

Multnomah Bar Foundation
Fundraising Campaign:
Interview with a Fundraiser

by Joseph L. Franco, MBF President
and Tyler Volm, MBF Vice President



Franco: Tyler...it's spring again and that means it is time for the Multnomah Bar Foundation's Annual Fundraising Campaign. Is there anything the MBA's membership should know about the MBF's fundraising efforts last year, and what the MBF hopes to fund in the coming year as we continue to return to normalcy after COVID-19?

Volm: Yes, in 2022, through the outstanding generosity of Oregon law firms, active and retired attorneys, judges, legal staff, and outside organizations, including the District of Oregon Attorney Admissions Fund, the MBF raised nearly \$125,000 to benefit CourtConnect, CourtSupport and Multnomah CourtCare. The foundation got 2023 off to a great start when, in February, the MBA raised over \$14,000 for the MBF through its annual WinterSmash event. This was the first time the event had been held since the beginning of the COVID-19 pandemic. Every last lane was full, and thank you all for your support. As for this year's general fundraising campaign, the MBF intends to again hold a single, combined fundraising campaign that will raise funds to sustain the MBF's three successful programs: CourtCare, CourtSupport and CourtConnect.

Franco: For the handful of lawyers out there who are not familiar with the MBF's wildly successful CourtCare Program, what should they know (aside from where to send their generous donations)?

Volm: CourtCare is a long-standing program which the MBA's membership has made possible through years of tireless support. It improves access to justice by making free, drop-in childcare available for families who have business at the court. The program is located in the downtown Central Courthouse, and has historically served 80 to 100 children and their families each month. CourtCare closed during the pandemic, and the MBF is working hard with its community partners to staff CourtCare and get it back up and running as soon as possible. The MBF formed a special task force this year to focus on getting CourtCare open for business amidst a tight labor market that was exacerbated within the childcare industry. As a result of the work of that task force, just last month the MBF Board approved funds for a new approach to staffing CourtCare, which should facilitate the hiring and retention of CourtCare staff. We expect CourtCare will be serving our community again in the very near future.

Franco: Tell us a little about the MBF's CourtSupport program. It has not been around as long, but it's making a positive impact on access to justice at the new Central Courthouse, isn't it?

Volm: The MBF launched the CourtSupport program in the Fall of 2020 to provide the new Central Courthouse with a bilingual Navigator who staffs the information desk in the courthouse lobby. The CourtSupport Navigator provides a critical service to the public by answering questions about the court, connecting individuals with needed services or accommodations at the courthouse, and making their experience more welcoming and less intimidating. Budgetary constraints restricted the court's ability to staff the information desk,



Joe Franco

but through the generosity of the MBF's donors, just a few months ago we were able to expand the Navigator position from a 30 hour per week position, to a full-time 40 hour per week position.

Trial Court Administrator Barbara Marcille had the following to say about the CourtSupport program: "The court and the court's customers very much appreciate the MBF's CourtSupport program. The CourtSupport funds raised by the Multnomah Bar Foundation are used to provide services which improve the experience of people who are in our courthouses. The court does not have legislatively allocated funding for a navigator at the information desk in the lobby or for childcare services for people who must appear in court, but these functions are incredibly valuable to people who need help and can relieve some of the stress of coming to court."

Franco: And what about CourtConnect, which is the third program that you said the MBF supports?

Volm: CourtConnect is a program that pairs lawyers and judges together to visit community groups and present information about the court system and the rule of law in an effort to forge a better connection between the community and legal profession. The program helps promote procedural justice by ensuring that community members better understand how the legal system works, by making the courts more approachable, and by facilitating dialogue among members of the public, the bench, and the bar. Essentially, CourtConnect serves as a bridge between the bench, bar and community, and is a part of the MBF's Public Outreach Committee.

Over the last 18 months, the MBF's Public Outreach Committee has initiated dialogue, held informational meetings, or attended events with Africa House; Asian Family Center; the Consulate of Guatemala; the Consulate of Mexico; Immigrant and Refugee Community Organization (IRCO); the Japan-America Society of Oregon (JASO); Latino Network; Muslim Educational Trust; and the Oregon Office of Immigrant and Refugee Advancement. We look forward to continuing to develop and foster these relationships.

Franco: It sounds to me like the MBF has continued to be productive and proactive with their programs, during some really challenging times. What is the fundraising plan for 2023?

Volm: The MBF believes that a single, combined fundraising campaign will best support these highly successful programs. A combined campaign which contributes to the MBF general fund allows the MBF the flexibility to direct funds to any of the three programs as needed to fully fund CourtCare, CourtSupport, and CourtConnect. A combined campaign also means that the MBA membership will not be approached at different times throughout the year with separate campaigns for each of its programs. If a donor wants to earmark a donation for a particular program, that may be done as well.

Franco: Tyler, thank you so much for this information, which we hope will inspire the MBA's membership to donate to the MBF's wonderful programs. For those reading this article and clamoring to donate to the MBF, what do they do next?

Volm: They can join us in launching the third annual **Multnomah Bar Foundation Fundraising Campaign**. The campaign will run May 1-31, and this year's goal is to raise \$120,000. **We need your help to meet and exceed that goal.** You can donate online at www.mbabar.org/mbf, use the donation form in this issue, or call the MBA at 503.222.3275. Donations are payable to the Multnomah Bar Foundation and are tax-deductible. Please help us reach our programming goals and donate to the MBF today. **Donations made by May 31 will receive special recognition.**

Franco: On behalf of the MBF Board, thank you for your consideration. We appreciate your support of the MBF this year, last year, and into the future! There are many wonderful charities you can work with, but supporting the MBF helps local people with local issues, so we encourage your endorsement and financial support of our mission: *"To increase the public's understanding of the legal system, to promote civic education, public participation and respect for the law, to improve the quality and administration of the legal system, and to support programs and projects related to the MBF's purpose."*



Tyler Volm

mba | CLE

All seminars are **ONLINE ONLY** unless otherwise listed. To register for a CLE seminar, please see p. 3 or visit www.mbabar.org/cle and input your OSB number to register at the member rate.

MAY

**5.5 Friday
Personal Injury Case Selection**
Leah Johnson
Gretchen Mandekor
Ann Marshall

**5.16 Tuesday
Taking and Defending Corporate Representative Depositions**
Chad Colton
Molly Honoré

**5.17 Wednesday
Dividing Oregon PERS Benefits in Divorce: One System, Two Chapters, Three 'Tiers,' Four Plans, and a Thousand Land Mines**
Stacey D. Smith
Peter K. Ungern

**5.31 Wednesday
Employment Law Update**
Kathryn Roberts
Laura Salerno Owens

JUNE

**6.1 Thursday
The Intersection of Title VI, Title IX and Title VII**
Johnathan Smith

**6.7 Wednesday
Advising and Serving on a Nonprofit Board: Navigating the Rules and Avoiding the Traps**
Michele Wasson
Heather Weigler

In This Issue

Calendar.....	2
CLE	3
Around the Bar	5
Announcements.....	6
Ethics Focus.....	6
MBA Board Directors	8
News From the Court	10
Tips From the Bench.....	10
Diversity Award	11
Professionalism Award	11
Profile: Referee Benjamin Johnston ..	11
YLS	12
Classifieds	16
The Corner Office.....	16
Pro Bono Volunteers.....	16

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Multnomah Bar Association
Annual Meeting, Dinner
& Judges Reception

Wednesday, May 24, 5-8 p.m.
Hilton Portland Downtown
921 SW Sixth Avenue

*Celebrating the profession and
recognizing our colleagues*

MBA Diversity Award Recipient
Judge Rima I. Ghandour

Professionalism Award Recipient
David B. Markowitz

MBA Awards of Merit
Judge Jacqueline L. Alarcón
Emily Teplin Fox
Jollee Faber Patterson
Adele J. Ridenour

YLS Award of Merit
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YLS Rookies of the Year
Joseph C. Baxter
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Calendar

MAY

1-31 Annual MBF Fundraising Campaign
See insert for details

3 Wednesday YLS Trivia Night
www.mbabar.org/calendar

3 Wednesday MBA ED&I CLE: Unique Perspectives on Access to Justice in Oregon
Details on p. 6

4 Thursday CLE + Wine Tasting Event
Details on p. 8

12 Friday OWLS Roberts & Deiz Award Celebration
oregonwomenlawyers.org

24 Wednesday MBA Annual Meeting and Dinner
Details on this page

JUNE

7 Wednesday Portland Urban Debate League Meet & Greet
Details on p. 13

16 Friday Portland Pickles event
Details on p. 7

Judge Jacqueline Alarcón,
Emily Teplin Fox, Jollee Faber
Patterson and Adele Ridenour
Receive 2023 MBA Merit Award

Criteria for Selection
Recipients have an enduring commitment to the MBA's mission of promoting justice through service, education or leadership to the MBA.

The MBA Board is pleased to present its 2023 Merit Award to **Judge Jacqueline Alarcón, Emily Teplin Fox, Jollee Patterson and Adele Ridenour.**



Judge Jacqueline Alarcón

Judge Jacqueline Alarcón
Judge Alarcón is being recognized for her commitment to access to justice, and for her leadership in the MBA. As a family law attorney, Judge Alarcón volunteered through Legal Aid Services of Oregon and other organizations to help individuals and families in need of legal assistance. She is passionate about lifting up those in need, particularly people in marginalized or underserved communities. Judge Alarcón has an ability to bring newcomers into the fold, and looks for ways to put people who may not be as vocal or well known in positions of leadership. Her dedication to service and her leadership were evident when she served on the MBA Board, while also serving on the OWLS Board and served briefly, concurrently, as president of both organizations.

Emily Teplin Fox, Jollee Faber Patterson and Adele Ridenour



Emily Teplin Fox



Jollee Faber Patterson



Adele Ridenour

Emily, Jollee and Adele are being recognized for their work on the MBA Fellows Taskforce.

Continued on page 6



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.

Personal Injury Case Selection

Friday, May 5 Noon-1:30 p.m.

Remote attendance only via Zoom

Members \$45/Non-Members \$70

Leah Johnson, Gilroy Napoli Short Law Group, and **Gretchen Mandekor**, Rosenbaum Law Group PC, experienced personal injury practitioners will offer advice on how to decide which cases to take and which not to take. The panel will discuss how to evaluate the merits of a case before committing and how to determine whether your skill and experience qualify you to handle the case.

For more information: Contact William Gibson, Attorney at Law, at 503.307.1676. For registration questions, contact the MBA at mba@mbabar.org.

Taking and Defending Corporate Representative Depositions

Tuesday, May 16 Noon-1:30 p.m.

Remote attendance only via Zoom

Members \$45/Non-Members \$70

Federal Rule of Civil Procedure 30(b)(6) depositions present complex challenges for attorneys and serious legal risks for companies in pending and future litigation. In this presentation, **Chad Colton** and **Molly Honoré** of Markowitz Herbold will share their best practices and tips and tricks for preparing for, taking, and defending depositions of corporate representatives.

For more information: Contact Jamison McCune, Driggs Bills & Day PLLC, at 503.212.4475. For registration questions, contact the MBA at mba@mbabar.org.

Dividing Oregon PERS Benefits in Divorce: One System, Two Chapters, Three ‘Tiers,’ Four Plans, and a Thousand Land Mines

Wednesday, May 17 3-5 p.m.

Remote attendance only via Zoom

Members \$60/Non-Members \$95

Join (Q)DRO Attorney **Stacey D. Smith**, Stacey Smith Law, and **Peter K. Ungern**, Oregon Public Employees Retirement System, for two hours of PERS/OPSRP instruction. Learn everything you need to know to safely and successfully navigate the muddy waters of assessing and dividing Oregon PERS/OPSRP benefits. Gain a comprehensive understanding of the PERS system - the plans-within-the-plan, the various distinctive benefit types and how to best approach division of each. Instructional materials will be available in PDF format (via email) prior to the event.

For more information: Contact Mary Tollefson, Brindle McCormack PC, at 503.224.4825. For registration questions, contact the MBA at mba@mbabar.org.

Employment Law Update

Wednesday, May 31 Noon-1 p.m.

Remote attendance only via Zoom

Members \$30/Non-Members \$50

Join **Laura Salerno Owens** and **Kathryn Roberts** of the Markowitz Herbold PC firm for an engaging examination of recent trends in employment law. Laura and Kathryn represent both employers and employees and will present their perspectives from both sides of the v. Topics will include enforceability of non-competition agreements in light of recent federal trends, scope of non-solicitations agreements, developments in paid family leave, trends in Title VII/ORS 659A claims, and more!

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

The Intersection of Title VI, Title IX and Title VII

Thursday, June 1 Noon-1:30 p.m.

Remote attendance only via Zoom

Members \$45/Non-Members \$70

What are the relevant legal standards for discrimination under the landmark 1964 Civil Rights Act? How could new Title IX regulations affect a cause of action under Title VII? Would new Title VII case law impact a plaintiff’s pending Title IX or Title VI complaint? When would a plaintiff choose to use Title VI, VII or IX? How can a covered entity remain in compliance? Featuring **Johnathan Smith**, Deputy Assistant Attorney General, Civil Rights Division, U.S. Department of Justice. Moderated by **Jonathan Strauhull**, Senior Assistant County Attorney, Multnomah County Attorney’s Office.

For more information: Contact Jonathan Strauhull, Multnomah County Attorney’s Office, at 503.988.3138. For registration questions, contact the MBA at mba@mbabar.org.

Advising and Serving on a Nonprofit Board: Navigating the Rules and Avoiding the Traps

Wednesday, June 7 Noon-1 p.m.

Remote attendance only via Zoom

Members \$30/Non-Members \$50

There are an increasing number of rules, regulations, excise taxes and other penalties that can apply to tax-exempt entities. **Michele Wasson**, Tonkon Torp LLP, and **Heather Weigler**, Oregon Department of Justice will address best practices to help advisors, board members and key staff avoid conflicts of interest and apply sound fiduciary oversight. The speakers will outline the policies and procedures that help ensure a tax-exempt entity is operating in compliance with Oregon state and Federal law and identify issues requiring professional advice.

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

CLE Registration Form

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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. Online attendees will be emailed a link priot to the class.

5/5 Personal Injury Case Selection

☐ Class Registration (\$45 Members/\$70 Non) \$_____

5/16 Taking and Defending Corporate Representative Depositions

☐ Class Registration (\$45 Members/\$70 Non) \$_____

5/17 Dividing Oregon PERS Benefits in Divorce

☐ Class Registration (\$60 Members/\$95 Non) \$_____

5/31 Employment Law Update

☐ Class Registration (\$30 Members/\$50 Non) \$_____

6/1 The Intersection of Title VI, Title IX and Title VII

☐ Class Registration (\$45 Members/\$70 Non) \$_____

6/7 Advising and Serving on a Nonprofit Board: Navigating the Rules and Avoiding the Traps

☐ Class Registration (\$30 Members/\$50 Non) \$_____

Total due. \$_____

Online CLE registration strongly encouraged. Visit 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.

Photocopy registration and mail payment to:
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Unable to attend? Archived webcast options are available at www.mbabar.org/archivedcle



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2023 Roberts & Deiz Award Celebration

Friday, May 12 at 5:30pm

Program starts at 6:00pm
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Please join OWLS & the OWLS Foundation for our 30th celebration honoring 2023 Award Recipients

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Lisa Hay
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Cybersecurity for Law Firms: Navigating the New Risk Reality

by Kathel Kelton, CISSP
Director of Cybersecurity Services, Aldrich



Cybersecurity for law firms is generally improving. According to the ABA 2022 TechReport on Cybersecurity,¹ 89% of law firms now have one or more policies governing technology use, and 46% say they have cyber liability insurance.

Data breaches, however, remain an ongoing challenge. Consider that 27% of firms said they experienced a breach in 2022, and 25% said they didn't know if their systems had been compromised. According to the Oregon Department of Justice breach list,² multiple law firms were compromised in the last two years, some as recently as January.

These breaches often stem from the rapid shift to digital services as law firms looked to streamline processes and improve client services. Navigating this new risk reality requires both awareness of new threat vectors coupled with targeted action to address emerging issues.

Not sure where new technology poses new risks? We've got you covered with a look at some of the top industry challenges.

Wondering how to get started with an effective security program? Aldrich Technology can help you set up a program that meets the best practices outlined in the ABA's Cybersecurity Handbook.³

Emerging Challenges in Cybersecurity for Law Firms

The shift to digital and virtual services represents law firms' most significant security shift. The ABA highlights the importance of data protection in its Formal Opinion 498,⁴ which states, "at all times, but especially when practicing virtually, lawyers must fully consider and implement reasonable measures to safeguard confidential information and

take reasonable precautions when transmitting such information."

But what does this mean in practice? For many firms, new risks are inherently tied to the intersection of human/device interaction. Top challenges include:

Connected Devices

Connected devices such as smart speakers have become commonplace in homes and offices. And while these devices offer convenience, they also come with risks. New research found that even if users aren't directly interacting with smart speakers, they may still be recording conversations to help better understand user needs. For lawyers, smart speakers pose a significant risk during virtual and physical consultations and should always be muted or unplugged.

Cloud Services

As noted by the ABA 2022 TechReport on Cloud Computing,⁵ 70% of respondents said they used web-based software or services, but just 27% evaluated vendor companies before using these tools, and only 8% negotiated confidentiality agreements with providers. The result is a significant risk if cloud services collect, store, or use client data without clients' express permission or if these vendors suffer a data breach.

Client Concerns

Clients themselves are also a concern. For example, if clients record virtual meetings or have smart speakers in their homes that are potentially capturing data, firms may run afoul of regulatory expectations which require due diligence in the protection of digital data. This creates a situation where lawyers and clients must be mindful of risks related to smart devices - even if they're simply sitting in the background.

Building an Effective Cybersecurity Risk Program

Risk programs provide a single source of truth for security practices. They rely on administrative policies, technical controls, and physical safeguards. Administrative policies refer to company-wide expectations around how staff interacts with data, from collection to use to storage. Technical controls may be software tools or applications that verify user information and detect potential threats. Physical safeguards include on-site devices

such as locks or cameras. Comprehensive programs provide a way to address security challenges at scale and create specific policies around client interactions, cloud adoption, and connected device usage. Consistency is critical regardless of firms' routes to build these programs - in-house or with the support of managed security service providers (MSSPs). Three components are key to effective program creation:

Identification

Before firms can build programs, they need to identify potential vulnerabilities and prioritize the specific risk reduction. Put simply, complete protection is impossible given the increasing scope of digital attack surfaces. Instead, firms need to target their biggest risks.

Implementation

Implementation includes clear communication about the rollout of new programs and cybersecurity awareness training to help staff get up to speed.

Evaluation

Security programs aren't static. As a result, firms need to regularly evaluate program efficacy and make adjustments as needed.

Enhance Your Firm's Cybersecurity with Aldrich

Ultimately, new technologies create new challenges for law firms. By combining awareness of potential compromise paths with targeted action, organizations can build better security programs to reduce total risk. If you have questions about how to improve your firm's cybersecurity, let's talk.

Kathel Kelton joined Aldrich Technology in 2022. Kathel has over 20 years of experience in IT, with 10 years of that experience dedicated to CIO- and CISO-level consulting for organizations across the United States. Kathel's vast expertise in information technology and cybersecurity best practices allows her to effectively guide clients in implementing comprehensive and effective cybersecurity programs that meet business, regulatory, and industry requirements. Contact Kathel at www.bit.ly/aldrich-kelton or 503.620.4489.

Around the Bar



Olivia Courogen

Dunn Carney

Dunn Carney is pleased to welcome four attorneys to the firm.

Olivia Courogen joined Dunn Carney as an associate on the firm's Litigation Team following her graduation from Willamette University College of Law, where she received her JD, cum laude. Olivia began her legal career at Dunn Carney as a summer associate in 2021. During her time at Willamette, Olivia was a Presidential Scholar and editor-in-chief of *Willamette Law Review*. She also completed externships with the Oregon Tax Court, the Oregon Supreme Court, and the US Department of Justice.



Joe Carlisle

Joe Carlisle is an experienced business litigator who regularly represents clients in state and federal courts in matters regarding real estate, employment litigation, healthcare matters, breach of contract and fraud claims, and anti-trust and RICO litigation. In recent years, he has specialized in business start-ups, shareholder disputes, healthcare and veterinary business sectors, and advising long-term care companies with their collection matters.

Marjorie "Margie" Elken is a seasoned business attorney who provides outside general counsel to companies both small and large.



Marjorie "Margie" Elken

She regularly advises on issues such as entity formation, negotiation of key contracts and leases, buy-sell and shareholder agreements, federal and state regulatory compliance, financing transactions, sales and acquisitions, and business exit strategies.



Shelby Long

Shelby Long recently joined Dunn Carney after serving as a summer associate with the firm in 2021. Shelby graduated from Lewis & Clark Law School as an active member of the Business Law Society, an associate editor of the *Environmental Law Review*, and a Student Director for the Advanced Enhancement Program. Shelby also interned at the Small Business Legal Clinic and Western Resources Legal Center at Lewis & Clark.

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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mba | ANNOUNCEMENTS

MBF Campaign May 1-31

Give back to the community, improve access to justice, and support the courts with your tax-deductible charitable donation to the Multnomah Bar Foundation. Your support helps local people with local issues. It allows us to continue funding CourtConnect, CourtSupport, and Multnomah CourtCare, and develop future projects that support the court and benefit the community. Donations to the MBF are tax-deductible. Use the insert in this issue, visit www.mbabar.org/mbf, or call 503.222.3275 to donate.

Not Receiving MBA Emails?

Members are encouraged to opt in to ensure that they successfully receive MBA email communications. Visit www.mbabar.org/opt-in to confirm your email status.

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.

Weekend Lobby Hours Change at Inverness Jail

Due to ongoing staffing challenges, which the Multnomah County Sheriff’s Office is working on a recruitment process to solve, the Inverness lobby will close at 3 p.m. on weekends, just as it does during the week. Any visits already in progress at that time will be allowed to continue. Additional information is available at www.bit.ly/inverness-hrs.

Noontime Rides

Join all ages of bicycle riders for noontime hill climbs on Mondays and Thursdays. Assemble at noon at SW Corner of Pioneer Square and leave together at 12:15 p.m. Rain or shine. Frequent regroup. 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.

The MBA Equity, Diversity & Inclusion Committee invites you to

Unique Perspectives on Access to Justice in Oregon
Wednesday, May 3
Noon-1 p.m.
Remote attendance only via Zoom

Join us as **Ekua Hackman** of The Commons Law Center, **Kate Acosta** of Schwabe Williamson Wyatt, and **Janna Giesbrecht-McKee** of KinderCare, share their collective knowledge and experience providing counsel to clients who often experience discrimination, need to make crucial decisions that will affect the trajectory of their families, and deal with other issues that serve as barriers to justice in Oregon.

Our panel brings unique insights into the often-overlooked barriers to equal access to justice and inclusion within the practice of law. They will share what they have learned and offer tools to help attendees become more adept at being able to counsel clients and work alongside attorneys of all backgrounds, including women, people of color, and parents. **Anthony Blake**, former litigator turned career and mindset coach, will serve as the moderator.

The MBA will apply for 1 hour of Access to Justice OSB MCLE Credit.

Cost: Free for MBA members; \$30 for non-members

Register at www.mbabar.org

Ethics Focus



For many lawyers, online reviews by clients have become as central to marketing as they have long been for other businesses such as restaurants. Again as with other businesses, positive comments by “satisfied customers” can be extremely effective marketing. By contrast, negative comments present both a marketing challenge and for lawyers, come with a distinct set of constraints under the confidentiality rule that limit rebuttal. The past two years have seen important guidance for lawyers on this sensitive subject. The Oregon Supreme Court in 2021 addressed some - but not all - of the issues involved. Last year, the OSB followed with an advisory ethics opinion that discusses many of the remaining questions left in the wake of the Supreme Court decision. In this column, we’ll look at both.

The Supreme Court Decision

In re Conry, 368 Or 349, 491 P3d 42 (2021), involved a lawyer who handled a deportation case for a client who had been convicted of two misdemeanors. After a deportation order was entered at the hearing level, the client hired a new law firm that was able to get the case dismissed. The former client then posted negative reviews of the first lawyer on Yelp, Google and Avvo. The reviews neither mentioned the convictions nor used the client’s last name. The lawyer responded with both. A bar complaint followed and the case eventually went to the Oregon Supreme Court.

Although the confidentiality rule includes an exception permitting a lawyer to reveal otherwise confidential information in self-defense - RPC 1.6(b)(4) - the Supreme Court did not address the exception squarely. Instead, the Supreme Court found that even if the exception applied, the lawyer had exceeded the scope of any permitted disclosure when

My Soup Was Cold!
New OSB Opinion on Rebutting Negative Online Reviews

by Mark J. Fucile
Fucile & Reising LLP

he used the client’s full name in his online rebuttals because the Oregon exception is prefaced with the qualifier “to the extent the lawyer reasonably believes necessary[.]”

The OSB Opinion

OSB Formal Opinion 2022-201 (2022), in turn, directly addresses the “self-defense” exception in the context of rebutting negative online reviews. In doing so, the Oregon opinion closely dovetails with a recent ABA opinion - Formal Opinion 496 (2021) - that analyzes this issue from a national perspective under the ABA Model Rule version of the “self-defense” exception. The opinions are available, respectively, on the OSB and ABA websites.

Both opinions focus on the key predicate for the “self-defense” exception to be triggered: “a controversy between the lawyer and the client[.]” The ABA opinion surveys the history of the Model Rule exception, and the Oregon opinion does the same for RPC 1.6(b)(4). Both find that a “controversy” historically meant a formal proceeding like a malpractice claim or a bar complaint. Both also acknowledge that some areas outside formal proceedings - such as responding to a demand letter asserting negligent or unethical conduct - may also invoke the exception. Both conclude, however, that simply an unflattering online review does not.

The ABA and OSB opinions underscore a central challenge with negative online reviews. A few may be: “my lawyer committed malpractice.” Many, however, are the lawyer version of the familiar restaurant critique: “my soup was cold.” While irritating, the latter will not trigger the self-defense exception. Further, the scope of what constitutes “confidential” information is quite broad under the confidentiality rule, RPC 1.6, and its associated definition of “information relating to the representation of a client” in RPC 1.0(f). The risk in responding with a broadside of confidential information is potential bar discipline which in today’s

electronic environment is often quickly reposted by web-based lawyer rating services that potential clients may consult. In short, responding with confidential information outside the self-defense exception risks generating even more “bad news.”

The ABA and OSB opinions collectively also offer useful practical advice in light of the significant constraints posed by the confidentiality rule.

One approach is not to respond. If the criticism is an outlier in an otherwise stellar digital presence, the review may simply be ignored like similar outliers on a wide spectrum of consumer sites.

Another is to review the terms of use for the site concerned. Some criticism may be from “sore” former opposing parties rather than former clients. In those instances, the terms of use may preclude reviews by people who did not actually use the services involved. At the same time, threatening to sue the platform where a negative review was posted is unlikely to have traction. In *Browne v. AVVO, Inc.*, 525 F Supp2d 1249 (WD Wash 2007), for example, the federal court in Seattle pointed to the First Amendment in dismissing claims by a lawyer who disagreed with his evaluation by a rating site. Similarly, the Consumer Review Fairness Act, 15 USC § 45b, voids provisions in “form” contracts that restrict consumers’ rights to offer opinions on services.

OSB Formal Opinion 2022-201 counsels (at 8) a measured response if a lawyer concludes one is required:

Consistent with Oregon RPC 1.6, the attorney may also make generic, truthful statements about the lawyer’s practice. ... The attorney may [also] acknowledge publicly that the attorney does not respond to posts due to ethical obligations.

While perhaps not as cathartic as “fighting fire with fire,” a professional response can often present a better counterpoint that advances the lawyer’s overall electronic marketing.

MBA Merit Award

Continued from page 2

They have devoted countless hours to the taskforce, ensuring the program’s success since its first class of Fellows were selected during the 2018-19 school year. Emily and Jollee developed the Multnomah Bar Fellows Program and, after supporting the program as a

summer sponsor, Adele joined the taskforce in 2019. These three are passionate about the Fellows Program, which has the key goal of diversifying the Oregon bar. The program provides a 1L summer paid internship, substantial scholarships throughout law school, multiple networking opportunities, judicial mentorship, and other resources designed to support

the Fellows’ success in law school and in their Oregon legal careers. Emily, Jollee and Adele have developed an infrastructure to ensure the program’s success for years to come.

These four individuals bring positive changes to the legal community and we are fortunate to have them. They will be recognized at the MBA Annual Dinner on May 24.

Congratulations to Our 2023 MBA Award Winners



Adele Ridenour
Award of Merit



David Markowitz
Professionalism Award



April Stone
*Michael E. Haglund
Young Lawyers Award*

We are bursting with pride as we celebrate these three amazing lawyers and their contributions to the legal community.



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mba|EVENT

Portland Pickles Event

Friday, June 16

7:05 pm

Walker Stadium, 4727 SE 92nd Ave., Portland

Join the MBA Events Committee on Friday, June 16 for the Portland Pickles vs Gresham GreyWolves game. A block of seats has been reserved for our group in the Pickle Party Plaza on the first base line. Gather your lawyer friends, legal staff and family members for this evening of fun. It's Goonies night (get some Goonies themed treats!) and a local band will play before the game.

Gates open: 6 p.m.

Game time: 7:05 p.m.

Cost: \$25 for MBA members and nonmembers



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New MBA Board Directors

New directors for the three-year terms which begin June 1 are:



Justice Brooks

Justice Brooks is a principal at Foster Garvey. Justice’s practice focuses on business, commercial, real estate, and employment litigation, as well as insolvency and bankruptcy matters. He graduated from the University of Arkansas at Little Rock, William H. Bowen School of Law and chaired the MBA CLE Committee in 2021-22, and currently serves on the MBA Events Committee.



Amanda Nadell

Amanda Nadell is a Senior Deputy District Attorney at the Multnomah County District Attorney’s Office. She graduated from Lewis & Clark Law School and chaired the MBA’s Court Liaison Committee in 2021-22.



Tania Manners

Tania Manners is an attorney at Larkins Vacura Kayser where she practices in the areas of business and commercial litigation, health care litigation, insurance coverage disputes and property damage and real estate disputes. She graduated from Albany Law School and currently chairs the MBA Equity, Diversity & Inclusion Committee.



Emery Wang

Emery Wang is a founding partner at Vames, Wang & Sosa and practices in the areas of personal injury and insurance disputes. Emery graduated from Lewis & Clark Law School. He served on the Solo and Small Firm Committee from 2019-21, serving as chair in 2021.

mba | EVENT

CLE + Wine Tasting Event
Wine Franchise Agreements and Why Ryan at ENSO Hates Them
Thursday, May 4
4-6 p.m.
ENSO Winery, 1416 SE Stark, Portland

Wine is a commodity not regulated by the Interstate Commerce Clause but by the 21st Amendment. This gives states the power to impose their own sales regulatory schemes. Twenty-one states have “franchise agreement” laws on their books. These agreements limit out-of-state alcohol manufacturers from traditional contractual freedoms to terminate or modify agreements without the express approval from the in-state distributors as well as the Attorney General.

Attendees will learn about wine franchise agreements from **Judy Parker**, The Winemakers’ Lawyer, and get to taste five wines.

Generously sponsored by Chenoweth Law Group PC and Foster Garvey PC.

The MBA will apply for 1 hour of OSB MCLE credit.

Cost: \$30 for members; \$50 for nonmembers

Register at www.mbabar.org

Get a Mind-ful at the Multnomah Law Library

by Kate Flanagan and Hope Del Carlo



Kate Flanagan

You may remember the Multnomah Law Library from the old Central Courthouse, where it was a hub of activity - a place where lawyers could do quick research on their lunch breaks and non-lawyers could get research assistance from experienced law librarians and attorneys.

The Law Library still exists! When the old Multnomah County Courthouse shut its doors in 2020, the law library moved from its central location to the basement of the Sixth+Main building. The problem is that the new location is out of the way and few people visit. There are good reasons to visit, though, because it has a lot to offer attorneys, including full access to online databases and crucial print resources that are not available online. At the Law Library you can:

- Use library computers to access databases, including:
 - Westlaw,
 - Bloomberg,
 - Lexis,
 - HeinOnline,
 - National Consumer Law Center, and
 - The Practising Law Institute.
- Peruse helpful print resources such as:
 - Oregon Supreme Court and Appellate briefs,
 - Council on Court Procedure meeting minutes,
 - West’s Oregon Digest,
 - The Oregon House and Senate journals, and
 - Legislative history.

If you need a particular document but cannot make it in person, you can send the citation to the helpful Law Library staff who



Hope Del Carlo



can look up both print and digital resources and send the requested document to you via email.

The Future of the Law Library and Public Access
The law touches the lives of everyone in our community, and everyone should have access to legal research materials and support. Non-attorneys seeking legal resources, such as workers trying to organize a union, people being sued on consumer debts, and others who may have a difficult time finding lawyers to help, might find that the Law Library is a valuable resource. Public access to justice requires the continued availability of library resources to attorneys and non-attorneys alike. Although some

firms can maintain complete monthly subscriptions to all of the databases and extensive print libraries, many cannot. Solo practitioners and small firms can keep costs low by taking advantage of the library’s resources. The ability to access library resources allows attorneys to provide more affordable services to poor and low-income clients. The Multnomah Law Library’s collection has been carefully collected and maintained for over 130 years. Many of these books are out of print and hard to find. Once they are donated or pulped, they cannot be replaced. The Multnomah Law Library is a valuable resource for

attorneys and the public. There’s something special about being in this library, surrounded by stacks of case law and legal treatises, where you feel an embodied connection to centuries of legal history and the records of its particular local manifestations. We encourage members to support our efforts to continue serving the Portland legal and broader community. Send an email to friends@multlawlib.org to receive email updates with opportunities to support the Law Library.

Contact the Multnomah Law Library: Open M-F 8 a.m.-5 p.m. www.multlawlib.org librarian@multlawlib.org 971.888.5961



Join an MBA or YLS Committee
Terms Begin Autumn 2023

Rewards of Volunteering
Participation on an MBA or YLS committee is an excellent opportunity to become more active within the legal community, to further develop leadership skills, and to collaborate with colleagues. Most committees meet virtually for one hour once a month, September through May. To volunteer for a committee, complete and return the form enclosed in this issue, or apply online at:

www.mbabar.org/volunteer

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Adele Ridenour

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Tips From the Bench

They/Them and Mx.

by Hon. Erin Kirkwood
Judge Pro Tem, Multnomah County Circuit Court
She/They/He

Over the past decade, I've often been asked about my pronouns by people who want to be considerate and respectful. I was assigned female at birth, identify as non-binary, and dress in masculine attire. My gender non-conformity is apparent - hence the appropriate inquiries about my pronouns. Now that I'm on the bench, I answer that question much less frequently: the *only* person in court that escapes formal gendering is the judge.

Court rules require parties, litigants, and witnesses to be addressed by their last names. UTCR 3.030. That exercise in formality forces a person to decide what honorific precedes their last name and forces others to guess what honorific should be used.

When I started practicing there were three options for honorifics that were not associated with a military/law enforcement rank or advanced degree (such as *Dr.*, *Sgt.*, *Ofc.*, etc.) - *Ms.*, *Mr.*, and *Mrs.* In decades past, I remember being corrected when I addressed a woman as *Ms.* instead of *Mrs.* - failing to honor her marital status. Over the years, those expectations have shifted, and I've defaulted to using *Ms.* and *Mr.* for gendering people and would only use *Mrs.* if someone corrected me and I can't recall the last time that correction was made. It feels incredibly intrusive and inappropriate to ask a person if she is married in order to decide how to address her.

Those choices, though, rely on a gender binary and fail to recognize the fluidity and continuum of gender. As a Gen Xer, I continue to learn and be impressed by younger generations' recognition and acceptance of variations of gender and sexuality. For a visual explanation of the intersections and differences of gender and sexuality, I've relied on the Gender Unicorn many times: www.transstudent.org/gender/.

Over the past decade, we have been introduced to the more common use of *they* as a singular, non-gendered pronoun. *They* is an acceptable singular pronoun in writing and speech to refer to a specific person. In the last seven years the *Chicago Manual of Style*, *Merriam-Webster* dictionary, *The New York Times*, *Washington Post*, and the Associated Press all recognized the singular *they* and formally approved of its use.¹ For a non-gendered honorific, *Mx.* can be used (pronounced "mix").²

The American Bar Association makes it clear that this is an expectation in our profession. The ABA "encourages use within the legal profession and justice system of pronouns consistent with a person's gender identity, including in filed pleadings,



during mediations and court proceedings, and within judicial opinions." They further encourage local judiciaries to draft consistent rules and procedures.³

For those who feel a sense of resistance to changing language, or discomfort with the sometimes-awkward formulations of the singular *they*, let me remind you that language is always evolving. When *Ms.* was first introduced it was not accepted and, as mentioned above, some women even considered it offensive. "The New York Times Magazine" traced the history of *Ms.* from a 1901 proposal in *The Sunday Republican* of Springfield, Massachusetts, through it being embraced by second wave feminists, and onto its adoption by *The New York Times* in 1986.⁴ It is now accepted as a universal honorific for people identifying as women. While the singular *they* can initially evoke what seems like a syntax crisis, it becomes more natural and comfortable with just a little practice.

For attorneys, using *they* and *Mx.* in stock portions of pleadings can save time on correcting templates. *They* and *Mx.* do not just represent non-binary people; both can be used when the person's gender is unclear to the speaker or as a universal pronoun because it does not inherently assign gender. New clients from the LGBTQIA+ community and their parents, children, and siblings will feel more welcome if pronoun or honorific options are listed on intake forms - it signals that they are in a safe place. And all clients are likely to appreciate cost-savings that can result from more fluid templates.

If your client or witness prefers a specific pronoun, let the opposing party know. If you are unsure of a person's pronoun, ask the person or their counsel if appropriate. If you are told what a person's pronoun is, use it. If you make an error, apologize and move on, but do not do it again. It's similar to pronouncing a person's name incorrectly. It may happen, but professionalism demands that you make an effort to correct it in the future. Knowingly

³ Resolution 106A, February 22, 2021. www.bit.ly/aba-106a
⁴ Explaining the Origins of Ms. www.bit.ly/origins-ms

Continued on page 13

News From the Courthouse



by Robert Parker
MBA Court Liaison Committee

Civil Court Update - Chief Civil Court Judge Christopher Marshall

The court asks the bar to let judges know when cases settle by contacting presiding court (971.274.0660, Mul.presiding@ojd.state.or.us).

Consensus Statement

The court is working on an updated consensus statement. There have been quite a few new judges appointed to the bench since the statement was last updated in 2018. The updated statement will include some changes as well as updated language. There is no official statement right now, because the court wants to ensure it is a true "consensus," that all of the judges have agreed. Judges are hopeful that the consensus statement will help lawyers as they're preparing for court.

Reminder on Summary Judgment Motions

Per the rule, motions for summary judgment go to pro tem judges first, and then parties can move for a sitting judge. Senior judges have been invited back to hear motions and help as "Plan B" judges. One problem is that senior judges sit for one week at a time. If lawyers ask for motions for summary judgment to be rescheduled, the senior judge may not be assigned to our court at that future time. This is particularly true when there are requests to change at the last minute. Generally speaking, scheduling of summary judgment motions has been going well, and the hearings have been timely.

Scheduling and Rescheduling of Cases

The courts changed the process for requesting new dates (i.e. filing documents to request the change rather than setting hearings) almost a year ago, and lawyers have been largely compliant. As a result, the system has been successful.

Civil Motions

Lawyers have come out of their "slow down mode" from the COVID shutdown, and motions

are now being filed at roughly the volume they were before the pandemic. The court is caught up, and people have been getting their motions heard. Questions, concerns or suggestions can be directed to Judge Marshall.

New judges are being looped in. Some of the judges new to our bench came with lots of prior civil case experience while others had no prior civil case experience. Those with no previous civil experience are ramped up now.

Settlement Conferences

Generally, judges are available on Fridays for judicial settlement conferences (JSCs) and will also try to make themselves available if they have openings during the week.

The settlement rate is generally very high, and the court is devoting resources towards the JSCs to get cases resolved. Again, the bar can assist by letting the court know when cases settle as soon as possible, and before the call date.

To make the best use of the court's resources, before setting a JSC consider whether all of the lawyers are asking for settlement and working together.

The presiding judge has started calling parties two weeks ahead of their call hearing to see if a case is likely to settle and is often finding that the case has already settled. If the case has settled, contact presiding court (971.274.0660, Mul.presiding@ojd.state.or.us). If a notice of settlement is electronically filed, the presiding judge will not see it right away, and a call or email to presiding court is still necessary.

Filing Motions

The Odyssey system is not set up to notify motions judges that a motion has been filed. Don't simply file the motion; it is necessary to contact the motions judge and request a hearing. If you file a motion, a motions judge will be assigned and you should reach out to the assigned judge's judicial assistant to get the motion scheduled. This is also true if there is no oral argument requested; if you do not notify the judge, they will not know a hearing is requested. Every Monday, Judge Marshall receives a list of cases needing a motions judge.

Judge Matarazzo reminds the bar to be timely in filing motions; the court will not move the trial date because a late motion was filed. Most motions roughly follow a five-week rotation; Motions for Summary Judgment (MSJ) require more time. Also factor in that the judge assigned may be affidavited or a sitting judge may be requested after a pro tem judge has been assigned to the MSJ, which will add a few additional weeks to the process.

Conclusion

The court has been open throughout the entire pandemic and wants cases to move forward. If your case is not moving forward, let the judges know.

Presiding Judge's Report - Presiding Judge Judith Matarazzo Old Cases

Do not ask for a postponement of a trial date if the case has a 2019, 2020 or 2021 case number. Those cases must be resolved! Criminal cases that report they are waiting to get into a treatment court or mental health court will still get a trial date. Do not wait to attempt to get into a specialty court as that will not be a reason to postpone a 2019, 2020 or 2021 case. Lawyers need to be proactive in getting their cases out.

Judge Matarazzo encourages the bar to review the *Recommended Practices For Civil Jury Trials in Multnomah County*. It is an excellent resource, which the court is currently updating.

Each judge has their own preferences and judges' webpages were recently updated; there is usually a link to a judge's trial preferences on the individual judge's webpage.

Senior Judges

The court is busy and will stay busy with the "surplus" of cases until at least late 2024. Chief Justice Meagan Flynn approved the use of senior judges in Multnomah County through the end of this year to help with case resolution. Judge Matarazzo is assigning most senior judges to civil cases. Senior judges are scheduled for a week at a time, so now is the time to get cases heard and resolved. Please plan accordingly.

¹ 'He,' 'She,' 'They' and Us. www.bit.ly/nyt-pronouns
² These are not the only options for pronouns, but they are the most common.

Judge Rima Ghandour Receives 2023 MBA Diversity Award

by Cynthia Newton
MBA Equity, Diversity & Inclusion Committee

The MBA has selected the Honorable Rima Ghandour as the 2023 recipient of its Diversity Award.

Since joining the Oregon bar over 20 years ago, Judge Ghandour has demonstrated her deep commitment to equity and inclusion within the legal community. After joining the bar in 2003, Judge Ghandour practiced in Multnomah County, focusing on civil litigation and pro bono work on behalf of refugees. In December 2022, then-Governor Kate Brown appointed her to the Multnomah County Circuit Court.

Judge Ghandour has served as MBA President, OWLS Queen’s Bench President, and co-founder and one-time president of the Arab American Cultural Center of Oregon (AACCO). She worked hard inside each organization before and after serving as its designated leader, consistently shedding light on DE&I issues, exposing many members to those concepts for the

first time, and working successfully to make each group’s orientation and membership more diverse and inclusive. She regularly encouraged those at the margins to speak, and supported the work of affinity bars. Further, she conveyed tirelessly, in words and actions, her conviction that each bar member has great potential to participate actively in and serve our richly diverse community. Just one concrete example of her work to foster the potential of every bar member to serve is her work to ensure accessibility of the new Multnomah County Courthouse for every person, even those with hidden disabilities. Her efforts increase and expand access to justice.

Judge Ghandour leads by example and serves as a role model for other attorneys by generously giving back to the legal community and its varied organizations by sharing her lived experience in a forthright way. She builds coalitions and creates



Judge Rima Ghandour

conversations that make change. She is a person of integrity who lives her values and speaks her truth without compromise, with kindness, humor, and humility. Her daily actions enrich those around her.

Previously, Judge Ghandour received the OSB Diversity Award, an American Immigration Association (AILA) award for her work in the refugee community, and the MBA Professionalism Award. She has been a keynote speaker at the OSB’s Opportunities for Law in Oregon (OLIO).

Oregon is extremely fortunate to have Judge Rima Ghandour - with her commitment to ED&I - in our community, within the bar, and on the bench.

David B. Markowitz Receives the 2023 MBA Professionalism Award

by Amber Bevacqua-Lynott
MBA Professionalism Committee

Emphatically described by both colleagues and opponents as a consummate professional, David Markowitz will be recognized and honored as the recipient of the 2023 MBA Professionalism Award at the MBA Annual Meeting and Dinner on May 24.

The Professionalism Award recognizes legal practitioners who not only adhere to but exemplify the standards set forth in the MBA Professionalism Statement.



David B. Markowitz

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

With over 48 years of litigation practice in Oregon, Dave is widely recognized as a highly skilled litigator and remarkable legal talent. He is a fellow and former Oregon Chair of the American College of Trial Lawyers, a fellow in the International Academy of Trial Lawyers, and a member of the American Board of Trial Advocates. Dave has also regularly ranked at the top of *Oregon Super Lawyers*, *Best Lawyers in America*, *Chambers USA*, and *Chambers Global*. Dave is also deeply committed to the legal community, including service as a director of the MBA and as a Multnomah County Pro Tem Judge.

Well known for his popular CLEs on depositions and trial skills, Dave demonstrates a kind, caring, and respectful “tough but fair” approach, along with advocating for the value of being professional and courteous to parties, counsel and the court. (Dave has donated all royalties from the DVD and CD sales of his skills programs to local legal nonprofits including the Oregon Law Institute, OSB, and St. Andrew Legal Clinic.)

Dave has also been a pioneer in diversity, co-founding Markowitz Herbold PC in 1983 with Barrie Herbold (a woman, visionary founder, and the firm’s managing partner through the early growth years). In addition, Dave has supported diverse committees throughout the bar and shown further support through his mentoring and hiring of diverse attorneys.

At any given time, Dave is personally mentoring several young attorneys from both inside and outside his firm, and has spent many hours volunteering as a rainmaking coach to young women attorneys through Oregon Women Lawyers. He champions young lawyers, while mentoring and modeling professionalism and collegiality. Dave believes that it is his responsibility to give back to the profession that has been so good to him. He has an exceptional ability to bring out the very best in people, and those who interact with him appreciate that “Dave is quick to praise and never fails to give credit where credit is due.”

Congratulations to Dave Markowitz, recipient of the 2023 MBA Professionalism Award. It is a well-deserved honor for a respected and revered attorney who colleagues report “represents the gold standard of what professionalism looks like and it’s been his hallmark over the course of his entire career.”

handling certain situations. Judge Johnston finds that learning from his colleagues and sharing their support makes the job more satisfying and enjoyable. More importantly, he sees their active collaboration as essential to furthering consistency across cases as the judges rotate through their assignments, building public trust in the courts. He recalls a time he made “the wrong decision” in a case, with unintended consequences he didn’t have the experience to appreciate. The open and regular communication among his colleagues allowed him to understand that future similar situations ought to be handled differently. Although they may

disagree, the judges remain collegial, and Judge Johnston finds their support to be invaluable to the court’s work.

In his free time, you can find him with his family working on a cabin on Mt. Hood. He describes it to anyone who asks as a “Sow’s ear that he will make into a silk purse.” And although his days of working as a professional painter and construction worker are over, he values working with his hands and seeing the results of his efforts. It gives him time to contemplate the role of a judge, the law, and how he can better serve the citizens that appear in his court.

Referee Benjamin Johnston Judicial Profile

by Bridget Donegan
MBA Court Liaison Committee

Judge Benjamin Johnston has been on the Multnomah County bench since 2015, a role that brings him joy and deep satisfaction in working with people from all walks of life every day. After spending his career helping individuals in court as a defense attorney, Judge Johnston finds his current role a natural fit. A judicial referee and pro tem judge on the high-volume civil and criminal dockets, he is one of 10 judges rotating between different specialty courts: criminal arraignments, small claims court, forcible entry and detainer (FED, or evictions), civil commitments, DUII diversion court, and traffic court. These dockets are fast paced, and several involve overwhelmingly pro se litigants on at least one side of each case. Judge Johnston finds it suits him to be dealing with people and their everyday problems.

Originally from Utah, Judge Johnston worked his way through college at the University of Utah doing residential and light commercial painting jobs. He studied economics and Japanese, studying abroad there for a year. His time in Japan has influenced him on the bench. He recalls living there as an adult, but with only the language ability of a third grader - “you can understand concepts,” he explains, “but lack the language,” something he sees regularly in litigants who understand well the important facts and concepts of their situation but find themselves in the foreign world of a court of law unable to express their ideas.

His undergraduate work focused his aspirations on a corporate career, but his perspective shifted over time. He found himself questioning whether a life in business would be satisfying for him. During a gap year after college working as a painter, Judge Johnston recalls a moment driving through a Utah snowstorm and hearing Pink Floyd’s song “Time.”

“Ticking away the moments that make up a dull day/Fritter and waste the hours in an offhand way/Kicking around on a piece of ground in your hometown/Waiting for someone or something to show you the way...” The moment furthered his resolve to move forward in his life with some purpose, and he pursued law school looking for work that would feel more meaningful to him.

Judge Johnston earned his law degree from the University of Utah, continuing his work as a painter to support himself. He moved to Portland shortly after graduating in order to stay with his then-girlfriend (the choice was presented to him as Bakersfield, California or Portland, and was not a difficult decision). Although that relationship did not last, he was happy to remain in Portland and throw his fate to the wind.

In Portland, Judge Johnston set up a solo practice and in the early years he worked in restaurant jobs to make ends meet. His first office was above Huber’s Cafe. After a long day in his small office, he would go downstairs and pour Spanish



Referee Benjamin Johnston sailing in Tahoe

coffees for the who’s who of Portland. From this exposure he made a connection and started a practice specialized in traffic law and criminal defense. Over the early years of his practice, Judge Johnston continued to combine the practice of law with restaurant work, working at several well-known restaurants throughout Portland. This experience taught him the value of listening and customer service, and provided a platform to meet the Portland community. As his practice grew, he quit his restaurant work to focus exclusively on the law.

Judge Johnston was drawn to the bench and sought opportunities to learn more about the work, and to gain relevant experience. In 2013, he served as a pro tem judge for a short period in Milwaukie Municipal Court and in 2014 served in Beaverton Municipal Court until his appointment in Multnomah County in 2015.

He values the opportunity his work provides to learn from his colleagues and to interact with so many different people every day. Members of Multnomah County’s high-volume docket bench regularly discuss cases before them and how they are

mba

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!

Caulin Price
Receives 2023 YLS Award
of Merit

by Nicole Elgin
YLS Board

This year, the MBA Young Lawyers Section is happy to announce that Caulin Price is receiving the Award of Merit. The Award of Merit is given to recognize those who make significant contributions to the mission of promoting justice through service, education, or leadership to the MBA, legal profession, or community.

Caulin currently serves as the chair to the YLS Pro Bono Committee where he helps direct the committee's efforts on the LLC Formation Clinic, Wills for Heroes, supporting the PCC Clear Clinic, and much, much more. Prior to becoming chair, Caulin was a member of the committee for two years. In just his first year on the committee, Caulin took on the major role of coordinating the LLC Formation Clinic. This was despite it being the height of the pandemic in 2020 and Caulin being new to the committee (and new to the MBA).

The LLC Formation Clinic is an event in partnership with the Lewis & Clark Law School Small Business Legal Clinic (SBLC). The clinic's pro bono work ranges from advising on whether an LLC is the appropriate entity for the business, filing Articles of Organization with the Oregon Secretary of State, drafting an operating agreement, to filing for an EIN with the IRS. Caulin's efforts were tremendous and the LLC Formation Clinic was a complete success. Since then, Caulin's work on the committee has sustained the LLC Formation Clinic, allowing attorneys to serve small business owners throughout the Portland community each year.



Caulin Price

In addition to the extensive energy Caulin puts into the YLS Pro Bono Committee, he also works as an associate in Stoel Rives' Real Estate group. Along with his experience drafting general real estate transactional documents, including purchase and sale agreements and lease agreements, Caulin focuses his practice on renewable energy projects, timber transactions, and agricultural transactions.

Caulin served as a judicial extern to the Honorable Rives Kistler of the Oregon Supreme Court and to the Honorable Jolie Russo of the US District Court for the District of Oregon before graduating from the University of Oregon School of Law. Somehow, he has also managed to fit in being a coach on the Jefferson High School Mock Trial Team. Before legal life, Caulin graduated from the University of Utah with a Bachelor of Science in economics and worked in an intensive care unit in Salt Lake City, Utah, as a health unit coordinator.

Emily Templeton
Receives 2023 YLS Rookie
of the Year Award

by Wilson Jarrell
YLS Board

The MBA Young Lawyers Section is proud to recognize Emily Templeton as one of its recipients of the YLS Rookie of the Year award for outstanding contributions during the 2022-23 committee year. During her first year on the YLS Continuing Legal Education (CLE) Committee, Emily served as the co-chair on the Outreach Subcommittee. In this role, she secured high-profile speakers for the Winter and Spring CLE Series, increasing attendance and participation. The YLS looks forward to her continuing leadership on this committee in the upcoming year.

Emily received her undergraduate degree in Sociology from Portland State University in 2017 and her JD from Lewis & Clark Law School in 2021. She began working at OlsonDaines in their consumer protection section as a law clerk and joined the section as an associate in 2022.

Holli Parulski, a former client, says: "Emily is tenacious, spirited, genuine, and sophisticated in her approach to law. Her ability to navigate and willfully advocate on behalf of clients is a much-needed addition to humanity. She supported and represented my best interests in the courtroom

with deep compassion. She maintains composure, speaks with integrity, and consistently showcases an even temper in court. Her fresh knowledge, youthful approach and innovative mindset make her an exemplary attorney. Emily endures a multitude of challenging experiences, while gracefully and valiantly representing the role of one of the best newcomers in Multnomah County."

April Fredrickson, with Miller Nash LLP, first met Emily as opposing counsel when Emily was still a certified law clerk. Ms. Fredrickson says: "What I really appreciated about working with Emily is that she was a strong advocate for her client, she was pleasant and cordial to opposing counsel, and more importantly, she was curious, not afraid to ask questions, and candid when she made a mistake. Not all lawyers have these qualities and I think they will suit her well as she decides what kind of lawyer she wants to be."

Kim Sordyl, a local civil rights attorney, says: "I had the pleasure to observe Emily at oral argument over a complex motion to dismiss in a high-profile case. Emily argued for the plaintiff against a partner and won. She



Emily Templeton

was respectful yet fierce. She was clearly prepared and able to list important facts and standards without a pause. Emily was articulate and confident without being arrogant. The client was there and cried happy tears and is very grateful for Emily's advocacy and important win. Kudos to OlsenDaines and the Underdog Law Office for turning out a rising star associate."

In addition to being a zealous advocate and YLS committee member, Emily serves on the OSB's Consumer Law Section Executive Committee, and in 2023 she was appointed to the Oregon House of Delegates for Multnomah County. Emily is a member of the Oregon Trial Lawyers Academy, the National Association of Consumer Advocates, the American Association of Justice Civil Rights Section and LGBT Caucus, and she is licensed to practice in Oregon state, federal, and bankruptcy courts.

Marry Karam
Receives 2023 YLS Rookie
of the Year Award

by Amelia Andersen
YLS Board

The YLS would like to congratulate Marry Karam for being one of the recipients of the Rookie of the Year award! Marry is in her first year of service on the YLS Membership Committee and she is excited to continue her work next year. The YLS selected Marry for this award because of her work on the committee and her rising leadership in the MBA.

Marry became involved in the Membership Committee to create more connections with other practitioners. As a 2020 law school graduate, she felt isolated when she started in the legal field and sought out opportunities to be involved in the YLS with the hopes of connecting with attorneys who have similar interests. The Membership Committee has not disappointed as the self-proclaimed "party planning committee" and Marry has found herself working with an excellent group of very motivated people.

This year, Marry helped organize the membership donation drive for the Immigrant and Refugee Community Organization (IRCO). This drive collected essentials, such as

bedding, towels, and bathroom supplies, for newly arriving families and it was an enormous success! Marry has advocated for IRCO to be the recipient of the drive again next year because she is interested in contributing to an organization that supports people fleeing global crisis and war.

This cause is deeply personal to Marry as she and her family immigrated to the United States from Syria when she was younger. Growing up, Marry never met an attorney who shared her background or saw attorneys of color adequately represented in popular culture. While she knew early on that she wanted to practice law, not seeing herself reflected in the legal community made the field seem more daunting and unrelatable.

As an undergraduate, she graduated from Portland State University's Explore the Law program to learn more about the field. This program pairs students with attorney mentors and helps them prepare for law school. Marry went on to attend Willamette University and now practices at Lissa Kaufman Law LLC as one of the only Arabic-



Marry Karam

speaking domestic relations attorneys in the state. The value of Marry's participation in the PSU program is underscored by the fact that she now works for her former attorney mentor.

Marry's interest in volunteering with the YLS is rooted in her own experience of breaking into the legal field. As a Middle Eastern woman, she understands the necessity of having intersectional identities reflected in the practice for future members. To this end, Marry plans to connect other YLS members with programs and opportunities that target underrepresented individuals interested in the legal field. In the future, Marry hopes to continue contributing to greater visibility, diversity and inclusion efforts, and shifting the narrative of what it means to be a lawyer. "I want to let people know that you can come from a little village in Syria and become an attorney."

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Joseph Baxter Receives 2023 YLS Rookie of the Year Award

by Jessie Schuh
YLS Board

The YLS is delighted to acknowledge Joe Baxter as a co-recipient of this year’s YLS Rookie of the Year Award.

Joe is originally from Idaho, where, as a teenager, he earned extra money working on farms. In those jobs, Joe labored alongside migrant workers and saw how hard they worked to support entire families on the same wages that Joe was earning as a teenager. This was one of many experiences that sparked his interest in how systems can marginalize members of our communities, and he began exploring how he could minimize the harms society inflicts on underrepresented people.

Joe completed his undergraduate studies in accounting at BYU-Idaho and later enrolled at Lewis & Clark Law School. Joe initially focused on environmental law, but a class on religious liberty and civil rights law broadened his legal interests. During his undergraduate education, Joe had observed friends and family who are members of the queer community face discrimination, and he was keenly aware of the harm and the sense of powerlessness that those situations can create. Armed with a new understanding of the laws related to religious liberty, Joe began to ask how our civil rights laws could protect members of the LGBTQ+ community in those spaces.

Joe was able to spend his 1L summer working with legal aid in Newport, Oregon, where

he supported underprivileged clients, many of whom had never experienced having an advocate working on their behalf. Seeing how impactful it was for these clients to finally have someone in their corner was moving for Joe, and it was his first exposure to the positive, tangible impacts that the law can have on peoples’ lives.

After graduating from Lewis & Clark in 2021, Joe and his wife Emily were excited to put down roots in the area, and he immediately put his passion and skills to work, first as a legal fellow, and then as the deputy director, for the Religious Exemption Accountability Project (REAP) in Portland. REAP’s mission is to empower queer, trans, and non-binary students at more than 200 taxpayer-funded religious schools that actively discriminate on the basis of sexual orientation and gender identity/expression. Through civil rights litigation, storytelling, oral history, research, and public policy, REAP works towards a world where LGBTQ+ students on all campuses are treated equally, with safety and respect.

Joe is extremely grateful to have a supportive wife and community that give him the opportunity to do that work, but he also felt the need to give back to the legal community. Prior to getting involved with the YLS, Joe had benefited from the support that the Oregon legal community provides, starting with his professors at Lewis & Clark and continuing with a host of great



Joseph Baxter

mentors he’s had since joining the bar. Joe was interested in helping newer lawyers to develop those same relationships - particularly in a way that fosters diversity and encourages participation by underrepresented members of the bar - so he joined the YLS Membership Committee in the fall of 2022.

Shortly after joining, Joe volunteered to help organize a holiday fundraiser for the Immigrant and Refugee Community Organization (IRCO), which serves the holistic needs of Oregon’s immigrants, refugees, and other marginalized community members. One of Joe’s Membership Committee colleagues commented that Joe “was always eager to provide assistance and get the process going. He was motivated to help make the event a success.” And a success it was. Due in large part to the work of Joe and others on the YLS Membership Committee, the drive provided hygiene essentials, household items, diapers, and other basic supplies to IRCO’s target population in a time of great need.

The YLS thanks Joe for his service to the committee, and to the community more broadly, and we are proud to recognize him as one of this year’s Rookies of the Year!

Acknowledgements

by Ramon Henderson and Elli Tillotson
Co-Chairs, YLS CLE Committee

The MBA Young Lawyers Section CLE Committee would like to thank all of the dedicated judges and attorneys who volunteered their time, experience, and professional knowledge to present during our 2023 Winter Young Litigators Forum (YLF). The YLF is the committee’s flagship series consisting of nine, noontime CLEs. The YLF covers a variety of topics geared towards providing new attorneys with an introduction to litigation in Oregon. Topics included “Courtroom Nuts & Bolts,” “Complaints, Answers & Pre-Answer Motions,” “Discovery,” “Depositions,” and “Professionalism and Ethics,” to name a few. Thank you to all of our speakers for putting on a successful and engaging series. We could not do this without you.

Judge Adrian L. Brown and **Judge Eric L. Dahlin**, Multnomah County Circuit Court
Tim Snider and **Nathan Morales**, Stoel Rives, LLP

Rudy Lachenmeier, Dispute Resolution Law
Carolyn Pearson, Keating Jones Hughes, PC
Nikki Abercrombie, Cable Huston, LLP
Erica Glaser, Erica C. Glaser Mediation and Arbitration
Kristin Asai, Holland & Knight LLP
Jason Kafoury, Kafoury & McDougal
Nellie Barnard and **Bailey Oswald**, Schwabe Williamson & Wyatt

Didn’t get to attend our Winter Series? The YLS CLE Committee organizes and puts on three CLE series a year. Our Spring Series, Advanced Litigation, which covers more advanced litigation topics such as preparing for trial, rules of evidence, and how to be a good second chair, began in April with seminars offered every week through June 8. For more details or to register for the Spring Series, please visit www.mbabar.org/cle.

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PUDL dismantles existing barriers for students, especially BIPOC students, at under-resourced high schools to access policy debate.

Our work depends on the support of volunteers. We hope you will join us to learn how you can get involved!

RSVP through Facebook:
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mba yls | EVENT

YLS Judges’ Reception

Thursday, July 20
5-6:30 p.m.
Tonkon Torp LLP
888 SW 5th Ave, Ste 1600, Portland

The YLS Membership Committee invites you to join us at our annual Judges’ Reception! This event provides lawyers the opportunity to socialize with members of the bench in a cordial and informal environment. Appetizers and beverages will be provided by Tonkon Torp LLP.

Attendance is free, but space is limited.

If you have any questions about this event, please contact Sam Klausen, Samantha. Klausen@tonkon.com, or Sarah-Ray Rundle, srundle@mrhfmlaw.com.

Thank you to Tonkon Torp LLP for hosting and sponsoring the event.

RSVP online at
www.mbabar.org/calendar

Tips From the Bench

Continued from page 10

misgendering a witness, party, or opposing counsel is not acceptable behavior, and may violate applicable rules of ethics. See ORPC 8.4(7).

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Bethany Bacci Receives 2023 Pro Bono Award of Merit

by Ayla Ercin
Executive Director, The Campaign for Equal Justice

Bethany Bacci, a partner at Stoel Rives LLP, has been awarded the 2023 Pro Bono Award of Merit for her many years volunteering with the Legal Aid Services of Oregon (LASO) Night Clinic, and for encouraging pro bono volunteering among lawyers both at her own firm and in the wider legal community.

Bethany has been volunteering through LASO's Night Clinic since 2003, where she has provided representation to low-income clients on a broad range of issues, including guardianship, collections, wills, rental termination notices, and SSI cases. Although Bethany's practice at Stoel Rives focuses on employee benefits and not litigation, she has settled damage claims, negotiated on behalf of her clients, and consistently taken on work through legal aid that she describes as "challenging and not always comfortable." Recently, Bethany accepted a complex emergency guardianship case that involved foreclosure and the need for an immediate temporary guardianship. She considers the work of access to justice too important, and the need too great, not to help.

Bethany does this work because she knows that "advocating for individual rights is foundational to our legal justice system" and her Night Clinic clients wouldn't otherwise have access to counsel on life-changing legal issues. She also enjoys the work because "it reminds me of the utility of my legal training, even in areas where I'm not an expert."

The Night Clinic has been providing legal services to low-income clients since 1992 and was designed to increase access to justice by helping clients who can't get legal help during regular office hours. The Night Clinic is a partnership between LASO and the Portland offices of law firms Stoel Rives LLP and Dunn Carney LLP.

Bethany received her BA from Stanford University before going on to law school at Lewis & Clark. When she earned her JD in 2001, an important part of her decision to join Stoel Rives was the firm's



Bethany Bacci

long history of pro bono advocacy and strong support for pro bono volunteer work. Bethany is now a member of the Stoel Rives Pro Bono Committee, where she continues the tradition of encouraging and supporting pro bono volunteering. The Pro Bono Committee includes representatives from each of the firm's offices and is a coordinated, firm-wide initiative to promote a culture of commitment to pro bono.

Jeremy Sacks, chair of the Pro Bono Committee, describes Bethany's commitment to pro bono: "For years, Bethany has been a leader in Stoel Rives' pro bono program, both as a lawyer doing pro bono work on a host of topics and as an administrator helping to run our firm pro bono program in our Portland office. She takes her pro bono commitment seriously; her 20-plus years of work at the Night Clinic is just one example of why she's an attorney who really walks the walk on pro bono."

Since 2005, Bethany has served on the Board of Directors for Oregon Lawyers Against Hunger, and served as their president from 2009-12. Bethany is also a board member for Pet Peace of Mind, an organization that enriches the quality of life for seriously ill patients and the pets they love. In addition to her direct client work through the Night Clinic, Bethany has also acted as a subject matter expert and advisor to LASO attorneys on issues arising within her area of expertise.

Tiffany Davidson Receives 2023 Pro Bono Award of Merit

by Kelsey Benedick
YLS Pro Bono Committee

Tiffany Davidson is one of two recipients of the MBA's 2023 Pro Bono Award of Merit in recognition of her pro bono work with the Victim Rights Law Center (VRLC). In addition to her family law private practice and her work with the VRLC, Tiffany volunteers with other organizations, including LASO's Domestic Violence Project.

Tiffany was born at St. Vincent's Hospital and grew up in Oregon, where her early experiences fostered her passion for helping survivors of domestic violence. As a preteen, Tiffany began babysitting for a family that many on the outside would have described as perfect, but that she soon realized was anything but. This was Tiffany's

first involvement with a family where domestic violence was both prevalent and hidden, and it helped her realize how insidious domestic violence is. Tiffany's family recalls seeing a new drive in her during this time as her future career ambitions developed.

It was important for Tiffany to practice in the community that shaped her, so after graduating from Willamette University College of Law and clerking for two Clackamas County Circuit Court judges, she accepted a position as a deputy district attorney in Curry County pursuant to a federal Violence Against Women Act grant. Tiffany's cases that year involved domestic violence



Tiffany Davidson

and child abuse, and she found herself helping the same abuse survivors over and over. Mindful of the fact that it can take a domestic violence survivor seven to 10 tries to leave their abuser, Tiffany decided to transition to civil family law practice, where she believed she would be better equipped to help clients ultimately leave their abusers and reclaim their lives.

To be the best possible advocate for her clients, Tiffany

Continued on page 15

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April Stone Receives 2023 Michael E. Haglund Young Lawyer Award

by Shelby C. Smith
Legal Aid Services of Oregon

April Stone has made a substantial impact on the lives of low-income Oregonians in her career as a lawyer of less than four years. April has dedicated a considerable amount of time to ensure that community members with limited financial resources have meaningful access to the legal system. As part of this work, April has worked with both survivors of domestic violence and people at risk of losing their housing through LASO’s Domestic Violence Project (DVP) and the Housing Notice Clinic. In recognition of her remarkable contributions, April is the 2023 recipient of the MBA’s Michael E. Haglund Young Lawyer Award.

Born in Portland, April grew up in Alaska and started her career in the law as a legal assistant at a personal injury law firm. Just after her 18th birthday, she had a baby and knew she needed to start working toward a career that would support her family right away. Being drawn to professional work and knowing she wanted to use her smarts in the professional world, April started off filing at an Anchorage, Alaska law firm and worked her way up to being a paralegal. After a few years of excelling in her first job, April transitioned to an insurance defense firm and worked there for another nine years as a paralegal.

However, April realized there was a ceiling to advancement within her job as a paralegal. To further her legal ambitions, she would need an education, which was quite a daunting prospect as a single mother who never graduated from high school and had been navigating the professional world with a GED. While still working full time at the insurance defense firm, April enrolled in college at the University of Alaska, majoring in justice studies. At the time, the university had a partnership with Willamette University College of Law that allowed enrolled students to transfer directly to Willamette after three years of undergraduate

studies. April took advantage of that and made her way, along with her daughter, to law school in Oregon.

As she entered law school, April saw herself going back to Alaska eventually to practice. However, she made such deep connections in Oregon at Willamette, the University of Oregon, and within the wider legal community that she was compelled to stay and make Oregon her home once again. During and after graduating from the University of Oregon School of Law, April immersed herself in Oregon, clerking at the US District Court for the District of Oregon with the Honorable Marco A. Hernández, and landed thereafter as an associate at Markowitz Herbold, where she practices commercial litigation.

The attorneys of Markowitz Herbold have a strong tradition of pro bono work with LASO, and April, too, was drawn to this noble work. As April puts it, “honestly, I really love my job. It is intellectually challenging and fun. But I wanted to do something that helped people in need.” April draws on a lived experience in her work with survivors through DVP. “When I was in my 20s, I was in a custody dispute with my daughter’s dad. It was off and on for about six years. I was often on my own [in court] against a lawyer on the other side. I was relatively court savvy as a paralegal, and I probably did better than other pro se litigants. But the stakes are so high when you are talking about the health and safety of your child. It was so scary and stressful, so I always knew I wanted to help someone through a situation like that. It has been really rewarding to use my legal education to do that for others in similar situations as a lawyer.”

April has provided critical legal assistance to survivors of abuse through DVP. DVP volunteer attorneys consult with and represent survivors in contested restraining order hearings in Clackamas, Multnomah, and Washington counties. These cases

tend to have short timelines, limited issues, and require a court appearance. Like April, most volunteers with DVP are not family law attorneys and are not expected to assist clients with ongoing family law issues. Despite that, April has chosen to look at her clients holistically and has assisted above and beyond by continuing with some cases, assisting in custody or other related matters.

Markowitz Herbold attorney and shareholder Adam Starr had this to say, “April has passionately and zealously represented disadvantaged individuals since I’ve known her. I have personally observed her dedication in seeking domestic violence restraining orders on behalf of multiple indigent mothers in dire need of legal protection. She has tirelessly and gracefully dealt with the challenges of this volunteer work, including dealing with unreasonable attorneys, pro se opponents, and an overworked court system. Her devotion to these clients matches or exceeds the work that she does for our corporate clients. She routinely takes calls from her pro bono clients after hours and on the weekends to meet their needs, as well as the needs of the case.” April truly cares that her clients understand the legal process and are able to maintain stability and safety beyond just the restraining order hearing.

April sees that apart from the satisfaction of helping people, working with DVP has also been beneficial in building skills and experience to take further into her career. She describes having learned more about appearing in court, how to appeal to different judges, and being a more effective communicator. “I represented someone who didn’t speak English, and working through an interpreter presented its own set of challenges.” But April recognized that this was an important skill to learn in being a voice for survivors through this process. “[DVP requires] working with clients who are often unsophisticated and have emotional trauma, and invisible barriers to communication. You might have to go over the same incident more than once, avoiding triggers, while still getting the information you need,” to prove their case.

“When I started doing pro bono work, lots of people said this will be a great experience for me, to practice and get into the courtroom. My first reaction was that domestic violence and eviction defense cases are not the kind of cases that you *practice* on. The stakes are just too high. It brought me back to my own experience in court as a pro se party.” However, April came to see that the privilege we have as lawyers and our unique position to give voice to vulnerable community members is invaluable. “I still feel that [a DVP case] is not a case to practice on - I still prepare as much for my pro bono cases as I do for my firm work, but I disagree with my initial impression that I did not have enough experience to provide effective representation. Just having someone standing there next to you does so much. It takes the pressure off the client and allows the client to focus on assisting the lawyer, instead of wearing all hats at once. Just being present and being there for clients is what counts. And, in retrospect, my lack of experience made me prepare even more. I don’t think anyone is too inexperienced to do this work. You’re a lawyer, you know how to read the law. Even if you are intimidated because you practice in a different area, that background may be beneficial and give you ideas and insight that others who practice in that area of law every day may not have.”

Aside from DVP, April has also volunteered her time with the LASO Housing Notice Clinic to help preserve stable housing for members of our community. Most landlords in eviction cases are represented by attorneys, while most tenants lack the resources to hire an attorney. Unfortunately, LASO and other low-income legal services programs do not have nearly adequate numbers of staff attorneys to address the needs of low-income tenants most at risk of losing their housing. April has helped fill this gap by working with clients through this clinic to help address defective notices, help preserve housing, and provide guidance and stability for the future. With the rise in homelessness in our community, April has provided critical assistance to these low-income families to help keep them housed.



April Stone

Adam Starr praised April’s work in the housing clinic as well, noting that “[i]n addition to trying multiple, complex domestic violence restraining order cases, she has represented tenants in landlord disputes. In one instance, she was able to assist a tenant in securing a COVID grant that would cover the tenant’s rent for months. This meant that the tenant would have a stable source of income and a place to live for months. Had April not been involved, this tenant would have been evicted.”

Both DVP and the Housing Notice Clinic programs saw increased need due to the pandemic. LASO’s statewide pro bono manager Jill Mallery notes that, “April is quick to accept pro bono referrals and provides high quality urgent legal services under pressing timelines. April’s involvement with LASO’s DVP and Housing Notice Clinic illustrates her dedication to increasing access to legal services to underserved communities.” Through both programs, April has dedicated more than 135 hours to pro bono service with Legal Aid clients. On top of this impactful work with LASO, April also dedicates her time to volunteering with Special Olympics and Minds Matter Portland, and to mentoring law students and new attorneys. April truly has the heart of a volunteer and has shown sincere dedication to pro bono service in her short career; she is righteously deserving of the MBA Michael E. Haglund Young Lawyer Award.

To volunteer with LASO, contact pro bono coordinators Shelby Smith shelby.smith@lasoregon.org or Brett Cattani brett.cattani@lasoregon.org. You can also sign up to volunteer and view pro bono cases at www.probonooregon.org.

Tiffany Davidson

Continued from page 14

connected with psychologists, began taking psychology courses, and ultimately obtained a master’s degree in forensic psychology. Tiffany also stresses the importance of trauma-informed practice in all areas of the law: “The legal system is a stressor in and of itself. Being part of the legal system is a trauma in and of itself.” On top of the anxiety caused by being involved in the legal system, many of our clients have suffered significant personal trauma. As a result, in the course of representation attorneys may be confronted with the

emotional and psychological challenges their clients face. For this reason, Tiffany encourages potential clients to interview multiple attorneys to find the one that best meets their needs. Likewise, given the effect of vicarious trauma and its role in trauma-informed practice, Tiffany encourages practitioners to listen to their gut if it tells them not to take on a particular representation.

Tiffany describes family law as her calling. Her understanding that domestic violence knows no boundaries inspired her to increase access to justice by engaging in pro bono representation of domestic violence survivors. In addition

to the trauma and stress of being involved in the legal system, Tiffany recognizes that domestic violence is designed to force a survivor to feel small, unsupported, and that they have to stay with their abuser, making the act of leaving all the more difficult. Through her pro bono work specifically and her family law practice in general, Tiffany wants to help people find compassion in the law when they seek legal help.

Many thanks to Tiffany for being a helper in our community!

Submissions for the Multnomah Lawyer

The MBA is looking for writers and article ideas for the newsletter. If you are interested in submitting ideas or articles, please review the *Multnomah Lawyer* contribution guidelines and contact the MBA Executive Director at mba@mbabar.org. Our readers especially enjoy profiles of members, analyses of trends in law, tips on points of law and essays on issues in the profession.

Contribution guidelines and other details are available at:
www.mbabar.org/newsletter

The Corner Office PROFESSIONALISM

Tips for Working with Pro Se Parties

With hourly rates for lawyers and the costs of litigation rising, it is no surprise that more and more people are going the self-help route and representing themselves, particularly in my area of practice: family law.

The term “pro se” is Latin, meaning “for oneself” or “on behalf of oneself.” Because most pro se litigants, otherwise known as unrepresented parties, are not lawyers and have not been trained in understanding court rules and procedures, taking on a case with an unrepresented party on the other side poses a unique set of challenges, distinct from taking on a case where the other party is represented.

These challenges can make the case more taxing emotionally and financially for the attorney as well as the attorney’s client. I personally prefer, and I know it is common amongst other attorneys in the field of family law, to take a case when the opposing party is represented by even the saltiest of lawyers over facing off with an unrepresented party.

Despite our preferences, there will inevitably be times where you are unable to avoid a party choosing to navigate the process without the aid of independent counsel. When that occurs, as practitioners, how do we best maintain our ethical standards and professionalism while representing our clients, when the opposing party does not have an attorney?

Rule 4.3 in the Oregon Rules of Professional Conduct provides a great jumping-off point. To start, and at every possible opportunity, I make it clear that I represent the interests of my client only and that I cannot and will not offer the pro se party any

legal advice, as to both substance and process.

No matter how many times I remind some pro se parties, it is common to receive questions such as “what does this document mean?” and “what do I do next?” at different points throughout the case.

At this point, the second part of Rule 4.3 comes in to play, where lawyers are ethically obligated, when the lawyer knows or reasonably should know that the unrepresented party misunderstands the lawyer’s role in the matter, to make reasonable efforts to correct the misunderstanding. Frequent reminders that I cannot offer the pro se party legal advice, in a direct and professional manner, are an absolute essential part of working with an unrepresented party. I include such reminders in virtually every exchange with the unrepresented party in person, on calls and in writing.

While Rule 4.3 makes clear that lawyers cannot provide a pro se party with legal advice, outside of advice to secure independent counsel, is it permissible or even advisable to point unrepresented parties to the tools they need in order to more efficiently represent themselves? In my opinion, yes.

For example, I regularly offer pro se parties contact information for the OSB Referral Service and Modest Means Program or the names of other practitioners in the area. Giving an unrepresented party a jump-start on how they can become represented may just nudge them in the direction of hiring their own lawyer.

When pro se parties have substantive questions or it is clear that the pro se does not understand a particular rule or

standard, I frequently point self-represented litigants where to go in order to find this information for themselves.

In Multnomah County, in the family law community, we are lucky to have a website supported by the Oregon Judicial Branch that outlines the steps for many family law matters from start to finish. The information is organized and presented with a pro se party in mind, with links to such topics as “How to get a divorce?” and “How to get a restraining order?” and “How to get custody and/or parenting time?”

Pointing a pro se party to these resources serves several purposes.

First, a pro se party that understands the rules and process is more likely to follow them. For me and my client, there is less need to use the time, energy and money responding to frivolous requests or meritless claims, so that both parties can focus on the issues the court will address.

Second, pointing the pro se party to resources to find the answer for themselves builds goodwill with that party, if they understand that even if I cannot offer them legal advice, I am not hiding the ball, taking advantage of them or making the process more difficult than it needs to be for them. This goodwill in turn means a savings to my client, because I am spending my time on the actual legal issues, instead of spending the time and money to simply try to manage the other party.

While not part of the Rules of Professional Conduct, the Golden Rule, is likely one of the most significant rules to follow to help make the best of a case with a pro se party. Keep in mind that if a party is representing themselves,

it is highly personal. Try to put yourself in their shoes and treat them the way you would want to be treated were the roles reversed.

For pro se and represented litigants alike, the stakes are highly personal. This can lead to strong emotions, which some are better able to manage than others. With that in mind, keep the interactions polite and professional, even if the pro se party is not always able to do so.

It is fine to set the same professional boundaries with a pro se party that you would otherwise employ with another attorney. If a pro se party yells at you or is rude to you, it is okay to set a boundary with him or her. For example, you can let the pro se party know that you are willing to communicate with them in writing rather than in person or over the phone. Take any reasonable steps necessary to ensure that you remain the professional in the situation.

While it can be tempting to meet an angry party where they are at, doing so will likely escalate the situation, which could impact your ability to effectively represent your client.

Last, once it is clear that the opposing party will be representing themselves, it is essential to have a frank conversation with your own client on how this dynamic may affect their case. In litigation it is impossible to predict every twist and turn that may come up in the case. With a pro se party involved, it can be even more unpredictable. Make sure that you communicate with your client frequently and consistently to ensure they are informed every step along the way.

The Corner Office is a recurring feature of the Multnomah Lawyer and is intended to promote the discussion of professionalism taking place among lawyers in our community and elsewhere. While The Corner Office cannot promise to answer every question submitted, its intent is to respond to questions that raise interesting professionalism concerns and issues. Please send your questions to mba@mbabar.org and indicate that you would like The Corner Office to answer your question. Questions may be submitted anonymously.

Pro Bono Volunteers

- Thank you to the following lawyers who recently donated their pro bono services to the Children’s Representation Project or Volunteer Lawyers Project at Legal Aid Services of Oregon.
- Visit www.mbabar.org/probono to discover pro bono opportunities in Multnomah County.
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Elizabeth Lemoine Receives 2023 Legal Aid Attorney of the Year Award

by Jill Malleery
Legal Aid Services of Oregon

Elizabeth Lemoine has been increasing access to legal services for low-income Oregonians for almost 20 years. Since 2004, Elizabeth has been providing legal help to Multnomah County seniors through the Senior Law Project (SLP), a pro bono project coordinated by Legal Aid Services of Oregon (LASO). She also advocates for low-income tenants faced with a notice of termination by volunteering with LASO’s Housing Notice Clinic. Elizabeth is a recipient of the 2023 Legal Aid Attorney of the Year Award for her commitment to reducing the justice gap by helping underrepresented and often vulnerable members of the community while displaying the highest level of professionalism.

Elizabeth grew up in Oregon and attended the University of Oregon for both undergrad and law school. After graduation in 1993 she spent the next 11 years at home raising two sons, one of whom became an attorney who practices in Chicago. Her other son works at the Nike campus in Beaverton. Elizabeth took and passed the Oregon bar exam on her first try in 2004. Thereafter, she became a solo practitioner/contract attorney to a mentor attorney and began volunteering with the SLP.

Elizabeth and her attorney husband of 31 years have a private practice, Lemoine Legal Services, PC. Elizabeth specializes in administrative law work in the labor and employment arena representing public safety unions in Oregon and Washington and civil litigation in Oregon. In addition to her volunteer work, Elizabeth is the chair of the Washington County Civil Bench Bar Committee and has served as a pro tem judge for Washington County since 2018, handling Landlord Tenant first appearance and trial, contested stalking dockets, small claims and civil motions.

Thanks to the strong support of Elizabeth and other dedicated volunteers, the SLP provides much-needed legal assistance



Elizabeth Lemoine

to hundreds of seniors each year. The SLP consists of 20 monthly legal clinics scheduled through eight senior centers in Multnomah County. Attorneys provide a 30-minute consultation on a variety of civil legal issues to clients 60 or older, regardless of their income. Volunteer attorneys provide continuing pro bono services for clients who meet LASO’s financial eligibility with a variety of civil, elder law issues, including simple estate planning, POAs, advanced directives, housing, and consumer issues.

When asked why she volunteers, Elizabeth responded, “I volunteer with LASO SLP because I believe that I have been given incredible opportunities in life and it is my intention to give back and hopefully give others opportunities and assistance that they may not otherwise be able to obtain.” Elizabeth knows far too well that the SLP serves seniors who often would not receive legal assistance if not for the assistance available through the project. Elizabeth reflects on the benefits of volunteering over her many years of service, “through my volunteer work with LASO SLP I have been honored and blessed to meet amazing people and hear incredible and often heartbreaking stories. I am rewarded constantly with feedback, notes (and sometimes hand-crafted items) as thanks,

Continued on page 20



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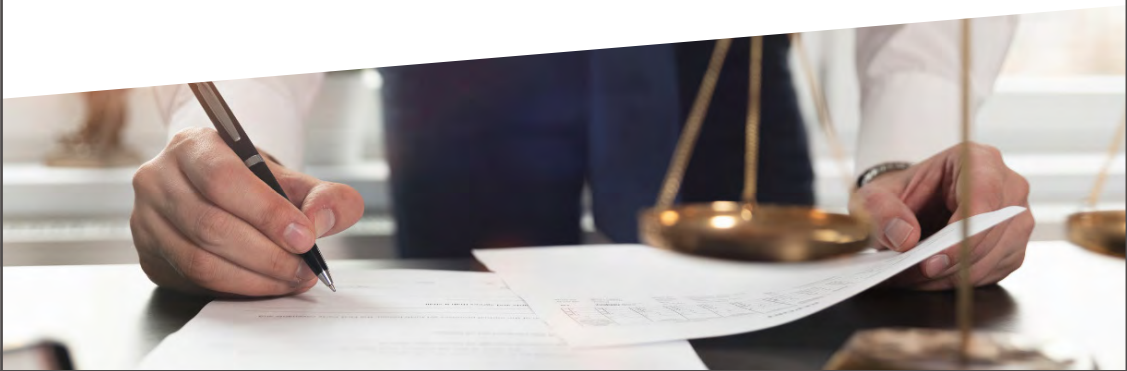
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Julie Stevens Receives 2023 Legal Aid Pro Bono Volunteer of the Year Award

by Brett Cattani
Pro Bono Coordinator/Staff Attorney
Legal Aid Services of Oregon

Stevens is the 2023 Legal Aid Volunteer of the Year Award recipient for her exceptional commitment to pro bono service through Legal Aid Services of Oregon's (LASO) Domestic Violence Project (DVP). This award is presented annually to a lawyer or lawyers, who have displayed an outstanding commitment to the delivery of critical pro bono services to low-income persons through LASO or the Oregon Law Center. Julie's service will be recognized at the MBA's Annual Meeting and Dinner on May 24.

Julie's commitment to providing critical pro bono legal services is exceptional and truly deserving of this award. After serving Oregon's low-income communities as a civil legal aid attorney for over 40 years, in her retirement and as a pro bono member of the bar, Julie continues to provide the highest quality legal services to low-income survivors of abuse and stalking. She has been a consistent leading volunteer with LASO's DVP this last year. Julie explains, "It's such important work and a privilege to help represent clients who otherwise would not be able

to afford an attorney. Also, after being an attorney for 46 years, it's hard to let go."

"Julie is a force to be reckoned with," said Emily Brown-Sitnick, Regional Director of LASO's Portland Regional Office. "Julie's unwavering support of survivors in our community is not only inspiring, but also monumental. We are a better community because of lawyers like Julie. Her tireless commitment to this work has helped make communities and families safer. The countless hours she has provided for families promotes a stable, safe and healthy environment for our clients and their children. The impact she has had is vast and we are appreciative and humbled by her commitment and work."

Julie grew up in Coos Bay. After graduating from the University of Oregon, Julie obtained her law degree from Columbia University Law School in New York City. She was admitted to the OSB in 1973 and returned home to Oregon to practice law. Julie launched her career as an attorney through the federal Volunteers in Service to America (VISTA) program, a vital resource in the fight against



Julie Stevens

poverty. Julie was then hired to manage legal aid services in Coos Bay before entering private practice as a family law practitioner. For most of her legal career, Julie was employed as a staff attorney with LASO where she maintained a heavy case load, representing abuse survivors and their children in a variety of domestic relations cases including child custody, marriage dissolution, and contested protective order cases. Fun fact: Julie has also been a contestant on America's favorite quiz show, *Jeopardy!*

Julie's commitment to her clients and her strong trauma-informed advocacy continues in her retirement. In the last two years, Julie has accepted over 20 pro bono family law cases through LASO's DVP. The DVP is a volunteer lawyer program where survivors of abuse and stalking are matched with pro bono attorneys for representation in contested

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Elizabeth Lemoine

Continued from page 18

from individuals who are so heartfelt and genuinely grateful for the services LASO provides for them - that I have provided for them.”

Elizabeth’s commitment to increasing access to justice is demonstrated through her many years of service and the spirit in which she volunteers. Shelby Smith, LASO staff attorney and pro bono coordinator of the SLP, remarks, “It’s evident that Elizabeth has made pro bono service a priority and an integral part of her law practice. We greatly appreciate her outstanding dedication to SLP as well as her strong support of pro bono.” Based on Elizabeth’s volunteer experiences, she recommends attorneys volunteer with a LASO pro bono project. She explains, “I think that meeting with clients in these programs reminds us of what it means to be a lawyer, and why many of us went to law school in the first place - to provide hope, encouragement and advice, on a legal basis, to those who are struggling to function and exist within the framework of those laws. Sometimes our law practices can be discouraging, and full of contention and competition with other lawyers. Senior Law provides a bright spot in my practice that allows me often to listen, evaluate and advise on a matter within the scope of 30 minutes. My clients generally leave the appointment more confident, relaxed and encouraged - which in turn makes me feel happy and valued.”

Elizabeth volunteers each month through the Hollywood Senior Center. Over the years, she has provided legal assistance to more than 770 seniors. Ken Davis, Supervisor for Hollywood Senior Center, expresses his gratitude for Elizabeth’s work providing legal help to seniors in need. He describes “Liz” as a pleasure to work with and shares this about Elizabeth’s connection to the seniors, “one thing I always appreciate about working with Liz is her sincerity and approachability when she is meeting with clients. She always greets them warmly and immediately makes people feel welcome.” Ken adds, her “level of

service over so many years is certainly something to celebrate.” One example of Elizabeth’s pro bono work began many years ago and continues today. Elizabeth helped a senior with an estate plan that the senior wished to update during the pandemic due to a complicated family situation. The senior, now in the early stages of Alzheimer’s, has trouble recalling why she made certain decisions. Elizabeth kindly explains to the client why she chose her past decisions to reassure and calm her.

Elizabeth provides all levels of legal assistance to her senior clients, ranging from advice to full representation and drafting legal documents. Elizabeth represents her clients with kindness and respect while providing the highest quality of assistance. Susan, intake specialist at Hollywood Senior Center explains, “I am always confident in making appointments with Liz. With her vast experience, we can be certain that consumers will have a positive experience working with her.” In addition to her direct provision of legal services, Elizabeth has acted as a mentor for newly licensed attorneys and attorneys new to volunteering with the SLP. Whether it’s a senior in need of legal assistance or attorney in need of a legal consultation, Elizabeth is always willing to lend a hand and help.

More recently, Elizabeth has been advocating for low-income tenants who are in jeopardy of losing their housing. Through the Housing Notice Clinic, Elizabeth has helped to increase housing stability for often underrepresented members of the community. In eviction cases, the majority of landlords are represented by an attorney or agent whereas tenants often have no representation. Elizabeth has represented tenants who have received defective notices of termination and helped preserve their housing against wrongful eviction. She has been willing to assist tenants located in more rural areas of the state where legal resources are limited and often unavailable.

Elizabeth’s lengthy pro bono work with the Senior Law Project and critical work with the Housing Notice Clinic has made

an outstanding positive impact on the judicial system by increasing access to justice. Elizabeth’s volunteer service benefits not only her individual clients but the community at large. Elizabeth’s pro bono service is a bright example of how one attorney can make a difference.

For more information or to sign up to volunteer with LASO’s Senior Law Project, please contact pro bono coordinator Shelby Smith at shelby.smith@lasoregon.org or visit www.probonooregon.org.

Julie Stevens

Continued from page 19

restraining order hearings. In several of those cases, Julie extended her volunteer service by offering full representation in complex and challenging custody and dissolution proceedings. “Julie embodies the spirit of Oregon’s pro bono community,” said Jill Mallery, LASO Statewide Pro Bono Manager. “She volunteers her time to achieve safety and justice for her clients. Through Julie’s pro bono advocacy, she has clearly demonstrated increasing access to justice for low-income underrepresented people is truly her lifelong mission. We sincerely thank Julie for her

remarkable commitment and pro bono service.”

Julie’s passion for the law is inspiring and she continues to serve as an invaluable mentor to legal aid staff and pro bono volunteers. “Volunteering with the Domestic Violence Project allows me to keep up with the law and make a difference in people’s lives,” said Julie. “Most cases have finite timelines and it’s great training for newer attorneys seeking courtroom experience and retired members who may have additional time on their hands to volunteer.” Julie’s steadfast dedication to pro bono service and providing access to justice for abuse survivors sets an example for the entire legal community.

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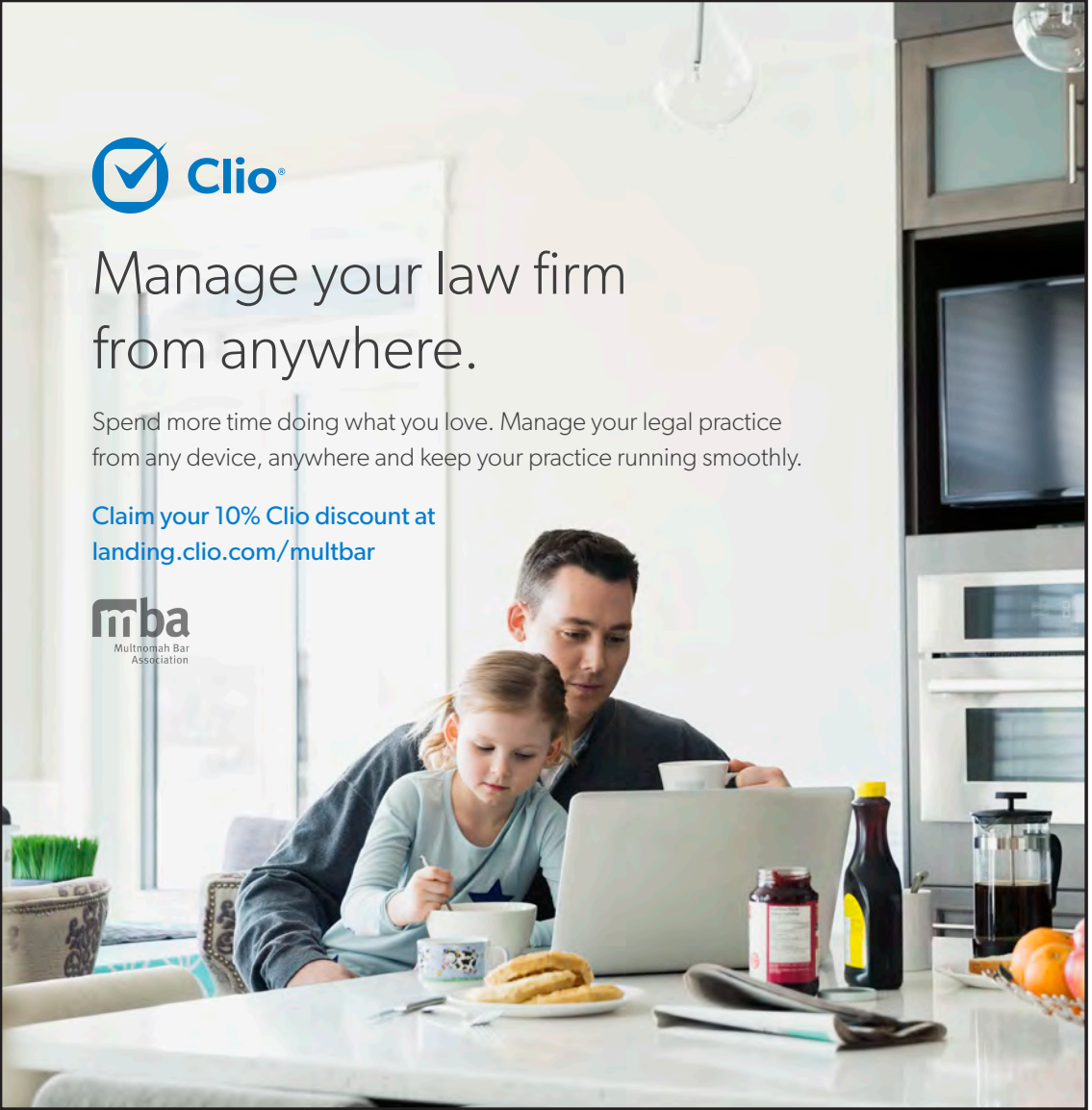
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