



MULTNOMAH LAWYER

Lawyers associated for justice, service, professionalism, education and leadership for our members and our community

June 2012
Volume 58, Number 6



The Times They Are a-Changin’

by Steve Blackhurst
MBA President

In *Ecclesiastes* Solomon teaches that to everything there is a season, and this is the season for change at the Multnomah Bar Association.

The terms of three MBA board members are ending. The MBA owes a debt of gratitude to Susan Marmaduke, Keith Garza and Bonnie Richardson for their service. They will be replaced by Darcy Norville, **“...this is the season for change at the Multnomah Bar Association.”** a business lawyer at Tonkon Torp; Elizabeth Wakefield, a criminal defense lawyer; Steve Shropshire, the managing partner at Jordan Ramis; and Bob Steringer, a litigator at Harrang Long.

My term as president is almost up. The new president will be Greg Moawad. Greg has spent virtually his entire career as an assistant district attorney in Mike Schrunk’s office, and is now the Director of Security at OHSU. In addition to working as a prosecutor, Greg has served on the MBA Board for the past three years and on various MBA committees before then. Greg will be the first prosecutor since Mike Schrunk to be the president of the MBA. I know that he will do a great job.

Sarah Crooks, our immediate past president (the one who was too young to remember Willie Mays), is transitioning off the board, but will continue to chair the MBA’s courthouse committee. Now that there is a wonderful new courthouse in Gresham, can a new courthouse in downtown Portland be far behind? This is also the time when the MBA fills its committees with new appointments. If you think you might be interested in serving on an MBA committee, make sure you let the MBA know of your interest. You can find the application form at www.mbabar.org.

We also have or are about to have two new justices on the Oregon Supreme Court, a new judge on the Oregon Court of Appeals, a new Attorney General and a new District Attorney in Multnomah County. Tom Balmer is now the Supreme Court’s Chief Justice and Rick Haselton is the new Chief Judge of the Oregon Court of Appeals.

None of these changes is as significant for the MBA, however, as the fact that our executive director, Judy Edwards, is resigning effective July 1. Judy has served the MBA with distinction for about ten years. During this time, the MBA has increased its membership and the services offered to its members. Despite the poor economy, the MBA is financially strong. For the second year in a row the MBA is making a significant contribution to the Campaign for Equal Justice. Our biggest achievement this year is a newly-designed Web site. If you have not yet checked it out, please do so. Judy has spearheaded virtually all of these accomplishments. She is leaving us with a superb staff. The MBA Board will now begin a search for Judy’s successor, but her devotion to her job and her professionalism in carrying out her duties will be missed.

As I complete my term as MBA president, there are two topics I

want to address. The first is what I refer to as the lost generation. Since 2008, the job market in Portland for new lawyers has been terrible. Because of the poor economy, law firms are growing more slowly, if at all, and firms are not hiring as many new associates as they did in the past. In addition, more senior lawyers are postponing their retirements until their investment portfolios recover. Despite the poor job market, the three law schools in Oregon continue to graduate an increasing number of highly talented new lawyers, many of whom have assumed enormous debt to pay for college and law school.

I receive several inquiries each week from or on behalf of new law school graduates who cannot find jobs. Most have impressive resumes. Many of them appear to have taken jobs as waiters, waitresses and bartenders to make ends meet. I am afraid that when the economy recovers, these lawyers who graduated in the last three or four years will not be hired for law jobs that typically go to new graduates.

I do not know what can be done about this imbalance between the supply and demand in the job market, but I am worried about the future for this bright, energetic group of young people. Perhaps one of the law schools in Oregon needs to close. Perhaps our profession needs to be more innovative in providing affordable legal services to the middle class. I don’t know the answer. If you have suggestions, I’d love to hear from you.

Finally, I want to bring you up-to-date on an issue I wrote about previously. The 2012 legislature did not restore all of the funds that the judicial branch requested, resulting in more layoffs, reduced hours that the courthouses are open, and the complete closure of the courts several days a year. To address this funding issue, I am appointing an *ad hoc* group to look at what the MBA can do, on a permanent basis, to help secure adequate funding for the judicial branch. My expectation is that the MBA will appoint a new, permanent committee to focus on this issue. We intend to work closely with Chief Justice Balmer, who is urging lawyers to let our legislators know how important it is for both individuals and businesses to have access to justice on a full-time basis. If this is something that you would like to participate in, please let me know. I am confident that if lawyers and their clients work together on a continuous basis, we can convince the legislature that Oregon can afford a full-time court system.

“...am worried about the future for this bright, energetic group of young people.”

“...urging lawyers to let our legislators know how important it is for both individuals and businesses to have access to justice on a full-time basis.”

New MBA and YLS Directors Elected Terms Begin July 1

Welcome to the newly elected MBA Board of Directors class of 2015:

Darcy M. Norville, Tonkon Torp; **Steven L. Shropshire**, Jordan Ramis; **Bob Steringer**, Harrang Long et al; **Elizabeth N. Wakefield**, Metro Public Defender.

Welcome to the newly elected YLS Board of Directors class of 2015:

Benjamin Cox, Benjamin Cox; **Traci R. Ray**, Barran Liebman; **Micah R. Steinhilb**, Bodyfelt Mount.

mba|CLE

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

JUNE

**6.5 Tuesday
Legislative Update**
Chris Garrett
Shawn Lindsay

**6.6 Wednesday
Appellate Law Nuts & Bolts for Litigators**
Justice Jack Landau
Jona Maukonen

**6.7 Thursday
HIPAA/HITECH Basics for the Business Lawyer**
Leslie Bottomly
Blerina Kotori

**6.12 Tuesday
Estate Planning, Protective Proceedings and Probate Court**
Hilary Newcomb
Steve Owen

**6.13 Wednesday
Winning Approaches to Opening Statements & Closing Arguments**
Bill Barton
David Markowitz

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*or the preceding Friday, if on a weekend.

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See you later - so long

by Judy A. C. Edwards
MBA Executive Director



As so many lyrics go, it's hard to say good bye, so I will just say farewell!

What a great decade it has been for me at the MBA, and an honor to serve as your executive director. I consider it a privilege to have helped steer the ship and get to know such fine and talented people as those in the MBA community.

Some ask why the MBA is successful and so different from other professional associations. The answer lies within the membership. Volunteers are the lifeblood of any organization and "ours" is blessed with numerous hard-working, generous, serious, dependable ones, and yes, most are not afraid to speak up. All of these qualities contribute to the success and make the difference between the MBA and many other organizations.

Sometimes a cliché is the best description of a belief and the following one is particularly appropriate. MBA's "luck" comes from opportunity meeting hard work. It is achieved because it's a member-driven organization with devoted staff and committed business partners.

No one has asked me what my favorite book is, but I'm going to tell you anyway! And those who know me will not be surprised at this chutzpah. *The Four Agreements*, the best-selling book by don Miguel Ruiz, "gives four principles to practice in order to create love and happiness in your life. Adopting and committing to these agreements is simple. Actually living and keeping these Four Agreements can be one of the hardest things you will ever do. It can also be one of the most life changing things you will ever do." For brevity's sake, I won't go into them here, but will urge you to read the book if you haven't already. I've read it four times because it inspires me to be a better person.

No one has asked me for my advice either, but I'm also giving it anyway! Lawyers by and large work too hard. And so my advice is: seek a healthy balance between work and the rest of your life. The rest of your life includes your family and friends of course, but also a healthy lifestyle. Now that I'm a convert to walking, running, strength training and their benefits, I wish a similar joy to you from a healthy activity. Even after my training commitment, however, only my doctor has ever said "athlete" and Judy in the same sentence.

In closing, I want to give you my contact information. Send all notices of early morning meetings to judysnofool@somewherenotthere.org or donotboomerangme@

Going Over the Edge

Dangling 500 feet down the side of a cliff might sound crazy to many, but not to Stoel Rives attorney Mark Morford. As an avid outdoor enthusiast he has climbed mountains around the globe. Here at home Mark puts his mountaineering skills to work as a rescue volunteer with Portland Mountain Rescue.



Mark Morford

Growing up in Georgia, Mark was first attracted to seek outdoor adventure by the photos featured in the Boy Scout magazine *Boys' Life*. So it was natural that when he heard about the upcoming "Over the Edge" fundraiser for the local Boy Scouts, he had to be a part of it.

On June 29th he will be making the descent down the south side of Portland's second tallest building, the U.S. Bancorp Tower. He'll also spend the day manning the ropes to keep other participants safe during the event. This year he celebrates his 15th year as a scout leader; his last with a son in scouting. "I'm marking the event by raising funds to help other scouts grow into the sort of men we need most in our world."

Inspired by scouting, Mark spent a month backpacking the Appalachian Trail with his best friend when he was just 15. Since that time he has gone on to climb some of the world's greatest mountains such as Aconcagua, Vinson Massif, Whitney, Rainier, Denali and Hood.

During the course of his expeditions he has witnessed just how brutal and unforgiving the mountains can be. He says he owes his life to trained search and rescue volunteers who responded when he was injured years ago. So Mark has dedicated himself to using his mountaineering expertise

Calendar

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

JUNE

6.7 Thursday
MBA First Thursday Social with Specialty Bars
Visit www.mbabar.org for details

6.9 Saturday
YLS Community Service Day at Oregon Humane Society
Visit www.mbabar.org/yls for details

6.13 Wednesday
Judge Learned Hand Award Luncheon
Visit www.oajconline.org/judge-learned-hand-award for details

6.14 Thursday
2nd Annual YLS Summer Social: J'adore le MBA YLS
Visit www.mbabar.org/yls for details

6.16 Saturday
St. Andrew Legal Clinic Race for Justice
Visit www.salcgroup.org/ for details

6.19 Tuesday
MBA Golf Event at Riverside Golf & Country Club
Visit www.mbabar.org for details

6.20 Wednesday
YLS Social & Trivia Night with CPAs & Financial Planners
Visit www.mbabar.org for details

JULY

6.13 Wednesday
Judge Learned Hand Award Luncheon
Visit www.oajconline.org/judge-learned-hand-award for details

6.14 Thursday
2nd Annual YLS Summer Social: J'adore le MBA YLS
Visit www.mbabar.org/yls for details

6.16 Saturday
St. Andrew Legal Clinic Race for Justice
Visit www.salcgroup.org/ for details

7.4 Wednesday
Independence Day Holiday
MBA closed

7.20 Friday
MBA Family & Friends Golf Outing
Visit www.mbabar.org for details

AUGUST

8.2 Thursday
OMLA Annual Auction at WTC

8.2 Thursday
OMLA Annual Auction at WTC

nocallbacksallowed.com. (I'm kidding on the latter one only.)

And remember, "It matters not whether you win or lose; what matters is whether I win or lose." Steve Weinberg

"Wine a little - it will make you feel better." Unknown

"Many people quit looking for work when they find a job." Unknown

"I like work: it fascinates me. I can sit and look at it for hours." Jerome K. Jerome

"I refuse to answer that question on the grounds that I don't know the answer." Douglas Adams

See you later - so long. You're in good hands.

to assist those who have been overcome by the challenges of the outdoors. "Working with Portland Mountain Rescue is an incredible privilege and deeply rewarding," says Mark.

Most rescues conducted by Portland Mountain Rescue volunteers are "technical" in nature and can include glacier, crevasse, backcountry and alpine search and rescue. Volunteers train one weekend per month, attend seminars and conduct ready teams and patrols. Mark says the ongoing training not only keeps the skills of rescuers sharp but builds camaraderie and trust that is an integral part of any rescue mission. Participating in about a half dozen rescues annually, he describes a rescuer's job as hard work and exhausting in some of the most severe conditions. However, it also brings what he says are the truly profound moments when family members are brought back together.

By comparison, when Mark joins the group of daredevil fundraisers rappelling down Big Pink, it will be a lighthearted way to help the more than 33,000 youths in Oregon and SW Washington who participate in the Cascade Pacific Council's



programs. He knows firsthand how Scouting's emphasis on preparing for adulthood and responsible citizenship inspired him to scale heights in his life.

If the adrenaline rush of scaling tall buildings in a single bound isn't your thing, you can achieve a similar thrill by sponsoring Mark's rappel. For more information about the scouting event, visit www.cpcbsa.org. Or to make a donation you can visit Mark's fundraising site at www.cpcbsa.org, search for Mark Morford and click on his name to donate.



Seminars are worth 2 OSB credits unless otherwise noted; 2 Washington MCLE credits may be obtained independently. Registrants who miss the seminar may request the written materials. Substitutions are welcome. Registration fees are non-refundable.

Legislative Update

**Tuesday, June 5, 2012
12:00-1:00 p.m.**

World Trade Center
Plaza Conference Room
26 SW Salmon, Portland
Members \$35
Non-members \$55

NOTE: This class will be worth one general MCLE credit.

Please join two lawyer legislators to learn about the developments that took place during the Oregon State Legislature's 2012 session. This CLE will cover recent changes to criminal and civil laws that may affect your practice or your clients' interests. Panelists include two members of the Oregon House of Representatives: **Chris Garrett**, a litigator at Perkins Coie, and **Shawn Lindsay**, a business and intellectual property attorney at Lane Powell.

For more information:

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

Appellate Law Nuts and Bolts for Litigators

**Wednesday, June 6, 2012
3:00-5:00 p.m.**

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

You've successfully tried your case, but the other side files a Notice of Appeal. Your client wants you to defend the appeal. This has never happened to you before. What happens next? How do you preserve that victory for your client? Or you lost at trial and your client wants to appeal. How do you go about turning a loss into a win? Is getting the case overturned on appeal realistic?

This CLE is designed for trial lawyers who do not regularly practice in the appellate arena. Topics will include: whether to appeal or defend an appeal, the life of an appeal, general tips and traps, electronic filing and procedural differences between the Court of Appeals and the Supreme Court. This two-hour program will be presented by Oregon Supreme Court **Justice Jack Landau** and **Jona Maukonen** of Harrang Long Gary Rudnick.

For more information:

Call Melissa Ward of Spooner & Much at 503.517.0777. For registration questions, call the MBA at 503.222.3275.

HIPAA/HITECH Basics for the Business Lawyer

**Thursday, June 7, 2012
3:00-5:00 p.m.**

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

This CLE will address (non-litigation) aspects of HIPAA/HITECH that affect "Covered Entities" (such as doctors, hospitals and health plans), and the service providers (accountants, lawyers, billing companies) that handle health information in the course of providing services to the Covered Entities. **Blerina Kotori** of Tonkon Torp and **Leslie Bottomly** of Ater Wynne will cover:

- What do HIPAA's privacy and security rules require of Covered Entities?
- How do you determine if you are a Covered Entity?
- What does HIPAA require a Covered Entity to do if private health information is accidentally disclosed?
- What is a "Business Associate Agreement" between a Covered Entity and a service provider (accountants, lawyers, billing companies) and which provisions may be negotiated?
- What does HIPAA require of Business Associates?
- Indemnification and insurance issues involving the costs associated with HIPAA violations.

For more information:

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

Estate Planning, Protective Proceedings and Probate Court

Tips to Hopefully Avoid, or if not, Handle Probate Litigation

**Tuesday, June 12, 2012
3:00-5:00 p.m.**

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

Join veteran elder law litigators **Steve Owen** of Fitzwater & Meyer LLP and **Hilary Newcomb** of HAN Legal for an informative course on how to minimize the chances of finding yourself and your clients in contested probate proceedings and how to best serve your client if they wind up there.

For more information:

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

Winning Approaches to Opening Statements & Closing Arguments with Bill Barton and David Markowitz

**Wednesday, June 13, 2012
3:00-5:00 p.m.**

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

Learn how to craft and deliver persuasive opening statements and closing arguments from two of the most respected trial lawyers in Oregon. Whether you are a new or seasoned lawyer this program will be of interest to you. Topics will include goals, themes, techniques, style and basic structure of openings and closings.

For more information:

Call Joe Franco of Markowitz, Herbold, Glade & Mehlhaf at 503.295.3085. For registration questions, call the MBA at 503.222.3275.

Public Speaking for Attorneys

**Wednesday, October 24, 2012
3:00-5:00 p.m.**

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

What are the most common public speaking mistakes litigators make in the courtroom? What is the number one non-verbal indicator of credibility? How do you keep from using distracting fillers such as "um," "like," "so," and "you know"? How loud should you speak and what effect does pitch have on a listener? When is it better to read a presentation, memorize it or wing it? What are effective tactics for dealing with situations where you have to improvise?

Come hear **Judge Janice Wilson** and **Laura Dominic**, Senior Consultant at Tsongas Litigation Consulting, reveal how even the most confident, talented advocates can stumble in oral advocacy, and get some tips for improving your own arguments and presentations.

For more information:

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

CLE Class Registration on next page

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Registration Form

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- MBA Member
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Payment Options:

- Check VISA MasterCard
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Registration forms with payment must be received in the MBA office by 3:00 p.m. the day before the seminar, or the "at the door" registration fee will apply (see fees for each class and fill in the blank on registration form). Registration forms may be mailed or faxed to the address or number below. Accommodations available for persons with disabilities; please call in advance for arrangements.

Photocopy registration and mail or fax with payment to:

Multnomah Bar Association
620 SW Fifth Ave., Suite 1220 ■ Portland, OR 97204
503.222.3275 ■ Fax to: 503.243.1881

Register online and order or download MBA self-study materials at www.mbabar.org.

Reduced fees for unemployed members are available and are assessed on a case-by-case basis. For details, call the MBA at 503.222.3275.

Seminar Selection:

Please select the seminar(s) you wish to attend. Written materials for each class are included with registration. Pre-registration with payment is required to reserve a space; at-the-door registrations are accepted if space is available; an additional \$5 charge will apply.

6/5 Legislative Update

- Class Registration Online (\$30 Members/\$50 Non)
 Class Registration (\$35 Members/\$55 Non) \$ _____
 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ _____

6/6 Appellate Law Nuts and Bolts for Litigators

- Class Registration Online (\$50 Members/\$80 Non)
 Class Registration (\$55 Members/\$85 Non) \$ _____
 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ _____

6/7 HIPAA/HITECH Basics for the Business Lawyer

- Class Registration Online (\$50 Members/\$80 Non)
 Class Registration (\$55 Members/\$85 Non) \$ _____
 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ _____

6/12 Estate Planning, Protective Proceedings and Probate Court

- Class Registration Online (\$50 Members/\$80 Non)
 Class Registration (\$55 Members/\$85 Non) \$ _____
 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ _____

6/13 Winning Approaches to Opening Statements & Closing Arguments

- Class Registration Online (\$50 Members/\$80 Non)
 Class Registration (\$55 Members/\$85 Non) \$ _____
 CD-ROM & Written Materials (\$55 Members/\$85 Non) .. \$ _____

10/24 Public Speaking for Attorneys

- Class Registration Online (\$50 Members/\$80 Non)
 Class Registration (\$55 Members/\$85 Non) \$ _____
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Total due \$ _____

Expedited Civil Jury Trials - an Update

by Dan Duyck
Court Liaison Committee member

The Expedited Civil Jury Trial Program was adopted by Multnomah County Circuit Court just over a year ago. To date, seven trials have gone to verdict in the program. This article will revisit the basic rules for the program and provide some background. Later, a second article will discuss the results of a study currently being conducted by the National Center for State Courts with respect to the program. The basic rules for the program were the subject of a two-part "Tips from the Bench" article written by Judge Marilyn Litzenberger and published in the *Multnomah Lawyer* in November and December 2010. The full text of the articles is available from the archives at <http://mbabar.org/Resources/Publications.html>. Additional information and forms can be found at <http://courts.oregon.gov/Multnomah>.

Program highlights are as follows:

1. All parties must agree to participate in the program and file a joint motion.
2. A case management conference will be scheduled in front of one of the following Judges: Henry Kantor, Marilyn Litzenberger, Judy Matarazzo, Adrienne Nelson, or Janice Wilson. At the conference, a trial date for a six juror trial will be set within four months of the designation. A corresponding discovery cut-off date will

3. Unless stipulated otherwise, within four weeks of designation, each party must do the following: 1) exchange certain witness contact information; 2) exchange certain non-privileged documents; and 3) exchange insurance policies per ORCP 36B(2).
4. Unless stipulated otherwise, the parties may do the following: 1) take two depositions; 2) serve one set of requests for production to be served 60 days before the trial date; and 3) serve one set of requests for admission to be served 60 days before the trial date.
5. Once designated, the case is no longer part of the mandatory arbitration program, is exempt from the alternative dispute resolution requirements and pretrial motions are disallowed without prior leave of the court.

In addition to the above, the parties are allowed to enter stipulations about the conduct of the trial. For example, the parties may desire to stipulate to the admissibility of documents per UTCR 13.190 of the mandatory arbitration program. Another example is to stipulate to a precautionary jury instruction informing the jury that they are participating in an expedited civil jury trial. This stipulation could be used to explain an

unusual number of stipulated exhibits, a limited number of fact witnesses testifying in person, or the use of documentary expert witness testimony rather than live testimony.

Judge Wilson was on the statewide committee that developed the program and drafted UTCR 5.150. She also chaired the local Civil Case Management Committee, which worked to implement the program in Multnomah County. In preparation for this article, she took time to discuss her thoughts on the program. Judge Wilson points out that historically the court was divided into circuit and district courts. It was in the district court, with lower dollar value cases, that many young attorneys learned the ropes of the civil jury trial. The elimination of the district court and the introduction of mandatory arbitration necessarily meant the loss of this training ground and corresponding loss of experienced civil trial attorneys. The expedited program gives newer attorneys the opportunity to gain civil jury trial experience. The program is not limited to newer lawyers, however.

Judge Wilson encourages civil attorneys to broaden their perspective and consider the program for any case. There is a perception that the program is only for "that special case" - such as a low dollar case. Instead, the program can be used for a wide variety of cases. For example, the program can be used to determine liability only where damages are agreed to (and vice versa) or to reduce the cost of litigation by limiting the number of depositions and through the use of stipulations regarding the admissibility of evidence. Under the new Supplementary Local Rules for civil case management,

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all cases will have an initial case management conference with a judge at which time they will be asked for the appropriate track for the case, i.e., regular course with mandatory arbitration, regular course, expedited jury trial or complex case. Prior to the conference, attorneys are encouraged to discuss the option of an expedited jury trial before the conference with both their clients and opposing counsel. Multnomah County Circuit Court is currently participating in a research study developing information on various state court programs around the country. The expedited civil jury program is being analyzed as part of the study. In a future article, the results of the study will be shared with local lawyers.

Duyck is a member of the MBA Court Liaison Committee. The goal of the committee is to foster constructive dialogue with the judiciary and court administrator with regard to rules or procedural changes and to assist the court in educating members about court issues. MBA members should send comments about this article to the author at dduyck@whippleduyck.com, including any questions that they may have about the expedited civil jury program that they would like to have answered in a future article. The author wishes to thank Kara Davidson Duyck for her assistance in writing this article.



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Ethics Focus

Metadata: The (Really) Fine Print

by Mark J. Fucile
Fucile & Reising



“Metadata” is “data about data.” It is embedded in electronic documents and, depending on the format, can include information about when and who made changes and related comments about those changes. In many circumstances, metadata is of little interest. In others, however, metadata can

“...metadata can reveal information otherwise protected by the attorney-client privilege....”

reveal information otherwise protected by the attorney-client privilege or the work product rule such as “redline” comments between a lawyer and a client in a draft contract.

Late last year, the OSB issued an ethics opinion discussing our duties when handling metadata in the context of exchanging documents with opposing counsel. The opinion, 2011-187, is available at www.osbar.org. It follows an earlier opinion by the ABA, 06-442, is available at www.americanbar.org. Both examine lawyers’ duties from the perspective of the sender and the receiver. In this column, we’ll focus on the Oregon opinion, but the ABA opinion provides a still relatively current survey of how these issues are being handled nationally.

Before turning to 2011-187, a caveat is warranted. The new Oregon opinion largely discusses metadata outside the context

of formal discovery. Both ORCP 43 and FRCP 26 now address “electronically stored information” in the formal discovery setting. RPC 3.4, in turn, deals with both discovery requests and responses.

The Sender

2011-187 begins by discussing two related concepts central to handling client information: competence and confidentiality. The former is governed by RPC 1.1 and imposes a duty to act competently in representing clients. The latter is governed by RPC 1.6 and charges us with the responsibility for protecting clients’ confidential information. In short, we need to act competently to protect confidentiality.

2011-187 (at 2) finds that “[c]ompetency in relation to metadata requires a lawyer utilizing electronic media for communication to maintain at least a basic understanding of the technology and the risks of revealing metadata or to obtain and utilize adequate technology support.” It then concludes (at 3) that “[a] lawyer must use reasonable care to avoid disclosure of confidential client information, particularly where the information could be detrimental to a client.”

“...[a] lawyer must use reasonable care to avoid disclosure of confidential client information, particularly where the information could be detrimental to a client.”

2011-187 does not specify particular steps that meet the standard of care, noting (at 3) that “what constitutes reasonable care will change as technology evolves.” Software, however, can “scrub” documents and “old fashioned” transmission methods such as fax and paper are simple ways to avoid the risks.

The Receiver

2011-187 notes that under RPC 4.4(b) a lawyer must promptly notify the sender if the lawyer receives a confidential document the lawyer knows or reasonably should know was inadvertently

sent. The opinion, however, doesn’t draw a bright line - acknowledging that the simple receipt of a “redlined” document today doesn’t necessarily imply that it was inadvertently sent. The opinion also observes that even if RPC 4.4(b) applies it only requires notification, with evidence law controlling whether privilege has been waived through inadvertent disclosure (and cross-referencing OSB Formal Ethics Opinion 2005-150, which addresses RPC 4.4(b) in greater detail). 2011-187

“...a lawyer on the receiving end of what appears to be inadvertently sent privileged information should consult with the client on the risks....”

counsels that a lawyer on the receiving end of what appears to be inadvertently sent privileged information should consult with the client on the risks and benefits (beyond required notification) of simply returning the document or retaining it (and presumably being prepared to litigate privilege waiver).

2011-187 concludes with a brief yet sweeping indictment of using specialized (beyond normal word processing) software to search for metadata in documents received, or “data mining.” At least as applied to software-enhanced screening for metadata (presumably as opposed to simply opening a document that includes, for example, redlining), the opinion states: “Searching for metadata using special software when it is apparent that the sender has made reasonable efforts to remove the metadata may be analogous to surreptitiously entering the other lawyer’s office to obtain client information and may constitute ‘conduct involving dishonesty, fraud, deceit or misrepresentation’ in violation of Oregon RPC 8.4(a)(3).”

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.

mba | ANNOUNCEMENTS

Friday Court Closures

The courts are closed for any business which must be on the record on specified Fridays. For all other purposes, including the filing of any document, any payment or scheduling any matter, the courts are closed and the action must wait for the next day the courts are open. Please see ORS 174.120 regarding a day when courts are closed by Chief Justice Order.

Upcoming Friday closures in 2012 are: August 17, October 19 and November 23. In 2013, courts will be closed January 18, April 19 and May 24.

St. Andrew Legal Clinic’s 12th Annual Race for Justice

Saturday, June 16, beginning at 9:15 a.m. with the Kids’ Fun Run, the annual Race for Justice begins at the Madeleine Parish in Northeast Portland. The 5K begins at 10:15 a.m. A pizza and beer brunch follows the event and prizes will be awarded for the fastest runners, the largest team and best pledge-raisers.

For event information visit www.salcgroup.org.

Statement of Diversity Principles Available for Your Signature

The MBA Equality Committee invites you to sign the Statement of Diversity Principles. Visit <http://mbabar.org/AboutUs/Diversity.html> for details and to sign the statement.

MBA Noon Time Rides

Gather 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 the start.

Oregon Area Jewish Committee Presents Judge Learned Hand Award on June 13

The 2012 Judge Learned Hand Lifetime Achievement Award recipient is Henry Hewitt, of Stoel Rives. The organization’s 2012 Emerging Leadership Award will be presented to Julia Markley of Perkins Coie.

The luncheon is Wednesday, June 13, from 11:45 a.m. to 1:30 p.m. at The Governor Hotel. For more information, visit www.oajconline.org.

Shepherd Scholars Selected

Equity Foundation is proud to announce the recipients of the 2012-13 Bill & Ann Shepherd Legal Scholarship Fund: Melissa Douglas, at Willamette University School of Law; and Jonathan Patterson and Sarah Elizabeth Spring, at the U of O School of Law. Each law school will receive \$4,000 on behalf of its honored recipient.

US Ninth Circuit Court of Appeals Seeks Federal Public Defender

The Eastern District of California position is available December 31. Applications must be in the format required by the Ninth Circuit and received by 5 p.m. on Tuesday, July 17. For details or to obtain an application, contact Ms. Tina Brier, personnel@ce9.uscourts.gov.

mba | EVENT

MBA Golf Event

Tuesday, June 19
Riverside Golf and Country Club

An MBA golf favorite, Riverside is one of the premier private clubs in Oregon. Enjoy a round of golf at this classic course and stay for hosted appetizers. Tee



times 12-2 p.m. Register to play by June 8. The printable registration form is available at <https://mbabar.org/assets/golf.pdf>.



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Register for the June 19 MBA Golf Event at Riverside Golf and Country Club <http://www.mbabar.org/assets/golf.pdf>



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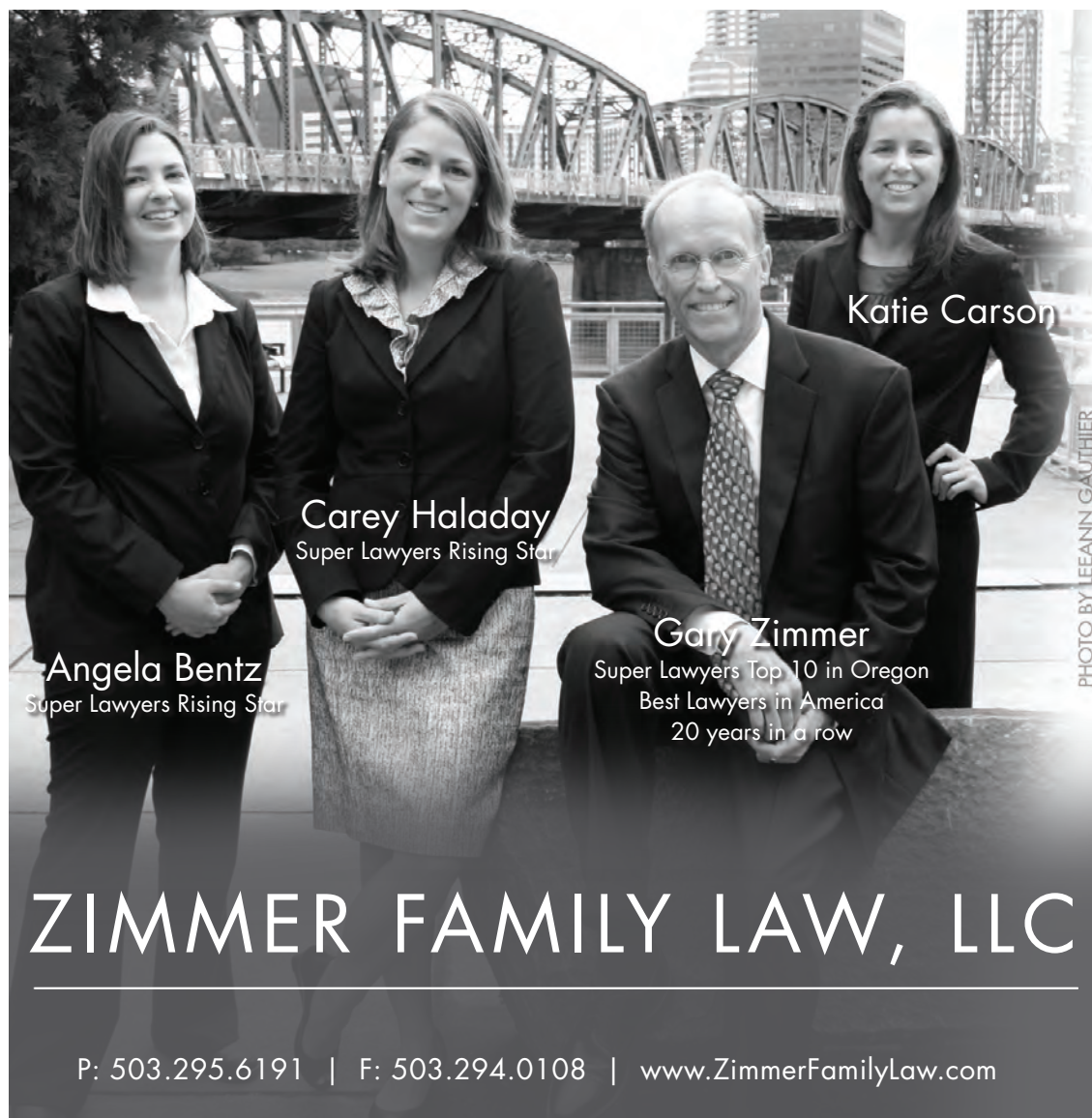
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Register for the July 20 Family & Friends Golf Event at McMenamins Edgefield
www.mbabar.org/assets/golf.pdf

Around the Bar



Vicki Ballou



Krista Hardwick

Tonkon Torp

Vicki Ballou has been elected to the executive committee of the board of Parkinson's Resources of Oregon. A member of the firm's Intellectual Property Practice Group, Ballou specializes in intellectual property licensing, particularly open source code issues.

Krista Hardwick has been elected to a three-year term on the board of Human Solutions. Formed in 1988, Human Solutions helps low-income and homeless families and individuals gain self-sufficiency. Hardwick is a member of the firm's Labor & Employment Practice Group.



Ralph Wiser

Ralph Wiser

Ralph Wiser has been elected president of the Brain Injury Alliance of Oregon, an organization of attorneys, physicians and other providers and those suffering traumatic and acquired brain injury. He has also been elected to the board of BraiNet, a volunteer organization connected with OHSU's Oregon Brain Institute. Wiser's practice emphasizes personal injury, disability and employment law.

Robert Banks

Robert Banks has been appointed by the Financial Industry Regulatory Authority (FINRA) Board of Directors to serve another term on its National Arbitration and Mediation Committee. FINRA also named Banks to continue to

chair its Rules and Procedures subcommittee and to continue to chair its Discovery Task Force, a group that evaluates and report to FINRA and the SEC on discovery practices in securities arbitration, and proposals for improvements.



Susan Marmaduke

Harrang Long et al

The Oregon Chapter of the Federal Bar Association awarded one of its 2012 Honorable James M. Burns Federal Practice Awards to MBA Board Director **Susan Marmaduke**. The award is given for contributions in improving the quality of federal practice in Oregon and is bestowed annually on both a civil and a criminal practitioner for demonstrating the highest standards of professionalism. Marmaduke is chair of the firm's Litigation Department. Her practice emphasizes business litigation and appeals.



Román D. Hernández

Schwabe Williamson & Wyatt

Shareholder **Román D. Hernández**, received the Distinguished Citizen Award from the Cascade Pacific Council of the Boy Scouts of America. The award recognizes noteworthy and extraordinary leadership of citizens in communities across the U.S.

Hernández focuses his practice in the areas of employment law, labor law and business litigation. He provides general employment and labor advice related to employment policies and practices to employers of all sizes.

Bruce Howell has joined the firm, where he will continue to focus his practice in the area of health care. He has extensive experience with physician practice issues, fraud and abuse and reimbursement. Howell also handles cases involving genetics, organ transplant technology, clinical research and reproductive technology.

Samantha Gamboa, an associate, recently joined the board of directors of Newspaper Center for Photography, an educational and cultural nonprofit organization dedicated to promoting photographic education and appreciation to the public and providing a space and community where photo enthusiasts can learn, create, discuss and show their work.

Gamboa focuses her practice in the areas of environmental law and natural resources law, assisting clients in both litigation and regulatory compliance matters.



David Boulanger

Cosgrave Vergeer Kester

Associate **David Boulanger** is the newest member of the firm's Banking and Financial Practice Group. His practice focuses on representing banking and financial services clients in commercial and real estate litigation, including defending claims in Oregon federal and state courts.



Bruce Howell

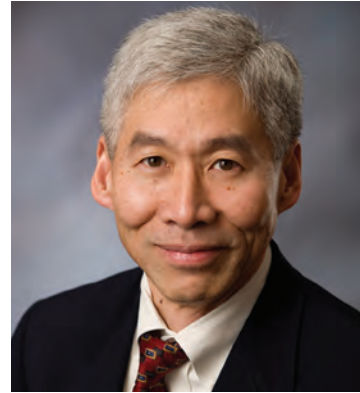


Kathy Root

Gevurtz Menashe et al

Kathy Root is now an "Of Counsel" attorney to the firm. Root is a nationally recognized

expert in family law practice areas such as International Family Law, Same-Sex Marriage, Appeals and Domestic Partnerships and is a leading authority on interstate and international custody in the U.S.



Mark Wada

Farleigh Wada Witt

Mark Wada has been elected president of The Campaign for Equal Justice (CEJ) for a two-year-term. He will preside over CEJ as it continues its mission of ensuring access to legal services. Wada, who maintains a specialized practice representing financial service providers, is a strong advocate for equal justice and has served on the CEJ Board and co-chaired its mid-sized law firm committee for a number of years.



Sherri D. Martinelli

Greene & Markley

Sherri D. Martinelli has joined the firm as an associate. Martinelli's practice focuses on commercial litigation and commercial construction litigation. She is admitted to practice in Oregon and California.



James L. Guse

Ball Janik

James L. Guse joined the firm as an associate in the Construction Defect, Insurance Recovery and Litigation practice groups. Guse's practice focuses on the representation of individual and corporate policyholders in insurance coverage disputes, including insurance coverage for construction disputes. He also is experienced in general business litigation and in a wide variety of matters involving employment law.

Ater Wynne

Andrea Bartoloni is now a partner in the Business Group. Bartoloni adds a new practice



Andrea Bartoloni



Brenda Meltebeke

area, immigration law, to the firm, expanding its growing international practice. He has extensive immigration and business law experience. Bartoloni is the Honorary Consul of Italy for the State of Oregon.

Brenda Meltebeke, partner and firm chair, has been selected by the *Portland Business Journal* as a 2012 Orchid Award Winner. Each year the publication recognizes 25 "women of influence" for their business and civic contributions. Meltebeke chairs the firm's Emerging Business Group and currently serves on the board of the Oregon Entrepreneurs Network.



JoDee K. Keegan



J. David Zehntbauer

Dunn Carney

JoDee K. Keegan and **J. David Zehntbauer** have been elected to serve three-year terms on the firm's executive committee. This will be Keegan's second term on the committee.

The Around the Bar column reports on MBA members' moves, transitions, promotions and other honors within the profession. 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.

Judge Acosta Discusses Mediation

by Jeff Merrick



As the bar mediates more cases than we try, it is important for us to understand mediation more deeply. The Honorable John V. Acosta of the U.S. District Court kindly discussed the traits of mediators and attorneys that lead to good outcomes with me.

What makes a good mediator?

The primary skill of a good mediator is listening, said Acosta. “Most people listen to respond. When you mediate you have to listen to understand. If you come in with a preconceived notion of where the case should end up and you start driving the process, that’s wrong. You are not paying attention to what their interests are; you are just trying to maneuver around positions. I don’t think that is the way mediation should be conducted. So I think that listening is first.”

A mediator cannot listen unless the parties speak openly. Judge Acosta is terrific at asking the right questions and projecting empathy, which encourages the parties to talk. To plaintiffs, I’ve heard him open with, “When you think of your case, what do you think of?” It is a brilliant question because it permits the individual to voice interests and concerns in addition to the legal merits, costs, and predictable emotions.

“Skillful mediators,” said Judge Acosta, “honestly challenge each side’s firmly-held beliefs about their cases.” Here’s where settlement judges differ widely in approach. “I think the process is extremely important to creating ownership of the result,” said Judge Acosta. If the parties think “they have been given an ultimatum or the number has been dictated to them,” then [1] they are “not going to own the process, [2] they are not going to feel good about it, and [3] they are less likely to say ‘yes.’” Consequently, Judge Acosta identifies risks, “in a non-judgmental way that does not put them on the defensive.” Judge Acosta builds trust by affirming each party’s strengths. Later, he tries “to make each side think about their case in ways they

hadn’t previously thought about it. They can’t own the process if I am telling them what their case is and isn’t. So I try to guide them to their own conclusions, which, in turn drives their decision-making.”

Judge Acosta uses his position as a neutral person with fresh eyes, rather than as judge declaring the likely outcome. “I put it in the context of what a jury is likely to pick up on and wonder about and ask questions about and respond or react to. I tell the parties, ‘if I am having these questions, there is a pretty good chance that one or more of the jurors is going to be picking up on the same things.’”

Traits of effective attorneys

Understand that the law is less important in mediation

“Your role should be to represent your client’s best interest. To try to get the outcome your client wants, and that doesn’t always mean you have to be the zealous advocate that you would be in a trial or a deposition,” said Judge Acosta.

Judge Acosta continued, “In mediation, attorneys tend to place too much emphasis on the law. Attorneys often try to impress me with how great this or that legal issue is for a party, and my response is always, ‘Well, if you’ve got a great legal position, you ought to just go file your summary judgment motion or try the case. Why are you here?’ Well, they are here because they know there is always a risk

in any case moving forward to a jury. I want to get to the more pragmatic issue of ‘how can we resolve this?’”

Good attorneys let their clients talk

Judge Acosta continued, “I like to talk directly to the parties. Doesn’t matter what room I am in, it absolutely doesn’t. If I am in the defendants’ room, I take the same approach. I talk with the representative. It is their case, not the lawyer’s case. It is not the lawyer’s decision.”

“The best lawyers let their clients talk and don’t interrupt. When they do interject, it is usually very helpful context or affirmation of what I am saying or linking it to something that the two of them have talked about as a factor in that party’s decision making. That is very useful.”

Counsel your client on the realities

Judge Acosta advises attorneys to “be realistic about the case before you ever show up for the settlement conference. Candidly identify the weakness of the client’s case. Manage the client’s expectations by honestly conveying to them jury verdicts or settlements in similar cases.”

“Quite often plaintiffs start very high in a range that they know the defendant is not going to pay. They are trying to create some room so that when they get to the real bargaining, they will end up where they would like. And defendants always start too low, for the same reason.”

“Very effective lawyers,” said Judge Acosta, “have already had a heart-to-heart talk with their client about starting at a realistic range. It doesn’t matter if it is the defendant or plaintiff who comes in realistically. That really helps me because I can say, ‘Look, these folks are already starting at a range that is within the range of reason. You are not even on the map here. You need to get close because if you don’t, I am not going to be able to do much with the other side until you do.’”

Effective attorneys dovetail their counseling with the work of the settlement judge. Judge Acosta observed, “Some lawyers do this ahead of time. Other lawyers do it in the settlement conference itself, [perhaps] because they are waiting for the judge to talk to their client before they can say ‘see now, remember what we talked about before we came here today. You heard what the judge said. That’s a lot of what we talked about. Let’s look at our number now.’ The good lawyers I have seen in settlement conferences do that very effectively.”

Jeff Merrick is an attorney and mediator in Lake Oswego. You may contact him at jeff@merrickmediation.com. Judge Acosta’s remarks have been condensed for publication.

The Corner Office PROFESSIONALISM

When you get to the office in the morning a voicemail is waiting for you. A friend from law school is now working for a large firm in Chicago and is looking for local counsel in Oregon. It is your chance to be a rainmaker.

For many of us, our first bona fide clients came in a manner similar to this. Serving as local counsel can be a great opportunity. It is a good way to cement relationships with old acquaintances and to establish new relationships with firms in other cities. Also, small initial engagements often grow into significant matters, particularly if you are able to demonstrate an ability to add value. However, before getting started on the new matter, there are a number of things you ought to consider.

“Establish the scope of your responsibilities and document it....”

Right up front, it is important to establish the scope of your responsibilities, and document it in your engagement letter. Under the Rules of Professional Conduct, a lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent. (See RPC 1.2(b).) If your role is going to be limited to providing advice and assistance with local rules

and practice, and you are not going to be directly interacting with the client or involved in developing the factual basis of the matter, explain that in your engagement letter. The letter should carefully document what your role will be and how it will be limited. Moreover, since limiting your role requires the client’s informed consent, it is important to ensure that the client is provided enough information to reach an intelligent decision so that its consent to the limited representation will be meaningful. Accordingly, the letter must contain an adequate explanation of the material risks and reasonable alternatives available to the client.

Another obvious, early consideration relates to conflicts. Before accepting what could be a very limited engagement as local counsel, it is wise to consider whether doing so may preclude you or your firm from later accepting a much more significant matter. It can be uncomfortable if your agreement to act as local counsel in a minor role as a favor for a former classmate disqualifies your firm from taking on a significant matter for an established client. Particularly

in instances in which you are asked to serve a limited role, it is a good idea to consider requesting an advance waiver from the

“...in instances in which you are asked to serve a limited role, it is a good idea to consider requesting an advance waiver....”

prospective client. This is especially true in the case of banks, insurance companies or other entities that the firm is particularly likely to become adverse to.

Once you have signed on as local counsel, you need to be aware of what that means for you. Regardless of whether, and how, you have limited the scope of your engagement, certain obligations will invariably remain. As an initial matter, the local rules of practice may require that you be substantively involved in the case. For instance, in Oregon, the federal district court local rules require that local counsel “meaningfully participate in the preparation and trial of the case.” (See local rule 83-3.) Accordingly, depending upon the jurisdiction, simply serving as a mail drop may not be an option.

In addition, there are obligations to the client and to the court that cannot be eliminated. The law is well established that local counsel owes a duty to the client and can be liable for negligence in just

the same way as lead counsel. (See e.g. *Gould, Inc. v. Mitsui Min. & Smelting Co.*, 738 F.Supp 1121, 1125 (N.D. Ohio 1990).) This risk can be managed by carefully defining the scope of the attorney’s role, but will always be present.

Further, regardless of whether lead counsel is the author of a pleading, if your name is on it, you are responsible for it. In a **“...regardless of whether lead counsel is the author of a pleading, if your name is on it, you are responsible for it....”**

well-publicized opinion, the Delaware Chancery Court set out this principle as follows:

If a Delaware lawyer signs a pleading, submits a brief, or signs a discovery request or response, it is the Delaware lawyer that takes the positions set forth therein. This is true regardless of who prepared the initial draft or how the underlying work was allocated.

(*State Line Ventures, LLC v. RBS Citizens, N.A.*, 2009 WL 4723372 (Del. Ch. 2009).)

The reality that you will be responsible for documents you file has both ethical and reputational consequences.

“The Rules of Professional Responsibility explicitly provides that a lawyer is subject to the rules....”

The Rules of Professional Responsibility explicitly provide that a lawyer is subject to the rules regardless of whether the

lawyer acted at the direction of another person. (See RPC 5.2(a).) Accordingly, the fact that your actions may have been directed by lead counsel in another state will not excuse unethical conduct. Similarly, under Rule 11 of the Federal Rules of Civil Procedure, any attorney signing a document filed with the court is necessarily representing that to the best of the person’s belief, formed by reasonable inquiry, that the legal contentions asserted are supported and that the factual contentions have appropriate evidentiary support. Accordingly, blindly signing and filing documents prepared by another firm is a bad idea because you are personally vouching for the substance of the filing.

You also have your reputation to consider. A poor or unsubstantiated argument advanced in a brief that bears your name will reflect badly on you regardless of whether you wrote it. The same is true of unprofessional language appearing in a brief filed under your name. In some jurisdictions, it is fairly common for even otherwise good attorneys to use pejorative language to refer to other attorneys, or to lard their briefs with invectives. While this sort of language is not persuasive in any jurisdiction, it is particularly unwelcome in Oregon courts. As local counsel you owe it to yourself, and your client, to make sure that any papers you file are written in a manner of which you can be proud.

Tips From the Bench

How to Win at Shadow Boxing

by Judge Leslie Roberts
Multnomah County Circuit Court

“I’ve seen George Foreman shadow boxing and the shadow won.”

- George Foreman



It happened again. My Friday docket included a prima facie hearing in a civil case. Although the case was assigned at call on Thursday morning, no bench copies of any documents were delivered to chambers. At the time set for the hearing, a young attorney stood up and confidently presented me with a form of judgment and attorney fees petition. And nothing more.

Accordingly, he left court empty handed and deflated.

Although this young attorney was merely shadow boxing, the shadow had won.

The procedure of obtaining a default is governed by ORCP 69. Subsection C of that rule sets out the process to obtain an

“...the order of default merely establishes that the defaulted party cannot answer on the merits....”

“order” of default. But the order of default merely establishes that the defaulted party cannot answer on the merits (without being relieved of default). It does not establish the factual truth of the allegations or, by itself, require the entry of a default judgment.

You may have obtained your order of default under ORCP 69C at ex parte in presiding court. As you know, you need more in order to start collecting on your win: you want a default judgment under ORCP 69D.

In certain (limited) cases you may obtain a default judgment without a hearing, at ex parte. However, at the court’s discretion, you may be directed to set your case for a prima facie hearing, first. (This always is done where the damages are unliquidated, but can be done in any case). In a prima facie hearing you must present to the court prima facie evidence of each element of your claim (which is, not coincidentally, why it is a “prima facie” hearing). It is usually a fully uncontested hearing; but although it may appear to be mere shadow boxing, you have to throw some punches or you will lose.

ORCP 69 D lists how you move for a default judgment. It concludes that the court may conduct a hearing (this is the prima facie hearing) “to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any other matter.” The key word here is “evidence.” It is not the case that the allegations are proven by

the uncontested pleadings. They must be shown by “evidence.” Evidence may be submitted as an affidavit or declaration (by a competent witness) or by live testimony at the hearing. It must provide the court with a basis to determine “the truth of any averment” or “any other matter” that the court requires, before entering judgment.

You must prepare a motion and memorandum that succinctly describes the claim and summarizes the basis for judgment. The claim must be one upon which relief can be granted. (The silent acquiescence of a party doesn’t justify the court in ignoring the law.) You will need some evidence to support each element of the claim and damages. Most lawyers choose to set this out in an orderly declaration or affidavit, with appropriate exhibits attached, in

“The silent acquiescence of a party doesn’t justify the court in ignoring the law.”

which a competent witness gives admissible evidence establishing the basis for relief and for the amount of the award.

After assignment at call, you should give the assigned judge a bench copy of all the submissions, and the form of judgment. This gives the judge a chance to review the evidence and to see that all is in order before the hearing.

Two other points: First, even though a party’s default has been entered, that party may contest the amount and award

“You might be facing more than a shadow.”

of damages at the prima facie hearing and may offer evidence on damage. You might be facing more than a shadow.

Secondly, you cannot increase or change the relief you sought in the pleadings you served on the defaulted party and which the defaulted party chose not to answer. (This should be obvious from the very rationale for a default judgment: the party had a chance to respond but did not do so, with notice of the consequence.)

The big point here, however, is that a prima facie hearing requires prima facie evidence. It’s never a good feeling to lose. It’s really a downer to lose to a shadow.

News from the Courthouse

by Jeanne Chamberlain
Court Liaison Committee member

Presiding Judge’s Report

Judge Waller reported on imminent changes in access hours for court services. Due to legislative budget cuts to the Oregon Judicial Department, \$1.5 million was removed from Multnomah County Circuit Court’s budget. The

“...\$1.5 million was removed from Multnomah County Circuit Court’s budget.”

court implemented layoffs and reorganization of administrative staff and courtroom clerks. In addition, changes are being made to public services. Telephone service to the operations sections of the office of the Trial Court Administrator is limited to five hours each court day, from 8:30-10:30 a.m. and 1:30-4:30 p.m. Calls to the offices of individual judges are not restricted, but the reductions in judicial staff and reassignment away from chambers may result in a delay in messages being received. In addition, public access to the circuit court file room, # 131 of the Courthouse, is restricted to 12-5 p.m. each court day.

Judge Waller indicated that the court will soon implement changes to the one-day, one-trial approach to jury service. Jurors will be summoned for two days of service or one trial. This change will provide savings in the administrative costs associated with summoning jurors. The date for implementation of the two-day jury term has not been set. Judge Waller commented that the court regrets these changes, but they are necessary with the budget reductions to permit the administrative staff to accomplish the core work of managing filed documents, updating the register of action and scheduling cases for court appearances.

Doug Bray said that there are also changes to the Family Court Self-Help Center. The court has ceased scheduling appointments for those in need of service for a period of 60-90 days. During this period the staff will be working on document processing, data entry and customer service for individuals seeking a Family Abuse Prevention Act (FAPA) restraining orders. There will be some relief for these staff in

July or August, when a Portland City Council investment in the Gateway Center for Domestic Violence Services is implemented.

Those funds are for the development and implementation of an online document assembly system for FAPA, elder abuse and stalking case restraining orders. The program should start in approximately 90 days. The city’s contract with TurboCourt for the development and maintenance of these forms makes them available to anyone in Multnomah County seeking an order. This contract will simplify greatly the processing of FAPA applications from the Gateway Center, and also will reduce the demand for services and assistance on these matters in the courthouse. The city’s TurboCourt contract will benefit the entire county; after the FAPA forms implementation, re-opening the Family Law Self Help Center will be evaluated. Judge Waller added that TurboCourt is the vendor selected in the Oregon eCourt procurement to implement online document assembly services for the Oregon Judicial Department for its Family Law forms. The availability of online document assembly services will constitute a key part of a future approach to

“...online document assembly services will constitute a key part of a future approach to community accessible services....”

community accessible services for legal research, court forms and volunteer services for the self-represented, she concluded.

Judge Waller reported that eCourt is moving forward in Yamhill County, with installation in June. Multnomah County is scheduled to begin eCourt implementation in January 2013; an 18-month implementation cycle is expected for full installation.

Judge Waller reported there is now ePayment for parking and traffic violations available throughout the Oregon Judicial Department. This eCourt initiative will provide efficiencies for the public in responding to citations and reduce queues in the courthouse and on the telephone.

Eric Dahlin asked if there was a plan in place to restore staffing levels if available funds increase. Judge Waller responded that the State Court Administrator’s office has put together a request for the

restoration of some of the lost funds for the state Emergency Board at its late May meeting. Under the plan, any restoration of funding would increase public access first, including counter staff and telephone lines. Any restoration of funds, however, will likely be insufficient to

“Any restoration of funds...will likely be insufficient to restore... the lost court staff.”

restore fully the lost court staff. Judge Waller gave an update concerning planning for the downtown Courthouse building. Two studies are underway: first, the *inici* group, inc. study concerning potential sites and expense to build new or remodel; and second, a National Center of State Courts study to forecast the number of courtrooms and related space needed for next 30 years. Judge Waller reported that the county is very committed to providing a new courthouse or remodeling the current building. The MBA has appointed a committee to strategize about how to encourage a new or remodeled courthouse.

Court Ambassadors

Eric Dahlin emphasized our role as ambassadors for the court. Our courts need greater financial support. The public doesn’t necessarily understand the impact of legislative budget cuts on the court system; even when Oregon’s judicial salaries are 49th nationwide and there is the loss of 15 percent of staff, the court is still focused on meeting its time to disposition goals and to provide to every action access to appropriate means for the disposition of the dispute. Doug Bray noted that notwithstanding the loss of resources, the circuit court is closing civil actions by jury trial at four times the national average reported by the National Center for State Courts for civil actions and at the same time is meeting its time-to-disposition goals.

CourtCare

Committee members were reminded of the CourtCare campaign. The need is greater than ever with the expansion to East County Courthouse this year. The MBA hopes to raise over \$100,000 to support the CourtCare program.

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Friday Court Closures - Add the court closure dates to your Outlook or Google calendar
<http://mbabar.org/Calendar/>



Judge Oscar Garcia Judicial Profile

by *Darin M. Sands*
Court Liaison Committee member

On February 8, **Judge Oscar Garcia** was appointed by Governor Kitzhaber to fill a vacancy on the Washington County Circuit Court created by the retirement of Judge Steven L. Price. Soon thereafter he was sworn in by former Chief Justice Paul De Muniz, with the ceremony witnessed by a long list of Oregon legal heavyweights, including Federal District Court Judge Marco Hernandez, Washington County District Attorney Robert Herman and Lane Borg, the Executive Director of the Metropolitan Public Defenders. Since taking the bench in February, Judge Garcia has worked exclusively in Washington County's family court.

"...the biggest surprise of his new position is all about perspective."

For Judge Garcia, the biggest surprise of his new position is all about perspective. As he puts it: "When you are a lawyer, you are looking forward, you don't see the back of the courtroom, but when you are sitting on the

bench you see everything, the faces and emotions of the parties and the people in the crowd." The ability to see the whole picture is also critical to Judge Garcia's judicial philosophy.

Judge Garcia's path to the bench began in 1987 when he joined the Army R.O.T.C. It was there, and later on as a commissioned officer in the U.S. Army and Oregon National Guard, that he learned lessons

"...he learned lessons in leadership and how to make decisions with confidence...."

in leadership and how to make decisions with confidence, even when those decisions need to be made under stressful circumstances. This skill has been valuable on the bench, as Judge Garcia believes that resolving disputes and providing clear guidance with his rulings is one of the most critical aspects of his new job. Being the decider is not a role that necessarily comes naturally to someone who spent the majority of his career as an

advocate, but providing clear resolutions to disputes is now at the heart of Judge Garcia's job.

From the Army R.O.T.C., Judge Garcia went on to receive an undergraduate degree in Business Administration from Notre Dame and a law degree from the U of O. After law school he took a position with the Metropolitan Public Defenders. In 1998, he opened his own practice in Hillsboro, where he specialized in criminal defense for both state and federal cases. He maintained that practice for more than a decade before taking the bench this year.

Working for a wide variety of clients in Washington County, Judge Garcia learned first hand how intimidating the legal process could be for them, especially for those who had no previous experience with the courts. Judge Garcia has taken those lessons with him to the bench, where he goes out of his way to make sure the parties who come before him, often unrepresented and sometimes non-native English speakers, understand the process, get a fair hearing, understand his decisions and leave his courtroom feeling that they have had their arguments fairly considered in a timely manner, even if they happen to disagree with the outcome.

With some experience on

the bench under his belt, Judge Garcia also has some advice for lawyers who are advocating in the very spot he stood just a few months earlier. First, simple, well-written hearing memos are extremely helpful to judges, particularly at a time when judicial resources in Washington County are struggling to keep up with an ever-growing docket and an ever growing population. For Judge Garcia, the best

"...the best memos focus on only the key issues before the court...."

memos focus on only the key issues before the court, the facts, and how the facts should be applied to the relevant law. This may sound like straightforward advice, but losing focus of the key issues is easy to do, particularly in family court where emotions can run high.

Judge Garcia's second piece of advice is for lawyers to take advantage of technology whenever possible. This includes sending electronic rather than paper copies of trial and hearing memorandums to his judicial assistant by noon on the day prior to the hearing. As much as possible, Judge Garcia tries to run a paperless courtroom. This saves lawyers a trip to the courthouse and saves the county money by avoiding unnecessary



Judge Oscar Garcia

printing and fax expenses. He also encourages lawyers to utilize video conferencing technology, including Skype, for examining witnesses who would otherwise have to travel to take part in hearings or trial. Though Washington County has taken a lead in utilizing such technology, Judge Garcia notes that many lawyers are not aware that it is available. He strongly believes that increased use of technology is the future and he intends to utilize as many technological tools as possible to improve the speed and efficiency of his courtroom and to reduce the costs to parties whenever possible.

Five Things to Know About the New MBA Web site

by the MBA YLS Board of Directors

In 2006 the MBA's new and redesigned Web site went online. Rewritten from the ground up, the site was designed to be extensible, easily modified, and quick loading.

But the course and pace of technological changes since its re-launch quickly rendered the Web site outdated. Computing, truly, went mobile; and many visitors to the Web site faulted its design and layout as confusing or counterintuitive.

Assisted by a taskforce comprised of members of the MBA Board and the MBA YLS Board, Judy Edwards and Guy Walden worked with cascade web development to re-imagine the MBA Web site. The re-imagined site is now online and, in the collective and humble opinion of the YLS Board, a thing of beauty.

To help introduce the new Web site, summarized below are five features visitors to mbabar.org should know about the MBA's

latest, and greatest, shop window on the information superhighway:

1. **When is that YLS happy hour again?** The Web site's new calendar takes on demand scheduling to the next level. Constantly updated, the calendar now tracks and displays important MBA events, court happenings, and events submitted by local organizations.
2. **Want to add that to your calendar?** No problem, you now can add events on the MBA calendar directly to your Outlook calendar.
3. **But can I get that CLE to go?** Now you can! The new Web site is one-stop shopping for CLEs, allowing you to register to attend events in person, electronically, or by downloading an audio or video file of the event to your computer or mobile device.

4. **The membership directory, mbabar.org/Membership/Directory.html is now referral central.** The new Web site allows members to quickly update their directory information and add practice content to help attract referrals.

5. **Better, faster searches.** A new content management server means better search results. The changes to mbabar.org were not merely cosmetic. Under its hood is a new content management server that's faster and smarter than the old site's search tool, segmenting results by relevance, section and membership.

And those are just the highlights. So please take a tour of the new Web site at mbabar.org, kick the tires, add an event to your Outlook calendar, or download a CLE!

Paula Padilla Pro Bono Spotlight

by *Abra Cooper*
YLS Pro Bono Committee member

After a year-long review, the YLS Pro Bono Committee has finished updating two handbooks, *Youth Faces the Law: A Juvenile Rights Handbook* and *Domestic Violence: A Guide To Your Rights*. Available both in hard copy and online, these handbooks have proven to be among the MBA's most popular and useful publications. In addition to publishing the handbooks in English, the YLS Pro Bono Committee determined that there was a need for the handbooks to be available in other languages as well.

Paula Padilla, an attorney with Immigration Counseling Service, a nonprofit immigration law firm in Portland, volunteered to translate the updated material after seeing a posting about the opportunity, and, as a result, Spanish language updates to both handbooks will soon be available to those who need them.

Over the course of her short legal career, Padilla, a 2009 graduate of Lewis & Clark Law School, has demonstrated a commitment to helping those who are less fortunate access the legal system. While a student at Lewis & Clark, Padilla interned at Catholic Charities as well as with the Oregon Law Center, assisting with the center's farm worker outreach



Paula Padilla

programs. She was also involved in various volunteer projects through her membership in the Latino Legal Society and Minority Law Students Association. In addition to translating the updates to the handbooks, Padilla recently used her Spanish language skills when she, along with other attorneys and legal assistants at Immigration Counseling Service, participated in a Citizenship Day drive at a northeast Portland church, assisting individuals with their naturalization paperwork.

While Padilla recognizes that not all attorneys can afford to work for nonprofit organizations or center their practice on pro bono work, she believes it is important for attorneys to make a commitment to taking on pro bono projects and clients. "There are so many people out there with a need for various legal

Continued on page 15

webcheck

Update your Member Directory profile in the MBA Member Center: <http://www.mbabar.org/Membership/Login.html>



Young Lawyers Section

OSB and the Sustainable Future Section Announce Partners in Sustainability Program

by Ann McQuesten
YLS Futures Committee



As Oregon attorneys, we are fortunate to practice in a state that offers some of the most precious natural resources in the country. Perhaps it is because of our state's unique natural beauty that members of the Oregon bar have long strived to protect and nurture its resources for future generations. In 2009, recognizing the bar's growing commitment to sustainability, the board of governors created the country's first state bar association section devoted to the relationship between sustainability, the law and the needs and interests of future generations.

Since its creation, the Sustainable Future Section has been instrumental in developing and promoting a dialogue among legal professionals about sustainability, both at the state and national level. The section has been successful in providing sustainability-related resources to those who seek them out via CLE programs, its quarterly newsletter *The Long View*, and its Web site. But its ultimate goal is to reach as many Oregon attorneys and law offices as possible. In furtherance of this goal, the section recently announced the new OSB Partners in Sustainability Program.

The Partners in Sustainability Program provides recognition for Oregon law offices that adopt practices to reduce the energy, resources and harmful chemicals required to operate their offices. The criteria for the program can be found on at <http://osbsustainablefuture.org>.

Any Oregon law office that satisfies the criteria for the program may submit an application to the Section confirming its compliance with

the criteria. Upon acceptance of the application by the section, the office will be listed as a partner in *The Long View*, on the section's and OSB's sites and in special advertisements. A partner may also distribute a section-prepared press release to announce its participation in the program and may display the partners program logo on its own website and in its promotional materials.

Because the section's goal is to encourage the highest level of participation possible, the program is open to law offices of all sizes and provides flexible criteria to accommodate small, medium and large firms. For example, large offices (those with 25 or more attorneys) must 1) process documents electronically when appropriate, 2) provide payroll information to employees online, and 3) employ hardware and software to scan for electronic document distribution and storage. Medium firms (those with 6-24 attorneys) must meet any two of the above criteria, and small offices (those with 1-5 attorneys) are exempt from these particular criteria.

Michelle Slater, chair of the Sustainable Future Section's Executive Committee, notes that in developing the program it was important to make it both accessible to a wide range of law offices and robust enough to be meaningful. Slater and other executive committee members see the Program as a way to expand upon the ABA-EPA Law Office Climate Challenge, which provides far less detailed criteria for law office sustainable practices. In partnership with the OSB, the executive committee developed a more rigorous and detailed framework for the Program, ultimately resulting in the most robust program of its type in the country.

Although the Program requires a strong commitment by its participants, it was also important to its founders that it be voluntary and self-certified. The concept of strength in numbers is what will truly make

Community Law Week Events Provide Educational Opportunities

by Raife Neuman
YLS Service to the Public Committee

The Hon. Keith Raines of Washington County Circuit Court is accustomed to asking tough questions, sternly (though not impolitely) grilling witnesses from the bench. But on a recent Saturday in early May, the tables were turned, and the questioner became the questioned.

Judge Raines and fellow judges Edward Jones, Steven Todd, Diana Stuart and Eric Bloch were standing by the ice rink in Lloyd Center, participating in

the ABA's Community Law Day, whose theme this year was "No Courts, No Justice, No Freedom."

This year's Community Law Week began with a gala fundraiser for St. Andrew Legal Clinic (SALC), held at the Shaffer Fine Art Gallery. Attended by approximately 75 people, the night included food, drink, music and door prizes, including a coveted slot in SALC's Taste for Justice later

this summer. "The event was fabulous!" said SALC attorney Christopher Bergstrom, "I want to thank the YLS and the Service to the Public Committee. I know my colleagues here at SALC share in appreciation for all the effort that went in to making last night a success."

Another highlight of this year's Community Law Week was the legal information booths set up around town. Staffed by volunteer attorneys, the booths share information on legal resources available in the area, especially for low-income individuals. This year, a booth was manned for a full day in Pioneer Square, along with another at Lloyd Center in conjunction with Tell it to the Judge.

Booth organizer, Sarah Petersen, remarked, "Although the weather was a little rough - which we knew was a hazard of moving outside this year - the booth served both the goals of Community Law Week

by promoting a positive view of lawyers in the community and serving the public. Being in "Portland's Living Room" allowed us to offer information on legal services and general legal information to a diverse group of Portlanders."

Reaching out to our community is a critical part of the profession that can fall by the wayside when we are inundated



SALC Fundraiser

by work. However, many lawyers are heavily involved in our community, and dedicated to helping those who otherwise would receive no assistance. The Service to the Public Committee would like to thank all the sponsors and volunteers who made Community Law Week possible, and who so willingly give to those around them.

Oh, and as to Judge Raines' preference? Mango.



Tell it to the Judge

the annual Tell it to the Judge event. Never ones to abandon the dignity of their office, the judges were bedecked in their robes, and anyone passing by was encouraged to ask them questions or share their thoughts. A young man approached with a glint in his eye, and the interrogation began: "Strawberry or mango smoothie?"

Tell it to the Judge is part of Community Law Week, a series of events organized by the YLS Service to the Public Committee. The events seek to foster greater bonds between members of the legal profession and the wider public, while also educating the public on access to justice issues and informing them of available legal resources. Community Law Week occurs annually around



Legal Information Booth

sustainable practices meaningful. An accessible program that enables as many Oregon lawyers to participate as possible will also create the best results possible.

Sustainability means different things to different people, and individuals' motivations in embracing sustainability concepts can also differ. Similarly, law offices adopting sustainable office practices may have different

motivations for doing so. Whether motivated by a desire to preserve natural resources for future generations, to ensure economic stability, or to relate to Oregon clients who value sustainability, participating law firms enjoy the benefits that result from their commitment to sustainability.

Detailed information about becoming an OSB Partner in Sustainability is at [http://](http://osbsustainablefuture.org/)

osbsustainablefuture.org/, along with information about the section's other activities and how to become a member. As an added incentive, law offices that submit applications before June 30 will be recognized as Founding Partners in Sustainability in a section advertisement in August 2012 and in other section communications.



Legal Information Booth

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YLS Member Profile

YLS Professional Development and Education Committee Chair



1. What college and law school did you attend?

Pacific Lutheran University followed by law school at Lewis & Clark.

2. What brought you to Portland?

After college, I worked in the interfaith program for Equal Exchange Coffee in Canton, MA. From there, I moved to Hood River with the company and opened a regional distribution center. Boston was too big, and Hood River was too small, so when I started thinking about law school, I looked at Portland.

3. What made you decide to go to law school?

I wanted an intellectually challenging career in which I could help people.

4. Where do you work and what do you do there?

I work at Bodyfelt Mount doing civil defense work, primarily products liability, personal injury, construction defect and insurance defense.

5. How did you hear about the YLS?

I first heard about YLS at a new admittee social.

6. How did you first get involved with the YLS?

I joined the Professional Development and Education Committee (PDEC) about three years ago.

7. Tell us about what you like about the YLS.

I enjoy the opportunity to network both with other committee members and attorneys within the larger community. In particular, I enjoy that I am able to call attorneys I respect and ask them to give CLEs as part of my role in the PDEC. The YLS is also a great way to help to make Multnomah County a good place for other attorneys.

8. What do you think the YLS needs more of? Less of?

The YLS needs more participation and innovation from the members. Some committees have come about because someone is passionate and takes the lead, and there is always room for more passionate people to get involved and move the group forward.

9. Why did you join?

I joined the PDEC because I was keenly aware of my lack of knowledge as a beginning lawyer, and I wanted to be on a committee focused on what young lawyers need to know.

10. Why did you want to chair the committee?

As a member of the committee for two years, I really appreciated how the past chairs got folks involved in the

committee. I saw it as a way to serve the larger YLS and MBA.

11. Tell us about your experience on the committee and why other young lawyers should get involved.

The PDEC is a great committee. The meetings are always fun and efficient. We try to really respect everyone's time. It is important for young lawyers to be part of something, and PDEC and YLS are a great way to get involved and work with peers without a big time commitment.

12. Has your committee membership helped with your professional or personal goals? If so, how?

I always have the personal goal of networking, and this committee has given me a great excuse to network with peers and other attorneys within the community I respect.

13. What is your favorite YLS event or activity? Why?

The new member social. Attorneys are really just starting out, and you can encourage them to get involved and get involved early.

14. What are you currently reading (non-legal)?

I'm currently reading a book about the funeral industry, but I most recently read *The Art of Raising a Puppy* by the Monks of New Skete.

15. What is your favorite restaurant?

Pause; it's Northwest New American food, and both delicious and close to my house.

16. What do you do for fun?

Cooking and fly fishing.

17. Tell us something about yourself that not many people know?

When I was growing up, I had a pet hermit crab. I went to college on a piano scholarship and also played the ukulele. Recently, I also went on a tandem bike tour of the San Juan Islands.

18. Where did you grow up? What do you like about Portland?

I grew up in Yakima, Washington. I like the progressive vibe of Portland. It is big enough to have all the cultural events I look for in a city, but each individual neighborhood is like a small town.

19. If you could invite anyone to your next dinner party, fictional or real, living or dead, who would it be and why?

Mark Twain because sharp wit and quick turn of phrase. He seems like he would be a fun drinking partner.

YOUthFILM Holds 6th Filmmaking Competition

On May 3, an enthusiastic group of middle and high school student filmmakers gathered at the historic Hollywood Theatre in Portland for the culmination of this year's YOUthFILM Project.

The YOUthFILM Project is an annual student filmmaking contest, presented by the YLS YOUthFILM Project Committee as part of Community Law Week. The YOUthFILM Project affords K-12 students a creative way to learn about legal issues and civics through the medium of film. The goal is for students who participate in the project to remain engaged with local and national issues and continue to be active participants in the civic process. This year's theme was "No Courts, No Justice, No Freedom."

The overall top film, *Florida v. Poletto*, was produced by students from Lakeridge High School. It depicted a dramatic courtroom scene from a fictional homicide case which resulted in an acquittal. Other students took the courtroom to the classroom, showing how neutral and impartial student-judges could resolve a variety of classroom

disputes. Another film examined the "court of public opinion" by setting the scene outside of the courtroom and telling the story of a civil lawsuit through a reporter's interviews with the plaintiff, the jurors and other courtroom observers.

Before the films were screened, longtime supporter of the YOUthFILM Project, Justice Paul De Muniz emphasized the importance of civic engagement and the court system. After the screening, students reported that they had a lot of fun making the films, and learned much about jury trials and acquittals, the role of the media and other important facets of the court system throughout the filmmaking process. Many filmmakers said that they were eager to participate again next year.

The YOUthFILM Project Committee was pleased by the small but successful film screening and is excited about the prospects for next year. As Justice De Muniz summarized, "I love the films but I really like the civic education that these filmmakers get in preparing their films."



Filmmakers at the YOUthFILM screening

April Social a Success

On April 19, the YLS Membership Committee hosted its annual Meet the Judges Drop-in Social at Schwabe Williamson & Wyatt. The event was well attended and provided an opportunity for young lawyers to meet judges in an informal setting.

This year's social included a raffle benefiting Multnomah CourtCare, a free childcare service offered by Multnomah Circuit Court that provides a safe and fun place for children in the courthouse.

The YLS thanks Schwabe Williamson & Wyatt for

sponsoring the event. We acknowledge the support of the local businesses that donated prizes for the raffle, which generated over \$700 for CourtCare. A special thanks to the following donors: Barran Liebman, Harris & Bowker, Lloyd Center, Logsdon Farmhouse Ales, McMenamins, Mitchell Lang & Smith, Oregon Shakespeare Festival, Oregon Symphony and Tony Starlight's.

Thank you to all who participated. We look forward to seeing you again next year!



YLS Meet the Judges Social and CourtCare Fundraiser

YLS Service to the Community

MBA attorneys turned out Sunday, May 6 to help feed the hungry at Potluck in the Park in O'Bryant Square Park.

The volunteer event was organized by the YLS Service to the Public Committee, as part of its ongoing "Community Project Days" campaign.

Right: Hon. Michael McShane, Michael Fuller and Lindsay Byrne at Potluck in the Park



mba yls | EVENT

Race for Justice
Saturday, June 16

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Young Lawyers on the Nashville Scene

by Raife Neuman
YLS Services to the Public Committee chair

*I'm watching the sun go down this evening
And soon it'll wake this town
that's made of dreams
But before it does a new star with
be shining
Lighting up the ole Nashville scene.*

Hank Williams Sr.
"Nashville Scene"

I did not recognize the man staring back at me from the mirror. He was wearing a black Stetson cowboy hat and a vividly patterned pearl-snap shirt – "cowboy bling" is the appropriate term. Not surprisingly, my black-rimmed hipster glasses were an uneasy fit with the outfit. I couldn't help but think of the tagline from the old radio show "Riders Radio Home Theater" - It may not be the easy way, but it's the cowboy way – as I stepped out into the Nashville scene.

Dressed up like a good city slicker visiting the country, I was on my way to the gala event of the ABA Young Lawyers Division (YLD) spring conference, a dinner-dance at the Country Music Hall of Fame in downtown Nashville. Joining me from Oregon were Karen Clevering of the OSB Oregon New Lawyers Division, Traci Ray, the MBA YLS Board Delegate and OSB Pro Bono Committee Chair, and Andrew Schpak, the MBA representative in the ABA House of Delegates and future chair (2014) of the ABA YLD.

The conference provided plenty of interesting fair for those able to resist the sirens' call of live country music and wafting BBQ smells that seem to be round-the-clock staples of Nashville's Broadway Street. "I thought the CLEs were excellent, and I found Anti-Bullying, the First Amendment and Non-Legal Responses to be particularly

thought provoking," remarked Clevering. "In light of the release of *Bully*, the It Gets Better Campaign, and recent news, it really helped me think about the issues from a fresh perspective." I personally enjoyed an interactive CLE on hearsay and its exclusions/exceptions, and – as a warning to all opposing counsel! – Strategies for Winning Summary Judgment.

The YLD conferences provide attendees with the skills and training to implement national initiatives at a local level. The Nashville conference had an extensive CLE and discussion in support of young lawyers providing pro bono services to veterans returning from overseas, and multiple forums on The Next Steps Challenge, an effort to increase diversity in the legal pipeline.

New seeds for future initiatives are also planted and cultivated at the conferences. "I really enjoyed a town hall on gender equality," said Schpak. "Though it was brief, it was the start of a bigger conversation. A lot of people made interesting points and there is a lot left to say and do. I look forward to seeing how ABA President-Elect Laurel Bellows develops this topic during her year as president starting this summer."

And of course, as at any gathering of lawyers, there was plenty of networking.

household where Spanish is the primary language," says Ben Cox, current chair of the Pro Bono Committee. "By performing this critical service for MBA, Paula has thus helped to extend the potential reach of the handbooks to a further 9% of all of Oregon's households. Paula's work is exceptionally valuable in light of the fact that these households have historically been underserved by organizations that might otherwise assist them, solely because of the language barrier."

Attendees from around the country and world, including a very interesting fellow from Bahrain, disgorged into Nashville as the sun went down. "The dinner-dance was a great time!" noted Ray, "And I loved seeing everyone dressed up in Western wear – though putting a cowboy hat on a lawyer doesn't mean they can rock a line dance." (We will assume she was not referencing yours truly.) "And seeing Andrew don Ed Harnden's OSB President belt buckle was one in a million."



Andrew Schpak, Karen Clevering, Traci Ray and Raife Neuman at the ABA YLD Spring Conference

It is refreshing to see young lawyers so engaged in both their local and national organizations. Conferences such as this one, as well as local bar groups, are great opportunities to develop themes in the profession and coordinate efforts, while also learning from the successes and failures of different projects around the world. They are also a great opportunity to step out of the day-to-day toils of our work, take a larger perspective, and meet engaged and interesting people. Nashville provided the perfect mix of serious thought and country living, and all of Oregon's attendees would like to thank our local and state bars and firms for making our participation possible.

Raife Neuman works at Intelekia Law Group and can be reached at 503.227.8580 or raife@intelekia-law.com

The YLS Pro Bono Committee is still looking for volunteers to translate the handbooks into Chinese, Russian and Vietnamese. If you or someone you know may be interested in such an opportunity, please contact Ryan Mosier at ryan@mbabar.org or Ben Cox at ben@coxlawpdx.com.

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Paula Padilla

Continued from page 11

services but with little money to afford them," says Padilla. "I would encourage attorneys to make it a goal to get involved in some sort of pro bono work."

The YLS Pro Bono Committee is grateful for Padilla's willingness to do just that. "In Oregon, about half a million residents (roughly 14%) live in a home where English is not the primary language. Of those, almost 300,000 live in a

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With a 2011 grant from the MBF, MetroEast Community Media is creating a public affairs show that includes well-researched topics, dynamic guests and field-produced interviews. Visit Legal Logic's blog at <http://legallogicmetroeast.wordpress.com> to view clips and post comments that could be incorporated into future on-air discussions. For more information, contact John Lugton at john@metroeast.org.



Member Resource Center

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

Courthouse Watch

June 2012

- Multnomah County contracted with the inici group to provide the Board of County Commissioners a comparison analysis of various delivery options to replace the existing downtown courthouse. These options will be evaluated and compared to the current renovation proposal based on a number of factors. The report is being completed and may be presented to the Multnomah County Commissioners in late June.
- The State Justice Institute awarded a \$40,500 grant to Multnomah County, working

in partnership with the Oregon Judicial Department, to update the 2002 Courtroom Requirement Projections for future Multnomah County courtroom needs. It is anticipated this study will be completed in late spring.

- The East County courthouse opened April 16. Photos of the new courthouse may be found at www.mbabar.org/resources/courts.
- The MBA renewed its courthouse committee and resumed meeting. It will create a strategy for continuing to advocate for a new or remodeled downtown Multnomah County Circuit Court courthouse.
- The study by SERA Architects that examined the feasibility of renovating the current downtown courthouse while maintaining substantial court operations was finished mid-2011.

The SERA study includes the following findings.

- Such a renovation would likely be completed in four and one-half to six years. Work would occur between 4 p.m. and 1 a.m. and/or possibly on weekends. Seismic and security upgrades would come first, followed by phasing in of all new building and telephone systems. Construction would be done two floors at a time starting at the top, with staging on Salmon St., which would be closed during the renovation. The goal would be to design for contemporary courthouse standards where possible. The report indicates that certain operations would be moved out of the building during construction and some would be permanently removed to other buildings.
- The renovation could add 75,000 sq. ft. There are 39 courtrooms now. Depending upon how space is used and which functions remain in the building, two more courtrooms could be added if the DA's office is in the building, six more if the DA's office is permanently moved out of the building. The study suggests moving traffic court, most court records and the law library out of the building during construction. It is undetermined whether or not they would move back into the building or be housed separately.
- Three elevators would be added for in-custody persons, a separate new one for court staff and the four public elevators in the main lobby would be renovated.

Pro Bono Opportunities

- Legal Aid Services of Oregon's Statewide Tax Clinic is seeking attorneys to assist low-income clients with tax issues. Cases cover a range of state and federal personal income tax issues including collections, examinations (audits), innocent spouse

claims, and tax court cases. Pro bono tax cases are referred through a listserv where basic case information is posted. Volunteer opportunities are also available for recent graduates and new members of the bar.

- The Statewide Tax Clinic is an OSB-certified pro bono program - participating attorneys are covered by PLF insurance and do not need to have independent coverage.
- For more information or to volunteer, contact Jennifer Woodhouse at 503.224.4086 or jennifer.woodhouse@lasoregon.org.

Update Your Directory Listing on the MBA Web Site

The newly designed MBA Web site includes an expanded online Membership Directory and members may now update their photos, include a bio, add links to social networking sites and update practice area information online. To update your listing, login to the Members Center where you may use the email address currently on file in the MBA Directory as your user name. If you do not know your password, you may click on the "forgot password" link to have it emailed to you.

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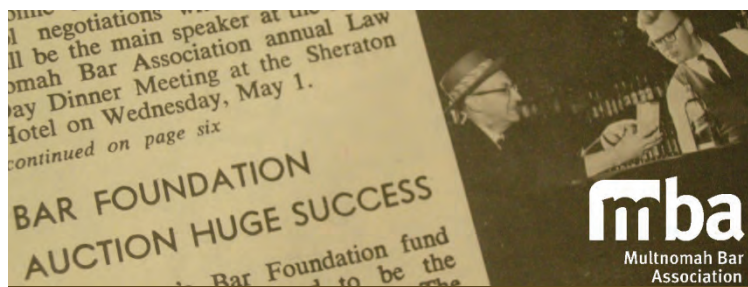
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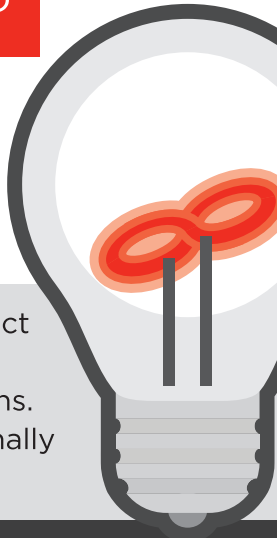
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Announcing 2012 Civic Education Grants

by Pamela B. Hubbs
MBA Office and Foundation Administrator

The MBF awarded \$31,000 in grants to six local nonprofits for programs that promote civic education or engagement.

Sponsors Organized to Assist Refugees (SOAR) received \$5,000 for its “Voter Education Project” that provides monthly classes to newly naturalized citizens to educate them about the voting system and civic engagement.



SOAR citizenship workshop

Bus Project Foundation was awarded \$9,000 for its

“Democracy Cup” which engages young professionals and educators to teach high school students about civic participation and voting and engages the students in a competition to register peers, family and neighbors to vote.

MetroEast Community Media was granted \$2,600 to produce another episode in its “The Courts and You | Legal Logic” series, a public affairs-styled show that will educate the public about the valuable role of the judiciary.

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Classroom Law Project Youth Summit



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