



MULTNOMAH LAWYER

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Volume 62, Number 11



The Next Generation

by Tyler Volm
YLS President

The YLS President usually publishes a cover article in an issue of the *Multnomah Lawyer*, and when given the chance to write one this month, I felt compelled to do so for a variety of reasons. My wife and I recently welcomed our first child in August,

and that certainly forces a person into a period of reflection (usually during our 3 a.m. feedings). There have also been developments at the national and local levels that have left many people wondering what comes next. As I attempt to reconcile these two concepts, I got to thinking about my journey with the YLS, and why many of us take time away from our families and jobs to contribute to the MBA.

I initially joined the YLS CLE Committee at the insistence of a friend who was already on the committee. I was new to practice and, like the old adage, felt like I was drinking water out of a firehose. I had numerous other commitments, and was looking at the steep learning curve of those new to practice. As it turns out, joining that YLS committee was one of the best decisions I made in those early years. As I sat in on my first committee meeting, I was struck by the passion and purpose that my fellow committee members displayed. Like me, they too were new to practice, but that did not hinder them from fulfilling the committee's mission, and having some fun along the way. Through this committee I met young lawyers who had been in practice for several years, and they not only showed me the light at the end of the learning curve tunnel through their actions, but they even took the time to meet me for coffee or lunch to directly mentor me in my professional development. I was struck by the generosity demonstrated by my peers, and when I eventually had the opportunity to chair the committee, I jumped at the chance to pay it forward with newer lawyers. Participation in the YLS has undoubtedly expanded my network, and provided me the opportunity to get to know other young lawyers in the area.

The art of collaboration, delegation, time-management, managing expectations and deadlines, and positive reinforcement... are traits that every professional must learn....

After chairing the CLE Committee, I joined the YLS Board. Again, the passion and dedication demonstrated by the other board members showed me that there was much more to the practice of law than writing briefs and billing hours. The time spent on bar committees and boards provides leadership development opportunities that serve young lawyers well throughout their careers. The art of collaboration, delegation, time-management, managing expectations and deadlines, and positive reinforcement (to name just a few) are traits that every professional must learn, and the sooner the better. These skills, which are not taught in the traditional law school curriculum, will help our generation of lawyers prepare to be the next leaders at the local, state, and national levels, as well as within our own firms.

The YLS also provides its members with opportunities to engage with and give back to the community. Our Wills for Heroes program provides first responders with wills and powers of attorney free of charge, while providing newer lawyers the chance to contribute their knowledge and energy in the process. Through the Bullyproof program, YLS members can directly impact the lives of elementary school students by teaching them to identify and stand up against instances of bullying in their schools. With recent news of increases in this type of behavior around the country, it is that much more timely and impactful that we do our part to educate and equip these young people, some of whom will be joining our ranks in a few decades, with the tools to effectively and calmly diffuse and resolve conflict. Community Law Week, the YOUTHFILM Project, and the Imprint Program are just a few other ways that young lawyers give back to the next generation of lawyers, legislators, and litigants. The YLS Board also has a liaison to the Campaign for Equal Justice, which focuses on improving access to justice for low-income Oregonians across the state.

Working together towards our common goals...not only reminds us that deep down we all have more common than we might think....

Last, and perhaps most importantly, participation in your local bar organization increases professionalism and civility in what can be, at times, an acrimonious profession. Working together towards our common goals (increasing diversity in the bench and bar, ensuring access to justice, building a new courthouse, etc.) not only reminds us that deep down we all have more in common than we might think, but also that while we may disagree on legal issues, we are members of a profession which embodies dignity, respect, and the chance for everyone to be heard. In the age of emails and limited personal interaction, it is amazing what can be accomplished, and how it can be accomplished, when you know and have worked with the attorney on the other side. We have a pretty special bar here in Multnomah County and camaraderie through participation in the MBA is one way we can all ensure that this is passed on to the next generation of lawyers.

I have asked other members of the YLS Board to write articles about their MBA experiences. While we have all had unique experiences, we share a passion for enhancing the local legal community and our collective satisfaction with the practice of law. While most of you reading this are already members of the MBA, I ask that you consider inviting a friend, colleague, or new associate to an MBA event and let them see for themselves the impact the MBA has in our legal community. There is always room for more chairs, perspectives, and dialogue at the table.

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.

DECEMBER

12.7 Wednesday Representing Incapacitated Clients

Michael Fearl
Tim McNeil
Julie Meyer Rowett

12.8 Thursday The Robe as Sword and Shield: How Should the Bench Model and Enforce Professionalism?

Judge John Acosta
Judge Kathleen Dailey
Judge Jean Kerr Maurer
Ed Harnden
Judy Snyder

12.13 Tuesday Effective Use of Time & Technology: Eliminate, Automate, Delegate, Do

Tom Howe

12.15 Thursday Appellate Update

Judge Stephen Bushong
Justice Rives Kistler

JANUARY

1.11 Wednesday Evidence in Family Law

Judge Patrick W. Henry
Daniel Margolin

1.26 Thursday Brewery Law: The Top 10 Things You Didn't Know You Don't Know

Jesse Lyon
Marcus Reed

1.31 Tuesday 'Til Death (Or Otherwise) Do We Part: The Interplay Between Family Law Issues and Estate Planning

Mark Barzda
Taylor Kittell

In This Issue

Calendar.....	2
CLE Schedule.....	3
Announcements.....	6
Ethics Focus.....	7
Around the Bar.....	8
News from the Courthouse.....	10
Tips from the Bench.....	10
Profile: Hon. Peter McKittrick.....	11
YLS.....	12
Pro Bono Volunteers.....	15
Classifieds.....	16
MBF.....	11,14,20

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SAVE THE DATE!

MBA 15th Annual WinterSmash

A Family Friendly Bowling Event

Saturday, February 4
5-8 p.m.
AMF Pro 300 Lanes
3031 SE Powell Blvd



A Multnomah CourtCare Fundraiser

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DEADLINE for copy: The 10th of the month*

DEADLINE for ads: The 12th of the month*

*or the preceding Friday, if on a weekend.

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Another Successful Absolutely Social

Over 200 lawyers, judges, sponsors and law school students gathered at the University Club on October 20 for the fall Absolutely Social - The Grape Escape. The event featured wine tastings selected by Matt Levin and Albert Menashe. Cash and canned food were collected for the Oregon Food Bank. Thanks to all those who contributed!

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Calendar

DECEMBER	JANUARY
<p>8 Thursday OSB Awards Luncheon www.osbar.org</p> <p>9 Friday January Multnomah Lawyer deadline</p> <p>14 Wednesday Solo & Small Firm Workshop The Path to Paperless Details on p. 15</p> <p>14 Wednesday Toys for Tots Details on p. 12</p> <p>15 Thursday OMLA Annual Member Meeting</p> <p>26-27 Monday-Tuesday Christmas Holiday</p>	<p>2 Monday New Year Holiday</p> <p>12 Thursday Young Litigators Forum CLE Series begins www.mbabar.org</p> <p>16 Monday Martin Luther King Jr. Holiday</p> <p>27 Friday 2017 Pro Bono Award Nominations Due</p>
FEBRUARY	
	<p>4 Saturday WinterSmash www.mbabar.org</p> <p>20 Monday Presidents Day Holiday</p>

Oregon Lawyers Against Hunger Receives Hunger Hero Award

On October 15, the Oregon Food Bank presented a Hunger Hero award to the Oregon Lawyers Against Hunger (OLAH). OLAH is an entirely volunteer-run fundraising group that organizes the legal community to support the crucial work of Oregon Food Bank in addressing the hunger crisis in our state. Since 1997, through OLAH, Oregon lawyers, judges, legal staff, and supporters have raised over \$2.1 million. Many thanks to OLAH's past board members and team captains, and to this year's board: Bill Miner, Becky Gross, Bethany Bacci, Bob Meyer, Brad Daniels, Brian Kiolbasa, Elizabeth Falcone,

Elizabeth Weber, Emily Teplin Fox, Gillian Bunker, Hal Scoggins, Justin Leonard, Matt Larson, Melissa Kennedy, Paul Raney, and Tim Calderbank.

You can still participate in the OLAH 2016 "Lawyers v Hunger" Drive. Donate online at engage.oregonfoodbank.org/OLAH. Or send a check to Oregon Food Bank, 7900 NE 33rd Dr, Portland, OR 97211. Please make checks payable to Oregon Food Bank and include OLAH on the note line. To learn more about how the Oregon Food Bank provides crucial resources to some of the state's most vulnerable citizens, visit www.oregonfoodbank.org.



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The MBA will apply for 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.

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

Representing Incapacitated Clients

Wednesday, December 7, 2016 - 3:00-5:00 p.m.

World Trade Center, Plaza

Members \$60/Non-Members \$95

What ethical rules guide legal representation of a client suffering from dementia or another incapacitating condition? **Julie Meyer Rowett**, Yazzolino Rowett & Edgel LLP; **Tim McNeil**, Davis Pagnano McNeil & Vigna, LLP; and **Michael Fearl**, Schulte, Anderson, Downes, Aronson & Bittner, P.C., will discuss the ethics and mechanics of representing an incapacitated client in the context of elder law and family law.

For more information: Contact Mindy Stannard, McKinley Irvin at 503.487.1645. For registration questions, call the MBA at 503.222.3275.

The Robe as Sword and Shield:

How Should the Bench Model and Enforce Professionalism?

Thursday, December 8, 2016 - 3:00-5:00 p.m.

World Trade Center, Mezzanine

Members \$60/Non-Members \$95

Note: Two hours of ethics OSB MCLE credit will be applied for.

A panel of judges committed to advancing professionalism among the bar will discuss the role the bench plays in enforcing professionalism both inside and outside the courtroom. A panel of judges, including US District Court **Judge John Acosta**, Multnomah County Circuit Court **Judge Kathleen Dailey**, and retired **Judge Jean Kerr Maurer** will discuss their role and the bench's responsibility to enforce civility and professionalism in a panel discussion with **Judy Snyder** and **Ed Harnden**.

This is an interactive CLE intended to give the bar an opportunity to hear from and communicate with the bench about issues of professionalism that commonly arise and how the court can be of assistance. The panel will discuss specific scenarios and will address questions from the audience. New lawyers and experienced litigators are encouraged to attend and contribute.

For more information: Contact Multnomah Circuit Court Judge Kelly Skye at 503.988.3204. For registration details, call the MBA at 503.222.3275.

Effective Use of Time and Technology: Eliminate, Automate, Delegate, Do

Tuesday, December 13, 2016 - 3:00-5:00 p.m.

World Trade Center, Plaza

Members \$60/Non-Members \$95

Successful lawyers use technology and manage their time effectively to reach their goals. While efficiency is important, effectiveness is the key! See how technology can increase your productivity, and how to choose the right system for your law firm. Learn essential ways to manage time to help you get more done and be more effective. Benefit from valuable tips and strategies to become a high performer, such as creating a plan, developing habits, eliminating unimportant tasks, learning to say "no," and using computers and smartphones effectively to increase productivity and deal with information overload. Work smart, not hard. Included with this CLE are over 20 Microsoft Word and Excel documents.

A trial lawyer with a deep technical background, **Tom Howe** has over 25 years of experience in law and technology. He is one of the leading e-discovery lawyers in the country, providing legal/technology consulting and expert witness services to some of the largest law firms, corporate legal departments, and e-discovery vendors in the United States. Tom is a regular keynote speaker at legal and technology conferences around the world, and has authored five books on law and technology.

For more information: Contact the MBA at 503.222.3275.

Appellate Update

Thursday, December 15, 2016 - 3:00-5:00 p.m.

World Trade Center, Mezzanine

Members \$60/Non-Members \$95

Please join the MBA for a two-hour update on Oregon appellate decisions. Multnomah County Circuit Court **Judge Stephen Bushong** and Oregon Supreme Court **Justice Rives Kistler** will present an overview of key decisions from the Oregon Court of Appeals and Oregon Supreme Court from 2016. These esteemed speakers will touch on issues relevant to nearly all practitioners. An absolute "must-see" to wrap up 2016 and prepare for a new year.

For more information: Contact Molly Honore, Markowitz Herbold at 503.295.3085. For registration questions, contact the MBA at 503.222.3275.

Evidence in Family Law

Wednesday, January 11, 2017 - 3:00-5:00 p.m.

World Trade Center, Mezzanine

Members \$60/Non-Members \$95

The **Honorable Patrick W. Henry**, Multnomah County Circuit Court judge and lawyer **Daniel Margolin**, Stephens & Margolin, will lead an interactive presentation on challenging evidentiary issues in family law case.

For more information: Contact Mindy Stannard, McKinley Irvin at 503.953.1032. For registration questions, contact the MBA at 503.222.3275.

Brewery Law: The Top 10 Things You Didn't Know You Don't Know

Thursday, January 26, 2017 - 3:00-5:00 p.m.

Widmer Brothers Brewery, 947 N. Russell St.

Members \$60/Non-Members \$95

Oregon is home to more than 200 breweries which produce more than 1.7 million barrels of craft beer every year. Most of those breweries are run by small businesses that need attorneys to help them navigate through the complex regulatory system governing alcohol production, distribution, and sales. This seminar is designed to assist practitioners who advise or represent these businesses, and provide them with the tools they need to avoid common problems and pitfalls. Presenters: **Marcus Reed**, General Counsel for Craft Brew Alliance and **Jesse D. Lyon**, Davis Wright Tremaine LLP. Topics covered will include:

- TTB permits, OLCC licensing, and multi-state brand registration
- 50 state framework
- Funding and tied-house constraints
- Advertising, promotion, and trade practice rules
- Self-distribution, 3-tier distribution and franchise laws
- Brewery facilities, contract production and alternating proprietors
- Pub and retail operations
- Labels and trademarks

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

'Til Death (Or Otherwise) Do We Part: The Interplay Between Family Law Issues and Estate Planning

Tuesday, January 31, 2017 - 3:00-5:00 p.m.

World Trade Center, Mezzanine

Members \$60/Non-Members \$95

The MBA CLE Committee is pleased to present this two-hour class on key intersections of family law and estate planning. Family law attorney, **Mark Barzda** and trust and estates lawyer, **Taylor Kittell**, both of Gevurtz Menashe will present this CLE. This class is intended for anyone who practices in either the area of family law or estate planning.

For more information: Contact Kristen Hilton, Sussman Shank at 503.243.1654. For registration questions, contact the MBA at 503.222.3275.

Discrimination "Because of Sex" Under Title VII in the 21st Century

Wednesday, February 1, 2017 - 3:00-5:00 p.m.

World Trade Center, Mezzanine

Members \$60/Non-Members \$95

What does "because of sex" mean in 2017? Since its addition to Title VII of the Civil Rights Act of 1964, the prohibition on workplace discrimination "because of sex" has been constantly evolving. In this CLE, **Laura Salerno Owens**, Markowitz Herbold, will examine landmark decisions that form the basis for Title VII sex discrimination claims, and analyze how they have been interpreted in recent years to address increasingly broader forms of gender bias. In particular, the CLE will discuss the evolution of case law disapproving of "sex stereotyping" and the doctrinal implications for sex-based discrimination claims in new and emerging contexts, including sexual harassment between members of the same gender, pregnancy and childcare, and transgender discrimination.

For more information: Contact Molly Honore, Markowitz Herbold at 503.295.3085. For registration questions, contact the MBA at 503.222.3275.

Managing Risk & Reputation: The Value of Building Strong Legal and Public Affairs Partnerships

Tuesday, February 7, 2017 - 12:00-1:00 p.m.

World Trade Center, Mezzanine

Members \$30/Non-Members \$50

Note: One hour of general OSB MCLE credit will be applied for.

Learn how aligning public relations strategy with legal strategy is becoming more important in this era of digital journalism, social media, public advocacy and accountability. Join **Anna Richter Taylor** of ART Public Affairs, and **Elisa Dozono** of Miller Nash Graham & Dunn for a discussion on helping organizations manage and control the public perception in crisis situations - from environmental risk, reputation damage, personnel issues or public safety threats.

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

To register for these classes, see page 4.

Post Judgment Collections: What Can You Do When the Judgment Debtor Won't Pay?

Thursday, February 16, 2017 - 3:00-5:00 p.m.

World Trade Center, Mezzanine

Members \$60/Non-Members \$95

This seminar will review post judgment collection methods available in Oregon, including execution, garnishment, supplemental proceedings (debtor examinations) and other techniques to help you collect your client's judgment. The seminar will also address the impact of bankruptcy on the collection process and will touch on proofs of claim, lien avoidance and stripping, and exemptions and related issues. The speakers will field questions related to representing the judgment creditor. Bring your problem cases!

Daniel Steinberg is a partner at Greene & Markley and concentrates his practice in commercial litigation, creditors' rights, and bankruptcy. **Margot D. Seitz** is an associate at Farleigh Wada Witt and concentrates her practice in debtor-creditor and insolvency matters, business dissolutions, real estate disputes, commercial collections, and estate administration.

For more information: Contact Jovanna Patrick, Hollander, Lebenbaum & Gannicott 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 503.222.3275 or shannon@mbabar.org to add your mentee to the registration list.

Bench Bar & Bagels

On November 10, members of the MBA and judiciary gathered at Tonkon Torp LLP for the eighth annual Bench Bar & Bagels event. In a relaxed atmosphere, attorneys and judges started their day catching up with colleagues and making new acquaintances over pastries and coffee.

Bench Bar & Bagels was generously sponsored by



Judge Janice Wilson, Judge Stephen Bushong, Loree Devery



Max Forer, Will Gent, Ivan Resendiz Gutierrez



Judge Cheryl Albrecht, Melissa Chapman, Rima Ghandour

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.

- 12/7 Representing Incapacitated Clients**
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- 12/8 The Robe as Sword and Shield**
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- 12/13 Effective Use of Time and Technology: Eliminate, Automate, Delegate, Do**
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- 12/15 Appellate Update**
 Class Registration (\$60 Members/\$95 Non)\$ _____
 CD-ROM & Written Materials (\$60 Members/\$95 Non) ..\$ _____
- 1/11 Evidence in Family Law**
 Class Registration (\$60 Members/\$95 Non)\$ _____
 CD-ROM & Written Materials (\$60 Members/\$95 Non) ..\$ _____
- 1/26 Brewery Law: The Top 10 Things You Didn't Know**
 Class Registration (\$60 Members/\$95 Non)\$ _____
 CD-ROM & Written Materials (\$60 Members/\$95 Non) ..\$ _____
- 1/31 'Til Death (Or Otherwise) Do We Part**
 Class Registration (\$60 Members/\$95 Non)\$ _____
 CD-ROM & Written Materials (\$60 Members/\$95 Non) ..\$ _____
- 2/1 Discrimination "Because of Sex"**
 Class Registration (\$60 Members/\$95 Non)\$ _____
 CD-ROM & Written Materials (\$60 Members/\$95 Non) ..\$ _____
- 2/7 Managing Risk and Reputation**
 Class Registration (\$30 Members/\$50 Non)\$ _____
 CD-ROM & Written Materials (\$30 Members/\$50 Non) ..\$ _____
- 2/16 Post Judgment Collections**
 Class Registration (\$60 Members/\$95 Non)\$ _____
 CD-ROM & Written Materials (\$60 Members/\$95 Non) ..\$ _____

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mba | ANNOUNCEMENTS

Free CLE Webcast to MBA Members

The video webcast of the seminar entitled Discovery: Let's Get Real 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.

Commitment to Professionalism

The MBA professionalism statement is available for MBA members to order and display in their offices. The statement is printed on quality 11x14" parchment paper and is suitable for framing. Reconfirm your commitment to professionalism; order at: www.mbabar.org/assets/documents/resources/freq-requested/profcertorder.pdf.

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.

Noon Bicycle 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.

Available Meeting Space



The MBA conference room may be reserved for use by MBA members for client meetings, depositions and other professional law-related business.

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Contact the MBA for details and availability at 503.222.3275.

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ATTORNEYS

We would like to congratulate **Garry L. Kahn** on his retirement from the private practice of law after 54 years of outstanding service to his clients, the Bar and his community. **Steven Kahn** will continue to represent injured people, as he has done for nearly 25 years. The following is a message from Garry:

I wish to express my heartfelt thanks to all of the lawyers in Oregon who have helped to make my career rewarding and enjoyable. I owe a special thanks to many lawyers, some of whom have passed away.

A special thank you to Northwestern College of Law and all of its lawyer/judge instructors who provided me with an excellent education, and who enabled me to obtain a law degree and pass the Bar in 1962. As a lawyer/litigator, I have never felt disadvantaged by attending night law school, thanks to the GI Bill.

I want to express my great appreciation for all of my former colleagues at the "Pozzi" office, including, especially, Frank Pozzi, Phil Levin, Don Wilson, Don Atchison, Dan O'Leary, Richard Noble and Ray Conboy. I spent my first 20 years as a lawyer working diligently and learning the profession as a trial lawyer, in a very special and collegial environment.

I want to express my appreciation for many of the lawyers who defended the many insurance companies and other entities I sued on behalf of my clients, in an atmosphere of mutual respect over these past many years.

I want to thank all of the lawyers who enabled me to serve on the Oregon State Bar Board of Governors, including as president of the Bar 1988-89, which was a very unique and satisfying experience.

Thank you to all of the lawyers who have participated with me in many different professional organizations and committees over the years, and who displayed a great appreciation and dedication to the improvement of our profession and the administration of justice.

I also want to acknowledge the wonderful support of my wife, Judith, and our children, who have supported me in many different ways so I could devote the time necessary in my career as an advocate for my clients and in all of my pro bono endeavors.

Last, a very special thanks to my son and law partner for the past 23 years, Steven Kahn, who has become successful in his own career. He is an outstanding and dedicated trial lawyer and I am proud that he is following in my footsteps in working diligently to achieve the best possible result for his clients. I am also grateful to Steven for allowing me to keep my office as I continue in my new Active Pro Bono status, providing pro bono legal services to indigent clients referred by pro bono programs in Oregon.

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Ethics Focus

Gone But Not Forgotten: Departed Lawyer Conflicts

by Mark J. Fucile
Fucile & Reising LLP



With the increasing mobility of lawyers today, it is not uncommon for a firm to run a conflict check on a potential new matter and find that a lawyer who has left the firm worked earlier on a closed matter for the now-opposing party. The

...former clients in practice often refuse to grant waivers to their "old" law firms....

question then becomes: is that still a conflict for the law firm? The answer depends on the particular facts, but the analytical framework is provided by RPC 1.10(b). Two helpful OSB ethics opinions touch on subsidiary issues of files and nonlawyer staff remaining behind, even if the lawyer who worked on the closed matter involved has left.

RPC 1.10(b) and Departed Lawyers

RPC 1.10(b) sets out the analytical framework for determining whether a firm still has a conflict when a lawyer who did work for a former client is gone:

"When a lawyer has terminated an association with a firm, the firm is not prohibited from thereafter representing a person with interests materially adverse to those of a client represented by the formerly associated lawyer and not currently represented by the firm, unless:

"(1) the matter is the same or substantially related to that in which the formerly associated lawyer represented the client; and

"(2) any lawyer remaining in the firm has information protected by Rules 1.6 and 1.9(c) that is material to the matter."

Under this formulation, if the "new" matter is unrelated to the "old" one handled by the departed lawyer for a former client, then the firm ordinarily has no conflict (absent the comparatively rare circumstance under RPC 1.9(d) (2) of remaining lawyers having a former client's confidential information from a factually unrelated matter that would still be relevant to the new case). If the "new" matter is related to the "old" one, then the answer turns on whether there are any other lawyers remaining at the firm who also acquired the former client's confidential information. Most often, that comes by actually working on the matter involved. But, it can also occur when, for example, a particularly noteworthy case is discussed at office meetings or the firm is small enough that confidential information is effectively shared throughout the firm (or a particular office or practice group). If lawyers remain at the firm who also worked on the matter involved (even in limited roles) and it meets the "same or substantially related" test, then the firm has a former client conflict. Although all former client conflicts can in theory be waived under RPC 1.9, former clients in practice often refuse to grant waivers to their "old" law firms in this setting.

Remaining Files

Former Oregon DR 5-105(J) specifically extended former client conflicts to closed files remaining at a firm even if the lawyer who worked on them had left. When we moved from the DRs to the RPCs in 2005, however, this prohibition was deleted - leaving RPC 1.10(b) framed in terms of lawyers only.

OSB Formal Opinions 2005-128 and 2005-174 note that under the new formulation of the rule the question is whether (as the former puts it at 345) "a lawyer remaining at Old Firm 'has' information if Old Firm has retained files, including electronic documents, of Client that contain information that is material to the [proposed new] matter." OSB Formal Opinion 2005-128 then goes on to outline the steps a firm can take to avoid having a closed file continue to create a conflict (also at 345): "If Old Firm takes sufficient steps to assure that no lawyer at Old Firm will actually acquire the information in the future - for example, by segregating, restricting access to, or destroying such materials or returning them to Client without retaining copies - Old Firm will have established that no lawyer remaining at Old Firm will

have such information, and any obligations under Oregon RPC 1.10(b) will clearly have been met." OSB Formal Opinion 2005-174 takes the same approach and reaches the same conclusion.


Remaining Nonlawyer Staff

RPC 1.10(b) pointedly uses the word "lawyer." Yet, nonlawyer staff such as paralegals, assistants and investigators are often privy to the same confidential information as their lawyer-


...firms examining screening of nonlawyer staff in this context should carefully consider whether they would remain at disqualification risk....

supervisors. The approach suggested by OSB Formal Opinions 2005-128 and 2005-174 for files implies - but does not state - that similar screening may be available for nonlawyer staff.

Nonetheless, firms examining screening of nonlawyer staff in this context should carefully consider whether they would remain at disqualification risk given the difference between a staff member who may be working directly with the lawyers opposing the former client and a physical file stored off-site. In short, despite the wording of the rule and the approach used by the ethics opinions, the analogy between files and staff may not always be exact. Further, courts have greater discretion to impose disqualification as a remedy in this context than a trial panel applying the literal wording of the RPCs in a disciplinary setting. In *Oxford Systems, Inc. v. CellPro, Inc.*, 45 F Supp 2d 1055 (WD Wash 1999), for example, the court in disqualifying a law firm looked (among other things) to the fact that nonlawyer staff remained at the firm who were privy to the former client's confidential information from an earlier related matter. In fact, Washington subsequently amended the comments to its corresponding rule to make the application to nonlawyers explicit.



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Angeli Law Group has good news!



Welcome to our newest associate, Ed Piper.

Ed's practice focuses primarily on data security, trade secrets, information privacy, and technology law.



Congratulations to our principal, Kristen Tranetzki.

Kristen was elected Chair-Elect of the OSB Criminal Law Section. She looks forward to serving the Bar in her new capacity.



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Around the Bar



Anna Joyce

Markowitz Herbold PC

Anna Joyce has joined the board of directors of Dove Lewis Emergency Animal Hospital.

Before joining Markowitz Herbold as Of Counsel, Anna was the former Solicitor General for the State of Oregon. She now focuses her practice on legal research and writing for the firm's most complex cases.



Traci Ray

Barran Liebman LLP

Traci Ray, executive director at Barran Liebman, has been named the Chair of the American Bar Association's Women Rainmakers Committee and elected to the Council of the American Bar Association's Law Practice Division in Seat 6 for a two-year term.

The mission of ABA Women Rainmakers is to educate professional women about marketing and business development, to provide mentoring opportunities for members, and to provide networking opportunities to build personal and professional relationships.



Dana Sullivan

Buchanan Angeli Altschul & Sullivan, LLP

Dana L. Sullivan, a partner with Buchanan, Angeli, Altschul & Sullivan, LLP, has been selected as a member of the American Board of Trial Advocates (ABOTA). ABOTA

fosters the improvement in the ethical and technical standards of law practice to promote the efficient administration of justice and civic education about the legal system. Membership in ABOTA is peer-nominated. Sullivan represents individuals in employment litigation and negotiation of employment contracts and separation agreements. She regularly appears in state and federal trial courts and is licensed to practice in both Oregon and Washington.



Craig Chamberlain



Sanja Muranovic

Miller Nash Graham & Dunn LLP

Miller Nash Graham & Dunn LLP welcomes four associates to its Portland office. Craig Chamberlain joins the firm's business team, while Sanja Muranovic, Nicholas Pyle and Iván Resendiz Gutierrez join the firm's litigation team.

Chamberlain recently earned his law degree at Lewis & Clark Law School, where he received a certification in intellectual property law and served as a teaching fellow in legal analysis and writing. Prior to joining the firm, Chamberlain served for a year as an AmeriCorps volunteer and joined the staff of a residential-treatment community to provide counseling and life-skills support to individuals living with mental illness.

Before joining Miller Nash Graham & Dunn, Muranovic was an associate with Baker & Hostetler, LLP in Houston, Texas. Muranovic focused her practice on commercial litigation, primarily in contracts and business disputes. Muranovic is licensed in the state of Texas and will take the Oregon bar exam in February.



Nicholas Pyle



Iván Resendiz Gutierrez

Prior to joining Miller Nash Graham & Dunn, Pyle was an associate of Quinn Emanuel Urquhart & Sullivan in Los Angeles, California, where he focused his litigation practice in business torts, antitrust, product liability, insurance and professional malpractice.

Before joining the firm, Resendiz Gutierrez earned his law degree, with honors, at the University of Oregon Law School where he was a staff editor of the *Oregon Law Review* and president of the Latino/a Law Student Association. After law school, Gutierrez served as a judicial clerk for the Honorable Lynn R. Nakamoto for the Oregon Court of Appeals and the Oregon Supreme Court. Gutierrez is currently a board member of the Oregon Hispanic Bar Association and the Oregon Minority Lawyers Association. He also serves as a mentor at Willamette University College of Law.



Susan Hammer

Susan Hammer

Susan Hammer has been appointed to the Board of Directors of Oregon Public Broadcasting. Hammer is a Portland mediator and has served as a mediator since 1998. She is member of the National Association of Distinguished Neutrals and is a Fellow in the International Academy of Mediators.



Barbara Diamond

Diamond Law

Barbara J. Diamond of Diamond Law is pleased to announce that her trio of anti-bias documentary films have been picked up for national distribution in the academic market, including university libraries. Current distributors include the Alexander Street Press and Kanopy. Diamond Law continues to do film-based implicit bias training and consulting for law firms, labor organizations, universities, government entities, and nonprofits. Training film trailers can be viewed at www.diamondlaw.org.

Reynolds Defense Firm

Reynolds Defense Firm has moved their Portland office to a new location at Lair Hill, near the South Waterfront. The new location has enough space to accommodate growth, allowing the firm to help more people facing DUI arrests. Phone number and website remain the same. The new address is: 3220 SW 1st Avenue, Suite 200, Portland.



Kristen Hilton

Sussman Shank LLP

The Oregon Coast Aquarium welcomes attorney Kristen Hilton to its Board of Directors. Kristen is a member of the firm's litigation department where she focuses her practice on complex civil litigation matters in state and federal court, including contract disputes, false advertising and unfair competition cases, partnership disputes, and business torts. She represents businesses and employers from a variety of industries, including real estate, technology, insurance, health care, and construction, and in all stages of litigation from pleading to trial to appellate matters. As a member of the firm's Employment Group, Kristen also counsels clients on best practices to minimize future risk.



Steve Kantor



Victoria Blachly

Samuels Yoelin Kantor LLP

Portland law firm Samuels Yoelin Kantor LLP and two of its practitioners have been recognized in the inaugural edition of *Chambers High Net Worth*, a new guide specifically aimed at the international private wealth market, and the first publication of its kind.

Steve Kantor was cited for his "significant experience in estate and trust administration and planning for a wide range of clients, including wealthy executives, business owners and multi-generational families." One source said Kantor "is just superb. He is a wonderful lawyer." A fellow attorney hailed Kantor as "a leading person in estates and tax," adding: "He is very smart and has a reputation for doing very, very good work."

Victoria Blachly received praise for her handling of contentious trusts and estates matters. She was described by a peer as "very thorough," and, based on *Chambers High Net Worth's* research, is "well known in the Oregon legal community for her expertise in fiduciary litigation."

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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Tips From the Bench

Advanced Mediation The Changing Face of Dispute Resolution

by Judge Jerome LaBarre
Multnomah County Circuit Court



Late last year in the middle of a dreary Portland winter, I saw a CLE flyer for an Advanced Mediation course offered in sunny Malibu at the Pepperdine University Law School Straus Institute for Dispute Resolution. The course focused on new sophisticated mediation techniques, many of which were developed at Pepperdine. Before becoming a judge I did a lot of mediation, and since then a lot of settlement conferences. But the promise of learning about new approaches while escaping the rainy winter piqued my interest. It was a great course and it opened my eyes to advances in dispute resolution.

The Pace of Change

In the early 1980s, the late Alvin Toffler predicted in his bestseller *Future Shock* that changes in the sciences, technology and the world around us would occur at a faster and faster pace. He was right. Every day we are bombarded with news of important new breakthroughs, from discoveries in physics about the quantum world to the sequencing of the human genome in medicine. No doubt the physical sciences are going through massive changes, but what about the law and the way we resolve disputes? Developments in the social sciences may not seem as dramatic, but the landscape of dispute resolution has also shifted.

Centuries of Trials

Scholars say that modern legal history begins with the Renaissance, followed by the development of the common law in England. On the new American frontier, courts became the backbone of the legal system. The court system provided a fair, open and impartial means of resolving disputes. Accordingly, the jury system became the heart of American law and a prime attribute of our democracy. Throughout the nation, imposing courthouses were built to resolve civil and criminal disputes alike through trials. By the 1980s, mediation arose in some civil cases as a complement to trials, but trials were still the first resort if a case did not settle. Mandatory arbitration also began to increase at this time, but that is beyond the scope of this article.

When I think of settlement, I put cases into two categories: (1) the ordinary case, and (2) the difficult-to-settle case. Most cases fit into the first category - they readily settle before trial through old-fashioned direct negotiation

between the parties. Difficult-to-settle cases have always been a fairly small percentage of cases. In the past, these cases simply went to trial if direct settlement negotiations failed. Everyone planned for a trial and trials usually occurred, sometimes with an accompanying mediation as a rare sideshow. I started getting involved in mediations in the 1980s, but in difficult-to-settle cases we always prepared for and headed toward trial. I came onto the circuit court in the late 1990s, and, by the early 2000s, we still had lots of civil jury trials in the Multnomah County Circuit Court. By then mediation and ADR had become a cottage industry, but trials were still the first resort in difficult-to-settle cases. Then a change started becoming more pronounced in Oregon and across the country. It is called "The Vanishing Civil Jury Trial."

In my opinion, a seismic shift has occurred over about the past decade. In difficult-to-settle cases trials are no longer the first resort - now they are the last resort. Mediation is now the first resort. The rise of mediation represents a change of truly historic proportions.

Advanced Mediation - A Breakthrough in the Social Sciences?

Whether this shift is good or bad, from a societal perspective it is obvious that something important is happening here. Psychology, neuroscience, and the social sciences are coming together to produce new insights in decision-making processes and conflict resolution. The rapid pace of change has not really impacted substantive, procedural, or evidentiary law. But it certainly has had an effect on how legal disputes are resolved, and good mediation techniques have also continued to change.

Success in mediation and in the courtroom requires trust, communication and creativity. Advanced mediation techniques build on those basic requirements. The sophisticated approaches I learned at this CLE cannot be summarized in a short article like this (I am already over my 750 word limit). However, they include concepts discussed in the seminal recent bestseller *Thinking Fast and Slow* by Daniel Kahneman, a Nobel Prize winner in economics. Advanced mediation techniques involve the kinds of theories Kahneman

Continued on page 11



News from the Courthouse

by Katherine von Ter Stegge
Court Liaison Committee

Presiding Judge's Report and Courthouse Update

New Courthouse

Since the groundbreaking for the new courthouse in October, work has continued on getting the site ready for the first phase of construction. A project of this size (\$300 million dollars and 350,000 square feet) is complicated, requiring thousands of decisions, input from multiple user groups of the courthouse and various levels of approval. The good news is that all of the involved stakeholders are working hard to keep the project on time and on budget. The commitment of the Board of County Commissioners to this project under the leadership of Chair Kafoury and Commissioner Shiprack has been invaluable to moving the project forward.

Design work on the new courthouse is nearing completion. Approval of the exterior design for the courthouse is currently before the City of Portland's Historic Landmarks Commission. The Historic Landmarks Commission has responsibility for review of the design because of the incorporation of Jefferson Station in the new courthouse (Jefferson Station is listed on the National Register of Historic Places). In reviewing the design of the courthouse the commission has to balance the goal that the exterior design of the courthouse is compatible with Jefferson Station and provides an interesting pedestrian experience with the security concerns that come with a courthouse. The project team has been working on designs, including art installations, which will address these concerns. The project team, the court and the MBA have all provided input to the commission about the unique requirements of a courthouse.

The new courthouse will not have space for the law library's substantial collection of books. Given the space limitations and the increasing number of self-represented litigants, the court is working on a plan to create a law library/legal resource center in the new courthouse. It is anticipated that the law library will provide primarily electronic access to legal research materials. The plan is to staff the center with a legal resource staff as well as facilitators who can

assist self-represented litigants in filling out forms and navigators who can provide guidance and education on court process.

The court will be looking to the bar for assistance in developing curriculum for classes as well as electronic tutorials.

In the upcoming legislative session, Chief Justice Balmer will be requesting \$93 million dollars in bond funding to complete the new courthouse. The legislature has previously approved \$32.4 million dollars in bond funding for the project. The bond funding approved by the state is part of the match to the \$125 million the county has committed to the project. The county has committed an additional \$50 million of unmatched funds to the project in order to include the DA's office as well as the high volume courtrooms (traffic, small claims, parking and landlord tenant) in the new courthouse.

Legislative Breakfast

The court is holding its annual legislative and community leader's breakfast on November 30, generously hosted by the MBA. The agenda for the breakfast will include updates on the new courthouse project, the court's community listening session, as well as other issues that are of interest to the legislature and other community leaders.

Community Listening Session

The Multnomah County Circuit Court held its second community listening session on November 3 in East Portland to hear perceptions and concerns of the public regarding the justice system. The listening sessions are part of the court's efforts to maintain and build public confidence in the justice system. Both sessions were very well attended and provided more than 70 individuals the opportunity to speak (each session was two hours long and each speaker had three minutes to speak). The court plans to develop an action plan in response to issues raised.

Chief Criminal Judge's Report

Justice Reinvestment
Judge Edward Jones, Chief Criminal Judge, provided an update on the Multnomah County Justice Reinvestment Project (MCJRP). MCJRP was developed more than three years ago through

collaboration of the stakeholders of the public safety system after the Legislature passed HB 3194. HB 3194 provides funding to local jurisdictions to safely manage defendants in the community rather than sending them to prison with the goal of eliminating the need to invest in a new prison. Development of MCJRP has been a dynamic process with changes being made as more information is learned about what works. For example, a treatment readiness dorm at the jail was developed when it became clear that defendants released from custody need education and support before they are released in order to maintain their commitment to participate in treatment. MCJRP has kept a substantial number of defendants in the community and out of prison by implementing a process that leads to more informed decision making and sentencing. Early evaluation of the project does not show increased risk to the community. Continued funding of MCJRP by the legislature in the upcoming session is crucial to sustaining the success of MCJRP.

Mental Illness in the Criminal Justice System

Given the lack of adequate community services to provide housing and treatment, persons with mental illness are too often ending up in the criminal justice system. Significant efforts are underway to develop better options for dealing more effectively with persons with mental illness in the criminal justice system. When defendants are unable to aid and assist in their own defense because of mental illness, they are provided treatment until they are able to aid and assist. The treatment can occur in the community if the defendant can be safely kept there; if not, the defendant is transported to the Oregon State Hospital. A huge cost accrues when it is not possible to maintain defendants charged with non-violent misdemeanors in the community because of lack of housing and supportive case management and they are sent to the state hospital. A new docket has been set up in the justice center specifically to handle cases for this population. This docket has highlighted the gaps in community services and the need for ongoing services to prevent defendants with mental illness from recycling through the criminal justice system once released.

Continued on page 11

2016 Multnomah CourtCare Campaign and Fundraising Events Raise over \$95,000 for Operations

The campaign to fund operations at the free childcare program at the downtown and East County courthouses raised over \$78,000. Over \$65,000 was raised from large firms and organizations, and approximately \$13,000 from small firms and individuals. WinterSmash brought in over \$15,000 and Battle of the Lawyer Bands almost \$1,600.

The MBF wishes to thank all supporters, participants, CourtCare coaches and the MBF CourtCare Campaign Committee. Special thanks to Dana Scheele, MBF Vice President, for chairing the campaign.

The **CourtCare Proudest Pride Award** for the largest donation from a firm, lawyers and staff went to **Miller Nash Graham & Dunn LLP**. The **CourtCare Loftiest Leap Award** for the largest donation per capita went to **Buchanan Angeli Altschul & Sullivan LLP**. Trophies were awarded at the MBF Social in September.



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MULTNOMAH CourtCare

A project of the Multnomah Bar Foundation, in partnership with Multnomah County, the Oregon Judicial Department, the U.S. District Court Attorney Admission Fund and Volunteers of America Oregon

The Honorable Peter McKittrick U.S. Bankruptcy Court Judge, District of Oregon

by Joe Franco
Court Liaison Committee

Peter C. McKittrick was sworn in as a bankruptcy judge for the District of Oregon on January 12, 2015. When asked to serve in this new role, he was humbled at the thought of trying to replace the retired Hon. Elizabeth Perris.

Before his appointment, he was a partner in the law firm of McKittrick Leonard LLP. Prior to starting McKittrick Leonard, Judge McKittrick was with the law firm Farleigh Wada Witt for 26 years. During his tenure at the firm, he was the managing partner from 1995 to 2000, and served on the firm's executive committee for several years. From 2004 until his appointment to the bench, Judge McKittrick spent most of his time serving as a panel Chapter 7 Trustee, Chapter 11 Trustee, and Receiver. He was appointed as Chapter 11 and 7 Trustee in one of the largest and highest profile liquidations in the district's history. As a trustee, he administrated over 13,000 Chapter 7s. He managed several state and federal receiverships, including large investment fraud and Ponzi scheme cases. Judge McKittrick's law practice emphasized representation of trustees and other fiduciaries, Chapter 11 Debtors and

committees, and small business workouts. Judge McKittrick became an ABI Board-Certified Business Bankruptcy Specialist beginning in 2001 and was recognized as one of the "Top 50 Lawyers in Oregon" from 2009 to 2013.

Prior to his service as a trustee, Judge McKittrick served on the Executive Committee of the OSB Debtor-Creditor Section from 1995 to 2000. In addition, he served the community by routinely providing pro bono legal services. Judge McKittrick also had the pleasure of teaching bankruptcy law as an adjunct professor at Lewis & Clark Law School.

Since joining the bench, Judge McKittrick has continued to focus his extracurricular time on pro bono activities and public service. He has continued the work of Judge Perris in maintaining and expanding the Bankruptcy Clinic, which is a collaboration between the OSB Debtor-Creditor Section, the U.S. Bankruptcy Court and Legal Aid Services of Oregon (LASO). The project consists of two components, a bankruptcy class and a legal clinic during which volunteer attorneys each meet with two clients for 30-minute appointments. Anyone may



Hon. Peter McKittrick

attend the class, which is taught by a member of the bankruptcy bar or bench. During the legal clinic, volunteer attorneys meet with clients, help them assess whether bankruptcy is appropriate, and if so, provide ongoing representation. Judge McKittrick recently worked with LASO and two local attorneys in expanding the program into rural eastern Oregon.

Born in St. Louis, Missouri, and raised in Santa Barbara, California, Judge McKittrick attended both college and law school in Oregon, and he has lived in this rainy paradise with his wife and two kids ever since. He received his B.S. from Lewis & Clark College in 1981 and his J.D. from Willamette University College of Law, graduating cum laude in 1985.

Judge McKittrick is a member of the Lewis & Clark College Athletic Hall of Fame, recognizing his accomplishments on the tennis court. He continues to be an avid recreational tennis player.

News from the Courthouse

Continued from page 10

Treatment First

Rod Underhill, Multnomah County District Attorney, is developing a program called Treatment First where all drug possession cases will be issued as misdemeanors so that prison is off the table and the defendants aren't saddled with felony convictions. The legislature is also considering a bill to make drug felonies misdemeanors. These programs are critical because drug crimes are a hot spot for racial and ethnic disparities in criminal prosecution. Changing the makeup of who enters the justice system through this program is a key step toward reducing disparities.

Law Enforcement Assisted Diversion (LEAD)

The DA's office and law enforcement are replicating the LEAD program from Seattle and it is about to begin here in Portland. The LEAD program deflects persons with eligible charges from the criminal justice system. Police officers will be able to offer low level drug offenders the option to talk to a LEAD caseworker as an alternative to being booked. The LEAD caseworkers will assist offenders in getting into treatment, housing and other services to stabilize their lives. Ten caseworkers will be dedicated to the program. LEAD will be operating in the downtown core area and the Lloyd Center area.

Tips From the Bench

Continued from page 10

discusses like "Norms, Surprises, and Causes;" "Availability, Emotion, and Risk;" "The Illusion of Understanding;" and "Risk Policies." They also include specific tools such as gaining trust, "bracketing" techniques, "impasse busters" and managing and defusing emotions.

Conclusion

Attorneys handling difficult-to-settle cases today seem to view mediation as the default option. Trials still occur and will always occur. But they are getting more and more rare. Trials, once ubiquitous, are now the last resort. Whether the growth of advanced mediation will slow or become a harbinger of even greater changes in the legal system remains to be seen. From my perspective, however, it will continue to have a massive impact on the practice of law and what comes before the court.

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 Expert,
I am a new attorney who has just passed the bar and I am unsure about what area of law in which I want to practice. It seems all of my classmates know exactly what they want to do, and I just don't. I feel like I need to make a decision now as I search for a job. How do I decide on a particular area of law?
-Unsure

Dear Unsure,

Cast your fears aside! It may seem that your friends all know exactly what they want to do, but rest assured that many of them are just as uncertain as you are. New graduates often lack the experience and knowledge to make an informed decision about what area of practice would be a best fit for them. Many of your friends are likely basing their decisions on what classes they enjoyed in law school, rather than any significant practical experience in that field. It is perfectly okay, and actually quite normal, to not yet know the practice area on which you would like to focus.

Furthermore, you should not feel pressured to corner yourself into a highly specialized area

early in your career. Many young lawyers who do so quickly find themselves disappointed by the difference between what they thought their job would be like, and the reality of what it is. Also, narrowing your practice area too early makes it difficult to transition out of that practice area in the future should you decide you would rather practice in another area. Lastly, it can be difficult to find a job in a highly specialized area early in your career. There are far fewer of these types of jobs available and they are often absorbed by attorneys with more experience.

If you are unsure what area you want to focus on, do not be afraid to seek out positions with general practice firms. You will learn many of the basic skills you need as a lawyer at a general practice firm, while also gaining exposure to different areas of practice. You may find that you eventually discover a practice area that best suits you, or you may wish to continue in a general practice. Everyone's career path is different and you should never feel pressured to make your path match someone else's. Good luck!

Jason Pierson YLS Member Spotlight

by Tom Adams
YLS Board

Jason Pierson is one of our community's rising stars who owes part of his success to his involvement in the MBA. Jason joined the MBA when he was still a law student at University of Oregon. He became a liaison between the YLS Board and the law school, and joined the YLS Pro Bono Committee. His involvement has only increased since he passed the bar. Still on the Pro Bono Committee, he is now the lead organizer for the Wills for Heroes clinics, and is attempting to increase the number of clinics each year. Wills for Heroes is a YLS pro bono event in which young lawyers provide wills for police,

paramedics, fire fighters and other first responders and their spouses.

Jason came to Oregon for law school after being raised in Illinois and working in Michigan, the Cayman Islands, Alaska and Nevada. He was a paralegal in Las Vegas for eight years, where his coworkers convinced him that he was lawyer material. Jason was inspired to practice juvenile law by Professor Leslie Harris, who was his faculty advisor for his Oregon Child Advocacy Project fellowship at University of Oregon.

Jason decided to bring his passion for child advocacy to the family law context, and he is currently an associate attorney at

Landerholm Law. Jason's practice focuses on protecting the interests of children who too often become marginalized in custody disputes, and, only one year since passing the bar, he has already handled multiple high-profile custody disputes.

Jason spends his free time gardening, hiking, and exploring new restaurants in the Portland area. "After living in Las Vegas," says Jason, "the green of Oregon lifts my spirits." He takes inspiration from the Dr. Seuss quote: "You have brains in your head. You have feet in your shoes. You can steer yourself any direction you choose."

Jason has proved this by ending up in Oregon and so quickly becoming a successful attorney, volunteer, and member of his community.

ABA Young Lawyers Division Fall Conference Highlights

by Shayda Zaerpoor Le
YLS Secretary



As the MBA Young Lawyers Section Delegate to the ABA, I recently had the opportunity to attend the ABA Young Lawyers Division (YLD) Fall Conference, which took place in Detroit, Michigan. The YLD holds four conferences a year, two of which (mid-year and annual) line up with the big ABA. Fall and spring conferences are held separately, 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) in the practice. This quarter's lineup consisted of topics such as: the Anatomy of a Solo/Small Firm; Justice for Flint; Ethics and the Interplay Between the Judicial System and the Media; Gender Identity, Title IX and K-12 Education; Data Breaches and Cyber Security; Emerging Security, Economic and Legal Challenges to Airport Security; Lessons from Detroit: Municipal Bankruptcy and its Implications on City and Local Government Operations; Women in Politics and Leadership; Prosecutorial Discretion in the Wake of Public Outcry; LGBT Family Law Considerations and Practice Tips; and Work-Life

Management. There's something for everyone, regardless of practice area.

Public Service: Consistent with the Division's focus on public service, each conference provides an opportunity for attendees to participate in a service event in the local community. The *Dare to Dream* event was held with local middle school students and consisted of a vision-boarding program with the children, led by lawyers in small groups. At Wayne State University School of Law, a panel discussion was held, entitled *What Do Lawyers Do*, which educated prospective law students on preparation for law school, the law school experience, and different career paths available to law school graduates. Panelists ranged from practicing attorneys, including a legal aid lawyer, to a judge, to the University's Director of Career Services.

Leadership and Career Development: Each conference focuses attention on different components of leadership development and career growth. In particular, this year's YLD Chair has developed a theme for the bar year focused on relationships, relevance, and resilience with specific emphasis on personal development and professional advancement. Attendees were able to learn about effective messaging as well as practice developing a targeted "elevator pitch," and participate in a workshop on leveraging personality types to lead more effectively, which included a focus on how leadership styles may change in the gradual transition from associate to partner. The YLD leadership also met for the Council Meeting to discuss division status reports, including an update on Disaster Legal Services organized by young lawyers throughout the country, initiatives focused on increasing diversity in the legal profession,

as well as a special presentation on the law and impact on disparaging trademarks, with a focus on social justice, First Amendment considerations, and the Lanham Act.

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 speed networking, to the welcome reception, and the dinner events. The fall and spring conferences also provide an amazing experience called the *Affiliate Showcase*, in which YLD affiliates throughout the country (such as our own MBA YLS and Oregon New Lawyers Division) host a booth and provide materials and a quick presentation on programs that have been successfully implemented in their areas. What is especially significant about this event is that the showcase is focused on providing tools and materials to allow other affiliates to take these projects and implement them in their own areas. The range of projects and initiatives is as varied as the attendees themselves: from teaching constitutional rights to school-age children, to Native American law school recruitment, to bringing community members together with policing agencies, to human trafficking awareness, to training new lawyers on children's immigration issues (thanks to Oregon's own ONLD).

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 mid-year conference will be in Miami, Florida from February 1-7 and registration is now open on the ABA website. I encourage 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.

mba yls | EVENT

YLS Drop-in Social and Toy Drive

Lucky Labrador Tap Room
1700 N. Killingsworth, Portland
Wednesday, December 14
6:30-8 p.m.

This annual event has been revamped as a family-friendly social. Celebrate the season and mingle with colleagues, family, and friends. Please bring a new, unwrapped toy for Toys for Tots and help bring holiday cheer to children in our area. No RSVP necessary.



If you would like to collect toys at your firm, please email Shannon West at shannon@mbabar.org.

Nadia Dahab and the Appellate Pro Bono Program

Pro Bono Spotlight

by Florence Z. Mao
YLS Pro Bono Committee

Each year, the Oregon Supreme Court seeks pro bono assistance on a handful of its cases. When a need for pro bono assistance arises, the court refers the case to the Oregon Appellate Courts Pro Bono Program, which then appoints one of its participating attorneys to assist the court with briefing and argument.

In one of the court's recent pro bono matters, Nadia Dahab, a first-year associate in Stoll Berne's litigation group, assisted the court with a habeas case that presented an issue of access to justice for inmates confined out of state under the Interstate Corrections Compact. In *Barrett v. Peters*, the petitioner, Jacob Barrett, who was convicted of aggravated murder and currently is confined in a Florida prison, petitioned for habeas relief seeking to vindicate his free exercise rights under Article I, sections 2 and 3, of the Oregon Constitution. Mr. Barrett adheres to the faith of Druidism, a central belief of which is the growth of a beard and Celtic tonsure. Florida prison policy, however, prohibits inmates from growing hair or facial hair. To protect his Oregon constitutional right to the free exercise of his religion, Mr. Barrett petitioned

for habeas relief in Oregon, asking the Oregon state court to remove him from Florida and transfer him to an institution in which his religious rights would be protected.

The trial court dismissed the petition, concluding that the fact that Mr. Barrett was confined out of state precluded him from seeking relief in Oregon. In the Oregon Supreme Court, Nadia successfully argued that inmates transferred to out-of-state institutions pursuant to the Interstate Corrections Compact retain their Oregon state constitutional rights and that Mr. Barrett, in this case, could petition for habeas relief in Oregon state court on the ground that his conditions of confinement in Florida violated the Oregon constitutional rights to which he was entitled. The Court held that "[i]f Oregon officials are knowingly confining [an inmate] in a facility where his state or federal constitutional rights are being violated, those officials are engaging in state action that is subject to challenge in a habeas proceeding in Oregon."

Nadia signed up for the Appellate Courts Pro Bono Program right after joining Stoll Berne, and brought with

her the skills she developed in her appellate clerkships. (Nadia spent her first three years of practice clerking for Justice Rives Kistler of the Oregon Supreme Court and judges Susan P. Graber and Mary H. Murguia of the U.S. Court of Appeals for the Ninth Circuit.) Through her experience representing Mr. Barrett on appeal, Nadia further developed her advocacy skills, which she will continue to use in her practice going forward. She encourages other young lawyers interested in gaining appellate experience to join the Oregon State Bar's Appellate Practice Section and participate in the Pro Bono Program as well - by doing so, young lawyers can also gain oral and written advocacy experience and have the opportunity to work on novel legal issues. Although Nadia's clerkship experience provided her with a helpful foundation for this work, she believes that lawyers without clerkship experience should not be discouraged from participating in the program - "the program provides you with all the resources you need to succeed, including one-on-one mentorship with an experienced appellate practitioner. Anyone committed to developing appellate practice experience can be successful at this."

Young lawyers interested in appellate practice can also turn to other resources to gain valuable experience. Oral arguments at the Oregon appellate courts and at the Ninth Circuit are open to the public. "You can learn a lot just by watching oral argument - about effective advocacy skills and about the judges on the court," says Nadia. Appellate briefs filed in the Oregon courts are accessible through the State Law Library's website (for free), and

the Oregon Rules of Appellate Procedure are available online and relatively easy to understand. Appellate briefs filed in the Ninth Circuit are accessible through the court's fee-based PACER system.

Appellate practice can also be invaluable for young trial lawyers who would like to hone their research, writing, oral argument, and trial skills. "Dealing with issues on appeal gives you a unique perspective on what the record should or could have looked like at trial," says Nadia. "In that sense, appellate practice can help young trial lawyers as they learn how best to make a record, preserve important arguments for appeal, and approach questions of law in the trial court." And, although the time commitment with each case varies, the scope of an appointment through the Pro Bono Program is relatively limited. Nadia completed her work in Barrett within eight months of her appointment. "The issue in that case was somewhat



Nadia Dahab

narrow and one of first impression for the Supreme Court, so it was an excellent learning experience as my first case and a great opportunity to start developing an appellate practice," Nadia explained. "If you're interested in appellate work at all, I strongly urge you to participate in the program." For questions about appellate practice or the Appellate Courts Pro Bono Program, contact Nadia at ndahab@stollberne.com.



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Jeffrey A. Bowersox

Jeff Bowersox has been appointed by the Federal Court to the Plaintiffs' Steering Committee (PSC) for the Nationwide products liability litigation against 3M related to its Bair Hugger® surgical warming blanket devices and alleged deep joint infections.

Jeff is serving on multiple subcommittees of the PSC. The PSC has responsibility to conduct all depositions and seek and manage document and ESI production from defendants to prepare plaintiffs' case for Bellwether trials.

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Karaoke Event Raises Over \$6,000 for Civic Education Grants

by Pamela Hubbs
Office and Foundation Administrator

On November 2, the MBF held "Let Your Voice Be Heard!" a karaoke fundraising event with an election theme. Nearly 100 guests registered for the fun event, and enjoyed a night of great music and hosted food and drinks.

Our thanks to all who attended and performed. Your support helps fund civic education grants that promote understanding of the justice system and teach the importance of voting, being an educated

voter, serving on juries, and being involved in the community.

To make a tax-deductible charitable donation to the Civic Education Fund, see the insert in this issue, visit our website or call 503.222.3275. Donations of \$100 or more will be listed on the MBF Donors page. Donations of \$100 or more received by December 31 will be acknowledged in the February *Multnomah Lawyer*.

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Jay's practice focuses on environmental and natural resources litigation. He comes to us from Evraz North America, a large international steel manufacturer, with a broad background covering environmental compliance and litigation, insurance coverage litigation, contract negotiation in sales, procurement, finance, real property, and mergers and acquisitions. We are delighted to add Jay's talents to our team.

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Aaron Landau has been selected to the 2016 *Oregon Super Lawyers Rising Stars* list for Appellate Practice.

Susan Marmaduke is listed in the 2017 *Best Lawyers in America* for Appellate Practice and Commercial Litigation and in the 2016 *Oregon Super Lawyers* for Appellate Practice; she has also been selected to the 2016 *Oregon Super Lawyers* Top 50 list.

Jim Mountain is listed in the 2017 *Best Lawyers in America* for Appellate Practice and in the 2016 *Oregon Super Lawyers* for Appellate Practice; he is also recognized by *Best Lawyers* as the 2017 Administrative/Regulatory "Lawyer of the Year" in Portland.

Sharon Rudnick is listed in the 2017 *Best Lawyers in America* for Appellate Practice, Employment Law-Management, Labor Law-Management, and Mass Tort Litigation/Class Action-Defendants and in the 2016 *Oregon Super Lawyers* for Appellate Practice.

Bob Steringer is listed in the 2017 *Best Lawyers in America* for Appellate Practice and Commercial Litigation and in the 2016 *Oregon Super Lawyers* for Appellate Practice.

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On the Discussion of Caregiving

by Mary M. Osborn
Long Term Care Insurance Consultant

November was National Long-Term Care Awareness Month, coinciding with National Alzheimer's Disease and Caregiver's Month, with the goal of encouraging discussions between generations. Even the U.S. Congress has urged "the people of the United States to recognize [this] as an opportunity to learn more about the potential risks and costs ... and the options available."

Why do so many of us ignore the issue? The answers are fairly simple and are grounded in human nature and public policy. No one wants to think about growing old, becoming feeble or infirm and needing help with basic activities of daily living. Contrary to popular belief, Medicare does not pay for long-term care and Medicaid requires impoverishment.

What are the risks? The U.S. Department of Health and Human Services estimates that those age 65 and older have a 70% chance of needing long-term care services at some point. Many people are aware of the need to address this issue. A 2014 Insurance Barometer Study conducted by LIMRA and Life Happens found that 63% of Americans said they need long-term care insurance; however - and here's the catch - only 13% own it.

Americans are living longer than ever - "70 is the new 60." We look at age much differently than previous generations. Today's "old" is not the same as yesterday's. Baby boomers tend to think of themselves as a special generation. They avoid planning for their demise and they avoid long term care planning. Most baby boomers are more concerned with being a burden to their children. The overwhelming preference is to remain in their homes as long as possible. Family caregivers believe caring for aging parents is harder than it used to be. Three quarters say their grandparents relied on family for long-term care and more than half say their parents did. Today only a third plan to rely on family for this care. When children do assume responsibility for aging parents, women are more likely to be the caregivers.

What are the costs? The Genworth *Cost of Care Survey* for 2016 states the cost for home care in Portland averages \$56,000 a year, a similar amount for assisted living, and about \$105,000 for a private room in a nursing home or memory care facility. The need for care typically lasts two to three years, but an extended care need such as an Alzheimer's patient, could

average between seven to 12 years and wipe out a couple's savings - leaving little in the way of financial resources for the surviving spouse.

What are the options? The best option for a particular individual will take into account income and assets, current health, and family history. Paying for care out-of-pocket may be an option if you have considerable assets. The opposite extreme, people with a low net worth, might qualify for long-term care provided under Medicaid. However, if none of the above fits you, then long-term care insurance could be a worthwhile choice. Working with a long-term care insurance consultant who can help you determine the best option for you is recommended.

National Long-Term Care Awareness Month is in the same month as Thanksgiving. Perhaps it is not a coincidence. The holidays present an ideal opportunity for families to share their plans for an extended care event. Look across the table at your own family members. One of them will likely need care.

For more information, Mary can be reached at 503.998.5902 or mary@maryosborn.com.

LAWYERING IN THE DIGITAL AGE

A Fall Workshop Series for Solo and Small Firm Practitioners

These sessions are set up to allow time for networking and questions and answers. Lunch is provided. Please let us know if you have any special needs (vegetarian, gluten-free, etc.). Register at www.mbabar.org. Workshops are \$20 for members and \$60 for nonmembers. The last workshop of this series will be held on December 14. Workshops will start up again in 2017.

Session 4

The Path to Paperless: Making the Switch Work in Your Practice

Wednesday, December 14, 2016, noon-1:30 p.m.
Red Star Tavern Club Room, 503 SW Alder St.

As the practice of law becomes increasingly digitized, mobile, and cloud-based, firms large and small are exploring the most efficient, effective and secure ways to store and transmit data in paperless form. Our presenters include an expert who has literally "written the book" on going paperless, along with representatives from two local firms who have successfully transitioned to paperless law offices. **Sheila Blackford**, PLF Practice Management Advisor and co-author of *Paperless in One Hour for Lawyers*, will discuss the best strategies for moving your law office into the digital age. Ms. Blackford will be joined by **Ryan Vanden Brink** from Intelekia Law Group, and **Heather Bowman** from Bodyfelt Mount. Intelekia Law has been named a partner in the OSB Sustainability Program as well as the ABA Office Climate Change Challenge. Bodyfelt Mount was awarded the OSB's 2014 Sustainable Law Office Leadership Award.

Pro Bono Volunteers

Thanks to the following lawyers and law students who donated their pro bono services recently via the Volunteer Lawyers Project, the Senior Law Project, law firm clinics, the Oregon Law Center, the Nonprofit Project, St. Andrew Legal Clinic, Catholic Charities Immigration Legal Services, Lewis & Clark's Small Business Legal Clinic, Children's Representation Project, and Changing Lives Forever Project. To learn more about pro bono opportunities in Multnomah County, go to www.mbabar.org and click on "About Us" and "Pro Bono."

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- An exceptional academic record along with excellent oral and written communication skills.
- At least three years of private law firm practice.
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- The ability to handle a file from intake to trial with minimal supervision.
- Must be admitted to practice in Oregon.

Qualified applicants should submit a cover letter, resume, law school transcript and a 5 - 7 page writing sample to Jill Valentine, Attorney Services Administrator at Jill.Valentine@Bullivant.com.

Associate Attorney Business and Transactional Lateral

Cosgrave Vergeer Kester LLP has an opening for an associate attorney with at least three years of transactional experience to join our business practice group. Work assignments may include contract preparation, negotiation, and review; entity formation; acquisition, protection, and disposition of personal and business assets; general business advice and risk-management; intellectual property protections; and complex commercial real estate transactions. Required qualifications include at least three years of relevant experience, strong academic record, outstanding analytical and writing skills, and Oregon Bar membership.

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- Cover letter
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- Law school transcript

Applications must include all of the above documents for full consideration. Documents may be sent in Word or PDF.

All inquiries will be handled confidentially. Interviews will be scheduled starting in mid-November. Position is open until filled.

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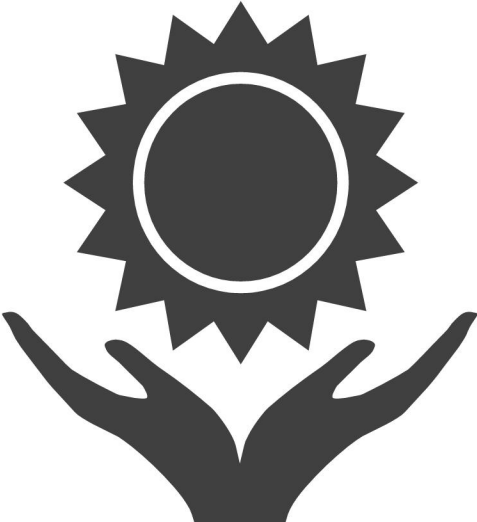
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Free Event Publicity

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.



Congratulations Michael A. Yates



The OSB Family Law Section awarded Michael its 2016 Professionalism Award. This award honors a member of the bench or bar who 1) exemplifies professionalism that exceeds the standards set forth in the ethical rules, 2) promotes trust and respect with colleagues and the public, 3) demonstrates exemplary actions with clients and the public, 4) promotes efficient resolution of disputes and 5) makes the practice of law enjoyable for those around him. Michael's commitment to pro bono legal services, serving as a mentor to younger attorneys, and service to various Bar organizations were also cited.

Thank you to Legal Aid Services of Oregon including Maya Crawford and Erin White who nominated Michael for this Award.



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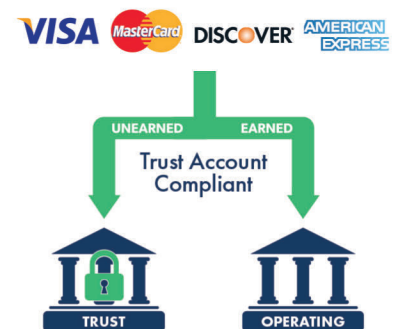
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MBF Invites Letters of Inquiry for 2017 Grants

by Pamela Hubbs
Office and Foundation Administrator

Local nonprofits interested in receiving 2017 grant funding for programs that promote understanding of the justice system, the importance of voting, the political process or civic involvement are encouraged to submit a letter of inquiry to the Multnomah Bar Foundation (MBF) by January 20. Grants are awarded to 501(c)(3) organizations whose programs increase civic education and involvement and understanding of the rule of law. Priority is given to new projects that utilize MBA

volunteers in the geographic area served by the MBA.

Criteria for letters of inquiry, deadlines and other information about the grants program may be found at <http://mbabar.org/foundation/grants.html>. Grant awards will be announced and funded in May.

Thanks to the generous support of the legal community, the MBF Civic Education Fund has awarded over \$360,000 in grants since 2006. In 2016, the MBF granted a total of \$44,495 to Bus Project Foundation,



Multnomah Bar Foundation

City Club of Portland, Elders in Action, League of Women Voters of Oregon, League of Women Voters of Portland, MetroEast Community Media, Northwest Family Services, Oregon Nikkei Endowment, Oregon Tradeswomen, Inc., Saturday Academy and Sponsors Organized to Assist Refugees.

For more information, please contact Pamela Hubbs (503.222.3275, pamela@mbabar.org).

Why Civic Education?

by Tim Resch
MBF Development Committee Chair



The Multnomah Bar Foundation was established in 2005, the centennial anniversary of the Multnomah Bar Association. It's mission: To increase the public's understanding of the legal system; to promote civic education, public participation and respect for the law, and to improve the quality and administration of the legal system.

The 2016 election results surely reflect a deeply divided nation. Is civic education and public participation being lost in the shuffle? I don't know, but it seems that now, maybe more so than in a long time, it is time for us to redouble our efforts. Our country has been through much turmoil in its history - and it appears that turmoil will continue for some time. What can we, as members of our local bar association do? We can support the mission set out by the MBA when it created the foundation.

Since 2006, the MBF has awarded grants totaling more than \$360,000 to nonprofit organizations with programs dedicated to increasing civic participation. Programs the MBF has funded span all ages and cover a wide variety of topics. The MBF Grants Committee vets the many applications we receive in order to find appropriate local organizations to support. In order to qualify for a grant, the organization must provide a detailed explanation for a project that is designed to increase the public's understanding of the legal system and promote civic education, public participation and respect for the law.

This year, the MBF has awarded grants to a diverse group of recipients. For example, we are supporting the PolitiCorps Leadership Fellowship, which is designed to train new leaders while increasing public participation in democracy. We are supporting Elders in Action in their effort to provide a setting in which older adults can learn about elder abuse and the legal

system, and how to navigate its systems as potential volunteers and advocates. We are supporting the League of Women Voters and their effort to promote education about representative democracy and respect for election laws.

Grants were also awarded to groups that focus on younger members of our community. The Northwest Family Services Peer Court received a grant this year to help with their efforts to hold youthful offenders accountable and focus on diversion after first time low level offenses. We also made a grant to the Saturday Academy, which puts on speech and debate classes. Saturday Academy also runs a Kid Lawyer Summer Camp where middle school-age campers learn about the legal system and conduct a full mock trial.

MBF Board members serve as liaisons to each of our grant recipients, and have an opportunity to observe first-hand the programs and projects we are funding. The grants we make allow these programs to reach out and serve many facets of our community - youth, elders, traditionally disenfranchised populations, and recent immigrants. Your help - your tax-deductible donation - is critical to our efforts to make a difference in our community.

The MBF recently held "Let Your Voice Be Heard!" - a karaoke night to raise funds for the Civic Education Fund. Lawyers, judges, elected officials, and even the Oregon Attorney General came together to raise money (and show off their vocal talents) for the Civic Education Fund. The primary donors to the Civic Education Fund are local lawyers and law firms, and we need your continued donations.

Much will be written about the recent presidential election campaign and its impact on civic discourse in our country. We, as members of our local bar, have an opportunity to make a difference in our community through the Civic Education Fund. Many of you have given already, and many more of you can give, and help us do even more to advance the goals set out in our mission statement. Why support the MBF and the Civic Education Fund? To lead the way and do our part to make a difference in our community.

To make a donation, see the insert in this issue, visit www.mbabar.org/Foundation or call 503.222.3275.

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 \$360,000 in grants to nonprofit organizations with programs dedicated to increasing citizen involvement. Our goal this year is to raise at least \$50,000 for 2017 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 2017 *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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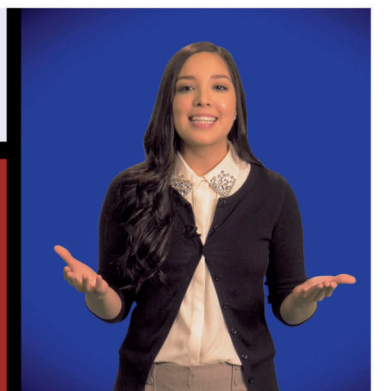
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