



MULTNOMAH LAWYER

MULTNOMAH BAR ASSOCIATION

1906

Lawyers associated for justice, service, professionalism, education and leadership for our members and our community. September 2007 Volume 53, Number 8



The Satisfaction and Benefits from Giving to the Profession and the Community

By Thom Brown, MBA President.

Well, it's time again for another column. Wow, the last month went fast. What to write about? Let's see – how about giving our time and financial resources to the profession and the community?

The MBA Board considers each year recognizing people in three award categories. The first, the professionalism award, is awarded each year to a member who possesses the highest ethical standards, consistently evidences exemplary conduct in the practice of law, and, for both reasons, makes the practice of law more enjoyable. The second, the award of merit, is given to one or more members for enduring commitment to the MBA's mission of promoting justice through service, education or leadership to the MBA, the legal profession and the community. And, the third, the pro bono award is given to one or more lawyers for displaying a special commitment to the Senior Law Project, one or more young lawyers who volunteered significant time to LASO, OLC or a YLS project and to one or more lawyers who set an example for his or her dedication to pro bono legal services.

As you'll see as you read on in the newsletter (or as you already know if you skipped this column and read on first), we recognize this month our 2007 award winners. I add my congratulations to each and every one of them (especially Peter Willcox-Jones in my firm). Their hard and selfless work on behalf of the MBA and the profession is very much appreciated by me and the rest of the MBA Board.

Recognizing award recipients is an appropriate thing to do. No doubt about that. But, recognition should also go to the many other members who serve the profession and the community in so many ways but have not (at least not yet) been given any award. Indeed, that is really what I wanted to have this column be about.

I've gotten a lot of satisfaction out of giving my time and money (more the former than the latter) to the profession and the community. Moreover, I see my involvement as necessary and important to the ongoing health of the profession and, as to my community service, a way for me to show that lawyers are positive, productive and important community members. Both things are important, I think, particularly the last. We as lawyers must continuously battle the negative image of lawyers shared by too many. And one of the best ways to do that is by involving ourselves in the community at large.

There are so many ways to serve the profession and the community. And there is so much of a need. Please find your own ways. You'll not only be doing something good but "it's the right thing to do," both personally and professionally.

Well, I think that's about enough. Oh, I almost forgot – I do have one other thing. I grew up in Minneapolis and so the recent bridge

collapse there was particularly disturbing to me. More importantly, it reinforced for me how important it is for the MBA (and each one of you) to take a very active role in ensuring that a new, safe courthouse is built (before, God forbid, a similar tragedy occurs here). Please find a way to help sell the politicians and, just as importantly, the public on the need to immediately commit the time and resources for a new courthouse. Maybe that's the best service activity we could all commit to over the upcoming months.

MULTNOMAH BAR ASSOCIATION AWARDS LUNCHEON

Wednesday, September 19

The Governor Hotel
614 SW 11th Avenue

Registration 11:30 a.m. - noon
Lunch Noon - 1:30 p.m.

Celebrating the profession & recognizing our colleagues

2006-2007 MBA President

Peter H. Glade, MBA 2006-07 President

2006-2007 MBA YLS President

Catherine B. Brinkman, YLS 2006-07 President

Professionalism Award Recipient

Carl R. Neil

MBA Awards of Merit

Keith M. Garza
Susan D. Marmaduke
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MBA YLS Awards of Merit

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Jennifer Durham
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Kristin H. Sterling

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RSVP by September 7.

Invitations have been mailed separately.

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MBA CLE

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

October

Wednesday, October 3

Annual Evidence Update

Judge Henry Kantor
Rick Pope
Renee Rothauge

Thursday, October 4

Child Abuse Reporting Requirements

Helen Hirschbiel

Thursday, October 18

Cross Examination

George Kirklin
David Markowitz

Tuesday, October 23

Annual Ethics Update

Mark Fucile

Wednesday, October 24

Contingent Fees and Earn-outs

John McGuigan

Tuesday, October 30

Mandatory Arbitration Training

Eric Neiman
Judge Adrienne Nelson
Lisa Miller
Kent Whitaker

Thursday, November 1

Intelligence and Cultural Competence Elimination of Bias CLE

Christine Cress, Ph.D.

Multnomah Bar Association
"Absolutely Social" Social
The Grape Escape

Thursday, October 18
The University Club
5-7 p.m.

RSVP via insert in this issue.

Featuring wine tastings.
Drop in after work and catch up
with friends and colleagues.

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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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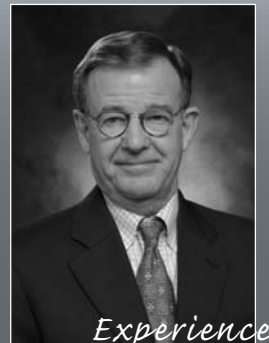
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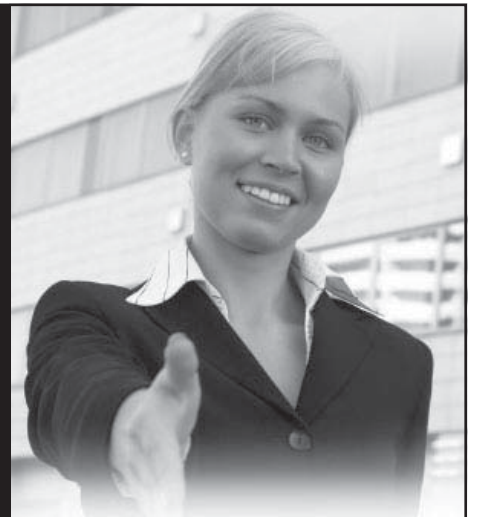


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NEW ON THE SHELF

By Jacque Jurkins, Multnomah Law Librarian.

THE FAMILY LIMITED PARTNERSHIP DESKBOOK: Forming and funding FLPs and other closely held business entities, 2d ed. by David T. Lewis and Andrea C. Chomakos. Published by the ABA Section of Real Property, Probate and Trust Law, 2007. (KF 1380 L49 2007)

FEDERAL JURY PRACTICE AND INSTRUCTIONS, 6th ed. by Kevin F. O'Malley, Jay E. Grenig and William C. Lee. Published by Thomson/West, 2007. (KF 8984 O53)

US DATA BREACH NOTIFICATION LAW: State by state edited by John P. Hutchins. Published by the ABA, 2007. (KF 1263 C65 U15)

JUDGMENTS AND COLLECTING JUDGMENTS IN OREGON: Avoiding the pitfalls. Course materials from the March 2, 2007 Oregon Law Institute program in Portland, 2007. (*KF 899 O7 O73ja)

EVERY RELATIONSHIP MATTERS: Using the power of

relationships to transform your business, your firm, and yourself by Peter Rouse. Published by the ABA, 2007. (KF 300 R68)

POLICE MISCONDUCT: Law and litigation, 3d ed. by Michael Avery, David Rudovsky and Karen M. Blum. Published by Thomson/West, 2006. (KF9409 A98 2006)

TREATISE ON CONSTITUTIONAL LAW: Substance and procedure, 4th ed. by Ronald D. Rotunda and John E. Nowak. Published by Thomson/West, 2007. (KF4550 R68 2007)

THE CONSTRUCTIVE DIVORCE GUIDEBOOK: Empowering families to reach long-term positive results by Mark Chinn. Published by the ABA General Practice, Solo & Small Firm Division, 2007. (KF 299 D6 C48)

SODERQUIST ON CORPORATE LAW AND PRACTICE, 3d ed. by Linda O. Smiddy and Lawrence A.

Cunningham. Published by the Practising Law Institute, 2007. (KF 1414 S64 2007)

DIRECTORS AND OFFICERS LIABILITY INSURANCE DESKBOOK, 2nd ed. edited by Martin O'Leary. Published by the ABA, 2007. (KF 1423 D58 2007)

THE LAWYER'S FIELD GUIDE TO EFFECTIVE BUSINESS DEVELOPMENT by William J. Flannery. Published by the ABA Law Practice Management Section, 2007. (KF 300 F53)

THE INTANGIBLE ASSETS HANDBOOK: Maximizing value from intangible assets by Weston Anson and David C. Drews. Published by the ABA Section of Business Law, 2007. (KF 2979 A84)

OPERATING, FINANCING AND SELLING A BUSINESS IN THE DIGITAL AGE. Course materials from the February 23, 2007 Lewis & Clark Business Law Institute in Portland. (*KF 889 A2 O7 O73)

CALENDAR

For a complete MBA calendar, please visit www.mbabar.org.

September

- 3** Monday, Labor Day - MBA office closed
- 4** Tuesday, MBA Board meeting
- 10** Monday, October *Multnomah Lawyer* deadline
- 11** Tuesday, YLS Board meeting
- Tuesday, MBA Golf Tournament at Riverside Country Club Register at www.mbabar.org.
- 17** Monday, League of Women Voters-Constitution Day See Announcements for details.
- 18** Tuesday, YLS Real Estate CLE Series begins at Standard See insert or register at www.mbabar.org.
- 19** Wednesday, MBA Awards Luncheon at The Governor Hotel See p.1 for details.
- 24** Monday, OLAH Fundraising Drive begins

- 11** Thursday, Bench-Bar Brown-Bag with Judge Maurer
- 18** Thursday, MBA CLE Cross Examination See insert or register at www.mbabar.org.
- Thursday, MBA *Absolutely Social Social* Register at www.mbabar.org.
- 19** Friday, BOWLIO at Valley Lanes
- 23** Tuesday, MBA CLE – Annual Ethics Update See insert or register at www.mbabar.org.
- 24** Wednesday, Multnomah Bar Foundation Board meeting
- Wednesday, MBA Breakfast CLE Earnouts and Contingent Payments See insert or register at www.mbabar.org.
- 26** Friday, Campaign for Equal Justice LAFF-OFF Visit www.cej-org for details.
- 30** Tuesday, MBA CLE – Mandatory Arbitration Training See insert or register at www.mbabar.org.

October

- 2** Tuesday, MBA Board meeting
- 3** Wednesday, MBA CLE Annual Evidence Update See insert or register at www.mbabar.org.
- 4** Thursday, MBA CLE – Child Abuse Reporting Requirements See insert or register at www.mbabar.org.
- 9** Tuesday, YLS Board meeting
- 10** Wednesday, November *Multnomah Lawyer* deadline

November

- 1** Thursday, MBA CLE Intelligence and Cultural Competence See insert or register at www.mbabar.org.
- 6** Tuesday, MBA Board meeting
- 9** Friday, December *Multnomah Lawyer* deadline

Sam Imperati, JD

Mediator



Tip:

Ask your prospective mediator if they are transformative, facilitative, or evaluative in approach. *Will their style be a fit?*

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The MBA would like to thank the following firms and individuals for their generous contributions to the 2007 CourtCare Campaign. These contributions are in addition to those published in the July/August issue of the *Multnomah Lawyer*.

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Jonnel Covault, *Moment's Rest*, 2004

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Ethics Focus

By Mark J. Fucile, Fucile & Reising.

Billing Ethics, Part 1: Time-Keeping and Fee Agreements

When we are in law school, billing is an area that gets scant, if any, attention. Yet, for lawyers in private practice, billing is a mundane but essential element of the business side of running a law firm. Billing is also an area where disputes with clients can arise and, in that event, lawyers often face heightened scrutiny. This month and next, we'll look at two primary facets of "billing ethics." In this column, we'll review the essential ethical elements of time-keeping and fee agreements. Next month, we'll look at client trust accounts. With both, the practical consequences of problems can run the spectrum from misunderstandings with clients to regulatory discipline to claims for breach of fiduciary duty and attendant fee forfeiture. Again with both, ready guidance is available from the OSB's ethics opinions, available at www.osbar.org.

Time-Keeping

If you are using the still-predominant hourly-based fee system, the essential ethical element of time-keeping is to accurately record and report your work. OSB Formal Ethics Opinion 2005-170 makes plain that the "dishonesty rule," RPC 8.4(a)(3), applies squarely to time records. The Oregon Supreme Court has made that same point in several disciplinary cases, including *In re Miller*, 303 Or 253, 735 P2d 591(1987), where it described (at 257) this duty as "fundamental to the attorney-client relationship." In *Miller*, the lawyer billed clients for time not worked and for expenses not incurred. He was disbarred.

Fee Agreements

Oregon law permits a wide variety of fee agreements, including hourly, contingent and "flat" fees (or combinations). Each presents discrete ethical considerations, but all fee arrangements are subject to RPC 1.5's requirement that fees not be "clearly excessive," which both the rule and the ethics opinions equate with a "reasonable" fee. RPC 1.5(b) lists the factors which, in a given representation, may be taken into account in determining whether a fee is reasonable. RPC 1.5(b)'s list, which is not exclusive, ranges from the time involved to the skill and experience of the lawyer.

Although some fee agreements, such as contingent fees for personal and property damage cases falling under ORS 20.340 and flat fees denominated as "earned upon receipt" governed by OSB Formal Ethics Opinion 2005-151 and associated court decisions, are



required to be in writing, it is generally wise to have a written fee agreement in each matter or set of matters to avoid misunderstandings with clients. In particular, items such as categories of expenses to be charged, interest on past due bills, advance deposits or other security for payment should be explained. Similarly, although the RPCs do not specify a particular format for bills, we have a general duty to communicate under RPC 1.4 and, therefore, bills should contain enough detail to inform the client of the nature of the work performed for the amount charged. Further, if the lawyer is to receive payment in a form other than money, such as stock in lieu of a fee, the special disclosure and consent requirements for lawyer-client business transactions under RPC 1.8(a) may apply.

With hourly fee agreements, the focus as discussed earlier in Formal Ethics Opinion 2005-170 and *Miller* is accurately recording and reporting time worked. Formal Ethics Opinion 2005-170 notes in particular that if a lawyer is billing multiple clients for simultaneous service, such as attending a deposition for two clients or reviewing a contract for one client while flying on a second client's business, the time must be divided rather than multiplied.

Contingent fees are generally permitted in a wide variety of practice settings, except for marital dissolution and attendant property division, spousal or child support determinations and criminal defense (see RPC 1.5(c); see also RPC 1.8(i)(2)). The form libraries available online from both the OSB and the Professional Liability Fund (www.osbplf.org) contain model contingent fee agreements. Although as a matter of statutory law, only some contingent fee agreements must be in writing, as a matter of contract law, it is wise to put all contingent fee agreements in writing because, regardless of the practice setting, the lawyer will be held to the arrangement negotiated with the client (see OSB Formal Ethics Op. 2005-15 at 33). Further, because ambiguities in fee agreements are generally construed against the lawyer (see, e.g., OSB Formal Ethics Op. 2005-124 at 329), the elements of the contingent fee should be detailed for the client.

"Flat" fees for a particular matter, set of matters or individual services are generally permitted under OSB Formal Ethics Opinions 2005-98 and 2005-151. Like their hourly

ANNOUNCEMENTS

MBA E-NEWS

Watch for the new MBA E-NEWS coming to you each mid-month.

MBA and Portland Art Museum Partner

Visit the MBA office and enjoy a sampling of the museum's rental art on display. Please see details on the PAM rental program ad on p. 3.

2008 MBA Professionalism Award Nominations Sought

Do you know a lawyer who is a joy to work with, someone who goes above and beyond the minimum professionalism standards? Nominate him or her for the 2008 MBA Professionalism Award.

Any MBA practicing attorney member, except a member of the MBA Professionalism Committee or the MBA Board of Directors, is eligible to receive this award. Former nominees may be re-nominated. For more information and a nomination form, go to www.mbar.org.

Multnomah County Family Law Group Sets Meetings

Josh Kadish will address the group's lunch meeting on September 24 on the topic of domestic partnerships and HB 2007 (location TBD). On October 22, the speaker will be Wendy Hull, Director of Conciliation Services in Washington County.

Contact David Bean, dib@meyerwyse.com, if you wish to be added to the list of people who receive notices for this group's events.

Noon Time Rides

MBA short, fast bike rides with hills. Meet at SW Yamhill and Broadway between noon and 12:10 p.m. on Mondays and Thursdays. Contact Ray Thomas at 503.228.5222 with questions, or meet at start.

What You Never Learned in Law School: Business Tools for Success

Successful women attorneys share their strategies for succeeding in the business side of the legal profession. This OWLS fall CLE on November 2 at 1 p.m. at The Governor Hotel will provide the

new attorney and the seasoned practitioner assistance in managing their practices and developing business tools not taught in law school. For more information or to register, please visit the OWLS Web site at www.oregonwomenlawyers.org.

Just Getting Started in Private Practice?

The Professional Liability Fund is sponsoring a practical skills seminar, "Learning The Ropes," for new admittees to the OSB and lawyers entering private practice in Oregon.

The seminar is November 14-16, at the Oregon Convention Center. The \$60 registration fee includes the entire seminar and lunch on Nov. 14-15. The registration deadline is November 7. For more information, visit www.osbplf.org.

Legal Community Laces Up to Fund Legal Services for Low-income Families

St. Andrew Legal Clinic's 7th annual "Race for Justice" took place on June 30. The 2007 race attracted over 300 runners and walkers and raised a record \$120,000 for legal services for low-income people.

Markowitz, Herbold, Glade & Mehlhaf registered 42 participants, earning the "Largest Team" Award, while the Fertile Octogenarians (led by Chris Rounds of Safeco) took home the "Best Fundraising Team" trophy for collecting \$18,435 in donations. Chris Rounds single-handedly raised \$14,240 and was awarded "Best Individual Fundraiser," followed by John Dunbar with \$10,463 and David Bledsoe with \$6,604.

For more information and event photos, go to www.salcgroup.org.

Judge Ashmanskas Announces Retirement

United States Magistrate Judge Donald C. Ashmanskas will retire effective January 31, 2008. He has served as a federal judge for 15 years. Prior to his federal service, he served as a state district and circuit court judge for Washington County for 17 years.

Further information about the selection process for his replacement is available on the

Web site for the US District Court for the District of Oregon, www.ord.uscourts.gov. Information for potential applicants, including application forms, job description and qualifications are also available on the Web site, or at the clerk's intake counter in the US Courthouses in Portland, Eugene and Medford. Applications must be received at the Portland location of the clerk's office no later than 4:30 p.m. on Friday, September 14.

For further information, please contact the Clerk of Court, Sheryl S. McConnell, at 503.326.8090.

Upcoming OCDLA Seminars

Essentials of Juvenile Court Dependency Practice - a seminar for attorneys on all sides, who are new to the practice of juvenile law, will be October 5-6, at the Valley River Inn in Eugene. It is open to anyone involved in the practice of juvenile law.

The annual *Public Defense Management Conference* on October 11-12 will be at the Best Western Hood River Inn. The conference welcomes anyone involved in the defense function who is interested in public defense management in Oregon.

Death Penalty Defense, a seminar for practitioners involved in defending those accused of capital crimes, is to be held October 12-13, at the Best Western Hood River Inn.

For information on program details and registration, see www.ocdla.org/seminars, or call 541.686.8716.

Campaign for Equal Justice (CEJ) Sponsors LAF-OFF

Friday, October 26, will be an evening of fun and laughter at the Mission Theatre as Oregon attorneys take part in a comedy competition. LAF-OFF (Legal Aid Fundraiser - Originated by Fios and Friends) shows will be at 6 and 9 p.m. Visit www.cej-oregon.org and click on "events" or call 503.295.8442 for more information.

and contingent fee counterparts, they remain subject to RPC 1.5(a)'s standard that they cannot result in an unreasonable/clearly excessive fee. However, as OSB Formal Ethics Opinion 2005-151 observes (at 410), "[t]he mere fact that a fixed fee may result in a fee in excess of a reasonable hourly rate does not in itself make the fee unethical." This ethics opinion (at 411), together with *In re Fadeley*, 342 Or 403, 409-11, 153 P3d 682 (2007), and *In re Balocca*, 342 Or 279, 286-90, 151 P3d 154 (2007), also

find that agreements for fixed fees denominated as "nonrefundable" or "earned upon receipt" must both be in writing and must be clear on that point. The same opinion notes as well (at 411) that "[a] lawyer who does not complete all contemplated work will generally be unable to retain the full fixed fee," and *Fadeley* and *Balocca* concur.

With all fee agreements, the lawyer cannot change its terms unilaterally (see OSB Formal Ethics Op. 2005-97). Therefore, if the lawyer wishes to, for example, reserve the right to increase an hourly fee over the

course of a matter, the lawyer should include a mechanism to do so in the original fee agreement with the client. If not, then any adjustment must be subject to an agreed amendment by the client and Formal Ethics Opinion 2005-97 notes (at 234) that an adjustment in the lawyer's favor both "requires client consent based on an explanation of the reason for the change and its effect on the client" and "must be objectively fair." Both contingent and flat fees

Continued on page 12

In the Leader's Circle for IOLTA

By Elise Bouneff, VP, professional banking officer, Bank of the Cascades.

Partnerships that naturally enhance community are exciting; the collaboration between Oregon lawyers and bankers through the Oregon Law Foundation (OLF) is definitely a successful partnership. One of the most important contributions Oregon lawyers and bankers make to our Oregon communities is the Interest on Lawyers Trust Accounts (IOLTA) program, which generates funds used to support legal aid, legal education for the public, and other activities that improve the quality of justice.

Interest earned on the accounts provides services to those who ordinarily wouldn't have access to legal services and education. The program has three goals: provide funding for legal aid groups, promote diversity in the legal sector and educate the public about the law.

The OLF is responsible for distributing these funds to worthy organizations that empower the most vulnerable in our society, build strong

communities and ensure there is justice for all.

In the past two years (2005-06), the OLF awarded approximately \$500,000 in special-project grants around the state. In Multnomah County, the foundation helps fund the Multnomah Volunteer Lawyer Project and Classroom Law Project. Other notable projects include the reopening of a long-shuttered legal aid office in Klamath Falls, as well as the continued operation of a domestic violence clinic in the Eugene area.

Additionally these resources enabled St. Andrew Legal Clinic to expand its operations in underserved Washington and Columbia Counties. The Oregon Law Foundation awarded more than \$1.8 million in total when combining regular and special-project grants for 2006, up 38 percent from the year before.

How do you know which bank will maximize the return on your IOLTA funds? The OLF has identified banks that make a commitment to pay a higher interest rate on these accounts;

they are called Leadership Banks. But finding a bank that offers you the highest interest rate is not the only element to consider. Does the bank charge service fees? Does it provide the best management of your IOLTA funds to maximize the rate of return on your accounts? Answering these questions is a helpful first step. Additionally, when assessing which bank is the right fit for you, it is important to understand the bank's mission and philosophy to make certain they are similar to your law firm's goals and values.

"The OLF is very grateful to all of the Leadership Banks, including Bank of the Cascades," said Judith Baker, Executive Director of the Oregon Law Foundation. "Their leadership and support have allowed us to give more money to organizations that provide critical legal services to those Oregonians who are most in need."

Bank of the Cascades, named this year as a Visionary Leadership Bank by the Oregon Law Foundation, is one Leadership Bank that offers solutions to investment



Elise Bouneff and Michael Dwyer, MBA President-Elect

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Left to Right: Gwyn Hilden, Teri Van Syckle, Elise Bouneff, Martha Sheets, Karen Fornshell, Stewart Williams, Anne Marie Flora, Angela Devita-Hohman, Jason Scott

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A Commitment to Diversity

By Parna Mehrbani, Lane Powell.

The MBA Equality Committee is committed to providing articles in the Multnomah Lawyer highlighting the activities and programs developed and/or sponsored by MBA members and their firms, companies or organizations that promote and provide better understanding of the diversity in our legal profession and in our community. If you would like to recognize an individual, group or firm for their commitment to equality, please contact Kathy Maloney, liaison to the MBA Equality Committee. The following is the fourth article in this series, and recognizes the activities and programs of the firm of Lane Powell in its ongoing efforts to support a diverse law profession and community.

The MBA Equality Committee has asked me to write an article about Lane Powell's commitment to furthering diversity within the firm and promoting diversity in the communities in which we practice.

For many years, Lane Powell has had policies to further diversity within the firm and in the profession. In early 2003, the firm re-invigorated its Diversity Committee, which designs

and implements programs and strategies that promote an inclusive work environment and encourage the success of all employees by focusing on promoting diversity in our communities and in the legal profession.

Internally, the firm works to recruit and retain attorneys by supporting existing diversity programs and assisting in initiating programs within the firm and local bar associations.

Our George V. Powell Diversity Scholarship is awarded to a summer associate in the firm's Seattle or Portland office. The recipient receives a \$6,000 scholarship toward tuition and expenses during his or her third year of law school.

For over 15 years, our Seattle office has hired a summer associate through the Puget Sound Area Minority Clerkship Program, which is designed to provide summer associate opportunities for minority first-year students from the U of W and Seattle University School of Law. Our Portland office has participated in a similar program,

the First Year Honors Program, through the OSB.

Lane Powell is actively involved in the Northwest Minority Job Fair, which provides a forum for minority law students and attorneys to interview with a variety of legal employers. Over 40 employers conduct interviews, including private firms, nonprofits and government agencies.

Lane Powell also conducts interviews at the Oregon Minority Job Fair, organized by the Minority Law Student Association of Lewis & Clark Law School. The job fair targets second- and third-year ethnic minority law students from the three Oregon law schools, providing a forum for students to interview for summer associate and associate positions.

Since the fall of 2006, Lane Powell has hired 27 attorneys, including three attorneys of color, one attorney from an ethnic minority and 11 women.

To retain diverse lawyers and ensure their success, the Diversity Committee has designed and implemented the firm's mentor

program, which it continually oversees. Our mentor program pairs associates with shareholders who provide insight into the firm and the profession.

Outside the firm, Lane Powell and its attorneys are actively involved in numerous legal associations and professional and nonprofit organizations that promote the advancement of women and ethnic minorities in the legal profession and diversity in our communities. We frequently attend and sponsor events organized by these groups.

Lane Powell attends and contributes to numerous fundraising events that directly benefit diverse members of the community and the profession, including the annual Ebony and Ivory Scholarship Benefit event, the "Bowlio" fundraiser for the OSB Affirmative Action Program's (AAP) Opportunities for Law in Oregon (OLIO) program, the Urban League, the Loren Miller Annual Luncheon and Basic Rights Oregon events.

For the past several years, a Lane Powell lawyer has served on the AAP Committee. The AAP

strives to increase the diversity of the Oregon bench and bar to reflect the variety of the people of Oregon by educating attorneys about the rich, unique cultural heritage of the clients they serve and by removing barriers to justice. Participation in the AAP has given us the opportunity to join lawyers around Oregon in supporting the diversity of Oregon's legal community. Last fall, various firms came together to raise awareness and support the renewal of the AAP by the House of Delegates. Our Director of Marketing Communications also participated in a group discussion with local firms regarding how to best show support for the AAP.

Lane Powell, like many law firms in Oregon, is working to overcome barriers to the practice of law for all minorities. All of the described activities and events are joint efforts of many law firms, schools, nonprofits, individual lawyers and others. Together we are striving not only to diversify the legal profession and our communities, but to gain a better understanding of each other and the profession.

Joint Control Agreement - an Attorney's Friend

By Patrick O'Leary, Vice President and General Counsel, The Bar Plan, Mutual Insurance Company.

Here's the scenario: You represent a fiduciary of an estate. You want to make sure she is properly appointed and bonded, and then you want to move onto other cases. Right? Not so fast!

The fiduciary has an ongoing responsibility to the estate. As her attorney, you have an ongoing duty to advise her. If she makes unauthorized expenditures or imprudent investments, you could be on the hook if you were negligent in that duty.

That's where a Joint Control Agreement (JCA) can be a useful tool. And if set up properly, a JCA will help you fulfill your obligations while limiting your oversight time and your exposure.

How it works

The JCA requires two accounts: the Principal Account, which requires two signatures for any withdrawals (i.e. you and your client); and the Working Account, which the fiduciary has full access to for paying ongoing expenses. These accounts may be established at the bank of your choice.

You start by assisting your client in opening the accounts and developing an estimated budget for the first year's expenditures from the estate. The principal account is then funded with

the majority of the assets of the estate. The working account is funded with enough money to cover the first year's budget. (Note: Don't forget about the Prudent Investor Act.)

Thereafter, the working account is funded annually to cover the budgeted expenses for the following year. The fiduciary is already required to file an annual accounting for the court. In conjunction with that filing, she will also develop a budget for the following year's expenses (reasonable estimates are adequate). A transfer is then made from the principal account into the working account to cover the annual budgeted expenditures.

How you benefit

The JCA helps organize and focus your efforts, thus minimizing the hours you spend. You will assist your client with setting up the accounts initially and with the annual accounting and budgets. Typically, the only additional time you will devote to the estate is if and when an unusual or unexpected expense is incurred that requires your joint signature to withdraw additional funds from the principal account.

With a minimal amount of time spent, you will know what's going on with the estate and you will

have an opportunity to advise your client at all the critical times. Your risk of committing negligence is minimized by the built-in oversight procedures, and your monetary exposure is significantly reduced by placing most of the estate's funds out of the reach of your client.

What about fees? In most cases where a JCA is implemented, the amount of time you spend is predictable and reasonable, and your fees can be paid under the statutory fee allowance.

The MBA is a source for court bonds through its partnership with The Bar Plan Mutual Insurance Company. The Bar Plan specializes in court fiduciary and court judicial guarantee bonds. For more information visit the MBA/Bar Plan Web page at <https://mba.onlinecourtbonds.com> or contact Cathy Ahearn or Deborah Eller of The Bar Plan at 877.553.6376.



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AROUND THE BAR



Richard S. Bailey

to the Council. Meyer, a founder of the firm, has practiced general business, corporate, architectural and construction law for 50 years.

Since the late 1970s, Meyer has dedicated a significant portion of his public service career to representing the interests of the architectural profession. In 1977, he was named to the Oregon Board of Architect Examiners as one of its first two public members. Less than a decade later, Meyer was elected chair of the Western Conference of Architectural Registration Boards, and subsequently served on the NCARB Board of Directors where he represented Region 6.



Jeff Bird

SCHWABE, WILLIAMSON & WYATT

Richard S. Bailey has joined the firm, where he will be involved in the real estate practice group, specializing in advising on real estate development and finance transactions.

Jeff Bird, a shareholder, was elected to serve a three-year term on the board of directors for Northwest Business for Culture and the Arts, a Portland-based nonprofit organization that works to dramatically increase public and private support for arts, heritage and humanities throughout Oregon and southwest Washington.

Bird's practice at Schwabe focuses on complex business transactions, including mergers and acquisitions, securities offerings, tender offers, proxy contests, divestitures for public and private companies, corporate finance, securities law and venture capital transactions.



Roger Meyer

MEYER & WYSE

Roger Meyer was recently awarded the President's Medal for Distinguished Service by National Council of Architectural Registration Boards' President Robert E. Luke, AIA, (2006-07) in recognition of his long, noteworthy and generous service



Max M. Miller Jr.



David Copley Forman

TONKON TORP

Tonkon Torp has launched a sustainability practice group leveraging the firm's experience in energy, forestry, green building and advising emerging companies. The interdisciplinary group is made up of 12 seasoned attorneys who focus on issues ranging from renewable energy, real estate and environmental law to corporate finance and governance, intellectual property and lobbying. The new practice group is co-chaired by partners **Max M. Miller Jr.** and **David Copley Forman**.

Miller, whose practice focuses on environmental and natural resource issues, is named as a leading environmental lawyer in *Chambers USA America's Leading Lawyers for Business*. Miller also chairs the firm's internal committee to develop and monitor sustainable business practices within the firm.

Forman's law practice includes corporate finance and assisting emerging companies to develop sustainable products and services.



Paul M. Ostroff



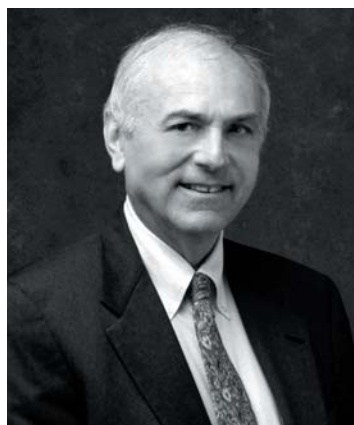
Allyson R. Keo

LANE POWELL

Shareholder **Paul M. Ostroff** has been appointed to the Human Resources Committee of the Oregon Council of the AeA (formerly the American Electronics Association). The AeA is a nationwide nonprofit trade association which represents all segments of the technology industry.

Ostroff provides advice and counsel to employers in all phases of labor and employment law, including collective bargaining, labor arbitration, union organizing campaigns, employment discrimination, discipline and discharge, wage and hour, employee benefits, drafting of policies and handbooks, ADA, FMLA, employment contracts, covenants not to compete and occupational safety.

Allyson R. Keo joins the firm as an associate in the intellectual property practice group.



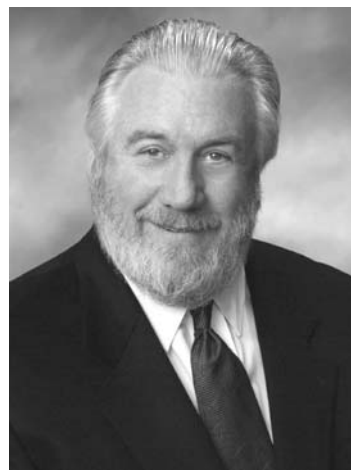
Jonathan Ater

ATER WYNNE

Jonathan Ater, the senior partner and chair of the firm's health law group, has been elected chair of the firm. **Michael W. Shackelford** has been re-elected managing partner.

Ater has more than 40 years of experience as a strategic legal advisor to business and nonprofit enterprises. He is a leading advisor to healthcare professionals and institutions such as The Medical Society of Metropolitan Portland, the Oregon Clinic, the OHSU Medical Group and CareOregon. He serves as Vice Chair of the Oregon Health Policy Commission and was Co-Chair of the Governors 2004 Mental Health Task Force.

Shackelford has served as managing partner since 2001. His practice focuses on general corporate law and corporate finance transactions, including venture capital financings and mergers and acquisitions, as well as estate planning and administration.



Michael L. Williams

WILLIAMS LOVE ET AL

Michael L. Williams, a partner at the firm, has been elected to a three-year term on the Board of Directors for the Public Justice Foundation. Public Justice is the country's largest public interest law firm, with offices in Washington D.C. and Oakland, California.

GREENE & MARKLEY

The Foundation for Economic Education (Irvington-on-Hudson, NY) published an original essay by **Ridgway K. (Dick) Foley Jr.** in the May 2007 issue of its monthly journal, *The Freeman: Ideas On Liberty*, in which he discusses how seemingly insignificant laws propounded by well-meaning individuals often lead to dangerous invasions of civil liberty.

Foley, a former officer and director of the MBA and presently of counsel with the firm, has argued many civil appellate cases in Oregon.

JACINTA WANG

Jacinta Wang has opened a solo practice in Lake Oswego, where she specializes in domestic relations law and estate planning, including adoption, divorce, custody, support issues, restraining orders, premarital agreements, wills and advance health directives. She is welcoming new clients in her offices at 4040 Douglas Way, Lake Oswego OR 97035. Contact her by phone at 503.635.9393, by email at jacinta@jacintawang.com, by fax at 503.635.1526. Her Web site is www.jacintawang.com.

PAULSON COLETTI TRIAL ATTORNEYS

Jane Paulson, a partner at the firm, has joined the Portland Habitat for Humanity Board.



David Bristol

FIRST INDEPENDENT

David Bristol, former partner with Miller Nash, has joined First Independent as executive vice president and chief legal officer. His practice at the firm focused on banking, mergers and acquisitions, finance and real estate law. He was instrumental in helping national and community bank clients with their strategic business development initiatives.

STANDARD INSURANCE COMPANY

George Williams has joined the litigation team in the insurance services group legal department.

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

Group Health Plan Open Enrollment in September

September is Open Enrollment month for the MBA's Group Health Insurance Plan. Existing plan subscribers can make changes to their plan, and MBA members who are not on the plan can enroll. For detailed information see the insert in this issue or call Steve Doty of Northwest Employee Benefits at 503.284.1331.

Tips from the Bench

By Judge John A. Wittmayer, Multnomah County Circuit Court.

Uniform Trial Court Rules changes

Effective August 1, the Uniform Trial Court Rules have been revised. They are available online at www.ojd.state.or.us/programs/utcr/utcrules.htm.

The change that will affect most litigation lawyers is contained in Rule 5.100. This rule has for years required that when a lawyer submits a judgment or order to the court, it must be either served on opposing counsel not less than three days prior to submission to the court, or accompanied by a stipulation as to the form by opposing counsel, or mailed to a pro se litigant not less than seven days before submission to the court, or presented in open court with the parties present. These requirements remain unchanged.

The change is that when you submit a judgment or order now, unless presented in open court or on stipulation, you must send to the court, along with the judgment or order, a certificate describing the manner in which you complied with the requirement to send a copy in advance to counsel or a pro se litigant. This must be done in every case, except for uncontested probate or protective proceedings or for judgments following hearings on petitions for review of drivers' privileges suspension order, UTCR 10.090.

Attorney Reference Manual changes

The manual has been updated for 2007, and will no longer be printed. You can download the manual at www.ojd.state.or.us/mul/index.html. Click on "about the court" and select *Attorney Reference Manual* in the drop down menu.



Conferring with each other on civil motions

We are continuing to see many civil motions bearing inadequate certifications as required by UTCR 5.010(3). UTCR 5.010(1) requires you to make a good faith effort to confer with the opposing party on all ORCP 21 and 23 motions (except for motions to dismiss for failure to state a claim or for lack of jurisdiction) and on all discovery motions pursuant to ORCP 36-46.

It is *not* adequate compliance with the certification requirement of UTCR 5.010(3) for you to simply state that you made a "good faith effort to confer." This is a legal conclusion for the court to draw from a proper certification. UTCR 5.010(3) says the certification is sufficient if it states either that the parties conferred or contains facts showing good cause for not conferring (like you left messages and counsel never called you back).

The purpose of the rule is to avoid unnecessary civil motions, with their cost to your clients and the court. Very frequently at the time of a hearing on a civil motion (after the judge has read the materials and prepared for the hearing) counsel are able to agree on a resolution in the courtroom. You should expect your motion to be denied if the certificate is absent or insufficient.

MBA Committees

Continuing Legal Education

Chair: **Jacob Gill**, Stoll Stoll et al, 503.227.1600

Plans, conducts and evaluates approximately 30 CLE seminars a year geared toward attorneys in practice ten years or more. The curriculum reflects areas in which MBA members practice.

Court Liaison

Chair: **David Meyer**, David P. Meyer, 503.224.1096

Serves as the MBA's interface with the court and fosters dialogue between the MBA membership, the judiciary and the court administrator. Provides constructive feedback to the judiciary.

Equality

Chair: **Linda Meng**, City Attorney's Office, 503.823.4047

Promotes equality in the profession and identifies ways in which the MBA can promote diversity in the practice of law through outreach to minorities.

Golf

Chair: **Brenda Baumgart**, Barran Liebman, 503.228.0500

Plans, publicizes and conducts approximately five golf tournaments between April and September, including the MBA Members Championship Tournament, which benefits the Volunteer Lawyers Project at LASO.

Group Health Insurance

Chair: **David Dean**, Grenley Rotenberg et al, 503.241.0570

Monitors quality, low-cost health and other insurance options for MBA members and surveys their satisfaction and preferences with the insurance program.

Judicial Screening

Chair: **Martha Hodgkinson**, Hoffman Hart & Wagner, 503.222.4499



David Meyer



Linda Meng



Brenda Baumgart



Brad Tellam

Confidentially screens judicial and pro tem candidates in accordance with the MBA's process.

Professionalism

Chair: **Brad Tellam**, Stoel Rives, 503.294.9414

Manages activities that promote professionalism in the legal community and assists with the nomination and selection process for the Professionalism Award.

Public Outreach

Chair: **Tamara Russell**, Miller Nash, 503.205.2348

Implements the MBA's public outreach plan.



Tamara Russell

Neil Selected for MBA Professionalism Award

Carl R. Neil will receive the MBA's most prestigious award, its Professionalism Award, at the awards lunch on September 19. Neil has practiced law for almost 50 years. After graduating from Columbia Law School, he clerked for Oregon Supreme Court Justice Hall Lusk before being hired by Krause, Lindsay & Nahstoll in 1959. Neil became a partner of the firm in 1964 and the firm name was changed to its current name of Lindsay, Hart, Neil & Weigler in 1980. Neil's practice focuses on admiralty and commercial litigation matters.

Throughout his career, Neil has served on a number of local, state and national bar associations, including president of the OSB in 1976-77. He volunteers with Legal Aid Services of Oregon's Senior and Neighborhood Law Projects several times a month. In 1966, Neil traveled to Mississippi to serve as volunteer counsel to victims of civil rights violations. His efforts helped

in securing and preserving basic civil liberties for people of color in that tumultuous time. Neil's dedication to the concept of basic civil liberties for all citizens outweighed any concern with respect to the real threats to his personal safety existing at that time and place. His commitment to civil rights was also demonstrated in many civil liberty cases he handled for the ACLU. One was the Lloyd Center free speech case he argued (unsuccessfully) before the US Supreme Court in 1972. In recent years he has also served on the Board of Directors of the Urban League of Oregon.

Neil has been an adjunct professor at Lewis & Clark Law School since 1969, teaching courses in admiralty and arbitration. Through the American Arbitration Association and the Arbitration Service of Portland, Neil serves as an arbitrator and mediator, primarily in controversies

involving construction and commercial law. He encourages mediation or arbitration in his own law practice as an effective means toward conflict resolution. He is a mentor to the younger partners of his firm, who seek his guidance on a regular basis. He works closely with the associates in the firm, helping them expand their horizons and knowledge and encourages them to handle more difficult matters when he feels they are ready.

A sampling of the praise from his nominators:

"He exemplifies everything our profession stands for: a keen intellect and great analytical abilities, a love for the law, a courageous commitment to the rights of a litigant - no matter how powerful the adversary - and a selfless dedication to public service over many, many years. He is level-headed, courteous to

all (including fierce adversaries), courageous and calm. He does not mislead. He moves straight ahead to get to the truth and is always prompt in his response to lawyers on the other side. Neil is truly respectful of the court. He argues strenuously for his clients, but he does not waste the court's time on frivolous matters. He tends to be more of a doer than a talker, and self-promotion isn't one of his traits. He is an inspiration for all lawyers."

Neil joins the prestigious list of MBA Professionalism Award Recipients: Raymond Conboy, Thomas H. Tongue, Randall B. Kester, Frank Noonan Jr., Donald W. McEwen, Don H. Marmaduke, Noreen K. Saltveit McGraw, Thomas E. Cooney, John D. Ryan, George H. Fraser, Barrie Herbold, Walter H. Sweek, Daniel E. O'Leary, Mark R. Wada, Sandra A. Hansberger, Robert C. Weaver, Walter H. Grebe and Susan M. Hammer.



Carl R. Neil

The purpose of the award is to recognize a lawyer who exemplifies the standards defined in the MBA Professionalism Statement, which reads:

Professionalism goes beyond observance of the legal profession's ethical rules and serves the best interests of clients and the public in general; it fosters respect and trust among lawyers and between lawyers and the public, promotes the efficient resolution of disputes and makes the practice of law more enjoyable and satisfying.

Continued on page 12

Profile – Judge Diana Stuart

By Rob Kline, Kline Law Offices and MBA Court Liaison Committee member.

Diana Stuart was formerly a partner at Goldberg Mechanic Stuart Gibson LLP. She spent almost 30 years as a civil, labor and domestic relations litigator, and as a public defender. She was appointed by Governor Ted Kulongoski on February 28 to replace Judge Douglas Beckman.

Stuart grew up in Penn Yan, NY, a small village in the northwestern corner of the state. She received her high school diploma from Penn Yan Academy and spent two years at St. Lawrence University in Canton, NY. She received her Bachelor of Arts degree in political science from Drew University in Madison, NJ, where she graduated summa cum laude.

A professor on sabbatical from Willamette University got Stuart interested in Oregon during her senior year at Drew. “He told me, ‘you’re political, you’d love Oregon.’” At the time, *National Geographic Magazine* had just run an article about how Governor Tom McCall was reclaiming the west bank of the Willamette River. Oregon seemed like a dynamic place where Stuart could help transform 1970s ideals into positive social change. Stuart was sold. She moved to Oregon, sight unseen. When her plane landed in Portland, she asked the

passenger next to her, “Does it rain much?” The entire cabin burst into laughter.

Stuart attended law school at Willamette University. After graduating in 1977, she began her legal career as a staff attorney at Prisoner’s Legal Services of Oregon in Salem, where she was hired by Gene Mechanic, her future law partner. Stuart’s most significant experience was working on a number of prison conditions cases. Some of the cases addressed the lack of treatment for inmates suffering from mental illness. This work impressed upon Stuart the importance of ensuring that all prisoners and criminal defendants have adequate legal representation to protect their rights.

In 1980, Stuart joined the Washington County office of Metropolitan Public Defender (MPD), where she worked as a staff attorney for three years. She spent the next five years in the Multnomah County office of MPD. Stuart was a senior felony attorney for two years during which time she second-chaired with new attorneys in child abuse and rape prosecutions. Stuart’s last two years at MPD were spent training new staff in the tri-county area. After a short stint in the Federal Public

Defender’s office, she decided to try out private practice on the civil side. In 1990, she joined Gene Mechanic and Steven Goldberg as an associate. She worked on union-side labor, employment discrimination and family law cases. Stuart became a partner in 1995 and eventually specialized in family law in what became known as Goldberg Mechanic Stuart Gibson LLP.

Stuart has served on numerous MBA and OSB boards and committees. Prior to her appointment, she served on the MBA Board of Directors and previously was chair of the MBA Court Liaison Committee. Stuart was the MBA Board liaison to the Legal Aid Services of Oregon and Oregon Law Clinic Pro Bono Coordinating Committee, and served on the MBA Public Outreach Committee. She volunteered to take a pro bono case each month for the Domestic Violence Project at LASO as part of the MBA Volunteer Lawyers Project. Stuart also served on the OSB Mandatory CLE Committee, the OSB Indigent Defense Task Force II and the OSB Judicial Administration Committee. Her efforts were recognized in 2001 when she received the OSB President’s Membership Services Award for

“volunteer law-related services on behalf of Oregon’s lawyers.”

After many years of working together, Stuart and her partners decided last year to part ways and pursue other career interests. When asked why she was interested in the bench, Stuart responds that she wants “to give back.” She quickly adds that those words do not adequately capture the reason she decided to pursue a career in the judiciary. Stuart explains: “I realized while working with the Hosford Middle School teaching the ‘We the People’ curriculum [sponsored by the Multnomah Bar Foundation and the Classroom Law Project], that 33 years ago, I went to law school because I believed in the ‘social contract’ – that citizens agree to be governed in exchange for the government protecting fundamental human rights. I still believe that the courtroom is where people go to have these rights upheld. And judges are the protectors of those fundamental rights, ensuring that all voices are heard and the playing field is level. I am honored to join our state’s trial bench and will do my very best to meet this public trust.”

Judge Stuart has been assigned to a new 10th position in family court. She hopes to never lose sight of



Judge Diana Stuart

the lessons she learned as lawyer, including how tough the job can be. In addition to her obligations in the courtroom, she hopes to become involved in judicial outreach to the public. “We need to win the hearts and minds of people so that every time another ballot measure comes up that would affect funding of the judiciary or judicial independence, judges and lawyers aren’t repeatedly having to spend so much energy to help the public understand the critical nature of these issues.”

Outside her professional life, Stuart is an avid dragon boater. She has been a member of the OWLS team - the Dragon Flies - for six years. Last summer Stuart was on a women’s national grandmaster (age 50+) team, which won the right to represent the US in an international competition this September in Sydney, Australia.

2007 MBA Awards to be Presented September 19 Luncheon at the Governor Hotel

The MBA is pleased to recognize the following members who have been named recipients of the 2007 MBA Merit Award.

The award is presented for outstanding service. Recipients have an enduring commitment to the MBA’s mission of promoting justice through service, education or leadership to the MBA, the legal profession and the community.

This year’s award recipients



Keith Garza

Having served on the MBA Equality Committee since 2005, chairing it in 2006-07, Keith stepped up and did whatever needed to be done. Among other things, he arranged for a presentation to students at Jefferson High School about opportunities in the legal profession.

Outside of his work with the MBA, Keith has been a long-time supporter of the state bar’s

Opportunities for Law in Oregon (OLIO) program, which provides a comprehensive orientation for incoming first-year minority law students. He also has been involved in many of the other Affirmative Action Program events, including minority employment retreats, BOWLIO, and the state bar’s various internship, externship and fellowship programs.

He also served as an attorney coach for one of Parkrose High School’s “We the People” teams that won an award for its presentation. Last year, he served on the Oregon Law Commission’s Ethics Workgroup, which the legislature had charged with proposing changes to the state ethics laws that govern the conduct of public employees. He also serves on the Rules of Appellate Procedure Committee, chaired the state bar’s appellate practice section in 2006 and was the chair of the legal subcommittee for the organized opposition to Ballot Measure 40 in 2006. This year, Keith worked to obtain increased funding for the judicial branch, improvements to courthouses and new judgeships.

Susan Marmaduke

Susan believes lawyers have a unique opportunity to contribute to the community and to the administration of justice. She co-chaired the Multnomah CourtCare Campaign in 2006 and 2007. In



that role, she helped lead the MBA legal community to new levels of support for the program, which provides drop-in childcare in the Multnomah County Courthouse for children whose parents are involved in legal proceedings or the STOP drug and alcohol treatment program. After Hurricane Katrina, Susan traveled to the Mississippi Gulf Coast to provide pro bono legal services in FEMA Disaster Recovery Centers. She is a member of the Advisory Board of Portland State University’s Middle East Studies Center.

Last fall, Susan actively opposed Ballot Measure 40 by writing and speaking about how the measure would impair the quality and impartiality of the judiciary and by mobilizing other lawyers to support the opposition

campaign. She advocated for an adequate budget for the Oregon Judicial Department in the 2007 legislative session.

She speaks and writes on topics of concern to practicing lawyers, and contributes to the Continuing Legal Education resources of the OSB. She serves on the local rules committee of the US District Court for the District of Oregon, the OSB House of Delegates, and the national board of trustees of the Lawyers’ Committee for Civil Rights Under Law.



Chuck Tauman

He chaired the successful campaigns opposing 2002 Ballot Measures 21 (would have added “none of the above” to judicial ballots) and 22 (forcing appellate judges to run from geographical districts) and the 2006 Ballot Measure 40, which mimicked Measure 22.

“Getting other people to do what I should be doing” is what Tauman claims was his role in defeating efforts to politicize judicial positions in Oregon. Those who were involved in the campaigns know better. Taking an active role in the campaigns, he provided strategic direction, helped raise funds, coordinated various organizations’ input and participation, and helped balance each of their perspectives, needs and priorities for the benefit of all involved. A “utility infielder” is what he considers himself. “Do whatever needs to be done to accomplish the ultimate goal.” Others who worked on the campaign said that “he helped us be focused and disciplined about the message. He was sensitive to other people’s opinions and perspectives.” He also was able to motivate judges to take an active role in the campaigns. “That was the most gratifying aspect of the campaign,” said Tauman.

He is a national leader/figure in tobacco settlements and projects. He was a major tobacco safety advocate to the 2007 Oregon legislature, which passed a bill mandating fire-safe cigarettes which go out when not in use, instead of burning the full length and sometimes causing home fires.

Young Lawyers Dedicated to Serving

By Catherine Brinkman, YLS Immediate Past President.

There are unique times in life when a collection of experiences, combined, give far greater meaning to the whole than could be gained from any single experience alone. That is precisely how I feel about my time with the YLS.

During the 2006-07 year, the YLS tackled many important issues, including the Generation Gap - our joint project with the MBA Managing Partners' roundtable. From that project, we learned a great deal regarding cross-generational opinions, goals, experiences and priorities of attorneys.

I have witnessed those goals, experiences and priorities of young lawyers firsthand during my six years with the YLS. I've seen new relationships start and end...I've seen young lawyers marry, have children, lose loved ones, divorce...I've seen colleagues become partners, transition to alternative careers, start their own practices, run for office and leave the profession altogether.

I've also witnessed an enormous number of young lawyers dedicate their precious free time to the YLS and its public service, pro bono, professional development and membership projects. It is their commitment of time and energy, combined with the support, guidance and leadership of the MBA, its staff and the YLS committee chairs, that made the 2006-07 YLS year successful beyond any expectation.

Our committees, bursting at the seams with members, skillfully implemented important and well-received programs. The YLS expanded the Imprint Program to four classrooms, added professional development seminars, hosted social events with judges, Justice Linder, and outstanding organizations like OMLA and others, implemented quarterly volunteer service days, and assisted brand new lawyers with the transition into the profession through the *New Admittee Survival Guide* and social. Financially, the YLS was honored beyond words to receive

generous support from law firms and legal service providers too numerous to list here. The YLS was also honored to receive a grant from the Multnomah Bar Foundation for the YLS' groundbreaking and highly-acclaimed Youth Film Project (www.theyouthfilmproject.org) and screening, with awards presented by Chief Justice Paul J. De Muniz. With this financial support, the YLS was able to broaden existing programs, implement new programs and make a sizeable contribution to its reserve fund to assist with future funding of innovative and expanding programs.

On a personal note, it has been a joy and a privilege to serve with the YLS, as a committee member, a member of its board and as president. I am confident that David Bean, and Andrew Schpak after him, will guide the YLS to untold levels of achievement and success.

YLS Committees

YLS Professional Development and Education Committee

Chair: **Kimberly Griffith**, US District Court, 503.319.4580
This committee organizes all CLE seminars presented by the YLS, offered as the fall, winter and spring series, as well as non-CLE career development presentations; past topics included networking, business development and financial planning.



Kimberly Griffith

YLS Membership Committee

Chair: **Christiane Fife**, Schwabe Williamson & Wyatt, 503.796.2881
The Membership Committee assists in the recruitment and involvement of YLS members by coordinating a variety of social activities designed to increase professional and personal interaction. The committee also publishes the *New Admittee Survival Guide*.



Christiane Fife

YLS Pro Bono Committee

Chair: **Susan O'Toole**, Steven V. Rizzo PC, 503.229.1819
The Pro Bono Committee coordinates the Nonprofit Project and encourages involvement in pro bono service. It publishes and distributes the publications entitled *Domestic Violence: A Guide to Your Rights* and *Youth Faces the Law: A Juvenile Rights Handbook*. The committee works with the OSB to publish the *Pro Bono Opportunities in Oregon* handbook. It also helps to organize the annual Pro Bono Fair.



Susan O'Toole



Jennifer Durham

YLS Service to the Public Committee

Chair: **Jennifer Durham**, Bodyfelt Mount et al, 503.243.1022
The committee's projects give lawyers opportunities to become involved in the community. Projects include Community Law Week, Community Service Days, Dropout Prevention video

presentations at local schools, Dress for Success, volunteer hearings officers for Multnomah County Animal Services and the Imprint Program, which pairs attorneys with middle school students.

YLS YOUTHFILM Project Committee

Chair: **Lainie Dillon**, Stoel Rives, 503.294.9496
This new committee's charge is to organize the YOUTHFILM Project video contest for students, culminating in an awards ceremony and public screening. Previously, this project fell under the auspice of the Service to the Public Committee.



Lainie Dillon



YLS July Social

On July 12, the YLS held a joint social with the Clark County Bar Association. Despite record-setting temperatures, the event had great attendance. The event also attracted several "first time" attendees and proved to be an excellent way to spend an evening enjoying both the weather and the company of friends and colleagues.



Quinn Posner, President, Clark County Bar Association Young Lawyers and Calon Russell, Lewis & Clark Law School student at the July 12 Social

Join the YLS at subterra!

The MBA YLS is holding a Drop-in Social at Subterra (824 SW 1st Ave) from 5:30-7 p.m. on Thursday, September 20. This is a casual get-together and a great opportunity to meet and network with young lawyers in the area. There will be complimentary appetizers.

Grab your friends and co-workers and come see one of Portland's newest nightclubs!

We'll see you there!

YLS Selects Award of Merit Recipients

Six YLS volunteers will receive awards for their contributions to the YLS at the MBA Awards Luncheon on September 19.

Lainie Dillon, Jennifer Durham, Laurie Hager, Amber Hollister, Justin Leonard and Kristin Sterling all served on the YLS Service to the Public Committee this past year and enthusiastically volunteered to implement a new project for Community Law Week called the YOUTHFILM Project. The project is a student filmmaking contest that encourages local youth to express themselves creatively, while learning more about our government and justice system. These six volunteers, along with YLS Board member Katie Lane, created and organized this wildly successful project. (Katie is ineligible to receive the YLS Award of Merit because she serves on the YLS Board.)

Their work included developing a logo and a Web site preparing registration materials, publicizing the project to schools and student organizations, compiling a DVD of the submissions and organizing the awards presentation. (www.theyouthfilmproject.org)

Over 40 students from the local area entered the contest by producing short films on "Youth in Democracy" topics. The first annual YOUTHFILM Project screening and awards ceremony was held on May 1, where Oregon Supreme Court Chief Justice **Paul J. De Muniz** presented awards to the teams of elementary, middle and high school student filmmakers. A screening of the nine winning short films, on topics ranging from the value of free speech to the need for greater youth participation in democracy, took place at the Hollywood Theatre in Northeast Portland.

They hope the YOUTHFILM Project will become a fixture in Community Law Week for years to come. For more information about the YOUTHFILM Project and to view winning films, please visit www.theyouthfilmproject.org.

ABA "Real Estate Transactions" Publication at 20% Discount to Members

A Practical Guide to Commercial Real Estate Transactions: From Contract to Closing

This book is a practical introduction to transactional real estate law and provides a bridge between the theory of law school and the reality of a real estate law practice. It helps novice lawyers navigate through the maze of steps involved in a real estate transaction, while at the same time serving as a valuable reference manual for more seasoned attorneys as well as those whose practice is concentrated in other areas of the law.

Describing the day-to-day tasks that commercial real estate lawyers are likely to face, the publication follows the steps of a transaction in the order in which they generally arise. Much of the real estate lawyer's practice

revolves around transactional documents, so an emphasis is placed on the drafting, negotiation and revision needed to get a deal closed. Starting with the contract of sale, the book discusses both post-contractual and post-loan commitment due diligence, examines issues involving title, the survey and the loan commitment. It provides a detailed review of all documents needed for the closing, advice on how to prepare for and properly run the closing and a discussion of post-closing matters.

As a real estate practice is more than just documents, the guide contains practical advice on how lawyers help their clients learn important information about the property involved in the transaction and then properly allocate risk. The book also illustrates the types of problems that can arise with a property and

explains how typical situations can be resolved.

A CD-ROM included with the book contains forms and appendices plus practice pointers, comments, cautions and suggested techniques.

The MBA member price for this publication is \$111.96, regularly \$139.95. **We also encourage you to attend the YLS Fundamentals of Real Estate and Land Use CLE series beginning September 18 with Real Estate Transaction Basics.**

To purchase this book or to see what others have said about it, log onto www.ababooks.org and enter your member discount source code PAB5EMUL. Your member discount applies to any publications featured on the ABA Web site.

MBA Membership Drive Begins in October

The MBA staff would like to thank you for being a member this year and let you know it will soon be time to renew your membership through 2008. You will receive a renewal notice in the mail in just a few weeks. All you need to do is return the membership form with your dues payment to continue to receive the wide range of benefits the MBA provides. You may also renew online by visiting www.mbabar.org. Here are just a few reasons to continue your membership:

- Excellent, affordable and convenient CLE seminars
- Social events and committees that provide rewarding ways to network with other attorneys
- Resources such as the *Multnomah Lawyer* newsletter and MBA Web site, www.mbabar.org, which keep you up-to-date on developments affecting the legal community
- Member discounts from LexisNexis, Legal Northwest Staffing Specialists, The Naegeli Reporting Corporation, Bank of the Cascades, Kimpton Hotels, MBNA/Bank of

America MasterCard, ABA publications, Office Depot, Canon Business Solutions, Court Bonds, Appaloosa Business Services, Oregon Ballet Theatre and the Portland Opera

- MBA member group health, life and disability insurance plans at competitive rates.

If you would like more information about the benefits of MBA membership, please call 503.222.3275 or visit www.mbabar.org. We look forward to serving you in 2008.

Meet Kennedy Smith MBA's Newest Staffer

You may already know Kennedy Smith, since she's worked the legal beat for the *Daily Journal of Commerce* over the last three years. As an experienced reporter, we think she will have an effective impact on our outreach efforts. She knows the news side, with a total of 10 years of reporting for various print media. Her main tasks will be to manage the membership renewal and recruitment process, support the Multnomah Bar Foundation's grants and public relations efforts and lead the MBA's public outreach.

Born in Portland, but raised in Northern California, she and her extended family returned to the Pacific Northwest in the last few years. We have learned that

besides her writing skills, she is creative in other ways. She knits and is a self-proclaimed "yarn junkie" which is well known to other knitters as, "the curse of having too much yarn and not enough time." She also writes poetry, plays some guitar and enjoys a vast array of books, especially the Harry Potter series.

While working towards her English literature degree and minor in linguistics, she set out to learn more about literature, theatre and culture by spending six months in London. Interestingly enough though, she developed a stronger sense of appreciation for American literature after she returned.



She loves to travel and found New Orleans, in 2001 prior to Rita and Katrina, one of the most exciting and interesting places she has visited. Its "cultural vibrancy seemed almost more foreign" than many of the other places she has visited. "Its entertainment-centric culture makes it hard not to smile." The most foreign place she has seen is Prague

PRO BONO VOLUNTEERS

Thanks to the following lawyers, who recently donated their pro bono services via the Volunteer Lawyers Project, the Senior Law Project, Community Development Law Center, law firm clinics, the Oregon Law Center, the Nonprofit Project and Attorneys for Youth. To learn more about pro bono opportunities in Multnomah County, check out the Pro Bono Opportunities in Oregon handbook, available at www.mbabar.org/docs/ProBonoGuide.pdf.

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Renewing Your Membership? Don't Forget VLP...

The MBA thanks the following members, who gave more than the \$20 "check off" suggested donation to the Volunteer Lawyers Project (VLP).

Please remember to look for the check off box on your membership renewal form, and be as generous as possible when donating to VLP.

- Hon. James Ellis
- John Etter
- Nelson Hall

during an "incredible five days" touring the city. The Charles Bridge was one of her favorite sites because of its "lovely architecture and statues" with artist and craftsman vendors stretching across the walking bridge. Three blind women singers especially left an impression on her. "I felt so far from home, but very comfortable."

We are happy Kennedy makes Portland her home now and we look forward to benefiting from her many capabilities.

Ethics Focus

Continued from page 4

are also subject to these same criteria under, respectively, OSB Formal Ethics Opinion 2005-69 (contingent fees) and 2005-151 (flat fees).

Summing Up

For lawyers in private practice, time-keeping and billing are essential parts of the business side of running a firm. At the same time, they are areas where disputes can arise with clients and, if they do, lawyers are generally subject to increased scrutiny. It pays, therefore, in both a monetary and

practical sense, to devote the same care to time-keeping and billing that lawyers bring to their legal work itself.

Mark Fucile of Fucile & Reising handles professional responsibility, regulatory and attorney-client privilege matters and law firm related litigation for lawyers, law firms and legal departments throughout the Northwest. His telephone and email are 503.224.4895 and Mark@frllp.com.

Professionalism Award

Continued from page 8

The award is intended to recognize and honor personal and professional qualities, reputation and conduct. Leadership activities and service within the bar or the community in general, while probative of professionalism, are not considered key in the screening and selection processes. Pro bono service is considered in the screening process. Recipients are role models for other attorneys, particularly those who are younger practitioners.

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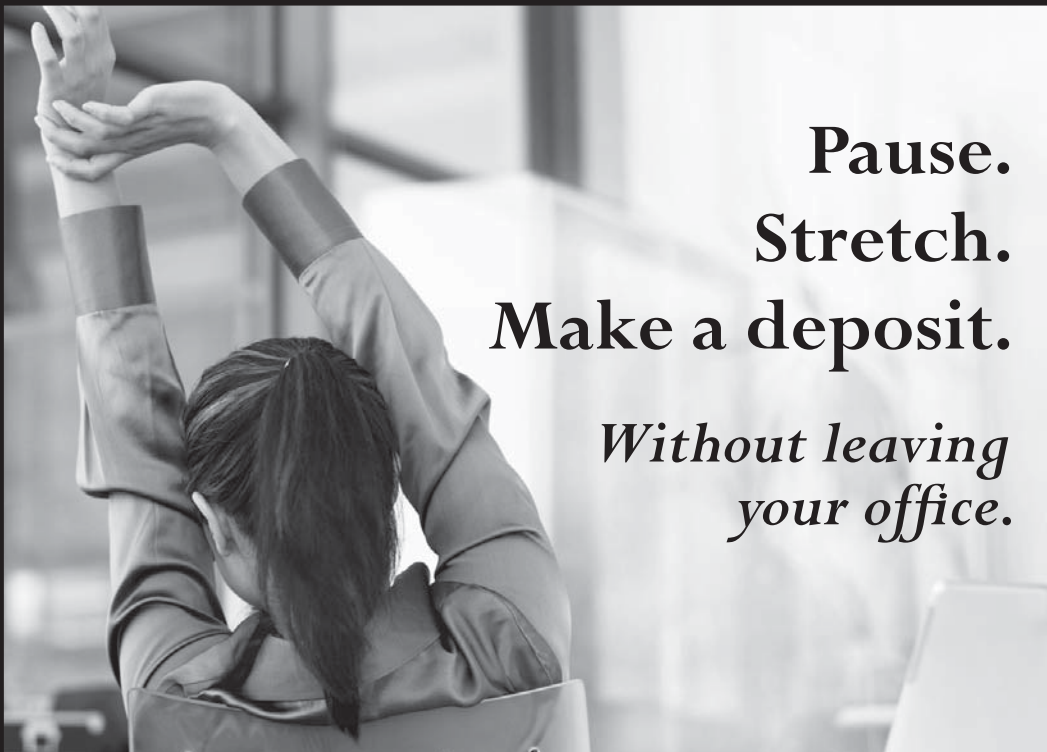


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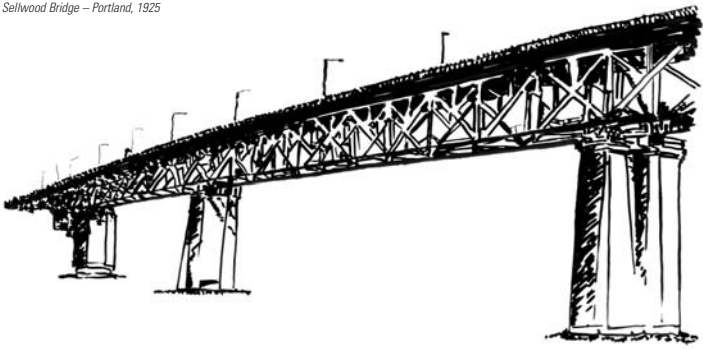
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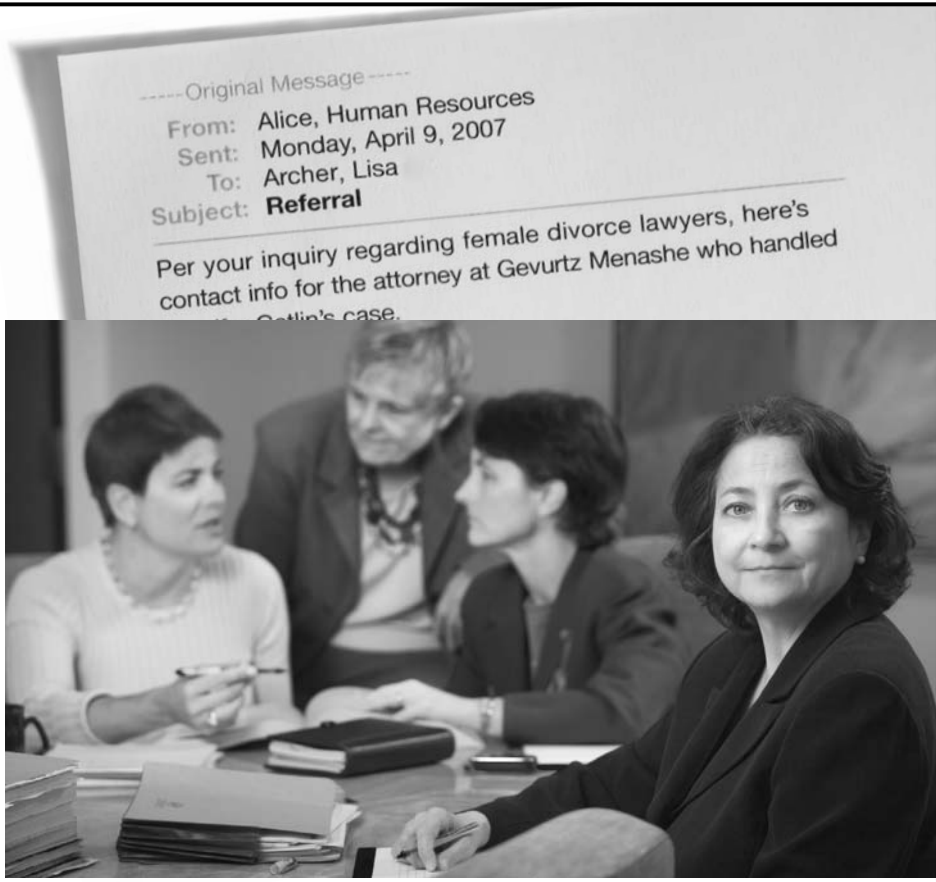
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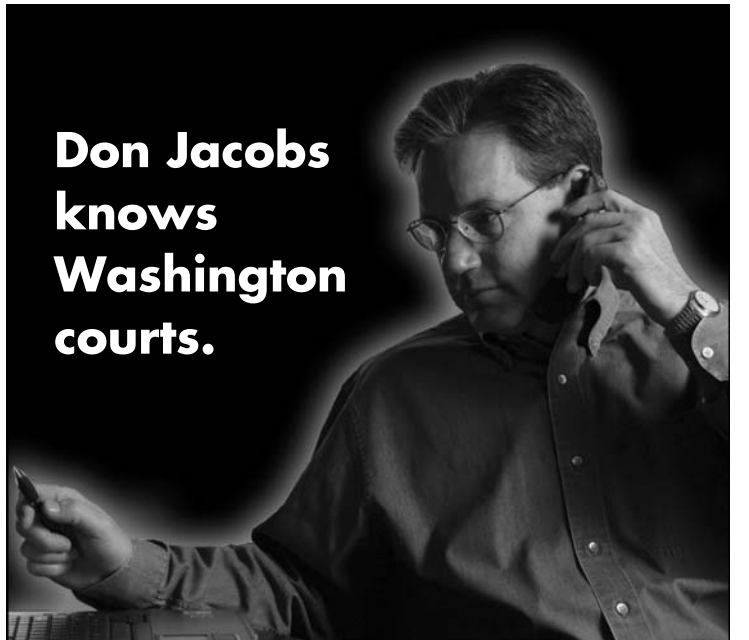


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League of Women Voters of Portland Challenges Students to Weigh Rights During Constitution Day Celebration



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If you were forced to give up five of the first 10 rights guaranteed by the United States Constitution, which would you leave behind?

This will be the challenge for more than 200 Portland-area middle and high school students during the League of Women Voters of Portland's Constitution Day

Celebration, September 17 at Portland State University.

A \$1,000 grant from the national League of Women Voters, matched by a grant from the Multnomah Bar Foundation, will help fund the half-day learning experience, in which students, guided by teachers and volunteer lawyers, will ponder the question: What are rights, and what would it mean to have them taken away?

The program, sponsored in part by the Classroom Law Project, will feature an introductory speech by Jefferson Smith, a Harvard Law School graduate who founded the Oregon Bus Project in 2002. The Hon. Paul J. DeMuniz, Chief Justice of the Oregon Supreme Court, will give closing remarks and talk about the role of the judiciary in government.

The student exercise is called "The Invaders - A Constitutional Rights Activity." It prompts students to

choose five of the 10 amendments in the Bill of Rights and reject the others. But there's a catch: For example, if students decide to keep freedom of speech but scrap assembly, they'll only be able to talk to themselves because they can't assemble as a group.

"If the children leave having learned about the United States Constitution and our form of government, and have their Constitutions in-hand and keep

it with them, that would be the minimum result," said Barbara Fredericks, a board member with the League of Women Voters of Portland. "Better than that, we have two very good speakers, and I hope that the kids will leave with a better understanding of the judiciary."

For more information, visit the League of Women Voters of Portland Web site at www.lwvpx.org.



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