



## What Do We Stand For?

by Tim Resch  
MBA President

In Lin-Manuel Miranda's musical *Hamilton*, Alexander Hamilton says (to Aaron Burr): "If you stand for nothing, Burr, what'll you fall for?" Burr tells Hamilton to "talk less, smile more. Don't let them know what you're against or what you're for." Hamilton and

Burr were both lawyers and politicians - and I'll do my best to stay out of politics and focus on the law. My question this month is what do we - as lawyers in Multnomah County - stand for?

I've heard anecdotally that our standards of professionalism are slipping. We have ethical obligations of candor to the tribunal (ORPC 3.3) and fairness to our opposing party and counsel (ORPC 3.4). Are these isolated incidents or are they happening more frequently? Is that a reaction to the pandemic? Or are lawyers reflecting more of what we are experiencing in society and politics? I suspect this month's column may include more questions than answers.

Two awards given each year by the MBA focus on diversity and professionalism in our profession. The Diversity Award is awarded "for the commitment to fostering and promoting diversity and inclusion in the legal profession." The MBA's Statement of Diversity Principles ends by reminding us that "we believe that all members of the bar should have the opportunity to participate equally and fully in our profession." Have I done enough in my career to ensure that all of my colleagues in the bar can participate equally and fully in our profession? The Professionalism Award is awarded "for the highest ethical standards and exemplary conduct in the practice of law and for making the practice of law more enjoyable." Shouldn't we all be striving to meet the highest ethical standards and make our practice more enjoyable?

It seems that the political polarization in our country is approaching record levels. I'll draw a parallel to one of my early professional experiences. I had the honor of spending almost five years working for the United Nations, as a trial attorney with the Office of the Prosecutor for the International Criminal Tribunal for the former Yugoslavia. While there I was exposed to the intense ethnic divisions that led in great part to the breakup of Yugoslavia, and more specifically to the civil war in Bosnia. Central to the Serbian ethos is the defeat of the Kingdom of Serbia in the Battle of Kosovo by the Ottoman Empire on June 30, 1389. Slobodan Milošević gave a famous speech in Kosovo just before the 600th anniversary of that battle, and used it to inflame ethnic tensions and propel his political prospects. For the 27 years he was in power, Tito suppressed those historical ethnic tensions with a commitment to "Brotherhood and Unity." Ethnicity (Serbs, Croats, Slovenes, and Bosniaks) was kept just below the surface in Tito's Yugoslavia. A decade after Tito's death, politicians embraced those repressed ethnic tensions and used ethnic hatred and propaganda to advance their political interests. The result was

**I've heard anecdotally that our standards of professionalism are slipping.**

years of conflict and several hundred thousand lives lost. I traveled to Bosnia, Croatia, and Serbia and spoke with witnesses to unspeakable atrocities - many committed in the furtherance of ethnic cleansing. The guy who saw his 17-year-old brother gunned down by soldiers in his village in June 1992. The mother who knows her son was killed at the Korićani Cliff's massacre on August 21, 1992, but never found his body to bury. Too many stories and victims to recount in this column. The ethnicity of the alleged perpetrators was a common thread that ran through the many witness statements I took. The propaganda from all sides to the Bosnian conflict constantly demonized their opponents and frequently called back to the historical wrongs suffered by each group.

Is the political polarization in the United States comparable to the ethnic polarization that led to four years of civil war in Bosnia? Are we approaching the polarization that led to our own Civil War? I certainly hope not - but the super-heated rhetoric and reliance on the demonization of one's political opponents doesn't seem to be easing off much. I'll leave politics to others and get back to focusing on lawyers.

What do we Multnomah County lawyers - who hold the privileged position of being authorized by the Oregon Supreme Court to act as advocates and counselors for our clients - stand for? Are we doing what we can to advance the cause of justice? Are we advocating for our clients professionally and ethically? I'll disagree with Burr and suggest we shouldn't "talk less." We should talk more about how we stand for the rule of law. We should stand up and work for equal access to justice. We should stand for zealously advocating for our clients and then smile more while congratulating our opponents on a case well argued. Maybe we should stand against the polarization and overheated rhetoric we see in politics; but we certainly should not let those ills infect our profession. Can we all do better? I'm sure I can. Remembering what we stand for as lawyers - justice for our clients and professionalism and fairness towards our opponents - seems like a good start at something to stand for.

**We should talk more about how we stand for the rule of law.**

## mba|CLE

Due to the COVID-19 pandemic, the MBA will be offering all seminars **ONLINE ONLY** unless otherwise listed. To register for a CLE seminar, please see p. 3 or visit [www.mbabar.org/cle](http://www.mbabar.org/cle) and input your OSB number to register at the member rate.

### NOVEMBER

**11.2 Wednesday**  
**Preserving Financial Stability for Your Disabled Clients - Navigating the Complexities of Public Benefits During and After Third-Party Liability Settlements and Judgments**  
Aaron Frishman

**11.3 Thursday**  
**The Mosh Pit - The Interplay Between Payment and Defect Claims in Construction**  
Jack Levy  
Liz Rhode  
Jacob A. Zahniser

**11.8 Tuesday**  
**Paid Leave Oregon**  
Amy Angel

### DECEMBER

**12.6 Tuesday**  
**Mandatory Elder and Child Abuse Reporting**  
Linn Davis

**12.9 Friday**  
**Presiding Court Update**  
Judge Judith Matarazzo

### JANUARY

**1.24 Tuesday**  
**Annual Probate Update**  
Judge Patrick Henry  
Judge Thomas Rastetter  
Judge Janelle Wipper  
Amy Cross  
Bryan Marsh

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## mba|EVENT

### Bench Bar & Bagels

Tuesday, November 8

7:30-8:30 a.m.

Tonkon Torp, 888 SW 5th Ave. Ste. 1600, Portland

The MBA is hosting the 13th annual "Bench Bar & Bagels" event on Tuesday, November 8 from 7:30-8:30 a.m. at Tonkon Torp, 888 SW 5th Ave. Ste. 1600. Please join your colleagues and members of the judiciary for a light breakfast and coffee. This event is offered at no cost to MBA members and judges. Non-members: \$10.

Special thanks to our sponsor and host:



Please RSVP to Kathy Modie,  
[kathy@mbabar.org](mailto:kathy@mbabar.org)

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DEADLINE for copy: The 10th of the month\*

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\*or the preceding Friday, if on a weekend.

### NEWSLETTER STAFF CONTACTS

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## The MBF is Broadening its Outreach

by Tyler Volm  
MBF Public Outreach Committee

Last month, representatives from the Immigrant and Refugee Community Organization (IRCO) met with representatives from the Multnomah Bar Foundation's Public Outreach Committee (Judge Chanpone Sinlapasai and me) for a tour of the new Multnomah County Central Courthouse. We joined Mr. Lee Po Cha who is the Executive Director of IRCO, Djimet Dogo, the Director of Africa House, and Sokho Eath, the Director of Pacific Islander and Asian Family Center. We were led on a guided tour by Barbara B. Marcille, Trial Court Administrator for Multnomah Circuit Court, whose wealth of knowledge tracked down to the finest detail.

The Public Outreach Committee is partnering with IRCO to bring its CourtConnect program to IRCO's umbrella of organizations. In addition, the committee is exploring other opportunities to be a bridge between IRCO and the legal community.

IRCO serves the holistic needs of Oregon's immigrants, refugees and mainstream community members by empowering children, youth, families and elders from around the world to build new lives and become self-sufficient by providing more than 200 culturally and linguistically specific social services. IRCO's mission is to be a leader of community-driven innovative programs delivered by compassionate staff who create equitable services that empower immigrants, refugees and underserved communities.

Judge Sinlapasai, prior to joining the bench, worked with many members of the OSB to bring free and low-cost legal services to the community while she served as a board member and board president for IRCO. As a member of the Public Outreach Committee and a presenter with the MBF CourtConnect program, she works with the MBF and the court to make sure that organizations serving diverse

communities have access to resources available at the new courthouse.

During the guided tour, IRCO representatives noted the courthouse's bright and welcoming entrance, the easy-to-use kiosks, and, of course, the views. They were also impressed with the CourtCare facility where the first photograph was taken. The second photograph is from IRCO's open house for their new Africa House facility on NE 102nd Avenue. The representatives would not let us leave the courthouse tour without making sure that the judge and I were not only invited, but that we would be sure to attend. I attended on the front end, and Judge Sinlapasai, in her infinite energy and overwhelming commitment to our community, was on cleanup crew after attending another event that evening.

More information on IRCO, and how you can get involved, can be found on their website: [www.irco.org](http://www.irco.org).

For more information about the work of the MBF, visit us at [www.mbabar.org/mbf](http://www.mbabar.org/mbf) or contact Pamela Hubbs (pamela@mbabar.org, 503.854.5237).



Lee Po Cha, Djimet Dogo, Tyler Volm, Sokho Eath and Judge Chanpone Sinlapasai tour the Central Courthouse



Africa House's Open House celebrates the new one-stop center for the diverse, rapidly growing African immigrant and refugee community

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## Calendar

### NOVEMBER

#### 8 Bench Bar & Bagels

Details on p. 1

#### 16 Ruby Seminar: How to Exceed Client Expectations in a Virtual World

Details on p. 8

24 Thursday-25 Friday  
Thanksgiving Holiday  
MBA Office Closed

November 29-December 31  
IRCO Donation Drive

Details on p. 12

### DECEMBER

1 Oregon Minority Lawyers Association Annual Social & Auction  
[www.bit.ly/omla-auction](http://www.bit.ly/omla-auction)



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

Unless otherwise noted, all classes are held online.

### **Preserving Financial Stability for Your Disabled Clients - Navigating the Complexities of Public Benefits During and After Third-Party Liability Settlements and Judgments**

**Wednesday, November 2 12-1 p.m.**

#### **Online Participation Only**

Members \$30/Non-Members \$50

Without proper planning and protection, settlement proceeds recovered in personal injury and medical malpractice cases could be wiped out in an instant if clients were forced to use them to privately pay for their care. Further, such settlements could be considerably affected by claims and liens asserted by government agencies like Medicare and Medicaid, if not properly negotiated from the onset. Attorneys should be prepared to recognize these situations and assist their clients, either personally or by retaining an attorney knowledgeable in these areas. Without this assistance, despite receiving substantial recoveries, clients and their families are likely to suffer unnecessary financial harm, and attorneys could face potential exposure for not addressing these issues.

**Aaron Frishman**, of Foster Garvey PC, will provide an overview of the applicable statutory provisions that enable such agencies to recover from third-party settlements, and will discuss the strategies and tools that litigators should all know when handling matters where their clients have received, or may need to receive public benefits. Further, Aaron will discuss the potential impact of a recent decision by the US Supreme Court, particularly on Medicaid negotiations in this area, and how attorneys and their clients can plan for potential changes.

**For more information:** Contact the MBA at mba@mbabar.org.

### **The Mosh Pit - The Interplay Between Payment and Defect Claims in Construction**

**Thursday, November 3 3-5 p.m.**

#### **Miller Nash, 111 SW 5th Ave, Ste 3400, and Online Participation**

Members \$60/Non-Members \$95

Construction is ripe with disputes. From payment claims during construction to defect claims up to 10 years afterward. At each step, there is a potential for claim and corresponding counterclaim. **Jack Levy**, Gilbert Levy Bennett; **Liz Rhode**, Gillaspy & Rhode, and **Jacob A. Zahniser**, Miller Nash LLP, will discuss the Mosh Pit: the interplay between construction payment claims and construction defect claims.

**For more information:** Contact Ian Christy, Miller Nash LLP, at 503.205.2416. For registration questions, contact the MBA at mba@mbabar.org.

### **Paid Leave Oregon**

**Tuesday, November 8 12-1 p.m.**

#### **Online Participation Only**

Members \$30/Non-Members \$50

Oregon's Paid Family Medical Leave Insurance program, rebranded as Paid Leave Oregon, is coming soon! Paid Leave Oregon will provide employees with paid, job-protected time away from work for family leave, medical leave, and safe leave. Beginning January 1, 2023, both employers and employees must begin making contributions to the program, and starting September 3, 2023, employees may apply for benefits. Since Paid Leave Oregon covers all Oregon employers regardless of size - including law firms - it is time to get ready!

Please join **Amy Angel** with Barran Liebman LLP to learn about Paid Leave Oregon, including:

Program overview and key dates

- Whether to apply for an equivalent plan
- Strategic decisions for small employers and self-employed individuals
- Additional considerations regarding concurrent use of OFLA/FMLA, interaction with other paid time off benefits, and steps employers should take now.

**For more information:** Contact the MBA at mba@mbabar.org.

### **Mandatory Elder and Child Abuse Reporting**

**Tuesday, December 6 12-1 p.m.**

#### **Online Participation Only**

Members \$30/Non-Members \$50

**Note: One hour of Abuse Reporting OSB MCLE credit will be applied for.**

This program will help lawyers meet their legal responsibilities as mandatory reporters, while maintaining their ethical obligations to clients. **Linn Davis** of the Oregon State Bar will present this dynamic and practical discussion on

- Recognizing elder and child abuse;
- Complying with mandatory reporting requirements; and
- Protecting privilege and confidentiality.

Linn is Assistant General Counsel for the Oregon State Bar and manages the bar's Client Assistance Office. As Assistant Counsel, he regularly fields calls from lawyers on the bar's Ethics Helpline. Linn formerly worked as an assistant disciplinary counsel for the bar and as a prosecutor in New York.

**For more information:** Contact Holly Hayman, Farleigh Wada Witt, at 503.228.6044. Contact the MBA at mba@mbabar.org.

## Additional class descriptions on page 4

### **CLE Registration Form**

NAME \_\_\_\_\_

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**Online CLE registration strongly encouraged.** Visit [www.mbabar.org](http://www.mbabar.org) to register online. Registration forms with payment must be received in the MBA office by 3 p.m. the day before the seminar. Registration forms may be mailed to the address below. Accommodations available for persons with disabilities; please call in advance for arrangements.

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#### **Seminar Selection:**

*Please select the seminar(s) you wish to attend. Written materials for each class are included with registration. Pre-registration with payment is required to participate.*

**11/2 Preserving Financial Stability for Your Disabled Clients - Navigating the Complexities of Public Benefits During and After Third-Party Liability Settlements and Judgment**

**Online attendance only - link will be emailed**

Class Registration (\$30 Members/\$50 Non) ..... \$ \_\_\_\_\_

**11/3 The Mosh Pit - The Interplay Between Payment and Defect Claims in Construction**

**For Online attendance - link will be emailed**

In-Person Registration (\$60 Members/\$95 Non) .. \$ \_\_\_\_\_

Online Registration (\$60 Members/\$95 Non).... \$ \_\_\_\_\_

**11/8 Paid Leave Oregon**

**Online attendance only - link will be emailed**

Class Registration (\$30 Members/\$50 Non) ..... \$ \_\_\_\_\_

**12/6 Mandatory Elder and Child Abuse Reporting**

**Online attendance only - link will be emailed**

Class Registration (\$30 Members/\$50 Non) ..... \$ \_\_\_\_\_

**12/9 Multnomah County Presiding Court Update**

**Online attendance only**

FREE online registration at [www.bit.ly/presiding-update](http://www.bit.ly/presiding-update)

**1/24 Annual Probate Update**

**Online attendance only - link will be emailed**

Class Registration (\$60 Members/\$95 Non) ..... \$ \_\_\_\_\_

**Total due.....\$ \_\_\_\_\_**

**Unable to attend? Archived webcast options are available at [www.mbabar.org/archivedcle](http://www.mbabar.org/archivedcle)**

### Multnomah County Presiding Court Update

Friday, December 9 12-1 p.m.

**Online Participation Only**

FREE for members & non-members

Register at [www.bit.ly/presiding-update](http://www.bit.ly/presiding-update)

Multnomah County Presiding Judge Judith Matarazzo will present an update on the state of the court and court operations. This seminar is designed for attorneys at all levels of experience and questions are strongly encouraged.

**For more information:** Contact Ayla Ercin, Campaign for Equal Justice, at 503.295.8442. For registration questions, contact the MBA at [mba@mbabar.org](mailto:mba@mbabar.org).

### Annual Probate Update

Tuesday, January 24 3-5 p.m.

**Online Participation Only**

Members \$60/Non-Members \$95

The MBA presents the Annual Probate Update, featuring **Judge Patrick Henry**, Multnomah County; **Judge Thomas Rastetter**, Clackamas County; and **Judge Janelle Wipper**, Washington County; as well as **Bryan Marsh**, Oregon Department of Justice, and **Amy Cross**, Buckley Law PC. The judges will discuss current practices and procedures for each of the tri-county area probate courts. Bryan will provide legislative updates. Amy will provide an update of recent case law. This CLE seminar is a must for all probate practitioners and their staff.

**For more information:** Contact Jon Strauhull, Multnomah County Attorney's Office, at 503.988.3138. For registration questions, contact the MBA at [mba@mbabar.org](mailto:mba@mbabar.org).

## Another Successful Absolutely Social

Lawyers, judges, sponsors and law students gathered at Castaway on October 12 for the fall Absolutely Social. 155 pounds of canned food was collected for the Oregon Food Bank. Thanks to all those who contributed!

### Thank you to our generous sponsors

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# mba|ANNOUNCEMENTS

## Judge Nan Waller to Receive William H. Rehnquist Award

Judge Nan Waller is the 2022 recipient of the National Center for State Courts' William H. Rehnquist Award for Judicial Excellence. The award is one of our nation's highest judicial honors and recognizes judges who are taking bold steps to address a variety of issues affecting their communities. US Supreme Court Chief Justice John G. Roberts, Jr. will present Judge Waller with the award during an evening dinner ceremony on Thursday, November 17 at the US Supreme Court. Please join the MBA leadership in congratulating Judge Waller on this well-deserved recognition.



## Commitment to Professionalism

The MBA Professionalism Statement is available for MBA members to order and display in their offices. The statement is printed on quality 11x14" parchment paper and is suitable for framing. Reconfirm your commitment to professionalism; order your free Professionalism Statement at [www.bit.ly/prof\\_statement](http://www.bit.ly/prof_statement).

## New Best Practices Guidelines from the Presiding Judge

Staffing shortages have created a need for everyone to examine how their work is completed. The Courthouse is experiencing the same difficulties as most office environments. To streamline our work and avoid a great deal of duplicative work, the court has developed best practices guidelines for appearances in Presiding Court. These guidelines went into effect on September 1 and may be found at [www.bit.ly/best\\_practices\\_sept22](http://www.bit.ly/best_practices_sept22).

## Multnomah County Circuit Court Requests Assistance with Indigent Defense

There is a shortfall of attorneys to represent indigent clients facing criminal charges in Multnomah County. Currently there are people in jail facing criminal charges who are not being represented by an attorney, some for longer than a month. There are a number of things MBA members can do to help. Learn more at [www.bit.ly/indigent-defense](http://www.bit.ly/indigent-defense).

## Changes to Professional Hours at Inverness Jail and the Justice Center

The lobby at Inverness Jail now closes at 3 p.m. on weekdays, and all visits with adults in custody must be completed by that time. The Justice Center lobby closes at 5 p.m. on weekdays. Professional visits and phone calls will still be allowed, but professional visitors will have to ring the intercom at the 3rd Avenue entrance to be let into the building after 5 p.m. Additional information regarding phone calls with adults in custody, weekend lobby hours and lobby kiosk hours may be found in the Multnomah County Sheriffs' Office Visitor's Guide at [www.bit.ly/visitor\\_guide\\_sept22](http://www.bit.ly/visitor_guide_sept22).

## Volunteers Needed to Serve as Courthouse Experience Tour Guides

Classroom Law Project is seeking volunteers who can dedicate at least one weekday morning a month to guide teachers, students, and chaperones on courthouse tours. Training and support will be provided. Email Christopher Parrucci at [cparrucci@classroomlaw.org](mailto:cparrucci@classroomlaw.org) for more information.

## Noontime Rides

Join all ages of bicycle riders for noontime hill climbs on Mondays & Thursdays. Assemble at noon at SW Corner of Pioneer Square and leave together at 12:15 p.m. Rain or shine. Frequent regroups. Mondays include rotating paceline around SW Fairmount; Thursdays go up through Forest Park. E-bikes okay. Great repeating interval workouts. Contact Ray Thomas, 503.228.5222 if you are a new rider or for additional details.

## PDX Starting Grounds

The coffee café in the Central Courthouse offers beverages, breakfast, lunch and snack items. Open Monday through Friday, from 8 a.m.-2 p.m. See the menu or order online for takeout at [www.pdxgrounds.com](http://www.pdxgrounds.com).

## Ethics Focus



## Fair Play: Compensating Fact Witnesses

by Mark J. Fucile  
Fucile & Reising LLP

(2) reasonable compensation to a witness for the witness's loss of time in attending or testifying[.]

Oregon's rule has the same number as its ABA Model Rule counterpart but is drawn from former Oregon DR 7-109(C) and is more explicit than the ABA Model Rule.

### Washington

Washington RPC 3.4(b) is patterned directly on the ABA Model Rule:

A lawyer shall not:

...

(b) ... offer an inducement to a witness that is prohibited by law[.]

Again, like the ABA Model Rule, Comment 3 to Washington RPC 3.4 clarifies that "it is not improper to pay a witness's expenses[.]" ABA Formal Opinion 96-402 (1996) further clarifies that "expenses" in this context includes reasonable compensation for time loss.

### "Reasonable"

Although reasonableness implies an objective standard, ABA Formal Opinion 96-402 notes that what is "reasonable" varies with individual circumstances. In an unusual example, the trial court in *Caldwell v. Cablevision Systems Corp.*, 925 NYS2d 103 (NY App Div 2011), found that \$10,000 paid to a busy orthopedic surgeon's medical practice was reasonable compensation for the time spent at the courthouse as a key fact witness in a personal injury case. Similarly, if more modestly, the court in *Prasad v. MML Investors Services, Inc.*, 2004 WL 1151735 (SDNY May 24, 2004) (unpublished), concluded that a fact witness was appropriately compensated at \$125 per hour because that was the rate he charged in his consulting business. ABA Formal Opinion 96-402 suggests that when a witness is not employed - for example, a retired employee of a party - compensation should be calculated based on the reasonable value of the witness's time. The ABA opinion also concludes that compensation can extend beyond time "on record" at trial and can include both preparation time and associated time spent reviewing documents and researching information

related to the witness's testimony. In *Consolidated Rail Corp. v. CSX Transp., Inc.*, 2012 WL 511572 (ED Mich Feb 16, 2012) (unpublished), for example, the court approved compensation paid to a retired employee of one of the parties for time spent reviewing documents and conducting site visits relevant to his testimony. Whether reimbursing an hourly worker or not-time-dependent business owner, prudent lawyers will require - and preserve - written proof of the compensation method in the event that the reasonableness of the payments involved are challenged later.

### Consequences

Violation of RPC 3.4(b) can result in regulatory discipline. In *re Noble*, 30 DB Rptr 116, 120 (Or 2016), for example, involved a lawyer who was disciplined for promising a witness extra compensation if the lawyer's client prevailed at the arbitration involved. Moreover, because any violation takes place in the context of a court proceeding, an Oregon ethics opinion (OSB Formal Op 2005-132 (rev 2016)) and a Washington Supreme Court decision (*In re Bonet*, 29 P3d 1242 (Wash 2001)) make the point that improprieties with witnesses can also constitute "conduct prejudicial to the administration of justice" in breach of their respective versions of RPC 8.4.

Bar discipline, however, is not the only potential consequence. In *Golden Door Jewelry Creations, Inc. v. Lloyds Underwriters Non-Marine Association*, 865 F Supp 1516 (SD Fla 1994), for example, the trial court excluded improperly paid witnesses as a sanction. In *Wagner v. Lehman Bros. Kuhn Loeb, Inc.*, 646 F Supp 643 (ND Ill 1986), the court - again as a sanction - disqualified a lawyer involved in promising an improper payment to a witness. Finally, in *Fernlund v. Transcanada USA Services, Inc.*, 2014 WL 5824673 (D Or Nov 10, 2014) (unpublished), the court (albeit on summary judgment) took the equivalent of an adverse inference based on a witness's compensation.

## Around the Bar



Amity Girt

### The Law Office of Josh Lamborn, PC

**Amity Girt** has joined The Law Office of Josh Lamborn, PC as of counsel. Prior to joining the firm, Girt spent 15 years as a Multnomah County Deputy District Attorney, most recently prosecuting murder, child sexual and physical abuse, sexual assaults, and murder by abuse. She also practiced civil litigation at McDermott Weaver Connally Clifford LLP. Girt's personal injury practice is focused on crime victim representation, lawsuits against abusers and those who facilitate abuse and other personal injury matters.



Josie Jeremiah

### Tonkon Torp

**Josie Jeremiah** has joined the Board of Directors of Portland YouthBuilders. The nonprofit serves more than 200 youths a year in a unique wrap-around program that combines high school completion, vocational training, counseling, and support. Jeremiah will provide pro bono legal counsel to the organization as well as perform board duties such as coordinating fundraisers.

Jeremiah is an associate in Tonkon Torp's Business Department. Her practice focuses on mergers and acquisitions, corporate governance, corporate finance, and other general business matters.



Ferdinand Ruplin

Tonkon Torp has appointed attorney **Ferdinand (Ferdie) Ruplin** as co-chair of its Cannabis Industry Group. Ruplin has significant experience working in highly regulated industries, with a focus on the cannabis industry and financial services industry. He joins Co-Chair Alex Tinker to lead the firm's work developing and delivering legal solutions for licensed producers, distributors, processors, retailers, and ancillary businesses operating in the cannabis space.

Ruplin joined Tonkon Torp in 2019 from Green Light Law Group, where he helped cannabis and hemp/CBD clients navigate corporate governance and regulatory matters. In addition to his work in the cannabis space, Ruplin's practice is focused on working with private and nonprofit entities on mergers and acquisitions, corporate governance, securities and financings, and other general corporate matters. Ruplin also assists clients with contract negotiations and equity ownership disputes. In 2022, he was selected to the "Ones to Watch" list by The Best Lawyers in America for Banking & Finance and Corporate law.

Ruplin recently joined the board of directors for NuProject. NuProject is an Oregon public benefit company working to build generational wealth via the legal cannabis industry. In this role, Ruplin will provide legal counsel and support to the board and organization.



Bob O'Halloran, Jr.

### Brownstein Rask

**Bob O'Halloran, Jr.** joins Brownstein Rask as an associate after years of practice at Scott Hookland LLP. O'Halloran graduated from University of Oregon School of Law in 2013 and has since grown his practice in construction, real estate and related commercial litigation, in both Oregon and Washington. He also helps clients in a wide array of real estate and business transactions. He is a member of the Oregon Construction Law Section Executive Committee and was one of the authors of the most recent Construction Law BarBook chapter on construction liens.

### Markowitz Herbold PC

Attorney and co-managing shareholder **Stanton Gallegos** has joined the Lines for Life Board of Directors.



Stanton Gallegos

Gallegos represents businesses and nonprofits in complex litigation, including securities litigation, shareholder disputes, class actions, antitrust, and other commercial matters. He has extensive experience in securities and financial investments, where he has represented financial institutions and investors in matters relating to mortgage-backed securities, failed investment funds, and merger transactions. Gallegos also represents clients on appeal in state and federal courts both as parties and as amicus curiae.

Lines for Life is a regional nonprofit dedicated to preventing substance abuse and suicide. The organization offers help and hope to individuals and communities and promotes mental health for all.

### Sussman Shank LLP

The firm is pleased to welcome **Sarah Coates** as an associate in its Business Department. Coates will focus her practice on general business and real



Sarah Coates

estate matters including mergers and acquisitions, real estate transactions, and entity formation.

Prior to joining Sussman Shank, Coates served as a research assistant while attending the University of Oregon School of Law. She worked primarily on updating a treatise for Article 9 of the Uniform Commercial Code. As a participant in the school's Advanced Domestic Violence Clinic, Coates represented survivors of intimate partner violence in numerous family law matters. Concurrently, she assisted clients as a law clerk for a law firm in Eugene, Oregon, with various business, tax, and health care issues.

Coates earned a JD from the University of Oregon School of Law and is admitted to practice law in Oregon.

Sussman Shank is pleased to welcome **Natalie Smith** as an associate in the firm's Business Department. She will serve clients on legal issues related to estate planning, business planning, tax, and real estate transactions.



Natalie Smith

Smith's experience includes pro bono work through Oregon Law. She served as an Estate Planning Fellow for the Wills for the Underserved Program and participated in the Advanced Business Law Clinic. Additionally, she was a law clerk for a business law firm in Ventura, California where she assisted on various client work, research, and administrative matters.

Smith earned a JD and an LLM in Business Law from the University of Oregon School of Law and is admitted to practice law in Oregon.

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

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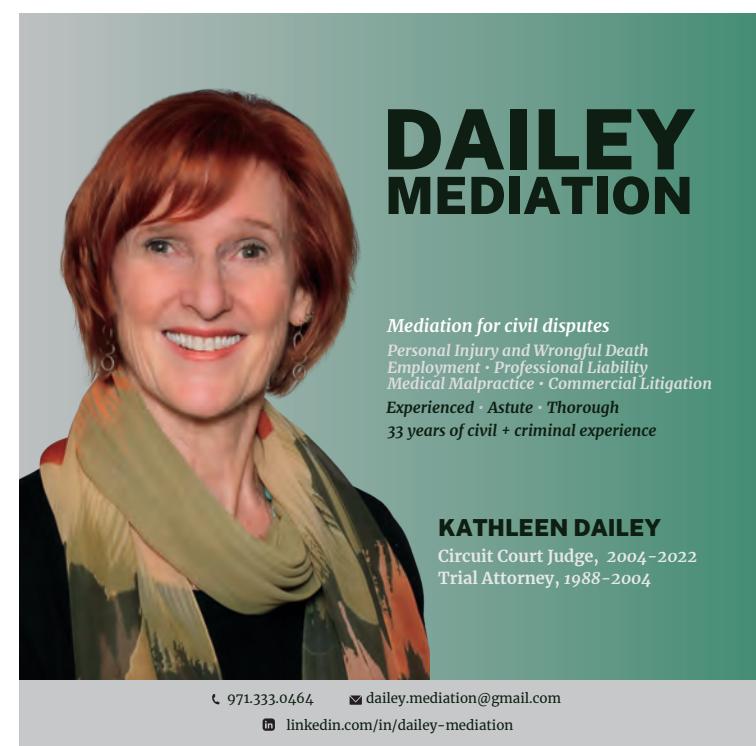
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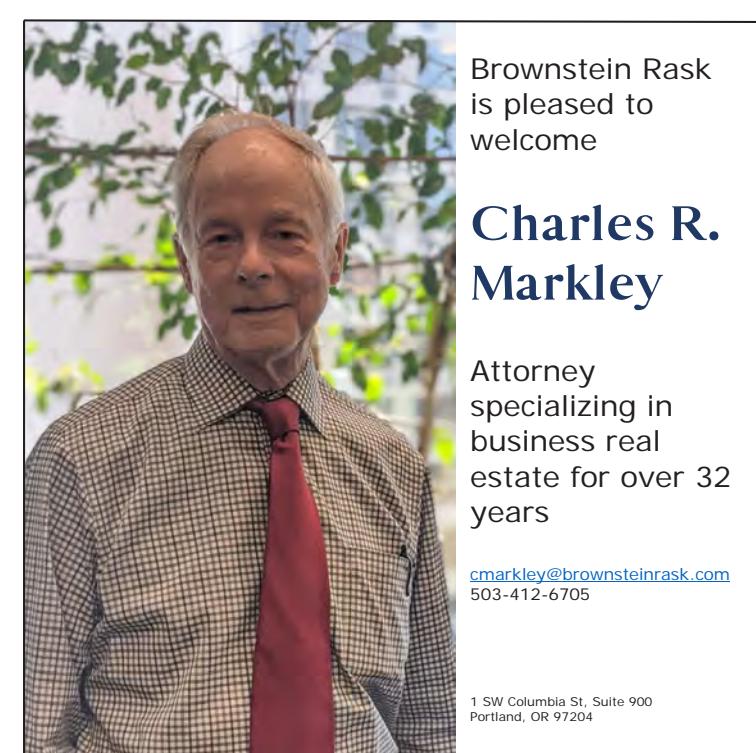
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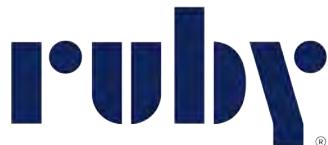
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## Tips From the Bench

by Geena Lee, Courtroom Clerk to Judge Bottomly and Judge Leslie Bottomly, Circuit Court State of Oregon



Geena Lee

This article focuses on how attorneys can work well with courtroom clerks, who are not always in a position to speak up for themselves.

### Before the Hearing

Emails from clerks and judicial assistants contain important information. It can be frustrating to have the attorneys ask the clerk questions that were already answered in a prior email ("does the judge need paper copies," "how do I set up my A/V in the courtroom," etc.). Many hearings are now online and Webex information is sent out ahead of time. Make a note of it in your calendar instead of contacting the clerk in a panic five minutes after the hearing was supposed to start.

Prior to a criminal plea or trial, there are a lot of documents that should be submitted. Counsel should inform themselves ahead of time what those documents are. The paperwork for plea entry into a treatment court may be completely different from a "regular" plea, for example.

Call the right place. If you are calling about a motion in a case where a motions judge has already been assigned, you should contact the staff of that motions judge instead of the presiding court. If you're not sure who to call, spend some time checking the attorney reference manual or local rules.

Attorneys need to be realistic about how much time is needed for a hearing or trial. Often, attorneys will request 30 minutes for a hearing when one hour is a more realistic estimate. For attorneys who regularly go over allotted time, consider regularly padding your estimate. Having hearings stack up puts pressure on the clerks to manage the "backlog."

To the extent possible, do the scheduling work among counsel before calling the court. When rescheduling a proceeding, it is helpful if the parties have agreed to new dates. It is also helpful when counsel let the clerk know ahead of time if parts of a motion or proceeding are no longer at issue, have been resolved, or if estimated trial time has changed during trial. Conferring with counsel and then relaying the information to the court not only makes things clearer for the judge, but also frees up court staff to work on other assignments.



Judge Leslie Bottomly

It is the attorney's responsibility to request interpreters and they should not come to court expecting to have an interpreter if they themselves have not requested one. Court resources are limited, so requesting interpreters ahead of time gives Interpreter Services a chance to assign interpreters accordingly.

Rather than show up 15 minutes before trial and panic about your technology, feel free to call the clerk ahead of time and ask if you can come check it out and do a test run. Bring any equipment you anticipate using to test compatibility with the courtroom system and the clerk will be happy to talk through any questions you may have about it.

When preparing documents and paperwork for a trial or a hearing, attorneys can do several things to streamline the hearing. First, do not put multiple case numbers on a plea petition. Each case number needs to have its own plea petition.

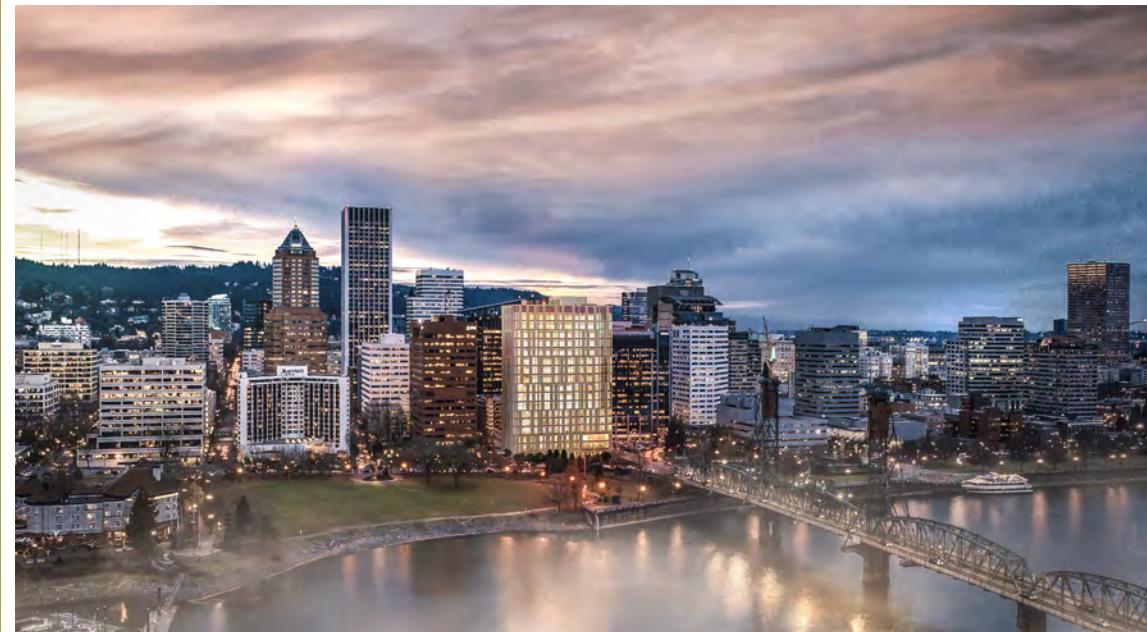
Second, fill out all the paperwork properly. It is not the job of the clerk to fill in the blanks in your place. Make sure that all information is filled out on documents such as the DMV suspension/revocation and any judgment addendums. If you are unsure what documents are needed for a particular hearing, contact the judge's JA or clerk.

Third, when possible, file or email the clerk (cc'ing all counsel) ahead of time with proposed orders, plea petitions, pre-trial offers, exhibits, exhibit lists, and jury instructions. Jury instructions should be submitted in Word format rather than PDF, allowing the clerk to more easily edit the document to make any changes as necessary. Clerks are especially appreciative when they receive plea petitions or pre-trial offers ahead of time and the plea terms are complicated or involve many cases.

Finally, ask whether the judge would like paper or electronic exhibits. When in doubt, email electronic exhibits to the JA or clerk in addition to preparing a physical folder with the exhibits. Exhibits should always come with a list of all the exhibits and a description.

Above all, be polite to all court staff in any communication. This includes all clerks, judicial assistants, civil and criminal data entry, among others. The clerks

## News From the Courthouse



by Barbara Marcille  
Trial Court Administrator  
MBA Court Liaison Committee

If you visited a Multnomah County Circuit Court courthouse in October you likely noticed that masks were no longer required. Going forward, mask guidelines in the courthouse will be tied to the CDC-determined "COVID-19 Community Level" for the county. Masks will be required in all county courthouses when the community level is determined to be High. When the community level is Low or Medium, masks are optional in all court facilities except for Juvenile Court. Judges continue to retain discretion to require masks in their courtrooms. Do not come to court if you have any symptoms associated with COVID-19 or if you have tested positive in the past five days.

Since 2020, masks have been required in the Multnomah County courthouses out of the utmost caution to avoid exposures and to protect people who are directed to appear at the court and will be seated together with others for long stretches of time, like jurors. The court recognizes that in most other public settings masks are not currently required and that they can be uncomfortable and inconvenient. The court asked for feedback from court users, and made the decision to link the new Presiding Judge Order requirement requiring all people to wear masks to the periods when Multnomah County's COVID-19 community risk level is deemed High by the CDC. The PJO can be found on the court's website and at [www.bit.ly/order-2201](http://www.bit.ly/order-2201). Masks are optional in all court facilities except for Juvenile Court when the county's COVID-19 community level is Low or Medium. Even when the community level is Low, the court will make masks available as people enter the buildings and in courtrooms.

Masks are still required in jury deliberation rooms and grand jury rooms as well as at the discretion of judges in courtrooms.

The Juvenile Justice Center has smaller courtrooms and the proceedings are often more crowded with families including children, lawyers, case workers, etc. After hearing from many involved, Chief Family Law Judge Susan Svetkey decided that masks will continue to be required at Juvenile Court regardless of the current community level.

It is important to note that anyone who has tested positive for COVID-19 within the past five days or who has symptoms - any symptoms - associated with COVID, even if the person has tested negative, is ordered not to enter any courthouse, as our previous orders have stated.

The graphic below illustrates how the community level/mask requirement information is posted on the court's website, on monitors in the courthouses, and on standing signs as you enter the buildings.

### Multnomah County Current COVID-19 Risk Level

**HIGH**

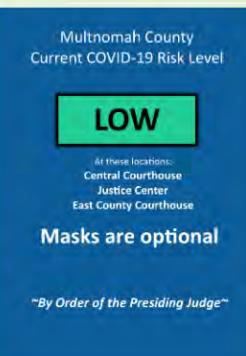
Masks are REQUIRED in all areas of the courthouse

"By Order of the Presiding Judge"

The CDC updates their community risk level weekly on Thursday evenings, so each Friday there is a possibility that the courthouse mask requirement will change. Risk levels are posted on the CDC COVID Data Tracker: County View, which may be found at [www.bit.ly/data-county-view](http://www.bit.ly/data-county-view). The court will keep its website updated with the current requirements.

For more information, please contact the court at [mul.public.information@ojd.state.or.us](mailto:mul.public.information@ojd.state.or.us).

### Multnomah Circuit Court Mask Guidelines



Central Courthouse  
Justice Center  
East County Courthouse



Effective October 3, 2022 until further order of the Court

Continued on page 13

# Judge Jacqueline L. Alarcón Judicial Profile

by Rachna Hajari  
MBA Court Liaison Committee

Judge Jacqueline L. Alarcón was appointed to the Multnomah County Circuit Court Family Law Bench on July 1. Though Judge Alarcón brings with her over 11 years of experience as a practicing family law attorney, it is really her Latin background and family history that she credits for her initial interest in family law. Judge Alarcón, born in Los Angeles, California, spent almost her entire childhood in El Salvador with her parents until the age of 13. When moving back to the States, her family ultimately landed in Gresham, Oregon. Judge Alarcón recalls that while it was very easy to adapt to living in the States, having traveled back and forth from El Salvador frequently to visit her extended family, she was met with significant challenges during the school integration process. One such challenge Judge Alarcón recalls vividly is being placed in the English as a Second Language (ESL) program automatically upon her transfer, without any input from her or her family. Judge Alarcón attended an International

School in El Salvador, and was quickly able to recognize that the ESL program was not for her. Judge Alarcón discovered her passion and skill for advocacy at a young age and zealously fought for a meeting with her counselor and the opportunity to articulate why the program was not a good fit. Not long after, she went from ESL straight to the International Baccalaureate (IB) program.

Judge Alarcón knew that a career in law was in her future very early on in her life. She remembers as a young child going to court with her father and recognizing what a difficult place it was to navigate. Her parents, who were self-employed as landlords for residential complexes, would often take her to court when they would go for eviction proceedings. During these frequent court visits, Judge Alarcón remembers feeling confused as she looked around, as so many people were Hispanic but nobody seemed to know what was happening since all of the proceedings were taking place in English. Judge Alarcón identified

with that immigrant experience and wanted to do what she could to help out others who were feeling helpless in those situations. It was this experience that peaked her curiosity about the law, specifically in equity issues. Having a special interest in politics, Willamette University and School of Law were the perfect fit for Judge Alarcón. Her decision to pursue family law was solidified when she was studying for the LSAT. Judge Alarcón's parents were going through a divorce at the time, and relied on her heavily to intervene, despite being engaged in private mediation. Feeling like the mediator they were working with did not understand them, Judge Alarcón realized that her parents would not have needed to rely on her if there was more cultural competency in the bar, specifically the family law bar.

After passing the bar, Judge Alarcón entered the world of family law working at Hohrbach Law. Soon after, she joined Yates Family Law, where for the next 11 years she would develop the foundation for her judgeship. Working on a wide variety of cases as a family law attorney - including divorce, custody and parenting time, spousal and child support, legal separation and division of property, and prenuptial and

postnuptial agreements on high asset cases - exposed her to many of the legal issues that come before her in her courtroom.

Judge Alarcón truly loves family law. She calls herself a "unicorn" in that way - it's what has always made sense to her. What she has appreciated the most about being a judge so far is being able to connect with people from different backgrounds and experiences that appear in her courtroom. Though there has been a learning curve with other aspects of family law, such as juvenile dependency and delinquency law, she is grateful for her colleagues, who have helped get her up to speed. When asked what lawyers who appear in front of her should know about her, she highlighted that she will work hard, be present and committed to family law. Working at Yates Family Law, Judge Alarcón had at least five pro bono cases at any given moment. This experience gave her many opportunities to work with self-represented people and to develop a strong understanding of the challenges faced by low-income individuals in the legal system.

Prior to her work on the bench, Judge Alarcón served as the president of Oregon Women Lawyers, and then as president of the Multnomah Bar Association, which she



Judge Jacqueline Alarcón

credits for her leadership skills and professional development. Judge Alarcón stays involved in community-based organizations as well, including Adelante Mujeres, a nonprofit organization dedicated to providing holistic education and empowerment opportunities to immigrant Latina women with health, citizenship, education, small business, and other related matters, and Familias en Acción, a culturally-specific nonprofit organization committed to promoting healthcare and education for Latino/x/e communities. In her spare time, Judge Alarcón loves trying new restaurants. As an avid foodie, Judge Alarcón considers herself an adventurous eater and enjoys finding the best tasting menus in the city.

## Remote Workforce Management Complying with Multistate Tax and Employment Laws

by Anne Milligan  
Portland Office of the City Attorney



On September 21, Paul Cirner, Ogletree Deakins, spoke at the Multnomah Bar Association's "Multistate Compliance for Employers with Out-of-State Remote Employees." Breaking his CLE into three valuable frames - remote work trends, multistate compliance, and best practices - Paul provided a helpful primer on the pitfalls of multistate compliance. For those who missed the live webinar, the recording of the CLE is available for purchase and streaming on the MBA's website. This CLE is highly recommended for legal employers who employ remote workers anywhere outside of Oregon as well as general practitioners who want to be able to spot major traps that may require pulling in an employment law specialist.

Paul, who exclusively practices management-side employment law, regularly counsels employers on

multijurisdictional compliance issues that arise from employing remote workers located across multiple states and/or countries. He opined that although remote work is still a relatively new issue for many employers, it is here to stay. Data on the issue shows that most employees want to work from home full-time, while most managers and their larger employer entities want employees to return to the office. Data also suggests that allowing employees to work from home is ultimately more cost-effective for a variety of reasons, including that employers are able to save on the costs of maintaining an office. That said, Paul acknowledges that certain professions and industries are better suited for in-person work.

**Remote Work is Here to Stay - What's Next?**  
As remote work continues to gain popularity among workers and is more widely utilized, the expectation of the availability of one's own home as a worksite will move from lucrative benefit to a foundational requirement. For some, that time may have already arrived. For instance, in a recent City of Portland survey to employees, about 34% of hybrid worker respondents said they would consider applying for other jobs if their employer required more than one day per week of on-site work. If the

employer required more than two days per week of on-site work, 64% would look for work elsewhere.

Paul offered that the biggest question facing employers today should not be whether to continue to allow remote work as pandemic constraints relax, but rather who specifically you as an employer will allow to work remotely. For instance, will you only allow overtime exempt employees to work from home because you are concerned about non-exempt employees working excessive overtime, inaccurately reporting their hours worked, or failing to take their meal and rest breaks? Or will you allow other specific classifications or job titles the benefit of remote work as well?

### Getting Started

After accepting this initial framing, the next biggest issue facing employers is complying with local laws; generally, the laws of the state or location where an employee is physically present and working will control the legal protections associated with the employee's labor. While Oregon is known for having relatively expansive and rapidly changing employment laws that favor employees, other states' laws may be even more expansive and may contradict Oregon law in certain instances. Legal employers who only have formal offices in Oregon may only be familiar with Oregon employment laws, and if they haven't already, they need to start thinking about all employment laws for all the states they have people working in, with a particular focus on wage and hour laws, meal and rest breaks, leave laws, and other core areas. Legal employers should be very careful around issues

of expense reimbursement, especially given that several states require reimbursement in certain circumstances, even if Oregon law might not otherwise require it. California, for instance, requires employers to reimburse employees for all necessary and reasonable business expenses - which includes using a personal cell phone for work calls. Employers may also need to reimburse employees for portions of their internet utility expenses and computer equipment. New case law in various jurisdictions is constantly expanding the right to reimbursement, and an employer may consider using a flat stipend for such expenses to employees, to make sure they have their bases covered.

### Posting Requirements

Employers with employees who work remotely, even part of the time, should consider how posting requirements and pay disclosures impact them. We used to think of the posting requirements as one of the easiest compliance markers to meet simply by printing or ordering the required legal notices of employees' rights to be posted in the breakroom. Now, however, employees might never step foot in a breakroom and may never touch the proverbial water cooler. Instead, employers now should consider having all legally required posters either digitally posted on an employee portal or website, or emailed directly to employees on regular, automated intervals.

### Pay Transparency

Employers should also consider how mandatory pay disclosures - a developing modern trend - might impact both their current employees and any prospective

job applicants in other states who may come across a job listing. If you are considering advertising for a remote work position that can work in other states, there may be pay disclosure requirements applicable to your recruitments.

In Washington, for instance, an employer must disclose the salary range or wage scale in a job posting starting January 1, 2023. In California, an employer must disclose the salary or wage scale to an applicant who asks for it after an initial interview. In Colorado, an employer must include a pay disclosure in the posting if they have even a single remote employee in Colorado. Finally, in New York City, as of November 1, employers must list the relevant pay range on all job postings.

Many more states than those described are now either requiring that salary or wage ranges be published in the initial job posting, or their legislatures appear ready to make such changes in the near future. In light of this trend and other reasons, it is a best practice in this rapidly changing area of the law to disclose the pay range in all job listings.

### Leave Laws Vary Significantly

Employers with employees outside of Oregon should also be aware that protected leave laws vary widely from state to state. Contrary to popular opinion, Paul claimed, remote workers request family and medical leave just as often as in-person office workers. The threshold to qualify for leave may be different from state to state. For instance, the protected leave might be a paid leave program you are required to collect premiums for and pay

*Continued on page 14*

# m ba | Young Lawyers Section

## What is the YLS?

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

## Ask the Expert

*Dear Expert:  
I am a newer attorney and need to build my book of business. With the pandemic, it's been harder to network and people seem more isolated. What are good ways to still build my reputation and business?*

*Sincerely,  
Rainmaker in Training*

### Speak!

There are always opportunities for lawyers to speak. Whether it's at a bar event, to an industry group, or to law students considering the same practice area. Every opportunity presents at least two wonderful opportunities for lawyers. The first is of course, practicing oral presentation skills. This is beneficial to every lawyer, even aside from litigators, because we all need to be skilled communicators with our clients. The second is that the more lawyers speak, the more audiences they meet! Every audience is a potential client or referral source.

### Write!

Writing is another great opportunity to build your professional reputation and network. There are opportunities to author pieces everywhere - even here in the *Multnomah Lawyer*. Lawyers can write for legal publications, law reviews, journals, or industry newsletters. All of these are venues for the lawyer to demonstrate their knowledge and

writing skills. Whenever a lawyer is writing a piece, it is absolutely essential for the lawyer to remember the audience. Too many new lawyers write everything as if it were a brief to the court, riddled with legalese. Depending on your readers, that could be a huge mistake. Often, clear and concise writing is what most attracts potential clients. They want to work with an attorney who they feel communicates in a way that is easy to understand.

### Follow Up!

If you are able to attend events, whether virtual or in person, make sure you follow up with the people you meet. This practice seems to have fallen away for many, but is one of the best ways to actually make meaningful connections with people you may have only met briefly. Connect with people on LinkedIn and actually send them a message rather than a blind connection request. Better yet, follow up with an email. So many people have fallen out of these networking practices, that it is refreshing to reconnect in these simple ways. It will also make you stand out from others. Making genuine connections with people is always more successful than forced networking. Remember that networking is a fancy word for meeting people - that's all it really is.

## Kelsey Benedick YLS Member Spotlight

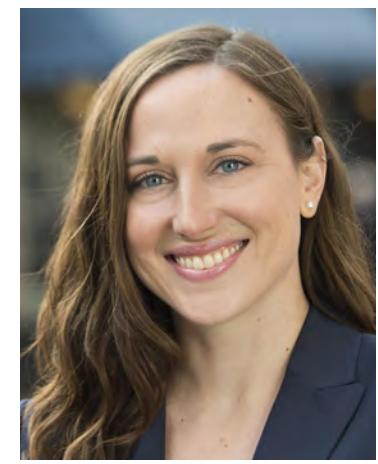
by Nyika Corbett  
YLS Board

During college at the University of New Mexico, Kelsey Benedick took a Spanish class on human rights issues. The curriculum included first-hand accounts of human rights attorneys, which sparked Kelsey's interest in the law. She found a job at a women-run law firm where she worked part-time through the remainder of college and joined full-time for the following two years before law school. Kelsey remembers her time at the Albuquerque law firm as a place of growth. The attorneys mentored her and gave her hands-on experience working on investigations, discovery review, and learning the nuts and bolts of law firm life.

When Kelsey made it to Lewis & Clark Law School, she found that her unique exposure to the life of a lawsuit helped her intuitively understand courses like Civil Procedure. Even with her practical experience, Kelsey recalls the first year of law school as a stressful one. She remembers being told (and believing) that the way she was studying, reading, briefing cases, etc., was not the right way. She wished that someone had told her not to worry about how other people were approaching the work and to focus on what was effective for her. With this in mind, Kelsey worked as a teaching fellow and volunteered to serve as a mentor to 1L students during law school, with the goal of encouraging a

community centered on helping each other be better law students and creating collaborative bonds within the legal community to help new lawyers become better lawyers. Kelsey continues to serve as a mentor to Lewis & Clark law students, and finds mentorship a meaningful way to build valuable and lasting relationships.

In addition to giving back through mentorship, Kelsey has consistently sought out pro bono opportunities. Pro bono work can allow newer attorneys to take on substantively significant roles and engage in personally meaningful work. Of particular significance to her, Kelsey has worked on civil rights matters, which have included invoking legal protections for transgender students as well as adults in custody. Kelsey feels grateful to practice at Larkins Vacura Kayser, where her firm has been actively supportive of her pro bono work. In November 2019, Larkins Vacura Kayser sponsored several attorneys on a weeklong trip to El Paso, Texas to provide pro bono assistance with cases of asylum seekers. And, as Kelsey points out, there is a gap between clients who qualify for pro bono assistance and those who can afford to pay legal fees. Again, Larkins Vacura Kayser has been instrumental in providing flexible engagement structures to support Kelsey and others in filling that gap.



*Kelsey Benedick*

In 2019, Kelsey joined the YLS Pro Bono Committee. She was searching for additional ways to engage in pro bono efforts and wanted to help make it easier for others to engage. While the COVID-19 pandemic complicated some of the Pro Bono Committee's longstanding programs, Kelsey confirmed that the committee has done an excellent job of adapting to changes and streamlining ways for volunteer attorneys to provide meaningful assistance. The Pro Bono Committee is currently considering a new partnership with a clinic to provide pro bono services in a recurring monthly format.

When Kelsey is not practicing commercial litigation, taking on pro bono matters, or volunteering as a mentor, she enjoys scoring buckets in her recreational basketball league and gardening. Having grown up in the desert, Kelsey is still working on perfecting her Pacific Northwest green thumb.

## IRCO Donation Drive November 29-December 31 *A Collaboration of the Oregon Arab and Iranian Bar Association, Oregon Muslim Bar Association, YLS Membership Committee and YLS Service to the Public Committee*

We are proud to support the Immigrant and Refugee Community Organization (IRCO) via a donation drive again this year. Please join your colleagues this winter in donating some of IRCO's most in-demand items: towels, pillows, sheets and pillowcases, blankets and comforters, shower curtains, and bathmats.

This donation drive will begin on Giving Tuesday (November 29) and runs through the end of December. Our Amazon Wishlist ([www.bit.ly/give\\_irco](http://www.bit.ly/give_irco)) helps you easily order and send the items that IRCO families need most. For Amazon orders, please include delivery instructions

specifying delivery on Monday-Friday from 8:30 a.m. to 5:00 p.m. only. Participating in a donation drive has never been easier!

Donations can also be dropped off in person. To coordinate dropping off your donations downtown, please email Joe Baxter at [Joe@PaulSouthwick.com](mailto:Joe@PaulSouthwick.com). To coordinate dropping off your donations in Industrial SE, please email Marry Karam at [Marry@LissaKaufmanLaw.com](mailto:Marry@LissaKaufmanLaw.com).

If you would like a tax receipt, please email [Fundraise@IRCO.org](mailto:Fundraise@IRCO.org).

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## Tips From the Bench

*Continued from page 10*

and court staff talk to each other. If you are less than polite to one of us, you are less than polite to all of us.

### In the Courtroom

When attorneys arrive in the courtroom, they should greet the clerk and introduce themselves, especially if they have only met the clerk a few times. Masks and high turnover make it difficult to clearly identify who is who, so expect to introduce yourself several times. Attorneys should also ask the clerk what their pronouns are and how the clerk would prefer to be addressed.

Attorneys often ask the clerks to make copies of documents. While attorneys should be bringing additional copies of any documents to court, clerks understand that there are times when it just isn't possible. Saying "please" and "thank you" when asking for help from the clerk goes a long way.

In addition, while the clerks want everyone to be comfortable, they are not maids or waiters. Do not shake the water pitchers at the clerks. Clean up after yourselves in the courtroom and the conference rooms. Push in the chairs after use. Do not set up camp in the courtroom and take over spaces without consideration for the clerk. Throw away your

trash in the bins provided. It is your responsibility to clean up after yourselves.

Respect the clerk's space. Do not reach onto the clerk's desk for pens, water bottles, stickers, or documents. Be mindful of lingering in the courtroom after the hearing is over to chat with other attorneys or debrief with a client. The clerk is unable to leave the courtroom until after everyone else has left and may have other matters to which they must attend.

Thank you for listening to the courtroom clerks. We're here to run the courtroom as smoothly as possible. We can use all the help we can get from the attorneys!

## Buchalter

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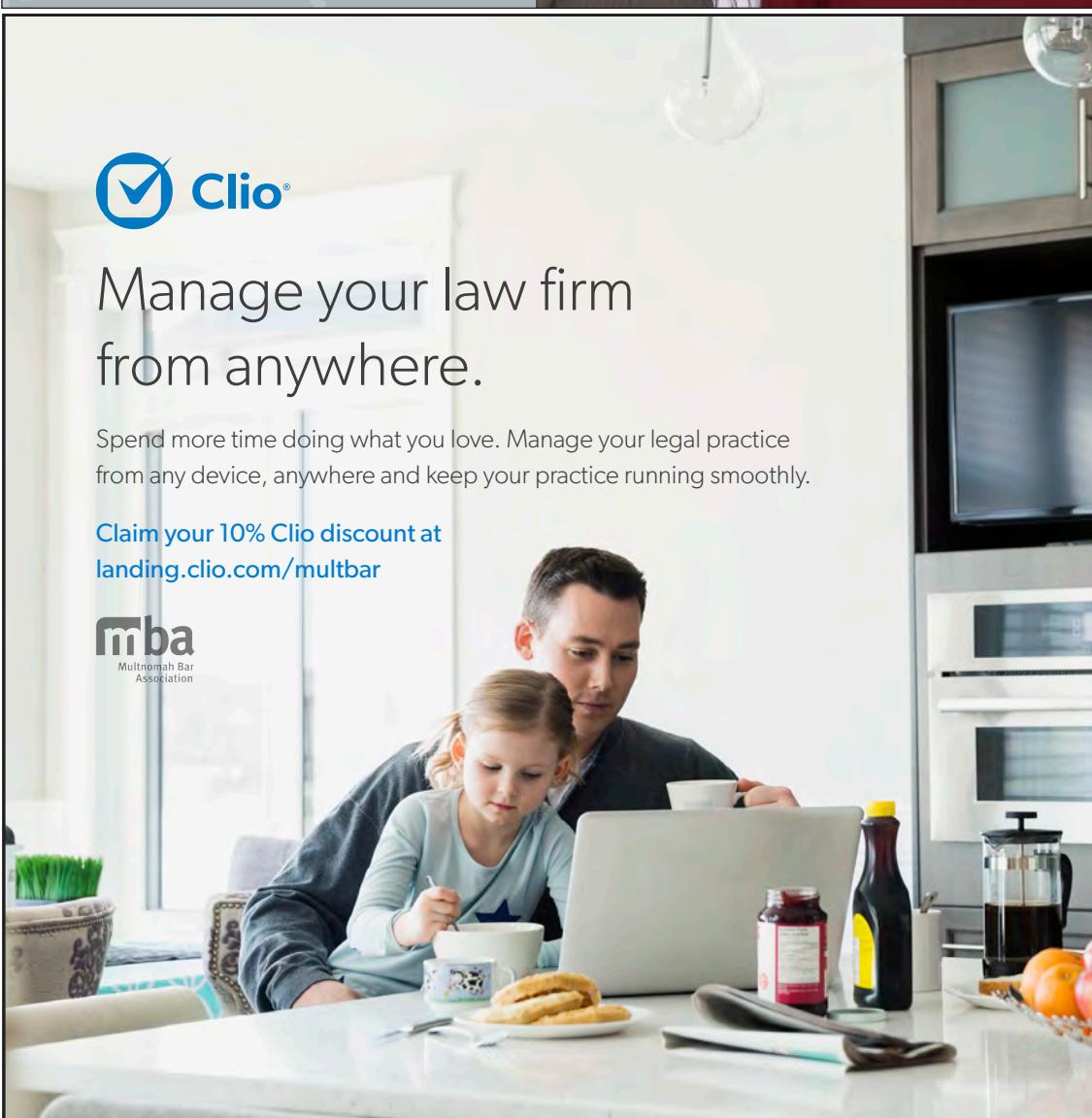
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**Solo & Small Firm Committee presents**

## BECOMING A TRAUMA-INFORMED LAWYER

Wednesday, December 14

12-1 p.m.

Remote attendance only via Zoom

Have you ever had a client who becomes agitated or emotional over what you consider to be small tasks or requests; who doesn't seem to want to participate in their own representation, almost like they don't want to prevail; or who become combative with you seemingly without cause or warning? Conversely, do you have clients who you can't seem to get motivated to work for, either because of their suit or their personality? Could trauma be contributing to these dynamics? Join **Heather Unger**, Unger Family Law LLC; **Tiffany Davidson**, Tiffany Davidson Attorney at Law PC; and **Coleen Gose**, Life Coach, for this informative presentation. The workshop will include the following topics:

- Understanding trauma in its various forms and how past trauma can negatively impact your client's ability to engage in representation.
- Strategies for recognizing trauma responses in a client, acknowledging the issue with your clients and developing work-arounds.
- How to recognize and manage trauma and/or vicarious trauma in your life and practice.

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## Oregon Lawyer Assistance Foundation



Helping lawyers in need receive addiction and mental health treatment

## Remote Workforce

*Continued from page 11*

into a state fund; there may be hours reporting requirements; leave may be allowed for different categories of qualifying events or to care for a broader set of people. Depending on each state's set of laws and how many hours an employee works in a given state, protected leaves for different states might also stack, rather than run at the same time.

Additionally, accrual rates and carryover limits vary and there may be a different leave frontload allotment or different rules around separation and reinstatement. In short, Paul opined, this is an "area of quicksand" for employers with remote employees out of state who fail to consult with out-of-state counsel as needed. Finally, employers should carefully confer requests for certain furniture or equipment that may be related to a medical issue or accommodation.

### Special Agreements and Misclassification

Next, employees working from home outside of Oregon may have different limitations applicable to them when it comes to non-compete, confidentiality, and arbitration agreements. Misclassification of a remote employee as non-exempt under the FLSA or state law is another big issue. The salary threshold and duties test varies from

state to state. For instance, Washington requires a much higher minimum salary for employees to be considered exempt from overtime that varies based on employer-size. Below is a chart from Washington Labor and Industries of the projected salary thresholds for certain exempt employees over the next few years:

### Overtime, Meal, and Rest Breaks

Overtime entitlements also vary by state. Alaska, Nevada, and California, for instance, all have daily overtime, meaning that overtime is not calculated just when an employee exceeds 40 hours in one work week, but also after hitting a particular threshold in one day, depending

take their breaks and take them on time. Employers should also be mindful of scheduling virtual meetings during breaks.

### Best Practices

At this stage of the pandemic, all employers should have a written remote work policy with a formal approval process that delineates where employees

Employers should also consider a written policy laying out what the employer considers an appropriate consequence should employees misrepresent the location of their remote work. To lead all this work, employers should develop a management team focused on multistate compliance efforts and questions, and they should liberally consult

When the rule takes effect		July 1, 2020	Jan. 1, 2021	Jan. 1, 2022	Jan. 1, 2023	Jan. 1, 2024	Jan. 1, 2025	Jan. 1, 2026	Jan. 1, 2027	Jan. 1, 2028
<b>For small employers with 1-50 employees</b>	<b>Multiply minimum wage by...</b>	1.25x	1.5x	1.75x	1.75x	2x	2x	2.25x	2.25x	2.5x
	<b>Projected salary threshold</b>	<b>Weekly (Annual)</b>	\$675 (\$35,100.00)	\$821.40 (\$42,712.00)	\$1,014.30 (\$52,743.60)	\$1,101.80 (\$57,293.60)	\$1,332.00* (\$69,264.00)	\$1,362.40* (\$70,884.80)	\$1,557.00* (\$80,964.00)	\$1,584.90* (\$82,414.80)
<b>For large employers with 51 or more employees</b>	<b>Multiply minimum wage by...</b>	1.25x	1.75x	1.75x	2x	2x	2.25x	2.25x	2.5x	2.5x
	<b>Projected salary threshold</b>	<b>Weekly (Annual)</b>	\$675.00 (\$35,100.00)	\$958.30 (\$49,831.00)	\$1,014.30 (\$52,743.60)	\$1,259.20 (\$65,478.40)	\$1,332.00* (\$69,264.00)	\$1,532.70* (\$79,700.40)	\$1,557.00* (\$80,964.00)	\$1,761.00* (\$91,572.00)

**Note 1:** The asterisks on the salary thresholds after 2023 are projections based on forecasted changes in the Consumer Price Index. These projections have been updated from previous versions.

**Note 2:** This table does not apply to computer professionals paid by the hour who have higher minimum wage multipliers.

An employer who misclassifies a non-exempt employee as an exempt employee may owe the employee back wages including unpaid minimum and overtime wages as well as liquidated damages. The employer may also face a derivative wage claim such as a failure to pay all wages with final paycheck claim and any attendant civil penalties.

on the state. The timing of meal and rest breaks also vary significantly state by state. Moreover, it is difficult to ensure that non-exempt employees timely take their meal and rest breaks - let alone that they take them at all when there is no one there to enforce the requirement. One best practice would be to establish a system that requires employees to note when they take breaks to make sure they

can work from and where they cannot. Employers may consider identifying "no go" states/cities where employees are not allowed to work from under any circumstance due to the administrative legal burdens associated with these locations. Employers should revise employment agreements as well as policies and handbooks to align with the realities of their multistate practice.

with counsel licensed to practice law in each state where they have employees working remotely.

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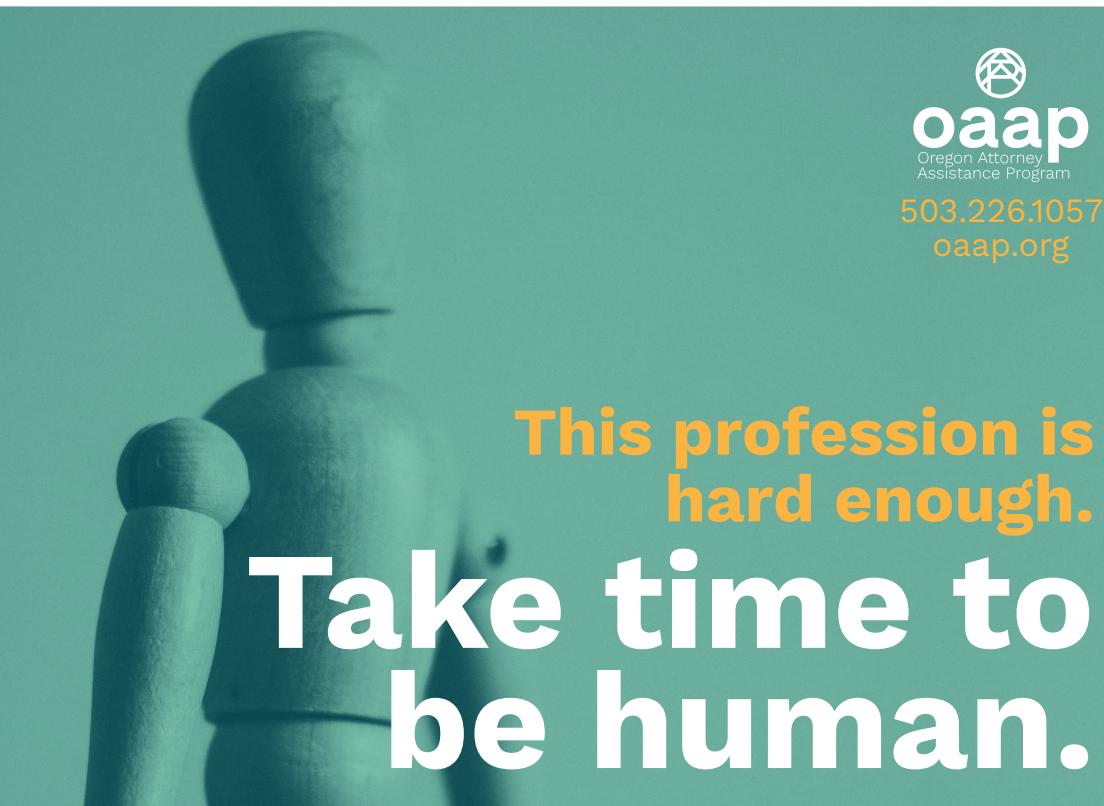

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### Jobs

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#### Shareholder - Real Estate

Buckley Law is looking for a Real Estate Attorney (primarily residential) or small team to add to our group. Established real estate attorney transitioning

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