

Board of Governors
Future Calendar of Events
Revised September 13, 2010

BOG 2010 Meeting Schedule

<u>Committees Meetings at OSB Center</u>	<u>Board Meeting Various Locations</u>	<u>BOG Meeting Locations</u>	<u>Special Events in Conjunction w/Meetings</u>
September 24	September 24 October 29 November 11-13	OSB Center OSB Center Timberline Lodge	Special BOG to approve HOD Agenda HOD Annual Meeting (10:00 a.m.) Board Retreat, Board Mtg., Local Bar Social

BOG 2011 Meeting Schedule

<u>Committees Meetings at OSB Center</u>	<u>Board Meeting Various Locations</u>	<u>BOG Meeting Locations</u>	<u>Special Events in Conjunction w/Meetings</u>
January 7	February 17-19	Phoenix Grand, Salem	President's Reception, Lunch w/Supreme Court, Dinner w/ONLD, Leadership College
March 18- 50-yr Lunch May 20	April 14-16 June 23-25	TBD Tigard	Board Meeting, Regional Bar Social Board Meeting, Past BOG Dinner, PLF Joint Mtg.
July 29 September 23	August 25-27 November 4 November 17-19	Pendleton Tigard The Allison, Newberg	Board Meeting, Regional Bar Social HOD Annual Meeting (10:00 a.m.) BOG Planning Retreat, Regional Bar Social

Upcoming Events

BOG members are encouraged to attend

Approve HOD Agenda	September 24	Nat'l Lawyer Referral Workshop	October 27-30
Swearing In Ceremony	October 7	Lawyer Referral Fair and CLE	November 19
HOD Regional Meetings	October 11-14	Convocation on Equality	November 4, 2011

Upcoming Events/Meetings of Interest

<u>SPRB</u>			<i>Midyear Meeting</i>		
September 11	2010	Tigard	April 17-19	2012	New Orleans, LA
October 15		Conference Call			ABA Day in Washington
November 13	2010	Tigard	Aug. 2-7	2012	Washington, DC
December 17		Conference Call	<i>Annual Meeting</i>		NABE/NCBP/ABA
			Feb. 6-12	2013	Chicago, IL
<u>Professional Liability Fund Board</u>			<i>Midyear Meeting</i>		NABE/NCBP/ABA
Oct. 8	2010	Astoria	Aug. 8-13	2013	Dallas, TX
Dec. 10	2010	Tigard	<i>Annual Meeting</i>		NABE/NCBP/ABA
<u>National/Regional Meetings</u>			Aug. 7-12	2014	San Francisco, CA
Feb. 9-15	2011	NABE/NCBP/ABA	<i>Annual Meeting</i>		NABE/NCBP/ABA
<i>Midyear Mtg.</i>		Atlanta, GA	July 30-Aug. 4	2015	Boston, MA
March 10-11	2011	BLI	<i>Annual Meeting</i>		NABE/NCBP/ABA
		Chicago, IL			Chicago, IL
March 30- April 2	2011	WSBC			
		Maui, Hawaii			
April 12-14	2011	ABA Day in Washington			
		Washington, DC			
Aug. 4-9	2011	NABE/NCBP/ABA			
<i>Annual Meeting</i>		Toronto, Canada			
Feb. 1-7	2012	NABE/NCBP/ABA			

**OREGON STATE BAR
MEETING OF THE BOARD OF GOVERNORS
Schedule of Events
September 24, 2010
9/16/2010 10:12 AM**

Meeting Place OSB Center **Phone:** 503-620-0222
16037 SW Upper Boones Ferry Rd.
Tigard, OR 97281-1935

Friday, September 24, 2010

8:00 a.m. – 11:00 a.m. **Appointments Committee** (DiIaconi, Haglund, Knight,
Fisher, Kent, Piucci)
McKenzie

10:30 a.m. – 11:00 a.m. **Access to Justice Committee** (Johnnie, Johnson, O’Connor,
Lord, Matsumonji, Naucler, Mitchell-Phillips)
Santiam

11:00 a.m. – 12:30 p.m. **Nominating Committee** (Evans, Piucci, Mitchell-Phillips,
Lord, Fisher)
Santiam

12:30 p.m. – 1:00 p.m. **Lunch**
McKenzie

1:00 p.m. – 2:00 p.m. **Special Board Meeting**
McKenzie

2:00 p.m. – 3:00 p.m. **Budget and Finance Committee** (Kent, Larson, Lord,
Naucler, Garcia, O’Connor, Haglund)
Santiam

2:00 p.m. – 3:00 p.m. **Public Affairs Committee** (Piucci, Johnson, Mitchell-Phillips,
Fisher, Matsumonji, Johnnie, Larson)
McKenzie

NO MEETING **Appellate Screening Committee** (Larson, Knight, Mitchell-
Phillips, Johnnie, DiIaconi, Johnson)

NO MEETING	BarBooks™ Steering Committee (Evans, Kent, Fisher, Naucler, Schmid, Stevens, Wegener)
NO MEETING	Executive Director Evaluation Committee (Garcia, Kent, Fisher, Piucci, Haglund)
NO MEETING	Member Services Committee (Fisher, Johnnie, Matsumonji, DiIaconi, Johnson, Knight, Mitchell-Phillips)
NO MEETING	Policy and Governance Committee (Naucler, Kent, DiIaconi, Garcia, O'Connor, Haglund, Knight)
NO MEETING	Public Member Selection Committee (Lord, Matsumonji, Naucler, O'Connor)

Oregon State Bar
Meeting of the Board of Governors
September 24, 2010
Special Open Session Agenda

Friday, September 24, 2010

1. Open Session Agenda

- A. Approve HOD Agenda 5-15
- B. Executive Director Evaluation Committee
 - 1. Approve Executive Director Contract
- C. Nominating Committee
 - 1. Present Candidates for President-elect 16-20
- D. Appointments Committee
 - Appointment to the Council on Court Procedures 20.1
- E. Budget and Finance Committee
 - 1. Change in Tenant Lease and Bar Center
 - *The tenant, 20/20 Eye Clinic, on the first floor of the bar center has moved out. The bar is negotiating with another laser eye center to accept that lease with some amendments at prevailing market terms. The amendments have long-term implications for the bar and the latest information will be shared at the meet.*

2. Default Agenda

- A. Oxford English Dictionary Articles 21-23

Oregon State Bar
2010 House of Delegates Meeting

Oregon State Bar Center
16037 SW Upper Boones Ferry Rd.
Tigard, Oregon
Friday, October 29, 2010
10:00 a.m.

Oregon State Bar

Dear Oregon State Bar Member:

On Friday, October 29th, at 10:00 am, the Oregon State Bar House of Delegates will meet at the Bar Center to consider the Bar's business. The Agenda is enclosed. I thank you in advance for your time and energy devoted to the consideration and debate of these items. While all bar members are welcome and encouraged to participate in the discussion, only delegates may vote on resolutions.

Your attendance is crucial to the governance of the bar. Without you—and without a quorum—matters may not move forward. In an effort to make your attendance a bit easier and at the urging of the Board of Governors, in 2007, the HOD approved reimbursement for your roundtrip mileage expense for travel to and from the HOD meeting. Reimbursement is limited to no more than 400 miles and you must submit your expense reimbursement form within 30 days of the meeting.

While the Agenda goes into more detail, key matters that will be considered by the House include:

- Amendment of HOD Rule 5.5
- Resolution Regarding Veterans Day Remembrance
- Amendment of ORPC 1.5 and 1.15-1
- Amendment of ORPC 1.2 and 3.4
- Amendment of ORPC 3.3
- Support of Adequate Funding for Legal Services to Low-income Oregonians
- Resolution for Repeal of ORS 419B.010 and 9.114
- Resolution to Amend Oregon Rule of Professional Conduct 7.1 - 7.3
- Resolution to Amend Bar Rule 8.2
- Resolution to Amend ORS 133.060
- Pricing of Oregon State Bar Products and Services

If you have questions concerning the House of Delegates meeting, please contact Teresa Wenzel, Executive Assistant, by phone at 503-431-6386, by email at [@osbar.org](mailto:teresa@osbar.org), or toll free inside Oregon at 800-452-8260 ext 386.

Kathleen Adams

OREGON STATE BAR
2010 House of Delegates Meeting

Oregon State Bar Center
16037 SW Upper Boones Ferry Rd.
Tigard, OR 97281-1935
10:00 a.m., Friday, October 29, 2010
Presiding Officer: Kathleen A. Evans, OSB President

Agenda

- | | | | |
|--|---|---|---|
| 1. Call to Order | <i>Kathleen A. Evans</i>
<i>OSB President</i> | 12. Amendment of Oregon Rules of Professional Conduct 1.2 and 3.4 (Board of Governors Resolution No. 5) | <i>TBD</i>
<i>Board of Governors</i> |
| 2. Overview of Parliamentary Procedure | <i>James N. Westwood</i>
<i>Stoel Rives LLP</i> | 13. Amendment of Oregon Rules of Professional Conduct 3.3 (Board of Governors Resolution No. 6) | <i>TBD</i>
<i>Board of Governors</i> |
| 3. Report of the President | <i>Kathleen A. Evans</i>
<i>OSB President</i> | 14. Resolution in Support of Adequate Funding for Legal Services to Low-Income Oregonians (House of Delegates Resolution No. 1) | <i>Edwin A. Harden</i>
<i>House of Delegates, Region 5</i>
<i>Dennis Karnopp</i>
<i>House of Delegates, Region 3</i>
<i>Christopher Kent</i>
<i>Board of Governors, Region 5</i> |
| 4. Adoption of Final Meeting Agenda | <i>Kathleen A. Evans</i>
<i>OSB President</i> | 15. Resolution for Repeal of ORS 419B.010 and 9.114 (House of Delegates Resolution No. 2) | <i>Timothy M.B. Farrell</i>
<i>House of Delegates, Region 1</i> |
| 5. Comments from the Chief Justice of the Oregon Supreme Court | <i>Paul J. De Muniz, Chief Justice</i>
<i>Oregon Supreme Court</i> | 16. Resolution to Amend Oregon Rule of Professional Conduct 7.1 - 7.3 (House of Delegate Resolution No. 3) | <i>Timothy M.B. Farrell</i>
<i>House of Delegates, Region 1</i> |
| 6. Report of the Board of Governors Budget and Finance Committee | <i>Christopher Kent, Chair</i>
<i>BOG Budget and Finance Committee</i> | 17. Resolution to Amend Bar Rule 8.2 (House of Delegates Resolution No. 4) | <i>Timothy M.B. Farrell</i>
<i>House of Delegates, Region 1</i> |
| 7. Notice of 2011 Membership Fees | <i>Christopher Kent, Chair</i>
<i>BOG Budget and Finance Committee</i> | 18. Resolution to Amend ORS 133.060 (House of Delegates Resolution No. 5) | <i>Danny Lang</i>
<i>House of Delegates, Region 3</i> |
| <hr/> Resolutions <hr/> | | | |
| 8. In Memoriam (Board of Governors Resolution No. 1) | <i>Ann Fisher</i>
<i>Board of Governors, Region 4</i> | 19. Pricing of Oregon State Bar Products and Services (House of Delegates Resolution No. 6) | <i>David H. Madden</i>
<i>House of Delegates, Region 5</i> |
| 9. Amendment of HOD Rule 5.5 (Board of Governors Resolution No. 2) | <i>TBD</i>
<i>Board of Governors</i> | | |
| 10. Board of Governors Resolution Regarding Veterans Day Remembrance (Board of Governors Resolution No. 3) | <i>TBD</i>
<i>Board of Governors</i> | | |
| 11. Amendment of Oregon Rules of Professional Conduct 1.5 and 1.15-1 (Board of Governors Resolution No. 4) | <i>TBD</i>
<i>Board of Governors</i> | | |

Resolutions with Financial Impact

7. Notice of 2011 Membership Fees

The 2011 Oregon State Bar membership fees and assessments are as follows:

Membership Category	If paid by January 31, 2011	If paid after January 31 but by February 28, 2011	If paid after February 28, 2011
Active members admitted in any jurisdiction before 1/1/09	\$492.00	\$542.00	\$592.00
Active members admitted in any jurisdiction on or after 1/1/09	\$413.00	\$463.00	\$533.00
Inactive members	\$110.00	\$135.00	\$160.00
Active Pro Bono members	\$125.00	\$125.00	\$125.00

*Presenter: Christopher Kent
Region 5, Board of Governors*

Other Resolutions

8. In Memoriam (Board of Governors Resolution No. 1)

To be added.

*Presenter: Ann Fisher
Board of Governors, Region 4*

9. Amendment of HOD Rule 5.5 (Board of Governors Resolution No. 2)

Whereas, ORS 9.142 requires the Board of Governors to formulate rules for the conduct of the business of the House of Delegates for adoption by the House of Delegates, and

Whereas, the OSB Board of Governors has amended OSB Bylaw 3.4 regarding the manner in which the HOD preliminary agenda is made available to the membership,

Resolved, That House of Delegates Rule 5.5 be amended as follows:

In advance of any meeting of the House of Delegates, the Board of Governors of the

Oregon State Bar shall review proposed agenda items for conformity with applicable law and bar policy and propose a preliminary agenda for the meeting. The preliminary agenda, along with notice of the questions or measures the Board determined should not be placed on the agenda, shall be [distributed] published, with notice thereof to the membership of the Oregon State Bar at least twenty (20) days prior to the meeting.

*Presenter: TBD
Board of Governors*

Background

In February 2010, the BOG amended OSB Bylaw 3.4 to substitute the word “publish” for “distribute” with regard to making the preliminary agenda available to members. Since approximately 2006, the agenda has been “distributed” by sending an e-mail with a link to the OSB web site where the agenda is posted. The only members who get hard copies are those who don’t have an e-mail address on file with the bar. Although the BOG believes its current practice constituted “distribution” within the meaning of the bylaw, it decided that the term “publish” was more inclusive and would eliminate any question about the validity of the process by which members receive the agenda.

Because the HOD Rule also uses the word “distributed,” the BOG recommends that it be amended to use the term “published” for consistency with the OSB Bylaws.

10. Resolution for Veterans Day Remembrance (Board of Governors Resolution No. 3)

Whereas, military service is vital to the perpetuation of freedom and the rule of law;

Whereas, thousands of Oregonians have served in the military, and many have given their lives;

Resolved, That the Oregon State Bar hereby extends its gratitude to all those who have served, and are serving, in the military and further offers the most sincere condolences to the families and loved ones of those who have died serving their country.

*Presenter: TBD
Board of Governors*

Background

The mission of the Bar is to serve justice and promote the rule of law. Active duty military service members, the guard, and reservists, all embody the American tradition of a citizen soldier. We literally

would not have our freedom, much less the rule of law, without generations of sacrifice by these citizens. This resolution is simply intended to offer thanks and condolences to all who have sacrificed. This applies to all living veterans, to those who are presently serving, and to the families of those who have lost loved ones.

In honor of Veterans Day, November 11, 2010, The Board of Bar Governors would like to say thank you and pause for a moment to offer sympathy to the families of those who have suffered.

11. Amendment of Oregon Rules of Professional Conduct 1.5 and 1.15-1 (BOG Resolution No. 4)

Whereas, The Board of Governors has formulated the following amendments to the Oregon Rules of Professional Conduct pursuant to ORS 9.490(1); and *Whereas*, The Oregon State Bar House of Delegates must approve any changes in the rules of professional conduct before they may be presented to the Oregon Supreme Court for adoption pursuant to ORS 9.490(1); now, therefore, be it

Resolved, That the amendments of Oregon Rules of Professional Conduct 1.5 and 1.15-1 as set forth below are approved and shall be submitted to the Oregon Supreme Court for adoption:

Rule 1.5 Fees

* * *

(c) A lawyer shall not enter into an arrangement for, charge or collect:

(1) any fee in a domestic relations matter, the payment or amount of which is contingent upon the securing of a divorce or upon the amount of spousal or child support or a property settlement; ~~or~~

(2) a contingent fee for representing a defendant in a criminal case; or

(3) a fee denominated as "earned on receipt," "nonrefundable" or in similar terms unless it is pursuant to a written agreement signed by the client which explains that:

(i) the funds will not be deposited into the lawyer trust account, and

(ii) the client may discharge the lawyer at any time and in that event may be entitled to a refund of all or part of the fee if the services for which the fee was paid are not completed.

Rule 1.15-1 Safekeeping Property

* * *

(c) A lawyer shall deposit into a lawyer trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred, unless the fee is denominated as "earned on receipt," "nonrefundable" or similar terms and complies with Rule 1.5(c)(3).

*Presenter: TBD
Board of Governors*

Background

The Oregon Supreme Court has long made it clear that a lawyer may be excused from depositing into a trust account money received from a client before services are performed "if the client has agreed, in writing, that all legal fees paid are deemed earned by the lawyer upon receipt." *In re Balocca*, 342 Or 279 (2007), citing its first pronouncement of the rule in *In re Hedges*, 313 Or 618 (1992). The court elaborated on its first holding in *In re Biggs*, 318 Or. 281 (1994): "Without a clear written agreement * * * that fees paid in advance constitute a non-refundable retainer earned upon receipt, such funds must be considered client property and are, therefore, afforded the protections imposed by [former]DR 9-101(A)." The court has also made it clear that a fee collected for services that are not performed is not earned and is "clearly excessive" regardless of the amount. *In re Fadeley*, 342 Or 403 (2007); *In re Balocca*, supra; *In re Thomas*, 294 Or 505 (1983).

Notwithstanding the clear language in the cases, in OSB Formal Opinions and *The Ethical Oregon Lawyer*, the foregoing principals are elusive to many practitioners. Moreover, the BOG recently amended the Client Security Fund rules to provide that a lawyer acts dishonestly if the lawyer "wrongfully fails to maintain client funds in trust." That definition will be much easier to apply when there is clear direction about when client funds must be deposited into trust.

12. Amendment of Oregon Rules of Professional Conduct 1.2 and 3.4 (BOG Resolution No. 5)

Whereas, The Board of Governors has formulated the following amendments to the Oregon Rules of Professional Conduct pursuant to ORS 9.490(1); and *Whereas*, The Oregon State Bar House of Delegates must approve any changes in the rules of professional conduct before they may be presented to the Oregon Supreme Court for adoption pursuant to ORS 9.490(1); now, therefore, be it

Resolved, That the amendments of Oregon Rules of Professional Conduct 1.2 and 3.4 as set forth below are approved and shall be submitted to the Oregon Supreme Court for adoption:

Rule 1.2 Scope of Representation and Allocation of Authority Between Client and Lawyer

* * *

(c) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is illegal, [or] fraudulent, or in violation of a court rule or ruling, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

* * *

Rule 3.4 Fairness to Opposing Party and Counsel

A lawyer shall not:

* * *

(c) knowingly disobey an obligation under the rules or a ruling of a tribunal, except for an open refusal based on an assertion that no valid obligation exists;

*Presenter: TBD
Board of Governors*

Background

Former DR 7-106(A) prohibited a lawyer from advising the lawyer's client to disregard a standing rule or a ruling of a tribunal, except where the lawyer could take "appropriate steps in good faith to test the validity of such a rule or ruling."

Oregon RPC 1.2 prohibits a lawyer from advising a client to engage in conduct the lawyer knows is illegal (i.e., in violation of a statute) or fraudulent and RPC 3.4 prohibits the lawyer herself from knowingly disobeying "an obligation under the rules of a tribunal." It is not clear, however, that the lawyer is prohibited from advising a client to disobey a *ruling* of a tribunal. Courts in several jurisdictions have interpreted rules based on ABA Model Rule 3.4 to also prohibit advising a client to violate a ruling of the court, but there is no such authority in Oregon. The proposed amendment to RPC 1.2 will expand the scope of the rule to prohibit assisting or counseling a client in conduct that violates a ruling of a court. The amendment to RPC 3.4 will prohibit lawyers from knowingly disobeying the rulings of a tribunal as well as the rules of the tribunal. Both changes are consistent with what has long been required of lawyers in Oregon.

13. Amendment of Oregon Rules of Professional Conduct 3.3 (BOG Resolution No. 6)

Whereas, The Board of Governors has formulated the following amendment to the Oregon Rules of Professional Conduct pursuant to ORS 9.490(1); and

Whereas, The Oregon State Bar House of Delegates must approve any changes in the rules of professional conduct before they may be presented to the Oregon Supreme Court for adoption pursuant to ORS 9.490(1); now, therefore, be it

Resolved, That the amendment of Oregon Rule of Professional Conduct 3.3 as set forth below is approved and shall be submitted to the Oregon Supreme Court for adoption:

Rule 3.3 Candor Toward the Tribunal

(a) A lawyer shall not knowingly:

(1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;

(2) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel;

(3) offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if [necessary] permitted, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false;

(4) conceal or fail to disclose to a tribunal that which the lawyer is required by law to reveal; or

(5) engage in other illegal conduct or conduct contrary to these Rules.

(b) A lawyer who represents a client in an adjudicative proceeding and who knows that a person intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal.

(c) The duties stated in paragraphs (a) and (b) continue to the conclusion of the proceeding, [unless compliance] but in no event require[s] disclosure of information otherwise protected by Rule 1.6.

(d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are adverse.

*Presenter: TBD
Board of Governors*

Background

Under *former* DR 7-102(B), a lawyer who learned that his client had “perpetrated a fraud” on a person or a court was required to call upon the client to rectify the fraud, but if the client refused, the lawyer was required to reveal the fraud to the court, “unless the information was a confidence as defined in DR 4-101” (i.e., a privileged communication). If the lawyer learned that someone other than a client has perpetrated a fraud on the court, the lawyer was required to promptly reveal the fraud to the court. The former rule was supplanted in January 2005 by Oregon RPC 3.3(a)(3). The new rule requires a lawyer to take “reasonable remedial measures, including, if necessary, disclosure to the tribunal” if the lawyer learns that material evidence offered by the lawyer’s client or a witness called by the lawyer is false.

ABA Model Rules 3.3, on which Oregon RPC 3.3 was based, provides at paragraph (c) that the duty to take remedial measures applies “even if compliance requires disclosure of information otherwise protected by Rule 1.6.” The drafters of the Oregon RPCs (and presumably the HOD in approving and the Supreme Court in adopting them) desired to retain Oregon’s approach of not requiring disclosure of confidential client information. Accordingly, the language of the Model Rule was modified so that Oregon RPC 3.3(a)(e) says the duty in 3.3(a) applies “*unless* compliance requires disclosure of information otherwise protected by Rule 1.6.”

A concern has been raised that the language of RPC 3.3(d) is confusing. After discussion, General Counsel’s Office, Disciplinary Counsel’s Office, the Legal Ethics Committee and the BOG agree that the proposed amendment clarifies the intent of the rule and will be easier for practitioners to understand.

14. Resolution in Support of Adequate Funding for Legal Services to Low-Income Oregonians (House of Delegates Resolution No. 1)

Whereas, providing equal access to justice and high quality legal representation to all Oregonians is central to the mission of the Oregon State Bar;

Whereas, equal access to justice plays an important role in the perception of fairness of the justice system;

Whereas, programs providing civil legal services to low income Oregonians are a fundamental component of the Bar’s effort to provide such access;

Whereas, legal aid programs in Oregon are currently able to meet less than 20% of the legal needs of Oregon’s poor;

Whereas, federal funding for Oregon’s civil legal services programs, adjusted for inflation, is substantially less than it was in 1980 and there have been severe restrictions imposed on the work that programs, receiving LSC funding, may undertake on behalf of their clients;

Whereas, the Oregon State Bar provides oversight regarding the use of state court filing fees to help fund legal aid and this funding now comprises one-third of legal aid’s overall funding and is critical in providing equal access to justice;

Whereas, assistance from the Oregon State Bar and the legal community is critical to maintaining and developing resources that will provide low-income Oregonians meaningful access to the justice system; therefore, be it

Resolved, That the Oregon State Bar:

- (1) Strengthen its commitment and ongoing efforts to improve the availability of a full range of legal services to all citizens of our state, through the development and maintenance of adequate support and funding for civil legal services programs for low-income Oregonians;
- (2) Request that Congress and the President of the United States make a genuine commitment to equal justice by adequately funding the Legal Services Corporation;
- (3) Actively participate in the efforts of the Campaign for Equal Justice to increase contributions by establishing goals of a 100% participation rate by members of the House of Delegates and of a 50% contribution rate by all lawyers;
- (4) Actively participate in and support the fundraising efforts of those non-profit low-income legal service providers in Oregon that are not supported by the Campaign for Equal Justice;

- (5) Support the Oregon Law Foundation and its efforts to increase resources through the interest on Lawyers Trust Accounts (IOLTA) program;
- (6) Encourage Oregon lawyers to support civil legal services programs through enhanced pro bono work; and
- (7) Work to preserve the dedicated court filing fee funding for legal aid that has been in place since 1977 and which has been monitored and distributed by the Oregon State Bar Legal Services Program since 1997.

*Presenters: Edwin Harnden
House of Delegates, Region 5
Dennis Karnopp
House of Delegates, Region 1
Christopher Kent
Board of Governors*

Background

“The mission of the Oregon State Bar is to serve justice by promoting respect for the rule of law, by improving the quality of legal services and by increasing access to justice.” Section 1.2 of the Oregon State Bar Bylaws. One of the four main functions of the Bar is to be, “A provider of assistance to the public. As such, the bar seeks to ensure the fair administration of justice for all * * *.”
Id.

The Board of Governors and the House of Delegates have adopted a series of resolutions supporting adequate funding for civil legal services in Oregon (Delegate Resolution in 2009, Delegate Resolution No. 8 in 2008, No. 12 in 2007, No. 14 in 2006, No. 7 in 2005, BOG Resolution No. 7 in 2002, BOG Resolution No. 6 in 1999, BOG Resolution No. 3 in 1997, and Delegate Resolution No. 11 in 1996). The 2009 resolution was identical to the one passed in 2008.

The legal services organizations in Oregon were established by the state and local bar associations to increase access for low-income clients. The majority of the boards of the legal aid programs are appointed by state and local bar associations. The Oregon State Bar operates the Legal Services Program pursuant to ORS 9.572 to distribute filing fees for civil legal services and provide methods for evaluating the legal services programs. The Bar and the Oregon Law Foundation each appoint a member to serve on the board of the Campaign for Equal Justice.

In a comprehensive assessment of legal needs study, which was commissioned by the Oregon State Bar, the Office of the Governor, and the Oregon Judicial Department found that equal access to justice plays an important role in the perception of fairness of the justice system. *The State of Access to Justice in Oregon* (2000). Providing access to justice and high quality legal representation to all Oregonians is a central and important mission of the Oregon State Bar. The study also concluded that individuals who have access to a legal aid lawyer have a much-improved view of the legal system compared with those who do not have such access. Studies in 2005 and 2009 by the national Legal Services Corporation confirm that in Oregon we are continuing to meet less than 20% of the legal needs of low-income Oregonians. Legal Services Corporation, *Documenting the Justice Gap in America: The Unmet Civil Legal Needs of the Low-Income Americans* (Fall 2005). Although we have made great strides in increasing lawyer contributions to legal aid, there remains a significant deficit in providing access to justice to low-income Oregonians.

Currently, only about 20% of lawyers contribute to the Campaign for Equal Justice. The Campaign supports statewide legal aid programs in Oregon which have offices in 19 different Oregon communities. The offices focus on the most critical areas of need for low-income clients. About 40% of legal aid’s cases involve family law issues relating to domestic violence.

15. Resolution for Repeal of ORS 419B.010 and 9.114 (House of Delegate Resolution No. 2)

Whereas, ORS 419B.010 requires public officials to report any child abuse or any child abusers that they come into contact;

Whereas, ORS 9.114 requires the Oregon State Bar to have all attorneys complete one hour of training every three years;

Whereas, under ORS 419B.010 some members of the bar are already exempt from reporting information obtained in the course of representation;

Whereas, ORS 419B.010 is unlimited in its geographic scope and may be unenforceable outside the state of Oregon;

Whereas, ORS 9.114 requires that the training for reporting child abuse be included in the limited continuing legal education hour requirements to keep Oregon attorneys versed in the law;

Whereas, a violation of either of these laws can result in serious criminal or regulatory sanctions, including disbarment;

Whereas, reporting child abuse is an important goal, as is providing pro bono legal services, which is aspired to by the Bar and for which lawyers in the state provide without the threat of criminal sanctions; therefore be it

Resolved, That the OSB Board of Governors shall introduce or sponsor a bill in the next regular legislative session to amend ORS 419B.010 to exempt attorneys entirely in all circumstances from having to report child abuse and to repeal ORS 9.114 in its entirety.

*Presenter: Timothy M.B. Farrell
House of Delegates, Region 1*

16. Resolution to Amend Oregon Rule of Professional Conduct 7.1 - 7.3 (House of Delegate Resolution No. 3)

Whereas, lawyer advertising is governed by the Rules of Professional Conduct 7.1 to 7.3;

Whereas, these rules are different from and more restrictive than the rules governing lawyer advertising in the State of Washington and other states;

Whereas, the less restrictive rules have not resulted in abuses or threats to the public that should be governed by the Rules of Professional Conduct;

Whereas, Oregon attorneys are allowed to practice in other states and other states' lawyers are allowed to practice in Oregon;

Whereas, Oregon attorneys are put at a competitive disadvantage in not being able to use the latest communications technology and methods to obtain clients;

Whereas, the Oregon public is not exposed to modern advertising techniques and cannot be made aware of the legal assistance available to it or the services that lawyers can provide;

Whereas, The Oregon State Bar House of Delegates must approve any changes in the Rules of Professional Conduct before they may be presented to the Oregon Supreme Court for adoption pursuant to ORS 9.490(1); therefore, be it

Resolved, That the OSB Board of Governors shall formulate amendments to RPCs 7.1-7.3 to conform to the rules governing Washington attorneys for approval at the 2011 HOD meeting.

*Presenter: Timothy M.B. Farrell
House of Delegates, Region 1*

17. Resolution to Amend Bar Rule 8.2 (House of Delegates Resolution No. 4)

Whereas, the reinstatement of inactive Oregon attorneys is governed by the Oregon State Bar Rules of Procedure (Bar Rules, BR);

Whereas, the reinstatement of attorneys inactive for five or less years is processed informally under BR 8.2 whereby applicants are reinstated by the Executive Director after filling out an application and, among other things, paying a \$250.00 fee;

Whereas, the reinstatement of attorneys inactive for greater than five years is processed formally under BR 8.1 and requires a showing to the Board of Governors that the attorney has the learning and ability to practice law in the state and, among other things, provide three references, a criminal background check and a payment of \$500.00;

Whereas, the Board of Governors only meets periodically, meaning that an 8.1 application takes much longer than an 8.2 application,

Whereas, in these difficult economic times, many attorneys who practice out of state may be forced to convert to inactive status in order to save bar dues and fees,

Whereas, there is no evidence that an attorney who is inactive for longer than five years lacks the learning and ability to practice law, especially if that attorney has been active in other jurisdictions;

Whereas, an 8.1 applicant does not have to prove any special knowledge or learning ability specific to Oregon law;

Whereas, most states do not distinguish reactivation applicants based on their years of inactivity and do not report that attorneys who have been inactive in their state have any problems in learning and having the ability to practice law;

Whereas, in these difficult economic times the greater expense and longer time period to reactivate an attorney under BR 8.1 creates an unnecessary hardship on members of the bar;

Whereas, the Bar Rules are adopted by the Board of Governors and approved by the Supreme Court pursuant to ORS 9.005(8) and 9.542; therefore be it

Resolved, That BR 8.1 and 8.2 should be amended by the Board so that inactive attorneys who wish to reactivate their status are processed informally under BR 8.2 and may be reinstated by the Executive

Director regardless of the number of years that they have been inactive.

*Presenter: Timothy M.B. Farrell
House of Delegates, Region 1*

18. Resolution to Amend ORS 133.060 (House of Delegates Resolution No. 5)

Whereas, ORS 133.060 requires that a person cited to appear in Criminal cases be given a time, date and Court specified in the Citation, which shall not be later than 30 days after the date the Citation was issued; and,

Whereas, when the person arrives to make a personal appearance at the time, date and Court specified, the person may discover that no Criminal Complaint has been filed and that there is no existing Circuit Court Case Number, with the result that no first appearance is conducted and, worse yet, the person has made a wasted trip (involving personal time loss, missed work, or travel expense, etc.); and,

Whereas, such persons also experience frustration with the Judicial system as a result of being inconvenienced, because such persons cited to appear have no adequate means of advance knowledge whether or not any Criminal Complaint has actually been filed by the date and time set forth in the Oregon Uniform Citation and Complaint by the issuing Officer; and,

Whereas, presently a person cited to appear has no reasonably adequate remedy to avoid making a wasted trip (i.e., a futile attempt to comply with the Citation to Appear) because there is no assurance that upon appearing a Criminal Complaint will have been filed in the Circuit Court; and,

Whereas, such travel by persons cited to appear involves unproductive loss of time; missed work; personal inconvenience; and, also results in wasted natural resources, increased carbon emissions, and increased motor vehicle traffic, contrary to the public interest in sustainability; and,

Whereas, modern technology has the ability to provide an electronic mechanism for *reasonable prior notice* confirming that a Criminal Complaint has been filed with a corresponding Circuit Court Case Number; and,

Whereas, both sustainability and better service by the Judicial Department will occur by providing an automatic postponement of the First Appearance, without sanction, if such reasonable advance

notification has not been provided so as to confirm the actual need to personally appear; therefore be it

Resolved, That the House of Delegates recommend and encourage the Board of Governors propose amending ORS 133.060 [“Cited Person to Appear Before Magistrate; Effect of Failure to Appear; Arrest Warrant”] to provide for reasonable advance notice by electronic means via an Internet Website or alternatively via a pre-recorded voice mail confirming that a Complaint has actually been filed, and that if no advance notice is so provided, that therefore a person cited to appear will not be subject to a charge of Failure to Appear; but, instead may be subject to re-Citation by mail or any other reasonable means to appear at a later date.

*Presenter: Danny Lang
House of Delegates, Region 3*

19. Pricing of Oregon State Bar Products and Services (House of Delegates Resolution No. 6)

Whereas, the Oregon State Bar offers for sale programs, products, and services to members of the Oregon State Bar, including without limitation Continuing Legal Education programs, legal publications, and research materials and resources, both print and online;

Whereas, the Oregon State Bar sometimes offers bulk-purchasing discounts to certain groups of customers who purchase multiple units or subscriptions to the goods and services;

Whereas, the extension of favorable bulk pricing to certain associations of lawyers while denying it to other associations of lawyers necessarily implies a potential for creating unfair competitive advantages among competing lawyers that may expose the Bar to civil liability under ORS 646.040;

Whereas, the Oregon State Bar and its Board of Governors should be prohibited from instituting and engaging in bulk pricing policies which favor certain associations of Oregon lawyers over others, therefore, be it

Resolved That in setting prices for OSB products and services, the Board of Governors and Oregon State Bar staff shall not offer a quantity-discount price to a first customer that is different from the price offered to any other purchaser of an equal quantity of the product or service. The foregoing shall not affect the extension of favorable pricing to selected classes of individual-unit purchasers, such as judges, law libraries, newly-admitted attorneys, professors and pro-bono groups.

Presenter: David H. Madden
House of Delegate, Region 5

Background

The OSB has historically offered various discounts to purchasers of its goods and services. One type of discount is tied to a classification or characteristic of the purchaser: a judge, newly-admitted attorney or law library may be entitled to a favorable price. The other type of discount is tied to the number of items purchased at once; this category recognizes that the transaction costs involved in a sale may not scale linearly as the number of items, so it is reasonable to offer the purchaser a portion of the transaction-cost savings.

It has recently come to light that the Bar has been setting prices in ways that conflate the “classification” and “transaction cost” types of discount. For example, the BarBooks™ product was offered at a bulk-discount price to groups of lawyers associated with a single firm, but the same price was refused to an equally-sized group of lawyers who were not associated with a single firm. And, although BarBooks™ is now scheduled to become available to all active attorneys as a benefit of membership, the issue is not moot, because the Bar currently refuses to sell a subscription to its CLE series to a group of 500 unaffiliated lawyers (although it would sell such a subscription to a firm of 500 associates and partners).

More broadly, this resolution is a measured and appropriate means to direct the Bar’s economic efforts in ways that support and further its goals of ensuring that its members have the resources to competently represent their clients, while reducing the risk that its pricing policies will run afoul of the State’s price discrimination laws.

Financial Impact

This resolution would prevent the Bar from offering bulk discounts to multiple-item purchasers on any basis other than the number of items purchased. Therefore, somewhat fewer bulk discounts could be

offered, and purchasers who would have received these discounts will have to pay a higher price. Consequently, this resolution should have a positive effect on the Bar’s revenues.

ORS Section 646.040 Price discrimination prohibited; price differentials

(1) It is unlawful for any person engaged in commerce or food commerce, or both, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities, or services or output of a service trade, of like grade and quality or to discriminate in price between different sections, communities or cities or portions thereof or between different locations in sections, communities, cities or portions thereof in this state, where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them.

(2) Subsection (1) of this section does not prevent:

(a) Differentials which make only due allowance for differences in the cost of manufacture, sale or delivery, resulting from the differing methods or quantities in which the commodities are sold or delivered to purchasers.

(b) Persons engaged in selling goods, wares or merchandise, or service or output of a service trade, in commerce from selecting their own customers in bona fide transactions and not in restraint of trade.

(c) Price changes from time to time where in response to changing conditions affecting the market for or marketability of the goods concerned, such as but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

16037 SW Upper Boones Ferry Rd.
P.O. Box 231935
Tigard, OR 97281-1935

DRAFT

LEGAL AID SERVICES OF OREGON

Albany Regional Office
433 Fourth Avenue SW
Albany, Oregon 97321

Mitzi M. Naucler, Regional Director
Jennifer Hisey
James Baldock

August 24, 2010

Sylvia Stevens, Executive Director
Oregon State Bar
PO Box 231935
Tigard, Oregon 97281-1935

Re: OSB President 2012

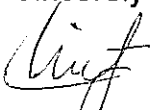
Dear Sylvia:

This letter is to notify you that I am interested in being considered for the position of president of the Oregon State Bar for 2012. In making my decision to seek the presidency I have given thought to the amount of time and energy that are required to fulfill the presidential duties and I am prepared to meet those demands. I believe that I am uniquely qualified to assume the presidency of the OSB based on my wide-ranging professional experiences.

There are many challenges facing the OSB as we go forward. That being said, I think that the opportunities in our future far outweigh the challenges. Many issues tend to divide the members of the OSB but we can be united in our support of public access to the courts, providing competent and affordable legal representation to our clients, adequate funding for our court system and public defenders, maintaining our efforts to diversify our membership, and providing our members with the highest levels of service and support.

I look forward to discussing my candidacy and qualifications with the BOG.

Sincerely yours,



Mitzi M. Naucler

September 1, 2010

VIA E-MAIL

Sylvia Stevens
Executive Director
Oregon State Bar Association
P.O. Box 231935
Tigard, OR 97281-1935

Re: Notice Pursuant to Article 2, Subsection 2.201(b) of the Bylaws

Dear Sylvia:

This letter shall serve as a notice that I would like to be considered a candidate for the office of President-Elect of the Oregon State Bar Board of Governors for 2011. Following is a statement outlining my qualifications, reasons for seeking the position, and my vision for the Oregon State Bar.

I. **Qualifications**

I have been practicing law in Oregon for twenty-four years. After graduating first in my class from the University of Oregon School of Law in 1986, I began my career at Lindsay Hart Neil & Weigler. In 1990, I moved to Stoll Berne, where I have been a shareholder for fifteen years.

My practice emphasizes all types of complex business litigation. I have appeared before state and federal trial courts, as well as the Oregon appellate courts, the Ninth Circuit, and the U.S. Supreme Court. I have experience in class actions, antitrust litigation, securities litigation, corporate disputes, intellectual property disputes, unfair competition claims, employment matters, and disputes involving family wealth. In addition, I have authored several different chapters of Oregon State Bar Continuing Legal Education publications, spoken at a number of CLE's, and currently serve as one of the editors of the Civil Pleading & Practice publication. I have served in a number of organizations associated with the legal profession, including many Oregon State Bar sections and committees. Following is a list of some of the organizations in which I have held leadership positions.

{SSBLS Main Documents\9999\999\00265448-1 }

- **Oregon State Bar**
 - o Board of Governors, 2009-present
 - o Litigation Section Executive Committee, 2007-2008
 - o Consumer Law Section Executive Committee, 2007-2008
 - o Business Litigation Section Executive Committee, 2000-2004; chairman, 2004
 - o Securities Regulation Section Executive Committee, 1999-2003; chairman, 2003
 - o Uniform Trial Court Rules Committee, 1998-2000
 - o Oregon Practice and Procedure Committee, 1996-1998

- **Multnomah Bar Association**
 - o CLE Committee, 2007-2008
 - o Committee on Judiciary, 2002

- **Oregon Trial Lawyers Association**
 - o Consumer Law Section co-chair, 2009-present
 - o Business Litigation Section chair, 1999
 - o Board of Governors, 1994-1998

- **American Bar Association**
 - o Litigation Section, 2000-present
 - Class Actions and Derivative Suits Committee, 2007-present
 - o Antitrust Section, 2008-present

I've been named as one of the top business litigation lawyers in Oregon by Chambers USA: Leading Lawyers for Business, and Best Lawyers in America, and have also been recognized in each edition of the Oregon Super Lawyers since its inception. I am currently on the Partners' Council at the National Consumer Law Center.

My professional experience has allowed me to develop the skills necessary to serve as the President of the Oregon State Bar. My legal practice requires that I understand accounting concepts, financial statements, budgets and projections. Handling complex cases means I must be organized, able to prioritize a multitude of tasks and make important, timely decisions to shape positive outcomes for my clients and for Stoll Berne. My work with professional committees at local, state, and national levels has broadened my experience. I am comfortable working with diverse personalities. Being exposed to a variety of perspectives on matters affecting our profession, I seek to cultivate a thoughtful understanding of issues facing the legal community locally and nationally. In settings that range from adversarial to collegial, I have had the opportunity to develop and implement solutions to complex issues that benefit constituents—whether clients, partners, peers, or professional organizations. Called upon to address closed-door committees and open public forums, I use my public speaking experience to communicate as clearly and effectively as possible, and hope to use this skill to serve as a capable spokesperson for the Oregon State Bar.

II. Reasons for Seeking the Position

First, I want to serve as the Oregon State Bar President-Elect for 2011, because our State's judicial system is at risk given the budget projections for the next biennium. I believe I have the experience and ability to lead the Oregon State Bar Board of Governors and assist Chief Justice DeMuniz as we work together to resolve the issues that will arise in these challenging times. The impact of potential budget cuts to our state judicial system must not be allowed to undermine Oregonians' access to the courts. The effective functioning of the legal system supports not only the well-being of individuals, but also businesses, corporations and organizations that play a vital role in contributing to the growth and development of our state. I believe my experience and connections throughout the legal community can be used to bring resources and support to the Oregon State Bar and the Chief Justice in this critical time.

Second, I have the background and ability to represent the entire Oregon State Bar, including those communities beyond Portland's boundaries. The Oregon State Bar must be equipped to respond to Oregon's economic and demographic diversity while working to develop and maintain a just, integrated legal system. Growing up in rural Minnesota, I was raised in a farm community, the son and grandson of farmers. My father served as the mayor of our small town – population 1,500 – and I appreciate the unique concerns of rural districts and the contribution they make to Oregon. One tool that can be used toward reaching this goal is to expand the use of Webinars and Videoconferencing to increase inclusion and dialogue across the state.

Third, I want to continue the efforts of prior state bar leaders who have worked to make the Oregon State Bar visible and accessible to its members and to the public. With continued advances in technology such as social media, we can further the goal of making our members feel like it is their Oregon State Bar. At the same time, the public increasingly relies on the internet to access information essential to their lives, and this provides our organization with an opportunity to present a positive, helpful profile of attorneys to the public for the benefit of our members. Although much of this technology is in its nascent stage, the Oregon State Bar Board of Governors will need to focus on how to best apply new methods of communication to meet the needs of our members. I have been exploring the benefits and responsibilities entailed in web communication since recently starting my own blog on class actions, www.stollberne.com/classactionsblog. Surprised by the number of people that are following my postings, I look forward to exploring how these tools can be used to engage the public and benefit our members.

III. My Vision for the Oregon State Bar

My vision for the Oregon State Bar has a lot to do with why I want to be President-Elect. As members of the Board of Governors, we all know that the Oregon State Bar is facing uncertainty regarding future financial issues. Risk of default by a major tenant, and making the budget balance in light of adding Barbooks as a member service are pressing concerns for the Board of Governors. I know the many capable members of the Board of Governors, and I hope to harness their intelligence, creativity and energy in tackling the challenges on the horizon. As

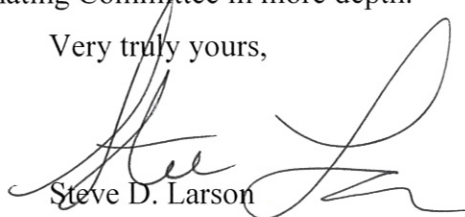
advocates for justice, Oregon's attorneys must realize that in weathering the recession, we must do more and not less. It is precisely in critical times like the present that the Oregon State Bar's leadership and assistance to its members is required to safeguard the effective functioning of the legal system.

More than simply maintaining the status quo, my vision is to expand access to justice. Serving on the Executive Board and the Advisory Board for the Campaign for Equal Justice for several years, plus the board of the Oregon Law Foundation, I understand the importance of legal aid programs. However, the need for access to justice is broader than securing funding for legal aid programs. The Oregon State Bar needs to continue to strive to make legal representation available to all Oregonians. Employing new tools, as mentioned above, to educate, increase transparency and visibility is one aspect of that expansion. Another important task is to energize and orient the current members of the Oregon State Bar, maximizing their ability to reach clients who need their expertise, matching each attorney's skills to the needs of the community.

Finally, my vision is to increase diversity in the bar. The Oregon State Bar must follow through on its revised mission statement regarding diversity. Among many ways in which diversity may be increased, one focal point is on racial and ethnic diversity. Frank Garcia was an excellent hire, and I think that with his guidance and the connections the members of the Board of Governors have with the various lawyers across the state, we can make progress in attracting and keeping lawyers of color in Oregon. My intent is to persist in the efforts to recruit, hire, and cultivate promising talent across the state in the hope that the Oregon State Bar may one day reflect the richness, diversity, and heritage of Oregon's residents.

Please do not hesitate to call if you have any questions. I look forward to the opportunity to discussing these issues with the Nominating Committee in more depth.

Very truly yours,



Steve D. Larson

SDL:dc

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: September 24, 2010
Memo Date: September 24, 2010
From: Barbara DiIaconi, Appointments Committee Chair
Re: Appointments for the Consent Agenda

Action Recommended

Approve the following Appointments Committee recommendations.

Council on Court Procedures

Recommendation: Jennifer Gates, term expires 8/31/2013

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 same difficult but
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 el said. "But I'm
 timistic."

England

Dictionary might stop printing paper edition

LONDON — It weighs in at more than 130 pounds, but the authoritative guide to the English language, the Oxford English Dictionary, may eventually slim down to nothing. Oxford University Press, the publisher, said Sunday so many people prefer to look up words using its online product that it's uncertain whether the 126-year-old dictionary's next edition will be printed on paper at all.

The digital version of the Oxford English Dictionary now gets 2 million hits a month from subscribers, who pay \$295 a year for the service in the U.S. In contrast, the current printed edition — a 20-volume, 750-pound (\$1,165) set published in 1989 — has sold about 30,000 sets in total.

It's just one more sign that the speed and ease of using Internet reference sites — and their ability to be quickly updated — are phasing out printed reference books.

Chile

Trapped miners find own rescue

Prunella didn't know what led to the shooting but said it was witnessed by Wallace's mother, who was visiting from Florida, and Tokuoka's wife and children.

The suspect, 45-year-old John Marvin Jr., barricaded himself in his home, and Alaska State Troopers and other law enforcement agencies were at the scene, authorities said.

There was no sign of a quick end to the standoff, Prunella said Sunday evening.

New York

Vaccination against salmonella urged

NEW YORK — Two state legislators want to require farmers in New York to vaccinate their chickens against salmonella.

Sen. Daniel Squadron and Assemblyman Brian Kavanagh announced their proposal Sunday in front of a supermarket in New York City. Their idea comes after a nationwide recall of hundreds of millions of eggs. None of the recalled eggs came from New York.

The legislators say vaccinations costing one penny per dozen eggs could nearly eliminate the



ARLSON | The Associated Press
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The Oxford English Dictionary Definitions of ‘Print’ And ‘Digital’

By Tim Carmody ✉ August 30, 2010 | 2:24 pm | Categories: Future Shock, Media, The Cloud

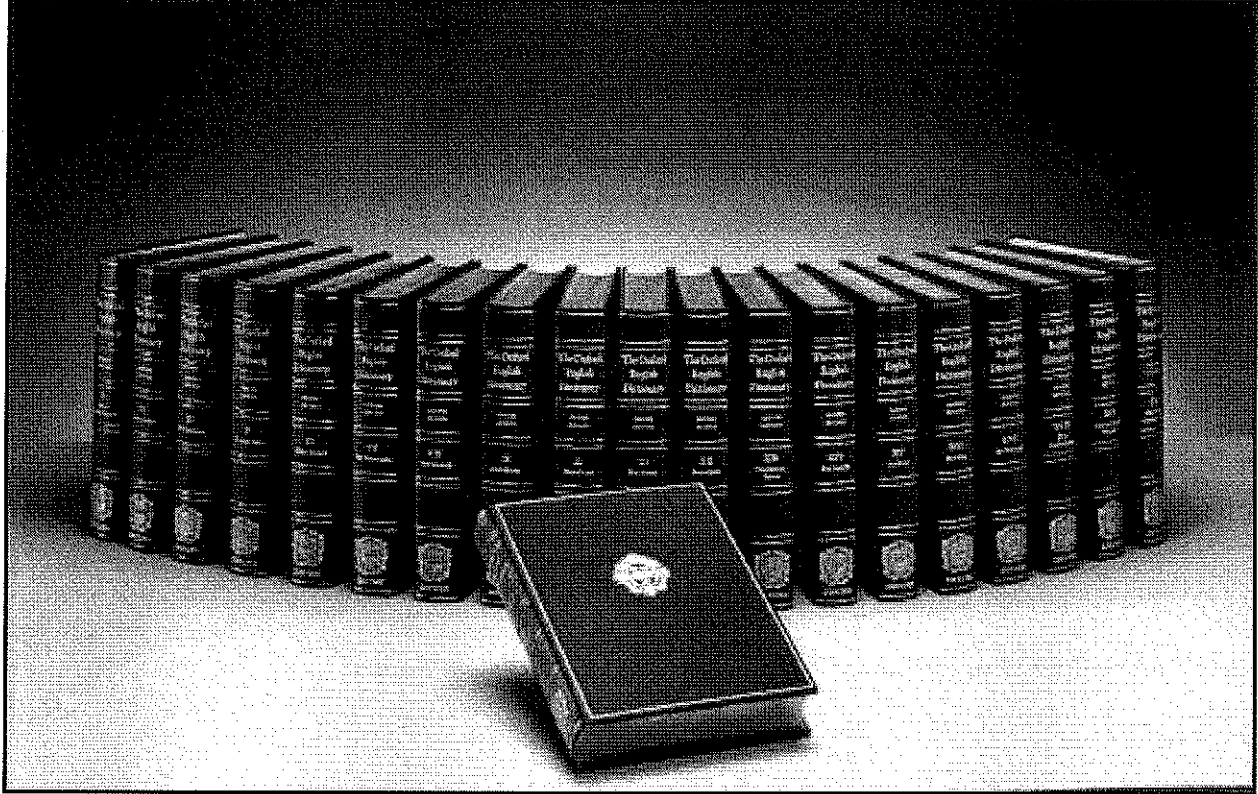


Image from Oxford University Press

The 20-volume Oxford English Dictionary is the bibliophile’s equivalent to the movie geek’s high-end home theater setup. It’s a mighty, totem-like symbol of mystical multiple-shelf-spanning lexicographic power. But when the third edition is completed sometime in the next decade or so, there might not be anything physical on the bookshelves to show off.

That’s at least what Nigel Portwood, chief executive of the Oxford University Press, [told the Sunday Times of London](#). “The print dictionary market is just disappearing, it is falling away by tens of per cent a year.” The Times asked if Portwood thought the third edition of the OED would be printed; “I don’t think so,” he replied, adding that he thought print dictionaries in general might vanish completely within 30 years.

On Monday, an OUP spokesman walked Portwood’s statement back, issuing a [statement to the Oxford Times](#):

No decision has yet been made on the format of the third edition. It’s likely to be more than a decade before the full edition is published and a decision on format will be taken at that point. Lexicographers are currently preparing the third edition of the OED, which is 28 per cent complete. No final completion date is yet confirmed...

Demand for online resources is growing but large numbers of people continue to buy dictionaries in printed form and we have no plans to stop publishing print dictionaries.

Now, while this statement is designed to slow down alarmed chatter that the print OED will soon be no more, it's also completely consistent with what Portwood told the Times. Oxford publishes many print dictionaries apart from the OED, such as the one-volume Oxford Dictionary of English, a two-volume Shorter Oxford English Dictionary, and even a microprinted Compact OED that ships with a reading glass, plus many others. They could continue to print any or all of these well into the future, even if the 3rd-edition of OED goes digital-only. Indeed, Oxford University Press already offers a basic free online dictionary and subscription version with extra features.

Nor is it possible to say precisely so many years out in which digital format(s) the full OED might appear, even if a print edition is published. The online version of the second edition has offered subscriptions for ten years, and does a brisk business appealing to both institutions and individuals. They're even relaunching the site this December, creating a new interface and incorporating material from the new Oxford Historical Thesaurus.

But just as few publishers ten years ago could have predicted today's mosaic of electronic publishing options, Oxford can't know with any certainty what format, print or digital, will be best suited for tomorrow's readers. You could be reading the OED on your ITB Kindle or sitting inside a virtual 3D holograph generated by your AwesomeBox MagicLantern, for all we know. So saying "no decision has yet been made on the format" means the *opposite* of "we will absolutely publish a print 3rd-edition OED."

If the OED does go digital-only, we could imagine a scenario in which the 2nd edition print volume becomes a still-used legacy reference set for institutions who don't want to upgrade, like Windows XP's been for desktops. It might even take on additional cachet, like a vintage record collection and analog stereo system. These are all good things. A new printed edition would be wonderful, too.

I think, though, that when subscribers see the new web version, already augmented by data that can't be found in the printed 2nd editions, they may not think that the OED's digital future looks bad at all.

Follow us for disruptive tech news: [Tim Carmody](#) and [Epicenter](#) on Twitter.