



MULTNOMAH LAWYER

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100TH ANNIVERSARY

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

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The Semi-Annual Courthouse Column

By Peter H. Glade, MBA President.

The elections are now receding into the distant past, the holidays are upon us and so it looks like it is time for the semi-annual new courthouse column. Even while votes were being tallied last month, people started coming up and asking me, "What about the new courthouse? What's happening with the new courthouse?" Good question.

Most of my attention has been focused on election results and their aftermath. I have lost touch with what I considered to be one of the major issues of the year.

I pulled out articles, columns and editorials from local papers and the *Multnomah Lawyer*. A glance through the last year's coverage produced a sense of comfort and relief. Putting all those articles and comments together creates the impression that the community had finally begun to appreciate the urgency of our plight. It appears that no one disagrees with the proposition that Multnomah County desperately needs new court facilities. We have outgrown the facilities downtown and in East County. Everyone realizes that the downtown facility is a tragedy waiting to happen. There can be no reasoned debate that we are a minor earthquake away from death, destruction and years without even inadequate courtroom facilities. And it seems like some previously unknown geological faults under our city recently drew attention by giving us a little shake.

Not only does everyone seem to recognize the courthouse problem (after all, that problem has been growing worse for many years), but our county government also has resolved to take action to solve it. Last spring, the County Commissioners passed a resolution to acquire a site for the construction of a new, downtown courthouse by the end of the year. Judging by these press accounts, the difficult and time-consuming task is now underway, and we will soon know what property the county has acquired.

Well, maybe not. You may recall that the county had identified the block adjacent to the Justice Center as the top choice for a downtown courthouse location. The property had only one tiny problem: it is owned by private developers who are well on their way to building a new office building. The county sought to swap property with the developers or otherwise make a friendly deal, and even raised the possibility of exercising its rights of eminent domain in order to acquire the property. But the word is that those negotiations have reached an impasse.

Of course, I am writing in November, and you are reading in early December, so maybe things will change. However, it seems unlikely that the county will actually take action to acquire the necessary property before the end of this year as resolved. As of the first of the year, new members of the Commission will take their seats, and then the political balance may change once again.

So, what's next? We seem to be stuck in a predictable cycle. We all agree there is a problem. Sometimes we seek the advice of a study group or task force (I've lost count of how many over the years). We agree to follow the advice of the task force. Time passes. Nothing happens, but through luck, we avoid the disaster of a fire or earthquake until someone puts the issue back on the radar screen. How do we break out of this cycle?

The governmental bodies with the power to get the job done must be properly motivated. I do not doubt or impugn the good intentions of our County Commissioners, nor do I suggest that they are without understanding of the gravity of the problem. But the truth is that the commission's constituency has not mandated a high priority for the courthouse or the justice system in general. The voters and those who exert political influence have not demanded action on these issues. As long as this is the case, we can expect that our justice system and its infrastructure will remain low on the governmental priority list.

What can we do? Talk it up. Help educate the voters, the business community and the politicians on the consequences of further neglect. I believe very few of us have really considered the impact that losing the courthouse would have on our community. The public in general does not appreciate the connection between having a smoothly functioning court system and our prized "quality of life." I think most of us take the availability of our courts for granted. As with many good things, we do not seem to fully value what we have until we lose it.

If we were to lose the courthouse to an earthquake or fire, the criminal and civil trial system would grind to a halt. The miserable experience of the Marion County Courts would pale by comparison. And the expense to the community would be astronomical. As stewards of the justice systems, we have a responsibility to make sure that we do all we can to enlighten the public on these issues. We need to exert additional pressure on our government to ensure that the political will to take action is properly fueled.

Settling on a site for the courthouse is only the first step. Following that, we will be facing the greater challenge of financing its design and construction. Given the electorate's reluctance to approve even school funding in the past, we have a lot of work to do in educating those who do not appreciate the importance of a well-functioning court system. An earthquake would drive the message home in a hurry. Let's try to create the same sense of urgency without the loss of life and property that would accompany nature's message.

MBA CLE

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

December

Tuesday, December 5
Second Annual Ethics Tune-Up
Mark Fucile

Wednesday, December 6
Bridging Generations
Catherine Brinkman
Thom Brown
Jo Smith
Kelly Struhs
Valerie Tomasi

Tuesday, December 12
A Business Case for Diversity
Steve Hanamura
Note: From 2 to 5 PM
Worth 3 EOB Credits

Wednesday, December 13
Child Abuse Reporting
Sylvia Stevens
Note: Noon to 1 p.m.

Thursday, December 14
Employment Law Update
A. Luis Lucero Jr.
Doug Parker
Shelley Russell

January

Wednesday, January 24
Litigating Elder Abuse Cases
Cindy Barrett
Richard Braun
Richard Vangelisti

February

Thursday, February 1
Forensic Accounting
Rick Martson
Jay Sickler

Tuesday, February 6
Enforcing Judgments in Family Law Cases
Mark Kramer

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MBA open house mark your calendars January 18

Please join us for the Annual MBA Open House on Thursday, January 18 from 4 to 6 p.m. Stop by and catch up with friends and colleagues.

Refreshments will be served.

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DEADLINE for copy: The 10th of the month*
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*or the preceding Friday, if on a weekend.

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NEW ON THE SHELF

By Jacque Jurkins, Multnomah Law Librarian.

MAKING PARTNER: A guide for law firm associates, 3rd ed. by Alexander P. Fraser. Published by the ABA. Law Practice Management Section, 2006. (KF300 S36 2006)

INFORMATION SECURITY FOR LAWYERS AND LAW FIRMS edited by Sharon D. Nelson, David Isom and John W. Simek. Published by the ABA Section of Science and Technology Law and Law Practice Management Section, 2006. (KF320 A9 I54)

BANKRUPTCY DESKBOOK, 4th ed. by William C. Hillman and Margaret M. Crouch. Published by the Practising Law Institute, 2006. (KF1524 H54 2006)

BANKRUPTCY REFORM 2006: The new basics of bankruptcy law. Course materials from the September 15, 2006 Oregon Law Institute program in Portland. (*KF1524 O7 O73br 2006b)

BANKRUPTCY REFORM 2006: Beyond the basics. Course materials from the September 15, 2006 Oregon Law Institute program in Portland. (*KF1524 O7 O73br 2006a)

OREGON WORKER'S COMPENSATION LAW 2006: Essentials & ethics. Course materials from the September 22, 2006 Oregon Law Institute program in Portland. (*KF3615 O7 O73o, 2006)

RESTATEMENT OF THE LAW (THIRD) AGENCY. Adopted and promulgated by the American Law Institute at Philadelphia, PA., May 17, 2005. (KF395 A45a 2006)

HARPER, JAMES, AND GRAY ON TORTS, 3rd ed. by Fowler V. Harper. Fleming James and Oscar S. Gray. Published by Aspen, 2006. (KF1250 H37 2006)

NYSE ARCA GUIDE: Official publication of the NYSE ARCA. Published by CCH Securities Compliance Library/Wolters Kluwer Financial Services, 2006. (KF1068.4 N48)

INVESTMENT ADVISOR REGULATION: A step-by-step guide to compliance and the law, 2d ed. by Clifford E. Kirsch. Published by the Practising Law Institute, 2006. (KF1078 K57 2006)

ACCOUNTING IRREGULARITIES AND FINANCIAL FRAUD: A corporate governance guide, 3rd ed. edited by Michael R. Young, Jack H. Nusbaum. Published by CCH, 2006. (KF1446 A33 2006)

CONSTRUCTION ARBITRATION HANDBOOK, 2d ed. by James Acret. Published by Thomson/West, 2006. (KF902 A37c 2006)

ACHIEVING PERMANENCY FOR ADOLESCENTS IN FOSTER CARE: A guide for legal professionals edited by Sharon G. Elstein, Claire Sandt Chiamulera and Sally Small Inada. Published by the ABA, 2006. (KF3736.5 A92)

ADMINISTRATIVE LAW AND PROCESS IN A NUTSHELL, 5th ed. by Ernest Gelhorn and Ronald M. Levin. Published by Thomas/West, 2006. (KF5402 G45 2006)

CALENDAR

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

December

5 Tuesday, MBA Board meeting

Tuesday, MBA CLE Ethics Tune-up
See insert or register at www.mbabar.org.

6 Wednesday, MBA CLE Bridging Generations
See insert or register at www.mbabar.org.

8 Friday, January Multnomah Lawyer deadline

12 Tuesday, MBA CLE – Diversity and Sound Business Practices
See insert or register at www.mbabar.org.

Tuesday, YLS Board meeting

13 Wednesday, MBA CLE Child Abuse Reporting
See insert or register at www.mbabar.org.

Wednesday, YLS Drop-in Social/Toy Drive at Jax
See details on p. 10.

14 Thursday, MBA Brown Bag Discussion – Civil Motions Panel
See p. 8 for details.

Thursday, MBA CLE Retaliatory Termination
See insert or register at www.mbabar.org.

20 Wednesday, Multnomah Bar Foundation Board meeting

25-26 Monday-Tuesday, Holiday MBA closed

January

1 Monday, New Year Holiday MBA closed

2 Tuesday, MBA Board meeting

9 Tuesday, YLS Board meeting

10 Wednesday, February Multnomah Lawyer deadline

15 Monday, Martin Luther King Jr. Holiday – MBA closed

18 Thursday, YLS Young Litigators Forum series begins
See insert or register at www.mbabar.org.

Thursday, MBA Open House, 4-6 p.m.

February

3 Saturday, WinterSmash – A Family Friendly Bowling Event to benefit Multnomah CourtCare
Details on p. 7.

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Ethics Focus

By Mark J. Fucile, Fucile & Reising.

Hazardous Duty Revisited: *Reynolds v. Schrock*



In my May 2005 column called “Hazardous Duty,” I wrote about a significant lawyer liability decision then newly issued by the Oregon Court of Appeals: *Reynolds v. Schrock*, 197 Or App 564, 107 P3d 52 (2005). In *Reynolds*, the Court of Appeals held that a lawyer could be held liable to a nonclient for knowingly assisting a client in breaching a fiduciary duty to the nonclient. The startling element of *Reynolds* was that the assistance could come in the form of lawful legal advice to the client that the client then used to breach the fiduciary duty to the nonclient. Even the Court of Appeals acknowledged that its decision had “serious implications for attorneys.” The Supreme Court took review of *Reynolds* late last year and on September 8 reversed (341 Or 338, 142 P3d 1062).

The Supreme Court’s decision in *Reynolds* is itself a significant lawyer liability case in two respects. First, it created a shield from liability for assisting in the breach of a fiduciary duty when, like the facts before it, the “assistance” comes in the form of providing a client with lawful advice within the scope of a lawyer-client relationship. Second, the Supreme Court reaffirmed its own earlier decision in *Granewich v. Harding*, 329 Or 47, 985 P2d 788 (1999), where it announced the more general proposition that a lawyer could be held liable for assisting in breaching a fiduciary duty to a third party if the lawyer was acting outside the scope of advising the lawyer’s client. In this column, we’ll look at both facets of the Supreme Court’s *Reynolds* decision.

Liability Shield. In reversing the Court of Appeals, the Supreme Court in *Reynolds* recognized a privilege against liability for a lawyer assisting in a client’s breach of fiduciary duty. The Supreme Court found that both Section 890 of the Restatement (Second) of Torts and prior Oregon case law suggested that in some narrow circumstances a shield from liability should be recognized to protect important public policy goals. It then found

that protection of the lawyer-client relationship was one such goal. In particular, the Supreme Court stressed the importance of having a lawyer’s advice unhindered by the prospect that the lawyer might be sued by a nonclient for rendering the advice involved to the lawyer’s client. As the Supreme Court put it: “We extend those well-recognized principles to a context that we have not previously considered and hold that a lawyer acting on behalf of a client and within the scope of the lawyer-client relationship is protected by such a privilege and is not liable for assisting the client in conduct that breaches the client’s fiduciary duty to a third party.” 341 Or at 350. The Supreme Court then listed several factors necessary for the shield to apply, including: (a) the lawyer’s advice must be given in the context of a lawyer-client relationship; (b) the lawyer must be acting consistent with the client’s interest and not simply for the lawyer’s self-interest; and (c) the lawyer must be advising the client on lawful conduct.

Continuing Risk. The Supreme Court’s decision in *Reynolds* left open an important area of continuing risk for lawyers. In reversing *Reynolds*, the Supreme Court both distinguished and adhered to its own earlier decision in *Granewich*. The lawyers in *Granewich* were retained to represent a closely held corporation. Later, the lawyers were alleged to have also begun offering advice to the corporation’s two majority shareholders on how to “squeeze out” a third shareholder. The minority shareholder sued the two majority shareholders for breach of fiduciary duty and sued the lawyers for assisting in that breach. The Supreme Court held in *Granewich* that lawyers could be held liable for assisting in a breach of fiduciary duty – at least when, as was the case there, the advice was given to nonclients like the majority shareholders. Although the Supreme Court’s decision in *Reynolds* creates a shield when advising fiduciaries, the Supreme Court’s reliance on *Granewich* underscores that

ANNOUNCEMENTS

Consider Year-end Gift to Multnomah Bar Foundation

Please consider making a year-end gift to the Multnomah Bar Foundation (MBF). The MBF is dedicated to funding programs and projects that encourage respect for the rule of law, promote civic education and public participation and projects related to the law. Please look for a donation form inserted in this issue or call 503.222.3275.

2007 MBA Professionalism Award Nominations Sought

Do you know a lawyer who is a joy to work with, someone who goes above and beyond the minimum professionalism standards? Nominate him or her for the 2007 MBA Professionalism Award.

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

Queens Bench Luncheon

The 16th Annual Judges’ Holiday Luncheon will be held

on Tuesday, December 12 at the Queen Marie Ballroom at the Embassy Suites Hotel from 11:45 a.m. to 1 p.m. The speaker will be the Hon. Darleen Ortega of the Oregon Court of Appeals.

Oregon Hispanic Bar Association (OHBA) News

The new board includes Elvia Aguilar, who joins Kevin Díaz, incoming OHBA President; Aukjen T. Ingraham, incoming OHBA Vice President; Susan Felstiner, incoming OHBA Treasurer; Judith A. Parker, incoming OHBA Secretary; Román Hernández; Marisol McAllister; and Antonio Gonzalez.

MBA Noontime Bicycle Rides

Meet at SW Yamhill and Broadway between noon and 12:10 p.m. on Mondays and Thursdays. Contact Ray Thomas 503.228.5222 with questions.

Attorney Basketball League

All members of the bar and law students are eligible to join. Teams and individuals are welcome. The cost is to be determined, but approximately \$1,000 per team. An informational meeting is December 7 at noon at Schwabe Williamson & Wyatt. The league will start in January and games will be on Sunday

evenings, continuing into March. Contact person and league organizer is Nathan Wilson, 503.710.1720, nbwilson@qwest.net.

MBA Open House

Mark your calendars for the annual MBA Open House on January 18, 4-6 p.m. Stop by and catch up with friends.

Holiday Sponsors Wanted

Ten holiday giving sponsors wanted for ten families consisting of mothers with children who are actively transitioning from incarceration to self sufficiency. The children are especially in need of coats, hats and scarves and of course a few toys. Seize the opportunity to help mothers making positive changes! No need to shop. Susan Ziglinski, Community Development Coordinator, for Multnomah County Community Justice, will do all of the shopping and wrapping. Please call Sue at 503.988.3820 or 503.784.8776 for more information. Sponsorship is \$250 per family. Send check addressed to Multnomah County TSU at 421 SW 5th, 3rd Floor, Portland, OR 97204.

the risks identified in that more common situation remain. Lawyers advising closely held corporations, family groups, partnerships and other joint ventures are often put in situations which invite them to step beyond their role as lawyers for the entities involved and to give advice to individual shareholders, family members or partners, as was the case in *Granewich*. Under *Reynolds*, lawyers in that situation would not have the protective shield of privilege for advice beyond their clients.

Reynolds and *Granewich* reinforce what was already good advice: Clearly spell out in an engagement letter which party the lawyer represents and then act in a manner consistent with that agreement.

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

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A Common Sense Approach to Avoiding Malpractice Claims

By Michael A. Greene, Rosenthal & Greene.



The practice of law is a profession. Lawyers are professionals. As professionals, we work in a field where our stock-in-trade is making decisions and giving advice. For a variety of reasons, we may make decisions and give advice that is incomplete or incorrect, especially with hindsight.

The purpose of this article is to share a workable approach to avoiding or minimizing malpractice claims. Although there is no single factor that will prevent mistakes, there are a number of guidelines which will not only enhance your performance as a professional but will help you handle the consequences of any mistakes. Making mistakes goes with the territory of being a lawyer. It is how you handle those mistakes that determines the consequences.

These comments are the product of the review of thousands of potential malpractice claims and the handling of hundreds of such claims over a period of 25 years. These include many different substantive areas of law and concern a wide variety of lawyer mistakes.

During the relationship with any client, there are basically two stages, *i.e.*, before you are hired and after you are hired. The guidelines for avoiding or minimizing malpractice are different for each stage.

Before you agree to represent a client, the focus is on being able to create a workable, enduring client relationship and on the quality of the matter you are being asked to handle. At this stage there are four guidelines:

1. **Look before you leap.** Carefully and thoroughly evaluate a matter before you agree to take the matter. If in doubt, don't take on the matter. Usually the most important time you spend is the time you invest to evaluate the clients and the matter. If case selection is the key to a successful practice, then careful evaluation is the indispensable prerequisite. Your professional intuition based on your experience will be your best guide in case selection. Saying

"no" is as important as saying "yes." Check out both the client and the matter before you say "yes."

2. **Stay within yourself.** Handle matters within your experience and expertise, or get appropriate help. It can be dangerous to venture into a new area without help from someone who is knowledgeable in that particular area. Professional growth should not be at the expense of a client. The key to professional growth and success is often being willing to ask for help.

3. **Connect with your client.** It is important to understand your client before you agree to representation. If you do not feel comfortable with the client, you should not represent him or her. Again, your intuition is your best guide. Your gut reaction to the client is usually a good indicator of how other people will react. It is difficult to convince someone to help your client if you are not connected with and don't understand your client.

4. **Manage client expectations.** Managing expectations is not only essential, but often difficult. Avoid creating unrealistic expectations in your efforts to

get the business. Be careful not to promise too much too soon with too little information. Resist giving a quick opinion. Concentrate on the process to develop and evaluate the case, not on specific results. Provide only a broad range of estimated fees and costs if it is an hourly rate matter. Circumstances usually change, forcing reevaluation. Manage the scope of engagement with an engagement letter that explains what your representation includes, and, if important, what it excludes. Don't forget a disengagement letter when your representation is finished.

After you agree to representation, the focus shifts to controlling the relationship and staying on top of the matter you are handling. In this stage, there are five guidelines to help avoid or minimize malpractice:

1. **Exercise client control.** Try to create an atmosphere in which you can speak frankly with your client. It is important to anticipate and address problems so no one is surprised. It is best to give the client a variety of options along with your recommendation, but only after the due diligence of

Continued on page 6

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Avoiding Malpractice Claims

Continued from page 5

adequate factual investigation and legal research. If you and the client repeatedly disagree on significant issues, you should consider stopping the representation, as long as you can do so without any prejudice to the client. Don't ignore problems either in your relationship or with the matter you are handling. Deal with problems sooner rather than later. The client has the responsibility to make the big decisions, but the strategy and tactics usually belong to the lawyer. The client should set the goal, but the lawyer should determine how to get there. Client micromanagement almost always leads to attorney-client problems. Always try to act like a professional. The higher your level of professionalism toward your opponent, the lower the risk of claims. Sharp, unnecessarily aggressive practice often encourages your client to act likewise towards you.

2. **Document everything.** It is important to document all advice and every decision, either with letters to the client or with notes in the file. Letters to the client are best on critical decisions, particularly those involving case evaluation and settlement. Notes are helpful to flesh out the circumstances of the advice or decisions. The passage of time can dim or distort memory of what actually happened and why. Documentation not only can help the client make a better, informed decision, but also tells the client that you are keeping track of what is going on.

3. **Docket everything.** Calendar all dates, deadlines and file-review followup in multiple, redundant systems. You cannot look at a file too often, only too little. It is impossible to remember the time deadlines in each file. It is important that any docket system have redundancy, *i.e.*, multiple ways in which deadlines are brought to your attention and other persons who also check the docket. An effective computer system can be particularly helpful. There are more malpractice claims because of missed deadlines than any other single reason. This type of malpractice is entirely preventable.

4. **Provide customer service.** The client is a customer. The lawyer is a service provider. Follow the "golden rule" treat a client as you would like to be treated. In general, the more time you spend with the client, usually the better your relationship will be. Certain key practices will enhance that relationship: return phone calls as soon as possible; keep clients regularly posted on developments with copies of work; and don't keep clients waiting. The cumulative effect of such treatment always pays dividends when the going gets tough. Actions always speak louder than words. Courtesy goes a long way. Suing a client for unpaid fees causes that client to more critically examine your

services, looking for a reason not to pay. Frequently a dissatisfied client is not allowed to turn-the-page because of an aggressive effort to collect unpaid fees.

5. **Disclose mistakes.** Your professional relationship with a client requires you to disclose material mistakes. You can get good advice from the PLF on how best to do this. Ignoring a problem doesn't make it get better or go away. Cover-up efforts only exacerbate the problem and anger the client. Many former clients come to me angry with a lawyer for a perceived cover up or discourteous treatment. This conduct destroys trust and virtually ensures that the client will go to someone for advice about a malpractice claim or ethics complaint. Remember, as professionals, we make mistakes. It is how we handle those mistakes that usually determines how the client responds.

The above guidelines and comments focus on nurturing an attorney/client relationship. Clients who connect with and respect their lawyer will be far less likely to make a malpractice claim.

Michael A. Greene may be reached at Rosenthal & Greene at 503.228.3015.

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

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

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

Clarke Balcom
Bruce Brewer
Thomas Coan
Daniel Cross
William Dozier Jr.
Robert Glasgow
Steven Goss
Herbert Grey
Douglas Hagen
Tim Helfrich
Deborah Hewitt
Kathryn Jackson
Clinton Jones
Richard Lonergan
Sue-Del McCulloch
John McIntyre
Patrick O'Malley
Deborah Trant
Evans Van Buren Jr.

Wealth Accumulation and Preservation for MBA Members

By Mary Osborne, MasterCare Solutions.

You've spent a lifetime accumulating financial resources for your future. You have seen good times come and go, and have weathered the storms. Now, the future is here. You've done everything you could to plan properly but your biggest problem may be lurking in something you did not do - the number one mistake investors are making today is failing to consider long-term care needs*. For a couple aged 65, there is a 60% chance one will need long-term care in their remaining lifetime**. Today the reality is the annual cost of care in a long-term care nursing facility runs on average \$70,080 annually. However, in 30 years when today's 50 year old turns 80, the average annual cost could run between \$302,815 and \$847,883 for the 2.8 year average stay***.

As you consider how to manage this risk, you should also be aware of the most economical way to purchase coverage through your MBA Long-Term Care Insurance Program. These

advantages include discounted premiums and streamlined underwriting, and the federal and a growing number of state tax codes are allowing businesses to deduct tax-qualified long-term care insurance premiums. Recognizing the government cannot pay the bill for care, tax incentives are being offered to encourage Americans to take personal responsibility for their long-term care needs. The good news for MBA members is that significant tax advantages and discounts exist in purchasing coverage through your association.

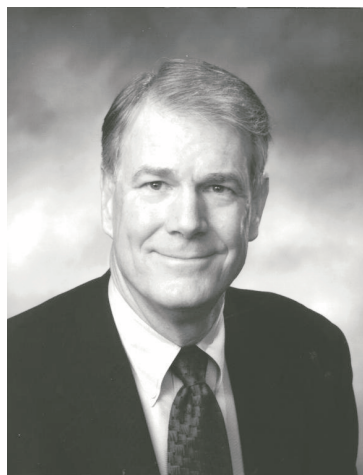
To find out more about your MBA Long-Term Care Insurance Program, contact Mary Osborn at MasterCare Solutions, Inc. at 503.998.5902, Fax 503.627.9997.

*Wall Street Journal, October 22, 2002

**Conning and Company, LTCI 1999

***GE and Evans Independent Research, July 31, 2003

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AROUND THE BAR



Sindy M. Maher

DUNN CARNEY ET AL
Sindy M. Maher joined the firm as an associate. Maher will practice real estate law.

SCHWABE WILLIAMSON & WYATT

The following attorneys were named in the 2007 Best Lawyers in America, a list published biennially since 1983 by Woodward/White Inc. David F. Bartz Jr., Environmental Law; William B. Crow, Commercial Litigation; Joyle C. Dahl, Tax Law; Robert D. Dayton, Trusts and Estates; Patricia M. Dost, Environmental Law; Thomas V. Dulcich, Commercial Litigation; John R. Faust Jr., Appellate Law, Commercial Litigation; Jill S. Gelineau, Eminent Domain and Condemnation Law; John D. Guinasso, Real Estate Law; Jan K. Kitchel, Personal Injury Litigation.



Vincent P. Cacciottoli

LAW OFFICES OF VINCENT P. CACCIOTTOLI

Vincent P. Cacciottoli has been elected a Fellow of the American College of Employee Benefits Counsel. Of the 287 Fellows nationally, four, including Cacciottoli, are currently actively practicing in Oregon. He is also listed in *The Best Lawyers in America* (2007) for his specialty in employee benefits.



Sharon Bolesky

LANE POWELL

The following attorneys have been named as Oregon Super Lawyers in the November 2006 issue of *Oregon Super Lawyers* magazine, published by *Law*

& Politics magazine. Anne W. Glazer, Intellectual Property; Lewis M. Horowitz, Tax; David G. Hosenpud, Employment Litigation; Neil D. Kimmelfield, Tax; Jeffrey W. Knapp, Employee Benefits/ERISA; Robert E. Maloney Jr., Business Litigation; Bryan E. Powell, Real Estate; Vicki L. Smith, General Litigation; Thomas W. Sondag, Appellate; Leigh D. Stephenson-Kuhn, Employee Benefits/ERISA; Steven B. Ungar, Criminal Defense - White Collar; Jack C. Walsh, Employee Benefits/ERISA; Karen M. Williams, Real Estate.

Sharon Bolesky has joined the firm as an associate in the Labor and Employment Practice Group.

BULLIVANT HOUSER BAILEY

The firm's 2006 Oregon Super Lawyers are John P. Ashworth, Business Litigation; John A. Bennett, Insurance Coverage; Darin S. Christensen, Tax; Ronald J. Clark, Insurance Coverage; Stephen F. English, Business Litigation; David A. Ernst, Personal Injury Defense: Products; Kimball H. Ferris, Business/Corporate; Douglas G. Houser, Insurance Coverage; Stuart D. Jones, Insurance Coverage; John M. Junkin, Real Estate; John T. Kaempf, Personal Injury Defense; Lisa E. Lear, Appellate; Daniel R. Lindahl, Appellate; Robert B. Miller, Employee Benefits/ERISA; Loren D. Podwill, Business Litigation; Renée E. Rothauge, Intellectual Property Litigation; Ronald G. Stephenson, Personal Injury Defense: Medical Malpractice; Margaret Van Valkenburg, Insurance Coverage; Timothy J. Wachter, Estate Planning & Probate; Richard J. Whittemore, Personal Injury Defense: Products; Joel Wilson, Professional Liability, Defense.



Albert Menashe and Dave Markowitz



J. Matthew Donohue

MARKOWITZ HERBOLD ET AL

Wine lovers from the legal and business communities came together on October 17 to enjoy fine wine and to raise more than \$45,000 for legal services for low-



Cynda Herbold

income families. The Markowitz Wine Tasting & Auction, held at the University Club, benefited St. Andrew Legal Clinic, a nonprofit law firm supporting low-income families in Multnomah, Clackamas, Washington and Columbia Counties.

After a champagne reception, the 65 attendees tasted 12 wines hand-selected by the event host, Dave Markowitz. Guest auctioneers Albert Menashe from Gevurtz Menashe et al and Dennis Rawlinson from Miller Nash joined Markowitz in auctioning off 24 spectacular wine lots, including a 1945 Fonseca port and two bottles of Andre Agassi's favorite wine, Sassicaia, which were autographed by the tennis star.

At its fall conference, Oregon Women Lawyers (OWLS) recognized the firm as the recipient of the first OWLS Workplace Leader Award. OWLS created the award to recognize legal employers who are taking innovative measures to maximize opportunities for women and minorities to succeed in the workplace and advance to positions of influence and leadership. The firm was honored for its outstanding efforts to promote a healthy work/life balance by facilitating and respecting flexible time commitments, by creating real opportunities for part-time lawyers, and by the firm's commitment to generous parental leave for all of its employees.

J. Matthew Donohue has joined the firm as an associate, where his practice will focus on complex commercial litigation, with an emphasis on entertainment and sports law.

Firm administrator Cynda Herbold has joined the Board of Directors of Cancer Care Resources, a nonprofit, community-based service that offers support to anyone in the Portland/Vancouver area who is dealing with cancer. Cancer Care Resources staff, composed of oncology trained nurses, social workers and therapists, conducts personal assessments of people diagnosed with cancer in order to help identify problems and construct a plan to improve their quality of life.

As the administrator and business manager of the firm, Herbold handles the day-to-day operations and financial management of the firm. She has filled this role since the firm was founded in 1983 by Dave Markowitz and her sister, Barrie Herbold, who lost her battle against cancer in 2001.



Richard Vangelisti

VANGELISTI KOCHER
Richard Vangelisti has been selected to serve as a Ninth

Circuit Representative for a three-year term. Richard is a partner in the plaintiff's personal injury firm.

CABLE BENEDICT ET AL
Don Haagensen has been elected Chair of the Governing Board of the Oregon Department of Geology & Mineral Industries. The board is the five-member policy and rulemaking body for the Department, responsible for developing a geologic understanding of natural hazards including earthquakes, tsunamis, landslides, floods and volcanic eruptions and for regulating mineral development in Oregon.

The Around the Bar column reports on MBA members' moves, transitions, promotions and other honors within the profession. Items may be submitted by email to carol@mbabar.org and are edited to fit column format and used on a space-available basis.

Have You Renewed Your MBA Membership?

Thank you for being an MBA member. By now, you should have received your renewal notice in the mail. All you need to do is return your renewal form with payment, to continue to receive the wide range of benefits the MBA provides. If you have misplaced your form, you may find one at www.mbabar.org. Or, you may now renew online. Here are just a few reasons to continue your membership:

- Excellent, affordable and convenient CLE seminars;
- Social events and committees that provide rewarding ways to network with other attorneys;
- Resources such as the *Multnomah Lawyer* newsletter and Web site, www.mbabar.org, which keep you up-to-date on developments affecting the legal community;
- Member discounts from LexisNexis, Legal Northwest Staffing Specialists, The Naegeli Reporting Corporation, Bank of the Cascades, Kimpton Hotels nationwide including 5th Avenue Suites Hotel and Hotel Vintage Plaza, MBNA/Bank of America MasterCard, ABA publications, Office Depot, Oregon Ballet Theatre and the Portland Opera; and
- MBA member group health, life, disability and long-term care insurance plans at competitive rates.

If you would like more information about the benefits of MBA membership, please call Noëlle Saint-Cyr at 503.222.3275 or visit www.mbabar.org. We look forward to serving you in 2007.



MULTNOMAH BAR ASSOCIATION 5th Annual wintersmash

A Family Friendly Bowling Event
Saturday, February 3
6-9 p.m.
20th Century Lanes
3350 SE 92nd

10 minutes from downtown Portland.
A Multnomah CourtCare fundraiser.

Mark your calendar, gather your team and look for more details in upcoming issues of the Multnomah Lawyer.

If you would like to sponsor the event or donate a raffle item, please contact Kathy Maloney at the MBA at 503.222.3275 or kathy@mbabar.org.

Tips from the Bench

By Judge John Wittmayer, Multnomah County Circuit Court.

Jury instruction requests

The procedures and rules related to jury instruction requests are set forth in Uniform Trial Court Rule 6.060 and Multnomah County Supplementary Local Rule 6.015(4). Unfortunately, it seems to be unusual instead of common for a trial lawyer to understand her/his obligation to comply with these rules.

UTCRC 6.060(1) and (2) require that jury instruction requests be submitted in writing, an original and one copy for the court, and that they be delivered concurrently to opposing parties. SLR 6.015(4) requires that they be submitted to the trial judge “by noon of the day of trial assignment at daily call by the presiding judge.” If the trial assignment is made after daily call, they need not be submitted by noon on the day of assignment. Practice tip: bring your proposed jury instructions, verdict form, trial memorandum, etc. to daily call with you, so you can deliver them to the assigned judge before you leave the courthouse after call.

In civil cases, it is very common for lawyers to request both UCJI 13.01, Pleadings and Issues, and UCJI 13.02, Summary of Pleadings Not Evidence (To Be Used After Summarizing Pleadings). But, it is very rare for a lawyer to actually submit with these requests a proposed summary of the pleadings for the judge to read to the jury. It is a



waste of everyone’s time for the lawyers and the judge to try to work out an agreed summary of the pleadings right before trial or right before the judge instructs the jury. Practice tip: the lawyers should confer in advance, agree on a summary of the pleadings, and submit to the court an agreed upon summary of the pleadings along with their jury instruction requests.

Another common problem with jury instruction requests is that when a lawyer requests a uniform jury instruction, the lawyer does not include in the request the material that is to be filled into any blanks in the uniform instruction, and/or does not include in the request which of several alternative choices in the uniform instruction the lawyer is requesting. UTCRC 6.060(3) requires this variable information be submitted to the court with the request for any uniform instruction.



By Marc Abrams, Oregon DOJ, Trial Division and Court Liaison Committee member.

Presiding Judge’s Report

Judge Koch informed the committee that Judges Beckman and Welch will be stepping down at the end of the year and that Judge Bergman will be retiring early in 2007. Judge Koch described the recently revamped MBA screening process, in which individuals considered “highly qualified” now retain that ranking for three years.

Doug Bray reminded the committee that the Civil Bench/Bar roundtable is set for December 14 during the lunch hour in the Presiding Judge’s Courtroom. The brown bag is a chance for judges and practitioners to talk to each other about matters of mutual interest.

Judge Koch reported on the jointly sponsored MBA/Circuit Court Open House for legislators and candidates held on October 25 in the courthouse. This was the fifth annual legislative open house. The open house featured a forum focusing on sentencing and the absence of resources for alternative sanctions to jail or prison.

Judge Koch announced that Judge Adrienne Nelson will be taking a family court assignment to replace Judge Elizabeth Welch. Judge Nan Waller has been named Chief Family Law Judge and Judge Tennyson will be the Chief Probate Judge. Judge Tennyson will oversee probate cases in addition to her other

responsibilities as a member of the Family Court, and probate will remain a part of the Family Court’s responsibility.

Old Business

Judicial Practices Survey: The judicial practices survey subcommittee reported that they will meet with Judges Wittmayer and Wilson. The feedback they have received from the judiciary so far is that the current survey is too long, and, as a result, they have a shorter draft. The subcommittee will provide the committee with a report and a draft of the survey at the next meeting.

Another Successful Legislative Open House

Wednesday, October 25, the Multnomah County Circuit Court, with the assistance of the MBA, held its fifth joint annual Legislative Open House. Sentencing options were reviewed with candidates and legislators, who took to the jury box to assist the “judge” in sentencing a “defendant” in a role-playing exercise. Thanks to Judge Jean Maurer for coordinating this well-received event.



Another Successful Absolutely Social

About 200 lawyers, judges, sponsors and law school students gathered at The Benson Hotel on October 19 for the fall “Absolutely Social” Social - The Grape Escape. The event featured wine tastings from three Oregon wineries. Thank you to Albert Menashe and David Markowitz for selecting the wines. Canned food and cash donations were collected for the Oregon Food Bank - thanks to all those who contributed!

Thank you to the generous sponsors

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Andrew Schpak, Amber Hollister, Lainie Dillon and Megan Walseth



Troy Moody, Marsha Naegeli, David Markowitz and Renee Stineman

Judges Gernant and Wyers Retire from Bench

By Stephen Madkour, Multnomah County Attorney's Office and Court Liaison Committee member.

Earlier this year, Multnomah County Circuit Court Judges David Gernant and Jan Wyers announced their retirements from the bench. The MBA extends its thanks and appreciation to both Judge Gernant and Judge Wyers for their years of service to the bench, the bar and the citizens of Multnomah County.

Judge David Gernant began his judicial career in Washington County where he served as a pro tem judge. He began his service in Multnomah County in 1993 when he was appointed to the district court by Governor Roberts. He subsequently was elected to the circuit court.

Judge Gernant is a Michigan native. He attended Western Michigan University and attended Harvard Law School where he studied evidence with (now) Supreme Court Justice Stephen Breyer. Judge Gernant's public service began shortly afterwards through a position with the US Department of the Interior, and then serving as legal counsel to the Oregon Appellate Courts and state court administrator. He later was in

private practice, primarily as an appellate attorney. Throughout his career he remained heavily involved in local politics and community events, including as a precinct commander and a gay rights advocate.

Judge Gernant is quick to admit that being a judge is a "wonderful job" and reflects on his years on the bench as "very satisfying." He will miss the community and atmosphere at the courthouse, "it's a very friendly group and we are all very proud with what we are doing."

Although he has retired from the bench, Judge Gernant "wants to do more" and expects to stay active and involved. Toward that end, he plans to explore possible employment opportunities in either charitable or political organizations. The first order of business, however, is to finalize his travel plans. At his retirement party, a world map was posted identifying Judge Gernant's more immediate destinations, which include Mexico, Morocco, Spain, France, Amsterdam and then two months in Vietnam and its surroundings. True to form, on his first official day of

retirement, he returned to his home state of Michigan to visit family and friends. Gernant also looks forward to spending more time with his children and grandchildren, as well as reading, culture and mastering the game of bridge.

Judge Jan Wyers has also retired from the bench. He was raised in Hood River, where both his parents were actively involved in community affairs. His father was a state legislator, district attorney and judge, while his mother was active in a number of community affairs. Judge Wyers, in turn, has devoted much of his professional life to public service in Oregon, having first served in the Oregon Senate for 12 years and then later being elected to the bench in 1998. He graduated from the U of O and Lewis & Clark Law School.

During his tenure on the bench, Judge Wyers cites the Naito family dispute as the most publicized case over which he presided. He recalls the case settling after having ordered the parties to attend counseling. During his tenure, he was also appointed to the judicial outreach committee by Judge Koch. Judge Wyers reflects with

great satisfaction in having helped shepherd in the judicial outreach program within the county. "You really need to increase community involvement. The courts are part of that team, we are not just calling the balls and strikes."

Since retiring in July, Judge Wyers has taken time to enjoy his family and friends. He was especially pleased to have the time to celebrate his mother's 90th birthday. Retirement has also afforded Wyers the time to enjoy his other interests, such as gardening, golf and reading. He states that "so far it doesn't feel like retirement; it's more like a sabbatical." Not surprisingly, he remains active in the law and has already served as a mediator in a case. Wyers views his time on the bench as an incredible opportunity, calling it the "highest honor."

The retirement of Judges Gernant and Wyers resulted in two of the three open seats on the Multnomah County Circuit Court that were filled by this month's mid-term election. Leslie Roberts was elected to fill Judge Wyers' vacancy and Cheryl Albrecht was elected to Judge



Judge David Gernant



Judge Jan Wyers

Gernant's vacancy. This year has seen an unusually high number of judges electing to retire. In addition to the Judge Gernant and Judge Wyers retirements, Judges Elizabeth Welch and Douglas Beckman have also announced their retirements.

On Growing Old

By Randall Kester, Cosgrave Vergeer Kester
Written on the occasion of his 90th birthday, October 20, 2006.

Old age is a drag. Of course there is truth in the old saying that "It's better than the alternative." But it's still a drag.

It has some good features. People are nicer to you when they see your grey hair – or maybe it's because they see you using a cane. They smile at you when they meet you as you totter along the street – or maybe it's just that they find it amusing. They offer you precedence at doors and on elevators – but stay clear of those revolving doors! They get you wheelchairs at airports. Sometimes they give you reduced prices. And some of them even listen respectfully when you speak. But it's still a drag.

When a major focus of your life has been outdoor physical activity, such as hiking, climbing, skiing, bicycling, canoeing, whitewater rafting, and the like, it is deeply depressing to be unable to participate as formerly. And that's apart from the pain and disability that prevents such activities. It's tough to be reluctant to drive at night, thus missing out on concerts, shows, parties and meetings that you'd really like to attend. And it's mighty inconvenient to need a cane and hearing aids. When part of your culture has been helping others, it brings embarrassment and even a little guilt to be accepting help from others. The exchange of dexterity for clumsiness and self-reliance for dependence is no bargain.

To some extent, the diminished physical activity can be balanced off by maintaining mental activity – more reading, maybe a little writing, and continued attendance at the office notwithstanding retirement. But while this may stave off mental deterioration, it's not a complete substitute.

When you forget a friend's name, or can't remember why you came into this room, you wonder "Is this the beginning of Alzheimer's?" And when your trembling hand spills the coffee,

you think "Is this Parkinson's?" When your loving spouse says "Relax and accept it," you respond, "Of course, what else can I do?" But you don't have to like it. It's still a drag.

As somebody famous (whom I can't remember) once said: "Old age is not for sissies." But there are times when the pure joy of living makes it all worthwhile, especially with a loving family.

Old age is no place for sissies.
Bette Davis



Randall Kester (MBA President, 1956-57) on a hike with his wife Rachael, 1941. Randall and Rachael recently celebrated their 90th birthdays and their 66th wedding anniversary.

2006 Oregon Minority Job Fair

On behalf of students from Lewis & Clark Law School, the U of O School of Law and Willamette University College of Law, we wish to thank the following employers for their participation in the 2006 Oregon Minority Job Fair.

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Special thanks to Perkins Coie for hosting this year's fair.

For information, contact Molly Allison, President, Minority Law Student Association, Lewis & Clark Law School, mallison@lclark.edu.

YLS Peer-to-Peer Program Ready for Second Annual Orientation

By Megan Welch, Parsons Farnell & Grein and YLS Professional Development and Education Committee member.

On January 25, from 5:30-7 p.m. at the Red Star Club Room, the YLS Professional Development and Education (PDE) Committee will be hosting its annual program orientation for the Peer-to-Peer Program. This is the third year for the program and the PDE Committee is expecting it to be a continuing success.

The Peer-to-Peer Program was created by the PDE Committee in the hope of providing an alternative forum for young lawyers and those who are new to the legal profession to solicit advice from and provide support to their contemporaries. The goal of the program is to facilitate the formation of groups of mature and young lawyers who, besides having in common their status as new lawyers, practice in the same area of the law. This year there are eight groups that participants can choose from: Estate Planning, Business Litigation, General Civil Practice, Criminal Law, Employment Law, Defense Litigation, Business and Corporate Law and Mature New Lawyers. Of course, another goal of the program is to provide busy new lawyers with an excuse to get out of the office and meet their peers in a casual setting.

By bringing together new lawyers with similar practices, the program creates a support network for those who participate. Group members are there to answer questions about anything from keeping track of billable hours and what to expect in annual performance reviews, to the best way to allocate income and loss among partners or the appropriate form for a particular

pleading or motion. These may be questions that new lawyers in big firms feel uncomfortable asking their co-workers, or questions that sole practitioners have no one else to ask.

The role of the PDE Committee at the program orientation is to help each group get off of the ground. At the event, groups will get a chance to meet for the first time and talk about what it is that they want to get from the program. A PDE Committee member will work with each group and assist in the development of a communication or meeting structure that works

best for the group's members. In the past, groups have set up a listserv or an interactive Web site to facilitate communication between group members. Other groups found it helpful to schedule a monthly time to meet for lunch or drinks. The form of the group's interaction and how it develops over the year is shaped by the needs, interests and desired level of involvement of its members.

If you are interested in joining the Peer-to-Peer Program, please contact Noëlle Saint-Cyr at the MBA, noelle@mbabar.org or 503.222.3275.

The YLS professional development and Education (PDE) committee announces the second Annual 2007 Peer-to-Peer program orientation

What: An opportunity for young attorneys and those who are new to the legal profession to join a group of their peers to provide support to each other in the practice of the law. The YLS PDE Committee will facilitate each group's start-up and assist each group in developing a structure that best fits the needs of the group's members.

Why: To provide a forum for attorneys to expand their social network, connect with their contemporaries who practice in the same area of the law and create an informal support network.

When: Thursday, January 25, 2007 - 5:30 to 7 p.m.

Where: Red Star Club Room, located at SW 5th and Alder in downtown Portland

RSVP: To Noëlle Saint-Cyr at noelle@mbabar.org with your group choice

Groups: Estate Planning, Business Litigation, General Civil Practice, Criminal Law, Employment Law, Defense Litigation, Business and Corporate Law, and Mature New Lawyers

Appetizers will be provided; no-host bar

Second Annual YLS/OMLA Joint Social

Approximately 75 young lawyers gathered together at Kells Irish Pub in October to enjoy the second annual YLS/Oregon Minority Lawyers Association (OMLA) joint networking evening. It was a very successful evening of socializing and enjoying tasty appetizers. Dennis Rawlinson, President of the OSB, gave a toast to all young lawyers, celebrating the profession. He noted the historic nobility of the practice of law - the profession of Abraham Lincoln - and advised young lawyers to continue in that noble tradition. Rawlinson ended with an Irish cheer, an appropriate close in light of the event's venue. YLS and OMLA plan to continue this highly successful joint social as an annual event.



Amy Miller, Amanda Austin, Robin McIntyre and Maite Uranga at the October 26 social.

celebrate the holidays with the YLS!

Gearing Rackner & Engle is sponsoring this year's MBA YLS Holiday Drop-in Social and Toy Drive on Wednesday, December 13 from 5:30-7 pm at Jax Restaurant and Bar in downtown Portland. Appetizers will be provided. Please come celebrate the holidays with other young lawyers and be sure to bring a new, unwrapped toy for the drive.



Welcome New Admittees!

The Annual New Admittee Welcome and Social was held on November 16 at Kells Irish Restaurant & Pub. The YLS Membership Committee with the aid and sponsorship of LexisNexis, welcomed the new admittees with a fun evening and an opportunity to learn about membership in the MBA. Also in attendance were YLS Board members, committee chairs and MBA staff. In a brief address, MBA President Peter Glade, YLS President Catherine Brinkman and the YLS Committee Chairs expressed their congratulations to the new admittees and encouraged them to become involved with the YLS.



New lawyers Andrea Knight and Rahna Epting were the winners of \$100 American Express gift checks from LexisNexis. Pictured here with Brett Hoffstetter of LexisNexis

YLS thanks LexisNexis for its continued support

On November 16, LexisNexis sponsored the New Admittee Social for the newest members of the Bar at Kells Irish Restaurant & Pub in downtown Portland. In addition to its generous support of the event, LexisNexis provides new attorneys with significant discounts. For more information on the services that LexisNexis provides, please contact Brett Hoffstetter at 503.490.7965 or brett.hoffstetter@lexisnexis.com.

Announcing First YLS Community Service Day at the Oregon Food Bank

What better way to ring in the New Year than working to end hunger in Oregon? Please join the MBA YLS Service to the Public Committee at the Oregon Food Bank on Thursday, December 7 from 6-8:30 p.m. or Saturday, December 30, from 9 a.m. to noon (family, friends, and children over the age of 16 are welcome). We will work to organize donations and prepare emergency food boxes. Over the coming year, look for additional MBA volunteer events at the Oregon Humane Society and Dove Lewis (in March/April), Friends of Trees (in May/June), and SMART (Start Making a Reader Today). These events are geared toward those attorneys who seek the satisfaction of making a tangible contribution without making a long term commitment. To sign up to volunteer at the Oregon Food Bank or for more information, email Amber Hollister at ahollister@perkinscoie.com.

Oregon's Leaders Speak Out for Legal Aid

On October 4, over 100 gathered for an Open House at the Multnomah County Legal Aid offices, which also marked the 70th anniversary of legal aid services in Multnomah County. Leslie Kay and MBA President Peter Glade presented awards to past Portland legal aid leaders. The event was sponsored by the Chief Justice, the OSB and the CEJ. Over 700 people attended similar gatherings around the state.



MBA President Peter Glade and Bill Kirtley. Photo by Mike Renfrow

The Hon. Adrienne Nelson emceed the Portland event. Senator Kate Brown joined Chief Justice De Muniz in making remarks about the importance of access to justice and the valuable work done by Oregon's 91 Legal Aid lawyers. The focus was on domestic violence, which represents over 40% of Legal Aid's workload. As Justice De Muniz, speaking at the Portland open house said, "When those

who are most vulnerable have access to the legal system, there is hope for justice."

Legal aid also took the opportunity to recognize a community partner, the Domestic Violence Enhanced Response Team (DVERT) for "its ongoing efforts to reduce the incidence of domestic violence

and its ripple effect in the community and the state." Twelve government and private agencies, including legal aid and the Portland Police Bureau, make up the DVERT team. Pro bono lawyers, who were honored at the MBA's luncheon, were also recognized for their important contribution in access to justice.

MBA Equality Committee Co-Hosts PSU Law Panel

On November 14, a diverse panel of distinguished judges and lawyers provided Portland State University students with a two-hour interactive discussion about the practice of law and the paths to becoming a lawyer. MBA's Equality Committee arranged for the panel while co-sponsors PSU Student Legal and

Mediation Services and the PSU Multicultural Center provided the forum and a well-stocked snack bar. The presentation coincided with PSU's Law School Fair, which is coordinated by the school's pre-law society and which invites law schools from across the country to visit and court prospective applicants.

For the second year in a row, the Hon. Adrienne Nelson graciously agreed to moderate the panel's discussion, and she was joined by the Hon. Marilyn Litzenger, and attorneys Suzanne Townsend, Melvin Oden-Orr, Mark Wada, Mark Johnson, Nathan Vasquez and Jeff Jones. Each panelist gave the students an overview of his or her own personal path to and through the law. Their individual circumstances were varied, compelling and downright fascinating. As panelist Mark Wada could not help but remark: "It's amazing what you learn about your colleagues when you participate in events like this." The panelists also answered questions from the audience about what law school was like for them and identified things that they learned in law school that they wished they had known before embarking on that educational experience.

The MBA Equality Committee promotes equality in the legal profession and endeavors to identify ways in which the MBA can promote diversity in the practice of law in the Portland metropolitan area.



MBA panelists, including moderator the Hon. Adrienne Nelson (standing) at PSU's recent "Changing the Face of Legal Practice" panel discussion

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2007 MBA Professionalism Award Nominations Sought

Do you know a lawyer who is a joy to work with, someone who goes above and beyond the minimum professionalism standards? Nominate him or her for the 2007 MBA Professionalism Award.

Past recipients are Raymond Conboy, Thomas H. Tongue, Randall B. Kester, Frank Noonan Jr., Donald W. McEwen, Don H. Marmaduke, Noreen K. Saltveit McGraw, Thomas E. Cooney, John D. Ryan, George H. Fraser, Barrie Herbold, Walter H. Sweek,

Daniel E. O'Leary, Mark R. Wada, Sandra A. Hansberger, Robert C. Weaver, Walter H. Grebe and Susan M. Hammer.

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



Peter Glade congratulates Susan Hammer on receiving the 2006 MBA Professionalism Award

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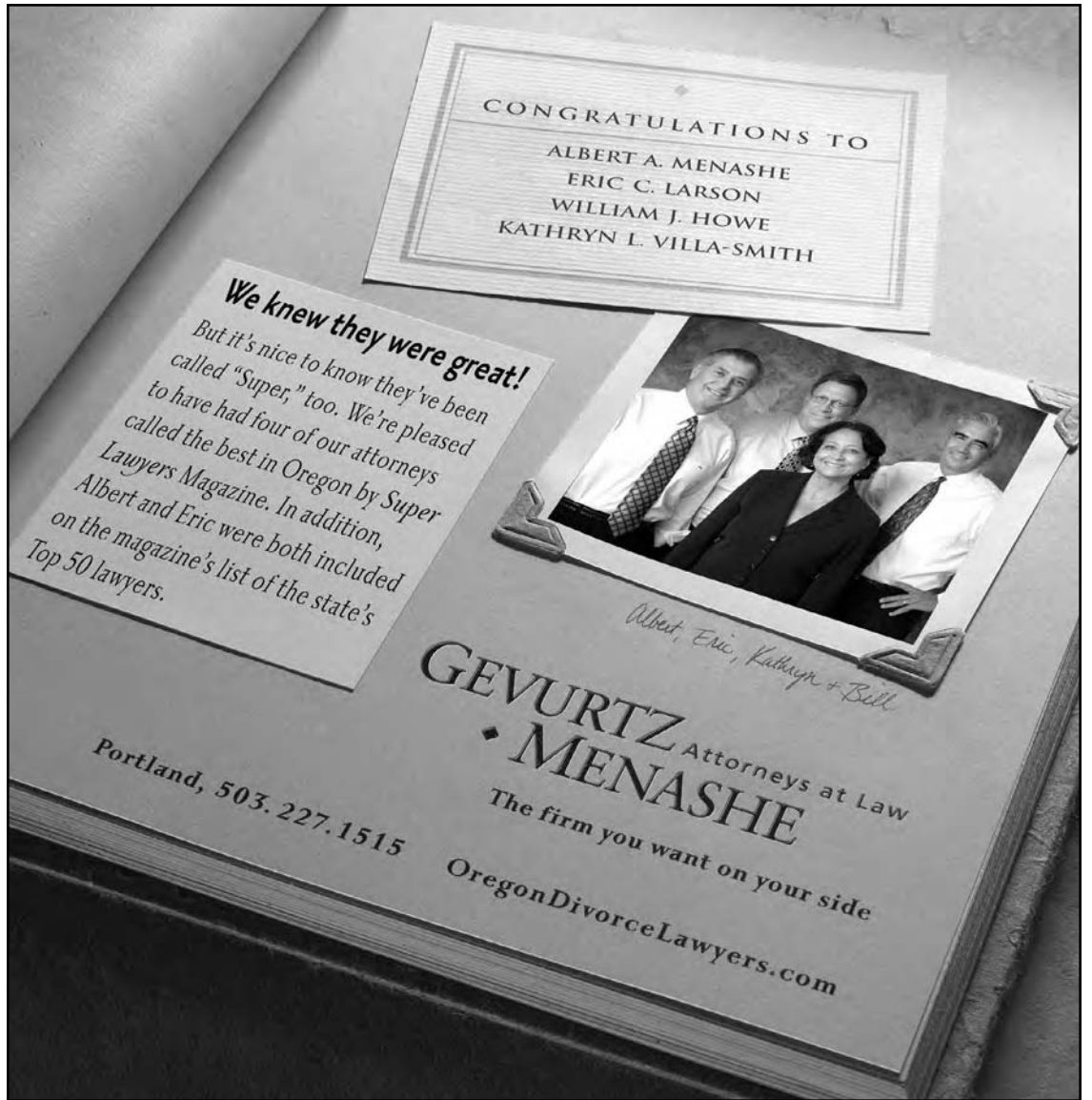
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Community Gift Fund, as well as assisting CourtCare's annual fundraising drive.

Please consider a generous charitable contribution to the *Multnomah CourtCare Fund* or the *MBA 100th Anniversary Community Gift Fund*. A contribution to the *Multnomah CourtCare Fund* helps support the operations of this unique drop-in childcare facility that provides a safe and enriching place for children while allowing efficient courtroom proceedings. A donation to the *MBA 100th Anniversary Community Gift*

Fund will help promote civic education and participation through expansion of programs like the Classroom Law Project "We the People" civics education curriculum. You may also direct your gift to wherever it is most needed.

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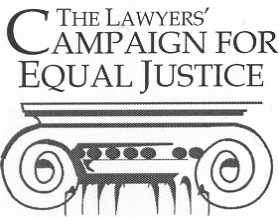
1906 - 2006

The Campaign for Equal Justice

By Sandra A. Hansberger, CEJ Executive Director.

The Campaign for Equal Justice (CEJ) works to support statewide legal aid programs that serve

Oregon's most needy and vulnerable populations. The largest number of cases is in the area of family law - the majority involving domestic violence. The campaign's mission is to champion access to justice for low-income Oregonians through public education and by working to increase funding for legal aid by means of grants, state and federal support, direct fundraising from private lawyers and by building an endowment. The Oregon legal community has responded generously, helping the campaign to raise more than \$12,000,000 since 1991.



Henry Hewitt, Stoel Rives, a founder and Chair of the Campaign's board for 15 years says, "The Campaign for Equal Justice is every lawyer's campaign. What's remarkable about this campaign is that



Henry Hewitt, Roberta Cooper Ramos (ABA President) and Katherine O'Neil in 1996

it brings lawyers together - it unites us around principles we all believe in."

The campaign began in 1991. Lou Savage (then the Director of Multnomah County Legal Aid) and Ira Zarov (then Director of Oregon Legal Services) hired Linda Clingan, a development expert, to investigate raising money from private lawyers. They approached Henry Hewitt with the idea of asking the private bar to help and he agreed.

The Campaign leadership was charged with making a case to the Oregon legal community that it was a time-honored duty of lawyers to serve the poor. A number of campaign leaders had begun their law careers working in the civil rights movement. Don Marmaduke, Stephen Walters and others brought to the campaign a deep belief in the importance of civil legal services to the lives of the most vulnerable including poor families, people with disabilities and the elderly.

Campaign leaders in 1991 included Ernest Bonyhadi, Vernon Gleaves, Justice Arno Denecke, Joseph Penna, Allan Leedy, Dori Schnitzer, Lindsay Stewart and Jeffrey Foote. In 1991 the firm of Garvey

The Committee on the Status of Women in the Profession policies were adopted unanimously by the Board.

July 5, 1989 MBA Board Minutes

Schubert & Barer became the first to achieve contributions of \$200 per attorney. That same year, the Meyer Memorial Trust awarded the Campaign Board a three-year challenge grant. As a result of the first annual fund drive, legal aid was able to expand outreach in rural areas and to other hard-to-reach populations.



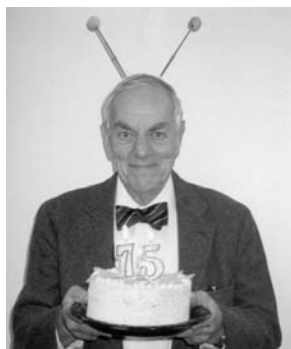
Attendees at the 2004 Open House in the Federal Courthouse

From the start, Multnomah County lawyers and firms formed the backbone of the CEJ. The Advisory Committee and the volunteer structure represented by members of Portland's law firms, corporate counsels, trial lawyers and women lawyers has been key to its success.

In 1995 Congress once again made deep cuts to federal funding for legal aid. Across the country, state legal aid programs searched for ways to preserve legal services to the poor. The CEJ emerged as a national leader because of its success in uniting the private bar to support legal aid.

The next year, the CEJ became an independent 501(c)(3) nonprofit. That year the MBA, along with the OSB, hosted open houses all across Oregon, inviting communities into legal aid offices. The tradition continues. In October 2006, Chief Justice Paul De Muniz spoke in Portland and joined leaders throughout the state in talking about the importance of access to justice. "When those who are most vulnerable have access to the legal system," DeMuniz said, "there is hope for justice."

Lawyers' obligation to serve the poor is serious business, but the campaign's aim is to have fun while uniting lawyers to pursue the cause. In 1999, when lawyers gathered at the first Access to Justice Conference to discuss how to increase legal services to the poor, they launched a series of legal aid musical sketches. The first, "Leave it to the Beaver State," featured attorney Ed Harnden as 'the Beav' with a cast including Katherine O'Neil, Sid Lezak,



Sid Lezak celebrates his 75th birthday in 1999



Ed Harnden, Carla Mikkelson and Sid Lezak ready for their skit at the Access to Justice Conference in 2002

Sandy Hansberger, Hon. Robert Wollheim and Hon. Ellen Rosenblum.

The 1999 Annual Campaign featured a roast in celebration of Sid Lezak's 75th birthday, 50th wedding anniversary and 50th year as a lawyer. Attendees donned Martian antennae and played kazoos in the Governor Hotel's grand ballroom. Sid announced, "I am willing to have my humility tested in the interest of my profession's greatest unmet obligation - to provide competent legal assistance to those who are priced out of the market for our services." The fun continued in 2004 and 2005, when FIOS, Inc. and other businesses sponsored LAF-OFF, a fundraiser for legal aid where lawyers competed as standup comics.



Emily Simon, dubbed the "Queen of Comedy" at LAFF-OFF, 2005

In 2000, the Legal Needs Study conducted by the OSB, the Oregon Judicial Department and the Office of the Governor yielded sobering results: Oregon's legal aid programs were meeting less than 20% of the legal needs of Oregon's low-income population. Lawyers understood that there was work to be done. At the Campaign's Annual Awards Luncheon that year Senator Gordon Smith said, in part, "...my commitment to ... [legal aid] is to have an open door, an open mind and a big heart and to work with you

(Continues on next page)

A Century of Service Historic Pullout: Law Organizations

By Judy A. C. Edwards, Executive Director.

The December, and our last, *Multnomah Lawyer* historic pullout focuses on law-related organizations. You will find a wide range of groups featured, from the Oregon Women



Lawyers which grew out of the MBA Committee on the Status of Women in the Profession, to the Campaign for Equal Justice, Association of Oregon Black Lawyers, Legal Marketing Association, Oregon Criminal Defense Lawyers Association, Oregon Advocacy Center, Oregon Association of Defense Counsel, Oregon Minority Lawyers, Oregon Trial Lawyers and the Oregon Hispanic Bar Association. We also included a short history of the juvenile court in Multnomah County to round out our historic stories.

We thank all who contributed to this issue and all previous ten historic pullout issues. We hope our readers have enjoyed reading them.

If you would like to write an article for the *Multnomah Lawyer*, please contact me at judy@mbabar.org. Our readers especially enjoy reading profiles of colleagues, and tips on points of law, analysis of trends in law and essays on issues in the profession.

A Brief History of 100 Years of Juvenile Court In Multnomah County

June 10, 2005 marked the 100th Anniversary of Juvenile Court in Oregon. One hundred years before, on June 10, 1905, 12 year old Oliver B. became the first child to appear before a juvenile court judge in Oregon. He was found to be a "bad boy and a truant" by Judge Arthur Frazier and placed on probation.

Oliver B's appearance in juvenile court was the culmination of years of work by charitable and community organizations, social workers, judges and police. These Oregonians wanted Oregon to join the growing movement to establish specialized courts to address the needs of children. Their belief was that it "wiser and less expensive to save a child than punish a criminal." Support for creation of a juvenile court came from recognition of the "need for increased social control of these children affiliated with malfunctioning families and neighborhoods The social behavior of these children was held to evidence the disorganization of many Oregon families, through social change or a decline in the rules of behavior."

In 1905, Oregon became the thirteenth state

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OR Chapter National Bar Association

The Oregon Chapter of the National Bar Association (OC-NBA) began as the Association of Oregon Black Lawyers (AOBL) in 1980. In the 1980s, AOBL sponsored a chess tournament at its annual meetings. John Toran was the founder of the tournament and the proceeds went to the AOBL Law Student Scholarship Fund.

The late Clifford Freeman, who was an active member of AOBL and a Multnomah County Circuit Court Judge, was on the steering committee of the OSB that developed the Affirmative Action Program.

The late Armonica Gilford was President of AOBL from 1994-1996. She was a well-known and respected Oregon lawyer who was the first African-American woman to work for the Oregon Department of Justice. She was also a jazz singer and ski instructor.

Under Armonica's leadership of AOBL, the Ebony and Ivory Scholarship Benefit and the AOBL Golf Tournament continued and became more successful. Cedric Brown was the coordinator of the organization's golf tournament during this time. From 1994-1996, (now) Hon. Adrienne Nelson served as treasurer and Okianer Christian Dark served as secretary of the organization.

In 1997, AOBL transitioned to the Oregon Chapter of the National Bar Association. Clarence Belnavis was President during the transition; other officers were Ulanda Watkins, Vice-President, Reginald Nettles, Treasurer, Melvin Oden-Orr, Secretary.

The OC-NBA objectives are as follows:

1. To advance the science of jurisprudence of the Judiciary of Oregon and the nation; to uphold the honor and integrity of the legal profession; to promote professional and social interaction among the members of the Oregon State Bar, as well as law students; to promote legislation that will improve the social and economic condition of all Oregonians regardless of race, sex or creed, with particular emphasis on the condition of African-Americans; and to protect civil and political rights of the citizens and the residents of the State of Oregon;
2. To further advance the objectives of the National Bar Association (NBA) by serving as an Affiliate Member;
3. To encourage and promote academic excellence among law students, with particular emphasis on the condition of students of African ancestry;
4. To increase the representation of African-Americans in the legal profession; and
5. To serve the Oregon community consistent with our goals and objectives.

Melvin Oden-Orr served as OC-NBA's President from late 1997-1999. The Ebony and Ivory Scholarship Benefit continued with (now) Hon. Adrienne Nelson chairing the benefit in 1999.

In 2000, James Davis became President of the organization. From 2001-2003, there was no elected officer of the organization. Melvin Oden-Orr maintained contact with the African-American lawyers in Oregon.

In 2004, Kellie Johnson was elected President of OC-NBA and the Ebony and Ivory Scholarship Benefit continued; other officers were Maurisa Gates, Secretary and Melvin Oden-Orr, Treasurer. The Judge Roosevelt Robinson Humanitarian Award was established in 2004 and presented posthumously to the late Judge Roosevelt Robinson.

2006 officers are Gregory L. Gudger, President and Joshua Williams, Secretary.

For more information, contact Gregory Gudger at dcglg@hotmail.com.

CEJ

(Continued from previous page)

to find more social justice." Both Senators Smith and Wyden have continued their bi-partisan commitment to funding for legal services for the poor.

Portland lawyer Sandra Hansberger was named Executive Director of the Campaign in 2005, and in 2006, Ed Harnden, former MBA President, became Chair of the Board of Directors. For the campaign's 15th anniversary, with the help of the Meyer Memorial Trust, the campaign raised an historic \$1 million in its annual fund and another \$344,000 in grant money for legal aid. The campaign received an award from the ABA for leadership in encouraging bi-partisan support for legal aid.

Because of the ever-shifting tides in the sources that fund legal aid and the increasing poverty rates, Oregon still meets less than 20% of legal needs of the poor. The Campaign continues to call on Oregon lawyers so that someday we will do better than 20%.

Legal Marketing Professionals Find Support in a National Organization

By Julie Zola.

Legal marketing is no longer a well kept secret. Most large firms have robust marketing departments with marketing leaders and professionals who specialize in various disciplines, including graphic design, public relations, database management and event planning.

As clients become more and more savvy about the choices they have for quality legal services in the marketplace, lawyers have begun to understand how critical it is to nurture client relationships, listen to clients' needs and raise the law firm's visibility in the community. Maintaining loyal clients takes a significant, solid investment of resources. Today, lawyers and law firm leadership know that in order to stay competitive, they must learn how to effectively market their services. Business development has become a requirement and the role of legal marketing professionals is more important than ever.

Legal marketing professionals often find themselves alone in a large firm – working hard to prove their value and demonstrate measurable return on investment. The Legal Marketing Association (LMA) has provided the support and resources that are vital to the success of these professionals.

The LMA, founded in 1985, provides a solid foundation for legal marketers. Headquartered in Illinois, LMA is a nonprofit organization dedicated to serving the needs and maintaining the professional standards of the men and women involved in marketing within

the legal profession. Members are law firm partners, marketing professionals, consultants and vendors who support legal services marketing. One of the principal goals of LMA is to provide its members with vital and timely information on a wide variety of legal marketing issues so that they may grow professionally as well as personally, and are empowered to build successful practices in today's competitive legal marketplace.

Marceline O'Connor Johnson, founding LMA member and marketing professional at Schiff Hardin & Waite, stated it succinctly: "The Legal Marketing Association was founded with the idea that the individuals working to market legal services needed a forum to share and exchange ideas with each other. That basic principle holds true today. LMA is a vital resource - a lifeline - for anyone working in the marketing of professional services. You simply can't be in this profession without being a member of the Legal Marketing Association."

Marketing has found its place in the legal industry. It is still evolving, but at a rapid pace. It is important for law firm leaders and marketing professionals to know there is a group of experienced, talented people who can serve as an excellent network for ideas and strategies. LMA has opened its doors and asks legal marketers to step inside.

For more information, go to www.legalmarketing.org.

Julie Zola, Marketing Director for A&I Benefit Plan Administrators, spent six years as a law firm marketer prior to joining the insurance industry. She can be reached at julie.zola@aibpa.com or 503.242.1613.

Oregon Gay and Lesbian Law Association

By George V. Eighmey.

Oregon Gay and Lesbian Law Association (OGALLA) is an organization whose members include lesbian, gay, bisexual, straight and transgender lawyers, judges, legal workers and law students who support the association's purposes.

The organization was founded in 1991 to create a statewide group to support the needs of sexual minorities in the legal profession. OGALLA has approximately 150 members statewide and is associated with the National Lesbian and Gay Law Association, an affiliate of the ABA and is recognized by the OSB.

OGALLA endorses candidates for judicial elections or appointments and is on Oregon's Governor's list of organizations from which he seeks recommendations for judicial appointments.

OGALLA holds an annual dinner to honor and recognize the outstanding achievements of the members of our community.

For more information about the organization, contact George Eighmey at or@compassionindying.org.



Mary Overgaard, Michael Edgel, Hon. Jean Dubofsky, Yi-Kang Hu, Jeff Payne and FG (Jamie) Troy at the 2005 OGALLA Annual Dinner

Oregon Criminal Defense Lawyers Association

Late in the summer of 1978 a handful of public defenders gathered to kick around the idea of forming a professional association whose purpose would be to educate public defenders, represent the defense perspective in the legislature and provide a forum for the exchange of ideas. This wasn't the first time this notion had been raised, but funding issues had always sidelined previous efforts. This time two established public defenders, Jim Hennings in Multnomah County and Bob Larson in Lane county cobbled together a Law Enforcement Assistance Administration (LEAA) grant application and submitted it to Lane Council of Governments (LCOG) criminal justice planning division. Even though LEAA was primarily in the business of funding police and prosecutor projects, the defender group managed to squeeze \$30,000 out of the grant program to launch the Oregon Public Defenders Association (OPDA). With seed money in hand, the first order of business was to find someone to run the show. After some poking around, the newly formed OPDA Board of Directors, presided over by Bob Larson, convinced John Potter that it was time for a career change. At the time Potter was the director of the criminal justice planning division at LCOG that helped secure LEAA grant funding. It's now the fall of 1979.

With youthful exuberance the five member board of directors and the newly hired executive director set off to recruit members, create quality educational seminars and establish a presence in the defense community. The first "Annual Conference" was held at Sunriver in 1980 and eight months later the name of the association was changed to the Oregon Criminal Defense Lawyers Association to more accurately reflect the growing membership by the private bar. By the end of LEAA's two year funding cycle the association was able to claim self sufficiency and for the past 26 years has remained solvent.

Today OCDLA supports over 1200 members, sponsors 10 or 11 CLEs a year, publishes half a dozens trial manuals, issues six member newsletters a year and 24 issues of the *Criminal Law Newsletter*, has a lobbying presence in the capitol, and maintains a Web site, listserves, resource libraries and an expert witness data base. The original \$30,000 budget is now \$600,000 and Potter, still there, has the assistance of three staff.

Those are the facts, a thumbnail version. But the history of this association, like most associations, is made of more than facts. Its history is its people and the deeds of those people. It's a history of people writing amicus briefs to right wrongs; of taking action to get the state to improve conditions on death row; of educating legislators and the public; of speaking to civics classes; of attending countless board meetings discussing policy issues and working on budgets; of writing articles for newsletters and chapters for trial books or even an entire book; it's a history of giving. The spirit and dedication of those who choose to practice in the adult and juvenile justice systems is reflected in the history of OCDLA, for it is the people that make the association what it is.

For more information, contact John Potter at jpotter@ocdla.org.

History of Oregon Women Lawyers

Interest in developing a statewide organization of women lawyers grew out of 1987-88 meetings of the MBA's Committee on the Status of Women, with Katherine O'Neil as chair. On February 20, 1988, the



Founding president Katherine H. O'Neil

Hon. Betty Roberts and Kathryn Augustson (now Root) co-chaired a day long seminar on Women and the Political Process that generated further interest. At the 1988 state bar convention in Eugene, the MBA committee joined with Queen's Bench, Lane County Women Lawyers, and the Mary Leonard Law Society to invite women lawyers to a breakfast to discuss formation of a statewide women's bar organization. That event, chaired by Janice Krem, president of Queen's Bench, and Diane Polsker, a charter member of Washington Women Lawyers, led to a brainstorming session in November, 1988 and establishment of Oregon Women Lawyers (OWLS) with the following purposes:

1. To promote equal rights and opportunities for women and minorities within the legal profession and the justice system;
2. To promote full participation of women and minorities in the organized bar and in the legislative and judicial branches of government;
3. To provide opportunities for women and minorities in the legal profession to support and educate one another;
4. To improve the quality and image of the legal profession in this state; and
5. To actively promote equality and fair treatment of all people within the legal profession and in society.

From the beginning, members have insisted that OWLS work actively to further the goals of women in the legal profession and in society. At the first annual conference on April 1, 1989, members adopted a resolution asking the OSB to establish a task force to study issues facing lawyers who must combine family and career responsibilities. The OSB Board of Governors adopted the resolution and the task force produced a comprehensive report, which received wide publicity and served as the first Oregon initiative aimed at fostering favorable changes in benefits and policies affecting working parents in the legal profession.

Katherine O'Neil served as OWLS' founding president. Succeeding presidents have included: Agnes Sowle, Kathryn

M. Ricciardelli, Diana Craine, Helle Rode, Phylis Chadwell Myles, Julie Levie Caron, Patricia L. Heatherman, Teresa M. Kraemer, Marilyn Litzenberger, Debra Pilcher, Lori E. Deveny, Elizabeth Schwartz, Sarah Crooks, Jennifer K. DeWald, Kate Thompson and Norma Freitas. Since its founding, OWLS' membership has grown to include more than 1,000 members. In 2004, the OWLS board amended the mission statement to reference the reason it is important to advance women and minorities in the law. The mission statement now reads: To transform the practice of law and ensure justice and equality by advancing women and minorities in the legal profession.



Norma Freitas, 2006 OWLS President

OWLS has used numerous means, including conferences, workshops, seminars, social events, informal networking, publications, a listserve, a cable access television show and law school mentor programs to offer practical help to women and men who endeavor to bring positive changes to the legal profession. Past continuing legal education programs have included such subjects as women in litigation, celebrating 25 years of women on the Oregon appellate courts, achieving success in a legal career, technology and the law, the Family & Medical Leave Act, rainmaking, associate retention, negotiating salaries and alternative work arrangements. OWLS maintains a Contract Lawyer Service, which provides educational and networking opportunities for contract lawyers who provide temporary or ongoing help with legal work.

Each year, OWLS hosts the Justice Betty Roberts and Judge Mercedes Deiz Awards Dinner. The Justice Betty Roberts Award, named after the Hon. Betty Roberts, the first woman on the Oregon Supreme Court, is awarded to an individual who has made an outstanding contribution to promoting women in the legal profession and in the community. Recipients of the award are the Hon. Betty Roberts (1993), Hon. Sid Galton (1994), the late Helen Althaus (1995), Norma Freitas (1996), Katherine O'Neil (1997), the late Barrie J. Herbold (1998), Elizabeth Harchenko (1999), Hon. Maureen McKnight (2000), Hon. Ellen Rosenblum (2001), Diane Rynerson (2002), Diana Craine (2003), Justice Susan Leeson (2004), Judge Ann Aiken (2005) and Sandra Hansberger (2006).

The Judge Mercedes Deiz Award, named after the late Hon. Mercedes Deiz, the first African-American judge in Oregon, is awarded to an individual who has made an outstanding contribution to promoting women and minorities in the legal profession and in the community. Recipients of the Judge Mercedes Deiz Award are the Hon. Mercedes Deiz (1993), Gayle Patterson (1994), Nargess Shadbeh (1995), the Honorable Edwin J. Peterson (1996), Armonica M. Gilford (1997), Okianer Christian Dark (1998), Hon. Janice R. Wilson (1999), Madelyn Wessel (2000), Lynn Nakamoto (2001), Marva Fabien (2002), Hon. Adrienne Nelson (2003), Leonard Girard and Pamela Jacklin (2004), Stella Manabe (2005) and Danny Santos (2006).

OWLS provides financial and program support to nine local chapters, which represent various geographic regions of Oregon. The chapters hold regular meetings and often invite speakers to discuss topics of interest to the local membership.

OWLS formed the Oregon Women Lawyers Foundation in 1996 as a charitable 501(c) (3) nonprofit to help facilitate the charitable activities of OWLS. The mission of the foundation is to educate the public and the legal community about the needs of women and minorities within the justice system. The foundation is administered separately from OWLS and has its own Board of Directors. Since its inception, the OWLS Foundation has provided scholarships to help single parents take the bar exam, given financial support to Multnomah County CourtCare, and many more causes that educate the public and the legal community.

OWLS is proud to sponsor a dragon boat team, the OWLS DragonFlies, which competes in the annual Rose Festival dragon boat races.



The OWLS DragonFlies team

The Oregon Hispanic Bar Association

The Oregon Hispanic Bar Association (OHBA) is a newly formed,



energetic organization with big plans for increasing diversity in the Oregon legal community. OHBA's goals include: encouraging Latinos to serve in the law, and to retain Latino legal professionals in Oregon, supporting and mentoring Latino law students and legal professionals in Oregon and promoting their advancement, and raising the awareness of Latino legal issues in the Oregon legal community.

OHBA grew out of an informal Yahoo group formed in 2002 to create a forum for discussion about the creation of an organization for Latino and Latina members of the Oregon State Bar. In 2003, three members of the yahoo group started meeting regularly, and in 2005, OHBA formally incorporated as a nonprofit organization. OHBA has now grown to more than 40 members. Each fall, OHBA sponsors a CLE in recognition of Hispanic Heritage Month. This year OHBA is holding its inaugural annual awards dinner on February 2, 2007 at the Embassy Suites Hotel in downtown Portland, and is pleased to announce Chief Justice Paul J. De Muniz as the honoree of its first annual Professionalism Award. Jimmie Reyna, President of the Hispanic National Bar Association, will be the keynote speaker. Oregon immigration attorney and OHBA member Michael T. Muñoz will also be recognized in memoriam for his great contributions to the Oregon legal community and Latino population.

Juvenile Court

(Continued from first page)

to enact juvenile court legislation. The 1905 Juvenile Court Act gave judges authority over both delinquent and dependent children. The term "delinquent child" included any child under the age of sixteen who violated any law, was a truant or who was growing up in idleness. Dependent children were defined as children abandoned or without proper parental care as well as those found begging, in a bawdy house or if under age twelve, singing on a public street. The Act passed easily for several reasons. First, there was significant public support for the idea. In addition, the Act required no funding and would only require a court in Multnomah County.

The last hundred years have seen changes not only in the juvenile court, but in the law as well. During the last century juvenile law has undergone a metamorphosis on many fronts in response to new challenges facing children and families, changes in social norms, evolving legal standards and new legislation. In 1905 the concern was to protect children from "bawdy" houses. Today, the concern is to protect children from the impact of the meth epidemic.

The early focus of juvenile court was not on establishing guilt or innocence but on reformation and guidance of young offenders. With the US Supreme Court's landmark decision *Gault*, decision juvenile offenders were afforded the same rights as adult criminal defendants. Legislative changes and appellate law has also changed the nature of dependency cases. Children and low income parents are routinely appointed counsel. In 1997 Congress passed the Adoption and Safe Family Act which mandated timeliness in developing permanent plans for children every child in foster care. Congress recognized that many children had languished in foster care for years.

Changes in the scope of juvenile court jurisdiction reflect changes in perspective on childhood as well as changes in social policy. The Juvenile Court Act of 1905 granted the court jurisdiction over children under age 16. This was later changed to age 18 to allow sufficient time to work with young offenders. Juvenile Court jurisdiction can now be maintained to age 21 for dependent children and age 25 for delinquent youth. In 1995 Measure 11 excluded youth age 15 and older charged with serious person crimes from the jurisdiction of juvenile court.

When it began, Juvenile Court consisted of Judge Frazier, the first juvenile court judge, and his bailiff. Now the work of juvenile court in Multnomah County is done by more than a dozen judicial officers and hundreds of lawyers, court counselors, social workers, parole officers, foster parents, Court Appointed Special Advocates, Citizen Review Board members and community providers. From its humble beginnings the Juvenile Court has grown to handling, in 2004, 777 new dependency cases involving 1356 children, and 2727 children charged with delinquencies.

Despite the changes, the commitment of the juvenile justice system to the welfare of children and families has never flagged. Juvenile court is as vital to our community today as it was a century ago.

A Century of Service MBA 100th Anniversary Celebration

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Oregon Advocacy Center

By Bob Joondeph, Executive Director.

In 1977, Oregon Advocacy Center (OAC, then known as Oregon Developmental Disabilities Advocacy



Center) was incorporated and designated by Governor Straub as *Oregon's Protection and Advocacy System* (P&A). The inspiration for a national network of Protection and Advocacy offices had been triggered by a series of television news broadcasts in which Geraldo Rivera exposed abuse and deplorable conditions at Willowbrook, a state institution for people with mental retardation on Staten Island.

These broadcasts moved New York Senator Jacob Javits to action. He worked to incorporate P&A Systems into the 1975 renewal of federal developmental disabilities legislation. This law provided that each state and US territory could designate an agency to receive federal funds to provide legal advocacy to individuals with developmental disabilities (severe disabilities that arise at birth or during childhood). The scope of P&A legal services was drawn rather broadly in the statute, but the main impetus for this new network was to protect people living in mental retardation facilities from abuse and neglect.

OAC opened its first office in downtown Portland in 1977 with Gerald LaBosco as its first Executive Director. The primary focus of the office at that time was to address abuse and neglect at Fairview Training Center and Eastern Oregon Training Center and to assist children to obtain adequate special education services. The office's first staff attorney (and second Executive Director), Steve Brischetto, was an active litigator. Among his victories was a Ninth Circuit opinion in *Kerr Center Parents Assoc. v. Charles* that established state responsibility for funding the education of children in a residential program.

In 1986, OAC doubled its federal funding when Congress designated P&A Systems to provide advocacy services to people who were disabled as a result of mental illness. That same year, under the leadership of Executive Director Elam Lantz, OAC initiated litigation against Fairview Training Center for its failure to keep residents safe from harm. The litigation soon involved the U.S. Department of Justice and led to a Settlement Agreement which ultimately resulted in the closure of that institution. Since 1993, Congress has seen fit to extend P&A services to all individuals with disabilities and to create special P&A projects to advocate for individuals who need assistive technology devices and services, individuals with brain injury and Social Security recipients who are experiencing difficulties in returning to work. Most recently, P&As were funded to advocate for individuals with disabilities who experience difficulties in voting.

OAC operates all of these federally-funded programs as well as the Client Assistance Program that advocates for clients of vocational rehabilitation providers and the Work Incentives Planning and Assistance Project that provides benefits planning services for Social Security beneficiaries who want to return to work. These programs serve the entire state of Oregon from OAC's main office in Portland and its satellite offices in Salem and Central Point.

Staff members include attorneys, paralegals, intake specialists, benefits planners and support. In 2006, OAC provided direct services to over 3500 individuals. OAC conducts policy advocacy through work with administrative agencies, legislation, community training, investigation reports and class litigation. It is also responsible, under state law, to oversee court proceedings governing nonconsensual sterilization and guardianships involving placement of a protected person in a mental health or developmental disabilities facility.

OAC litigation has resulted in the establishment of due process protections in temporary guardianship proceedings (*Grant v. Johnson*), improvements in staffing and conditions in state hospitals (*Charles B. v. Thorne*, *Harmon v. Fickle*), creation of new community placements for individuals with mental illness (*Miranda B. v. Kulongoski*, *Harmon v. Fickle*), the creation of a new public system that provides funds for self-directed services for individuals with developmental disabilities (*Staley v. Kitzhaber*), timely transfer of mentally ill inmates from jail to the state hospital for restorative treatment (*OAC v. Mink*), improved wheelchair access to movie theaters (*OPVA v. Regal Cinemas*), and many other advances to protect and promote the rights of individuals with disabilities.

OAC advocacy in the state legislature has helped to create a protective service system for individuals with mental illness and developmental disabilities, limitations on forced sterilizations, an advance directive for mental health treatment, a civil commitment diversion process, a wheelchair and hearing aid lemon law, prohibition of disability-based discrimination by state government entities and many other improvements in state law.

Since OAC's founding, many Multnomah County attorneys have sat on its Board of Directors, co-counseled litigation and collaborated on cases, trainings or policy advocacy. Without their assistance, many of OAC's accomplishments would have been impossible. Local attorneys also assist OAC through their contributions to the Lawyers' Campaign for Equal Justice that funds OAC, and through their IOLTA accounts which supports OAC through the Oregon Law Foundation.

Oregon Association of Defense Counsel History

By Robert E. Barton, OADC President.

The Oregon Association of Defense Counsel (OADC) was formed as a state-wide nonprofit professional association in 1967 by the Hon. Robert P. Jones,

James O'Hanlon, Thomas E. Cooney and other Oregon civil defense attorneys who wanted to create a forum to network with colleagues on defense issues. In the beginning, the meetings were relatively small and focused primarily on insurance defense issues. Quickly the group began to grow as defense attorneys saw the benefit of coming together to exchange ideas, trial tactics, and information on the current legal and legislative climate.



OADC Oregon Association of Defense Counsel

The organization was definitely grassroots as it was run entirely by a volunteer, hands-on, hardworking board for many years. One of the hallmarks of the association to this day is its strong and involved volunteer leadership. As an organization we are very proud of our leaders and particularly our past presidents whose time, energy and leadership have made the organization what it is today.

Over the course of time the association membership grew and expanded its focus to include other areas of civil defense work including: employment, professional liability, products liability, coverage, commercial, construction and others. Membership in the organization continues to grow and OADC's goal is to provide a unified voice for defense concerns in Oregon.

OADC activities focus on continuing legal education, opportunities to meet with judges and other bar groups, monitoring legislative activities, writing amicus briefs, practice group activities, newsletter, Web site and listserv and more. As we look to the future our leadership is focusing on developing long range, strategic plans that include topics such as more involvement in the civil justice system and managing practice diversification issues to name a few.

OADC is proud of its accomplishments over the years and for its active participation within the profession. We look forward to continued growth in membership and quality activities as well as continuing to be the voice for defense concerns in Oregon.

For more information about the OADC, contact President Robert Barton, rbarton@cvk-law.com.

Oregon Trial Lawyers Association

The Oregon Trial Lawyers Association (OTLA) was founded 53 years ago by a handful of claimants attorneys.



At the same time, these attorneys also founded what later became the Association of Trial Lawyers of American (ATLA).

Over the years the organization has grown and changed from a mostly social organization to an organization promoting attorney education and political activism for those clients the attorneys represent. OTLA and its member attorneys advocate for the rights of consumers by promoting safer products, workers' rights, access to quality health care, and eliminating discrimination in the workplace. Through education and training, OTLA attorneys subscribe to the highest standards of quality legal representation and ethical conduct. As attorneys who represent the interests of consumers, OTLA is a powerful voice for Oregonians' rights and equal access to justice.

The Oregon Trial Lawyers Association is a statewide organization of 900 attorneys who represent individuals and businesses in civil court. The organization promotes juries and jury service, and open access to the courts.

For more information, go to www.oregontriallawyers.org.

MBA 100th Anniversary Community Gift Fund

MBA 100th Anniversary Community Gift Fund Donors will be listed on a beautiful bronze plaque which will be displayed at the Multnomah County Courthouse, just outside the Presiding Judges' courtroom. To learn more, please contact the MBA at 503.222.3275.

The purpose of the fund is to increase civics education and participation and it will be administered by the newly formed Multnomah Bar Foundation. The MBA kicked off the fundraising campaign by committing \$50,000 to the fund. Listed below are those who have already made their generous donations or pledges.

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