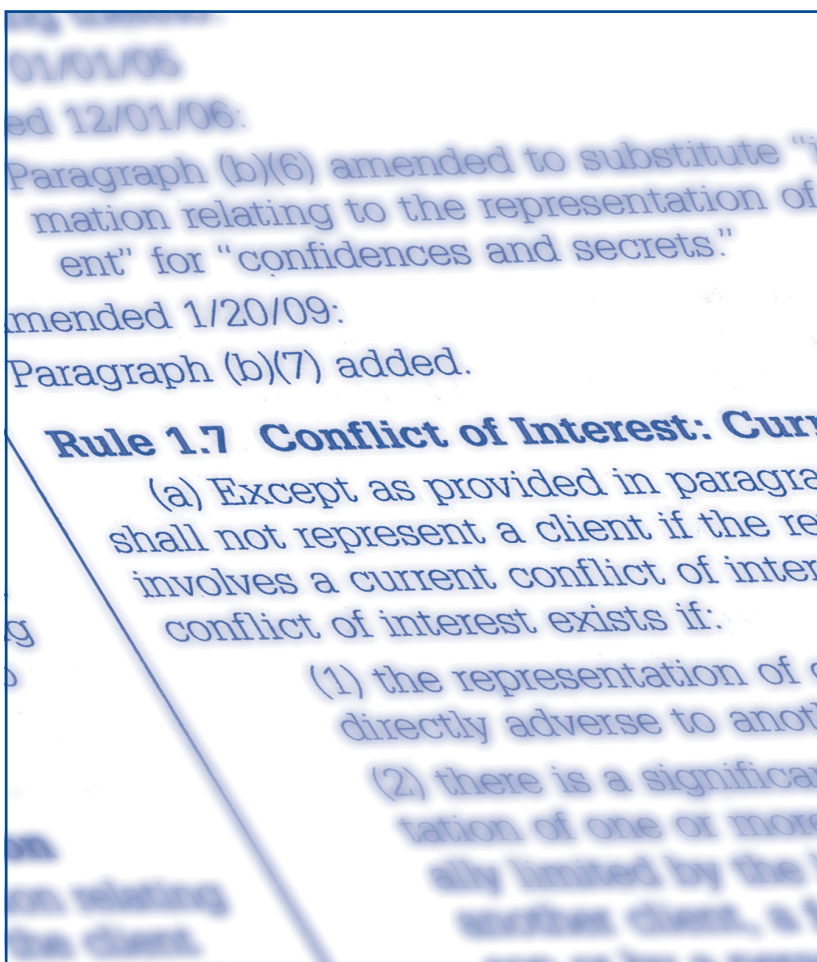
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MBA Golf

Continued from page 13

Steringer, JoLynn McCulloch and Sam Rayburn. First place individuals were Sam Rayburn and Hwa Go. Putting contest winners were Bob Johnson, Hwa Go and Jackson Weeks, age seven. John Berg took Men's KP. Most Colorful Attire: Tyler Volm, Dayna Steringer, Henry Berg, age four. Most Creative Swing: John Berg, JoLynn McCulloch, and Jackson Weeks. Thank you to "Fun

Judges" Judge Jean Kerr Maurer, Bob Steringer and Guy Walden; OWLS Foundation volunteers Aruna Masih and Bill Walsh; Prize Sponsor Aufdermauer Pearce Court Reporting; and raffle prize donors OWLS



Edgefield: Jackson Weeks, 7, won first prize in the putting contest

Foundation, John Berg, Adam Gamboa and Liz McKanna.

June – Riverside Golf and Country Club Event

Golfers enjoyed an afternoon of golf and collegiality at Riverside Golf and Country Club. First place honors went to the team of Scott Howard, Jeff Spere, Zeta Rennie, and Brian Jolly. Low net went to Sarie Crothers; low gross

to Jeff Spere. Men's Long Drive went to Brian Jolly and Women's to Zeta Rennie. Men's KP was Paul Duden and Women's, Zeta Rennie.

May – Golf Clinic and Networking Event at RedTail Golf Center

The MBA, Oregon Society of CPAs and Oregon Bankers Association joined forces

to offer an after-work golf clinic and networking event in May. The evening brought lawyers, accountants and bankers together to socialize, hit unlimited buckets of balls and get pointers from the pros. Thank you to our generous sponsors: Littler Mendelson, and Martin, Bischoff, Templeton, Langslet & Hoffman LLP.

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Another Successful Absolutely Social

Over 200 lawyers, judges, sponsors and law school students gathered at the University Club on October 22 for the fall Absolutely Social - The Grape Escape. The event featured wine tastings selected by Albert Menashe. Cash and canned food were collected for the Oregon Food Bank. Thanks to all those who contributed!



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