Comments, Followers and Friends

Government Social Media Accounts, Public Forums and the First Amendment

Also inside:
Divorce Cases and the Perils of Oversharing
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For decades, McKinley Irvin has helped clients navigate through some of life’s most difficult challenges. Our attorneys, like prominent family law attorney Jeff Matthews, are known for their relentless pursuit of successful results, whether representing individuals in financially complex divorce or high conflict parenting disputes. But perhaps our most noted distinction is our steadfast commitment to protecting what our clients value most.
Public officials find themselves in constant flux when it comes to social media. Understanding the ever-changing landscape of this form of communication is critical for anyone in public office, as Randy Geller and Aaron Landau report on Page 19. And while we’re on the topic, your clients also need to realize the consequences of their social-media actions. Learn more about how oversharing can derail divorce cases in our Legal Practice Tips column on Page 36.
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By Gary M. Stein

This time, it all played out on social media, where everyone — including the couple’s children, their restaurant’s customers and even absolute strangers — could watch. Facebook turned an intensely personal moment once shared only with family and close friends into a public event. An emotional car wreck, if you will, and it was difficult to turn away.

“Missteps can be magnified when people are going through a divorce — one of the most emotional and stressful periods of their lives,” Sharon D. Nelson, John W. Simek and Michael C. Maschke write in their story “Perils of Oversharing,” which you’ll find on Page 36 of this month’s Bulletin. “Throw into the mix a soon-to-be ex-spouse, custody battles and maybe the involvement of third-party lovers, and you have the ingredients for an explosion that you will not want to sort out before a judge.”

Technology — especially the use of social media and text messaging — only makes it worse, the authors say, because it can be a goldmine of information for opposing attorneys during a divorce. Angry outbursts are bad enough, but even innocent posts can suddenly become evidence of adultery, hidden assets and more.

“Common sense is often a casualty of the divorce process,” Nelson, Simek and Maschke say, so the best technological advice a divorce lawyer can give a client is simple: Stop using your social media accounts now. Put the phone down and walk away.

That’s what we told our angry friend years ago, and I think she came to understand that social media has blurred the line between public and personal. Long-accepted boundaries have disappeared, and we now announce marital troubles as quickly as we share photos of our latest meal.

Maybe that’s a good thing. But Nelson, Simek and Maschke would argue that when emotional and financial well-being is on the line and the world has watched the drama unfold, the consequences can be devastating.

Unless, of course, you find some way to get past the anger and decide not to divorce. Which is what our friends did — a decision, needless to say, that they announced on Facebook.

Reach Editor Gary M. Stein at (503) 431-6391 or by email at gstein@osbar.org.
We’re always thinking about real estate.

Call us single-minded, but at Olsen Barton we look at just about everything through the lens of real estate law. There’s a lot to consider in any real estate transaction and if you’re not covered from a legal standpoint, things can go south quickly. That’s where we come in. Our years of experience have made Olsen Barton a go-to law firm within Oregon’s real estate community, handling matters big and small for a wide array of clients. If you’re looking for a real estate attorney, call us. We’ll show you how laser-focused our team can be.
State Increases Liability Limits for Public Bodies

Oregon’s Office of the State Court Administrator (OSCA) has increased the limits of liability for state and local public bodies in cases involving personal injury or death and property damage or destruction.

OSCA adjusts the limits annually, as required by statute. The new amounts took effect on July 1; they apply to all causes of action arising on or after July 1, 2019, and before July 1, 2020.

Based on OSCA’s calculations, the new limits are:

- $2,247,000 for injury or death claims against a state body that involve a single claimant. The old limit was $2,181,600;
- $614,300 for property damage or destruction claims against a state or local body that involve multiple claimants. The old limit was $596,400.

A list of past and current limitations on liability of public bodies can be found on the Oregon Judicial Department website at courts.oregon.gov/Pages/tort.aspx.

Garvey Schubert Barer, Foster Pepper to Merge

Two mid-size law firms based in the Pacific Northwest — Foster Pepper and Garvey Schubert Barer — have announced that they will merge on Sept. 1 to form a new firm called Foster Garvey, with 180 attorneys in six offices in Seattle, Spokane, Portland, New York, Washington, D.C., and Beijing.

The combined firm will be among the region’s largest and would rank 230th on Law360’s current survey of the 400 largest U.S. firms based on headcount.

The firms’ partners voted to approve the merger on June 14. Greg Duff, firm chair and principal of Garvey Schubert Barer, and Steve DiJulio, managing partner of Foster Pepper, will serve as co-chairs of Foster Garvey.

OWLS Dress for Success Fashion Show Planned

Members of Portland’s legal community will model the latest chic attire from local clothiers at the annual OWLS Fashion Show, a family-friendly event scheduled from 4-7 p.m. on Thursday, Aug. 1, at the Multnomah Athletic Club (1849 S.W. Salmon St., Portland).

Purchase tickets ($20) for the event, a benefit for Dress for Success Oregon, at tinyurl.com/2019DressForSuccess.

Picnic at Judge Leavy’s Farm Set for Aug. 4

The U.S. District Court of Oregon Historical Society will hold its annual summer picnic from 1-4 p.m. on Sunday, Aug. 4, at Judge Edward Leavy’s family hop farm.

This year’s picnic will honor the Oregon Supreme Court at a time when women justices form the majority on the court. For details and directions to the free event, RSVP by July 29 at usdchs.org/2019-annual-picnic.

By the Numbers

Well-Being Worries for Law Students

Fifteen law schools and more than 3,300 law students across the country participated in the American Bar Association’s Survey of Law Student Well-Being, which sought to examine alcohol, drug and mental health issues among the next generation of lawyers. Among the law students surveyed:

43%

Reported binge drinking at least once in the prior two weeks. Nearly one-quarter (22 percent) reported binge-drinking two or more times during that period. More than half of respondents reported drinking enough to get drunk at least once in the prior 30 days.

17%

Experienced some level of depression. In addition, 14 percent experienced severe anxiety, 23 percent had mild or moderate anxiety and 6 percent reported serious suicidal thoughts in the past year.

14%

Reported use of some prescription drug without a prescription in the prior 12 months. Use of marijuana and cocaine appears to have increased since a 1991 survey.

This fall, the Bulletin will devote an entire issue to the topic of lawyer well-being. If you need help now, reach out to the Oregon Attorney Assistance Program at (503) 226-1057 or (800) 321-6227, or visit www.oaap.org.

Continued on next page
Quotable

“I think students walk away with a much stronger appreciation of the challenges people who are dealing with addiction face from employment, staying clean and sober, getting treatment, housing. I think they are surprised how the judges are often not finding someone guilty or innocent, but trying to help with the power that the law gives them.”

— Lakeridge Middle School teacher David Finkelman, whose eighth-grade students attended a session of Multnomah County’s STOP (Sanctions Treatment Opportunities Progress) Court during a trip organized by the Classroom Law Project.

Source: Lake Oswego Review (May 23, 2019)

Rock Out at ‘Battle of Lawyer Bands’

Bands comprised of at least one Oregon lawyer will compete for the title of “Best Oregon Lawyer Band 2019” on Tuesday, July 25, when the Multnomah Bar Association hosts the 2019 Battle of the Lawyer Bands.

The event, a fundraiser for Multnomah CourtCare, will be held from 7-9 p.m. at the Kennedy School (5736 N.E. 33rd Ave., Portland). Judges from the legal community will decide the winner at the end of all the performances; crowd applause and interaction will be one of the criteria, and an Audience Choice prize will also be awarded.

The suggested donation to attend is $10. For more information, visit tinyurl.com/BattleOfLawyerBands.

“I have no need for asset protection planning because the only assets I am interested in acquiring are the ones that I immediately eat.”
New Position Guides the OSB’s Disciplinary Board

The Adjudicator’s First Year

I have met the current Presiding Disciplinary Judges from each state, and they have reported that the implementation of this system has been successful in both jurisdictions.

A Range of Responsibilities

From the perspective of the average Oregon lawyer, the biggest change to our process is that the Adjudicator now chairs every trial panel unless successfully challenged for cause. The Adjudicator helps decide these cases jointly with an attorney member and a public member of the Disciplinary Board who are from the same region as the respondent lawyer (formerly referred to as the “accused”).

The Disciplinary Board members serve as volunteers. The Adjudicator makes all pretrial rulings, presides over the trial and authors all trial panel opinions when voting with the majority.

This last change, having the Adjudicator author all trial panel opinions when in the majority, may be the one that affects members of the Disciplinary Board the most.

Prior to the new system, the chair of the trial panel was one of the volunteer lawyers. This meant that a volunteer lawyer was responsible for drafting the trial panel opinion, which could be lengthy and complicated, while maintaining a legal practice and fulfilling client responsibilities.

From my experience so far, having to prepare a trial panel opinion could present a weighty challenge to a volunteer lawyer who is also practicing law full time. Assigning the responsibility to the Adjudicator should make serving on the Disciplinary Board less burdensome.

Under the prior system, opinions were sometimes delayed due to the press of other business. Having the Adjudicator author opinions is expected to result in timely completion of trial panel opinions without the need for extensions of time.

The OSB Rules of Procedure (Rules of Procedure or BR) require the opinion to be issued within 28 days of completion of the trial process, which usually means when the transcript is settled. My goal is to issue every opinion within the time allowed.

The Adjudicator also chairs appointed trial panels in reciprocal discipline proceedings (BR 3.5), in probation revocation hearings (BR 6.2) and in cases where the respondent lawyer has been defaulted (BR 5.8). These proceedings all result in a written trial panel opinion as well.

The Adjudicator now presides individually over interlocutory suspensions when a lawyer’s continued practice pending trial presents an immediate danger to the public (BR 3.1) and where interlocutory suspension is sought based on a lawyer’s conviction for certain crimes (BR...
At present, the Rules of Procedure leave proceedings to place a lawyer on involuntary inactive status based on mental incompetency or addiction (BR 3.2) in the hands of the Supreme Court, but a proposed amendment to the Rules of Procedure, allowing the Supreme Court to delegate that task to the Adjudicator, is under consideration.

The Adjudicator approves all stipulations for discipline involving a six-month suspension or lesser sanction and orders suspensions upon application of Disciplinary Counsel under BR 7.1 when an attorney fails to respond to requests for information or refuses to cooperate with a bar investigation.

First-Year Findings

Here is how the first year of the new system looks statistically:

There were 54 formal complaints filed in 2018. Five of these were disposed of by an order of default, and the Adjudicator issued written opinions. Two proceedings for interlocutory suspensions were filed under BR 3.1. Both were resolved by stipulation to the suspensions without the need for a hearing.

Two petitions for reciprocal discipline were filed that were resolved prior to appointment of a trial panel, one because the respondent failed to answer the petition and one by stipulation. A third petition was filed seeking reciprocal discipline based upon the Oregon lawyer being “stricken from the roll” in New Zealand, the equivalent of disbarment here. This case was tried in January of this year and the petition, seeking disbarment of the Oregon lawyer, was granted. That decision has been appealed to the Supreme Court.

Disciplinary Counsel filed 22 petitions for suspension pursuant to BR 7.1. The Adjudicator granted 20 of these. The remaining two were withdrawn when the responding lawyers complied with their obligations.

The Adjudicator approved 30 stipulations for discipline. Eight of these settled after being set for trial. Four complaints were voluntarily dismissed by the bar.

The Adjudicator presided over three trials in 2018. The first ended in default based upon the respondent’s failure to appear on the second day of trial. The trial panel decision was to disbar the lawyer. The case is currently on appeal before the Oregon Supreme Court.

The other two trials were held in December and the decisions were issued in early 2019. In both matters, the trial panel voted to dismiss the charges.

In one, which involved charges of unauthorized practice of law against an attorney admitted in other states who practiced in Oregon while his application for reciprocal admission was pending, the public member dissented from the majority decision and found that the charges were proved. That case has been appealed by the bar.

In the other, which involved allegations of dishonest conduct relating to alterations made by the respondent to standard employment forms, the dismissal of the charges became final without an appeal by the bar.

To date in 2019, we have held the hearing on the New Zealand reciprocal discipline case and a trial in early April that is still open pending submission of written closing arguments. Four opinions have been issued in default cases. Other cases set for trial have been settled with stipulations for discipline or have been postponed.

A single BR 3.1 petition (interlocutory suspension during pendency of disciplinary proceedings) was set for hearing in April as well, but when the respondent filed an interlocutory appeal of an order denying a motion to dismiss the petition, the Supreme Court granted the respondent’s request for an emergency stay.

Effective Changes

Based on my experience since my appointment, I believe the changes to the system have been effective.

Pretrial matters are decided in a timely fashion. We have kept pending cases moving forward within the timelines set forth in the Rules of Procedure, except for the rare situations where strict adherence to the timelines would result in prejudice to a party. Opinions have been issued on time as well.

The biggest reason for success so far has been the stellar work of the Disciplinary Board Clerk, whose job is much harder than mine. I am truly grateful for the efforts of Cassandra Dyke during 2018, and of her successor this year, Jerri Shay.

My goal from the outset has been to manage the disciplinary process as efficiently as possible while never forgetting that fairness and due process take precedence. Every respondent lawyer is entitled to their day in court. I want respondent attorneys to be able to present their best defense under the Oregon Rules of Professional Conduct and Rules of Procedure.

If, at the end of the day, even parties dissatisfied with the results agree that they were treated fairly and respectfully, I will have done my job.

Mark A. Turner is the Adjudicator for the Oregon State Bar’s Disciplinary Board. Reach him at m.turner@osbar.org.

Endnotes

1. A helpful summary of those changes is found in the Bar Counsel column from the November 2017 issue of the Bulletin.
2. The parties in disciplinary proceedings each have a single peremptory challenge to the proposed attorney and public members of a trial panel. They may also challenge these panel members for cause. The Adjudicator may only be challenged for cause.
3. I can ask for an extension of time of up to 90 days to finish an opinion by making a request to the Adjudicator. I expect that if I ever ask for one it will be granted.

Submitting Letters

The Bulletin welcomes letters. They should be limited to 250 words. Preference is given to letters responding to letters to the editor, articles or columns recently published in the Bulletin.

Letters must be original and addressed to the Bulletin editor.Unsigned or anonymous letters will not be published. (There are exceptions. Inquire with the editor.) Letters may not promote individual products, services or political candidates.

Letters may be edited for grammatical errors, style or length, or in cases where language or information is deemed unsuitable or inappropriate for publication. Profane or obscene language is not accepted.

Send letters to: Editor, OSB Bulletin, P.O. Box 231935, Tigard, OR 97281. Or you may email them to editor@osbar.org.
Lists are common in the documents that lawyers draft. Contracts in particular contain lists of things like conditions, exceptions and examples, though the concepts below would apply beyond contract drafting. Sometimes, the twists and turns in a document are long enough and confusing enough that drafters should break them out into tabulated lists.

Did you know that there’s a right way to do that?

Provisos

Contract drafters try to contemplate every eventuality and draft each one into their contracts. The result can be a whole lot of long and winding lists and provisos. A proviso is a phrase or statement that is often indicated by the phrase provided that or provided, however. As Bryan Garner writes in Legal Writing in Plain English, the phrase provided that creates several problems. One problem is that the term can carry multiple meanings: It can mean and, it can create an exception, and it can create a condition subsequent. That ambiguity can be dangerous in drafting.

When a proviso could create ambiguity, sometimes the solution is as simple as swapping out provided that for a clearer word, like but or if. In the example below, the first provided that creates an exception, and the second creates a condition subsequent. Using clearer language for each would help distinguish them.

Original:

The violation by Borrower of any covenant set forth in Article V hereof that is not cured (to the extent capable of being cured) within ten (10) days of written notice thereof from Lender shall be an Event of Default; provided, however, that if such Default cannot be cured within such ten (10) day period, such cure period shall be extended for an additional sixty (60) days, provided that Borrower is diligently and in good faith pursuing said cure to completion.

Revision:

The violation by Borrower of any covenant set forth in Article V hereof that is not cured (to the extent capable of being cured) within ten (10) days of written notice thereof from Lender shall be an Event of Default. However, if the Default cannot be cured within the ten (10) day period, the cure period will be extended for an additional sixty (60) days, but only as long as Borrower is diligently and in good faith pursuing cure to completion.

A second problem with provided that phrases is that they often yield long, complex sentences. Those are harder for readers to track. And more troubling for lawyers, a poorly drafted proviso can modify unintended portions of the provision because they tend to reach back through the sentence. They can also disrupt the flow going forward, such that the drafter’s intent is lost.

I recall working on a provision in a loan document that became so convoluted with exceptions and conditions that I had to chart it out to make sure it worked. It did, and a patient reader could puzzle through it, but it didn’t have to be that way. Even if lawyers can squeeze more in with well-placed commas and semicolons, a new sentence might do the trick better.

In these cases, where the proviso has become quite complex, a very long sentence can often be broken down into subparagraphs. In the revised version below, you’ll see the relationship between ideas is much clearer, and the sentences are each a more readable length. For the sake of the reader, I’ve selected a relatively short example:

Original:

The Borrower shall not expend for Capital Expenditures during any fiscal year an amount in excess of $40,000,000; provided, however, that (i) any shortfall during any fiscal year may be added and carried over to the amount of Capital Expenditures permitted under this Section for the immediately succeeding fiscal year only and (ii) to the extent that the maximum amount of Capital Expenditures permitted under this Section 6.11 has been utilized for any fiscal year (including, without limitation, any carryover), not more than $10,000,000 of Capital Expenditures availability in the immediately succeeding fiscal year may be utilized.
solely in the last fiscal quarter of the then current fiscal year.

Revision:
The Borrower will not expend for Capital Expenditures during any fiscal year an amount in excess of $40,000,000, with the following exceptions:

(i) any shortfall during any fiscal year may be added and carried over to the amount of Capital Expenditures permitted under this section for the immediately succeeding fiscal year only, and

(ii) to the extent that the maximum amount of Capital Expenditures permitted under this section has been utilized for any fiscal year (including, without limitation, any carryover), not more than $10,000,000 of Capital Expenditures availability in the immediately succeeding fiscal year may be utilized solely in the last fiscal quarter of the then current fiscal year.

The revised version is easier to process than the first. One very long block of text has been converted to three shorter blocks, and the relationship among and consequences of the provision’s subparts are clearer. Below, this article will delve deeper into formatting tabulated lists like the one in the revision.

One final observation about provisos is that some drafters inadvertently create incomplete sentences with them. A sentence that begins with provided that is an introductory clause. As an introductory clause, it sets the scene for a main subject and verb that will follow in another clause. It’s the opening act of a sentence. Thus, the introductory provided that clause can be part of a complete sentence, but only if it is followed by an independent clause. Without the independent clause, it’s a mere sentence fragment.

Note the difference in the following examples:

Example 1: Provided that Landlord receives the Termination Notice by December 1, 2020.

Example 2: Provided that Lender receives the Termination Notice
by December 1, 2020, Landlord shall release Tenant of its obligations under the Lease.

In that first example, the action described sets the scene for what the landlord will be required to do, but it is a sentence fragment. It is no different than an introductory clause that says, “after we have dinner,” or “once I win a million dollars.” They all await the real action in the independent clauses that follow.

**Tabulated Lists**

Sometimes related items should be set forth in an indented, tabulated list, as they were in one of the revised examples above. Tabulating makes sense when two or more items are related and are connected by an *and* or *or*.

Sometimes separating those items out can make them easier to read. That becomes even more helpful when a list is quite long. Tina Stark, a contract drafting expert, abides by the three-line rule: when a list in a sentence exceeds three lines of text, tabulation will likely aid the reader.¹

Whether the list is short or long, setting items off in a new format can be a more effective way to draw attention to the items than tossing them into one long block of text. When setting off items in a list, remember the following rules about structure and format.

**Sentence Format**

One format for creating a tabulated list is the sentence format. In this format, the introductory text and each item on the list create complete, coherent sentences. You can check for coherence by reading the introductory text and the item together. If they sound incoherent, adjust.

**Example 1 — a coherent list**
The Tenant may terminate this Lease so long as Tenant delivers to Landlord

(a) a written notice no fewer than 12 months in advance of the Early Termination Date, and
(b) an early termination fee.

**Example 2 — an incoherent list**
The Tenant may terminate this Lease so long as Tenant delivers to Landlord

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(a) a written notice no fewer than 12 months in advance of the Early Termination Date, and
(b) Tenant must pay an early termination fee.

In Example 1, you could read the introductory text plus part (a) and it would be a complete sentence without adding or removing words. Likewise, you could read the introductory text plus part (b), and it would be a complete sentence. Example 2 is incoherent because the introductory text combined with part (b) yields nonsense.

In this format, each item in the list should begin with a lower-case letter. Think of each item as the middle of a sentence, not the beginning.

To punctuate these lists, think of how each piece would be punctuated if it were a standalone sentence. The introductory text needs a comma at the end only if it would have a comma in a sentence. Note that the introductory text in Example 1 above has no comma because it would not have a comma if it were adjoined with (a) or (b) into a single sentence (i.e., one would write, “so long as Tenant delivers to Landlord a written notice…” but not “so long as Tenant delivers to Landlord, a written notice…”)

All but the last item in the list should end with a comma or semicolon. Either one can work, but the writer must be consistent. End the penultimate item with a comma or semicolon, followed by an and or or as appropriate. The final item should end with a period.

Sometimes a list has concluding text that forms part of the sentence. If concluding text follows the list, it should be part of that coherent sentence. To test for coherence, read the introductory text, an item and the final text that follows the list. Do that for each list item. They should all form coherent sentences. And if including concluding text, omit the final period on the last item.

See the example below:
If the Landlord has received
(a) Tenant’s Termination Notice at least 30 days prior to the Early Termination Date, and
(b) a Termination Fee from Tenant, then Landlord shall permit Tenant...
to terminate the Lease before the Termination Date.

These provisions that include introductory text and concluding text are often more confusing than they have to be. The reader feels almost as though she’s holding her breath between the first half of the sentence and the end. Where possible, try to rewrite the provision to avoid concluding text.

List Format

The list format is an alternative to the sentence format. In list format, the introductory text and the components do not form coherent sentences. A list format usually begins with introductory text that uses the phrase the following or some similar iteration of the word follow. That introductory sentence must be an independent clause, followed by a colon.

The list format can then proceed in two ways. One method is to begin each item with a capital letter and punctuate each item with a period. A second method is to begin each item with a lower-case letter and end each item with a comma or semicolon. If using the second method, the penultimate item should end with the comma or semicolon, followed by an and or or as appropriate. The final item should end with a period.

Examples of both methods are below.

Example 1:
A force majeure event includes the following events, without limitation:
(a) An act of nature.
(b) War, hostilities, invasion, act of foreign enemies, requisition, or embargo.
(c) Contamination by radio-activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel.
(d) Riot, commotion, strikes, go slows, locks outs, or disorder.

Example 2:
A force majeure event includes the following events, without limitation:
(e) an act of nature;
(f) war, hostilities, invasion, act of foreign enemies, requisition, or embargo;
(g) contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or

(h) riot, commotion, strikes, go slow, locks outs, or disorder.

Either way is appropriate, but a writer should choose one and stick with it. Unless it will affect the meaning, a document’s lists should be capitalized and punctuated consistently throughout.

Parallel Structure

Whether using sentence format or list format, every item in a list has to be parallel. Whether listing three items or 100, check each component to ensure it is parallel in form and grammar to its co-parts. I see parallelism issues frequently in contract drafting and when writers draft a rule with multiple elements or factors.

First, parallelism requires that a list’s subparts are consistent in structure. That is, if one part of the list is a phrase, then every part should be a phrase; if one part of the list is a sentence, then every part of the list should be a sentence. The example below lacks parallelism because it pairs a phrase (a) with a clause (b):

A shopkeeper may be immune from a claim of false imprisonment if the shopkeeper:

(a) has probable cause to believe the person is shoplifting; and

(b) the detention is reasonable.

Read all together without tabulation, this would have been an appropriate sentence. But as a tabulated list, this is not grammatically parallel. (Note, it’s also incoherent under the sentence format.) This can be remedied by making both subparts clauses that begin with a verb in a consistent tense:

A shopkeeper may be immune from a claim of false imprisonment if the shopkeeper:

(a) has probable cause to believe the person is shoplifting; and

(b) detains the person reasonably.

Not only must the items in a list be consistent in content, they must be grammatically parallel. Note the parallelism issue with the following example:
“Permitted Investments” means money market funds that
(a) comply with the criteria set forth in SEC Rule 2a-7 under the Investment Company Act of 1940,
(b) are rated AAA by S&P, and
(c) portfolio assets that total at least $5,000,000,000.

Do you see it? This lacks parallelism because subparts (a) and (b) start with verbs, but subpart (c) starts with a noun. Adding a verb into (c) that is consistent in tense with the other items on the list fixes the problem.

“Permitted Investments” means money market funds that
(a) comply with the criteria set forth in SEC Rule 2a-7 under the Investment Company Act of 1940,
(b) are rated AAA by S&P, and
(c) have portfolio assets of at least $5,000,000,000.

Although these examples are all tabulated lists, the same parallelism required of an untabulated sentence that contains a list. That is, writers must be aware of parallelism issues whether they’re drafting a contract or writing an essay. Sometimes these issues are easiest to spot when reading aloud. What looks OK on paper to tired eyes may stand out in speech.

Subject and Verb Placement
When possible, keep the main subject and verb together at the beginning of the sentence, and then branch out from there.

Contrast the following two examples. The first writes the subject and verb right at the outset. The second lists a bunch of conditions but keeps the main subject and verb a secret until the end. Example 2 has several sentence format issues, but chief among them is the frustration a reader will feel wading through a list of conditions without context.

**Example 1** (subject and verb are at the outset):
Tenant may terminate this Lease, assuming the following conditions are met:
(a) the Early Termination Date has passed;
(b) a Termination Event has occurred;
(c) Tenant has delivered a Termination Notice; and
(d) Tenant has delivered Termination Payment to Landlord.

**Example 2** (subject and verb are delayed):
Assuming the following conditions are met,
(a) the Early Termination Date has passed;
(b) a Termination Event has occurred;
(c) Tenant has delivered a Termination Notice; and
(d) Tenant has delivered Termination Payment to Landlord,
the Tenant may terminate the Lease.

**Conclusion**
Many of the examples and much of this advice may seem somewhat obvious to seasoned lawyers. I have faith that few lawyers would sit down to write a provision from scratch that lacked coherence or parallelism. But how many of us write a provision from scratch?

Drafting is an iterative process where we add and delete and modify. In that cobbling of ideas, sometimes conflicts arise between the old and new. I hope these tips will help next time you edit or comment on a draft contract provision.

Elizabeth Ruiz Frost teaches Legal Research and Writing and other courses at the University of Oregon School of Law.

**Endnotes**
Comments, Followers and Friends

Government Social Media Accounts and the First Amendment

###

By Randy Geller and Aaron Landau
Like many elected officials, President Trump relishes campaign rallies. But he reaches the electorate largely via social media — and they reach back. Through commenting, tweeting and following, today the public can participate in political discourse instantaneously.

And Trump is far from alone; an increasing number of elected officials and public entities have taken to social media to inform, engage and interact with the citizens they serve. But online engagement by the government and elected officials raises many difficult questions about free speech and government authority.

When a county official invites the public onto a Facebook page to share their views on a proposed library bond, must the official permit all comments, no matter the topic? If the site’s users post falsehoods about county vaccination services, can the county remove those comments to preserve its public health messaging? If civil discussion is thwarted by a few users’ remarks about an official’s religion, can those users be banned?

When public discussion takes place in the real world — parks, sidewalks or town halls — courts answer such questions using the First Amendment’s public forum doctrine. However, that doctrine rarely leads to clear or obvious answers. And as public discourse has moved to the virtual world, it has become harder to predict what courts will decide.

For public officials and governmental entities, that uncertainty is problematic. A few recent cases, however, help shed light on the scope of government authority in the world of social media.

The Public Forum Doctrine

Modern public forum doctrine derives from the Supreme Court’s 1983 landmark decision in Perry Education Ass’n v. Perry Local Educators’ Ass’n, which held that the government’s ability to restrict speech on property that it owns or controls depends on which of three categories describes that property.

First is the “traditional” public forum, a place that “by long tradition or by government fiat” has been devoted to assembly and debate, like a sidewalk or a public park. Here, any content-based restrictions are subject to strict scrutiny.

Second is the “designated” public forum, which consists of public property that is not a traditional public forum but which the government “has opened for use by the public as a place for expressive activity.” Like public forums, here content-based restrictions are subject to strict scrutiny, with an important exception: The government can open a designated public forum on a limited basis — such as a school district meeting to discuss curriculum — and can limit speech accordingly, so long as the limitation is reasonable and viewpoint-neutral.

Third is the “nonpublic forum,” which encompasses government property that is not by tradition or designation a public forum. This default category encompasses all other property owned or controlled by government, such as a classroom or a governor’s office. Here, the government’s power to restrict speech is broadest.

Many public forum disputes also implicate the doctrine of “government speech.” The First Amendment limits the government’s authority to restrict what others say, but it does not limit the government’s authority to speak for itself. Thus, while the government generally must remain viewpoint-neutral in restricting private speech, when speaking for itself the government is entitled to say what it wishes and select the views that it wants to express.

When both the public forum and government speech doctrines apply, they pull in opposite directions. Nowhere is that more likely than in government use of social media.

Twitter

Many social media platforms exist, and their relative popularity changes rapidly. Today, government-associated social media accounts are most likely to be found on Twitter and Facebook.

Twitter has more than 300 million active users worldwide, including some 70 million in the United States. Users post brief messages, called “tweets,” which are displayed sequentially on the user’s page. By default, a Twitter user’s page is visible to everyone, including those who are not Twitter users. But only another Twitter user can interact with the user via the platform.
Twitter’s interactive features are key to the notion that Twitter is, in part, a public forum.

Twitter users can engage with each other in a variety of ways. A user can “retweet” others’ tweets, which then appear in the user’s own timeline. A user can also “reply” to another’s tweets, just as one replies to a comment on a news article. A user can “like” another’s tweet, or can “mention” another user by including that user’s Twitter handle in a tweet. Finally, users can subscribe to other users’ tweets by “following” their accounts. A collection of replies and replies-to-replies is referred to as a “thread.” Such threads, which reflect multiple overlapping conversations, are what make Twitter a social media platform.

For users who want to limit interaction, Twitter offers two tools: blocking and muting. A blocked user cannot see or reply to the blocking user’s tweets (among other restrictions) and will know that he or she has been blocked. A user can also mute another account, which simply removes that account’s tweets from the muting user’s timeline.

So is an elected official’s Twitter page a public forum? A U.S. District Court recently answered that it can be — at least in part.

In Knight First Amendment Inst. at Columbia Univ. v. Trump, the Knight First Amendment Institute (a Twitter user) and certain individual users sued President Trump, White House Press Secretary Sarah Huckabee Sanders and White House Social Media Director Daniel Scavino after the plaintiffs were blocked from Trump’s Twitter account because they had posted tweets criticizing Trump or his policies. Plaintiffs contended that defendants’ actions had prevented them from exercising their First Amendment rights to participate in a public forum.

There was no dispute that the political discussion at issue was protected by the First Amendment. The dispute was instead over whether and how the forum doctrine applied to three aspects of the @realDonaldTrump account: the content of the account’s tweets, the timeline compiling them and the interactive space associated with each tweet.

The court began by finding that the governmental control-or-ownership prong of the public-forum analysis was met. Although Twitter is a private company, the president and Scavino exercised control over the three elements of the account. It also concluded that the control they exercised was “governmental in nature” because “the president presents the @realDonaldTrump account as being a presidential account as opposed to a personal account and, more importantly, uses the account to take actions that can be taken only by the president as president,” such as announcing official decisions and conducting foreign policy.

The court then turned to whether application of the forum analysis was consistent with the purpose, structure and intended use of the account. First, the court found that the content of the Trump tweets is “government speech” not subject to public-forum analysis. Second, the court found that the account’s timeline was not susceptible to forum analysis because it merely aggregated the content of all of the account’s tweets. As to the third aspect of the account, however, the court found that the interactive space for replies and retweets was not government speech and was therefore susceptible to the forum analysis. Replies, the court noted, were most directly associated with the replying user (plaintiffs) rather than the sender (Trump or Scavino). Moreover, the government maintains no control over the content of the reply.

The court then asked: What kind of public forum is the interactive space?

It found that the relevant factors — the government’s policy and practice and the site’s nature and compatibility with expressive activity — strongly supported the conclusion that the interactive space of Trump’s account is a “designated public forum.” It observed that the account was available for anyone to access (who had not been blocked); that it had expressly been held out as a means by which the president “communicates directly with you, the American people!”; and that in general, “Twitter as a platform is designed to allow users to interact with other user[s] to, for instance, ‘petition their elected representatives and otherwise engage with them in a direct manner.”

The court therefore concluded that blocking the individual plaintiffs as a result of the political views they expressed was impermissible under the First Amendment. The government has appealed to the Second Circuit.

Facebook

Facebook has more than 2 billion monthly users worldwide, including more than 200 million in the United States. Users can post messages and photos, and respond to or share those of others. Users can “follow” others’ pages, allowing them to see what those users post and share, and can reply to others’ posts and comments. Like Twitter, Facebook allows a user to “ban” other users from its page. A user who is banned from a page can no longer publish on that page or comment on the posts it contains.

Facebook is aware of its use in the political arena. In early 2017, it released a feature called “Town Hall” as a tool to help users find and contact their government representatives and to increase users’ civic engagement on the platform. To participate in Town Hall, an elected official’s page must be categorized as “Politician” or “Government Official,” use a certain template and accurately reflect the official’s current government position.

Use of Facebook by elected officials has led to a handful of cases in which a user was banned from an official’s page. In German v. Eudaly, Mimi German was a political activist who attended Portland City Council meetings to offer testimony. Chloe Eudaly, an elected commissioner, blocked German from her personal Facebook page and posted a lengthy message about her testimony. The post sparked a thread of comments from others, and Eudaly responded to some of them. Because Eudaly had blocked German, she could not see or reply to those posts.

German sued Eudaly, alleging that she had violated German’s right to petition the government when she blocked German’s post.
access to the page. But the court found that the facts did not establish state action by Eudaly because even though Eudaly had discussed German’s testimony before the City Council, she had done so on her own nonofficial page that “was not operated by a public agency or public employees and was not used for governmental functions.”

In another recent case, Davison v. Randall, the elected chair of a county board of supervisors created the “Chair Phyllis J. Randall” Facebook page. Randall also created and maintained two other Facebook profiles: a personal profile and a page devoted to her campaign. Randall used no designation for her personal profile, but she classified her campaign page as belonging to a “politician” and designated the chair’s Facebook page as a “governmental official” page. Randall and her chief of staff shared control over the chair’s page.

Davison attended a town hall meeting that included the local school board and Randall. There, Davison submitted a question implying that board members had acted unethically. Later, Randall posted about the meeting on the chair’s Facebook page. In response, Davison used one of his Facebook pages to comment on Randall’s post. Randall testified that the comment contained accusations that board members had been “taking kickback money.”

Randall banned Davison’s account from the chair’s Facebook page, which precluded him from commenting on the page while using that account. Although Randall soon reconsidered and unbanned him, Davison sued for violation of his constitutional rights, alleging unlawful viewpoint discrimination. The district court, after finding that the chair’s Facebook page constituted a public forum, held that Randall had acted under color of state law in maintaining the page and banning Davison. The 4th Circuit affirmed.

As to state action, the court found it relevant that Randall had included her official title on the page; categorized it as a “government official” page; listed as contact information her official email and telephone number and the county’s website; addressed many posts to the county’s constituents as a whole; posted on behalf of the county board; asked constituents to use the page as a channel for “back and forth constituent conversations”; and posted about official matters.

As to the forum analysis, the court found it relevant that Randall had “intentionally opened the public comment section of the chair’s Facebook page for public discourse,” inviting all county citizens to post comments. The court thus readily found that the page constituted at least a “designated” public forum. Finally, the court concluded that Randall engaged in impermissible viewpoint discrimination when she banned Davison’s account.

A concurring opinion in Davison raised two important issues regarding the extent to which governmental use of social media fits First Amendment jurisprudence. The first is whether an individual public official serving in a legislative capacity qualifies as a unit of government or a governmental entity for purposes of the ability to open a public forum. The concurrence argued that the nature and extent of a public official’s authority should bear on the official’s ability to open a public forum on social media. While the board of supervisors acting collectively could set policy, adopt ordinances and appropriate funds, the chair individually was empowered only to oversee meetings and set agendas. The record before the court was silent regarding the chair’s authority to take any official action on her own. In contrast, certain elected executive officials, under given circumstances, can conduct government business and set official policy unilaterally, including through the use of social media.

Second, the concurrence argued that the interplay between private companies hosting social media sites and government actors managing those sites necessarily blurs the line regarding which party is responsible for burdens placed on a participant’s speech. For example, hate speech is protected under the First Amendment, but social media companies like Facebook and others have policies forbidding hate speech on their platforms. Thus, while a government official, who under color of law has opened a public forum on Facebook, could not ban a user’s comment containing hate speech, that official could report the hate speech to Facebook. Facebook personnel, carrying out Facebook’s own policy, could then ban the user’s comment, arguably circumventing First Amendment protections.

Advice and Practical Considerations

When it comes to social media, the law is rapidly changing and always a step or two behind the technology. Nevertheless, an ounce of prevention is worth a pound of cure, and the most recent cases provide a few useful principles — not only for public bodies and their officials, but also for members of the public who engage with the government and one another online.
First, a virtual interactive space can qualify as a designated public forum, even if it is part of a privately owned website like Facebook. By the same token, public officials’ actions with respect to a privately owned site can be actions taken under color of state law.

Second, in light of the internet’s dynamic nature, whether a particular page or online activity constitutes a public forum — and therefore how the First Amendment applies to individuals’ rights and the government’s obligations — usually cannot be determined in a broad and categorical way. Social media platforms often consist of several distinct components, and any First Amendment analysis must consider how each component operates.

Third, today’s public officials and government entities can help avoid uncertainty with respect to their obligations and the public’s rights by adopting a social media policy that comports with existing law, and then complying with that policy. The policy should make clear what the entity’s social media efforts will consist of and whether it will treat a given website or account as one solely for communicating government information or one that will include interactive elements. It also should address any time, place and manner restrictions the official or entity intends to impose with respect to those interactive elements.

Finally, both government and the participating public are best served when public officials maintain separate social media accounts for official business and personal use. Lawsuits in this context often can be traced to a blurring of the distinction between actions that represent official policy and actions that represent an individual’s personally held views, and much of that uncertainty can be eliminated simply by maintaining a distinction between one’s personal and official social media activities.

As interaction between electors and the elected increasingly moves online, such practices not only help prevent legal disputes, but also help protect our political discourse.

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Endnotes
1. The discussion in this paragraph is drawn in part from Perry, 460 US 37, 103 S Ct 948 (1983).
2. This description of Twitter is drawn in part from the U.S. District Court’s opinion in Knight First Amendment Inst. at Columbia Univ. v. Trump, 302 F.Supp.3d 541 (S.D.N.Y. 2018).
5. 912 F.3d 666 (Fourth Cir. 2019).
Lessons in the Law

Students Receive Expert Help from On-Campus Legal Services

By Janay Haas

Above: Ilona Givens gathers with members of her Student Legal Services team on the University of Oregon campus in Eugene. From left: Givens, office manager/legal assistant Tina Simon, student Ely Cleland, student Karlie Donaca, attorney Rob Hamilton, student Emily Fowler, student Siobhan Nolan and attorney Sal Catalano. Photo by Lucy Kleiner
Traffic tickets, minors in possession, insurance claims, divorce and custody cases, tax issues, immigration questions, bankruptcy, wills: Together, they sound like the kind of work you’d find at many law firms in Oregon. But they’re also at the heart of a niche practice found on a variety of college campuses — one that is helping students succeed in school and beyond.

The University of Oregon, Oregon State University, Portland State University and Southern Oregon University all dedicate a portion of student incidental fees to help students with legal problems. The amount of funding varies, along with the range and types of services the schools offer. What doesn’t seem to vary, though, is how the lawyers who serve student populations feel about the work they do.

“I really love working with these students,” says Ilona Givens, director of Associated Students of University of Oregon Student Legal Services. “They represent hope — they have plans, they have futures, even when they make mistakes.”

University of Oregon

Givens heads a full-time staff of three to serve the roughly 23,000 students at the state’s flagship school. Her colleagues are Rob Hamilton, who handles criminal cases, alcohol and driving violations, and personal injury questions; and Sal Catalano, who addresses landlord-tenant matters and consumer and employment cases. Givens works on family law, personal injury and probate issues.

About a third of the caseload at UO is landlord-tenant issues, followed by minor criminal and family law issues. The office also handles name- and sex-change cases, copyright violations, cyber-bullying, expungements, trusts, wills and powers of attorney, and offers notary and document preparation assistance.

At times, Student Legal Services has included an orientation to American law for the school’s international students, and provided guidance to sororities and fraternities. It has also appeared at campus “housing fairs” to alert students to their rights. Givens estimates her office has about 2,000 student contacts every year.

The UO program was one of the first in the nation, opening its doors in 1971. It is funded entirely from student incidental fees. Givens and her staff are independent contractors, seeking continuing funding through periodic proposals. Givens has been there since 1987.

“I didn’t know it would be such a good fit,” she confesses. She maintains a small private practice, too.

Givens sees the primary role of her program as student retention: “We want students to be able to remain in school despite their legal problems,” she says. She has seen the difference made, she notes, when students who arrive in her office in despair leave with a sense that something can be done.

And she has seen those students take action.

“They take notes as we talk. And they follow through,” she says, adding that she saves all of their thank-you notes. “They say in essence, ‘I don’t know what I would have done without this service. I couldn’t have stayed in school.’”

Most of the students Givens sees are low-income, she says. Most are able to afford school only because they have loans, and dropping out of school often means they face another legal problem as lenders demand repayment from students who don’t have a degree that would allow them to earn enough to make timely payments.

The Student Legal Services program is also a conduit to law school for some students. “We have four positions for part-time work for undergraduate students,” Givens explains. They staff the reception desk; an office manager and legal assistant on staff help supervise their work.

One of those students, Benjamin Eckstein, now practices with Karnopp Petersen in Bend; he was hired by Student Legal Services as support staff as a sophomore. “These student jobs are one of the added benefits they provide for students,” he says.

Working at Student Legal Services developed his interest in law, says Eckstein, who also served as president of the Associated Students of the University of Oregon before he graduated and headed to law school. He remembers several cases involving aggressive police conduct, including one in which an officer used a Taser gun on a foreign student who didn’t understand his orders.

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There were numerous search-and-seizure issues too, Eckstein says, in which naïve students were “a little too helpful to law enforcement.” He recalls one case in which a guest at a party invited police to enter when they were not authorized by the renter to do so.
The UO program discerned patterns in police misconduct that helped it protect the full student body as a result, Eckstein recalls, and Givens notes that the office was able to head off unlawful conduct by large corporate landlords against student tenants because of the volume of complaints the office saw. Individual lawyers in the community with one or two clients would not have had the opportunity to see the pattern, she says.

There are limitations to the services the University of Oregon program offers, of course.

“A student is eligible only after registering for the term and paying the incidental fees,” Givens explains, although a case underway during a term that will likely finish within 30 days will stay in the office. The program doesn’t handle felony cases, and it won’t take bankruptcies or other cases that arise in federal court. It doesn’t represent a student against another student, or a student who plans to sue the university. It does not assist parents in custody disputes. But it does sometimes appear in court on behalf of students who are tenants, negotiates settlements in landlord-tenant and employment cases, and provides full representation in misdemeanor cases.

“We make lots of referrals to private attorneys all up and down I-5,” Givens says. “Many accept cases for reduced fees.”

Oregon State University

The approximately 24,000 students at Oregon State University rely on another independent contractor, known as Access the Law (accessthelaw.com), for their on-campus legal services. Its executive director is Marc Friedman, who, like Givens, also maintains a small private practice.

Friedman, who lives in Eugene, began practicing in 1989; he started Access the Law as a reduced-fee nonprofit legal service for the general community in 2010.

Like the University of Oregon, OSU uses student incidental fees to cover its legal services program. But because Access the Law exists outside the university as well, the program doesn’t feel as constrained by whether a client has student status. It refers to and accepts referrals from Oregon’s legal aid programs, and takes on Chapter 7 bankruptcy cases on a sliding-fee basis. Two full-time attorneys on the OSU campus, Noah Cham berlain and Yema Measho, work with Friedman.

“At any given time, we have about 100 files open,” Friedman estimates, “with 130-140 new consultations per month.”
Landlord-tenant problems are the most common issue seen on campus, Friedman says, “although we joke that if our teams are doing well, there are more parties, so then we see more minor criminal cases.” Contract law is sometimes in play too: How does a student move out of a sorority or fraternity house after a signed commitment to stay for the full school year? How does a student collect on renter’s insurance when the apartment building has burned down?

The OSU program offers a seminar every fall for fraternities and sororities called “Don’t get busted!” It also hosts information sessions for foreign students and other presentations on student rights, and has a veterans clinic staffed by pro bono attorneys once a month.

Access the Law has a smaller presence at Lane Community College too, where it bills by the client rather than maintaining an on-campus office. At the community college, where students tend to be older, Friedman says he sees more divorces than anything else. But landlord-tenant issues are significant there as well.

“We provide a necessary service” for students who have little or no experience with the justice system or the law, Friedman says. And he agrees with Givens: “I really like working with students.”

Portland State University

At Portland State University, the Student Legal Services program provides free legal advice and representation to more than 27,000 students who are dealing with everything from landlord-tenant, consumer, bankruptcy and family law issues to expungements, name and gender changes, criminal defense and cases involving personal injury or inter-personal violence. Services can range from one-time consultations to court representation (both state and federal), depending on the type of case and available resources.

The program was launched in 1975 by PSU’s student government in recognition of the need for students — many of whom are non-traditional and encompass a broad range of ages — to have access to affordable legal services.

Richard Slottee, the program’s director and managing attorney, has supervised Student Legal Services at PSU for the past four years, working alongside staff attorneys April Kusters and Shalini Vivek. Because of an increase in the need for criminal defense and pre-arraignment advice, the program recently added David Sorek as a staff attorney, expanding the scope of services. Unlike at other institutions, the staff are full-time employees of PSU and do not have private practices.

The program also utilizes three immigration lawyers to offer free weekly consultations on campus. Other staff include a full-time paralegal and an office manager, three part-time student law clerks and several student employees and volunteer interns.

“Student retention, success and education are the goals of our program,” Slottee says. “We serve over 700 student clients a year, often trying to address the problem before it gets out of control and affects the student’s education.”

That was certainly the case for former PSU student Leanne Shapiro, who says that without Student Legal Services, “I would have, without a doubt, had to leave school.”

“I had safety-related issues for myself and my two children and needed to get divorced immediately,” Shapiro explains. “Student Legal Services connected me with other resources on campus (that were) able to get a one-bedroom dorm for me and my children. This was a huge life event. I am forever grateful for the services I received on campus.”

In addition to providing legal services, the program’s staff attorneys make presentations on a variety of topics throughout the year. Recent presentations have included “High Expectations, Cannabis 101,” “Background Checks and Interviewing Tips,” “Immigrant Families: What’s your backup plan?” and many more. The program also partners with volunteer attorneys to provide informational workshops, including “Renters’ Rights” and “Life of a Student Loan.”

“It’s one of the best parts of the job,” Kusters says. “We not only see a diverse range of clients and cases, which keeps it an exciting law practice, but we also can participate in educational opportunities for students.”

Because of the demand for Student Legal Services attorneys to provide mentorship to students, the PSU office offers internships every term. It also runs a free program called Explore the Law, which Vivek says is designed to “provide information about the legal field so that participants can make a considered decision if they want to pursue a legal career.”

The Explore the Law program, which is supported by the Oregon State Bar and the Multnomah Bar Association, allows students — particularly those from underrepresented communities — to participate in panels and workshops that provide information on how to get to law school, what to expect during law school and what to expect after law school as a legal professional.
Slottee says many attorneys and judges have volunteered their time as mentors for Explore the Law participants. The program has been successfully running for nine years, and last year was able to award scholarships to the students.

Southern Oregon University

In Ashland, then-new solo practitioner Alexis Packer contracted with Southern Oregon University in 1995 to provide advice and document review services for students. At the time, she says, “I did it because the regular income could pay the overhead at my practice.”

And she’s still doing it — even as SOU’s enrollment has grown from about 4,000 students in 1995 to more than 6,000 today.

Packer typically visits the SOU campus for six hours a week during the regular school year, scheduling half-hour appointments; she plans for a lighter load during summer term. Like the other providers of student legal services, she sees a mix primarily
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of landlord-tenant, minor criminal and family law issues.

With her private practice now well-established, Packer says her reason for working with college students has changed.

“My colleagues think I’m crazy” for continuing with this relatively low-paying work, she says, but she knows it’s worth it.

“I get great satisfaction,” she says, “from helping young people think through their problems and come up with solutions.”

Janay Haas is the author of “Using Small Claims Court in Oregon” and “Oregon’s Legal Guide for Grandparents.” A frequent contributor to the Bulletin, she also served as contributing editor of the OSB’s “Legal Issues for Older Adults.” Reach her by email at wordprefect@yahoo.com.
Promoting Social Justice Fuels Darcy Norville’s Legal Career

A Passion for Empowerment

By Cliff Collins

Legal aid is in Darcy’s blood.” That’s how Maya Crawford Peacock describes Darcy Norville, whose decades of civic leadership and community involvement were honored this spring when the Portland Business Journal named her one of its 2019 Women of Influence. “What I tell young lawyers,” she says, “is do what you care about.” Photo by Jaime Valdez

Tonkon Torp Managing Partner Darcy Norville has been honored by the Portland Business Journal as one of its 2019 Women of Influence. “What I tell young lawyers,” she says, “is do what you care about.” Photo by Jaime Valdez

The annual Women of Influence awards recognize business and community leaders who have had a profound and lasting impact on the Portland metropolitan area. That’s certainly true of Norville, who has been managing partner of Tonkon Torp since July 2015. Among other things, she is a strong supporter of the Oregon Law Foundation, serves on the Multnomah Bar Association’s board and is president of the board of the YWCA of Greater Portland.

“What I tell young lawyers is, do what you care about,” because in doing so, you will be able to have the best effect in the areas you’ve chosen, she says. “I really care about empowering women and minorities.”

The roots of Norville’s commitment to social justice were planted in her college years, when she began volunteering at the local legal aid office. As an undergraduate in political science at California State University, Chico, she observed “how much the clients were needing help.”

“That was my first influence in law,” she says.

Norville took classes connected to her legal aid role, and by the time she enrolled in the University of California, Berkeley, School of Law, she knew it was the direction she would follow after obtaining her J.D. degree. She spent the first seven years of her career working in legal aid.

Her first law job was with Evergreen Legal Service in Longview, Wash. She practiced with Evergreen for five years, the majority of the time in the service’s Vancouver, Wash., office. She then worked for two years with Multnomah County Legal Aid.

In 1991, Norville was one of the founders of the Campaign for Equal Justice. Since then, she has chaired various Campaign committees, has been a statewide co-chair of its annual fundraising efforts and, for the past several years, has been a member of the board of directors. In addition, she has promoted legal aid in her own firm and, as a leader in the community, to other firms.

“One of the things critical to our success has been attorneys in the private bar who are supportive of equal justice. She is that,” Crawford Peacock says. “She’s been involved from the beginning. She has been a significant donor from the beginning, which is important to us, but she also is a stalwart volunteer.”

Sherrill A. Corbett, a partner with Tonkon Torp who has worked with Norville for 20 years, says Norville has shown that same commitment in everything she does.
“Darcy has been a strong, positive role model for women lawyers at Tonkon and sets herself apart by her active mentoring and commitment to growing the diversity of our firm,” Corbett says. As the firm’s first female managing partner, “Darcy has blazed a path that can be followed by generations of younger women attorneys.”

Crawford Peacock concurs.

“As one of the few female managing attorneys in the state,” she says, “Darcy is a trailblazer who also creates a pipeline for other women leaders to follow in her path.”

**Updating Tonkon Torp’s Image**

After seven years as a legal aid attorney, Norville went to work for what is now called Disability Rights Oregon, where she represented seniors, low-income individuals and people experiencing disability. She spent seven years there as litigation director before moving in 1998 to her current employer.

“I was looking for opportunities to learn to do something different,” she says, when she heard “good things” about Tonkon Torp and discovered that the downtown Portland firm was hiring. She has been there ever since.

During her tenure, Norville has served on Tonkon Torp’s hiring committee, chairing it for a time. In 2004, she founded the firm’s diversity and inclusion committee, which she has chaired since its inception; her idea, she says, was to “create a forum for what the firm needed to do” to recruit and retain people from diverse backgrounds.

Beginning in 2005, she served on the firm’s managing board for a decade, then assumed the post of managing partner. Among the key moves she has made in that position: She recently led the firm through a process of defining its strongest business opportunities and growth potential, leading to an updated and clarified strategic plan, including a complete rebranding.

Her colleagues say Norville’s leadership role in attracting new partners and lateral hires has brought new energy and enthusiasm to Tonkon Torp.

“The people she’s recruited” have helped “make this an exciting place to work,” says Anna Sortun, a partner and co-chair of the litigation department. Sortun also notes that under Norville’s leadership, “revenue is higher than it’s ever been.”

Explaining the need to rebrand the firm, Norville says, “The genesis of that was exemplified by a comment that Tonkon Torp is the best law firm that no one knows about. Its image was dated and no longer represented the subject matters and industries we practiced in.”

“We were stuck in the 1970s view of what we did then,” she says, such as banking, securities and corporate work.

The firm was active in many other areas but not well-known for those, Norville says, such as representing and advising early-stage and growth companies and those in technology and bioscience.
sectors, in the food and beverage industry and, more recently, cannabis companies.

“We needed a fresh, up-to-date look of how we present ourselves to the public,” she says. That included a new logo and website that better represent “who we are and how we do it.”

Norville’s own practice focuses on general business and corporate law. She works with clients in the insurance and financial services industries on a wide variety of issues, including regulatory compliance, privacy laws, contract drafting and general corporate matters.

Her specialty areas center on employee benefits counsel, ERISA compliance and executive compensation. She regularly designs and drafts incentive compensation plans, equity-based compensation plans, nonqualified deferred compensation plans and executive agreements. She also provides ongoing legal advice and counsel about the establishment, maintenance, administration and termination of clients’ employee benefit plans.

“I’ve greatly enjoyed being a trusted adviser to my business clients,” Norville says, “helping them understand their business needs and how it fits into the whole picture of their success, and solving complex problems and making it understandable.”

Norville is married to Ira R. Zarov, retired former executive director of the Oregon State Bar’s Professional Liability Fund, whom she met after moving to Portland when they both were working in legal aid (albeit for different agencies). Travel is high on the couple’s list of off-duty activities. Their son lives in Lisbon, Portugal, and Norville has a brother in Paris. Norville and Zarov also enjoy trips to Camp Sherman, playing golf and hiking.

The “good things” Norville heard about Tonkon Torp before she began working there — including the firm’s “collegial culture” and commitment to community service — turned out to be true then and still are, she says.

“The firm genuinely, strongly supports and encourages pro bono work of whatever type our attorneys are interested and engaged in,” says Norville, who personally accepts clients for Legal Aid Services of Oregon’s Roseburg office, taking cases that don’t require court appearances and can be handled remotely.
To more formally recognize individual attorneys’ contributions, Tonkon Torp recently instituted an annual Don H. Marmaduke Pro Bono Service Award, named after one of its founding partners who was a champion of pro bono work.

“The breadth and depth of the firm’s engagement and commitment to community service are very real and meaningful,” Norville says. “Our attorneys have founded nonprofits and devoted significant amounts of time to a huge variety of community organizations.”

Cliff Collins is a Portland-area freelance writer and frequent contributor to the Bulletin. Reach him at tundra95877@mypacks.net.

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Be an Author

The Bulletin is always on the lookout for quality manuscripts for publication on these pages.

We publish articles on a wide variety of subjects and favor such topics as access to justice, legal funding, judicial independence, diversity in the profession, professionalism and future trends. We also publish columns on ethics, practice tips (in specific areas of law), law practice management and legal history, as well as essays on law and life.

The editorial staff welcomes inquiries and is happy to discuss requirements for publication. If you have a manuscript, suggestion or idea, contact Editor Gary M. Stein at (503) 431-6391. He can also be reached by email at editor@osbar.org.
Dozens of people gathered for a reception at the Oregon Historical Society in Portland on May 21, when the Oregon Law Foundation (OLF) celebrated Leadership Banks and 30 years of mandatory Interest On Lawyer Trust Accounts (IOLTA) in Oregon.

The IOLTA program has generated more than $37 million in grants for programs that provide civil legal services to Oregon’s most vulnerable populations. The OLF can only do this important work, Director Judith Baker says, because of a partnership with banks and credit unions that generously pay above-market rates on IOLTA accounts and lawyers who know that where they bank matters.

Many of the OLF’s grantees and representatives of Leadership Banks were in attendance at the reception. Also present were Oregon Attorney General Ellen Rosenblum, Oregon State Bar President Christine Costantino, Oregon State Bar CEO Helen Hierschbiel, OLF Board President Elisa Dozono and Oregon Banker’s Association CEO Linda Navarro.

To see a complete list of OLF Leadership Banks, go to www.oregonlawfoundation.org. “If you have your IOLTA account at one of these financial institutions, thank them,” Baker says. “If not, now is a great time to move your account.”
1. Robert Countryman and Kevin McHargue were among the guests at the “Thirty Years of IOLTA” celebration. Countryman is market president for First Interstate Bank; McHargue is executive director of St. Andrew Legal Services.

2. Oregon Attorney General Ellen Rosenblum (center) poses for a photo with OSB President Christine Costantino (left) and OSB Chief Executive Officer Helen Hierschbiel during the May 21 event.

3. Mark Wada, a partner at Farleigh Wada Witt in Portland, was among the dozens of attendees at a May 21 event celebrating “Thirty Years of IOLTA.”

4. Linda Navarro, CEO of the Oregon Bankers Association, talks about the role Leadership Banks play in helping the Oregon Law Foundation provide civil legal services to Oregon’s most vulnerable populations.

5. Kerry Kymchuck, executive director of the Oregon Historical Society, holds up a letter from Abraham Lincoln during his opening remarks at the “Thirty Years of IOLTA” reception.

6. Stephanie Cannon is a vice president and relationship banking officer with Pacific West Bank, one of the financial institutions that pay above-market rates on IOLTA accounts.

7. Caroline van der Harten enjoys the “Thirty Years of IOLTA” event. She is the director of SOAR Immigration Legal Services, a program of Ecumenical Ministries of Oregon.

8. Kristen Connor, Valerie Colas and Amy Miller chat during the Oregon Law Foundation’s “Thirty Years of IOLTA” event at the Oregon Historical Society in Portland. Connor and Colas are both OLF board members; Connor is senior vice president and community impact officer for Heritage Bank, while Colas is with the Oregon Judicial Department. Miller is the executive director of Youth Rights Justice.

9. The Honorable Julie Frantz, a retired Multnomah County judge, shares her thoughts at the “Thirty Years of IOLTA” event. She was on the OLF board when IOLTA became mandatory in Oregon 30 years ago.

10. Lane Shetterly, a partner at the law firm Shetterly Irick and Ozias in Dallas, performs a song at the “Thirty Years of IOLTA” reception. Shetterly represented Oregon’s 23rd District for seven years in the state Legislature, including a stint as speaker pro tem of the House.

All Photos By Jonathan House
Social Media Missteps Can Be Your Client’s Downfall

Perils of Oversharing

By Sharon D. Nelson, John W. Simek and Michael C. Maschke

Lawyers know from personal experience how consuming technology can be. And they know how easy it is to overshare on social media, click on something they didn’t mean to or say something foolish without thinking about the consequences. Your clients are no different in their reliance on technology, but their missteps can be magnified when they are going through a divorce — one of the most emotional and stressful periods of their lives.

Clients’ technology, especially their use of social media and text messaging, tend to become part of the divorce and discovery process. Throw into the mix a soon-to-be ex-spouse, a hotly contested divorce, custody battles and maybe the involvement of third-party lovers, and you have the ingredients for an explosion that you will not want to sort out before a judge.

Happily, there is advice that you can give your clients at the onset of the engagement to help them protect themselves. Think of it as a “Do Not Do List.”

**Stop Social Media**

We live in an extremely over-shared world, where people often feel compelled to post videos and pictures of everything they do, believe in or feel at any given moment. That means social media can be a goldmine of information for opposing attorneys. Too often clients post information that may be harmful to their case, such as the picture of their most recent blind date to a local winery or their spur-of-the-moment extravagant trip to Bali for a little “R&R.” Surely your client will be asked about these should opposing counsel get hold of them, and instead of just being innocent posts that were shared, your client is now labeled an adulterer, a drunk and accused of hiding assets — after all, how could they afford that luxurious trip and with whom did they go?

The best technological advice you can give your client is to stop using their social media accounts entirely. It may be hard, but common sense is often a casualty of the divorce process and quitting cold-turkey may be the best thing they can do to help their case. Many social media providers such as Facebook and Instagram have options to disable — rather than delete — accounts so that after the divorce is finalized or the ink has dried on the settlement papers, your client is free to post again, however unwise their posts. And so long as you disable or deactivate an account rather than delete it, you will not face accusations of spoliation.

**Stay Away From Accounts**

Some examples of accounts that should never be accessed include the other party’s:

- New (non-marital) bank account, credit card account, loan records or stock trading account;
- Personal or business email accounts;
- Social media accounts, such as Facebook, Instagram, Snapchat and Twitter; and
- Apple iCloud accounts.

It is always better to obtain information legally — and to keep your client out of hot water with the judge and the law. And no, the “accounts are shared” excuse is not a get-out-of-jail-free card. Your client better have a good criminal defense attorney on speed-dial if they opt to ignore these warnings.

**Be Careful With Devices**

Same thing goes for stealing or “borrowing” a personal device of the other party to have it analyzed by a digital forensics company or private investigator. Again, there is a right way and wrong way for your clients to do this. As their attorney, you can request the devices and information contained on them through the discovery process, via a subpoena or court motion. But having your client steal the devices in the dead of night to have them covertly inspected (or worse, installing spyware) should never be an option.
Having said that, there is no restriction for making a forensic copy for preservation purposes. You just can’t go snooping around before getting court approval or agreement of the device owner.

While any respectable digital forensics company would immediately inform your client of the limitations of the work they can legally perform, your client is better off being educated beforehand. Generally, a marital device can be forensically (and legally) copied or preserved, but that may be all that can be done at that moment without further authorization from the court to access password-protected materials. The marital device can be forensically imaged in the same way that either party could legally make a backup of the device or its data. But if one party has a password-protected email or any other sort of account on the marital computer, the laws protect the privacy of that data. Installing spyware, cracking or guessing passwords — all of that is not permitted.

Shopping around for someone to get you “all of the data” from a device, regardless of its legal protections, will only lead to more problems, including inadmissibility problems and, yes, possible criminal charges. While attorneys can explain any state-specific “gray areas” to their clients, the best advice is to respect the privacy of password-protected data unless there is an agreement with the other party to grant access or a court order authorizing access.

Tracking and Snooping Are Not Advised

Indeed, there is a list a mile long of things clients should NOT do in an attempt to monitor their former partner. One of the more popular mechanisms these days is to use the “Find My iPhone” feature of a jointly used Apple iCloud account to track the other party’s movements and location. Sharing iCloud accounts is a big no-no in our book. Not only can your spouse track your location within a few feet, but any messages, emails, photographs, videos and other application data may be accessible to them as well — especially if the iCloud account is being used on multiple devices. If your client uses an Apple iPhone, iPad or Mac computer system, we recommend that your clients disconnect any previously configured iCloud account and create a new one for their new life. They can accomplish that through the settings of their device or through the icloud.com website.

One of the more interesting scenarios that we have encountered involved a client who used a Google NEST security camera installed at a jointly owned rental property to monitor their soon-to-be ex-spouse. The former spouse was allegedly dating the renter. The monitoring led the client to catch their spouse committing adultery, which they thought would lead to a quick resolution and settlement of the divorce. Instead, there were more headaches for the client — including another civil suit and a pending criminal investigation — in addition to the divorce matter.

Was it worth it? The client probably doesn’t think that now.

If you don’t know the legality of your client’s actions, it certainly wouldn’t hurt to err on the side of caution, saving them future self-inflicted heartburn.

Revenge Is Not the Answer

Not every divorce is desired by both parties, of course. Sometimes, your client’s hand is forced by the actions of the other party. But one thing that your spurned client should not do is take revenge — either physically or online. That said, we have seen a significant rise in “revenge porn” cases as more and more spurned partners have turned to the idea of getting back at their former spouse by posting private photographs and videos, taken or received through the previous relationship, on the internet. Forty states now have laws banning revenge porn, while other states have harassment laws that may be applied to seek justice for the victims in these criminal matters.

Some people believe they can get away with this type of conduct without having the evidence traced back to them, but in reality, they are setting themselves up for criminal charges. The websites used

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to upload and post these types of photos maintain logs that can help to identify where the activity originated from and ultimately who uploaded the photos or videos. Internet service providers, including mobile carriers, also maintain logs. These logs cannot simply be deleted by your client, so it would be best to advise them against any type of this activity from the onset of the engagement.

Judges Hate Intentional Deleting

Another potentially criminal action is spoliation. The intentional deletion of potentially relevant data can derail your client’s divorce case. It’s far better for the data to be properly preserved, searched and produced than to have to explain to a judge why your client was deleting emails or text messages in violation of a discovery order, subpoena or document request. The problem for clients is that there are digital forensic companies that can recover deleted information and produce it in court. There may even be evidence to recover that shows who deleted the information and exactly when it was deleted.

We’ve been involved with many matters where evidence has shown mass purging right before the date when a party was required to produce evidence in response to a subpoena or court order. We have also seen internet searches for how to successfully delete text messages or emails. Boy, do judges love to see those searches! They are equally incensed to hear how a phone mysteriously was stolen or lost right before being requested for analysis.

We’ve received countless phones that have been water damaged, factory reset or just plain lost immediately prior to a court deadline to produce them. All we can say is that this practice could lead to some serious legal consequences for your client. And don’t think that replacing the phone with another model or an identical model can’t be determined through analysis. No matter what, hiding, destroying or otherwise obstructing the discovery of evidence will not result in a good outcome in court.

Encrypted Communication Isn’t Always Best

Protecting privacy and personal communications is important to most people. However, installing an application on your phone or computer that provides secure encrypted communication may not
be a good thing, especially if the intent was to securely communicate with a paramour. Signal, WhatsApp and Telegram are several apps used for secure communications, but even though you won’t be able to obtain the content of the communications, you may be able to retrieve contacts and times/dates of them.

Technically, there is nothing wrong with using these secure communications apps. However, if the paramour’s ID is found on the spouse’s phone and the paramour has also installed the same app with their spouse’s ID, the inference may be all it takes to sway the court.

**Stress Common Sense**

Why should your client listen to any of this advice?

Roughly 25 percent of our digital forensics cases are family law matters, and we’ve seen firsthand the trouble clients get into when they access accounts without authorization. We’ve seen lawsuits filed in response to the installation of spyware or using a security camera to surreptitiously monitor a former spouse. We’ve seen the weight of evidence lessened due to the manner in which it was obtained. There have even been occasions where a party has been jailed due to the spoliation of evidence.

Judges have little or no tolerance for your clients’ foolish or illegal actions. They have zero tolerance for them lying to the court. So a little stern guidance at the outset of an engagement can benefit your clients greatly. You would hate to have a misstep affect the outcome of a custody or spousal support battle.

We have all become reliant on technology in our day-to-day lives, for both work and personal usage. Even during some of the most stressful situations your clients will ever face as they go through the divorce process, they need to maintain (instead of lose) their common sense when it comes to the usage of technology. The legal consequences of missteps are real — and often devastating.

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Sharon D. Nelson, John W. Simek and Michael C. Maschke are the president, vice president and CEO of Sensei Enterprises, a cybersecurity, information technology and digital forensics firm based in Fairfax, Va. Learn more at senseient.com.
New Legislation Delays OSB’s Juvenile Law Publication

The OSB Legal Publications Department was ready to release Juvenile Law: Delinquency in late May. But before publication, the Oregon Legislature passed SB 1008, a bill that makes significant changes to Oregon’s juvenile justice system.

That means a significant rewrite is now required of several chapters of the publication that had already been edited and were otherwise ready for publication.

The bill, which was sent to Gov. Kate Brown on May 24, will eliminate mandatory adult prosecution for certain offenses committed when the person is 15, 16 or 17 years old at the time of the offense, requiring instead that a hearing be held to determine whether the person should be prosecuted as an adult. The bill also prohibits a person who is under 18 at the time of the offense from being sentenced to life without parole and makes a number of other significant changes to the sentencing laws for juveniles. Brown had indicated that she would sign the legislation.

Information about the new release date for Juvenile Law: Delinquency will be announced soon; watch for details at www.osbar.org/legalpubs. And look for an in-depth report on the changes in the August/September issue of the Bulletin.

Changes to UTCRs Take Effect Aug. 1

Chief Justice Martha L. Walters has approved changes to Oregon’s Uniform Trial Court Rules, effective Aug. 1.

Changes of special note address the certificate of document preparation; streamlined civil jury cases; consumer debt collection cases; family law procedures; exhibits in juvenile cases; filing of the DMV record; extreme risk protection orders; notice of filing expedited matters; and statewide post-conviction relief rules.

The approved changes are available online at http://www.courts.oregon.gov/programs/utcr/Pages/currentrules.aspx. The preface to the 2019 UTCR includes detailed explanations of the changes.
The UTCR Committee’s next meeting is Oct. 18. The committee welcomes proposals for changes to the trial court rules. Submit proposals by Aug. 30 to utcr@ojd.state.or.us or mail them to UTCR Reporter, Office of the State Court Administrator, Supreme Court Building, 1163 State St. Salem, OR 97301-2563.

**Share Your Well-Being Efforts in the Bulletin**

Lawyer well-being is so important to the practice of law that the Oregon State Bar is dedicating most of the October issue of the Bulletin to it.

With a focus on telling real stories and digging deeper into the topic with several feature-length articles, the magazine plans to take much more than a cursory glance at the issue. But to do the best job possible, editors need your help in highlighting what firms in Oregon — including solo practices — are doing to encourage well-being, change their culture and make it safe for lawyers to ask for help.

How does your firm place an emphasis on well-being? Are there policies and programs in place? Is your workplace flexible in accommodating attorneys’ well-being needs? Don’t feel as if you must have the most unique workplace in the state; there are small things firms are doing across Oregon to address well-being — and the Bulletin would like to share those stories.

Please reach out to the magazine’s editors with your well-being policies, plans and successes by emailing editor@osbar.org or calling Gary M. Stein at (503) 431-6391. And then watch for in-depth coverage of the topic in October.

**Oregon Law Foundation Seeks Board Members**

The Oregon Law Foundation is seeking board members for terms that begin on Jan. 1, 2020. If you would like to serve on the OLF board, submit a resume and cover letter to oregonlawfoundation@osbar.org by Aug. 16.

The OLF’s goal is to fund justice for all by providing legal services, promoting diversity and educating the public. The OLF partners with financial institutions, grantees and lawyers, and uses interest from lawyer trust accounts (commonly referred to as IOLTA) to fund legal aid. To learn more about the OLF, visit olf.osbar.org.
BAR ACTIONS

Discipline

Note: More than 15,000 people are eligible to practice law in Oregon. Some of them share the same name or similar names. All discipline reports should be read carefully for names, addresses and bar numbers.

RANKIN JOHNSON IV
OSB #964903
Portland
6-month suspension

Effective May 13, 2019, the disciplinary board accepted a stipulation for discipline and suspended Portland attorney Rankin Johnson IV for six months for violations of RPC 1.4(a), RPC 1.15-1(a), RPC 1.15-1(b) and RPC 8.1(a)(2) in two separate matters.

In the first matter, Johnson wrote checks from his trust account that should have been written from his business bank account and overdrew his trust account. In rectifying the overdraft, Johnson transferred his own funds into his trust account.

Johnson also held funds in his trust account that should have been transferred out as either refunds to his clients or earned attorney fees. During the bar’s investigation of Johnson’s trust account overdraft notice, Johnson did not provide requested documents.

In the second matter, Johnson failed to communicate with the client regarding costs the opposing party sought on appeal and did not object to those costs, even though the costs were not recoverable.

Johnson admitted that he had failed to hold client property separate from his own funds in his lawyer trust account and deposited his own funds in his trust account for reasons other than bank service charges, in violation of RPC 1.15(a) and RPC 1.15(b); and knowingly failed to respond to a lawful demand for information from a disciplinary authority, in violation of RPC 8.1(a)(2).

Johnson also admitted that he had failed to keep his client reasonably informed regarding the status of a matter, in violation of RPC 1.4(a).

Johnson’s conduct was aggravated by a history of prior discipline, a pattern of misconduct, multiple offenses, a vulnerable victim and substantial experience in the practice of law. In mitigation, Johnson expressed remorse for his conduct.

GREGORY MARK ABEL
OSB #031784
Medford
Public Reprimand

Effective May 24, 2019, the disciplinary board approved a stipulation for discipline and publicly reprimanded Medford attorney Gregory Abel for violations of RPC 1.7(a) (current-client conflict of interest) and RPC 1.9(a) (former-client conflict of interest).

“Husband” retained Abel to defend him against criminal charges related to his eldest daughter (“Daughter 1”), who lived with her mother. At the time, Husband was married to “Wife,” and the couple had one child (“Daughter 2”). Abel was successful at getting Husband released pending trial. However, the state Department of Human Services was concerned for Daughter 2’s welfare when the court permitted Husband to return home and brought a dependency proceeding against both Husband and Wife. The dependency proceeding sought to have Daughter 2 removed from the home so long as Husband was living there or had unsupervised access to Daughter 2.

Abel continued to represent Husband in the dependency matter (i.e., the same matter in which he had previously represented Wife). Abel did not seek or obtain informed consent, confirmed in writing, to his continued representation of Husband from either Husband or Wife.

Although Abel has substantial experience in the practice of law, his negligent and knowing conduct was mitigated by his absence of prior discipline, absence of a dishonest or selfish motive and cooperation in the disciplinary proceeding.

ELIZABETH FARRELL
OSB #011107
Portland
Public Reprimand

Effective May 17, 2019, the disciplinary board accepted a stipulation for discipline and publically reprimanded Portland attorney Elizabeth Farrell for violating RPC 1.16(d) (duties upon termination of representation).

In 2016, Farrell was assisting a former client in an employment matter. After the client’s employment was terminated, Farrell continued to represent Husband in the dependency matter.

In 2016, Farrell was assisting a former client in an employment matter. After the client’s employment was terminated, Farrell continued to represent Husband in the dependency matter.

Nearly two months later, the new lawyer contacted Farrell and requested the
client’s file, but did not receive a response. Farrell admitted that she failed to take necessary steps to protect her client’s interests upon the termination of representation and thus violated RPC 1.16(d).

While Farrell’s conduct was aggravated by the vulnerability of her client and substantial experience in the practice of law, it was mitigated by the absence of any prior discipline, the absence of a dishonest or selfish motive, personal problems concerning the health condition of a family member, and a cooperative attitude toward the disciplinary proceeding.

Legal Ethics Assistance

The bar’s General Counsel’s Office is available to discuss prospective legal ethics questions related to a member’s own conduct. A staff attorney can help identify applicable ethics rules, point out relevant formal ethics opinions and other resources and share an initial reaction to callers’ ethics questions.

The assistance that bar staff provides is informal and nonbinding and is not confidential; no attorney-client relationship is established between callers and the lawyers employed by the Oregon State Bar. (Lawyers seeking confidential ethics advice about the propriety of their previous decisions or actions should consult a private attorney.)

Members with questions can call the ethics helpline at (503) 431-6475 to be connected to the first available bar staff attorney.
Among Ourselves

Tonkon Torp attorney Janet Newman has joined the board of trustees for the Oregon State Parks Foundation. The foundation raises funds and builds partnerships to restore and create new facilities and sites in the Oregon state park system. Newman’s service on the board complements her legal practice, which focuses on water law and environmental and natural resources. Tonkon Torp has a long tradition of supporting the Oregon State Parks Foundation; in fact, one of the firm’s founding partners, the late Brian Booth, played a key role in the organization’s establishment.

Stoel Rives partner Kirk Maag was among 14 lawyers from across the country who were shortlisted for the LGBT+ Equality Lawyer of the Year honor as part of the Chambers Diversity and Inclusion Awards. The awards are presented annually to lawyers and firms that further the advancement of diversity and inclusion in the U.S. At Stoel Rives, Maag co-leads the agribusiness, food, beverage and timber team. He also serves as secretary of the board of directors for the Cultivating Change Foundation, which seeks to value and elevate LGBT+ agriculturists through advocacy, education and community.

Christine Furrer, an associate attorney at Fischer Family Law whose practice focuses on special education and family law, has joined the board of FACT Oregon. FACT empowers families experiencing disability; its goal is to change the face of disability by expanding awareness, growing community and equipping families. Furrer also has joined the board of Raphael House of Portland, which works to end the cycle of violence and build lives and a future without domestic and sexual violence.

Former Clatsop County District Attorney Joshua Marquis has been named co-chair of the new National Law Enforcement Council, which is being formed by the Animal Wellness Foundation and Animal Wellness Action. The new council is dedicated to enforcing federal, state and local laws against animal cruelty, with a current focus on federal anti-cruelty statutes such as laws against animal fighting, and offering assistance to law enforcement authorities as needed.

Recently retired Dale S. MacHaffie has published a new book, Whale’s Tails. It’s a blend of history, fantasy and science in a timely tale spanning nearly two centuries on the high seas. It follows the vastly different adventures of two sets of friends, separated by a couple centuries. MacHaffie is a retired corporate tax director at Esco in Northwest Portland. Whale’s Tails is available in bookstores or online through the Apple iTunes store, Amazon, Google Play and Barnes & Noble.

Miller Nash Graham & Dunn attorney Vanessa Triplett was recently appointed to the board of governors for the Pacific Northwest College of Art. In addition to educating students in fine arts, PNCA is a center of creativity in Portland, offering hundreds of free art programs for the public, including lectures, panel discussions, student exhibitions, performances and pop-up shops. For more than 100 years, graduates of PNCA have become educators, professional artists, gallery owners and art museum curators contributing to and shaping the visual arts landscape in the Pacific Northwest.

Tonkon Torp attorney Alex Tinker has joined the board of directors for the Oregon Cannabis Association, which is the largest cannabis trade group in Oregon. It fosters connections between cultivators, processors, retailers, entrepreneurs and allied businesses, and advocates for the thriving Oregon cannabis industry. Tinker is co-chair of Tonkon Torp’s cannabis industry practice group. He is a founding board member for the Resource Innovation Institute, which works to increase resource efficiency in the cannabis industry.

Robert R. Teel, a specialist in intellectual property and a registered U.S. patent attorney practicing in Stoel Rives’ Portland and Boise offices, has been selected as a recipient of the Portland Business Journal Forty Under 40 award for 2019. The honorees were selected from several hundred nominees based on their career achievements, lead-
ership, influence and impact within their communities and industries. Teel serves as treasurer and pro bono counsel for The Optical Society, Columbia Section, which he incorporated as an Oregon public health corporation. He is a member of the Institute of Electrical and Electronics Engineers, the Oregon State Bar’s Intellectual Property Section and the Oregon Patent Law Association.

Moves

Barbara (Barb) Halle and Jeff Lovinger have joined the Portland business litigation firm Markowitz Herbold as of counsel. Halle specializes in public utility and employment-related matters; before joining Markowitz Herbold, she worked at Portland General Electric, serving as associate general counsel for more than 32 years. Lovinger’s practice focuses on energy and utility law; he has extensive experience representing utility clients before state utility commissions in contested case proceedings, rulemakings and policy dockets. Lovinger has represented municipal water districts, Native American tribes, municipalities and energy project developers on energy issues.

Anthony D. Kuchulis has joined the Portland office of Littler Mendelson. Kuchulis has extensive experience defending employers in jury trials, class actions, mediations and arbitrations. He has achieved favorable outcomes in matters involving discrimination claims, leaves of absences, retaliation and other employment issues for clients in a range of industries, including higher education, transportation and logistics.

We are proud to celebrate the accomplishments of Román Hernández and congratulate him on being named to Lawyers of Color’s Inaugural Nation’s Best list.

troutman.com
Troutman Sanders LLP
The law firm of Gleaves Swearingen has announced that James R. Blake has joined the firm as an associate. His practice focuses on estate planning and probate. He earned his J.D. from Florida State University College of Law and his LL.M. in taxation from the University of Denver Sturm College of Law.

Barran Liebman has welcomed Sarah Hale to the firm’s employment and labor law teams. Hale brings more than a decade of experience practicing throughout Oregon and Washington, as well as clerking for the U.S. District Court and the Washington State Court of Appeals. Her practice focuses on employment law compliance, conducting workplace investigations and providing counsel in collective bargaining, union contract negotiations and grievance and interest arbitrations.

Mark Thompson has joined Sanger Thompson (formerly Sanger Law) as a partner in its energy, utility and administrative law practice. Thompson’s practice is focused on representing clients in agency proceedings, energy-related transactions, rule-makings and utilities law.

Eric Robertson has joined Miller Nash Graham & Dunn’s Portland office as an associate on the employee benefits team. His practice focuses on assisting public and private employers in navigating plan administration issues related to qualified plans, multi-employer plans and health and welfare plans. He has assisted clients on ERISA and Internal Revenue Code compliance matters, including plan corrections under the Employee Plans Compliance Resolution System through the self-correction and voluntary compliance programs.

Attorney Lisa Shevlin has joined the Hart Wagner law firm. Her trial practice focuses on the defense of cases involving assisted living care, medical malpractice and general liability. Prior to joining Hart Wagner, Shevlin was a trial attorney for a large insurance company, where she worked on cases involving commercial auto liability, product liability, employment matters and contract disputes in state and federal courts. She is a member of the Owen M. Panner Inn of Court, Oregon Women Lawyers, the Oregon Association of Defense Counsel and the Multnomah Bar Association.

Marianne Dugan has joined the Civil Liberties Defense Center (CLDC) as a senior staff attorney. Dugan is the chair of the Sierra Club’s national litigation committee and has served on the Oregon State Bar Civil Rights Executive Committee. She currently serves on the board of Access the Law and has served on the boards of Friends of Land-Air-Water, Western Lands Project, Portia Project and the CLDC. Dugan will primarily represent activist clients in federal civil rights cases, public records and SLAPP defense.

In Memoriam

John Christian Sihler died peacefully on Dec. 6, 2018 after a year of transitions and declining health. He was 88 years old and had recently moved with his wife, Dene, from Eugene to Gresham to be closer to family.

Born in Cleveland, Ohio, on May 9, 1930, to Paul Alfred Sihler and Margaret Carpenter (Smith) Sihler, John grew up surrounded by aunts, uncles, cousins and grandparents. His cousins were dear to him and he loved them as surrogate siblings, as Sihler was an only child. Family gatherings and celebrations were frequent and, in his adulthood, the subject of many nostalgic remembrances. Sihler shared a love of drawing and horses with his father, and was bit by the travel bug early through trips with his parents to the Western U.S. and Europe.

He graduated from Shaker Heights High School in 1948 and earned a bachelor’s degree in American studies from Amherst College in 1952, followed by a law degree from Harvard University in 1955. He served as a legal specialist in the U.S. Army 382D military police battalion in Heidelberg, Germany, from 1955 to 1957.

Sihler cherished his memories of his Heidelberg years, which had a profound and lasting effect on him. Above all, Heidelberg was where he met Dene Hoseid, a native Oregonian who was working for the judge advocate general’s corps of the U.S. Army. The two happily explored...
When her children were older, Ricoy decided to enroll in Willamette University School of Law at a time when starting law school at her stage in life was almost unheard of. After graduating at the age of 47 and passing the bar exam, she served for many years as a public defender in Marion County. Ricoy spoke Spanish fluently, serving many clients who could not speak English.

Ricoy is survived by her husband, Jose, and her five children (and spouses): Mark (Shawn), Rebecca (Dave), Pilar (Steve) Rowe, Peter (Karen) and Marisol (Alan) McAllister. Two of her children, Marisol McAllister and Peter Ricoy, are also active members of the Oregon State Bar.

Emilio Francis Bandiero passed away on May 8, 2019. He was 81. Bandiero was born in an Italian neighborhood in Brooklyn where there were often more kids playing stick ball on the street than cars.

He left high school to join the Army and served in Böblingen, Germany, in the 97th Signal Battalion from 1956 to 1958. There he worked on and received his GED, and met his first wife in Denmark. Frustrated by his lack of formal education, he enrolled at Queens College and received his bachelor's degree in 1987 at the age of 49. He went on from there to attend law school at the University of Oregon. He was student bar association president from 1989-90 and founded the Oregon Law Students Public Interest Fund. He graduated in 1990 and began a legal career that spanned 28 years.

Bandiero served on the University of Oregon Law School Alumni Board of Directors and was a member of the Oregon Criminal Defense Lawyers Association; he took pride in representing defendants of all ages and worked tirelessly to find good resolutions for their cases. He never forgot the essential humanity of the people he worked so hard for and pledged his allegiance to “… and justice for all.”

He is survived by his second wife, Anne Bell, and their large combined family of siblings, cousins, children and grandchildren.

A Celebration of Life is planned for the end of July. Please email obbpProductions @proinbox.com if you would like to be notified. In lieu of flowers, Bandiero’s wish was that donations be made to the Oregon Law Students Public Interest Fund (OLSPIF), University of Oregon School of Law, 1221 University of Oregon, Eugene, OR 97403-1221.

Shereen P. Ricoy passed away on May 6, 2019 — just one day shy of her 85th birthday.

Ricoy was born on May 7, 1934 in Toledo, Ohio, the daughter of Sherwood and Helen (Moyer) Pinkerton. She was the youngest of four daughters and excelled in school, graduating from high school one year early.

In college, Ricoy spent a semester in Mexico City, where she met her best friend and husband, Jose Luis Ricoy. The two were wed in 1956. She was the adoring and adored mother of five children; when her children were young, she worked as a full-time mother and homemaker.

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OFFICE SPACE

1400 SW MONTGOMERY STREET, PORTLAND Offices available in Goose Hollow neighborhood, just outside downtown core. Share space with small firm, solo lawyers, other professionals. $750/month includes parking, reception services, conference room, other amenities. Support staff space also available. Contact Gaylord Eyerman Bradley PC at (503) 222-3526 or email receptionist@gaylordeyerman.com.

5200 MEADOWS EXECUTIVE OFFICE SUITES – Offering Executive Suites, mail service, phone reception, meeting rooms, business support and more. Call (503) 726-5999 or visit 5200meadows.com.

AFFORDABLE PRIVATE OFFICES IN SHARED SUITE – Mature financial planning practice looking for estate planning attorney to share space and handle referrals. Separate entrance and locked door separates two internal offices from the rest of the suite. Located on first floor of Oregon State Bar Center. Three bright spaces available, includes access to reception area and kitchen, utilities, cleaning service. Contact Tony at (503) 245-5352 x103 for details and rates.

AVAILABLE! TWO FLOORS (3,023 sq ft) IN UNIQUE, MODERN OFFICE BUILDING IN LAIR-HILL NEIGHBORHOOD on SW Corbett avenue two blocks from Gibbs street walking bridge to south waterfront. Amenities include: Reception, large secretarial area, six private offices, large conference room, kitchen, shower, fully ADA compliant with elevator. Easy access to and from I-5. Space is available on a 3-5 year, full-service lease. Contact Greg Terranova at (503) 220-0248.

CLASS A OFFICE SPACE IN SE PORTLAND, window office with reception service available in friendly SE Portland law firm. Top floor of modern building, easy highway access, free parking. Access to kitchen, copy/scanner and work areas. Will consider adding assistant space if right fit. $700 - $1,000/mo. Contact Alyssa at alyssa@fitzwaterlaw.com or (503) 786-8191.

DOWNTOWN EUGENE, 975 OAK STREET – Spacious, view office in upper level of Class A Citizens Building. Ample staff space, copier and conference/library provided. Congenial atmosphere. Some work overflow probable. Would consider shared reception. $975/mo. Contact Terri at (541) 345-3333.

DOWNTOWN PORTLAND,1000 BROADWAY, Class A space, 23rd floor, receptionist, voice mail, conference rooms, copyers, scanners, phone, gym, showers, bike rack, $750 to $1,500, (503) 274-1680.

EXTERIOR OFFICE 12’ X 13’ IN 7 ATTORNEY SUITE in 6th + Main building (used to be called Congress Center), available now. Includes reception, conference room, kitchen and access to high-volume copier. Building workout facility with shower. $875/mo, assistant space $100/mo. Contact Christine, (503) 242-1122, ctracey@nwlawfirm.com.

FURNISHED OFFICES IN THE HEART OF PORTLAND – One or two large furnished offices in a three office suite available for lease. Large windows overlook Broadway one block from Pioneer Square. Reception area desk also available. WiFi included. $700 per office or $1300 for both. Contact Steve at (503) 294-1106.

HILLSBORO DOWNTOWN OFFICE SPACE one block to courthouse, free reserved parking. Single private offices on month to month or longer. $325 per month. Larger suites also available. New Comcast high speed internet available! Call Jay Weil (503) 924-5772, or email jayweil@baol.com.

OFFICE SPACE AVAILABLE IN EUGENE, NEWPORT AND ROSEBURG – Share professional and furnished office space with an established Eugene firm. Available Immediately. Go to www.armstrongbankruptcy.com/officespace or call (541) 683-6652 for more information.

LAKE OSWEGO KRUSE WAY – Class A Office Building. 4248 Galewood Street, Lake Oswego, OR 97035. Primarily Attorneys. Partner-sized, windowed offices. Receptionist, Phones, High Speed Internet, Conference Rooms available or included. Free parking. Office lease prices range from $600 to $1400 per month. Phone numbers or ported numbers available. Call for information. John (503) 675-4343.


OFFICE SUITE NEEDED – Established law firm looking to sublease or take over current lease in Lake Oswego, West Linn, Tigard, Tualatin, SW Portland (south of downtown). We have 13 employees with 7 attorneys. Ideal office suite would have 10+ offices with conference room, kitchen and break room, and reception area. Please reply to the Oregon State Bar, Attn: Blind Ad B-20, P.O. Box 231935, Tigard, OR 97281 or email: blindad@osbar.org with the blind ad number in the subject line.

PANORAMA BUILDING 5,000 SQUARE FEET OF GROUND FLOOR OFFICE SPACE 4504 SW CORBETT Convenient to Downtown. Panoramic River and River and Mountain Views. Space includes reception area, offices, conference rooms, cubicle areas and other amenities. Janitorial and basic utilities provided. Off and on street parking. All-inclusive lease $28 per square foot annually. Contact: (503) 866-7521.

TWO LAW OFFICES AVAILABLE DOWNTOWN at the Honeyman House, 1318 SW 12th Avenue, Portland: Professionally remodeled Victorian House. Easy street parking for clients, 10 minute walk to the courthouse, and easy freeway access. Amenities include law library, large conference room, access to copier and fax. One office is $600 per month and a smaller office is $425 per month. Both offices come with a free tenant parking place ($205/month value) with a minimum 30 month lease. Contact Allan at (503) 781-7887 or Eric at (503) 224-1212.

TWO OFFICE SHARES IN DOWNTOWN PORTLAND 1 MONTH FREE WITH A 12 MO LEASE – One is 14x12 for $1,200 per month and the other is 15x10 for $1,025 per month. 10th floor office in Cascade Building. 2 blocks from Pioneer Square and MAX Transit hub. Alder Street Parking Garage across street. Rent includes reception, telephone/internet, office conference room, shred, copier & postage machine use. Building amenities: Gym, w/shower, tenant lounge. Contact Jamie @ (503) 243-2733 or jamie@kramer-associates.com.

UP TO THREE OFFICES AVAILABLE IN THE HISTORIC AMERICAN BANK BUILDING, top floor overlooking Pioneer Courthouse Square (with MAX stops), large support staff spaces also available, rent includes reception, telephone, Internet, conference rooms, copier/scanner. Building has a gym with showers, bike parking and windows open. Rents $900 - $1250/mo. Contact Diana @ (503) 226-8122 or diana@swiderhaver.com.

POSITIONS AVAILABLE

It is the policy of the Bulletin to only list opportunities for employment that are consistent with OSB Bylaw 10.

A LATERAL MOVE IS A DIFFICULT DECISION, so let us find you the perfect fit. Since 2000, Stayer Legal Search has been connecting lawyers with great opportunities in all sizes of law firms and companies. Our current searches cover nearly all practice areas. Let’s talk in confidence. Candice Wilson Stayer, Stayer Legal Search LLC cwstayer@stayerlegalssearch.com (503) 968-0901.
A PORTLAND METRO AREA AV RATED LAW FIRM is seeking an Associate Attorney to join their growing defense litigation practice. This firm represents employers and insurers in the areas of workers’ compensation, employment law and insurance defense. This is an excellent opportunity for new lawyers who have strong interpersonal, analytical and organizational skills and a willingness to work in a demanding but informal and positive environment. As an associate you will also have the opportunity to work closely with senior attorneys to develop hands-on experience and to work collaboratively in a team environment. The ideal Associate will be licensed in Oregon or Washington. Dual licensing is a big plus. Candidates should have strong research and writing skills, excellent verbal communication skills and have a competitive personality. This is a full time, full benefit position. Benefit package includes medical insurance, dental insurance, life insurance, long term and short term disability insurance and 401K options. Interested candidates must submit a cover letter, resume, transcript and writing sample to recruiting@bishopcreekservices.com to be considered for the position.

ASSOCIATE ATTORNEY, NEWPORT, OR- Well established law firm representing a variety of local governments entities, business organizations and individuals primarily in civil matters seeking a proactive individual with excellent research, writing and communication skills who can produce the high-quality work we are known for. We offer the opportunity to gain experience in a variety of areas of civil law while taking on significant responsibility under the guidance and mentoring of senior attorneys. Please submit resume, writing sample and professional references to daz@mggdlaw.com.

BARGER LAW GROUP PC SEeks AN ASSOCIATE ATTORNEY- The firm specializes in insurance defense litigation. The ideal candidate should have between 1-4 years of experience as a lawyer in Oregon and be admitted to the Oregon State Bar. He/She must possess strong analytical skills, legal research abilities, as well as a propensity to multi-task by working on a full case load. The position will involve attending depositions, hearings, arbitrations, and trials, performing legal research, preparing motions and reports, as well as collaborating with our lawyers on various cases. The firm offers competitive compensation and benefits. Interested candidates should send a cover letter, resume, sample, and resume to Sean Lanz at slanz@bargerlawgrouppc.com.

BEND FIRM SEEKING BUSINESS & REAL ESTATE TRANSACTIONS ATTORNEY – Lynch Conger McLane LLP is a thriving Bend and Portland law firm seeking a 3-8 year associate with business and real estate transactional experience. Land use experience a plus. Headquartered in Bend with suburban Portland/Lake Oswego office. Competitive salary, benefits, and bonus structure. Family oriented firm. Principals only, no recruiters. Submit resume and short cover letter or email to Office Manager Kaci Price at kprice@lynchconger.com.

CHOCK BARHOUm, a fast paced litigation firm with a collegial, fun atmosphere, is seeking a 3 to 8 year associate with insurance defense experience. Competitive salary and benefits. Oregon bar required; Washington a plus. Please send a cover letter, resume, and referenced to John Barhoun at john.barhoun@chockbarhoun.com.

DISCIPLINE LEGAL SECRETARY – The Oregon State Bar is looking for someone to provide administrative and legal secretarial support for the Disciplinary Counsel’s office and related regulatory programs. Please visit http://www.osbar.org/osbcenter/openings.html for job details. Equal Opportunity Employer.

DISTINGUISHED BUSINESS LAW FIRM is expanding and seeking lateral transfer attorneys. Gevessweeney, a trusted business law firm in Eugene for almost 100 years, is seeking lawyers for our firm’s Business and Transactions, Litigation, and Estate Planning practices. Our firm takes great pride in providing clients with high quality legal guidance and our people with a rewarding work life balance. Candidates must have strong academic credentials and meaningful professional experience. Please send cover letter, resume, and writing sample to Claudia Horner, Gevessweeney, 975 Oak St, Suite 800, Eugene, OR 97401, or email to horner@gevessweeney.com. All inquiries will remain confidential.

ENVIRONMENTAL LAW & LITIGATION ASSOCIATE – Ring Bender LLP, an environmental, natural resources and litigation law firm, is seeking a mid-level associate to join our Portland office. Our firm has offices in Oregon, California and Pennsylvania and our clients include private business as well as municipalities. Our ideal candidate will have two to five years of experience in environmental regulatory compliance counseling and litigation in the Pacific Northwest and California, at both the state and federal levels. The candidate should be enterprising and have a strong desire to become a leader in the field of environmental law. Our associates are given meaningful, hands-on legal work at every stage of their careers and will work directly with the firm’s other attorneys, clients and technical consultants on complex, unique and challenging environmental and natural resource issues. We are looking for candidates who are willing to work as an integral part of a high performing, collegial and collaborative team. Candidates should have the following qualifications: J.D. from an ABA-accredited law school with excellent academic credentials; status as an active member in good standing of the bar in at least one state jurisdiction and ability to obtain licensure in Oregon within 6 months of hire; strong analytical, research, writing and oral communication skills; organized, detailed, works well under deadline, creative thinker, multitasker, and has demonstrated the ability to assume significant client responsibilities; and experience with major environmental law statutes, such as the Clean Air Act, the Clean Water Act, the Resource Conservation and Recovery Act, and CERCLA, as well as the California and Oregon equivalents of such statutes. Experience with real estate law, land use law and litigation is not required but will be considered a plus. Competitive salary and benefits package. Qualified applicants are invited to submit a cover letter, resume, transcript, and writing sample to Sarah Goodling Russell (Firm Administrator) at sgoodling@ringbenderlaw.com.

ESTABLISHED CENTRAL OREGON LAW FIRM looking for a family law associate attorney to join our team. Ideal qualifications include at least 2-3 years of experience in family law, a competitive spirit, strong work ethic, and superior oral and written skills. Salary and benefits will depend on experience and qualifications. Please submit a cover letter, resume, references and writing sample to resume@redmond-lawyers.com.

ESTATE PLANNING & ELDER LAW ATTORNEY – The Law Offices of Nay & Friedenberg LLC is recruiting for an attorney with five or more years of Estate Planning/Elder Law experience. We are looking for someone who possesses a strong work ethic, has fantastic interpersonal skills, is organized and takes initiative. You should be proficient at drafting complex estate plans and be a current member of the Oregon State Bar. This is a career partner track position. If you share our passion for touching lives and making a real difference, want to work with a team that values everyone’s contributions, and are willing to commit to 40-45 hours per week, we want to talk. Compensation is above market and we offer great benefits. Please email your cover letter and vita to estate attorneypxd@gmail.com. No calls, please. All submissions are strictly confidential.

EXPERIENCED CORPORATE/M&A ATTORNEY – Rose Law Firm is a 7+ attorney business-focused law firm in Lake Oswego. We seek an attorney with 15+ years of experience in handling complex corporate/commercial transactions and associated client engagements—including file and team management. Position is ideal for someone wanting to transition away from the billable hour demands of a larger firm but still interested in maintaining a sophisticated practice and collaborating with a team of like-minded professionals. If you bring a partial book of business, that is great, but not necessary. This position requires someone with: (a) strong experience and an exceptional substantive corporate law/M&A skillset; and (b) a desire to contribute to helping Rose Law thrive and expand. We offer competitive wages and benefits (health, dental, vision,
life, 401(k)) and can be flexible with billable hour goals (between 1,200 – 1,800). Culture is very important: we take our work seriously, but do not take ourselves too seriously – large egos don’t function well here. To apply, send cover letter, resume, and references to Crystal Hutchens, chickutens@rose-law.com. For more details, please review: https://www.rose-law.com/careers.

EXPERIENCED CRIMINAL DEFENSE ATTORNEYS, PORTLAND & HILLSBORO – Metropolitan Public Defender is seeking experienced attorneys with at least one to five years of criminal defense experience. Please send cover letter and resume via email to kconstant@mpdlaw.com.

EXPERIENCED DEATH PENALTY ATTORNEY, PORTLAND – Metropolitan Public Defender is seeking an experienced full time capital case qualified attorney to join its capital team. This group handles Oregon death penalty cases from MPD offices in Portland and Hillsboro, Oregon. Compensation includes a competitive salary, excellent benefits, a healthy team environment, and a manageable caseload. Please send cover letter and resume via email to kconstant@mpdlaw.com.

FIRM SEEKS EXPERIENCED COUNSEL ATTORNEY to work in Eugene office with business attorney with over 20 years of experience in commercial litigation, business transaction, real estate and estate planning. Office, phones, staff, etc. provided. Attorney must have a strong work ethic, clientele and billings of 60 hours or more per month. Compensation is based upon percentage of gross receipts received by firm for professional services rendered by attorney. Please send cover letter and resume to eugenebusinessattorney@ gmail.com.

FULL-TIME PERSONAL INJURY ATTORNEY POSITION AVAILABLE –D’Amore Law Group is seeking a full-time, well-qualified attorney to join our personal injury litigation firm. D’Amore Law Group is a collegial, AV Preeminent rated personal injury firm practicing in Oregon, Washington, and California for the past 28 years. Our attorneys represent plaintiffs in complex personal injury litigation, including motor vehicle, trucking, nursing home, sexual assault, medical negligence, product liability, aviation, and insurance and banking bad faith litigation. Candidate must be an excellent legal writer, conduct legal research and draft complaints, motions, and memos. Experience arguing motions in court and trial experience are desired. Our firm offers rewarding work on behalf of individuals that have been catastrophically injured. A commitment to plaintiff’s work is essential. We are seeking a candidate with at least eight years of experience, with preference given to candidates with excellent credentials and experience in plaintiff’s personal injury, insurance defense, or commercial litigation. Must be admitted to the Oregon State Bar upon hire and preferably admitted to the Washington State Bar as well. Salary: DOE. Qualified candidates, please send your resume, a writing sample, and the position you are interested in to: shannon@damorelaw.com.

INTELLECTUAL PROPERTY PRACTITIONER – DASCENZO Intellectual Property Law, P.C. is seeking an experienced intellectual property prosecution attorney or patent agent to join our team of practitioners. DIPL specializes in U.S. and international patent and trademark searching, prosecution, licensing, and strategic advice, and its clients range from startups to industry-leading multinational corporations. Ideal candidates will have excellent writing and analytical skills, strong academic backgrounds and work experience, and an established client base. Candidates also should have at least four years of patent-related IP experience, a can-do attitude, and a desire to work collaboratively as part of a close-knit team. International intellectual property experience and trademark prosecution experience are a plus, as are licensing and litigation experience. Please send cover letter and resume to dascenzoinc@gmail.com. Inquiries will be maintained confidential upon request.

VIAL FOTHERINGHAM LLP is seeking experienced attorneys to support busy real estate, land use and estate planning, probate attorneys in our Oregon office. Candidates should have at least 4 years of experience in these practice areas. Looking for Oregon licensure, Washington helpful as well. Preferred candidates will have a thorough understanding of federal and state laws and regulations, have excellent writing and analytical skills, and an eye for detail. Please send resume and writing sample to cdj@vl-law.com.

WILLIAMS KASTNER GREENE & MARKLEY is currently seeking a lateral attorney with a minimum of seven years’ experience in real estate transactions and litigation to work with senior level attorneys in the Portland, Oregon office. Candidates must be licensed to practice law in Oregon State and have outstanding written and oral skills. Qualified candidates should email a cover letter and resume to Patti Christiansen, Recruiting Manager, at pchristiansen@williamskastner.com.

WILLAMETTE VALLEY LAW FIRM with offices in Corvallis and Albany looking to hire associate with 3-5 years meaningful experience as a personal injury and/or family law attorney. Competitive salary commensurate with qualifications and experience. Please send cover letter, resume, and writing sample to Evashvski Elliott PC at P.O. Box 781, Corvallis, OR 97339. All inquiries will remain confidential.

PRACTICES FOR SALE

ESTABLISHED KITSAP COUNTY ESTATE PLANNING, GUARDIANSHIP & PROBATE PRACTICE that has been a staple in Kitsap County for over 14 years. The practice case breakdown is 40% Guardianships and Trusts, 25% Probate, 25% Estate Planning and 10% Other (Pre-nuptial, Estate Litigation, GAL). The Owner runs the practice out of her home office, which makes this a great opportunity for an attorney wishing to grow his/her current practice and/or start a practice with an established book of business. The Owner took in over $125,000 in income and perks in 2017. Contact info@privatepracticetransitions.com or call (253) 509-9224.

ESTABLISHED PIERCE COUNTY INSURANCE DEFENSE PRACTICE that was established in 1998 and has over 125 active clients as of April 2019. The average gross revenue the last three years was over $1,017,000. The practice/case breakdown by revenue is 50% Bodily Injury, 10% Property Damage, 10% Product Liability, 10% Professional Liability, 10% Plaintiff Work, and 10% Other. Contact info@privatepracticetransitions.com or call (253) 509-9224.

ESTABLISHED SEATTLE ESTATE PLANNING PRACTICE that has a practice/case breakdown by revenue of approximately 45% Estate & Trust Administration, 40% Estate Planning, and 15% Other (Collateral Matters, Estate Tax Preparation, Real Property Issues, etc.). The Practice is located in the heart of downtown Seattle, has averaged gross revenues of over $286,000 the last three years (2016-2018), and is poised for growth under new ownership. Contact info@privatepracticetransitions.com or call (253) 509-9224.

GROWING PIERCE COUNTY PERSONAL INJURY PRACTICE that was established in 1975, has a great reputation in the community, and has over 90 active clients as of January 2019. The gross revenues in 2018 totaled over $415,000. The owner would like to sell the Practice as a turn-key operation. The practice/case breakdown by revenue is 99% Personal Injury and 1% Other. Contact info@privatepracticetransitions.com or call (253) 509-9224.

LOOKING TO PURCHASE YOUR LEGAL PRACTICE – Do you have a small business practice that you are
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largest firms in Portland. We believe
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fit. Please reply to the Oregon State
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Practice that operates locally, nation-
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ble month-to-month office lease
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is thriving with owner’s discretionary
earnings over $250,000 each of the
last three (3) years! Contact info@-
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PROFITABLE SNOHOMISH COUN-
TY PERSONAL INJURY & BANK-
RUPTCY PRACTICE that has been
in business for more than 27 years.
The practice/case breakdown by rev-
ue is approximately 60% Personal
Injury, 35% Bankruptcy, and 5%
Other. The Practice is located in a
1,022 SF fully furnished office that
is also available for sale, if desired.
Contact info@privatepracticetrans-
tions.com or call (253) 509-9224.

REGIONAL AND INTERNATIONAL
BUSINESS LAW PRACTICE with
a stellar reputation and average
gross revenues over $550,000 the
last three years. The Practice/case
breakdown is 50% Business Law,
35% Estate Planning, 10% General
Legal Services, and 5% Intellectual
Property. The Practice is located in
East King County in a 2,000SF leased
office space. Contact info@private
practicetransitions.com or call (253)
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ROSEBURG CRIMINAL DEFENSE &
FAMILY LAW PRACTICE estab-
lished private practice since 1995.
Leased suite space approx. 2800 SF,
fully furnished. Includes law library,
conference room, attorney offices,
reception lobby, and staff kitchen-
ette, 180 views from this 4th floor
suite with tasteful decor. Sheryl
email: morningglorylane@gmail.com
phone: (541) 672-1955.

SUCCESSFUL KING COUNTY IN-
SURANCE DEFENSE PRACTICE
that is located in the heart of Seattle
and had 2018 gross revenues over
$1,800,000. The Practice was estab-
lished in 2006, has a great reputa-
tion in the legal community, and has
five (5) total employees, includ-
ing the owner. Contact info@private
practicetransitions.com or call (253)
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THINKING ABOUT BUYING OR
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vate Practice Transitions, Inc. is the
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ivatepracticetransitions.com.

THREATING BEND OREGON LAW
FIRM that has been a staple in the
Bend community for over 42 years.
In 2018, the practice brought in over
$540,000 in gross revenues and over
$357,000 in total owner perks. The
practice has a case breakdown of
29% Civil, 21% Estate, 16% Family/
Divorce, 16% Other (Contracts, Real
Estate, Criminal, Business, PI, DJI,
e tc), 5% Land Use, 5% Landlord
Tenant, 4% Corporate/LLC, and 4%
Water Law. Contact info@private
practicetransitions.com or call (253)
509-9224.

THREATING STEVENS COUNTY PER-
SONAL INJURY & FAMILY LAW
PRACTICE that was established in
2009, has a strong client base, and
brought in over $855,000 in gross
revenue in 2018. The practice/case
breakdown by revenue is approxi-
mately 48% Personal Injury, 43%
Family Law, and 9% Estate (Plan-
ning, Probate, General Litiga-
tion, etc.). The Practice employs five
(5) people: one (1) owner/attorney,
three (3) legal assistants, and one (1)
office administrator. Contact info@
privatepracticetransitions.com or call
(253) 509-9224.

THREATING VIRTUAL APPELLATE
LAW PRACTICE that has experi-
enced 17%, 30%, and 47% YoY
growth for the last three years (2016-
2018). In 2018, the firm’s gross
revenues were over $915,000! The
Practice was established in 2009, has
a great reputation in the legal com-
munity, and has over 150 active cli-
ents as of January 2019. The owner
would like to sell the Practice as a
turn-key operation. The practice/case
breakdown by revenue is 100% Ap-
peals. Contact info@privateprac-
ticetransitions.com or call (253) 509-
9224.

THREATING & WELL-ROUNDED
Pierce County Law Practice
that has been a staple in Pierce
County for over 20 years. The Prac-
tice is absolutely thriving with aver-
age gross revenues over $1.6 Million
the last three years. The practice/case
breakdown is 30% Trusts, Estates &
Probate, 15% Business Formation,
15% Plaintiff Personal Injury, 15%
Commercial & Corporate Litigation,
12% Real Estate, 7% Municipal, 6%-
8% Real Estate, 7 % Municipal, and
10% Other. Contact info@private
practicetransitions.com or call (253)
509-9224.

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SW Portland Estate Plan-
ing, probate and small business
practice in a highly desirable loca-
tion with option to purchase fully
furnished building with rent revenue
from other attorneys. Gross revenues
are over $400K with more potential.
Owner is available for transition and
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