

Oregon State Bar

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2007 COMMITTEE  
& SECTION

Annual Reports



# 2007 COMMITTEE AND SECTION ANNUAL REPORTS

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The Oregon State Bar would like to thank all Committee and Section volunteers for their service. Committees and Sections are vital to the ability of the bar to provide both member and public services and to keep the organization responsive to the needs of its members, the courts, and the bar. To all 2007 Committee and Section members, thank you for your time and expertise.

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# COMMITTEES

## AFFIRMATIVE ACTION COMMITTEE

### *Activities and accomplishments:*

The AAP saw many changes during 2007: it suffered the loss of the AAP Administrator, Stella Manabe, after a reorganization of the program into Member Services Department; the Executive Director removed herself from oversight of the AAP and the manager of Member Services agreed to oversee the AAP and report directly to the BOG. Efforts are underway to replace the administrator, with input from stakeholders from diversity organizations such as OMLA, OWLS, OSB Diversity Section, NALA, OGALLA, OHBA, OC-NBA, and the three Oregon law schools.

**SCHOLARSHIP PROGRAM:** The Scholarship Subcommittee scored 71 applications, and awarded 8 scholarships in the amount of \$2000 each, which were paid in two installments directly to each law school.

**FIRST YEAR INTERNSHIP PROGRAM:** 36 first-year law students submitted packets of materials, which were sent to our 2007 participating employers. Students submitted their Personal Statements along with resumes and legal writing samples. 6 students received summer employment with the firms of Bullivant Houser Bailey PC, Dunn Carney Allen, K&L Gates, Schwabe Williamson & Wyatt PC, and Stoel Rives LLP. Additionally, 2 students were hired for the law firm Diversity Program with Stoel Rives LLP.

**CLERKSHIP STIPEND PROGRAM:** 47 students applied for 20 stipends designated to secure clerkships with employers who could match at least the \$5.00/hour stipend. Stipend recipients worked for Ackley, Melendy & Kelly, Allen 2, Brindle McCaslin & Lee, Doyle Law PC, Hutchinson, Cox et al, Joanne Reisman, Johnson Clifton et al, Juvenile Rights Project, Lane County Legal Counsel, Legal Aid in Eugene, Liberty NW, Metro Public Defender, Oregon Law Center, Portland City Attorney, Standard Insurance, Tri Met, and Westside Family Law.

**PUBLIC HONORS FELLOWSHIP:** The Public Honors Subcommittee reviewed 12 applications for 6 positions. Once again, the AAP accepted the ABA Section of Environment, Energy, and Resources grant for 2007, which was utilized by an applicant who worked for Goal One Coalition. Other Public employers included the Oregon Court of Appeals, the Oregon Supreme Court, Legal Aid of Portland, and the Multnomah County DA's Office.

**BAR EXAM GRANT:** 12 applications were reviewed

for both the February and July 2007 exams. A total of 10 grants were awarded. OMLA, through their annual auction in July, raised funds to award Bar Exam Preparation Course scholarships for the two ethnic minority graduates who did not receive awards through the Bar Exam Grant program.

**OLIO:** The bar's Affirmative Action Program includes OLIO (Opportunities for Law in Oregon), a recruitment/retention strategy for Oregon's ethnic minority law students. All entering ethnic minority law students are invited to participate in the OLIO Orientation. All students, regardless of ethnicity, who are committed to advance the OLIO mission can apply to participate in the Orientation and are also eligible to participate in other OLIO activities.

**9<sup>TH</sup> ANNUAL EMPLOYMENT RETREAT** took place in January at Lewis & Clark Law School. Over 90 attended the day-long retreat, which included traditional resume building, interviewing skills and mock interviews. The Employer Forum finished up the day. 24 firms rented tables for the forum, and students were encouraged to visit each employer table with a game of Texas Hold 'Em to win prizes.

**2007 OLIO ORIENTATION** earmarked the largest attended OLIO in its ten-year history, with 88 incoming and upper division law students, and 89 attorneys, judges, law school and firm representatives, staff and supporters. Funding for the Orientation was provided through a generous grant from the Oregon Law Foundation (OLF), and various donations from law firms, such as Ball Janik LLP, Barran Liebman LLP, Brownstein Rask Sweeney et al, Bullivant Houser Bailey PC, Cosgrave Vergeer Kester LLP, Davis Wright Tremaine LLP, Karnopp Petersen LLP, Tom Kranovich, Attorney at Law, Schwabe Williamson & Wyatt PC, and Stoel Rives LLP.

**5<sup>th</sup> Annual BOWLIO** was postponed until January 2008 due to lack of staffing resources.

### *Recommendations for 2008:*

The focus for 2008 will be on rebuilding the AAP after the major set backs caused by: (1) Executive Director Karen Garst's restructuring and demotion of the AAP without consulting the AAC and the community of stakeholders; (2) the way the restructuring was communicated to the AAC and community of stakeholders; (3) Executive Director Garst's comments made at the September 14, 2007 AAC meeting; (4) the demotion of the AAP Administrator; and (5) the loss of Stella Manabe, the former AAP Administrator who created and implemented the nationally renowned

OLIO program. On January 12, 2007, the AAC will hold its annual retreat jointly with the OSB Diversity Section Executive Committee, OMLA Board of Directors and the Chair of the MBA Equality Committee. The AAC will partner up with these organizations to rebuild the AAP, move the program forward, and regain the trust of Oregon's lawyers and law students of color. The retreat will focus on how to best rebuild and move the AAP forward.

Respectfully submitted: Amanda L. Mayhew (CH), Trung D. Tu (SEC), Richard J. Brownstein, Michael E. Cal-lier, Madeleine Campbell, Lori E (Pleshko) Deveny, David Winston Giles, Ronald G. Guerra, Dennis C. Karnopp, Tom Kranovich, Parna A. Mehrbani, Hon David Schuman, Magali Sosa-Tirado, Kim Sugawa-Fujinaga, Lisa M. Um-scheid, Beth S. Wolfson, Kimberley Ybarra-Cole, Rene Cardenas Jr (PM), Marva Fabien (BC).

## CERTIFIED PUBLIC ACCOUNTANTS —JOINT COMMITTEE

### *Activities and accomplishments:*

- The committee regularly held meetings in February, April, June, August, and (will hold a meeting in December) for approximately 1 hour at the Oregon State Bar.
- The committee members wrote and edited articles for the Professional Insight feature in the Oregon Certified Public Accountant (the Oregon CPA equivalent to the OSB's Bulletin). The articles covered items of interest to both accountants and lawyers.
- The committee held its Fall retreat at the Black Point Inn in Oregon City.
- The committee recommended changes to its charge to include a focus on helping to develop guidelines regarding the unauthorized practice.

### *Matters considered/Matters pending:*

The Committee has considered applying for status as a section of the OSB.

### *Recommendations for 2008:*

- Continue to update and maintain the committee's website hosted by the OSCPA.
- Involve lawyers and accountants outside the committee in the work on unauthorized practice of law guidelines.
- Continue to arrange opportunities for lawyers and accountants to network and work on issues of common

interest.

- Submit Professional Insight articles to the Oregon Certified Public Accountant.

Respectfully submitted: Darin S. Christensen (CH), Vivian M. Lee (SEC), Gary R. Barnum, Joshua M. Barrett, Lana G. Becker, Jay D. Broudy, J Ellen Burson, William H. Dolan, Eric R. Foster, Marcus M. Henderson, Gary S. Leavitt, Patricia Annette Leighton, David J. Malcolm, Wil-liam S. Manne, Hollis K. McMilan, Shane D. Moncrieff, Hoang H. Nguyen, Gregson Parker CPA, John D. Parsons, Jeremy P. Prickel, James G. Rabe, Steven B. Resnikoff, Cam Sivesind, Brian S. Thompson, Fredrick H. Williams, Nancy K. Winn, Cathi Pittman (BL).

## FEDERAL PRACTICE AND PROCEDURE

### *Activities and Accomplishments:*

In 2007, the Federal Practice and Procedure Committee worked on three distinct projects: (1) providing input into developing a component of the OSB Economic Survey that would obtain information from litigators regarding hourly rates charges in specialty areas of practice to assist the courts in evaluating petitions for attorneys fees; (2) to assist with planning and/or sponsorship of the District of Oregon Annual Conference; and (3) to revitalize and reorganize the pro bono panel in federal court.

With regard to the Economic Survey, Committee Chair Dana Sullivan served as a member of a working group to help develop a supplement to be distributed to members of certain Bar Sections to obtain data regarding hourly rates charged by Section members. Several Sections opted to participate in the supplemental survey of hourly rates and the supplemental surveys will soon be sent out, if they have not already been distributed.

The District Conference of the District of Oregon took place on November 29 and 30, 2007, in Eugene. Judge Ann Aiken took charge of planning the conference with the as-sistance of the Ninth Circuit attorney representatives. Our Committee served as a co-sponsor of the program. How-ever, Judge Aiken did ask for assistance from our Commit-tee in promoting the conference among federal practitioners to increase attendance.

Magistrate Judge Janice Stewart, a judicial member of the Committee, has spearheaded an effort to revitalize the federal court pro bono panel and to systematize the process through which the court refers out cases involving pro se plaintiffs for evaluation. Judge Stewart made substantial progress in developing a system for screening and referring cases and has been working on enlisting the support of local

law firms to provide attorneys for the Pro Bono Panel. The federal court Attorney Admission Fund approved reimbursing attorneys up to \$3,000 per case for time spent screening cases and for out-of-pocket expenses incurred.

### ***Matters Considered/Matters Pending:***

Other than the projects described above, there were no other matters considered by the Committee. The only matter that remains pending is the Pro Bono Panel project, which the Committee will continue working on in 2008.

### ***Recommendations for 2008:***

The Committee will be meeting in January to identify its goals for 2008. The hope is to identify a number of different projects of interest to committee members that will offer concrete goals that can be accomplished within the year. Each committee members will volunteer to serve as a member of a subgroup that will focus on the particular project that is of the greatest interest to him or her.

#### **Possible projects include:**

- Review the federal, local and docketing rules for potential conflicts and make proposals to resolve any conflicts identified.
- Continuing work to systematize the Pro Bono Panel referral process. There are several discrete projects that need to be done, including composing a list of community resources for the court to give to pro se litigants, looking into whether the court should also have a pro se manual to give to pro se litigants, formulating a mentoring program to assist young lawyers who want to take on pro bono cases, and formulating a rewards system for those who do provide pro bono services.
- Provide greater assistance with the District Conference or develop a presentation on federal practice to be included in the OSB New Lawyers Section's CLE, if such a program would not be duplicative of the annual federal practice CLE presented by the Federal Bar Association.

Respectfully Submitted: Dana L. Sullivan (CH), Danielle J. Hunsaker (SEC), Joel I. Bruhn, Thomas K. Doyle, Charles Edward Fletcher, William R. Goode, Michelle LH Ing, Vishnu N. Jetmalani, Matthew J. Lysne, Kristina M. Thompson, Michael C. Zusman, Hon Randall L. Dunn (ADV), Hon Garr M. King (ADV), Hon Janice M. Stewart (ADV), Richard S. Yugler (BC), Cynthia L. Easterday (BL).

## **JUDICIAL ADMINISTRATION COMMITTEE**

### ***Activities and Accomplishments:***

#### **JAC Website**

The JAC made it a priority project to improve the communication lines between the Bench and Bar's various rule making committees and the affected legal community. With that purpose in mind, the JAC created a website. The website will timely post each committees minutes and commenting periods for any proposed rule. The website address is <http://www.orjac.homestead.com/index.html>. The JAC's goal is to insure that each proposed rule receives the proper attention and input from both the Bench and Bar. The website will also allow the various rule making committees to keep abreast of what the other committees are considering.

The JAC also assigned JAC members as liaisons to each of the rule making committees to insure timely postings and broadcasts. In addition, the JAC assigned members as liaisons to all major Bar organizations to insure the widest range of participation in the rule making process.

### ***Legislative and Political Issues:***

The committee continued in its role to closely monitor legislation that impacts the judiciary and judicial administration, and support legislation that furthers those ends. This included measures addressing general funding, improvements to court facilities, judicial salaries, electronic filing and the public defense services.

The JAC also participated in various legislative activities, including participating in the Oregon State Bar's legislative day and contributing to the Public Defense Services Task Force.

The JAC was also represented and assisted in the appellate judge selection process.

#### **Streaming CLE's Tailored for Judges:**

The JAC is considering producing six one-hour streaming CLE videos tailored especially for judges.

### ***Matters Considered:***

The JAC considered holding a "summit on the courts" in conjunction with the Multnomah Bar Association. The JAC anticipated that the event would follow the successful format used for the Citizens for Justice summit held in 2000 at Portland Community College. That matter has been tabled for the time being.

### ***Pending Matters:***

The JAC's project to produce streaming CLE videos for judges is still under consideration.



### ***Recommendations for 2008:***

#### **JAC Website**

The JAC website should continue as a priority project. The goal of improving communication lines between the Bench and Bar's various rule making committees and the affected legal community is an important and ongoing project.

#### **Chief Justice DeMuniz eCourt Initiative**

The JAC should take an active role in promoting and assisting Chief Justice DeMuniz in his commitment to move the Oregon Judicial Department into the world of electronic filing and document management. The Chief Justice is building upon the work performed by the OSB Task Force on State Court Electronic Filing. This important work is deserving of JAC's attention. The eCourt initiative will significantly improve access to courts and fundamentally change for the better key components of the administration of justice in this state. The JAC should monitor this effort, report on its progress, and assist in moving the initiative forward.

#### **Streaming CLE's tailored for Judges**

The JAC should continue to consider this project. Selected CLEs conducted at the judicial conference should be filmed, converted to streaming video, and made accessible to judges to view on their own schedule.

#### **Judicial Outreach**

The Board of Governors should continue to rely upon the JAC, as needed, to assist the judiciary in its public outreach campaign. In 2006, the JAC passed on to the Chief Justice and the presiding judges and trial court administrators of the circuit courts the judicial outreach notebook entitled "Strong Courts Build Strong Communities." Partially as a result of the Committee's work, the Oregon Judicial Department adopted "judicial outreach" as one of its strategic initiatives. The JAC has since removed public outreach from its active agenda. Should future issues arise that cause the Board to again take an active role in assisting the judiciary on public outreach, the JAC should be a considered a primary resource for that work.

Respectfully submitted: Michael H. Bloom (CH), Douglas Marion Bray (SEC), Russell L. Baldwin, Christopher Cauble, Ann S. Christian, Kathleen G. Dolan, Hon Dale R. Koch, Steven M. Lippold, Jack L. Morris, Charles A. Ringo, Jaye W. Taylor, Hon Debra Kay Zuhlke Vogt, Eric J. Waxler, Hon Russell B. West, Richard Moellmer (PM), Audun (Dunny) I. Sorensen (PM), Jonathan P. Hill (BC), Susan Evans Grabe (BL).

### **LEGAL ETHICS COMMITTEE**

#### ***Activities and accomplishments:***

The committee met six times during 2007. The committee's work focused on the drafting of Formal Ethics Opinions (FEO) in response to suggestions from committee members and requests from third parties. The following are opinions that were finalized by the committee and approved by the Board of Governors (BOG) in 2007:

- FEO 2007-177: Issues Conflicts, where a lawyer or lawyers within the same firm face a common legal issue in unrelated client matters and intend to take conflicting positions on the legal issue in the two matters.
- FEO 2007-178: Competence and Diligence, addressing the duties and responsibilities of attorneys, and their supervisors, representing indigent criminal defendants.
- FEO 2007-179: Pretrial Publicity, addressing a number of scenarios, in both criminal and civil cases, where attorneys make or wish to make public, out-of-court statements about pending litigation.
- FEO 2007-180: Internet Advertising, addressing the ethical responsibilities of lawyers who wish to use Internet referral services.

During 2007, the committee also approved and referred to the BOG an opinion considering when an out-of-state lawyer may participate in an arbitration in Oregon, and under what circumstances an Oregon attorney may assist the out-of-state lawyer with the Oregon matter. The committee was also finalizing two opinions addressing a variety of circumstances in which a lawyer may or must withdraw from representation of a client. The committee also began work on an opinion considering the ethical responsibilities of a lawyer who currently holds a position involving adjudication of matters involving state agencies and who wishes to negotiate for employment with the state.

#### ***Additional comments:***

During the upcoming year, the committee plans to continue working on pending opinions, and to respond to new requests for opinions.

Respectfully submitted: Paul E. Levy (CH), Harry Michael Auerbach (SEC), Carolyn Alexander, E Joseph Dean, Roger J. DeHoog, Deanna L. Franco, Michele Grable, Guy B. Greco, Dana C. Heinzelman, Ethan D. Knight, Joan-Marie Michelsen, William H. Replogle, Sheree Lynn Rybak, Yvonne Ana Tamayo, Brenna Tanzosh, S Ward Greene (BC), Sylvia E. Stevens (BL).



## LEGAL HERITAGE INTEREST GROUP

### *Activities and accomplishments:*

During 2007, the Legal Heritage Interest Group scheduled and held four regular business meetings. Of note was the group's January meeting and tour at the Washington County Historical Society located on the Rock Creek Campus of Portland Community College.

During 2007, the group accomplished the following:

- Met with the Karen Garst, Executive Director and Britt Brewer of LRS Architects in connection with the location and design of the Members' Room at the new OSB Center. In addition, plans for historical exhibits in the new center were planned. Member Janet Kreft led these efforts.
- Designed and scheduled for January 31, 2008, an OSB CLE "Learning Law from Oregon History." Member Maiya Hall led this effort. Advisory Member Fred Granata will be one of the speakers.
- Continued to solicit articles on historical topics for publication in the OSB Bulletin.
- Referred those interested in oral histories to the U.S. District Court Historical Society's program.
- Continued efforts aimed at selling copies of *Serving Justice*.

### *Matters considered/Matters pending:*

We maintained liaison with other groups interested in Oregon legal history, notably the US District Court of Oregon Historical Society, Oregon Women Lawyers and the Queen's Bench history committee.

We continue to explore liaison and joint meetings with other organizations interested in Oregon legal history and perhaps other OSB sections.

### *Recommendations for 2008:*

- The Legal Heritage Committee should be continued through the next membership year.
- In 2008, the group's initial meeting should be held at the new OSB Center to review the equipping of the Members' Room and view spaces available for historical exhibits.
- Efforts should continue at the new OSB Center towards showcasing Oregon legal history, with special emphasis in honoring the efforts and contributions of women and other minority lawyers. This includes support for developing a "timeline" exhibit honoring

contributions of Oregon lawyers of color.

- Develop an archive policy to be adopted by the OSB's Board of Governors, to ensure the safe keeping of items of future historic interest.
- Continued efforts in marketing the Oregon State Bar's history, *Serving Justice, A History of the Oregon State Bar 1890-2000*.
- Continue support for the oral history efforts of the U.S. District Court Historical Society.
- In addition, continue efforts to develop ideas and recruit authors for articles of historical interest in the OSB Bulletin.

Respectfully submitted: David B. Avison (CH), Janet D. Kreft (SEC), Richard D. Barber Sr, Bill Y. Chin, Jack Gore Collins, Mary Crawford, Betty I. Crofoot, Maiya M. Hall, Estate of Jack L. Kennedy, Randall B. Kester, S Diane Rynerson, Jacqueline A. Tommas, Anthony H B. Wilson, Hon Owen M. Panner (ADV), Kathleen A. Evans (BC), Marlyce Gholston (BL), Paul Nickell (BL).

## LEGAL SERVICES PROGRAM COMMITTEE

### *Activities and Accomplishments:*

The committee conducted and completed a peer review of Legal Aid Services of Oregon as instructed by the LSP Standards and Guidelines peer review policies.

### *Matters Considered/Matters Pending:*

The committee made a final recommendation concerning the Columbia County Legal Aid Program finding the program in compliance with the LSP Standards and Guidelines. The committee also considered and made a recommendation to the BOG concerning two matters which are outlined below:

1. The BOG approved the committee's recommendation concerning the one-time \$700,000 General Fund appropriation to the OSB to fund increased costs for legal aid during the 2007-09 Biennium.
  - a. That the \$700,000 in general fund money be sent to the OSB Legal Services Program to be distributed over the biennium pursuant to the existing LSP Standards and Guidelines;
  - b. That the funds be held and invested by the OSB, with earnings going back into the Legal Services Program, until the five legal aid service providers complete a strategic planning process and return to make a new recommendation.

- c. That a small portion of the funds be distributed over the next six months resulting in a \$2,390 monthly increase to the Center for Nonprofit Legal Services (Jackson County) and \$1,730 monthly increase to Lane County Law and Advocacy Center;
2. The BOG approved increasing the filing fee administrative fee from \$90,000 to \$108,000. This increase starts in 2008.

***Recommendations for 2008:***

The committee will hear a progress report from Columbia County Legal Aid. The committee will also participate in a peer review of either the Center for Nonprofit Legal Services or Lane County Law and Advocacy Center.

Respectfully Submitted: Samuel E. Tucker (CH), Bob Turner (SEC), Beverly C. Pearman, Douglass H. Schmor, Scott G. Seidman, Hon Francisco J. Yraguen, Ron Chase (PM), Celeste Ulrich (PM), Debra FJ Lee (ADV), Thomas J. Matsuda (ADV), Ralph Saltus (ADV), David Thornburgh (ADV), Linda K. Eyerman (BC), Judith Baker (BL).

**LOAN REPAYMENT ASSISTANCE PROGRAM COMMITTEE**

***Activities and accomplishments:***

- The committee finalized the policies and procedures applicable to the award of forgivable loans.
- The committee finalized application documents.
- The committee communicated the availability of the forgivable loans through a variety of means and received 58 applications. The average debt of the applicants was \$99,144, with an average salary of \$38,576.
- The committee met twice in executive session to review the applications and determine the awardees. Factors considered by the committee in awarding the forgivable loans were:
  - Financial need;
  - Educational debt to income ratio;
  - Type and location of work;
  - Demonstrated commitment to public service;
  - Assistance from other loan repayment assistance programs; and
  - Financial information, in addition to salary, such as:
    - Income-producing assets;

- Medical expenses;
- Child care expenses;
- Child support; and
- Other appropriate financial information

- The committee awarded \$5,000 forgivable loans to seven of the 58 applicants. The awardees had an average debt of \$146,961, with an average salary of \$38,730. The loans are renewable for up to two additional years, provided the applicants continue to meet the requirements of public interest employment, proof of good standing on loan payments, and proof of outstanding debt.

***Matters Considered/Matters Pending:***

- The committee reviewed the policies and procedures and changed the debt requirement to \$60,000. No other substantive changes were made.
- The committee is reviewing the federal College Cost Reduction and Access Act (CCRAA), signed into law in September, 2007, to determine if and how the LRAP should change in response to the law.

***Recommendations for 2008:***

- The committee should continue to monitor the CCRAA and will make minor changes to the application to better judge the impact of the law on the applicants.
- The committee should continue to market the availability of the loans.
- The committee will evaluate the current awardees to determine their compliance with the guidelines, and ensure that loan forgiveness or enforcement occurs per the guidelines.
- The committee will evaluate the 2008 applicants and decide who will be awarded loans, using the guidelines as set forth above.

Respectfully submitted: Timothy C. Gerking (CH), Theresa L. Wright (VC), John J. Connors, Maya Crawford, Linda K. Eyerman, Marva Fabien, Heather Kemper, Dan Norris, Ross M. Williamson, Catherine Petrecca (BL).

## MINIMUM CONTINUING LEGAL EDUCATION COMMITTEE

### *Activities and Accomplishments:*

- The Committee reviewed and made decisions on requests for review of MCLE Administrator decisions;
- The Committee considered changes to the number of members on the committee; and
- The Committee continued to develop expertise regarding the MCLE programs in Oregon and other states.

### *Matters Considered/Matters Pending:*

#### **At its March meeting the committee -**

- Reviewed a proposed addition to MCLE Regulation 5.100(a). The committee recommended the addition so that presenters could be allotted more time to be calculated in instances of panel presentations.
- The committee reviewed a request for waiver of late fees for late reporting/compliance of MCLE requirements.
- Reviewed the appropriateness of receiving credit for program planning and requested a draft of a proposed rule.

#### **At its June Meeting the committee -**

- Reviewed a request for waiver of later fees for late reporting/compliance of MCLE requirements.

#### **At its September Meeting the committee -**

- Discussed whether the committee should add or maintain the number of members serving on the committee.

The committee also considered requests for review of the MCLE Administrator's decisions from the following people/entities:

#### **March**

Jewish Learning Institute  
Spanish for Lawyers Program  
OAAP/PLF Program

#### **June**

Oregon Women Lawyers  
CLE Authority

## **September**

Davis Wright Tremaine

Lewis & Clark

### *Recommendations for 2008:*

In the year ahead, the committee anticipates adding an additional member. This will bring the total members of the committee back to its original amount. The committee should also continue reviewing and making recommendations to modify MCLE regulations as the need arises to ensure serving the purposes of MCLE requirements. Finally, the committee should continue to assist the MCLE Administrator in interpreting and applying the MCLE regulations.

The committee meetings should continue to be held once a quarter or as necessary.

Respectfully submitted: Kara K. Davis (CH), Pamela Palmer (SEC), Saville W. Easley, Michael D. McNichols, Jennifer L. Niegel, Stace B. Gordon (PM), Carol DeHaven Skerjanec (BC), Denise Cline (BL).

## PRO BONO COMMITTEE

### *Activities and Accomplishments:*

The committee met 11 times this year. There were 15 regular members and 2 advisory members. Meetings were held once a month during the noon hour with a recess for the month of August.

### **SUBCOMMITTEES**

**Law Firm Involvement Subcommittee:** This group created a model pro bono policy template, model policy worksheet, and model policy handbook as "tools" for law firms, solo practitioners and government attorneys to use in developing, amending and implementing written pro bono policies for their firms, practices or agencies. These tools were launched as an interactive web-based program on the OSB Website in October 2007. To view the policy toolkit, please go to [www.osbar.org/probono](http://www.osbar.org/probono). This subcommittee also coordinated their work with that of the Multnomah County Bar Association's Pro bono Pledge Task Force. In January 2008, the MBA will launch their Pro Bono Pledge, challenging individual attorneys and law firms in Multnomah County to take one pro bono case during 2008, give money to a group that provides free civil legal services, and create a pro bono policy using the OSB template. Recommendation for 2008: This subcommittee should continue its work in 2008 by exploring ways to promote and market the model policy "tools."

**House Counsel Rule:** This subcommittee explored barriers to pro bono for corporate counsel. The impetus came from contacts made by Intel which was seeking to expand its pro bono efforts in Oregon. The Committee recommended modification of the in-house counsel rule (Rule 16.05) to allow pro bono work with certified pro bono programs by in-house corporate counsel who are not licensed in Oregon. Under the leadership of Bruce Rubin, the Committee developed a proposal that was submitted to the Access to Justice Committee and eventually approved by the Board of Governors. At the time of writing this report, the proposal is before the Supreme Court for consideration at its December meeting and passage is anticipated. Recommendation for 2008: Upon approval by the Supreme Court of the revised in-house counsel, this subcommittee will have concluded its work. However, many of the same issues arise in connection with Oregon's emeritus attorney rules and it is recommended that these receive the Committee's attention and energy in 2008 (see "Other Activities" below).

**Opportunities for Government Lawyers Subcommittee:** This subcommittee continued from 2006 with the purpose of exploring barriers to pro bono for government lawyers, researching the model pro bono policy for government lawyers developed by the Minnesota State Bar, and discussing statutory limits on pro bono work as set forth in ORS 180.140(6); i.e., AAGs can only do direct pro bono work on behalf of indigent clients and are prohibited from using any government resources in doing that work. The chair of this subcommittee met with the Portland City Attorney's Office and researched the Oregon Department of Justice's current personnel policy on pro bono work by Assistant Attorneys General. Recommendation for 2008: This subcommittee continue its work by considering possible changes to policies and rules that pose barriers to government lawyers providing pro bono services.

**Mandatory Pro Bono Graduation Requirement at Law Schools:** Under the leadership of Bruce Rubin, research was done on pro bono requirements at law schools statewide. The Pro Bono Committee learned about a pilot project at the University of Idaho Law School that mandated pro bono service as part of graduation requirements for law students. Bruce Rubin contacted each of Oregon's three law schools to determine whether a mandatory pro bono requirement would be welcome and what assistance each school would like from the Oregon State Bar through the Pro Bono Committee. The Committee considered ways to increase pro bono participation by law students generally and concluded that, rather than a mandatory pro bono requirement, it would be most helpful for the Bar to have an increased presence on campuses, to extend invitations to law school students to participate on pro bono panels, and

to coordinate matching up attorneys with students who are available to do pro bono. A memorandum summarizing this work was prepared by Bruce Rubin dated April 23, 2007 and is available upon request. Recommendation for 2008: The Committee consider whether there are ways to more fully involve law students in the Pro Bono Committee or the provision of pro bono services.

**Revision of OSB Aspirational Standard:** This subcommittee was to consider the advisability of revisions to the Oregon State Bar's Bylaw 13.1, the Pro Bono Aspirational Standard, along the lines of ABA Model Rule 6.1. Recommendation for 2008: The subcommittee was unable to progress in this work during 2007 but considers this an important undertaking that should continue in 2008.

**Judicial Involvement Subcommittee:** This subcommittee was formed to identify and increase the role of judges in promoting pro bono work. Recent research has shown that judicial participation and encouragement is essential and perhaps the most crucial factor in increasing pro bono services provided within a state. Recommendation for 2008: The subcommittee should continue its work in 2008 by supporting and coordinating with, where possible, a Supreme Court task force to be formed under Judge Ellen Rosenblum's leadership to consider revision of Oregon's judicial canons along the lines of the ABA model judicial canons, with an emphasis on facilitating judicial involvement in pro bono and providing appropriate guidelines for judicial conduct vis-à-vis the self-represented litigant.

### ***Other Activities:***

**Input on 2007 Pro Bono Roll Call and Pro Bono Fair:** The Committee received regular reports and provided input on the 2007 Pro Bono Fair held on April 4, 2007 at the Marriott Portland Waterfront hotel, as well as the Bar's Pro Bono Roll Call. A total of 1,358 attorneys participated (10.5% of the 12,931 active, active emeritus, and active pro bono members), reporting a total of 92,717 hours, including 36,012 hours of Volunteer Legal Representation (Category A), 19,936 hours of Volunteer Law Improvement Activities (Category B), and 36,769 hours of Community Service (Category C). Among the 1,358 participants, most were reported by law firms and OSB Certified Pro Bono Programs.

**Emeritus Attorney Pro Bono Services:** ABA Commission on Law and Aging Director, Holly Robinson, attended the May meeting of the Committee and spoke about the Commission's proposed resolution for states to adopt emeritus pro bono practice rules. Oregon is among 20 states that currently have emeritus rules in place. These rules exist to permit retired attorneys to undertake pro bono work. The Committee considered the Commission's proposals for facilitating pro bono efforts, and reviewed existing Oregon



rules. Possible barriers to emeritus pro bono services in Oregon were identified. **Recommendation for 2008:** A new subcommittee be formed in 2008 to look at incentives and possible rule changes with respect to emeritus pro bono work, including qualification, the amount of fees, PLF coverage, and compliance with MCLE requirements for out-of-state attorneys.

**Respectfully submitted:** BeaLisa Sydlík (CH), Maya Crawford (SEC), Jeanette Eileen Bello, Brandon A. Benson, Melissa Bobadilla, Willard H. Chi, Amity L. Clausen, Brien Joseph Flanagan, Hon Bryan T. Hodges, Jacinta Wang Kilber, Clay McCaslin, Tim McNeil, David J. Petersen, Bruce A. Rubin, Kimberly K. Tucker, Catherine L. Keenan (ADV), Linda K. Eyerman (BC), Catherine Petrecca (BL).

## PROCEDURE & PRACTICE COMMITTEE

### *Activities and Accomplishments:*

The Procedure & Practice Committee has been monitoring and reviewing legislative proposals that affect Procedure and Practice issues in Oregon. Committee members were available to present testimony on several bills before the legislature.

The Procedure & Practice Committee proposed three bills in the 2007 Legislative Session, all of which passed and were signed into law.

HB 2366 modified ORS 12.060 concerning the tolling of the statute of limitations for claims by minors. Our proposal clarified that the statute is also tolled on claims for the recovery of medical expense incurred in an injury to the minor. This would avoid possible duplicative litigation related to the same incident. We provided testimony at committee hearings on the bill.

HB 2367 was presented to our committee by the Council on Court Procedures and the committee agreed to propose this legislation. HB 2367 clarified voting requirements for the Council on Court Procedures.

HB 2368 was presented to our Committee by the Oregon Judicial Department and our committee agreed to propose this legislation. HB 2368 amended ORS 19.270 to reduce the delay and costs to litigants as a result of confusion about procedures of the appellate courts and trial courts relating to cases on appeal.

Our committee also provided input to the groups advocating SB 499 and SB 501.

Along with the proposals submitted, the Procedure & Practice Committee has liaison assignments with the following groups: 1) Uniform Trial Court Rules (UTCRC),

2) Council on Court Procedures (CCP), 3) Chief Justice's Civil Law Advisory Committee (CJCLAC), and 4) Oregon Law Commission. Each of these committees had meetings in which P&P members attended and participated.

### *Matters Considered/Matters Pending:*

The Procedure & Practice Committee will continue to monitor progress on proposals for e-filing and e-service of court documents.

The Procedure & Practice Committee has been asked to examine whether changes to ORS 12.020(1) and (2) should be made regarding the date upon which a lawsuit is deemed "commenced". The present plan is to form a subcommittee at the beginning of next year to examine the issue and report to the Board of Governors whether the committee believes these changes would improve the practice of law.

The committee will continue to explore issues that affect the practice of law that arise out of the legislative process and case law. Furthermore, the committee will continue to provide liaison to the Council on Court Procedures, Chief Justice's Civil Law Advisory Committee, UTCRC, and the Oregon Law Commission.

### *Recommendations for 2008:*

None at Present. At this time the Committee does not expect to propose legislation for the 2009 session.

**Respectfully submitted:** Scott O. Pratt (CH), John A. Schwimmer (SEC), Paul Bovarnick, Wm Keith Dozier Jr, William G. Earle, Justine Fischer, Andrew D. Glascock, Timothy W. Grabe, Mustafa T. Kasubhai, Harrison Latto, James E. McCandlish, John N. McKeegan, David F. Rees, Glenn Wallace Robles, Alexander S. Wylie, Ann L. Fisher (BC), Sally Ann LaJoie (BL).

## PUBLIC SERVICE ADVISORY COMMITTEE

### *Activities and accomplishments:*

During the 2007 session, the Public Service Advisory Committee provided advice regarding the following topics, among others:

- "30-Second Law School." How these short and informative television spots can be most effectively and economically used on cable television and in movie theaters.
- Tel-law. Whether the Tel-law program should be updated and continued, given its declining use.
- Impact of fee increases. Discussion about the impact of the recent fee increase in the lawyer referral program.

- Public records. To what extent the lawyer referral program is subject to public records law.
- Translation of public legal information. Various service providers were contacted about the need to translate public legal information into Spanish, Russian, and Vietnamese. Discussion about how best to create a permanent infrastructure for providing this service.
- Sesquicentennial video contest. Whether the bar should sponsor a video contest to celebrate the upcoming sesquicentennial. The project could be promoted to the classroom law project, college students, as well as attorneys and other adults.

### ***Recommendations for 2008:***

Continue work on translating public information materials into other languages.

Respectfully submitted: Hon Youlee Y. You (CH), Charles C. Reynolds (SEC), Cheryl A. Albrecht, Joel C. Corcoran, Jessica L. Cousineau, Martin M. Fisher, Dexter A. Johnson, Stephan K. Otto, Jason L. Posner, Diane C. Rivera, Naomi Stacy, C Robert Steringer, Douglas L. Tookey, Bruce Anderson (PM), Radmer Investigations (PM), Kathleen A. Evans (BC), M Kay Pulju (BL), George D. Wolff (BL).

## **QUALITY OF LIFE COMMITTEE**

The Quality of Life Committee will have held eight meetings during 2007 (a ninth meeting was cancelled for lack of attendance). At the start of the year, the Committee's goals were:

- Continue to work on outreach to members of the Bar and create materials to facilitate presentations at speaking opportunities.
- Submit one article for publication in the Bulletin or other Bar publication.
- Make at least one presentation to law schools concerning financial planning and maintaining life balance.
- Update and maintain the Quality of Life website.
- Study the Bar and other LRAP programs, and determine if it is appropriate for the Committee to participate in the Bar LRAP.
- Study and determine how the Committee can complement the activities of the OAAP.

### ***Activities and accomplishments:***

- The Articles Subcommittee completed the research and writing of an article entitled "Law and the Pursuit of Happiness: Fatness versus Fitness" that is to be published in the Bar Bulletin in January, 2007. Work has begun on the preparation of a second article on sustainability and quality of life issues related to the practice of law.
- The Law School Presentation Subcommittee continued to work on making presentations to law school students concerning quality of life issues. The Subcommittee has been in contact with Oregon law schools and is discussing with them presentations that will complement information already being presented to the law students by the respective law schools.
- A strategy was developed for using the Quality of Life website, the website was converted to a system that allows the Committee to readily maintain and improve the website, and the website was evaluated and further updated to improve use of the website for members of the Bar.
- The Committee determined that the Oregon State Bar LRAP program is being established to function in a way that does not include involvement of the Committee. The Committee continues to monitor LRAP programs as well as a new federal law providing loan forgiveness for qualifying people.
- Representatives of the OAAP have started attending Committee meetings, and a presentation was made by a representative at one of the meetings that described for the Committee the mission and recent activities of the OAAP. OAAP has undertaken a more active role in working with the Committee to provide resources to and assist the Committee in complementing the work of the OAAP.
- The Committee began investigating sustainability and quality of life issues related to the practice of law. This included having a presentation by Dick Roy on sustainability. The Committee is investigating the possibility of having a CLE workshop for the bar on sustainability and the practice of law, as well as the article mentioned above.

### ***Matters considered/Matters pending:***

In addition to the points raised above, the conversion of an outline on the Committee and quality of life issues to a Power Point presentation for use by the Committee in speaking before groups of the Bar did not progress this year as planned. This is still a pending item that can be completed.



ed to facilitate speaking by members of the Committee. The outline may need revising if it is to include the new issue of sustainability and how it can affect quality of life and the practice of law. Also, the Committee can become more active in reaching out to sections and groups in and associated with the Bar.

As a further point, the issue of sustainability discussed above is a matter that was first investigated by the Committee this past year. A request has been submitted by the Committee to the BOG to add this to the mission statement of the Committee.

### ***Recommendations for 2008:***

In view of the above comments, it is recommended that the Committee revive the outreach program and seek ways to educate the members of the Bar in quality of life matters in a way that will be useful. In the recent past, outreach attempts have produced relatively little if any response or interest by local bar associations or other bar groups.

Other ongoing objectives for 2008 can include making a presentation to one or more law schools, preparing and publishing an article, and making the website a more valuable resource for the members of the Bar.

Further, if supported by the BOG, the Committee can continue to pursue issues, articles and workshops on sustainability and how it applies to the Bar, the practice of law, and the quality of life. A determination can then be made as to whether the issue of sustainability should be part of the mission of the committee, specifically, or the bar, generally.

Respectfully submitted: Edward B. Anderson (CH), James H. Curtis (SEC), Herbert Leland Harry, Theodore P. Heus, Ellen K. Jones, Jacinta Wang Kilber, Douglas Scott Sedwick, Deborah Grace Trant, Mary D. McCourt (PM), Shari R. Gregory (PLF), Michael P. Long (PLF), S Ward Greene (BC), Stacy J. Hankin (BL).

## **STATE LAWYERS' ASSISTANCE COMMITTEE**

### ***Activities and accomplishments:***

During 2007, the committee received new referrals from attorneys, the Bar, and others. Each referral was investigated in accordance with the OSB Bylaws and the SLAC authorizing statute, ORS 9.568. The committee continues to accept jurisdiction and to monitor remedial programs for several attorneys. Additionally, the committee evaluates and monitors lawyers who are referred through the diversion process from Discipline. Also this year for the first time, the Committee agreed to supervise an attorney who had been Conditionally Admitted to the OSB. Other inves-

tigations resulted in the committee declining jurisdiction. Much of the business conducted by the committee involved confidential discussions surrounding cases assigned to each member. Those confidential discussions cannot be revealed in this report.

The committee formalized some of its processes for monitoring lawyers under their jurisdiction. They completed several documents, including the Monitoring Agreement, which is used with a lawyer under SLAC's jurisdiction. The committee also developed a new print advertisement which has run in the Bulletin and other publications.

### ***Matters Considered/Pending Matters:***

Retiring BOG member, Jack Enbom, sent an open letter to the OSB President recommending several steps to encourage greater communication and cooperation between the committee and the Oregon Attorney Assistance Program (OAAP). This resulted in the formation of a Task Force comprised of selected members of the OSB Board of Governors and the PLF Board of Directors. In addition to Task Force members, representatives of SLAC, OSB, and the OAAP attended Task Force meetings. The Task Force met several times in 2007 and 2008 and a report has been drafted. The final report of the Task Force is still pending.

### ***Recommendations for 2008:***

Increase efforts already underway to promote the profile of SLAC and conduct outreach with various bar constituencies.

Implement any recommendations the Board of Governors may make to SLAC after release of the Task Force Report.

Continue to seek creative ways to help the impaired lawyer and protect the public.

Respectfully submitted: Gregory J. Hazarabedian (CH), Hon Ted E. Grove (SEC), Hon Henry C. Breithaupt, Susan R. Gerber, Bruce M. Howlett, Michael C. Lewton, Robert M. Lusk, Laura B. Rufolo, Stephen J. Williams, Dr Shane Haydon (PM), Donald Muccigrosso (PM), Meloney Crawford Chadwick (PLF), Michael P. Long (PLF), Albert A. Menashe (BC), Jonathan P. Benson (BL).

## **UNIFORM CIVIL JURY INSTRUCTIONS COMMITTEE**

The committee passed of a set of Agency instructions which will apply to all cases which improves the current instructions which focus on automobile tort cases, completed revision to two Employer Liability Law instructions, and

completed revisions to the comments to the Punitive Damages and Ability to Pay instructions. The committee also passed a special verdict form which separates questions of fault and causation, and will likely complete a set of similar verdict forms after consideration of the stepwise instructions and same nine rule. A User's Guide subcommittee was formed in 2007 which produced a near-complete draft of a User's Guide similar to the Uniform Criminal Jury Instructions' User's Guide. Early drafts of a few more Agency instructions and a few more damages instructions for contracts and torts were passed and are likely to be complete in 2008. Finally, a set of Domestic Animals torts instructions were drafted and passed or close to completion. They were withdrawn by the author in light of 2007 legislation. With time to review the new laws, I anticipate those instructions can be completed.

### ***Recommendations for 2008:***

- Consider adding instructions or commentary for Life Expectancy and Present Value per Hon. Edwin J. Peterson's suggestion.
- Solicit input for instruction revisions or new instructions with a cutoff date early in the year so the committee has time to work on all instructions without being overloaded. Ask the tort, employment, and business litigation bars, and judges for input about new or revised instructions.
- Check the members' summer schedules early to ensure a quorum at the summer meetings.
- Focus on balanced recruitment of judges and lawyers on both sides of the civil practice areas (torts, employment, business). To keep the current tenor of the committee, I would also suggest recruiting people who are easy to work with.

Respectfully Submitted: Christopher T. Hill (CH), Thomas A. Melville (SEC), Steven C. Burke, David J. Elkanich, Caroline R. Guest, Katherine Heekin, William B. Kirby, Michael Hugh McGean, Charles J. Merten, Jenny M. Morf, Rick Pope, Charles Robinowitz, Hon Thomas M. Ryan, Timothy L. Williams, Timothy C. Gerking (BC), Linda L. Kruschke (BL).

## **UNIFORM CRIMINAL JURY INSTRUCTIONS COMMITTEE**

### ***Activities and accomplishments:***

In 2007 the Uniform Criminal Jury Instructions committee met monthly. The committee drafted and approved instructions respecting different theories of aggravated

murder, jury sentencing, and other issues. In response to a 2007 decision by the Oregon Supreme Court the committee completely revised the instructions related to the four culpable mental states prescribed under Oregon law. The committee continued its ongoing review of the entire publication for updating out-of-date material and findings errors in existing instructions. The committee drafted and approved several instructions to reflect legislation enacted by the 2007 Legislative Assembly. I am pleased to report that the Uniform Criminal Jury Instructions publication remains the standard reference for criminal jury instruction issues in the State of Oregon.

### ***Matters considered/Matters pending:***

The committee continues to review the Uniform Criminal Jury Instruction publication.

### ***Recommendations for 2008:***

The committee should continue to operate in the same fashion in 2008.

Respectfully submitted: Steven Griffin (CH), Sheryl Bachart (SEC), Nancy J. Cozine, Leah B. Cronn, Erika L. Hadlock, Spencer J. Hahn, Bronson D. James, Joanna Jenkins, Jeffrey M. Lowe, Karla L. Nash, Christopher R. Piekarski, Sara Snyder, Timothy A. Sylwester, Heather L. Weigler, Ladd Wiles, Robert M. Lehner (BC), Dean P. Land (BL).

## **THE UNLAWFUL PRACTICE OF LAW COMMITTEE**

### ***Activities and Accomplishments:***

The Unlawful Practice of Law Committee (UPLC) met every month during 2007, except for August, to discuss UPL issues, present the findings of Committee member investigations, and recommend action based on those findings. Actions that the UPLC may recommend on UPL complaints are: 1) Dismissal, 2) Notice letter, 3) Admonition letter, 4) Cease and Desist agreement or 5) prosecution for injunctive relief. The prosecution and signed Cease and Desist agreements must be approved by the Board of Governors.

During most of 2007 the UPLC consisted of twenty-one members four of which were non-attorney, public member. As noted in the 2006 report, one of our public members is employed as a paralegal. Her insight and knowledge was extremely helpful as many of our cases involve individuals who hold themselves out as paralegals. Towards the end of 2007 one public member and two attor-

ney member resigned primarily for family or employment obligations.

As in prior years, the UPLC saw a variety of complaints including multi jurisdictional practice by lawyers licensed in other states, professionals in law related fields such as accounting, tax advice and financial services, non-lawyer bankruptcy petition preparers and debt collectors and non-lawyers performing services for the immigrant populations. The majority of cases in which the UPLC found that the activities of the respondent involved UPL were resolved by the respondent accepting a letter of admonition. However, there are currently eleven cases that the BOG has approved for prosecution and two cases pending BOG approval for prosecution. Not surprisingly, many of the cases approved for prosecution involve the same individuals that the UPLC has received multiple complaints on throughout several years.

### ***Matters Considered/Matters Pending:***

As of December 1, 2007, the UPLC received 56 new reports. Additionally, we had 41 cases still open from 2006, 2005 and even 2004. Throughout the year we reduced the back log to 11 cases, 10 from 2006 and one from 2005. Out of the 56 new cases in 2007, 43 remain open. Additionally, the committee spent considerable time addressing due process concerns with regards to a contested admonitions. A committee member undertook the task of drafting proposed revisions to the by-laws (Subsection 20.700). Unfortunately, the creation of a contested admonition procedure that satisfies due process concerns and is manageable with the limited resources of the UPLC, remains elusive.

### ***Recommendations for 2008:***

The UPLC has played a vital role in protecting the public from those who would practice law in Oregon without a license. One issue that continues to plague the UPLC is the aging of cases. Many times cases are 1 or 2 years old before they are resolved. We need to do a better job of achieving timely disposition of cases. Also as discussed above we need to resolved the gap in our by-laws that allows for a contest admonition process. As it currently stands an individual who rejects an admonition only leaves us with the choices of dismissing the complaint or referring the matter to the BOG for prosecution.

Respectfully submitted: Noel Snyder (CH), Alan K. Brickley (CH-Elect), J O'Shea Gumusoglu (SEC), Alice M. Bartelt, C Lane Borg, Frederic E. Cann, Michael L. Connolly, Matthew A. Goldberg, Brent J. Goodfellow, Jacqueline M. Jacobson, Roland A. Johnson, Matthew C. McKean, Jane E. Mopper, Clayton Huntley Morrison, Jeffery W.

Ring, Todd M. Siegel, Ronald M. Somers, Dean Dailey Hollomon (PM), Allen L. Oyler (PM), Gregory A. Sackos (PM), Deanne Snedeker (PM), Theresa L. Wright (BC), Helen M. Hierschbiel (BL).

# SECTIONS

## ADMINISTRATIVE LAW SECTION

### *Executive Committee 2007:*

Chair: Steve Rissberger  
 Past Chair: Ann Fisher  
 Chair Elect: vacant  
 Treasurer: Janice Krem  
 Secretary: Thomas Ewing

At Large: William Boyd, Thomas M. Cooney, Katherine McDowell, Katherine Logan, Frank Mussell, Irene Bustillos Taylor, Karen Berkowitz, Jonathan M. Norling

Annual Business Meeting, November 9, 2007

The annual business meeting was called to order at the Holiday Inn in Wilsonville, Oregon, by Chair Rissberger. The meeting occurred during a full day CLE put on by the section that included breakfast and lunch, as well as five speakers and a panel discussion. Approximately 30 section members, including a majority of current executive board members, attended the meeting. New officers and members-at-large were elected unanimously. The Executive Committee will continue to encourage participation from members with diverse backgrounds in both government and private practice.

### *2008 Executive Committee*

Chair: Janice Krem  
 Chair Elect: Chris Cauble  
 Treasurer: Thomas E. Ewing  
 Secretary: Frank Mussell  
 Past Chair: Steve Rissberger  
 Bar Liaison: David Nebel

### *Members-at-Large*

Kyle Martin  
 Frank Mussell  
 Jonathan M. Norling  
 Steven R. Schell  
 Irene Bustillos Taylor  
 Karen Berkowitz  
 William J. Boyd  
 Phil Johnson

### *Executive Committee Activities*

The Executive Committee met five times during the year at the offices of the Oregon State Bar and once at the Office

of Administrative Hearings' facility on Cherry Street in Salem. Additional business was conducted throughout the year by e-mail. The executive committee played a significant role in planning a half-day CLE as well as overseeing legislative activities conducted by the section during the 2007 session.

### *Subcommittee Activities*

The Newsletter Editorial Board produced three quality newsletters during the calendar year. Several new members were added to the editorial board. This should increase the quality of the newsletter as well provide a greater number of potential contributors.

The Legislation and Rules Committee adopted positions opposing or urging amendments to five separate bills during the legislative session. Several members testified before the legislature in various committee hearings and work sessions. The committee was successful in amending two proposed bills, though these bills were later withdrawn by their sponsors. The committee also was successful in negotiating an arrangement with a state occupational licensing agency under which the agency agreed to withdraw legislation that would have allowed it to assess costs against any licensee who unsuccessfully challenged a disciplinary action. The section has long opposed legislation that—in effect—penalizes private citizens who seek to exercise their due process rights by requesting a hearing.

The Continuing Education Committee successfully planned and put on a six hour CLE on November 9 entitled Administrative Law: The Good, the Bad and the Ugly. The CLE featured three appellate judges and several prominent attorneys as presenters. Topics during the CLE ranged from the performance of the Office of Administrative Hearings, to recent Oregon Supreme Court decisions, to the effect of the adoption of Ballot Measure 49 on land use proceedings. 87 attorneys and administrative law judges attended the event.

### *Continuing Legal Education*

The Section sponsored a six hour CLE on November 9 entitled: Administrative Law—the Good, the Bad and the Ugly. The event was approved for four and one-third CLE credits by OSB, including one ethics credit. 87 attorneys and administrative law judges attended the CLE. The event raised \$1,600 for the section.

### *Budget:*

The section had total expenditures of \$7,616 against to-



tal revenue of \$10,070 during 2007. The November 9 CLE generated a profit of just over \$1,600.

### ***Recommendations for 2008:***

The section intends to continue publication of newsletters and make improvements to its website. It also hopes to sponsor a debate between attorney general candidates and possibly host another CLE event. We plan, as well, to develop several legislative proposals for the 2009 session.

Respectfully submitted: Steve Rissberger (CH), Ann L. Fisher (Past CH), Janice Krem (TR), Thomas E. Ewing (SEC), Karen Ann Berkowitz, William J. Boyd, Christopher Cauble, Thomas M. Cooney, Kathryn A. Logan, Katherine A. McDowell, Frank T. Mussell, Jonathan M. Norling, Steven R. Schell, Irene Bustillos Taylor, Ann L. Fisher (BC), David W. Nebel (BL).

## **AGRICULTURAL SECTION**

### ***Activities and accomplishments:***

The Section continued work on its Lease Compendium. It also continued to meet regularly, sharing interesting developments in agricultural law and updates on relevant legislation.

### ***Budget:***

The Section ended the year with approximately \$5000.

### ***Legislative issues:***

The Section spent quite a bit of time discussing and updating members on the legislation affecting farm estate taxes, HB3618. These discussions carried over into the first part of 2008.

### ***Matters considered/Matters pending:***

The Section reviewed, in some detail, the impact of HB3618 on its member's clients. The Section also discussed and considered the benefits and methodology for putting together a Lease Compendium.

### ***Activities for 2008:***

The Section is hosting a Round-Up in The Dalles, Oregon on May 30th. The Section is considering additional in-person meetings for its members and continuing efforts on the Lease Compendium. The Section intends to continue to monitor important legislation for the agriculture industry.

Respectfully submitted: David W. Smiley (CH), Elizabeth Howard (CH-Elect), Joseph H. Hobson Jr (Past CH), George L. Anderson (TR), Lawrence B. Rew (SEC),

Timothy J. Bernasek, David M. Blanc, Heath Curtiss, Steven J. Joseph, Jesse D. Lyon, Steven L. Shropshire, Charles K. Toole, Carol DeHaven Skerjanec (BC), Dani Edwards (BL).

## **ANTITRUST/TRADE REGULATION SECTION**

The membership of the Section continued to remain relatively stable in 2007. With the \$5 increase in annual dues adopted at the last annual meeting and effective this year, the Section had additional funds to put into our CLE programs. The Executive Committee hopes to expand membership by offering exciting programs, both on timely antitrust topics and on other trade regulation issues.

### ***Activities and Accomplishments:***

The Executive Committee focused its efforts on delivering two high quality CLEs in 2007. On June 14, 2007, we offered a program on "Advertising Pitfalls and How to Avoid Them," which featured speakers from the Oregon Attorney General's office, NIKE, Inc., and Stoel Rives LLP to provide perspectives on advertising from regulatory enforcers, in-house counsel and outside counsel. On November 2, 2007, the Section held its annual meeting where FTC Commissioner William Kovacic presented a talk on the status of manufacturer restrictions on retailers following the Supreme Court's decision in *Leegin Creative Products*; Oregon Attorney General Hardy Myers spoke on 2007 trade regulation legislation and recent trade regulation cases brought by the Department of Justice; and two members of the Executive Committee gave the annual update of Supreme Court and Ninth Circuit antitrust decisions.

The Section is also participating in a Bar survey on hourly rates for antitrust specialists.

### ***Recommendations for 2008:***

In 2008, the Executive Committee intends to provide excellent CLEs on topics of interest to the Section membership. The Section expects to sponsor two or three CLEs. The Section will also consider whether to sponsor legislation through the Bar for the 2009 legislative session. The Section expects to complete its participation in the Bar's hourly rate survey.

Respectfully submitted: Scott G. Seidman (CH), Christina L. Beatty-Walters (CH-Elect), Thomas Russell Johnson (Past CH), Kenneth Ray Davis II (TR), David L. Silverman (SEC), Sarah J. Adams, David Stanley Aman, Andrew E. Aubertine, Vincent F. Chiappetta, Kristin Lee Cleveland, Stephanie K. Hines, Chin See Ming, Robert M. Lehner (BC), Chris L. Mullmann (BL).

## APPELLATE PRACTICE SECTION

### *Activities and accomplishments:*

This year, the appellate practice committee worked hard on its core functions. There was a successful CLE presented at the Oregon State Bar that was well received. In addition, the executive committee monitored legislative developments, fielding request for assistance from various groups.

The section continued with the production and publication of the Oregon Appellate Almanac. Thanks to all the contributors and also to the Oregon State Bar IDT production department. Their help, including Mr. Andy Baudoin was invaluable.

The section helped the appellate courts with disseminating vital information to appellate practitioners via the list serve. Harry Auerbach prepared an excellent Amicus Curiae memorandum for the Oregon Court of Appeals regarding whether a statement of points required by ORS 19.205(1) and ORAP 2.05(7) is necessary when less than the entire record is designated. The court expressed its gratitude for the memorandum.

The section again hosted a social event on the Willamette River. The two hour cruise had special guest from Russia on board. It is reported that a good time was had by all.

### *Budget:*

The section's finances are in fine shape thanks to the treasurer's eagle eye. The section sent out a letter to the members who did not remain with the section. Most left the section because they are no longer appellate practitioners.

### *Any other comments:*

The group worked hard and did an exceptionally good job of communicating via email. It was a pleasure to serve with them.

Respectfully submitted: Walter J. Ledesma (CH), Scott Shorr (CH-Elect), Keith M. Garza (Past CH), Jeffrey C. Dobbins (TR), Judith Giers (SEC), Charles F. Adams, Harry Michael Auerbach, Marc D. Brown, Meagan A. Flynn, Melanie Carole Hagan, Lisa E. Lear, Wendy M. Margolis, Mary M. Reese, Thomas W. Sondag, Thomas W. Brown (ADV), M Elizabeth Duncan (ADV), Jacqueline L. Koch (ADV), James W. Nass (ADV), Jane Ellen Stonecipher (ADV), Timothy C. Gerking (BC), Julie Hankin (BL).

## AVIATION LAW SECTION

### *Activities and Accomplishments:*

The Aviation Law Section meets at noon on the last Thursday of each month at the Shanghai Noble house Restaurant in Portland. The section discusses issues germane to aviation law specifically and the practice of law generally. The section co-sponsors the annual Pacific Northwest Aviation Law Conference with the Seattle-King County Bar Association - Aviation Section.

The Section took a year off from sponsoring a class at Lewis and Clark Law School, but will again teach a course in aviation law in the Spring of 2008. Past-Chair Phil Rush will lead the course with numerous guest speakers from the section.

The Section held a noon CLE by Peyton Starr formerly of the FAA.

The Section is active with the Lawyer Pilots Bar Association, a national association of lawyers specializing in Aviation Law and related fields, the National Association of Insurance Adjusters and the Aviation Section of the King County, Washington Bar Association.

### *Budget:*

The Section dues are \$20 per year. Annual budget is approximately \$1,000.00

### *Legislative Issues:*

The Section closely tracks legislation that affects pilots, aircraft owners and aviation businesses.

Respectfully submitted: Stuart W. Smith (CH), Thomas J. Flaherty (CH-Elect), Timothy E. Miller (TR), Philip A. Rush (SEC), John R. Barker, Donald B. Bowerman, Lance Caldwell, Jonathan M. Hoffman, Robert B. Hopkins, John C. Hutchison, Barbara Ann Jacobson, Steven L. Myers, David J. Sweeney, Christine Tracey, A Richard Vial, Hon Charles A. Sams (ADV), Martin Schedler (MEM Emeritus), Robert D. Newell (BC), Sarah Hackbart (BL).

## BUSINESS LAW SECTION

The mission of the Business Law Section is to provide excellent service to the diverse group of business law practitioners throughout the State of Oregon by

- Providing regular, timely and useful information about the practice of business law.
- Promoting good business lawyering and professionalism.



- Fostering communication and networking among our members.
- Advocating improvement of business law.
- Supporting Oregon's business infrastructure and business community.

In 2007, the Section fulfilled that mission through the activities of the Executive Committee and other Committees, CLE programs and through the Section's web site, [www.orbuslaw.org](http://www.orbuslaw.org).

### ***Budget:***

The Section has approximately 1,175 members and expects to continue at or above that level in 2008. Section revenues, generated largely through member dues, are projected to be about \$34,600 in 2007 and have been relatively stable over the past few years. Expenses in 2007 are projected to be about \$31,000, an increase of approximately \$10,500 over 2006, although still substantially below revenues. Major Section expenses in 2007 included costs associated with the Section's web site and its annual meeting. Despite the increased annual expense, the Section expects to have a fund balance of over \$71,000 at the end of 2007. A major goal of the Executive Committee is to reduce this balance by funding additional programs and services that will benefit the members of the Section.

### ***Legislative issues:***

The Legislative Committee, chaired by Chris Hall, focused on legislation under consideration by the Legislature during its 2007 session. The Committee provided information about pending legislation to Section members and provided input to bill sponsors on a number of bills, including a proposal to allow corporate charters to include provisions relating to sustainability issues. The Committee is in the process of preparing business law improvement legislation for the 2009 legislative session, which will be submitted to the Bar in April 2008.

### ***Matters considered/Matters pending:***

#### **Web site and Listserv**

The Section web site continues to be a key element of the Section's activities. The site includes a variety of tools to assist members in their practices, including a series of checklists for transactions and issues that are frequently encountered by practitioners, a variety of legal research and other links, current news items of interest to business lawyers, and copies of the Section newsletter. The Section contracts with a web site administrator on a part-time basis to update the site. The Section also maintains an active

listserv which allows members to post questions and raise issues for discussion by Section members.

#### **Newsletter**

The Oregon Business Lawyer is usually published 2-3 times per year with articles and case law summaries of interest to business lawyers. In 2007, the OBL Committee, led by Drew Ognall, searched for volunteers interested in forming a new editorial staff. The Committee has recruited Ellen Theodorson and continues to search for others who will commit to providing material or issues of note on a regular basis for future issues.

#### **Annual Meeting/CLE**

The Section's annual meeting was held in October and included a presentation by Professor Charles Elson, the Director of the John L. Weinberg Center for Corporate Governance at the University of Delaware, regarding current topics in corporate governance. The Section plans to implement an annual all-day CLE in connection with future annual meetings starting in 2008.

#### **Networking/Regional Outreach**

The Section has members throughout the state and seeks opportunities to involve members outside the Portland metropolitan area and the Willamette Valley in its activities. In 2008, Pat Lockary Chapman, who practices in Eugene, will chair the Section's Executive Committee, and Sally Anderson-Hansell, who practices in Hermiston, will serve as Section treasurer. The Section sponsored a reception for law students working as summer associates in Portland interested in business law. To encourage participation in the Section, new admittees are offered a free Section membership for the balance of their year of admission.

#### **Other Committees**

The Financial Institutions/Commercial Finance Committee, chaired by Clifton Molatore, meets regularly to discuss issues affecting business lawyers representing financial institutions and other commercial and consumer lenders. The Committee held a CLE in November 2007 providing a 2007 legislative update. The Opinion Committee, chaired by Jeff Cronn, began meeting in 2007 to review Oregon opinion practice and to consider and report on standards of practice that vary from national practice.

#### ***Recommendations for 2008:***

In 2008, the Section will continue its efforts to improve the Section web site and the Oregon Business Lawyer, particularly through an improved system of providing case law updates. Other activities will include additional continuing legal education activity. Finally, the Section Committees

will continue to pursue the initiatives outlined above.

Respectfully submitted: Jason M. Brauser (CH), Patricia Lockary Chapman (CH-Elect), Andrew J. Morrow Jr (Past CH), Brenda L. Meltebeke (TR), Michelle S. Druce (SEC), Dean N. Alterman, Sally Anderson-Hansell, Melissa A. Boge, Gustavo J. Cruz Jr, Jason A. Dalton, M Christopher Hall, Timothy L. Jackle, Andrew H. Ognall, Paul J. Taylor, Kevin S. Thomas, Peter Threlkel (ADV), Gerry Gaydos (BC), Sarah Hackbart (BL).

## BUSINESS LITIGATION SECTION

### *Activities and accomplishments:*

During 2007 the Business Litigation Section continued its CLE programs and presented four CLEs. All CLEs were held in Portland at the Governor Hotel. These were:

<i>Date</i>	<i>CLE</i>	<i>Speaker(s)</i>
2/21/07	Everything You Need to Know about Patent Litigation but Were Afraid to Ask	Hon. Michael W. Mosman, Peter Heuser and Robert A. Shlachter
5/09/07	Punitive Damages after Philip Morris USA v. Williams	William A. Barton, William B. Crow and William F. Gary
9/12/07	Winning Tort Damages in Business Cases—Lessons from Plaintiffs' Counsel in <i>Freightliner</i> and <i>Yoshida</i>	Richard J. Stone and Michael Siedl
12/12/07	New Adventures in Privilege: A Primer on Cutting Edge Issues in the Attorney-Client Privilege and Work Product Doctrine for the Business Litigator	Bruce H. Cahn and Beverly C. Pearman

A new slate of officers has been elected effective January 1, 2008. The Board will meet January of 2007 for the annual planning session. Topics will include CLE topics for 2008 and holding a CLE out of the Portland area, presently

anticipated to be in Eugene. In addition, the Committee is exploring additional communications channels for Section members, including electronic newsletters and web-based discussion groups.

The Business Litigation Section does not at this time anticipate proposing any new legislation.

Respectfully submitted: Bruce H. Cahn (CH), Keith S. Dubanevich (CH-Elect/TR), Christopher T. Carson (Past CH), Joseph C. Arellano (SEC), David H. Angeli, Michael Coker, Paul W. Conable, Mary Ellen Page Farr, Julie Bardacke Haddon, John F. McGrory Jr, Renee E. Rothauge, Kerry J. Shepherd, Julie R. Vacura, Richard S. Yugler (BC), Teresa Wenzel (BL).

## CIVIL RIGHTS SECTION

### *Activities and Accomplishments:*

- planned, recruited speakers for and hosted a full-day CLE "Trial Evidence in Employment and Civil Rights Cases"
- monitored proposed state legislation impacting civil rights practitioners and explored recommendations for state civil rights law improvement
- past Chair, Dennis Steinman, attended a luncheon with Lewis & Clark students to promote section membership
- current Chair, David Park, attended a District Court, Oregon pro se litigant conference hosted by Judges Stewart and Ashmanskas to brainstorm ideas to improve the Court's current volunteer pro bono representation program of which 75% to 80% of the Court's volunteer needs are in prisoner litigation, civil rights and employment discrimination cases
- analyzed geographic composition of section membership and strategized ways to expand section membership outside of Portland Metropolitan area
- co-sponsored and participated in attorney fee survey for attorneys handling civil rights litigation
- donated \$500 to the Campaign for Equal Justice
- donated two free section memberships to the Oregon Minority Lawyers Association for its summer auction
- published three newsletters, recruited two new members to the editorial board and increased the editor's fee for editing the newsletter
- held annual meeting and elected new officers and members at large

- formed subcommittee to plan a public interest CLE for 2008 on school segregation/desegregation
- formed subcommittee to plan next year's annual substantive CLE on First Amendment litigation

### ***Budget***

- due to the cancellation of the public interest forum on Torture planned for 2007 the section will end 2007/begin 2008 with a positive account balance of approximately \$4,000
- Matters Pending/Recommendations for 2008
- selection of topics and recruitment of speakers for first amendment CLE
- identification and recruitment of speakers for public interest CLE
- preparation of section membership survey to identify and prioritize section members' primary practice interests and determine how to better serve them

Respectfully submitted: David D. Park (CH), Katelyn S. Oldham (CH-Elect), Dennis Steinman (Past CH), John M. Kreutzer (TR), Beth Englander (SEC), Amy L. Angel, Loren W. Collins, Scott N. Hunt, Steven A. Kraemer, Richard F. Liebman, J Scott Moede, Robert L. Vieira (BC), Paul Nickell (BL).

## **CONSTITUTIONAL LAW SECTION**

### ***Activities and accomplishments:***

The Constitutional Law Section provides a forum for its members to expand their familiarity and involvement with state and federal constitutional law issues, to improve their knowledge of constitutional law and related issues, and to interact with one another in those pursuits. The Section this year planned and presented on November 30, 2007, in partnership with the OSB, its annual, day-long constitutional law CLE. Participating were national constitutional law scholar, Erwin Chemerinsky, Portland State University history professor, David Johnson, State Law Librarian, Joe Stephens, and distinguished Oregon lawyers and judges.

The Section is planning, in cooperation with The Classroom Law Project, a series of dvds on the Oregon Constitution that will be suitable as teaching aids from middle school to law school. The goal is to have these teaching materials ready by 2009 for use in Oregon's sesquicentennial celebration of its statehood. We are also planning, in cooperation with Oregon Public Broadcasting, a program on the initiative and referendum sections of the Oregon Constitution. In cooperation with the Oregon Law Review we are

planning a 2009 issue to be devoted to articles concerning the Oregon Constitution. We have continued our orconlaw blog (<http://orconlaw.blogs.com>) and hope to increase the level of activity and participation in the blog in 2008.

We are also exploring the possibility of creating an amicus committee that would monitor important constitutional law cases headed toward the Oregon appellate courts and would seek out counsel to assist in the representation of parties that are not represented by counsel or to assist counsel who would like to have assistance.

### ***Budget:***

Our year-end fund balance is \$19,802. That includes \$10,000 consisting of two \$5,000 grants received, one from the Wayne Morse Center at the U of O and one from the Multnomah County Bar Foundation. It is expected that this \$10,000 will be spent in 2008 on research and production costs for our dvds to be used in teaching the Oregon Constitution. Our expected expenditures for 2008 are close to those of the current year, with the exception of money that may be raised from grants and grant money that will be spent on the sesquicentennial project.

### ***Recommendations for 2008:***

The Section will sponsor a constitutional law CLE in the fall of 2008. We will be working hard in 2008 to raise money for the teaching dvds and will cooperate with Oregon Public Broadcasting for a television program on the initiative and referendum sections of the Oregon Constitution and with the Oregon Law Review for the 2009 issue on the Oregon Constitution. We hope to continue with a ramped-up and active orconlaw blog and will continue to work on the possibility of an amicus committee that will be concerned with helping to locate counsel for important constitutional issues in the Oregon courts. We are also open to new and even better ideas and projects and we solicit members' ideas and suggestions.

Respectfully submitted: Les Swanson (CH), Erin C. Lagesen (CH-Elect), James N. Westwood (Past CH), Chin See Ming (TR), Ruth M. Spetter (SEC), Paula Lynne Abrams, Hon Henry C. Breithaupt, Gregory A. Chaimov, Katherine G. Georges, John Paul (Toby) Graff, David Euan Leith, Michael H. Simon, Alycia N. Sykora, Edward H. Trompke, Hon Youlee Y. You, Jonathan P. Hill (BC), Paul Nickell (BL).

## CONSTRUCTION LAW SECTION

### *Activities and accomplishments:*

The Construction Law Section membership has remained consistent, with a slight increase during 2007. The Executive Committee met approximately every two months from noon until 1:30 pm at various locations. Telephone access was provided for non-Portland-area members.

### **CLE Programs**

The Section's primary activity continues to be providing continuing legal education opportunities for its members. In 2007, the Section sponsored the following CLE activities:

- On March 8, 2007, Eric Grasberger and Stoel Rives hosted a lunch-time presentation summarizing the results of the Construction Claims Task Force.
- On various dates, Schwabe Williamson & Wyatt hosted lunch-time presentations on topics such as Reading Plans and Specifications (January 8), Interpreting Building Codes (February 2), Construction Delay Claims (April 6), Mold and Indoor Air Quality Issues in Construction (June 1), and Construction Defect Claims (August 3). Jack Levy set up this series of CLE presentations.
- On November 30, 2007, the Section teamed up with the local chapter of the Associated General Contractors to present a half-day seminar on new legislation. The Section's Annual Meeting was held following this CLE.

### **Referee Program for Construction Litigation**

Members of the Section continued to work with judges around Oregon to implement the Referee Program into other counties. This program was first used in Multnomah County and is now used in Clackamas County. The Section also met with Chief Justice De Muniz to discuss this program.

### **Website**

The Section continues to work on creating a user-friendly web site for its members. The Executive Committee hired Paul Tichy to assist with the web site.

### **Newsletter**

The Section published three editions of its newsletter. Starting in 2007, the Section began publishing the newsletter electronically to all members, except for members without an email address or those who request a paper version.

### **Elections**

The following new members were elected to the Executive Committee at the November 30 annual meeting: Dan Gragg, Tom Ped, Jim Prichard, Pete Viteznik, and Bill Boyd.

Respectfully submitted: Alan L. Mitchell (CH), Jack Levy (Past CH), D Gary Christensen (TR), Angela Otto (SEC), Jason W. Alexander, John A. Berge, Timothy M. Dolan, Darien S. Loiselle, James H. Van Dyke, Robert D. Newell (BC), Sarah Hackbart (BL).

## CONSUMER LAW SECTION

### *Activities and accomplishments:*

### **Meetings**

The Executive Committee has met monthly since its formation. Executive Committee meetings are generally held from noon to 1:00pm on the third Wednesday of each month at the Lewis & Clark Legal clinic, 310 SW 4<sup>th</sup> Ave., Suite 1018, Portland.

### **CLE**

The Section presented two CLEs. The first one in August was a free hour long presentation by Judge Todd on the operations of the small claims court. The second was a full day in September addressing the use of credit reports, ECOA and a half day of EOB which addressed specific issues in consumer cases. The Section's annual meeting and election of officers was held in conjunction with the September CLE.

### **Newsletter and Website**

The Section publishes a newsletter on topics of interest to consumer lawyers, with the mailing assistance of the Oregon Department of Justice. Four issues of the newsletter were published in 2007. The Section also maintains a website which was updated with new links for consumers and the new library information for section members is also on the site. The site can be accessed at <http://www.osbconsumerlaw.homestead.com>.

### **Public Outreach**

Several members of the Executive Committee visited low income housing complexes and gave presentations and answered questions of residents on FDCPA, bankruptcy issues, credit reports and ID theft.

### **Budget:**

A small loss was incurred for the September CLE. Otherwise, the year activities stayed in budget.



***Legislative issues:***

The Section sponsored a Bill in the 2007 legislative session that would create a judgment and bankruptcy exemption for funds received under the federal additional child tax credit. Although we did have a hearing and a meeting with Senator Walker, we were not successful in getting the Bill passed. Also, members of the Section have been participating in the workgroup formed by the Governor concerning mortgage foreclosure and foreclosure rescue companies.

***Matters Considered/Matters Pending:***

Currently pending is a CLE presentation by Lou Savage of the DOJ's office on the new ID Theft legislation that passed the 2007 legislature. Potential proposed bills for the 2009 legislature are being considered now due to the short deadline to have those proposals in to the Bar and BOG.

***Recommendations for 2008:***

The incoming Chair plans to continue and expand our consumer outreach program to reach a wider audience and to cover more topics. Similarly, he plans to look for ways to expand the Section's library and fine tune the delivery system. A focus will be put on support for pro-consumer legislation that gets introduced in the 2008 special session. Finally, hold a year-end Section social event that will be enjoyable for all.

***Any other comments:***

The Section offered free dues to first time section members. We had 62 people join the Section under the free dues provision. We also provided new member packets for distribution to the new admittees to be included in the New Member packets distributed by the Bar. The NCLC manuals, with all updates, are available for check-out and use by Section members. Finally, the Section has been working on the specific economic survey with OSB.

Respectfully submitted: Pamela E. Yee (CH), Moloy K. Good (CH-Elect), Hope A. Del Carlo (Past CH), Greta E. Gibbs (TR), Bret A. Knewtonson (SEC), Justin Michael Baxter, Brenda M. Bradley, Margaretta Eakin, Danny H. Gerlt, Phil Goldsmith, Keith D. Karnes, Eva Novick, Tim Alan Quenelle, Terrance J. Slominski, Robert S. Sola, Truman A. Stone, Theresa L. Wright (BC), David W. Nebel (BL).

**CRIMINAL LAW SECTION**

The Criminal Law Section was created to provide a forum for the discussion of issues affecting practitioners in the criminal justice system and to educate the members of the Section on current issues in the field. The Section has more

than 600 members, including defense attorneys, prosecutors and judges. The Executive Committee is made up of twelve members, always consisting of six from the defense and six from the prosecution.

The Section is funded through dues and the income from its annual Continuing Legal Education (CLE) program. Marc Sussman was the treasurer in 2007 and Peter Deuel will be the treasurer in 2008. The section will be using its funds to put on the CLE, continue to improve its website as well as publish newsletters for its membership.

***Legislative issues:***

For the first time, the Section will be working on legislation that benefits both criminal prosecution and criminal defense. The Section will be proposing a fix for a new trial or motion in arrest of judgment where it could be changed from "deemed denied" the way it is on a motion for a new trial to be assumed on both types of motions.

***Activities and accomplishments:***

In April of 2007, the Section held its 20<sup>th</sup> Annual Contemporary Issues in Criminal Justice CLE. As always, the CLE included a session on relevant and recent state and federal case law in criminal law. The CLE provided a legislative update from the Oregon District Attorneys Association Legislative Chair and the Oregon Criminal Defense Lawyers lobbyist. Recently retired Chief Justice Wally Carson made the keynote address. The highlight of the program was the panel discussion of actual jurors from Clackamas, Washington, and Yamhill Counties and their candid comments about what worked and did not work from their perspective in trials.

Soon after the completion of the CLE, the Executive Committee began planning the 2007 CLE. The CLE will, as always, provide relevant case law updates and practice tips. In addition the Section plans to have an update on the 2008 special legislative session, the candidates for Attorney General and an ethics panel presentation on discovery.

As the tradition of the Executive Committee is to meet outside of the Portland area to accommodate those members who travel monthly to the Bar office from afar the committee chose to meet once in Salishan in September and once in Salem December.

Respectfully submitted: Janelle Factora Wipper (CH), Gregory B. Scholl (CH-Elect), Rebecca A. Duncan (Past CH), Marc Sussman (TR), Bradley C. Berry (SEC), Peter L. Deuel, Gregory D. Horner, Jennifer S. Lloyd, Joseph A. O'Leary, Daniel Ousley, Lindsay R. Partridge, Tahra Sinks, Robert M. Lehner (BC), Kateri Walsh (BL).

## DEBTOR-CREDITOR SECTION

### *Activities and accomplishments:*

The Debtor-Creditor Section operates primarily through its Subcommittees described below. The Section conducts an Annual Meeting and CLE program and co-sponsors the Northwest Bankruptcy Institute with the Washington State Bar Creditor-Debtor Section on topics relevant to the debtor-creditor practice. The Section provides service to the public primarily through its pro-bono bankruptcy clinic and C.A.R.E. program. It publishes a newsletter, is active in legislative matters, and maintains a Section website.

### **Active Subcommittees**

This year three new committees were added: Award of Merit (actually an old committee, reactivated), Local Bankruptcy Rules Project, and Public Education.

**Annual Meeting:** Organizes and Conducts Annual Meeting. 2007 Annual Meeting held on November 7, 2007 at the offices of Miller Nash

**Award of Merit:** Seeks out persons who deserve special recognition for extraordinary contributions in the debtor-creditor area. This year Awards of Merit were presented to Dick Edwards and Laura Walker.

**C.A.R.E. Program:** Conducts Credit Information Programs at High Schools throughout the Portland and Eugene areas

**Consumer Bankruptcy:** Meets regularly to discuss issues affecting the consumer bankruptcy practice

**Continuing Legal Education:** Conducts CLE programs in conjunction with Annual Meeting and at other times on topics relevant to the Section's membership

**ECF:** Addresses current issues with Bankruptcy Court's ECF filing system

**Legislative:** Sponsors new legislation and comments on legislative proposals applicable to Debtor-Creditor practice. During the 2007 legislative year the subcommittee sponsored several bills

**Local Bankruptcy Rules Project:** Comments and advice on local bankruptcy rules in connection with the court's review of those rules

**New Lawyers:** Conducts networking and CLE programs for newer members of the Section

**Newsletter:** Publishes three issues per year containing topics relevant to the section's membership

**Nominating:** Proposes nominees to fill vacancies on Section's Executive Committee

**Northwest Bankruptcy Institute:** Co-sponsors Annual CLE Program with Washington State Bar Creditor-Debtor Section. Venue alternates between Portland and Seattle. 2007 session held in Vancouver, British Columbia with the 2008 Institute scheduled for Seattle, Washington.

**Pro Bono:** Conducts bankruptcy clinics and provides volunteer lawyers for low income bankruptcy clients

**Public Education:** Develops strategies to educate the general public concerning debt management and bankruptcy

**Saturday Session:** Conducts annual meeting between Bankruptcy court judges and staff and bankruptcy practitioners on current issues relevant to local practice

**Website:** Maintains the Section's website at [www.osb-dc.org](http://www.osb-dc.org)

### **CLE Programs**

This year's activities included:

January 20, 2007

- Saturday Session, Salem Conference Center

April 27

- Northwest Bankruptcy Institute, Vancouver, BC

November 9

- Annual Meeting CLE, Portland

### **Newsletters**

The Winter 2007 Edition included:

- Counsel in the Crosshairs: Insolvency Counsel and Ethics Issues
- C.A.R.E. Committee Report
- ECF Update
- The Spring 2007 Edition included:
- Homestead Exemption in Question
- Ninth Circuit Clarifies Law on Ordinary Course of Business Defense to Preference Cases.
- Lender Beware

The Fall 2007 Edition included:

- Delaware Signals a Death Knell for "Deepening Insolvency"
- Phantom Income and Phantom Gains: No Money to Pay Tax Due on Cancelled Debt or Capital Gains
- Discharge of Student Loans In and Out of Bankruptcy



***Budget:***

The section has been operating within its proposed budget for 2007. As of October 31, 2007, the section has an ending fund balance of \$43,505.00.

***Legislative issues:***

The Legislative Committee was very active during 2007. Four bills the section sponsored passed: SB 30 concerning non-judicial trust deed foreclosure service requirements, SB 302 concerning secured creditors remedies after debtor's death, SB 303 concerning wage garnishment, and SB 304 concerning correcting a dropped cross-reference in UCC Revised Article 9. The committee also commented on numerous other bills presented.

***Recommendations for 2008:***

The Section and Executive Committee have a full plate. If we can keep the momentum going on existing programs we will be doing well.

Respectfully submitted: Stephen T. Tweet (CH), Teresa H. Pearson (CH-Elect), Thomas W. Stilley (Past CH), Thomas M. Renn (TR), Miles D. Monson (SEC), Douglas P. Cushing, Estate of Linda Johannsen, Douglas Pahl, Richard J. Parker, Hon Albert E. Radcliffe, Brandy Augusta Sargent, Tara J. Schleicher, Heather Harriman Vogl, Patrick Whelan Wade, Ian H. Wallace, S Ward Greene (BC), Karen D. Lee (BL).

**DISABILITY LAW SECTION**

November 14, 2007

The Disability Law Section Executive Committee met approximately every month during 2007. Meetings were held at the OSB headquarters in Lake Oswego, with meetings also taking place at the Oregon Advocacy Center in downtown Portland, and at the University of Oregon Law School in Eugene.

***Activities and Accomplishments:***

**Outreach/Development:** The Section continued its relationship with the University of Oregon Disability Studies Initiative, by holding two meetings at the law school. Executive Committee member Heidi von Ravensberg is a faculty member of the Disability Law Initiative and serves as an informal liaison.

The Executive Committee will soon welcome four new members: Lana Traynor, Thomas Doyle, Christina Thacker, and Jonathan Caver.

**Continuing Legal Education:** On May 10, 2007, the Section co-sponsored a CLE with the Oregon Social Secu-

rity Claims Representatives for social security practitioners on social security work incentives. Lunch was provided and the CLE was held at the Oregon Advocacy Center. An audio file replay was emailed to section members on November 9, 2007, for the benefit of those who could not attend.

The Section is planning a day long CLE in Eugene in conjunction with the Disability Studies Initiative on disability law in general. There will be panel presentations on education, employment, architecture and other issues of interest to disability law practitioners. The CLE will be held in early 2008.

**Newsletter/Website:** Members have expressed interest in a tangible, print newsletter in addition to a website. After several years, a print newsletter will be published in early 2008.

***Matters Considered/Matters Pending:***

**Other on-going projects include:** advocacy regarding accessibility of the new OSB headquarters and the Eugene Federal Court House; monitoring and outreach concerning Bar Exam accommodations; and training brochures for lawyers and clients regarding access to justice for people with disabilities as recommended by the Oregon Judicial Department Task Force.

Executive committee member Heidi von Ravensberg provided technical assistance to the OSB regarding Braille signage in the new building. The Section met with OSB staff and members of the Board of Bar Examiners to gather information and provide input regarding the bar exam accommodation process.

***Legislative Issues:***

Neisha Saxena served as legislative liaison for 2007. In 2008, Neisha Saxena, Ted Wenk and Lana Traynor will serve in this capacity.

Executive Committee members Alice Plymell and Heidi von Ravensberg worked with Oregon Advocacy Center Executive Director and Disability Law Section founding member Bob Joondeph to draft proposed legislation for the 2007 session creating a regulatory body to license prosthetists and a minimum warranty for prosthetic devices. These bills did not pass this session. The Section is in the process of discussing legislative issues for 2009.

**General Budget Information:** Our ending balance was \$6,561, and we were under budget for the year.

***Recommendations for 2008:***

- CLE in Eugene jointly sponsored with U of O Disability Studies Initiative;

- Development and maintenance of a Section website, and production of a print newsletter;
- Continue outreach in the form of Committee meetings in Eugene;
- Continue development by recruiting new Executive Committee members.

Respectfully submitted: Neisha A. Saxena (CH), Linda Ziskin (Past CH), Alice M. Plymell (TR), Theodore E. Wenk (SEC), Barbara J. Fields, Heidi von Ravensberg, Ann L. Fisher (BC), Margaret Robinson (BL).

## DIVERSITY SECTION

### *Activities and accomplishments:*

The OSB Diversity Section envisions a bar that reflects Oregon's diversity. Further, the Section leads the effort to recognize and eliminate barriers in Oregon's legal system. The Section's Executive Committee includes representation from specialty bars, local bars, and various demographics that also strive to increase diversity in the Oregon bar. The section has 206 members.

The activities of the Section during 2007 included the following:

#### **Executive Committee Meetings**

Except for a retreat held jointly with the OSB Affirmative Action Committee at the Oregon Bar Center, the executive committee met monthly at the offices of Gevurtz Menashe and Schwabe Williamson and Wyatt in downtown Portland.

#### **Elimination of Bias (EOB) MCLE Workgroup**

In an ongoing effort to emphasize the importance of retaining an MCLE credit, in 2007 this workgroup made presentations to the BOG Policy and Governance Committee as well as to members of the Oregon Supreme Court. The executive committee adopted a resolution urging the BOG to retain the MCLE EOB requirement and to charge an administrator to ensure the development of high quality EOB courses as well as creating a subcommittee to maximize the

#### **OSB Bylaws on Diversity**

In April, an OSB membership vote taken via email resulted in the BOG modifying the Article 10 of the OSB Bylaws on Diversity to permit for the US Armed services to publish advertisements in bar publications. The executive committee submitted a proposal for consideration by the HOD to rescind the decision of the BOG in light of the HOD's earlier votes on this issue.

## **OSB Affirmative Action Program**

In September of 2007, the section learned that the former administrator of the Affirmative Action Program unexpectedly resigned. In an effort to ensure the work of the Affirmative Action Program and in particular its retention strategy for ethnic minority law students "OLIO" did not fall by the wayside, the executive committee signed on to a letter of concern sent to the BOG about the changes made to the program and asked that future decisions be made transparent and in consultation with affected members.

### **Partnerships with other organizations**

The DSEC financially supported diversity and inclusion efforts and groups in 2007 including:

- The sponsorship of a CLE presented by Tim Wise, a nationally renowned expert on Affirmative Action.
- A Financial donation to the Oregon Minority Lawyers Association to fund their scholarships for bar preparation courses awarded to ethnic minorities studying for the Oregon State Bar Exam.

### **Recommendations for 2008:**

The DSEC will continue to work collaboratively with other organizations and concerned parties on the Elimination of Bias (nka Access to Justice) MCLE. Members of the DSEC will also serve as liaisons to the Affirmative Action Subcommittee to help organize OLIO for the 2008 incoming class of law students, and to assist in the stakeholder search committee to hire a replacement for the AAP administrator position which is seen as critical to the on-going success of the program. Other possible areas of concern have been identified as a need to follow up on the Convocation of Equality held in 2001, which provided the impetus for the creation of this section.

Respectfully submitted: Mary Crawford (CH), Andrea J. Anderly (TR), Akira Heshiki (SEC), Cheryl A. Albrecht, Beth A. Allen, Hon Richard C. Baldwin, Alice M. Bartelt, Antonio J. Gonzalez, Robert C. Joondeph, Janna Beth M. Kim, Jeanne F. Loftis, Julia Elizabeth Markley, Anthony A. Padilla, Larry Seno, Diane Schwartz Sykes, Joshua S. Williams, Marva Fabien (BC), Sarah Hackbart (BL).

## ELDER LAW SECTION

Membership in the Elder Law Section has declined slightly in terms of paid membership from prior years. There were 581 members as of October 31, 2007, 553 of which were paid members of the Section, and 28 of which were complementary members of the Section.

**2006 Section Subcommittee Activities:**

**Subcommittee:** Agency and  
Professional Relations

**Chair:** Mike Edgel

During 2007, the APR Subcommittee continued to meet quarterly with representatives from the Oregon DHS. Numerous significant rule revisions were proposed by DHS during the year, and the subcommittee successfully advocated for different (and more client-friendly) wording for several of these. The rules impacted by the APR Subcommittee included those dealing with annuities; the “care-giving child exception” to transfer penalties; valuation or real estate; care-giving contracts; and others. In addition to rules actually impacted, the Subcommittee made progress in persuading DHS to reconsider its position on the impact of the income-first rule on Petitions for Spousal Support.

**Subcommittee:** CLE

**Chair:** Mark Williams

The CLE subcommittee sponsored the 4th annual UnCLE on May 4, 2007, at the Valley River Inn in Eugene. Pre-registration reached the maximum limit of 75 attendees over a week before the event. The event received extremely positive reviews from participants once again. The 5th annual UnCLE has been scheduled for May 9, 2008, and early registration will be highly advisable. The annual Elder Law CLE was held October 5, 2007, at the Portland Convention Center. This CLE focused on basic topics in our regular rotation of focusing on basic and advanced topics in alternating years. Topics covered included advising clients in the current Medicaid environment, property issues, tax issues, ethics issues, Social Security disability issues, and changes expected given House Bill 2007 and Senate Bill 2, relating to domestic partnerships and other issues, passed by the 2007 Oregon Legislature. Attendance was again high, with 175 registrants. The CLE was again highly rated by registrants.

**Subcommittee:** Computer and Technology

**Chair:** Susan Ford Burns/Ryan Gibb

In addition to posting information on a web page which is part of the Oregon State Bar Website, which is of use to practitioners of elder law in the State of Oregon, the Elder Law Section, in cooperation with the Oregon State Bar, maintains a list serve which is very active, and which has become one of the most significant resources for elder law attorneys around the state.

**Subcommittee:** Legislative

**Chair:** Ryan Gibb

The Elder Law Section proposed two bills for the 2007 legislative session. These bills were HB 2359, which amend-

ed the banking statutes relating to the use of affidavits of heirship, and HB 2360, which amended ORS 125.440.

HB 2359 amended ORS 722.262, ORS 723.466 and ORS 708A.430, relating to the use of affidavits of heirship at financial institutions. This bill was proposed because of concern that financial institutions would require a waiting period after the death of a depositor before a surviving spouse could access the account using an affidavit. The bill clarified that a surviving spouse has the right to access the account using the affidavit without any delay. The bill also clarified the timelines that the Estate Administration Unit and other heirs have to use such an affidavit. Nothing in the bill affected the right of any heir, creditor, or the Department of State Lands to initiate a probate or file an Affidavit of Claiming Successor as a means of handling an estate. The amendment retained the current cap of \$25,000 for the use of these affidavits of heirship. The Oregon Banker's Association had concerns about language in the bill, and slight modifications were made to handle those concerns. This bill has passed through the Legislature and was signed by the Governor. The bill applies to the accounts of depositors who die on or after January 1, 2008.

HB 2360 amended ORS 125.440(2), with regard to the termination of a conservatorship. As it exists, the statute did not allow a conservator to create a trust that would have the effect of terminating the conservatorship. The bill amended the statute by allowing the court to terminate a conservatorship in favor of a trust if the court finds any of the following:

- the trust is created for the purpose of qualifying the protected person for needs-based government benefits or maintaining the protected person's eligibility for needs-based government benefits;
- the value of the conservatorship estate, including the amount to be transferred to the trust, does not exceed \$50,000.00;
- the purpose of establishing the conservatorship was to create such a trust; or
- other good cause is shown to the court.

This bill has passed through the Legislature and was signed by the Governor. It applies to all Conservatorships as of January 1, 2008.

The Elder Law Section was also involved in dealing with HB 2381, proposed by the Oregon Law Commission, which would have significantly modified the current Spousal Elective Share rights. Several members of the Elder Law Section spent significant time working on this bill. This bill did not pass out of the House Judiciary Committee, and therefore is not law. The Elder Law Section plans to con-



tinue to be involved with this legislation in the future.

**Subcommittee:** Newsletter  
**Chair:** Leslie Harris

The Newsletter Subcommittee has continued to arrange for articles of interest to elder law attorneys and will incorporate these into a quarterly newsletter, to be distributed electronically to elder law section members and certain selected others, providing valuable and up-to-date articles and information for elder law attorneys. There is a paid editor, Carole Barkley. Electronic distribution continued in 2007, which continues to provide a cost saving for the section.

**Subcommittee:** Elder Abuse  
**Chair:** Steve Owen

The new Elder Abuse Subcommittee is expected to focus on outreach and education, and will likely initially focus on investigating current practices in various areas of the state, in order to identify the players, and on the general situation relating to elder abuse in a variety of areas. Based upon this information, the role of the Elder Abuse Subcommittee is expected to then be more fully developed.

**Subcommittee:** Fiduciaries and Protective Proceedings  
**Chair:** Gary Vigna

The new Fiduciaries and Protective Proceedings Subcommittee is expected to focus on outreach and education relating to fiduciaries and protective proceedings. The Subcommittee and/or other members of the section will also work with the Chief Justice on a task force in these regards. The subcommittee may also investigate current practices in various areas of the state relating to court visitors, visitor's reports, standards for visitors, appointment of fiduciaries in protective proceedings, instructions for new fiduciaries and for ongoing fiduciaries, and other matters. Based upon this information, the role of the Fiduciaries and Protective Proceedings Subcommittee is expected to then be more fully developed. The Fiduciary and Protective Proceedings Subcommittee is also expected to be involved with possible changes to various Oregon Rules of Civil Procedure, as mooted by a Council on Court Procedures Working Committee. The Subcommittee, or a working group of the Section, is also expected to work on revising a benchguide for the Elderly Persons and Persons with Disabilities Abuse Prevention Act, ORS 124.005 et seq., as requested by the Honorable Paula Brownhill and the Honorable Deanne Darling.

#### **Annual Meeting**

The Annual Section Meeting was held during the lunch break of the October 5, 2007, CLE program, making it convenient for program registrants to attend.

#### **Executive Committee Retreat**

The Executive Committee held a planning retreat on September 14, 2007, and September 15, 2007, at Bella Beach. We discussed future issues that will be of concern to elder law attorneys in Oregon, directions in which the practice of elder law is moving, and areas in which the Section may be able to provide support for elder law practitioners.

#### ***Budget:***

Due to the electronic transmittal of the newsletter, the number of members of the Section, and good attendance at both the CLE and the UnCLE, our revenues were more than projected, and our expenses, even by the end of the calendar year, are likely to be less than anticipated, so we expect net revenue for 2007. Section dues will remain at \$25 per year.

#### ***Recommendations for 2008:***

The UnCLE is scheduled for May 9, 2008. The annual CLE will be scheduled in October, 2008, and will probably be set on either October 3, 2008, or October 10, 2008. The Executive Committee will monitor legislation of interest to the Section throughout the short 2008 legislative session and will likely seek to submit legislation for the 2007 legislative session, and to comment upon legislation, and to work with other groups who are seeking to develop legislation or to implement changes in court rules, the Oregon Administrative Rules, and the like. The quarterly newsletter will continue to be distributed in electronic format, and along with the Section list serve, will continue to facilitate information sharing among Section members.

Respectfully Submitted: Steven A. Heinrich (CH), Ryan Edward Gibb (CH-Elect), S Jane Patterson (Past CH), Sylvia Sycamore (TR), Penny L. Davis (SEC), J Geoffrey Bernhardt, Susan Ford Burns, Sam Friedenberg, Brian Haggerty, Leslie Kay, Stephen R. Owen, Daniel C. Robertson, Andrea B. Shartel, Ellyn R. Stier, Brian M. Thompson, Gary L. Vigna, Carol DeHaven Skerjanec (BC), David W. Nebel (BL).

### **ENERGY, TELECOMMUNICATIONS & UTILITY LAW SECTION**

#### ***Activities and accomplishments:***

The Section sponsored a series of three lunchtime CLEs in Portland on topics pertinent to our membership on September 28, November 7, and December 5, 2007.

The Section continued work on a practice manual for regulatory practice in Oregon.

The Section made charitable contributions in honor of Tracey Sparling (\$100) and to the Campaign for Equal Justice (\$1,000) and the Classroom Law Project (\$1,000).

Respectfully submitted: Lawrence H. Reichman (CH), Ann L. Fisher (CH-Elect), Susan K. Ackerman (Past CH), James Richard George (TR), David F. White (SEC), Brian D. Altman, Stephanie S. Andrus, Melinda J. Davison, Jim Deason, Edward A. Finklea, Stephen C. Hall, Katherine A. McDowell, Jonathan M. Norling, John P. (Jay) Nusbaum, Lisa F. Rackner, Chad M. Stokes, Ann L. Fisher (BC), Cheryl L. McCord (BL).

## ENVIRONMENTAL AND NATURAL RESOURCES SECTION

### *Activities and Accomplishments:*

**Outlook Newsletter:** The Executive Committee published two hard copy editions of its Outlook newsletter this year. Each newsletter is organized around a central topic with articles detailing recent case law and issues on that topic. The winter edition featured articles about Environmental Justice and the summer edition focused on Pesticides.

**E-Outlook Newsletter:** In keeping with the Committee's continuing efforts to use technology to more effectively reach out to its membership, and to provide timely information to section members on "hot topics", the Executive Committee published four editions of E-Outlook.

- Issue 1: Ian Sutton, "Supreme Court Chastises EPA for Failing to Regulate Greenhouse Gas Emissions."
- Issue 2: Hong Huynh, "Legislative Concepts 2007."
- Issue 3: David Ashton, "United States Supreme Court Unanimously Rules Potentially Responsible Parties who Incur Response Costs have a Cost Recovery Remedy under CERCLA Section 107(A)."
- Issue 4: Ian Whitlock, "United States Limits Section 7 Consultation under the ESA on CWA Permitting."

These E-Outlook editions were also posted on the section's website.

**CLE's:** The Executive Committee continued to implement its policy of providing low cost, substantive and interesting CLE's, and to this end organized and presented a full day seminar at the Hatfield Marine Science Center in Newport, Oregon. The seminar, titled Coastal Law in Oregon 2007 explored tribal rights and marine resources, the science behind marine protected areas, and wave energy, among other topics, and was accessible to section members who could not attend in person, via conferencing technology.

**Brown Bag CLE's:** In addition, the Committee presented three lunch time or "brown bag" CLE's on various cutting edge topics in environmental law. Conference call in capabilities enabled section members from all over the state to participate. In addition, the materials from these CLE's were posted on the section's website.

Other section activities included reaching out to law students to encourage participation in the section and inviting student liaisons to come to section meetings. The section also participated in and contributed to various work groups addressing sustainability issues in Oregon and within the Oregon State Bar.

### *Budget:*

The Section's ending balance for 2007 was \$9,386.00. The Committee spent less than the anticipated budget for 2007 primarily because we did not publish as many newsletters as originally anticipated. Much of the budget carryover will go towards financing newsletter publications in 2008 and increasing the Section's technological outreach capabilities. Having a positive end-of-year balance will also mean that we can continue to organize CLE's at a lower cost to the membership.

### *Recommendations for 2008:*

The Executive Committee has plans to publish Outlook newsletters in 2007 on the topics of Environmental Crimes, Cultural Resources and Supplemental Environmental Projects. We anticipate the Committee will also continue to present its brown bag CLE's, in addition to another full-day CLE that focuses on regional issues in Eastern Oregon. In addition, the Committee plans to implement its Strategic Plan goals of reaching out to membership outside of the Portland metropolitan area by continuing to use new technologies to make meetings, CLE's, and newsletters available to the membership through its website and conferencing abilities. The Committee has also expressed a continuing interest in issues related to sustainability.

Respectfully submitted: Renee Moulun (CH), William Sherlock (CH-Elect), Donald H. Pyle (Past CH), Diane Henkels (TR), David Ashton (SEC), Jas Jeffrey Adams, Kristen Tschai Bonanno, Michael R. Campbell, Leslie A. Carlough, Kenneth P. Dobson, Hong N. Huynh, Stephen P. Kelly, Maggie Langlas, Laura Maffei, Steven L. Shropshire, Susan L. Smith, Anita MA Winkler, Robert M. Lehner (BC), Scott A. Morrill (BL).

## ESTATE PLANNING & ADMINISTRATION SECTION

In 2007, the Section had 1,110 members. The Section annual meeting was held on November 2, 2007 at the Oregon Convention Center.

### *Activities & Accomplishments:*

#### **CLE Programs**

June 15, 2007: Cosponsored with the Oregon State Bar, "Hot Topics in Estate Planning" at the Oregon Convention Center, 3.5 General CLE credits.

November 2, 2007: Cosponsored with the Oregon State Bar, "Administering the Basic Estate" at the Oregon Convention Center. This CLE provided 6.5 General CLE or Practical Skills credits and 1 Ethics credit.

#### **Newsletters**

The Section published four newsletters, in January, April, July and October, which provided articles on a wide range of topics of interest to trust and estate practitioners, including new Oregon legislation, recent Oregon case law developments, and practice tips.

#### **Website**

The Section updated the Section's website to include copies of Section newsletters, selected legislative information, links, and other resources helpful to Section members.

#### **Advance Directive Project**

The Section continued to work on an advance directive project to establish and recommend uniform guidelines to assist individuals in executing advance directives.

#### **Oregon Inheritance Tax**

The Section established a subcommittee to focus on Oregon inheritance tax issues. Members of the subcommittee worked with the Oregon Department of Revenue, other bar sections and professional groups, with regard to interpretation and administration of Oregon inheritance tax provisions.

### *Legislative Issues:*

Three legislative proposals were requested by the Section in the 2007 Legislative Session, all passed and will take effect January 1, 2008.

- SB 305 made necessary technical changes to the Uniform Trust Code.
- HB 2361 made technical changes to the Uniform Principal Income Act.

- HB 2362 amended the Uniform Probate Code to allow declarations rather than affidavits (in some instances) in probate court.

In addition, the Section monitored and testified on selected proposed legislation not sponsored by the Section, but which affected estate planning and the administration of estates and trusts.

For 2008 legislative issues, the Section's primary focus will be on revisions to the Oregon Uniform Trust Code.

### *Budget:*

The Section's financial position continues to remain strong, and the annual membership fee will continue to remain at \$20.00.

### *Matters considered/Matters pending:*

The Section reviewed and discussed the Oregon Law Commission proposal on revisions to the Oregon's elective share statute. The Section will continue to be reviewing the proposed legislation in the upcoming year.

The Section will also be considering proposing new legislation introducing beneficiary deeds in Oregon.

Similar to last year's distribution of complimentary copies of the Willamette Law Review, Oregon Uniform Trust Code and Comments, Special Issue, the Section is working on arrangements to also make the Advisory Committee Comments to the 1969 Probate Code widely available to Section members.

Respectfully Submitted: Timothy J. Wachter (CH), Jonathan A. Levy (CH-Elect), James R. Cartwright (Past CH), Penny H. Serrurier (TR), Susan N. Gary (SEC), Karen C. Allan, William D. Brewer, Donna R. Meyer, Susan A. Miller, David E. Paulson, Michael R. Sandoval, Thomas J. Sayeg, Kenneth Sherman Jr, Anne M. Thompson, Eric H. Vetterlein, Theresa M. Wade, Jeffrey M. Cheyne (ADV), Bernard F. Vail (ADV), Kathleen A. Evans (BC), Sally Ann LaJoie (BL).

## FAMILY LAW SECTION

### *Activities and accomplishments in 2007:*

The Family Law Section continues to be active and successful. Section membership has increased to 1045 members.

The Section successfully conducted its annual three day Annual Meeting and CLE Conference at Salishan by presenting 10.25 general credits and 1.0 ethics credits. This CLE Conference also offered an opportunity to earn 2.0



optional credits: 1.0 child abuse and 1.0 elimination of bias credits. The seminar had 436 participants.

The Section Listserve continues to be a forum through which member can get practice advice on many topics. The Family Law Forum and the section Newsletter continue to be useful practice aids to section members.

### ***Budget:***

The financial position of the section remains strong, particularly with the increased membership and CLE Conference attendance, which helps fund the newsletter.

### ***Legislative Issues:***

The section submitted 3 Law Improvement Proposals to the BOG to be included in the Bar-sponsored bills: SB 306 which clarifies court discretion regarding reinstatement of spousal support, SB 307 regarding expiration of judgments in domestic relations context and HB 2363 which repeals sunset on Oregon Adoption Tax Credit. The two senate bills were passed and the house bill missed by a narrow margin.

### ***Additional comments:***

The Executive Committee continues with its practice of bi-monthly meetings with two face-to-face meetings, one occurring in Salem and the other at the Salishan conference.

These provided an opportunity for those members in all areas of the state to come together and meet personally, socialize, and conduct section business.

Respectfully Submitted: Mary Lois Wagner (CH), Gordon L. Dick (CH-Elect), Jeffrey F. Renshaw (Past CH), Michele Grable (TR), David E. Hull (SEC), Sean E. Armstrong, Marcia Buckley, Richard William Funk, Melissa P. Lande, M Scott Leibenguth, Robert C. McCann Jr, Carl R. Stecker, Elizabeth A. Trainor, Charles M. Zennache', Theresa L. Wright (BC), Susan Evans Grabe (BL).

## **GOVERNMENT LAW SECTION**

### ***Activities and Accomplishments:***

The Government Law Section's purpose is to educate and inform lawyers practicing in areas that deal with government entities. The section conducts two full-day CLE's each year. This year both of the CLE's were well-attended.

The CLE's included:

- The Mid-year CLE at Inn at Spanish Head in Lincoln City is presented every year on Friday in February on the weekend of the Newport Seafood and Wine

Festival. This year the CLE was entitled "The Fear Factor, Lawyering in an Emergency." The section brought together a number of state and local officials who regularly practice in the area and handle situations where emergencies may arise. Helping citizens during an emergency is one of the government's biggest responsibilities, and providing legal advice in such an atmosphere is sometimes difficult. The CLE was well-received.

- The Fall CLE was held at the Salem Convention Center on October 5, 2007. This CLE dealt with the important issue of drinking water supply for municipalities. This is an ongoing concern of the entire state. The section also sponsored a luncheon in which Judge Timothy Sercombe spoke about his experience over the first year after being appointed to the Court of Appeals.

The section is already planning its next Mid-Year CLE. The CLE's are always well-attended, and the cost is reasonable.

The Executive Committee has endeavored to have meetings and sponsor CLEs which seek venues outside the normal Portland-Metro area. Both of the last CLE's were located outside of the Portland area. We try to encourage member participation and membership on the board from around the state.

### ***Main Communication Medium:***

The section publishes email alerts. We have moved to email communication taking the place of hard copy newsletters. The email alerts are sent out seeking input from members and giving important notices concerning pending litigation, court decisions, and new rules by the state agencies. The section works with the Oregon State Bar to update its website. Its website has been the topic of discussion during the past year and continues to be an area that the executive committee concentrates on improving. It is the vision of the executive committee to have the website be an important legal resource for its members and other viewers.

### ***Budget:***

The section has resources within its budget due to high attendance at CLE's. With these resources, the section has been able to contribute to the Campaign for Equal Justices and other important groups. The section has also sponsored luncheons and social gatherings in connection with its CLEs.

Annual dues have been \$10.00 for many years, which is one of the lowest section rates.

The section presently has 435 members. The committee is interested in what the section members want, need, and think. It welcomes input concerning areas that the section should be active in pursuing and methods of informing its members. The section has participated in legislative matters, such as updating ethics laws and other law-improvement measures. The section actively carries on a legislative liaison program.

The section gears its activities and educational events to lawyers who represent the government or represent people doing business with the government. The section tries to foster communication and an understanding between government lawyers and the private bar in this important area of legal practice.

Respectfully submitted: Terrence D. Mahr (CH), Wayne Belmont (CH-Elect), Dan R. Olsen (Past CH), Ruth M. Spetter (TR), John H. Hammond Jr (SEC), Stephen K. Bushong, Vance M. Croney, Henry H. Lazenby Jr, Steven Richard Lounsbury, Sharman Meiners, Christy K. Monson, Lisa M. Umscheid, Karen M. Williams, Ann L. Fisher (BC), Denise Cline (BL).

## HEALTH LAW SECTION

### *Activities and accomplishments:*

In 2007, the Health Law Section sponsored a CLE on October 18 at the Governor Hotel in Portland. The event was attended by about 50 people. Molly Herrmann and Peggy Whitmore presented a session on the role of the Office of Inspector General in health care law. Gwen Dayton provided a legislative update of the most important new laws enacted by the legislature impacting health care in Oregon. Finally, a panel including Steve Conklin, Caroline Coppock, Molly Herrmann, and Ben Knaupp provided attendees with considerable information concerning various aspects of Health Care Contracting.

### *Budget:*

In 2008, the Health Law Section anticipates membership of 290, with total dues revenue of \$6,350. Our fund balance at the beginning of 2008 is \$9,245 with anticipated remaining revenue at the end of the year of \$7,422.

### *Legislative issues:*

The Health Law Section did not sponsor any legislation in 2007.

### *Matters considered/Matters pending:*

#### **The Executive Committee considered:**

- Whether to sponsor any legislation and elected not to do so.
- Reports on bills before the Legislative Assembly.
- How/if to update the OSB Health Law Manual. This issue will continue into 2008.
- Effective use of the section Newsletter. This issue will continue in 2008
- Effectiveness of section website. This issue will continue in 2008
- The OSB Health Law Manual and necessary updates. This issue also will continue in 2008
- The Executive At the first meeting in 2008, the Executive Committee will consider whether to make a contribution to the Campaign for Equal Justice.

### ***Recommendations for 2008:***

- Continue successful CLE activity
- Determine whether to make contribution to Campaign for Equal Justice
- Update Health Law Manual, including survey of section membership regarding areas of interest for manual
- Determine future of Health Law Section Newsletter
- Determine best use of section website.
- Consider whether to sponsor legislation for 2009 session

Respectfully submitted: Charles A. Sinsel (CH), Gwen M. Dayton (CH-Elect), Gary P. Harrell (Past CH), Nicola Yeats Pinson (TR), Amanda Hill Guldager (SEC), Thomas J. Bikales, Linda DeVries Grimms, Molly Burns Herrmann, Mr. Craig Matthew Hopkins, Kelly Knivila, Lisa T. Murphy, Peter D. Ricoy, Kathleen A. Evans (BC), Jon Benson (BL), Cynthia L. Easterday (BL).

## INDIAN LAW SECTION

### *Activities and accomplishments:*

The Section typically sponsors a day-long CLE every other year. The Section held a CLE in 2006, and plans to hold its next CLE in 2008. In 2007, the Section sponsored a social networking event in April in downtown Portland. In July, the Section sponsored a reception and presentation by Professor Gerald Torres of the University of Texas School of Law. Professor Torres, a nationally recognized expert in Indian law who frequently teaches at the Lewis

and Clark Indian Law Summer Program, engaged Section members in a roundtable discussion on the application of human rights by indigenous peoples in Latin America in the assertion of property interests as compared to concepts of property rights and sovereignty held by Native Americans in North America.

Section members were invited to meet and attend the Root Feast at the Umatilla Reservation in May, and attend the Grand Ronde Pow-Wow in August.

For the fourth consecutive year, the Section co-sponsored the Annual Northwest Tribal Water Rights Conference with the Center for Water Advocacy. This CLE was held on October 24 and 25 at the Squaxin Island Tribe's Little Creek Casino Resort in Shelton, Washington. The Center for Water Advocacy is a non-profit organization that assists Northwest Indian Tribes and their members with legal and policy issues related to water rights and water quality. The theme of this year's conference was the impacts of climate change on water, fish, cultures, economies, and rights.

The Section held its annual meeting on November 1 at the Indigenous Ways of Knowing Conference (IWOK) at Lewis & Clark College. The Section provided sponsorship support for the IWOK reception, and Section members were invited to attend both the reception and the IWOK guest speaker presentation.

### ***Website and Publications:***

This year the Executive Committee decided to discontinue hard-copy publication of its newsletter, *The Arrow's Edge*, and instead try electronic publication and distribution of articles related to Indian law. The decision to discontinue hard-copy publication was reached based on a number of factors. One consideration was timely publication of articles. Soliciting a sufficient number of articles from the membership to put together an entire newsletter often takes many months. The articles are generally not published until a significant amount of time after submission. Electronic distribution of articles allows for more timely dissemination. The significant cost of producing and mailing a hard-copy publication, as well as the environmental impacts, were also factors considered. In a 2006 survey of the Section membership, the majority of respondents did not oppose electronic publication of a newsletter. The Executive Committee decided that pursuing establishment of a Section website where Section members could have articles posted and that could provide a platform for other member services would be a more cost-effective approach to sharing scholarship on Indian law matters and providing a forum for future membership interaction and resources.

The Executive Committee issued a request for proposals for website design and maintenance, and in July selected a web designer among three respondents. The Executive Committee worked with the web designer to get a basic website designed and online, and plans on establishing a subcommittee to continue to develop and expand the website design and function.

### ***Legislative Proposals:***

In response to the request by the Oregon State Bar for proposals for "law improvement" amendments to Oregon statutes, the Section submitted three proposed sets of legislative amendments: (i) to amend the Oregon Evidence Code to allow judicial notice of the law of tribal governments (ORS 40.090); (ii) to amend the Evidence Code to allow tribal government documents to qualify for various exceptions to the hearsay rule (ORS 40.406); and (iii) to amend the Uniform Law of Notarial Acts to recognize documents notarized by tribal government officials (ORS 194.505 to 194.595). All three amendments were submitted to the Oregon Legislative Assembly as HB 2364 in January, and the Section provided testimony in support of the amendments. All three of the Section's proposed amendments were enacted into law.

In addition, the Section endorsed HB 2913, which required state circuit courts to give full faith and credit to tribal court domestic relations orders for the purposes of the anti-alienation provisions of the federal Employee Retirement Income and Security Act, and which was enacted into law.

### ***Membership and Finances:***

As of the end of November, the Section's membership was 173 people, a slight increase from the year-end total of 164 people in 2006. The Section expended more funds than it brought in during 2007, however budget surpluses from previous years are more than sufficient to cover the difference and the Section anticipates beginning 2008 with a remaining surplus of funds. The Executive Committee plans to evaluate future expenditures and the possibility of lowering Section dues in 2008.

### ***Recommendations for 2008:***

In the early part of next year, the Section plans to host an event for Section members and encourage discussion at such meeting on legislative proposals from the membership. It is anticipated that Past Chair Christopher Burford, who is stepping off the Executive Committee in 2008, will continue to take the lead as the Section's legislative contact. In addition, the Executive Committee has discussed the possibility of creating regional subcommittees to focus on sponsoring events and networking opportunities for Section

members outside of the Portland metropolitan area. The Section plans on sponsoring a full-day CLE in the coming year, either in conjunction with Lewis & Clark Law School or independently, as well as possibly sponsoring some events offering one hour of CLE credit. The Section hopes to continue to advise the membership of opportunities to attend various events throughout the year held by Oregon tribes on their reservation lands, as well as sponsor additional social networking opportunities. The Section also anticipates expanding the information and increasing the utility of the Section's new website, including solicitation of articles for posting in electronic format.

Respectfully submitted: Melissa Masat Robertson (CH), John M. Schultz (CH-Elect), Christopher Linton Burford (Past CH), David D. Shaw (TR), Naomi Stacy (SEC), Jennifer A. Amriott, Deneen Aubertin Keller, Lisa Jean Bluelake, Patricia L. Davis, Douglas C. MacCourt, Vernon Peterson Jr, Lee Kevin Shannon, Suzanne Townsend, Carl V. Ullman, Beth S. Wolfson, Carol DeHaven Skerjanec (BC), Peggy Miller (BL).

## LABOR AND EMPLOYMENT LAW SECTION

### *Activities and accomplishments:*

The Labor and Employment Law Section maintains a membership of 829 members as of October 31, 2007. Attorneys who passed the Oregon State Bar during 2007 were invited to join the section at no cost for the 2007 membership year.

The section continued its practice of sponsoring "Breakfast Briefing" seminars in Portland and Eugene. Programs were held in March and April concerning "Cat's Paw" liability, in June concerning the tax consequences of employment settlement agreements, and in October and November concerning card recognition of labor unions.

On October 6, 2007, the section held its annual meeting and continuing legal education program at the Seventh Mountain Resort in Bend. Speakers and topics covered in the continuing legal education program were as follows:

Update on Labor and Employment Cases	Richard F. Liebman, Barran Liebman LLP
Recent Developments at the National Labor Relations Board and the State of Oregon Employment Relations Board	Richard Ahearn, Regional Director, NLRB Region 19 Vickie Cowan, ERB Member

The Future of Employment Litigation in Federal Court	Scott Hunt, Busse & Hunt Caroline Guest, Schwabe Williamson & Wyatt PC
Common Ethics Issues Facing Labor and Employment Practitioners	Helen Hierschbiel, Oregon State Bar

Approximately 50 people attended the meeting and continuing legal education program, and it was very well received.

### *Other comments:*

Giles Gibson will become the section chair on January 1, 2008. Newly elected officers are:

Chair:	Giles Gibson
Chair-Elect:	Allyson S. Krueger
Past-Chair:	Craig R. Armstrong
Treasurer:	Thomas K. Doyle
Secretary:	Adam D. Morrison

New Members-At-Large (two-year terms ending 12/31/2009) are:

Jennifer L. Bouman  
Scott N. Hunt  
Sherman B. Kellar  
Paul M. Ostroff

Continuing Members-At-Large (terms ending 12/31/2008) are:

Alice L. Dale  
Henry H. Drummonds  
Stephanie M. Harper

Respectfully submitted: Craig R. Armstrong (CH), Giles Gibson (CH-Elect), Michael J. Tedesco (Past CH), Allyson S. Krueger (TR), Adam D. Morrison (SEC), Vickie L. Cowan, Alice L. Dale, Thomas K. Doyle, Henry H. Drummonds, Stephanie M. Harper, Robert M. Lehner (BC), Christine Kennedy (BL).

## LAW PRACTICE MANAGEMENT SECTION

### *Activities and accomplishments:*

During the year the Section focused on having a CLE on Law Practice Management. This was accomplished on October 12, 2007 when the Section hosted a CLE on client engagement, trust account, document retention, and disaster recovery. The Section began the ground work necessary for the creation of a more comprehensive section website.



Section membership at the end of 2006 was 205 members. The Section membership as of December 7, 2007 was 202 members.

### ***Budget:***

The Section recommends an increase in the budget for the upcoming year to focus on web development. Other than that increase, the Section expects its budget to be nearly identical to the 2007 budget.

### ***Recommendations for 2008:***

It is recommended that the Section goals for 2008 be to maintain the Section's commitment to having a significant CLE relating to law practice management, to get a more comprehensive section website up and running, and to maintain membership.

The LPMS executive committee decided in 2006 that it would be more efficient to have a section website that is more comprehensive than the existing website. The new website would include the ability to post articles rather than have a quarterly newsletter. The implementation of this site will be a significant priority for the Section in the coming year.

Respectfully submitted: Dawnne L. Linenbrink (CH), Eric (Skip) Winters (CH-Elect), David L. Carlson (Past CH), M David Daniel (TR), Carol Decker (SEC), Mary Patricia Sauer, Dawna Mason, Michael C. Petersen, Dee Crocker (PLF), Timothy C. Gerking (BC), Margaret Robinson (BL).

## **LITIGATION SECTION**

### ***Activities and accomplishments:***

Comprised of attorneys practicing in areas ranging from civil to criminal, plaintiff to defense, personal injury to commercial, consumer to business, and real estate to family litigation, the Litigation Section remains the largest section of the Oregon State Bar. Our signature activities continue to be publication of the Litigation Journal, selection of the annual Owen M. Panner Professionalism Award winner, and sponsorship of the annual Litigation Institute and Retreat and the biennial Fundamentals of Oregon Civil Trial Procedure CLE, which was held this year. Once again the Litigation Section was pleased to offer four scholarships to the Litigation Institute and Retreat, which enabled public service and minority lawyers to attend this important event. As is our tradition, members of the Executive Committee paired up with scholarship recipients to personally host them at the Institute and Retreat. We continued to support the work of the Civil Law Advisory Commission by

having our chair-elect serve as an active liaison member. We provided detailed flyers for the new admittee packets at the spring and fall swearing-in ceremonies. We still maintain a website; assist in providing speakers for other CLE events, and work to promote communication, camaraderie, and professionalism within the bench and bar. Here are some further details:

- **Litigation Journal.** We produced three issues of the Journal this year, coming in under budget for this project. Editor Denny Rawlinson continues to spearhead a first-rate publication in the Journal. We received several high quality unsolicited articles in 2007. We believe it is still seen as a valuable resource and a reason why lawyers choose to join the Section.
- **2007 Litigation Institute and Retreat.** 2007 marked our 14<sup>th</sup> annual Institute and Retreat, which we co-sponsor with the Oregon State Bar. Our four scholarship recipients were sent to us by OMLA (2 scholarships), Oregon Law Center, and Legal Aid Services of Oregon. The attendance numbers were down a bit but the evaluations told us that the program was very well received. The lower attendance might have been slightly affected by the unexpected last minute cancellation of our national speaker. Due to their superb advance planning, Bar liaison Karen Lee and the Institute Planning Committee were able to quickly book a first-rate substitute speaker, who was very well received.
- **2008 Litigation Institute and Retreat.** Plans are well in hand for the 15<sup>th</sup> Annual Litigation Institute and Retreat, "The Art of Persuasion." By popular demand, we are bringing nationally known speaker Michael Tigar back to headline the program. Mr. Tigar is difficult to book because he is in high demand, but he has told us in the past that he was eager to return. We look forward to presenting him to our audience on March 7-8, 2008.
- **2007 Panner Professionalism Award; Award Selection Process.** We were delighted to give the 2007 Panner Award to Assistant U.S. Attorney James L. Sutherland, who was genuinely surprised to receive it. This year we focused on revamping and recording the Panner Award selection process with two goals in mind: To complete the process each year in time to permit announcement of the award winner with the initial "save the date" communications for the Institute and Retreat, and to compile a written timeline and templates that will both streamline the selection process and provide ongoing guidance as new members rotate onto the selection subcommittee and experienced members retire from it.

We believe we accomplished those goals.

- **2008 Panner Professionalism Award.** We were extremely pleased to have our largest and most outstanding selection of nominees in recent memory. It made the selection task an arduous one, but that's a burden the subcommittee and full Executive Committee welcomed. After extensive investigation and extra meetings, the subcommittee recommended three excellent candidates, from whom the Executive Committee chose Carl Burnham as our 2008 Panner Award recipient. Mr. Burnham has accepted the award and confirmed that he will attend the March 8, 2008 awards dinner during the 15<sup>th</sup> Annual Litigation Institute and Retreat.
- **Fundamentals of Oregon Civil Trial Procedure.** This two-day seminar was presented on October 19-20, after our last Executive Committee meeting. The follow-up report is set for our January, 2008 meeting.
- **Website.** We worked with our web designer to update the look of our website and are pleased with the result. Our goal for 2008 is to update and improve the content.
- **Civil Law Advisory Commission.** John Berge, who served as chair-elect this year, also served as our liaison to the Commission. He attended meetings as our representative and reported back to us regarding the Commission's work on electronic access and filing at the state level and its continuing investigation into trial access and procedure. Because of a scheduling conflict Mr. Berge is going to serve as chair-elect for a second year in 2008; he volunteered to continue to serve as CLAC liaison during 2008 to maintain continuity for the Litigation Section.
- **OSB Economic Survey.** The Executive Committee authorized the Section's participation in the hourly rates supplement to the latest economic survey, allocating funds for that purpose. The EC members worked together to craft a list of practice areas for which the Bar will request survey input.
- **Charitable contributions.** The Executive Committee approved a \$2500 contribution to the Campaign for Equal Justice on behalf of the Section, and authorized a \$250 contribution to OMLA for its bar examination scholarship fund.
- **Rawlinson Scholarship.** The Executive Committee unanimously approved a proposal to fund a scholarship to the 2008 Institute and Retreat in honor of its founding father, former Section Chair Dennis Rawlinson. The EC members personally contributed \$375 for this purpose and appointed a subcommittee

to work with Mr. Rawlinson to select a scholarship recipient. The EC anticipates that their fund will pay for the full cost of the CLE program.

### ***Budget:***

We expect to end the year with a surplus of \$8,640, up from an ending fund balance of \$3,785 for 2006. Part of this increase is the result of higher dues, but it also reflects our deliberate effort to hold the line on expenses this year, particularly as to Executive Committee expenses. We were also significantly under budget on seminar and Litigation Journal expenses. The seminar savings came primarily from the late cancellation of our national speaker, so it is an unexpected savings. We had previously cut back on the number on annual issues of the Litigation Journal in an effort to cut expenses. With this year's savings, we may choose to go back to four issues for 2008.

Treasurer Tracy Prall has submitted our 2008 budget. It forecasts an ending fund balance of \$16,884.

### ***Legislative issues:***

Liaison Lindsey Hughes kept the Executive Committee informed about proposed legislation of interest. The Section did not take a position on any proposed legislation. In addition, OSB Public Affairs representative David Nebel attended the Executive Committee's October 15, 2007 meeting to explain the process and parameters for proposing or supporting proposed legislation, in anticipation of the April 1, 2008 deadline for submitting legislative ideas to the Bar.

### ***Matters considered/Matters pending:***

As reported above, the Executive Committee considered and passed on: the Bar's invitation to participate in the upcoming Economic Survey; the annual request for a contribution to the Campaign for Equal Justice; OMLA's request for a contribution to its bar examination scholarship fund; the proposal to create and fund a scholarship to the 2008 Institute and Retreat in honor of Denny Rawlinson; a proposal to revamp and document the Panner Award selection process; selection of the 2008 Panner Award recipient; reappointment of John Berge to the Civil Law Advisory Commission; and nomination of a slate of officers and new members at large, which was presented at the October 15, 2007 Annual Meeting of the Section. The EC was particularly eager to recruit new members at large from diverse practice areas and from around the state; we were pleased to achieve that goal when Kim D'Aquila, Doug Hojem, and Randy Turnbow accepted our invitation to membership, and we were gratified that Steve Larson was nominated from the floor at our Annual Meeting and was then elected to a term as member at large.

In addition, the U.S. Attorney's office asked the Executive Committee to provide complimentary dinners for all who attended the 2007 Panner Awards dinner from that office; after thorough discussion, the EC approved two complimentary dinners in addition to those already provided to award recipient Jim Sutherland and spouse and those who spoke at the dinner on his behalf. The EC also considered adopting a policy of providing awards dinner discounts for staff and office members whenever the Panner Award recipient works for an organization that traditionally provides its staff low salaries. The EC ultimately decided to consider the issue on a case by case basis going forward.

The Executive Committee also considered a suggestion to hold the July 2008 meeting someplace other than Ashland. It will take up this issue at the January 2008 meeting.

### ***Recommendations for 2008:***

The Executive Committee has just received a written request for complimentary Section membership for judges. It will consider that request at its January 12, 2008 meeting.

The outgoing chair recommends that the EC make a concerted effort in 2008 to update and expand the content on the Section's website.

### ***Any other comments:***

On behalf of the entire Executive Committee, the outgoing chair salutes Bar liaison Karen Lee and her staff and Member Services representative Sarah Hackbart for their tireless and extremely effective work on behalf of the Section. Their professionalism, unflappability, and relentless good cheer were much appreciated.

Respectfully submitted: Nancie K. Potter (CH), John A. Berge (CH-Elect), Marc A. Spence (Past CH), Tracy A. Prall (TR), Raymond D. Crutchley (SEC), Benjamin M. Bloom, Stephen K. Bushong, Colleen O'Shea Clarke, W Eugene Hallman, Lindsey H. Hughes, Michael R. Mahony, Simeon D. Rapoport, Hon Thomas M. Ryan, Kathryn P. Salyer, Sarah Rhoads Troutt, Timothy L. Williams, Robert D. Newell (BC), Karen D. Lee (BL).

## **PRODUCTS LIABILITY SECTION**

### ***Activities and accomplishments:***

The Products Liability Section grew slightly in 2007, from 178 to 180 members.

The executive committee met ten times this year, planned and put on a half-day CLE in October, published two issues of the newsletter and has another newsletter issue that is close to publication.

A subcommittee of the Executive Committee has set in motion a law school essay contest for the three Oregon law schools to recruit potential newsletter articles and generate student interest in issues of products liability.

The section continues to maintain a web site with information pertinent to section members.

Finally, the section voted in a great slate of new members for the 2008 executive committee.

### ***Budget:***

Section revenues and expenses have remained stable. The section has accumulated a small surplus, which the executive committee intends to use in part next year to award a prize in the law school essay contest and may use to increase the value of the CLE to members.

### ***Legislative issues:***

The executive committee maintained a legislative contact to monitor legislation last session, but did not identify any legislative issues in which the section should take a position.

### ***Matters considered/pending:***

The executive committee considered whether to contribute to various charitable groups this year and determined that this is not the best use of section members' money. No matters are pending.

### ***Recommendations for 2008:***

The executive committee hopes to publish three issues of the newsletter in 2008 and to increase attendance at the annual fall CLE.

Respectfully submitted: Meagan A. Flynn (CH), Bruce C. Hamlin (CH-Elect), Jay W. Beattie (Past CH), Edward T. Tylicki (TR), Michelle K. McClure (SEC), Charles E. Bolen, Jeffrey A. Bowersox, Eugene H. Buckle, Stephen Christopher Bush, John W. Knottnerus, Scott F. Kocher, Scott C. Lucas, William Alexander Masters, Leslie W. O'Leary, Heather J. Van Meter, Deanna L. Wray, Linda K. Eyerman (BC), Teresa Wenzel (BL).

## **SECURITIES REGULATION SECTION**

### ***Activities and accomplishments:***

The Securities Regulation Section held monthly luncheons in Portland at the Governor Hotel with CLE speakers of interest to its members. A list of the monthly lunch speakers and the dates and subjects of their presentations held to date follows:

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OSB SECURITIES REGULATION SECTION  
LUNCHEON SPEAKERS FOR 2007

*Feb. 2007*

*NWSI-No Luncheon*

*March 21, 2007*

Jeff Cronn of Tonkon Torp and  
Michael J. Esler of Esler Stephens & Buckley  
*Aiding and Abetting or Advising and Assisting?*  
*A Lively Discussion of Reynolds v. Shrock*

*April 18, 2007*

Kevin C. Anselm, Oregon Division of Finance  
and Corporate Securities  
*Current Securities and Financial Product Regulation  
and Compliance in Oregon*

*May 16, 2007*

Bob Banks, Banks Law Office  
*The NASD-NYSE Merger: How and Why, and  
What it Means for Securities Regulation and Arbitration*

*June 20, 2007*

David Rees, Stoll Stoll Berne Lokting & Shlachter PC  
*Strong Inferences and Scheme Liability: The Supreme Court to  
Address Pleading Scienter and Liability of Secondary Actors  
Under Federal Securities Laws*

*July 18, 2007*

Keith A. Ketterling, Stoll Stoll Berne  
Lokting & Shlachter PC  
*Teaching an Old Dog New Tics – The Challenges  
Facing BD's in Selling Real Estate TIC Securities*

*Sept. 19, 2007*

Richard Baum and Danielle Benderly of Perkins Coie LLP  
*Stock Option Granting Practices: the Good,  
the Bad and the Ugly*

*Oct. 17, 2007*

Michael Fennel, General Counsel for  
the Portland TrailBlazers  
*What Does A Sports Lawyer Really Do?*

*Nov. 14, 2007*

Allison Rhodes and Dayna Underhill,  
Hinshaw & Culbertson LLP  
*Multiple Investor Representation and other Kamikaze Missions*

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In addition, the section's annual meeting was held on October 17, 2007. Michael Fennel, General Counsel to the TrailBlazers organization spoke to our section.

***Budget:***

The Section continues to enjoy a positive financial situation. As of October 31, 2007, the Section had a surplus in excess of \$8,300 which it has maintained for several years, and the cash flow from membership fees and other revenue sources is sufficient to cover the expenses relating to luncheons and the section's other activities.

In 2007, the Section awarded a \$500 scholarship to a top student at each of Oregon's three law schools who were chosen by the professor who teaches securities regulation at each school. The Section also contributed \$500 to each of the Campaign for Equal Justice and the Oregon Minority Lawyers Association. The Executive Committee also agreed to allow Judges and their staff members to attend Section luncheons on a complimentary basis. Members of the Executive Committee also participated in panel discussions with law students at the University of Oregon and Willamette University to discuss securities law as a practice area and why students should consider taking a course on the subject in law school.

***Recommendations for 2008:***

For 2008, the Section projects another surplus. In 2008, the Section expects to continue its monthly luncheons, its scholarships and its sponsorship of and participation in the Northwest Securities Institute.

Respectfully submitted: Sherrill A. Corbett (CH),  
Timothy S. DeJong (CH-Elect), David G. Post (Past CH),  
Gustavo J. Cruz Jr (TR), David S. Matheson (SEC), A  
Jeffery Bird, Tanya A. Durkee, Joshua E. Husbands, Robert  
C. Laskowski, Richard M. Layne, Ian Merrill, Charmin B.  
Shiely, Paul H. Trincherro, Robert D. Newell (BC), Susan  
Evans Grabe (BL).

**TAXATION SECTION**

The Executive Committee meets four times a year. The membership is fairly stable at around 450 members, thus creating the stable revenue base. The Section is financially healthy and anticipates using funds to increase the quality of CLE by bringing in speakers from out of town for the Tax Institute and a regularly-produced luncheon program series as a benefit to members. In addition, funds have been authorized for the improvement and maintenance of the Section's web site. This report provides more details on the Section's activities and goals.

***Activities and accomplishments:***

Luncheon Series: Tax luncheons are held in both Portland and Salem for local practitioners. Both series



included sessions throughout the entire year. While both lunches make some profit, the primary focus is education of members.

**Annual Oregon Tax Institute:** The Section held the 6<sup>th</sup> annual Tax Institute, and was able to make a small profit again this year. Our marks for the Institute were very high. The current plan for the 2008 Tax Institute includes some changes. For the first time the Tax Institute will be jointly produced by the taxation sections of the Oregon and Washington State Bar Associations. We are testing this format in order to attempt to increase our access to out-of-state attendees and speakers. If successful, we plan to present the Institute in Portland and Seattle, respectively, in alternate years. The event will be coordinated by the Member Services personnel of the Oregon State Bar.

**Broad Brush Taxation Seminar.** The Broad Brush Taxation Seminar, which is held every other year, was held in October. This Seminar is aimed at those Bar members who are not tax experts.

**Web Site.** The Section's web site has been redesigned, and is maintained, by Spotted Horse Software, which also does work for other sections of the Oregon Bar. While it is still produced on paper and mailed to Section members, the Section's newsletter is now also accessible electronically though the web page.

**Newsletter:** The section continues to produce a newsletter to our members, with articles of interest to tax practitioners. A Newsletter subcommittee meets via teleconference about once a month. Three newsletters were produced this year; the Committee hopes to issue 4 newsletters during 2008.

**Tax Section ListServ:** The Committee authorized the Tax Section ListServ in 2006. The activity was initially sparse, but with the addition of a newly designed Web Site and more publicity regarding its availability, its use has gained momentum. We are hopeful that, as it becomes more known to members its use will continue to increase as a useful resource for the exchange of information.

**IRS Practitioner's Forum.** The Committee participates in coordinating and producing the IRS Practitioner's Forum, held annually. This event is co-sponsored with the OSCP and the Internal Revenue Service. The Taxation Section has used funds that have accumulated in the past from our sponsorship of the event as scholarships for tax law students to the conference this year. We plan to continue this practice and to continue participating in the Forum.

### ***Legislative Subcommittee:***

The Committee is quite proud of the fact that our posi-

tive interactions with the Oregon Department of Revenue have increased in frequency and effect. Members of our Legislative Subcommittee have devoted a substantial number of hours, including travel time to Salem for legislative hearings and meetings with the Department of Revenue, in order to have a positive impact upon drafting and revising proposed legislation in a variety of tax areas. The Legislative subcommittee meets periodically with heads of the Department of Revenue to discuss ongoing tax issues and to keep open lines of communication. The Department forwards proposed administrative rule changes to the subcommittee, which are then forwarded to executive committee members for review and comment. Proposed legislation and administrative rules changes are discussed at each of our quarterly Executive Committee meetings. It appears that cooperation between the Section and the Department of Revenue continues to increase, and that our assistance to the Department in preparing and reviewing constructive legislative proposals is appreciated.

Respectfully submitted: Marc K. Sellers (CH), Mark L. Huglin (CH-Elect), C Jeffrey Abbott (Past CH), Valerie Sasaki (TR), Katherine O. VanZanten (SEC), Larry Joseph Brant, Steven L. Christensen, Gwendolyn Griffith, Philip N. Jones, Neil D. Kimmelfield, Robert T. Manicke, Thomas J. Sayeg, Barbara J. Smith, David C. Streicher, Jeffrey S. Tarr, Jeffrey M. Wong, Kathleen A. Evans (BC), Karen D. Lee (BL).

## **WORKERS COMPENSATION SECTION**

### ***Activities and accomplishments:***

The section held its 25<sup>th</sup> Annual Meeting on May 18, 2007, at the Salishan Lodge at Gleneden Beach, Oregon. At the meeting, the section elected the following officers and members-at-large to serve on the Executive Committee:

#### **Officers:**

Chair	Holly Somers
Chair Elect	Matthew Roy
Treasurer	Meg Carman
Secretary	Matthew Fisher
Past Chair	Linh Vu

#### **Members-at-Large:**

Rob Guarassi  
Mustafa Kasubai  
Dean Lederer  
Julie Masters  
Chuck Mundorff

Jill Reichers  
Jennifer Roumell  
Arthur Stevens, III  
Mark Thesing  
Geoffrey Wren  
Dale Johnson

The meeting was held in conjunction with a two-day seminar. The seminar was approved for an unprecedented 9 MCLE credits. The program included various legal and medical speakers covering topics relevant to practitioners of workers' compensation on both sides of the Bar.

The section also sponsored a Bench/Bar Ethics CLE on November 9, 2007, free of charge to its members. The conference covered two hours of discussion regarding ethical dilemmas faced by practitioners of workers' compensation law. The Campaign For Equal Justice also presented a discussion regarding access to justice that was approved for one elimination of bias credit. The CLE was held at the Willamette Valley Vineyards in Turner, Oregon.

### ***Budget:***

The executive committee has approved the section's budget for 2008. Generally, the largest expenditures relate to the seminars sponsored by the section. In the past two years, the section has also experienced a budget surplus, due largely to its well attended annual meeting and CLE at Salishan Lodge. The executive committee has been and continues to consider how best to apply the budget surplus to benefit the section.

### ***Recommendations for 2008:***

The executive committee will continue with monthly meetings held in accordance with the section bylaws. The standing committees will continue to meet on an as-needed basis to function with the following general goals:

- **Legislative/Rules:**

Monitor proposed and potential legislation and rules under the Board and Department; provide advice to the committee regarding the advisability of proposed legislation or rule changes, and review current workers' compensation laws to keep the committee apprised of new developments.

- **Professionalism:**

Advance the interests of section members by sponsoring seminars and programs dealing with professionalism and ethics; consider means by which the section can improve relations between the membership and those providing services to

injured workers and employers, clients and members of the public. The goal for 2008 is to put on at least one Bench/Bar ethics CLE at Willamette Valley Vineyards.

- **Race/Ethnic:**

Identify means by which the section can facilitate the use of the workers' compensation forum by practitioners and members of the public; educate lawyers, judges and those providing services to injured workers and employers regarding the potential impact of cultural differences upon use of the workers' compensation system.

- **Salishan/CLE:**

Plan and coordinate the annual section business meeting and CLE. The 2008 annual meeting/CLE will again be held at Salishan Lodge on May 16-17.

- **Communications:**

Monitor the development and production of the section's website and continue efforts in getting relevant practice information to all section members.

- **Douglas Daughtry Award Committee:**

This committee is made of the most recent three past section chairs and meets to make recommendations to the full committee on the merit of nominations for the award. This committee will begin meeting in March 2008 to start accepting nominations and making recommendations to the full committee for the award, which, if given, will be presented at section's Annual Meeting at Salishan on May 16, 2008.

Respectfully submitted: Linh T. Vu (CH), Holly J. Somers (CH-Elect), Martin L. Alvey (Past CH), Meg Carman (TR), Matthew Lansing Roy (SEC), Matthew M. Fisher, Robert J. Guarrasi, Mustafa T. Kasubhai, Dean J. Lederer, Julie Masters, Charles R. Mundorff, Jill M. Riechers, Jennifer R. Roumell, Arthur Wilber Stevens III, Mark Thesing, Geoffrey G. Wren, Bette L. Worcester (BC), Suzanne Cushing (BL).





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