



MULTNOMAH LAWYER

June 2017
Volume 63, Number 6



The Windshield and the Rearview Mirror

by Tom Sand
MBA President

A couple of years ago, one of my wise law partners, who had apparently grown weary of my perseveration over a challenging life event, put his hand on my

shoulder and said, "You know, there is a reason why the windshield is so much bigger than the rearview mirror." Ever since that day, I have tried to look back just long enough to gain perspective and learn from mistakes, but then focus on looking ahead with a positive sense of direction. With that thought in mind, I would briefly like to review the MBA program year and my presidency which concludes this month. Here are some highlights.

Diversity, Equity, and Inclusion

Before I even joined the MBA board three years ago, the MBA was already actively working on efforts to improve diversity, equity, and inclusion. Under my predecessor, Bob Steringer, the board focused its attention on implicit bias and ways to recognize it in ourselves and reduce it in our justice system. We have now taken two more steps forward thanks to our Equality and Diversity Committee, chaired by Emilee Preble and last year by Emily Teplin Fox. First, we launched the MBA Bar Fellows Program to recruit and support diverse law students who plan to practice in Multnomah County. The program includes scholarship funding from the University of Oregon and Lewis & Clark law schools, 10-week paid summer clerkships in which law firms and their clients share summer employment for the fellows, and ongoing mentorship from members of the local bar. I am grateful to my firm and the other firms that have stepped up to participate in this important effort, and I encourage all of you to get involved.

The second diversity initiative was the creation and presentation of the MBA's first diversity award. This award will be presented at the annual MBA meeting to the person, firm, or organization that makes a significant contribution to improving diversity, equity, and inclusion in our local bar and community. At our annual meeting on May 16 we presented the first diversity award to Aruna Masih. Congratulations Aruna, and thank you for your amazing work on behalf of our bar.

Courthouse

Another of the board's top priorities was to assist the county's efforts to build our new courthouse. Every one of us who uses the main downtown courthouse recognizes that it is outdated, overcrowded, poses great security risks, and will crumble in the event of an earthquake. The new courthouse will be safe and structurally sound, will protect the dignity of those in custody as well as the security of others in the building, will improve access to justice, and will provide for future growth through the use of technology and building design. A host of individuals have worked tirelessly in support of the courthouse but none more than Presiding Judge Nan Waller, Judge Eric Dahlin, and our Chief Justice Tom Balmer. If you have not done so already, please reach out to your legislative representatives and encourage them to support the Oregon

Judicial Department's request for approval of the remaining bond funding required to complete the building for it to be commissioned in 2019.

Membership

In addition to the many networking events and fundraisers hosted by the MBA, we also continue to expand our CLE program, including some free CLEs as a benefit of membership. We have also expanded business service discounts, including the recently launched partnership with Clio Legal. And in response to the ever-shifting health insurance landscape, we have also changed our health plan to make it more competitive for younger law firms.

Immigrant Protection Project

In February, the MBA issued a statement in support of the Metro Public Defender Immigrant Protection Project. The purpose of the project is to help provide legal support to immigrants in the Portland area. The project provides full-time immigration lawyers with appropriate support staff to help craft and implement whatever legal solutions may be needed, including immigration legal work, record clearing, safety plans, and protection of immigrants from victimization. The MBA Board recognized that when people in our community are afraid to approach our courthouse, we have an access-to-justice problem that requires the local bar to take a stand.

Looking through the Windshield

I am excited for the future of our MBA. This year, we welcome new directors Valerie Colas, Adina Matasaru, Emilee Preble, Krista Shipsey, and Mary Tollefson. The board will be guided by our new officers President Andrew Schpak, Treasurer Marshal Spector, and Secretary Rima Ghandour.

On June 2, President Andrew Schpak will lead an all-day board retreat to, among other things, assess our performance over the course of the past year, identify the top priorities for the coming year, and develop a strategic plan to achieve the MBA's goals. One initiative that I am particularly pleased to continue to assist with is the public service initiative Andrew and I helped kick off during the course of the current program year. The new public service initiative is aimed at providing resources for homeless and other low-income residents in Multnomah County. One need only walk down the street in Portland to see the growing need for assistance among our most vulnerable citizens. If you speak to Judge Waller and most of the other judges in our courthouse, they will tell you about the extraordinary number of litigants who appear before them without counsel. Our goal is to assist the court in making available services that only lawyers can provide, and to compliment the work that is already being done through existing programs for low-income people in Multnomah County. You'll be hearing much more about this initiative from Andrew as the program is further developed and implemented. We will be calling on all of you to assist us with this important effort.

Gratitude

There simply is not sufficient space for me to thank all of the people I should for making this past year one of the most rewarding of my professional career. I will start with Judge Eric Dahlin, who, shortly after beginning the year as president, was appointed to the bench by Governor Brown and stepped down as president. He encouraged me to stand for election and to fulfill the balance of his term, and I am grateful for his support. I am also grateful to all of the board members for their time, energy, dedication, and thoughtful approach to their service of the MBA. We enjoyed several robust discussions about issues facing the MBA. Everyone was open, candid, and professional in sharing their diverse perspectives. I feel personally enriched by the experience of working with them. In particular, I want to thank retiring board members Bob Steringer, Todd Cleek, Amber Hollister, and Tyler Volm, all of whom served as my executive committee and provided our board with exceptional guidance.

The MBA is successful year after year thanks to the talented and dedicated staff of Shannon West, Ryan Mosier, Pamela Hubbs, Kathy Modie, and Guy Walden. Thank you for your wonderful support and friendship. I shall miss our very frequent encounters.

Finally, I want to thank my colleagues and friends at my law firm, Miller Nash Graham & Dunn. The firm provides significant support for MBA initiatives, events, and programs and unqualified support of my service to the bar. In September, I will celebrate my 40th anniversary at the firm and there is a reason – it is the closest thing to a family that a business can get.

So I bid farewell to the presidency but not to the MBA. I intend to continue my active involvement and look forward to the drive ahead.

Thank you.

mbarCLE

To register for a CLE, please see below or go to www.mbar.org and log in as a member to register at the member rate.

JUNE

6.1 Thursday Early Dispute Resolutions for Business Lawyers

Shannon Armstrong
Nick Henderson

6.8 Thursday Multnomah County Trial Practices Update

Judge Stephen Bushong
Judge Kathleen Dailey

6.13 Tuesday Visual Presentations in the Courtroom: How to Use the Simplicity of an iPad to Transform How You Try Cases

Kelly Andersen

6.15 Thursday Managing Electronic Discovery

Adam Bowen
Ian Christy

6.30 Friday Mandatory Training to Become a Multnomah County Arbitrator

Judge David Rees

SEPTEMBER

9.12 Tuesday Strategies for Effective and Efficient Legal Writing

Lora Keenan

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DEADLINE for copy: The 10th of the month*

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mba | EVENT

MBA Solo and Small Firm Social

Tuesday, June 13

Red Star Club Room

503 SW Alder, Portland

5-6:30 p.m.

The MBA Solo and Small Firm Committee invites you to a free social for solo and small firm practitioners.

Enjoy complimentary appetizers while socializing and meeting other attorneys who work at small firms. Learn about and help shape upcoming workshops designed specifically to help your small firm succeed.

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Photos from the dinner will appear in the July/August issue of the *Multnomah Lawyer*.

Calendar

JUNE

7 Wednesday

Protecting Immigrant & Refugee Rights
www.osbar.org

8 Thursday

Topgolf Social
www.mbabar.org

9 Friday

July/August Multnomah Lawyer deadline

13 Tuesday

Solo & Small Firm Social
www.mbabar.org

17 Saturday

YLS Summer Social at Thorns FC Match
www.mbabar.org

SALC Race for Justice

www.salcraceforjustice.org

JULY

4 Tuesday

Independence Day Holiday

13 Thursday

Night at the Spa

27 Thursday

OMLA Auction

AUGUST

3 Thursday

Battle of the Lawyer Bands
www.mbabar.org

10 Thursday

September Multnomah Lawyer deadline

17 Thursday

Pro Bono Pour

www.mbabar.org

Help Raise \$20,000 for the Volunteer Lawyers Project 20th Annual MBA Golf Championship - October 9 Oregon Golf Club, West Linn



Your support will help the MBA reach its 2017 goal to raise \$20,000 for the Volunteer Lawyers

Project (VLP) at Legal Aid Services of Oregon. With the need for legal services for low-income Oregonians on the rise and the proposed elimination of funding for the Legal Services Corporation, legal aid needs your support now more than ever.

The annual MBA golf fundraiser offers excellent opportunities for visibility, marketing and time spent with clients or colleagues away from the office. Sponsorship levels range from \$100 to \$2,500, with complimentary golf, lunch and dinner included at the upper levels.

Registration includes lunch, dinner, contests, raffle and prizes.

To discuss sponsorship opportunities or register to play, visit www.mbabar.org or contact Pamela Hubbs (pamela@mbabar.org, 503.222.3275).

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Tyler Volm



2016 First Place Firm Low Net: Ray Klitzke, Derek Toddy, Mike Jones and Steve Joncus (not pictured) representing Klarquist Sparkman



The MBA will apply for 2 hours of general OSB MCLE credits unless otherwise noted; 2 Washington credits may be obtained independently. Registrants who miss the seminar may request the written materials. Substitutions are welcome. Registration fees are non-refundable.

Unless otherwise noted, all classes are held at the World Trade Center, 26 SW Salmon, Portland.

Early Dispute Resolution for Business Lawyers

Thursday, June 1, 2017 - 3-5 p.m.

World Trade Center, Mezzanine

Members \$60/Non-Members \$95

Learn strategies to effectively and efficiently resolve business disputes before costly litigation is the only choice. **Shannon Armstrong**, shareholder at Markowitz Herbold, and **Nicholas Henderson**, partner at Motschenbacher & Blattner LLP, will discuss how to conduct an early dispute assessment, how to prepare and respond effectively to demand letters, negotiation techniques, pre-litigation strategies, recognizing when to involve a litigator, and how to work effectively with litigation counsel.

For more information: Contact Jovanna Patrick, Hollander Lebenbaum & Gannicott at 503.222.2408. For registration questions, contact the MBA at 503.222.3275.

Multnomah County Trial Practices Update

Thursday, June 8, 2017 - 3-5 p.m.

World Trade Center, Mezzanine

Members \$60/Non-Members \$95

This year's program will feature presentations by Multnomah County Chief Civil Court **Judge Stephen Bushong** and Multnomah County Circuit Court **Judge Kathleen Dailey**. 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. Judges Bushong and Dailey 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: Contact Contact Karen Thompson, Attorney at Law at 971.340.0963. For registration questions, contact the MBA at 503.222.3275.

Visual Presentations in the Courtroom: How to Use the Simplicity of an iPad to Transform How You Try Cases

Tuesday, June 13, 2017 - 3-5 p.m.

World Trade Center, Flags Room

Members \$60/Non-Members \$95

The iPad has revolutionized the practice of law for those attorneys willing to discover its vast potential, not only for use in trial but also for improving productivity in the office, at home, and on the road. This two-hour presentation will show how the following four key apps can be used in the courtroom:

- Keynote, the ideal app for opening statements and closing arguments
- TrialPad, an extremely easy-to-use app for presenting exhibits to a jury
- DocumentPad, a handy app that allows simultaneous word searches of multiple records
- TranscriptPad, an extremely useful app that allows you to create "issue codes" for depositions or "daily transcripts," and to do simultaneous word searches of multiple transcripts

The simplicity of the iPad and of these apps now make it possible for any attorney to organize and present information in an electronic format, with no additional costs or payments to outside vendors. In addition, this presentation will explore the emerging science of visual communications.

This two-hour presentation will be led by attorney **Kelly L. Andersen**, of Medford, who speaks on this topic regularly. Mr. Andersen has been practicing law in Oregon since 1979. In 2014 the Oregon Trial Lawyers Association named Mr. Andersen its Distinguished Trial Lawyer of the Year.

For more information: Call Kyle Dukelow, Law Office of Kyle B. Dukelow at 503.288.1992. For registration questions, contact the MBA at 503.222.3275.

Managing Electronic Discovery: Legal Developments and Practical Tips

Thursday, June 15, 2017 - 3-5 p.m.

World Trade Center, Flags Room

Members \$60/Non-Members \$95

Litigation attorney **Ian Christy** of Miller Nash Graham & Dunn LLP and **Adam Bowen** of DTI will discuss recent developments in the law of electronic discovery, including the impact of the December 2015 amendments to the Federal Rules of Civil Procedure. The program will also cover:

- Strategic considerations and practical tips for managing various stages of e-discovery in complex civil litigation - from preservation to production to discovery motions.
- Perspectives regarding the benefits of using an e-discovery vendor to assist with the e-discovery process.

The class is a must-attend for individuals interested in learning more about this rapidly evolving area of litigation. Ian is a litigation attorney and a specialist in e-discovery. He regularly works on complex e-discovery issues in a wide range of federal and state civil litigation and government investigation matters, helping to provide clients with practical and cost-effective e-discovery solutions. Adam is a solutions architect for DTI, a global legal process outsourcing company serving law firms and corporations around the globe. He is responsible for developing and implementing client-specific litigation support and electronic discovery solutions, including forensics and data collection, processing, hosting and managed review services.

For more information: Contact Cody Elliott, Miller Nash Graham & Dunn at 503.205.2465. For registration questions, contact the MBA at 503.222.3275.

Mandatory Training to Become a Multnomah County Arbitrator

Friday, June 30, 2017 - 3-5 p.m.

World Trade Center, Mezzanine

Members \$60/Non-Members \$95

Basic training to qualify for Multnomah County Arbitration Panel. Participation meets one of the requirements for inclusion on the Multnomah County list of approved court appointed arbitrators.

This program will feature Multnomah County Circuit Court **Judge David Rees** and a panel of experienced arbitrators who will explain and discuss the statutes, rules, case law and ethical issues governing court-annexed arbitration in Multnomah County. Using typical fact patterns as an example, the program will provide step-by-step advice on scheduling arbitration hearings and dealing with postponements, resolving pre-hearing evidentiary and discovery disputes, handling summary award and other pre-hearing motions, conducting arbitration hearings, dealing with attorney fees and costs and preparing and filing arbitration awards.

For more information: Contact John Ostrander of Elliott, Ostrander & Preston at 503.224.7656. For registration questions, contact the MBA at 503.222.3275.

Strategies for Effective and Efficient Legal Writing

Tuesday, September 12, 2017 - 12-1 p.m.

World Trade Center, Sky Bridge Room

Members \$30/Non-Members \$50

This program will help you improve your legal writing, and maybe even enjoy the writing process a little more, by designing your own writing checklists to streamline the writing and quality-control process. The program will teach you how to use checklists to enable you to put recurring issues on "autopilot," saving time and brain power for the heavy lifting of research and analysis. It will also teach you how to communicate more effectively with judges, colleagues, and clients through the regular use of checklists. Whether you are a new lawyer, an experienced practitioner, or a legal administrator, this class will help you consistently deliver a work product that satisfies your professional audience. **Lora Keenan** is a legal writing consultant, coach, and trainer. She worked for the Oregon appellate courts as a lawyer for more than 20 years, including drafting and editing appellate court decisions. She has also worked for the Oregon Department of Justice as Public Records Counsel.

For more information: Contact Jovanna Patrick, Hollander Lebenbaum et al at 503.222.2408. For registration questions, contact the MBA at 503.222.3275.

CLE BOGO

The MBA is pleased to announce its buy-one-get-one CLE policy for participants in the MBA and OSB mentor programs.

OSB and MBA mentors: When you register for an MBA CLE, you can register your mentee to attend with you for free.

Contact Shannon West at shannon@mbabar.org or 503.222.3275 to add your mentee to the registration list.

To register for these classes, see page 4.

mba | EVENT

New Event!

Topgolf Social

Thursday, June 8
Topgolf
 5505 NW Huffman St., Hillsboro
 5-8 p.m.

Join us for a new event for people of all golfing abilities!

Enjoy friendly, competitive golf games, fun and socializing. Bring your clients, colleagues, family and friends.

Proceeds benefit the Volunteer Lawyers Project.

Thank you sponsors!

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- Miller Nash Graham & Dunn LLP



Visit www.mbabar.org or call Pamela Hubbs at 503.222.3275 for details, registration form and sponsorship opportunities.

BATTLE OF THE LAWYER BANDS

Thursday, August 3
 7-9 p.m.
Kennedy School
 5736 NE 33rd Ave., Portland

Join the MBA Events Committee for this CourtCare fundraiser. Bands comprised of at least one Oregon lawyer will compete for the title of "Best Oregon Lawyer Band 2017." Judges from the MBA legal community will decide the winner at the end of all the performances. Bring your family and friends and cheer for your favorite band! Crowd applause and interaction will be one of the criteria on which judging is based, in addition to the new Audience Choice Award. Suggested donation: \$10.



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Photocopy, complete and mail or fax the registration form with payment to the MBA to reserve your space. Self-study materials from past CLE classes may be downloaded at www.mbabar.org.

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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.

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.

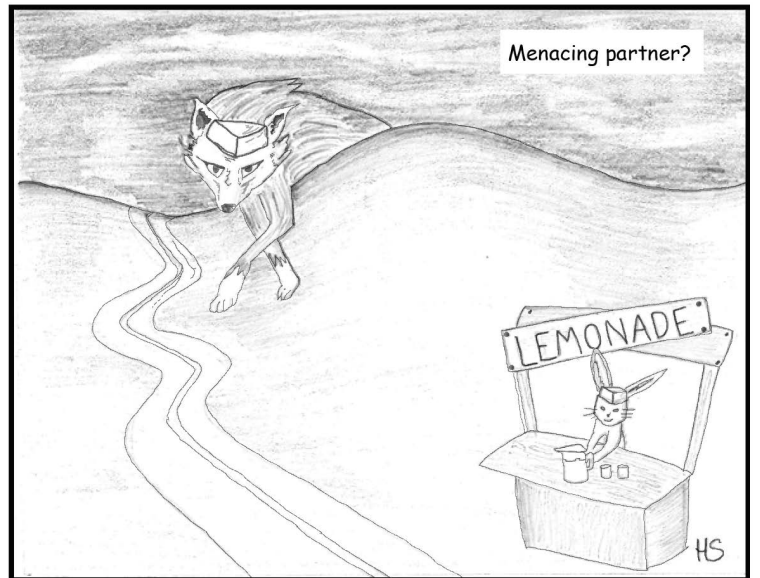
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 - 9/12 Strategies for Effective and Efficient Legal Writing**
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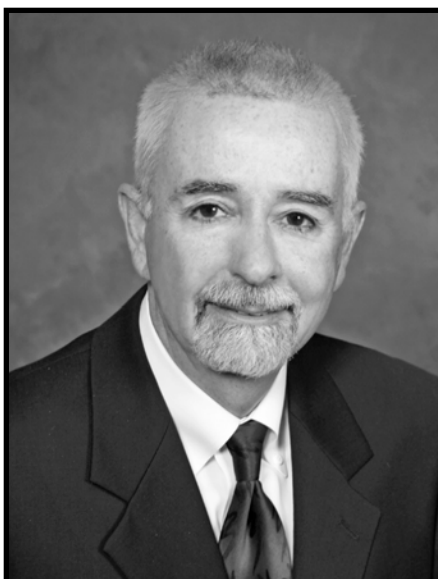
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Free Event Publicity

The MBA website includes a unique feature: the ability for law-related organizations and nonprofits to add their social events to the MBA online calendar.

The MBA offers other organizations the ability to access our online calendar in order to provide **one** site where all law-related events can be listed to help prevent conflicts.

Please consider adding your social events to the MBA online calendar at the following link: <http://mbabar.org/Calendar/SubmitAnEvent.html>. Or, you may contact the MBA at mba@mbabar.org to add your item to the calendar.



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mba | ANNOUNCEMENTS

The Commons Law Center Launch Celebration June 7

Come celebrate the launch of the new nonprofit legal accelerator. The Commons Law Center will offer sliding-scale legal services for income-qualified people in family law, estate planning and probate, nonprofit and business law. For the legal community, The Commons Law Center intends to build scalable and open-source resources to advance innovation in our profession.

The launch celebration will present the opportunity to learn about the organization's approach and meet the people involved. The event will be held from 4:30-6:30 p.m. at Stoel Rives in Portland. The Commons Law Center is also looking for sponsors - see www.thecommonslawcenter.org/launch for details.

Judicial Vacancy

A new judicial vacancy has been announced with the retirement of Judge Diana Stuart. The judge appointed to this position will be assigned to the Multnomah County Circuit Court's Family Law Department.

Those interested in applying should submit their MBA application to Pamela Hubbs by June 12 to be considered by the MBA Judicial Screening Committee.

For more information and to download the MBA application, visit www.mbabar.org or contact Pamela (503.222.3275, pamela@mbabar.org).

Free CLE Webcast for MBA Members

The video webcast of the seminar "Appellate Update" is available in the Members Center at www.mbabar.org. The webcast is approved for two hours of general OSB MCLE credit.

MBA members receive access to a rotating selection of six different CLE seminars each year - a \$360 value.

Take a Matter that Matters

Sign the MBA Pro Bono pledge at www.mbabar.org/about-us/pro-bono.html and commit to taking at least one pro bono case this year.

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 Time Rides

Short fast rides with hills. Meet at SW corner of Pioneer Courthouse Square (Yamhill & Broadway) between noon and 12:10 p.m., Monday and Thursday. Contact: Ray Thomas 503.228.5222 with questions, or meet at start.

Protecting Immigrant and Refugee Rights: What Can WE Do?

Wednesday, June 7
6:30-8 p.m.
(doors open at 6 p.m.)

Portland Community College Southeast Campus, Community Hall
2305 SE 82nd at Division, Portland

The OSB Civil Rights Section invites you to this free workshop for community members to discuss with local organizations how you can help support immigrant communities.



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DEPOT**

Member Resource Center

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

Pro Bono Oregon Listserv

Receive a weekly summary of available pro bono volunteer opportunities in your email inbox every Thursday. Listings include the type of case and a brief description of the issue and do not include highly identifying facts or party names. Sign up by sending an email to probonooregon-subscribe@mail.lawhelp.org.

Update Your Directory Listing on the MBA Website

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Ethics Focus

Legal Capital: Crowdfunding Litigation

by Mark J. Fucile
Fucile & Reising LLP



“Crowdfunding” has become an increasingly common tool to finance a wide range of activities ranging from charitable ventures to high tech products. In some crowdfunding campaigns, the funders and the recipients of the proceeds are matched through an online platform. In others, the “crowd” may simply be a group of friends or business acquaintances who interact with the recipient directly. RPC 5.4(b) and (d), which are based on their ABA Model Rule counterparts, generally prohibit non-lawyer investors from taking an equity interest in a law firm. By contrast, crowdfunding can generally be used as another form of alternative financing for specific cases. RPC 5.4(a), which again is based on its ABA Model Rule counterpart, also prohibits sharing specific legal fees with non-lawyer investors.

...the “crowd” may simply be a group of friends or business acquaintances who interact with the recipient directly.

Conceptually, therefore, case-specific financing is usually structured as a loan when the incentive is an economic return from private litigation rather than an altruistic donation to a public-interest law firm or similar organization.

Oregon does not have a comprehensive ethics opinion on litigation funding for law firms - although Oregon State Bar Formal Opinion 2005-133 addresses third-party financing plans for clients that share many similarities with their law firm counterparts. In this column, we’ll look at three issues common to all forms of alternative litigation financing - including crowdfunding: confidentiality; control; and conflicts.

Confidentiality

RPC 1.6 states our bedrock duty of confidentiality. It includes, but is broader than, work product protection under ORCP 36B(3) and the attorney-client privilege under OEC 503. Protecting confidentiality can loom large when discussing funding options with the functional equivalent of potential lenders.

Not surprisingly, most lenders will want to undertake some degree of “due diligence” to understand the economic potential and litigation risks of the case they are considering underwriting. At the same time, lawyers should not assume that the “common interest doctrine” necessarily applies in this context to protect confidential information shared with a potential lender. The Court of Appeals in *Port of Portland v. Oregon Center for Environmental Health*, 238 Or App 404, 409-416, 243 P3d 102 (2010), noted that the common interest doctrine is a statutory creation in Oregon. OEC 503(2) (c) defines common interest protection as extending narrowly from “the client or the client’s lawyer to a lawyer representing another in a matter of common interest[.]” Similarly, in the analogous context of third-party bill audits, the OSB concluded

Crowdfunding in particular is often more public than other forms or alternative litigation funding...

in Formal Opinion 2005-157 that a lawyer would risk waiver of confidentiality and privilege by submitting detailed narrative billing statements to a third-party auditor. Crowdfunding in particular is often more public than other forms of alternative litigation funding and, therefore, more likely to be discovered by a litigation opponent who has a distinct incentive to challenge any assertions of privilege.

The safest course is to share information that has already been disclosed in public court filings or associated discovery provided to the litigation opponent that is not otherwise subject to a confidentiality agreement or order. Conversely, it would not include the lawyer’s confidential analysis of sensitive legal issues.

Control

RPC 2.1 articulates our fundamental duty to exercise independent professional judgment on behalf of our clients. RPCs 1.8(f) and 5.4(c) echo this general point in the analogous setting of being paid by a third-party. RPC 1.2(a) likewise vests the decision to settle a case solely with the client.

It is not hard to imagine scenarios in which the funders -

whether the “crowd” is comparatively large or small - may have a powerful economic incentive to offer the lawyer “direction.” One ready example would be a relatively attractive settlement offer received on the eve of an expensive trial when the client, nevertheless, believes that an even better verdict will result. In this example, the lawyer would need to use his or her best professional judgment in advising the client and respect the client’s decision. Structuring the funding as

It is not hard to imagine scenarios in which the funders...may have a powerful economic incentive to offer the lawyer “direction.”

“nonrecourse” can make it easier as a practical matter for the lawyer to focus solely on the client’s interest because if there is no recovery the lenders will not be repaid. Lawyers should insist, however, on written language in the financing agreement acknowledging that the lender cannot control the litigation.

Conflicts

RPC 1.7(a)(2) states the general rule that a conflict exists when there is adversity between the financial interests of the lawyer and the client that may materially limit the professional judgment of the lawyer. Although some “material limitation” conflicts are waivable, others are not - with the difference often turning on the fact-specific circumstances involved.

Litigation funding - at least the nonrecourse variant - does not inherently trigger a conflict any more than a traditional bank line of credit. Nonetheless, lawyers will need to carefully review the specific terms of any proposal. If the funders are proposing to control the litigation generally or settlement in particular, for example, then the lawyer would have a conflict (and likely a non-waivable one given the duties noted above).

Other Issues

Although the three areas surveyed are central concerns for any litigation financing mechanism, they are by no means an exclusive list. Other common issues with crowdfunding include fees charged by online platforms (with fees for the financing generally permitted but sharing of legal fees generally prohibited under RPC 5.4(a) discussed earlier) and marketing considerations (principally RPCs 7.1 and 7.2 governing, respectively, truthfulness in marketing communications and advertising specifically) if using a public platform.

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Around the Bar



Josh Ewing

Boise Matthews LLP

The firm welcomes **Josh Ewing** as an associate. Ewing will focus on state and federal criminal trials and appeals, and professional licensure matters. Prior to joining Boise Matthews LLP, Ewing served as a law clerk to the New Mexico Supreme Court, as a state public defender handling misdemeanor and felony cases, worked in private practice, and most recently, served as a research and writing specialist for the Chief Federal Public Defender of Oregon. Ewing has over a decade of experience representing doctors, lawyers, judges, pharmacists, nurses, athletes, entertainers and other professionals and individuals facing criminal charges and threats to their careers and licenses.



Iván Resendiz Gutierrez

Miller Nash Graham & Dunn LLP

Iván Resendiz Gutierrez was recently elected to serve as the president-elect of the Oregon Hispanic Bar Association (OHBA). The OHBA represents the voice of Latinos in Oregon's legal community. As part of its mission, the OHBA seeks to encourage Latinos to become attorneys; promote the advancement of Latino legal professionals; raise awareness of Latino legal issues; and support Latino law students and legal professionals. Resendiz Gutierrez has served as an OHBA board member since August 2015. Resendiz Gutierrez was also recently elected to serve as a board member of the Oregon Minority Lawyers Association.

Barran Liebman LLP

The firm is proud to announce that **Ed Harnden**, Co-Managing Partner, has been awarded the 2017 American Bar Association (ABA) Grassroots Advocacy Award for his outstanding commitment to the justice system, the advancement



Ed Harnden

of access to justice, and the legal profession. The award is presented to an individual from across the nation who has made outstanding contributions to their bar associations and access to justice commissions, and who have played an integral role in successfully advocating or advancing ABA/organized bar legislative priorities in support of legal aid in Congress. Our firm's dedication to the community and our giving culture is all molded by Harnden's example and influence and we are excited to celebrate the ABA's recognition of his commitment to our legal community.



Chris Thomas

Thomas, Coon, Newton & Frost

The firm is pleased to announce that **Chris Thomas** has joined the firm's personal injury team. Since graduating Lewis & Clark Law School (after attaining a 5-year engineering degree from Whitman College/Columbia University), Thomas practiced in the business and real estate law arenas, gaining valuable practical legal experience and business savvy. However, an athlete and cyclist from a young age, Thomas never lost his passion for cycling and his dream of representing the individual. His position as personal injury trial attorney with the firm will use his engineering and cycling know-how to bring justice to injured vulnerable road users and others who are injured or disabled.

Hart Wagner

The firm named **Colleen Scott**, **Melissa Tahir**, and **Erika Wilson** as the firm's newest partners. With the addition of these outstanding attorneys, the majority of the firm's partners are women.



Colleen Scott



Erika Wilson



Melissa Tahir

Scott brings a wealth of knowledge and expertise to the firm's medical malpractice defense team in Portland. Her practice focuses on medical malpractice defense with a subspecialty in birth injury claims, and representing medical professionals before their licensing boards.

Tahir concentrates on long-term care defense and medical malpractice defense. From Hart Wagner's Portland office, she represents skilled nursing facilities, assisted living facilities, memory care facilities, residential care facilities, hospitals, and doctors throughout Oregon and Southwest Washington.



Elizabeth Knight

Wilson represents medical providers before their licensing boards from Hart Wagner's Redmond office. She also defends physicians, hospitals and health systems, lawyers, dentists, real estate professionals, architects, engineers and construction professionals against negligence claims. Her practice also focuses on claims of product liability, premises liability, automobile and trucking claims, governmental liability, and general liability.

Dunn Carney LLP

Elizabeth Knight, partner at Dunn Carney LLP, has been elected as the first female president of the Campaign for Equal Justice, a legal industry nonprofit that develops and distributes resources in support of statewide legal aid programs.

Knight, a member of Dunn Carney's Litigation Group, has served as CEJ Vice President since 2015 after joining the board of directors in 2011.

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 mba@mbabar.org.

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Introducing the newest member of our family

Samuels Yoelin Kantor is excited to welcome Leslie Johnson, who has joined the firm as the newest Of Counsel attorney.

Ms. Johnson brings over 20 years of experience in private practice to the firm. Her expertise extends to all types of business disputes, with an emphasis on contract issues, employment law, corporate governance, business and real property transactions, shareholder agreements and disputes, franchise disputes, securities, and lawyer and accountant malpractice.

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mba | EVENT

Night at the Spa

Thursday, July 13
 Comma Vino Spa
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Join the MBA Events Committee and your colleagues for an evening at Comma Vino Spa. Sign up for a spa mini-service ranging from \$15-30 when you arrive. The price is payable to Comma Vino Spa at the time of sign-up. Some of the services include eyebrow wax, manicure, and foot reflexology. Limit one mini-service per attendee. Due to limited space, mini-services will be on a first-come, first-served basis. Appetizers and drinks will be provided. Generously sponsored by Farleigh Wada Witt.

RSVP to Kathy Modie at the MBA at kathy@mbabar.org.

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Tips From the Bench

Mistrials - Mistakes to Avoid Before a Jury

by Judge Marilyn Litzenberger
Multnomah County Circuit Court

We know the jury trial is vanishing. The statistics are alarming. One of the fallouts associated with this phenomenon is the number of cases that result in mistrials. Mistrials can be triggered by a variety of scenarios, but often a mistrial is the result of inexperience in trying cases to a jury. Opening statements and closing arguments to a jury that cross the bounds of professional conduct can be grounds for a judge to declare a mistrial and order that a new jury be empaneled.

Inexperienced lawyers may subconsciously let their desire to win the case cloud their professional judgment. Unfairly prejudicial information imparted during an opening statement or a passionate closing argument that overtly prays on the sympathies of the jury can lead to a mistrial being declared to protect the integrity of the justice system. Lawyers who have lived through a case more than once because of a mistrial learn from that experience. Those of you who have not can learn which tactics to avoid by reading appellate court decisions and trusting your professional instincts over the passion of your subconscious to win at all costs.

Here are some examples of tactics to avoid:

Beginning your opening statement with the most inflammatory piece of evidence in your case. In criminal cases, this might be a statement by the defendant that includes an expletive directed at the alleged victim or a law enforcement officer, regardless of the probative value of that evidence to the crime charged. In a civil case, leading with a statement impugning the character of your opponent when character is not an element of any claim or defense asserted in the pleadings. Alternatively, focus on the financially devastating impact to your client and her impending bankruptcy rather than on the defendant's conduct that caused your client's compensable damages. If you do any of these, you are inviting a motion for mistrial.

From the perspective of the bench, it is easier to declare a mistrial earlier in the case (i.e., as a result of an improper opening statement) than it is after a jury has spent several days listening to the evidence. That said, where lawyers tend to go beyond the bounds of permissible conduct most often is during closing arguments.

A frequent mistake made by inexperienced lawyers during closing arguments is to ask the jurors to put themselves in the shoes of the plaintiff or to render a verdict that will send a message to the defendant. Neither type



of argument is permissible. The former violates the admonition against "golden rule" arguments.¹ The latter is not permitted unless punitive damages are at issue in the case.²

Another error that may lead to a mistrial is the situation in which a lawyer references testimony that was stricken by the court or reads from a document that was not received as evidence by the court. A variation on this improper tactic is an argument that suggests that the jury treat evidence, offered and received for its impeachment value only, for a substantive purpose (to prove an essential element of a claim or defense). In a criminal case, a prosecutor making a comment during closing arguments on a defendant's right to remain silent or the defendant having invoked the right to counsel can trigger a mistrial.

A judge may also be inclined to grant a mistrial when a lawyer's closing argument treads into an area that the lawyer knows (or should know) will invite (a better word might be "incite") an opponent to respond defensively with an explanation based on evidence that was excluded in limine or not offered for another reason. This creates a situation that is different from when the introduction of evidence by one party "opens the door" for evidence to be offered by the opponent that otherwise would have been excluded from the jury's consideration. Arguments of this nature hit "below the belt" and the response predictively and instinctively is for the opponent to defend or explain. During closing arguments, however, there is no opportunity for the other side to offer counter evidence. Trial and appellate judges alike strive to ensure a justice system that is fair to both sides. Thus, it is not surprising that a "below the belt" type of strategy lends itself to a mistrial ruling, or worse yet, to a judgment notwithstanding the verdict or a reversal and remand on appeal to try the case again.

¹ The jury may not return a verdict based on personal interest, bias, or prejudice and an argument asking it to do so is improper. *Draper v. Airco, Inc.*, 580 F2d 91, 95 (3d Cir 1978). A "golden rule" argument - which asks jurors to place themselves in the position of a party - is "universally condemned because it encourages the jury to depart from neutrality and to decide the case on the basis of personal interest and



News from the Courthouse

by Patrick Angel
Court Liaison Committee

Presiding Judge's Report and Courthouse Update - Judge Nan Waller

East County Courthouse

The committee held the May 2017 meeting at the East County Courthouse. Judge Waller and Barbara Marcille provided the committee with information about the different ways the facility is utilized and how members of the legal community can make use of it.

Some of the benefits of the East County Courthouse (ECC) in Gresham are that it is a beautiful new courthouse; there is a modern audio visual support system for courtroom presentations as well as free parking. Moreover, the courthouse in East County is earthquake certified and has free childcare in the courthouse through the CourtCare program.

Attorneys can request to use the spacious East County Courthouse for their civil trials at their Trial Readiness Conference. At this time, the court is scheduling ECC trials to start on the first Monday of every month. Typically, only trials of four days or less are best suited for ECC, but five-day trials might be possible with sufficient notice.

The ECC facility handles criminal misdemeanor matters, FAPA applications, family law matters, and even truancy court, but not criminal felony matters because there are no secure holding or detention facilities for in-custody defendants.

bias rather than on evidence." *Granfield v. CSX Transp., Inc.*, 597 F3d 474, 491 (1st Cir 2010) (quoting *Forrestal v. Magendantz*, 848 F2d 303, 309 (1st Cir 1988)); see *Caudle v. District of Columbia*, 707 F3d 354 (DC Cir 2013) ("[C]ounsel's statements did not describe an objective standard. Rather, they asked the jurors to decide how each of them - not a reasonable person - would feel if he were in the [same] situation."); *Ins. Co. of N. Am., Inc. v. U.S. Gypsum Co.*, 870 F2d 148, 154 (4th Cir 1989) (suggesting defense counsel's opening statement -

New Courthouse

Construction is continuing, and can be viewed via a live streaming camera from a link on the Oregon Courts website: <http://dwpwebcams.com/mcc/stream.htm>.

The new courthouse should be completed in about two-and-a-half years and open for operations in April 2020. Budgeting matters are moving forward and hearings will be scheduled before the Capital Construction subcommittee later this month. The court is appreciative of the MBA's efforts to gather support for OJD's request in the current legislative session for approval of bond funding for completion of construction of the courthouse as well as for the technology and fixtures that need to be installed during construction of the courthouse.

The project team is finishing up the design phase of the courthouse. Design of the building has benefited from input from the bar. Members of the bar have provided feedback on the layout of courtrooms, the options for acoustic material for the walls of the courtrooms and juror chair choices. The project team, Barb Marcille and Judge Waller have met with a number of focus groups to get feedback on the functionality of the new building as well as design. A recent meeting with disability advocates led to the project team agreeing to add automatic door openers to one of the public bathrooms on each floor.

asking the jurors to consider whether any of them would like to be accused of fraud based upon the evidence - was improper).

² *Carter v. District of Columbia*, 795 F2d 116, 138 (DC Cir 1986) (concluding that a "send a message" argument made during closing statements was improper because punitive damages had been previously excised from the case); *Nice v. ZHRI, Inc.*, 105 F Supp 2d 1028, 1029 (ED Ark 2000), aff'd, 11 F App'x 675 (8th Cir 2001) ("It is clear that asking a jury to award additional (punitive)

Judicial Vacancies

This year will see a number of comings and goings from the bench. Judge Wyatt retired at the end of March with Judge Xiomara Torres being appointed to fill her vacancy. Judge Kantor retired at the end of April and Judge Stuart has announced her retirement effective June 30. Judge LaBarre will retire at the end of the year. Justice David Brewer has announced his retirement from the Oregon Supreme Court and there are currently two vacancies on the Oregon Court of Appeals. Bar members are encouraged to discuss judicial vacancies with friends and colleagues in the legal community so interested parties can consider the opportunity of serving on the bench.

Trauma Informed Practices

In its effort to deliver *procedural* justice to Oregonians involved in the civil or criminal justice system, Multnomah County Courthouse staff are undergoing training intended to improve the quality of communications and interactions between courthouse personnel and members of the community who enter the courthouse or find themselves involved in stressful legal situations. Doctor of psychiatry and neurology Alisha Moreland-Capua leads the training program designed to understand the psychology of fear and trauma as it relates to empathy-building and interactions with visitors to the courthouse.

damages in order to "send a message" is error if punitive damages are not an issue."); *R.J. Reynolds Tobacco Co. v. Gafney*, 188 So 3d 53, 58 (Fla Dist Ct App 2016), rev den, No. SC16-693, 2016 WL 4537513 (Fla Aug 30, 2016); see *Caudle v. District of Columbia*, 707 F3d at 361 ("[The attorney's] send a message argument was also inappropriate because, like the golden rule arguments, it diverted the jury's attention from its duty to decide the case based on the facts and the law instead of emotion, personal interest or bias.").

The Honorable Eric Dahlin Multnomah County Circuit Court Judge

by Jason Posner
Court Liaison Committee

Nineteen NBA seasons ago, Eric Dahlin began working for the Portland Trail Blazers on game nights at the scorer's table, running the game clock, shot clock or scoreboard. He continues in that hobby, albeit on a substitute basis, even after Governor Kate Brown appointed him to the bench in August 2016. Whatever his job may be, it requires patience, focus, and an adherence to the rules.

Judge Dahlin arrived in Oregon by way of the heartland. He grew up in Rock Island and then Decatur, Illinois, where he graduated high school. His next stop was Iowa, one state to the west. There, he attended Grinnell College and graduated in 1989 with an economics degree. The idea of being a lawyer was "on the radar," but adventure called. Dahlin first went to Martha's Vineyard to work for the summer. There, he was a bellman at a hotel and worked in a restaurant. He then moved to Maui for the winter, waiting tables, parking cars and driving limousines. Traveling in Australia and New Zealand came next. His wandering

then brought him to a summer job at Denali Park in Alaska and to a winter job in Naples, Florida. With the money he saved in Florida, he purchased a Volkswagen van. Over the next 3+ months, he drove it across the United States, visiting all of the major league baseball stadiums and a number of national parks. Next came Cleveland and a stretch working in the Cavaliers' public relations department for a season. He then worked at a summer camp in Northern Wisconsin before deciding to move to Oregon.

Although Judge Dahlin thought about teaching and liked the idea of coaching, the legal world grabbed his attention. With his itinerant life over, he enrolled at the University of Oregon School of Law. He graduated in 1996 and then clerked for a year for the Hon. Procter Hug, Jr., at the United States Court of Appeals for the Ninth Circuit. In 1997, he began at Davis Wright Tremaine as a litigator. He excelled at disentangling complex business disputes within the legal context. His former law partner, Andy

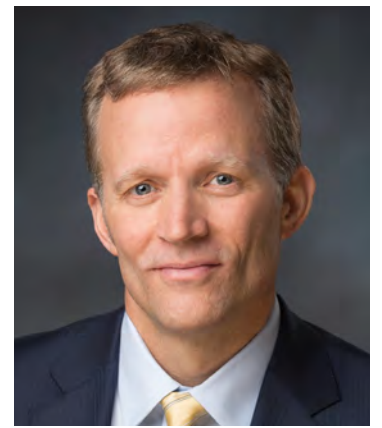
McStay, remembers, "There was no one more generous with his time and experience to help a colleague trying to work through a knotty problem."

Judge Dahlin has always loved the law and had been interested in the idea of being a judge ever since law school, but after a decade of practice he also wondered how much he was just idealizing the position. He figured the best way to decide if he wanted to become a judge was to serve as a judge. He saw another adventure, one where his knack for focus and patience would help. In 2007, Judge Dahlin started as a pro tem judge and arbitrator in Multnomah County. As with the Blazers, he enjoyed the idea of helping others through a combination of perseverance and loyalty to the rules of the game - in this case, the legal system. Still, the weight of his new, part-time roles hit hard. For litigants, the psychological and financial risks were enormous. Judge Dahlin reports feeling tremendous satisfaction in honoring the gravity of their situation and in helping to disentangle their disputes. Judge Dahlin also talked with other judges to try to get realistic insight into their jobs, and even pointedly asked them to "talk him out of becoming a judge," but none could do so. By and large, they cherished their work. Judge Dahlin was hooked.

As he reflects on his short time on the bench, Judge Dahlin understands his position as one whose faithfulness to the system is crucial. He can't be a crusader, and he won't come to a decision and then "decide how to get there." He is grateful that the law generally leads to the rightful, fair result, but he's keenly aware of those moments when the legally correct result is not the best result. Those make for the hardest of days.

When a systematic failure dictates poor outcomes, Judge Dahlin has watched the court and fellow judges institute organizational changes that lead to better outcomes. In most criminal cases, for example, the court deals with alcohol, drugs, or crumbling mental health. Judge Dahlin has admired the court's emphasis on addressing these underlying issues as well as the violence they fuel. Understanding that answers are hard to come by, the court, its staff, and judges provide treatment opportunities through drug court, intensive supervision, cooperation with parole offices, and weekly or monthly hearings to check on a defendant's status. Judge Dahlin believes this broader approach leads to successes that punishment-only process cannot achieve.

As Judge Dahlin continues to immerse himself in the ebb and flow of the courthouse, he's discovered, like many



Judge Eric Dahlin

new judges, an increasing appreciation for the criminal docket. The attorneys are helpful, pleasant, and particularly professional, creating a congenial atmosphere Judge Dahlin attributes to their seeing one another frequently in court. Judge Dahlin hopes that such face-to-face encounters spread to all practice areas and would love to see opposing counsel sitting down with one another over lunch or coffee. He's confident such meetings will reduce unnecessary disputes, save court and litigant resources, and more effectively lead to just resolutions.

Judge Dahlin met his wife, ironically, while both served on jury duty in 2001. They have two daughters and live in Northeast Portland. Judge Dahlin devotes most of his non-work hours to his family, but he still tries to enjoy the outdoors on weekends, and he bikes to and from work each day.

Encourage a Local Nonprofit to Participate in *Willamette Week's* 2017 Give!Guide The Benefit to Them: Money and Recognition

by Mahala Ray
Executive Director, Willamette Week Give!Guide

Multnomah County's lawyers' engagement with the nonprofit community is legend. Here are two chances for you to extend your support for local nonprofits - at no cost and very little commitment of time:

1. Suggest to nonprofits you know and admire that they apply to participate in *Willamette Week's* 2017 Give!Guide. Participation offers a huge opportunity for organizations to procure funding and generate recognition in our community. Applications will be accepted during the month of June and can be found at www.giveguide.org. The guide itself publishes in early November, with giving continuing through midnight, December 31.
2. You may know someone under the age of 36 who does fabulous work for a local nonprofit. Give!Guide has something for them,

too - \$4,000 and a big party. At least four Portlanders will receive the Skidmore Prize award this year, recognizing young professionals who are making an impact in Portland. You can nominate someone for a Skidmore Prize, also at www.giveguide.org during the month of June.

Willamette Week's Give!Guide started in 2004 with modest ambitions. That first year raised \$25,252.50 for 28 local nonprofits, and was considered a remarkable success. Never in Give!Guide's wildest dreams could anyone have anticipated that a dozen years later it would raise \$4,248,928 - 168 times as much - for 141 nonprofits.

To put this in perspective: the gold standard for this sort of newspaper-inspired giving is set by *The New York Times'* Neediest Cases Fund. It raises about \$6 million each year and runs for a longer period of time. Given how many more readers

the *Times* has than *Willamette Week* and how much wealthier New York City is, Portlanders' outsized performance shows the depth and breadth of generosity in our city - and, ultimately, our commitment to our community.

This year, the plan is to have somewhere between 140 and 150 local nonprofits participating. Criteria are general and reflect *Willamette Week's* desire to have the Give!Guide develop the annual-giving habit in younger Portlanders: Does the nonprofit engage in activities consistent with *Willamette Week's* Portland *and* of interest to younger residents? On top of this, Give!Guide offers significant incentives to donors.

Your support for the nonprofit community helps make Portland the amazing city it is today. If you have questions, feel free to contact Give!Guide's Executive Director, Mahala Ray, at 503.445.3640 or mray@wweek.com.

JUDICIAL VACANCY

A new judicial vacancy has been announced with the retirement of Judge Diana Stuart. The judge appointed to this position will be assigned to the Multnomah County Circuit Court's Family Law Department.

Those interested in applying should submit their MBA application to Pamela Hubbs by June 12 to be considered by the MBA Judicial Screening Committee.

For more information and to download the MBA application, visit www.mbabar.org or contact Pamela (503.222.3275, pamela@mbabar.org).

mba | Young Lawyers Section

What is the YLS?

An inclusive section of the bar, which includes any MBA member in practice less than six years or under the age of 36. The YLS provides leadership, networking, professional development and service opportunities. And we have fun!

Ask the Expert

Dear Experienced Attorney, I keep hearing that I should get more involved with bar associations. With only a limited number of hours in the day, why should I get involved? Why not choose other organizations to be involved with?

*Sincerely,
Reluctant Young Lawyer*

Dear Reluctant Young Lawyer, You're right that there are only a limited number of hours in the day, and that we can't be expected to do it all. But, as a long-time board member whose term is ending this summer, I can tell you that there are many benefits to being involved with a bar association such as the MBA YLS (as a disclaimer, the reasons below are not organized by order of importance).

First, bar associations provide various programs at great value for their members. For instance, did you know that MBA members receive free access to a rotating selection of six different CLE seminars each year? At the risk of sounding like an infomercial, that is a great and inexpensive way to satisfy some of your mandatory CLE credits. For the remaining CLE credits, the MBA and MBA YLS hold a series of programs throughout the year at affordable rates. Additionally, you can get involved in the CLE Committee where you can help plan and implement CLE topics of interest to you.

Second, the networking opportunities available through bar associations - especially the

MBA - cannot be understated. I attended an out-of-state law school and hardly knew any attorneys when I first started practicing in Portland. It was awkward attending "networking" events. However, I became involved in a YLS committee, moved my way up to chair, and then served as a director on the MBA YLS Board. Through each of those volunteer commitments, I have met many members of our legal community. You'll find that many leaders of the community are also involved with the MBA. I no longer dread "networking" events, especially since I will recognize at least one attendee - usually from the MBA. Most importantly, I have enjoyed the MBA community and found it to be welcoming (I hope you will too).

Importantly, the networking benefit can directly help grow a young lawyer's practice. As you become more experienced, some of your peers will begin to refer cases to you. There can be many reasons for this - your peer is conflicted from representation, doesn't have the time, doesn't have the experience, among other reasons. The more well-known you become, the more likely you are to be the recipient of such a referral. Similarly, expanding your network within the bar association can lead you to other career opportunities. It's not surprising that many job opportunities surface through word of mouth and connections without any public posting.

On that note, hope to see you at an event soon!

**Maxine Tuan
YLS Member Spotlight**

*by Jovita Wang
YLS Board*

It is no surprise that Maxine Tuan is a rising star, not only in our legal community, but in the community in general. Although Maxine is just in her second year of practice and carries a full load of cases, she is already contributing to our communities through her work and volunteer activities and is continually striving to do more.

Originally from the bay area, Maxine attended college at the University of California, San Diego. Afterward, she volunteered as a mediator at the nonprofit Community Boards, the oldest public conflict resolution center in the country, and obtained her California paralegal certification. Although Maxine received an offer for a paralegal position at a family law firm, fortunately for us, she instead attended law school at Lewis & Clark; the law school's strong public interest program led her to give up her sunny California days for the Oregon rain.

Interested in social work, Maxine always had the desire to build relationships and help others on important issues crucial to their well-being. During law school, Maxine was President of the Family Law

Society. In that role, she helped her fellow students establish and maintain a relationship with practicing family law attorneys and promote family law practice opportunities in the community. Maxine worked as a teaching assistant for the Legal Analysis and Writing program, helping first year students refine their research and writing skills. She held sessions for first year students and helped create an appellate brief topic. Additionally, Maxine participated in Lewis & Clark's legal clinic and externed at St. Andrew Legal Clinic.

Upon graduating in 2015, Maxine joined St. Andrew Legal Clinic full time as a staff attorney at its Hillsboro office. She represents low income clients in family law matters and maintains a case load of approximately 35 cases. On top of that, Maxine also helps promote St. Andrew's two key fundraising events - one of which is coming up soon. This year's Race for Justice is scheduled the morning of June 17 (before the YLS Summer Social at the Thorns FC match later that evening). As a staff attorney, Maxine also oversees the weekly



Maxine Tuan

Night Clinic program every Wednesday from 6:30-8:30 p.m., where other attorneys volunteer during the evenings to provide legal assistance in 30-minute increments.

Maxine is also member of the YLS CLE Committee. As a member of the CLE Committee, she has helped plan numerous CLE series. Utilizing her skills and experience, she was instrumental in planning the Young Litigators Forum on Mediation, Settlement and Judicial Settlement Conferences.

In her spare time, Maxine enjoys running and cooking. Her next adventure is to start a cooking blog, in honor of her Taiwanese heritage. Her grandma recently compiled a book of home-cooked recipes. Maxine's goal is to translate these recipes into English to share with us. No matter what she does, Maxine's heart is with the community.

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YLS Summer Social at Thorns FC Match

**Providence Park
1844 SW Morrison St., Portland
Saturday, June 17
7 p.m.**

Come celebrate the work of our volunteers as the committee year draws to a close.

The YLS has booked a private viewing deck for the Thorns FC soccer match versus Sky Blue FC at Providence Park on Saturday, June 17. Join us for this fun opportunity to mingle and take in a match.

Thank you to sponsors **Parker, Butte & Lane, PC**, Barran Liebman LLP, Davis Wright Tremaine, and Miller Nash Graham & Dunn LLP for supporting the event.

MBA members, guests and nonmembers are all welcome to attend and may register online at www.mbabar.org for \$10. Space is limited, advance purchase only.

ABA Young Lawyers Division Spring Conference Highlights

by Shayda Zaerpoor Le
YLS President-Elect



As the MBA YLS Delegate to the ABA, I recently had the opportunity to attend and speak at the ABA Young Lawyers Division (YLD) Spring Conference, which took place in Montreal. The YLD holds four conferences a year, two of which (spring and fall) are held separately from the big ABA, so they're a great opportunity for new and young lawyers to meet others from around the country who are similarly situated in practice experience and career development.

Legal Education

One of the highlights of the conference is the variety in programming, all of which is targeted toward lawyers who are young(ish) or new(ish) to the practice of law. This quarter's lineup consisted of topics such as: being a trusted advisor through leadership; communication; relationship building skills; adoption; combatting human trafficking; drones and national airspace; advocacy and mindfulness; bridging the justice gap through technology; Dakota access and environmental justice for indigenous communities; and perspectives on the relationship

between in-house and outside counsel.

Special Programming

In addition to CLEs, each conference offers some special programming. This session included a breakfast with two justices from the Supreme Court of Canada, who spoke with the attendees about a comparative analysis of the courts systems in Canada and the United States. In addition, attendees had the opportunity to hear from Jerome Buting, the criminal defense lawyer involved with the Netflix hit, *Making a Murderer*, about handling high-profile cases. There was also an international oratory competition, as well as executive coaching sessions focused on providing young lawyers with skills in the areas of communication, leadership skills, and productivity. The YLD leadership also met for its Council Meeting to discuss division status reports, including an update on a redistricting proposal (Oregon and Washington are grouped together as District 29 and are unlikely to be affected). The conference concluded with an awards ceremony for young-lawyer affiliates around the country who submitted information on their diversity programming for the ABA YLD's Embracing Diversity challenge.

Public Service

Consistent with the YLD's focus on public service, each conference typically provides an opportunity for attendees to participate in a service event in the local community. This conference was unique in that it offered training

and the launch of a toolkit for people to implement local sessions of "What Do Lawyers Do," a panel program which educates prospective law students on preparation for law school, the law school experience, and different career paths available to law school graduates. Our own local legal community partnered with Portland State University and held this program just this past April. Our experience and feedback was incorporated into the materials and training presented to attendees.

Networking

In recognition of the importance of networking and relationship building at all stages of career development, each conference provides ample opportunities for networking: from the first time attendee orientation, to the welcome reception and the dinner events. The fall and spring conferences also offer an Affiliate Showcase, in which YLD affiliates throughout the country host a booth and provide materials and a quick presentation on programs that have been successfully implemented in their areas. The showcase is intended to provide ideas and collaboration between the local YLD affiliates.

For those looking for that small push to get more involved locally, the MBA YLS offers numerous opportunities to meaningfully participate in local initiatives and ABA programs through committees, events, and targeted projects. In addition, the ABA annual conference will be in New York from August 10-15 and registration is now open on the ABA website. I personally encourage the young lawyers in our area to consider attending, and I invite you to reach out to me if you have questions about opportunities to get more involved with the YLS or the ABA YLD.

YLS Service to the Public Committee Celebrates Another Successful Community Law Week

by Jamison McCune
YLS Service to the Public Committee Chair

The YLS Service to the Public Committee hosted Community Law Week May 1-7. Each year, Community Law Week provides legal education, access, and assistance to the public through a series of interactive events held around ABA Law Day on May 1. This year's theme, "The 14th Amendment: Transforming American Democracy" celebrated the landmark amendment and its profound effect on citizenship, due process, and equal protection. Highlights of this year's Community Law Week included the YOUTHFILM Project screening and awards ceremony and a public forum called Tell It to the Judge.



YOUTHFILM Project Screening and Awards Ceremony

This year's YOUTHFILM Project culminated in an awards ceremony and film screening on May 4 at the Hollywood Theatre in Northeast Portland. The screening provided the participants and young auteurs an opportunity to showcase their film submissions on the big screen and before an audience of attorneys, judges, and civic-minded community members. Films considered 14th Amendment-related issues such as the right to a fair trial, the meaning of citizenship, and whether nonpersons (zombies)

are entitled to equal protection under the law. Winners received trophies and either individual movie passes or a pizza party for their class. YLS Board member **Brad Krupicka** served as emcee and **Senior Judge Robert Wollheim** awarded prizes to this year's top films, followed by a hosted reception at Columbia River Brewing after the screening.

Tell It To the Judge - Free Legal Information Booth

The YLS Service to the Public Committee hosted a public forum at Multnomah County Courthouse on May 6. Presiding Judge Nan Waller and Judge Cheryl Albrecht of the Multnomah County Circuit Court held "open court" for two hours and spoke one-on-one with community members about their questions, concerns, and opinions on the justice system. Volunteers also provided general legal information and helped community members identify much needed legal resources.

The committee would like to thank the sponsors, judges and volunteers who made this year's Community Law Week possible.

The Oregon Hispanic Bar Association and YLS Host an Evening with Los Jueces

by Iván Resendiz Gutierrez
YLS Membership Committee

The Oregon Hispanic Bar Association (OHBA) and YLS hosted a judges social at the offices of Miller Nash Graham & Dunn on April 27. This was the inaugural event of the "Evening With" series created by the OHBA, which aims to profile Latinx leaders with a high level of professional achievement and strong commitment to community service. The collaboration between the OHBA and the YLS resulted in a splendid gathering, where young lawyers were able to socialize with members of the bench from the Federal, Multnomah County, Washington County, and Marion County Courts.

As MC, I witnessed judges and young lawyers discussing everything from first appearances in court to paths to the bench. The judges were more than happy to answer the questions of the young lawyers, who were excited to mingle with and learn from our esteemed judiciary. This event is another reminder of how fortunate we are to practice in a state where our jurists are accessible and generous with their time and advice.

In short, the Evening with Los Jueces was a resounding success. Be sure to keep an eye out for future OHBA/YLS collaborative events!



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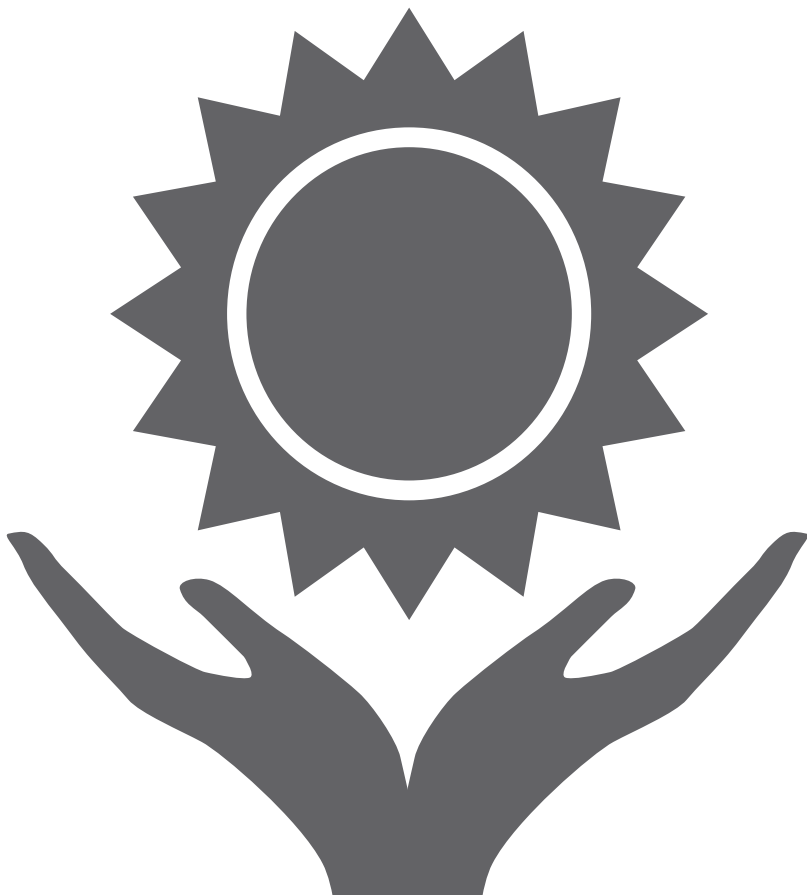


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MBF Awards Over \$47,000 in Civic Education Grants

by Pamela Hubbs
Office and Foundation Administrator

The Multnomah Bar Foundation has awarded \$47,320 in grants to 10 area nonprofits for programs that educate people of all ages about the justice system and encourage civic engagement.



**THE
BUS
PROJECT**

Bus Project Foundation was awarded \$3,500 for the PolitiCorps Leadership Fellowship program to teach young adults community organizing, campaign and nonprofit management, and leadership skills through a full-time 10-week summer program.

City Club of Portland

City Club of Portland was granted \$5,000 for its Civic Scholars Program to engage youth from disadvantaged backgrounds who encounter barriers related to poverty, civic engagement, and educational achievement. The program provides hands-on learning

of advocacy, leadership and critical thinking skills to disrupt cycles of poverty and maximize potential.



Elders in Action was granted \$4,000 for a Civics 101 Leadership Academy, to engage and educate elders in the fundamentals of government and advocacy and create informed, involved volunteers and leaders.



**LEAGUE OF
WOMEN VOTERS®**

League of Women Voters of Oregon was awarded \$4,000 to help support the Civics Education, Civil Discourse and Voter Services programs in Multnomah County, which include the creation of educational materials on elections, civic education and voters' guides in English and Spanish.

League of Women Voters of Portland was granted \$5,000 to improve communications and increase civic engagement and voter education through educational programs and materials, extended outreach and enhanced publicity.



MetroEast Community Media was awarded \$3,800 to produce "Participation: A Practical Guide" (working title), a public service announcement that encourages democratic involvement by providing resources and a roadmap to help people get started or increase their participation.



Northwest Family Services (NWFS) was granted \$8,000 for NWFS Peer Court, where high school student volunteers serve as attorneys and student

volunteers and program graduates serve as jury members to hold youth with first-time misdemeanor offenses accountable in a courtroom setting. Student attorneys receive coaching from licensed attorneys while putting into practice legal concepts and gaining public speaking skills.

Oregon Tradeswomen, Inc. Oregon Tradeswomen, Inc. received \$5,000 for the civic education component of T.O.O.L.S. (Tradeswomen Organized for Outreach, Leadership & Support), providing voter registration, voter education, civic engagement, and advocacy and legislative work, so that tradeswomen are included in the civic and legislative process on issues that affect them.



Saturday Academy received \$1,520 for Kid Lawyer Camp, a summer program for sixth to eighth grade students that provides a fun, hands-on, in-

depth learning experience about the judicial system.



Sponsors Organized to Assist Refugees

Sponsors Organized to Assist Refugees (SOAR) was granted \$7,500 for its Voter Education Project, group classes and individual sessions that help newly naturalized citizens understand the voting system, how to register to vote and the value of civic participation. The program is part of the New Americans Initiative and promotes full immigrant integration, civic participation and voter engagement.



To learn how you can get involved or support any of these organizations, contact Pamela Hubbs (503.222.3275, pamela@mbabar.org).



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