

February 22, 2013

Salishan Spa & Golf Resort
Gleneden Beach, Oregon

6.5 General MCLE Credits

GOVERNMENT LAW ISSUES ON THE CUTTING EDGE

Government Law Issues on the Cutting Edge

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Salishan | Gleneden Beach, Oregon

- 8:30 – 9:00** **Registration**
- 9:00 – 9:05** **Welcome by Bill Kabeiseman, 2013 Chair**
- 9:05 – 10:05** **Use of Force Presentation Police Response to Mental Health Crises and Excited Delirium—Practical Realities, Use of Force, USDOJ and Policy Trends**
David Woboril, Portland City Attorney's Office
Alex Gordon, Clackamas County Counsel's Office
- 10:05 – 10:15** **Morning Break**
- 10:15 – 11:00** **Government Caused Physical Damage to Private Property: Is it a Tort or is it a Taking? *David Hill Development, LLC v. City of Forest Grove*: Land Use and Due Process; What Does it Mean to "Be Fair" and Lessons Learned**
Terence Thatcher, Deputy City Attorney, City of Portland
Gerald "Jerry" Linder, General Counsel, Clean Water Services
- 11:00 – 12:00** **Government Attorneys and the Media: Perspectives and Issues**
Dan R. Olsen, Attorney, Former Washington County Counsel
Therese Bottomly, Managing Editor, The Oregonian
Duane A. Bosworth, Partner, Davis Wright Tremaine
Philip Bransford, Communications Officer, Washington County
- 12:00 – 12:10** **Break / Set-Up for Lunch Speaker**
- 12:10 – 1:00** **Hon. Thomas A. Balmer, Oregon Supreme Court**
- 1:00 – 1:45** **Advertising and Article 1, Section 8 a Reprise of *Karuk Tribe v. Trimet*, Municipal Control of Advertising—Can a Public Agency Make Content Based Distinctions in Advertising on Agency Property?**
Steve Wilker, Tonkon Torp
Keith Garza, Law Office of Keith Garza
- 1:45 – 3:00** **Public Sector Labor and Employment Law Update**
Darryl Garrettson, Attorney
Nathan Sykes, Office of Metro Attorney, Metro
Diana Moffat, Local Government Personnel Institute
- 3:00 – 3:15** **Afternoon Break**
- 3:15 – 4:45** **The Future of Urban Reserves: A Panel Discussion of the Metro Urban Reserves Case**
Jeff Condit, Miller Nash LLP
Mary Kyle McCurdy, 1000 Friends of Oregon
John Williams, Deputy Director of Planning and Development, Metro
Roger Alfred, Office of Metro Attorney, Metro
- 4:45** **Closing by Bill Kabeiseman, Adjourn**
- 5:00** **Hosted Social Hour**

Registration Form

Click here to register online.

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| Name | | |
| Phone | Bar No. | |
| Address | | |
| City | State | Zip |

REGISTRATION FEE

☐ \$ 120 Government Law Section members. \$_____

☐ \$ 135 Non-Government Law Section members \$_____

TOTAL: (SGOV13) (816-4565-000) \$_____

LUNCH ENTRÉE OPTIONS

☐ Salmon ☐ Flank Steak ☐ Tortellini (Vegetarian)

THREE WAYS TO REGISTER:

1. MAIL: Mail this form with your check made payable to the Oregon State Bar to:
Oregon State Bar, CLE Service Desk, P.O. Box 231935, Tigard, Oregon, 97281-1935.
2. REGISTER ONLINE: Go to the bar's online event registration site and register using your VISA or MasterCard: www.osbar.org/register
3. PHONE: To register with a credit card, call the CLE Service Desk at (503) 431-6413, or toll-free in Oregon at 1-800-452-8260, ext. 413.

Registration questions? Call the CLE Service Desk at (503) 431-6413, or toll-free in Oregon at 1-800-452-8260, ext. 413.

There are a limited number of conference rate rooms available at Salishan. For reservations, please contact Salishan at <http://www.salishan.com> or at 800-452-2300.

Hosted Social Hour: A hosted reception will immediately follow at Salishan in the Attic Room Lounge due to generous donations of the following law firms:

**Hawkins, Delafield & Wood • Bullard Law • Garvey Schubert Barer
Speer Hoyt • Beery Elsner & Hammond**

Scholarships: The Government Law Section is offering 5 scholarships. Scholarships will cover registration and lunch. Scholarships are available on a first come first served basis to attorneys only until February 4, 2013. Any remaining scholarships will then also be available to law students and non-attorneys. Preference will be given first to attorneys and second to law students. Please contact Sarah Hanson, at sarah.hanson@co.columbia.or.us to request a scholarship no later than Feb 11, 2013. Please provide your name, address, phone number and bar number. Scholarship confirmation will be sent by email.

Gerald Linder has served as General Counsel for Clean Water Services since 1996. Clean Water Services treats wastewater and manages stormwater for urban Washington County serving over 500,000 residents. Mr. Linder served as Chair of the Legal Committee for the Oregon Association of Clean Water Agencies for twelve years and recently completed a term as Board Chair. Prior to becoming General Counsel for Clean Water Services, Mr. Linder was in private practice for seven years. He was associated with the law firms of Kirkland & Ellis (Los Angeles office) and Stoel Rives in Portland, Oregon. Mr. Linder received his JD from Loyola Law School in Los Angeles (cum laude) and earned his BA in Business Administration from the University of Washington. Mr. Linder is admitted to practice in both Oregon and California.

Roger Alfred is a senior assistant attorney at Metro, where he advises the agency on land use and transportation issues. Prior to joining Metro, Roger spent 12 years in private practice with Perkins Coie and Davis Wright Tremaine, where his practice focused on land use and development. Roger has appeared before cities and counties across the state on land use matters and has frequently appeared before LUBA and the Oregon Court of Appeals. He graduated cum laude from Lewis and Clark Law School and is a former Assistant Attorney General for the State of Oregon, where he represented the Department of Land Conservation and Development and the Department of State Lands.

Terence Thatcher has represented the City of Portland as a Deputy City Attorney since 1990. His practice includes natural resource and environmental law and general litigation. Prior to joining the City, Thatcher worked as a plaintiffs' environmental litigator in Washington D.C. and Oregon and was part of a law firm in Seattle representing American Indian Tribes. Thatcher earned a BA from Pomona College in 1971 and JD from Yale Law School in 1977.

Nathan Sykes is a Senior Attorney in the Office of Metro Attorney located in Portland Oregon. Mr. Sykes represents the Metro Regional Government and the venues governed by the Metropolitan Exposition Recreation Commission on general contracting issues, labor and employment law, entertainment law and litigation matters. Mr. Sykes previously worked at Schwabe, Williamson & Wyatt in their Portland office and as an Attorney Advisor at the U.S. Department of Labor in San Francisco. He is a graduate of the University of Oregon School of Law. Mr. Sykes serves as the Secretary on the Executive Committee of the Labor and Employment Section of the Oregon State Bar.

John R. Williams is Deputy Director for Community Development in Metro's Planning and Development Department in Portland, Oregon. This work includes oversight of a spectrum of current and long range land use and transportation planning activities. He's recently completed work on an innovative effort to designate urban and rural reserves around the Portland metropolitan region, creating a 50-year blueprint for regional growth. The department's focus now is working with local jurisdictions, citizens and the private sector to spur development on the ground to fulfill regional desired outcomes and local aspirations. Prior to working at Metro, John served as Community Development & Planning Director for the City of Canby, OR. He has a B.S. in Geology from Tufts University, a Master's degree in Geological Science from the University of North Carolina – Chapel Hill, and a Master's Degree in Public Administration from Lewis & Clark College. John grew up in Brooklyn, New York.

Alex Gordon is a 1982 graduate of the University of Virginia School of Law and has been a member of the Oregon State Bar since 1982. He has appeared in state and federal trial courts in Oregon, Washington and Georgia, as well as having appeared before the 11th Circuit Court of Appeals and the state appellate courts of Oregon and Georgia. Mr. Gordon served as a trial lawyer in the Multnomah County District

Attorney's Office for twelve years. While with the Multnomah County District Attorney's Office Mr. Gordon developed particular expertise in the areas of Oregon and federal search and seizure law, as well as the Oregon Evidence Code. He has also worked as a staff attorney for The St. Paul Fire & Marine Insurance Company, as well as working in private practice. As a staff attorney for The St. Paul Fire & Marine Insurance Company his responsibilities included the defense of claims brought under 42 USC 1983. Mr. Gordon joined the Office of the Clackamas County Counsel in 2011. As a trial attorney with the Office of the Clackamas County Counsel a significant portion of Mr. Gordon's work involves the defense of claims brought under 42 USC 1983. Mr. Gordon has served as an instructor in trial advocacy at the University of Virginia's annual Trial Advocacy College for over twenty years.

Steven Wilkers An AV-rated litigator, Steven has been selected for inclusion in The Best Lawyers in America® 2013 for Litigation - First Amendment and Commercial Litigation. He is a member of the firm's Intellectual Property Practice Group and Financial Services Practice Group. He handles complex litigation in trial and appellate courts and in arbitration, and advises on transactional matters as well. Steven's extensive experience in intellectual property matters includes representing former employers, departing employees, and new employers in trade secret litigation and advocating for both plaintiffs and defendants in trademark, copyright and patent litigation. As an advisor to media, publishing and communications clients, such as KOIN-TV and East Oregonian Publishing Co., Steven addresses issues such as applicability of media shield laws, reporters' privileges, prior restraints on publication, defamation, invasion of privacy, newsgathering methods, licensing, and copyright. Steven an active member of the Executive Committee of the Boards of the ACLU of Oregon and ACLU Foundation of Oregon, and chair of the ACLU Foundation of Oregon's Lawyers Committee.

Philip Bransford is the communications officer for the County Administrative Office at Washington County, Oregon. Philip has served in that role for the last eight years with duties including supporting the communication needs of County Administration and the five-member Board of Commissioners, serving as a lead media contact, coordinating communications and marketing efforts of the various county departments and liaising with the county's citizen involvement program. Prior to working at Washington County, Philip was the first communications officer for the Association of Oregon Counties. Prior to his work with AOC, Philip was the communications director for the Oregon University System. Philip also served as a communications associate with the Urban Institute, a nonpartisan policy research center based in Washington, D.C. Before that, he was an associate producer with KQED-FM, the most-listened-to public radio station in the San Francisco Bay Area. Bransford earned his master's degree in public administration in 1995 from The George Washington University in Washington, D.C. He earned his bachelor's degree in 1989 from The Evergreen State College in Olympia, Washington.

Mary Kyle McCurdy is the Policy Director and senior staff attorney with 1000 Friends of Oregon, where she directs the organization's Urban Program. She has been with the organization since 1990. Mary Kyle has participated in the development and implementation of land use, transportation, and housing policies in the Portland metropolitan region and statewide. Her current focus is on climate change and reducing greenhouse gas emissions from the transportation sector. Mary Kyle received her undergraduate degree in Human Biology from Stanford University and her law degree from the University of California at Davis. She clerked for Ninth Circuit Court of Appeals Judge Edward Leavy and was in private practice, specializing in environmental and land use law, prior to joining 1000 Friends.

Diana Moffat is the Executive Director of the Local Government Personnel Institute. She also serves as one of LGPI's Labor Relations Consultants and as a Labor Lawyer. She has bargained over 150 collective bargaining agreements, which included drafting proposals, researching comparative wages and benefits, assessing legal ramifications of particular language, presenting all proposals and justifications at the bargaining table as chief spokesperson and assessing counter-proposals. Diana has represented numerous employers in the mandatory mediation process. In addition, she has presented cases to Interest Arbitration when a collective bargaining agreement could not be reached. Diana has been involved in countless disciplinary proceedings, consisting of assessment of the facts, providing representation at investigative interviews, representation at Loudermill (pre-disciplinary) hearings, presentation of legal analysis prior to decision on arbitration, negotiating voluntary employment severance alternatives and presentation of the cases to arbitration. In addition, she has handled hundreds of contract interpretation issues. Ms. Moffat has presented cases to the Employment Relations Board in the form of Unfair Labor Practices and Unit Clarification matters. She is versed in Oregon Labor law, ERB rules and regulations, FMLA, FLSA, OFLA, PECBA and Oregon Statutory and case law. She has been exposed to a wide array of employment situations involving issues of overtime pay, light duty provisions, medical determinations, seniority, annual evaluations, vacation scheduling, medical insurance coverage and sexual harassment, just to name a few.

Keith M. Garza. B.S. Arizona State University (1989); J.D. University of Chicago (1992); Oregon State Bar member since 1994; private practitioner in Oak Grove, Oregon.

Jeff Condit is a partner at Miller Nash LLP in Portland. Before joining the firm in 1998, he served as City Attorney for Lake Oswego and County Counsel in Benton County. Jeff's practice focuses on government, education, and administrative law and land use planning for public- and private-sector clients. He enjoys assisting private clients in navigating the often complex public and administrative processes relating to operating a business or use of property. He also enjoys working with public-sector clients to help achieve their important civic and educational goals. He likes to work as part of the client's team, with a focus on problem-solving. Areas of Jeff's work include state and local governance, K-12 and higher education law, government entities, public finance, public records and meetings, revenue and taxation, public contracting, utility franchising, land use planning, including energy facility siting, and election law. Jeff is licensed to practice in Oregon and Washington. Jeff has been designated as a Best Lawyer since 2007 and named by Best Lawyers as Lawyer of the Year in 2012 for municipal litigation.

Darryl Garrettson BS Portland State University, Portland Oregon – 1973; JD Northwestern School of Law, Lewis and Clark College, Portland, Or – 1976; Member of Oregon and Washington Bar Associations. Experience: 1977 Assistant County Counsel/Deputy District Attorney – Yamhill County, promoted to County Counsel 1979-responsible for negotiating labor contracts and arbitrating labor disputes. 1986 Chief Litigation Assistant County Attorney – Marion County – responsible for litigation against the County. 1992 Associate attorney Aitchison, Hoag, Vick and Tarantino – Portland – representing public safety labor organizations. Became partner in 1993. Presently of counsel to Fenrich and Gallagher. Mr Garrettson currently represents numerous police and parole and probation and public employees associations across the state. He has been the advocate in over 20 interest arbitrations and been chief negotiator in over 100 collective bargaining agreements as well as serving as an adjunct professor at Linfield College teaching courses in Labor Law and Collective Bargaining.

Therese Bottomly is a managing editor at The Oregonian. She is responsible for enterprise and watchdog reporting, the public editor desk, seven features sections and daily operations, including the front page. She is the legal affairs liaison for the paper, handling retraction demands, subpoenas and prepublication review, as well as public records and open meetings issues. For the past several years, she has worked with reporters and editors to open government records to the public. She is a board member of Open Oregon, a nonprofit organization dedicated to promoting public access to government meetings and records. As part of that work, she helped develop a website and publications in order to help smaller newspapers and working journalists across the state. She also is on the board of the Oregon Newspaper Publishers Association, serving on its legislative committee. She outgoing chair of the Oregon Bar-Press-Broadcasters Council, a group that works to resolve conflicts between the media and the bar.

Dan R. Olsen, Attorney at Law. Willamette College of Law. Served as Washington County Counsel until retirement in 2011 after which served as interim Lane County Counsel. Currently has a solo practice representing Oregon local governments. www.oregongovernmentlaw.com.

Duane Bosworth is the chair of the Media Law practice group in the Portland office of Davis Wright Tremaine. He represents newspapers and radio and television stations around the state. Mr. Bosworth is a past chair of the Bar Press Broadcasters Council of the state Bar and a convener of and participant in the Bar's annual "Building the Culture" events, bringing together the press; judges; district attorneys; law enforcement; and government, civil, and criminal defense attorneys; and the Bar's "road shows", sponsoring media discussions around the state. He is a frequent lecturer on public records and public meetings and a longtime board member of Open Oregon.

David Woboril has worked for the Portland City Attorney since 1989 as a tort litigator and, since 1996, as the legal advisor to the Portland Police Bureau on matters of operational policy and practice. Mr. Woboril helped represent Portland during the recent United States Department of Justice use of force investigation and negotiation of the resulting settlement agreement. Mr. Woboril continues to work with USDOJ on implementation of the agreement.

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