Examining the Pro Se Justice Gap

Innovation Attempts to Curb Troubling Numbers

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In the 21st century, the courthouse is a place where people without legal training try to make their way through an opaque justice system, a system with rules and procedures designed by the use of lawyers, not laypeople. And state courts all over the country, recognizing the disconnect and the impact it has on access to justice, are looking closely at a variety of problems and some revolutionary solutions. Janay Haas reports.

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Kudos to Joondeph

I read the May issue profile of Bob Joondeph with interest — having worked at Oregon Advocacy Center (later Disability Rights Oregon) for 20 years. Bob staunchly supported staff to pursue upstream problems, while advocating for individuals with disabilities in jeopardy or pursuing community integration civil rights. He championed that each person’s case is important; each person’s legal issue informs our greater work and each client makes legal work rewarding.

Ted E. Wenk
Tigard

Questioning 50-Year Member Fee Change

The 2019 HOD meeting approved of the BOG taking the steps necessary to move from a system of fee discounts based on years of membership to a system of discounts based on income and ability to pay. Ostensibly, this was felt necessary to avoid an overall licensing fee increase to avoid a loss of revenue. This took place after the bar honored the admission of the Class of 1968 in the fall of 2018, and congratulated us on achieving the 50 years of dues-paying membership and assuring us of the vesting of the end of bar dues. It is one thing to change the rules for future members but to retroactively change the rules for senior members is not just, and is causing many resignations of loyal bar members.

If the bar is in such serious financial trouble, I strongly suggest they claim the funds held by the Unclaimed Property Section of the Oregon Department of State Lands, which lists over 20 accounts that belong to the Oregon State Bar.

William Haberlach, Medford

Tired of Ties

In the 1970s, the few female lawyers in this country began objecting to the dress codes imposed by their firms and the courts. Specifically, they wanted to wear slacks as an option to the mandatory dress or skirt. That seems eminently reasonable today (if not silly that this choice had to be argued about), but it was highly contentious then.

At least they weren’t being strangled by their antiquated, imposed dress code.

During this hoped-for post-pandemic world, is this a good time for the judiciary to examine the need to keep some lawyers “buttoned-up”? Ties are the last vestige of Louis XIV foppery. What is the judiciary’s need to impose this clothing mandate that should, instead, be optional — like wearing slacks or skirts?

A tie is no longer a sign of respect — for the wearer or the viewer. It should go the way of other similar lawyerly traditions: the wig, great coat, fedora and cigar — not to mention the bourbon in the bottom left drawer.

Paul Sundermier, Salem

Men Need to Assume More Responsibility

The June 2021 cover story (“Demands Drive Women to the Brink” by Susan G. Hauser) repeatedly asks a question that is never directly addressed: Why are the male partners of female attorneys deserting their duties as parents when their partners need their support most? (The answer is sexism, plain and simple.)

Instead, the story simply asserts that the legal industry must become more flexible, and women in leadership positions will make that possible. But all the suggested routes to a better work culture depend on the labor of women. What role do men play in the liberation of their female partners, colleagues and employees from the patriarchal biases that assign women the lion’s share of childcare and household maintenance?

I offer the following recommendations for all male partners, colleagues and employers of female attorneys to begin to remedy the current state of work-life balance.

First, it is imperative that you immediately examine, evaluate and improve your performance in your current role. Partners, prioritize her work as much as your own. If your children badger Mom while you are both working, take notice. Then redirect the children to you for attention at least half the time. Keep a tally if necessary. Do not retreat and close the door. Colleagues, encourage everyone you work with to put their wellbeing and their families’ wellbeing ahead of work, facilitate that where you can, and ask for support for your own well-being. Employers, foster an environment that celebrates parents’ involvement in their children’s lives.

For too long, women have shouldered the burden of making work better for everyone. It is time for men to interrogate whether they are living up to the ideals of equality in their relationships and at work. Then they all need to run the dishwasher and do a load of laundry.

Paige Huntoon, Portland
BRIEFS

By the Numbers

**eCourt’s Effect**

Full implementation of Oregon’s eCourt system was completed five years ago (see page 18) with the final districts converting. The effect has been profound.

- **> 50 Million** Pieces of paper saved each year
- **22,478,550** Number of previous circuit court and tax court cases converted and migrated
- **12,141,280** Minimum amount of training per individual
- **2 Days** Minimum training time per judge

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 take effect on July 1; they apply to all causes of action arising on or after July 1, 2021, and before July 1, 2022.

Based on OSCA’s calculations, the new limits are:
- $2,347,700 for injury or death claims against a state body that involve a single claimant. The old limit was $2,307,500;
- $4,695,300 for injury or death claims against a state body that involve multiple claimants. The old limit was $4,615,000;
- $782,600 for injury or death claims against a local body that involve a single claimant. The old limit was $769,200;
- $1,565,100 for injury or death claims against a local body that involve multiple claimants. The old limit was $1,538,300;
- $128,400 for property damage or destruction claims against a state or local body that involve a single claimant. The old limit was $126,200;
- $641,800 for property damage or destruction claims against a state or local body that involve multiple claimants. The old limit was $630,800.

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.

OMLA Requests Support for the Annual Summer Social and Fundraising Auction

The first Oregon Minority Lawyers Association Summer Social and Auction was held in the summer of 2000. Since then, OMLA has held the auction as an annual event and, with the help of the local legal and business community, raised enough money to award more than 100 bar exam grants. The OMLA Bar Exam Grant program is designed to pay for bar exam fees and preparation courses for graduating law students and recent graduates that further the OMLA mission.

This year’s event will be online, with full details available soon at www.omlawyers.com/omlauction.html. OMLA is a 501(c)(3) non-profit organization committed to promoting fair and just treatment of all people under the law, regardless of race or color, through advocacy and education.

OTLA’s 2021 Hybrid Convention Will Be Held Aug. 11-13

While the Oregon Trial Lawyers Association intended to have a fully in-person event this year in Salishan, to be COVID-safe, OTLA has decided to implement a hybrid virtual/in-person convention for 2021.

Changes to UTCR Take Effect Aug. 1

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

Changes and out-of-cycle amendments of special note prohibit attorney logos, watermarks or similar images from appearing on pleadings, motions, orders, judgments or writs; exempt a proposed order allowing a motion for attorney withdrawal from the early service requirement in 5.100(1); create requirements for captions in probate and protective proceedings; adopt new rules governing juvenile dependency cases; and repeal the UTCR Forms Appendix. The approved changes are available online at http://www.courts.oregon.gov/programs/utcr/Pages/currentrules.aspx. The preface to the 2021 UTCR includes detailed explanations of the changes.

The UTCR Committee’s next meeting is Oct. 15. The committee welcomes proposals for changes to the trial court rules. Submit proposals by Aug. 31 to utcr@ojd.state.or.us or mail them to UTCR Reporter, Office of the State Court Administrator, Supreme Court Building, 1163 State Street, Salem, OR 97301-2563.
Quotable

“Singlehandedly, for over a decade as a judge, Justice Nelson has led efforts to educate judges, court staff, lawyers, and recently jurors and the public about historical racial disparities in Oregon law, … the impact of implicit bias and how to overcome those biases.”

— National Consortium on Racial and Ethnic Fairness in the Courts regarding Justice Adrienne Nelson, who recently was one of just two distinguished jurists across the country presented with the Equity Achievement Award by the group

Online programming will be available Aug. 11-13, with smaller, in-person social events planned across the state for those who wish to attend. Topics covered will include: implicit bias training, fear in the courtroom, practicing with a disability and more. For a full schedule of events and to register, visit www.tinyurl.com/OTLA2021Convention.

Oregon Paralegal Association Hosting National Convention Oct. 7-10

The Oregon Paralegal Association is hosting this year’s National Federation of Paralegal Associations’ Annual Convention at the Downtown Hilton Hotel in Portland from Oct. 7-10. There will be CLEs, workshops, networking, an opportunity to advance the profession during the policy meeting and state-of-the-art legal vendor exhibits. Chief Justice Martha Walters is the keynote speaker. The Multnomah Bar Foundation’s CourtCare Program is the spotlighted charity. For more information, visit www.paralegals.org.

“We wish to exercise our right to cancel the real estate purchase contract due to the unsatisfactory results of the home inspection. We wanted the inspector to find a swimming pool.”

Common Sense Public Protection and Access to Justice

The Ethics of Lawyer Ads  By Nik Chourey

As is the usual case, this article was inspired and informed by my legal ethics consultations with thousands of Oregon lawyers. 1 The good news first: Common-sense public protection is built into the crystal-clear legal ethics of providing the public with legal services information. The slightly more complicated news: Lawyers still have an obligation to keep up to date on the ethical guidelines on lawyer advertising, rather than merely delegating obligations to staff. This month’s Bar Counsel column reviews advertising requirements and outlines a lawyer’s obligation to supervise marketing staff to avoid disciplinary heartache.

Smart, Honest Ads Advance Access to Justice

Solicitation. Lawyer billboards, websites and blogs, oh my! Lawyer solicitation and advertising are topics that have long-suffered negative perceptions within our profession and with the public. I say, let go of this view and get your name out there! Know that solicitation of clients under duress is prohibited and lawyer ads must be honest and complete. 2 That is (almost) all you need to know about ethical advertising.

While it may be hard to believe today, there was a time when lawyer advertising was anathema. In our modern world, legal marketing is viewed as a mundane business practice; but lawyers who sought to advertise through the middle of the 19th century were scorned by their peers. If you could not develop your book of business solely through word of mouth — lawyers of the past argued — you must not be a very good lawyer.

Of course, this aversion to advertising has gradually shifted over time, in part because the profession eventually recognized that advertising is an important method to increase access to justice. People who are unaware of what legal services are available and how they can help are unlikely to reach out to a lawyer. Advertising can change that and provide a path forward to people facing a legal problem.

Oregon’s approach to lawyer advertising is straightforward and less onerous than some other states. For instance, Oregon does not require any kind of regulatory review of lawyer advertising prior to publication. Further, Oregon’s rules on solicitation are focused on simply preventing consumer harm, rather than on preventing lawyer speech. A newly published ethics opinion, OSB Formal Ethics Opinion No. 2021-196, “Rule 7.3 Solicitation of Clients,” is a robust guide to the ethical solicitation of clients and advertising. 3

‘I am a Trial Lawyer, Not a Marketing Professional’

Considering how straightforward the rules of ethical advertising are, I have grown less concerned with member compliance and more concerned with the instances in which busy lawyers abandon their ethical responsibility to supervise staff who market the lawyer’s legal services.

We don’t have to be competent or experts at both the practice or law and the art of marketing. Legal ethics require that we are honest, complete and mindful in our marketing. 4

Even so, for many lawyers, marketing is just not their bag. “Solicitation? Ads? Fancy firm websites?” Lawyers might muse, “That’s not for lawyers; that’s only for other professionals with expertise in website design and tech sorcery.” While lawyers can always benefit from the talents and expertise of other professions, our ethical duties remain; and, under the Rules of Professional Conduct (RPC), we must review and approve the content of our all information about our legal services.

Despite these professional obligations, marketing, for some lawyers, is the sole responsibility of the firm’s director of marketing or an independently contracted internet guru. This approach, however, is fraught with regulatory risk because it incorrectly reverses the lawyer’s compliance responsibility from lawyer to nonlawyer staff.

Ethics: Our Responsibility

Lawyers, not nonlawyer staff, must control and approve the marketing of our services.

Without ambiguity, RPC 5.3 provides that, in our capacity as lawyers supervising nonlawyers, we “shall make reasonable efforts to ensure that person’s conduct is compatible with [our] professional obligations ...” RPC 5.3(a). Further, to the extent a lawyer is working together with a nonlawyer to violate the rules, RPC 8.4(a)(1)’s prohibition against helping another person to violate the rules of professional conduct is also in play. To that score, lawyers should
create processes to review legal marketing, including websites and advertising, on a regular basis and before the information is disseminated to the public.

When it comes to lawyer ads, only a reckless lawyer would blindly entrust ethical compliance to their nonlawyer staff or an independent contractor. Such an abdication of lawyer responsibility may be a memorable recipe for negative regulatory attention. This is especially the case if a lawyer’s staff has received training on legal ethics rules.

In addition, RPC 5.2(a) (responsibilities of a subordinate lawyer), provides that we are bound by the Rules of Professional Conduct notwithstanding that we acted at the direction of another person, i.e., a marketing and website construction nonlawyer expert or even me. Consistent with the practice of law, we must exercise, and we are entitled exercise, our own professional judgment in compliance with legal ethics. RPC 2.1.

The takeaway is that if your firm’s marketing director has advised you that lawyers may now advertise their legal services in funeral homes, hospitals and crime scenes — please reconsider. This is the wrong way.

Conclusion

Lawyers, and not nonlawyers, with ethical concerns are always welcome to contact the Legal Ethics Helpline or turn to legal ethics resources in the Bar Counsel article archives on Bar Books for answers. Together, we can work to manage hard ethical questions that may arise during the practice of law.

Nik T. Chourcy is deputy general counsel for the Oregon State Bar. Reach him at nchourcy@osbar.org.

Endnotes

1. Each year, General Counsel’s Office provides prospective ethics guidance to more than 5,000 Oregon attorneys on the Oregon State Bar’s ethics helpline. Members may call ethics helpline at (503) 431-6475 for guidance regarding their own prospective conduct or email General Counsel’s Office to seek guidance. The helpline does not advise members on past conduct or completed conduct except to provide guidance on the application of Oregon RPC 8.3 and the member's own duty to report misconduct.
2. RPC 7.1 (false and misleading communication about legal services prohibited); RPC 7.2 (advertising); RPC 7.3 (solicitation of clients); RPC 7.5 (firm names and letterheads); and RPC 8.4(a)(3) (dishonesty, fraud, deceit, or misrepresentation prohibited).
4. RPC 7.1 (false and misleading communication about legal services prohibited); RPC 7.2 (advertising); RPC 7.3 (solicitation of clients); RPC 7.5 (firm names and letterheads); and RPC 8.4(a)(3) (dishonesty, fraud, deceit, or misrepresentation prohibited).
5. Hypothetically, such calls and emails from nonlawyer staff may have been submitted to General Counsel’s Office. Oddly, nonlawyer staff appears to have heard that advertising in hospitals in now permitted. It is not; and likely would violate RPC 7.3 (solicitation of clients) and would definitely implicate ORS 9.510, which explicitly prohibits solicitation at hospitals.

Our Editorial Policy

All articles published in the Bulletin must be germane to the law, lawyers, the practice of law, the courts and judicial system, legal education or the Oregon State Bar. All opinions, statements and conclusions expressed in submitted articles appearing in the Bulletin are those of the author(s) and not of the editor, other editorial staff, employees of the Oregon State Bar, or members of the Board of Governors.

Publication of any article is not to be deemed an endorsement of the opinions, statements and conclusions expressed by the author(s). Publication of an advertisement is not an endorsement of that product or service.

Any content attributed to the Oregon State Bar or the Board of Governors is labeled with an OSB logo at the top of the page or within advertising to indicate its source or attribution.
A Check-in on My Lifelong Learning Pursuit

A Smattering of Ideas

By Elizabeth Ruiz Frost

The authors of this column have written many times that becoming a “good” writer is a lifelong pursuit. Because we write about it often, I thought I’d put my money where my mouth is and reflect on what I’ve learned about writing and language over the past year or so. Most of the ineffable lessons I learn about writing and expression come from reading — I pick things up that I cannot quite write down — but I also gather sharable details and rules here and there in grammar guides and writers’ blogs. Thus, the collection below is a bit of a mishmash of ideas, some big and some small, some good and some not.

I’ve Been So Wrong

I learned that I’ve been using so too much and maybe incorrectly at times. Like many readers, I suspect, I occasionally use so as an intensifier, even in my professional writing. Particularly in correspondence, I’ve written countless sentences like “I am so nervous about fitting into my pre-work-from-home clothes.” (Maybe not the last one in work emails, but I’ve certainly thought it.) In sentences where I refrained from using very, I’ve been somewhat thoughtless about using so.

But Grammar Girl, a trusted grammar and style source, tells me that so as an intensifier should be treated like very, in that it should be eradicated from formal writing.1 However, according to this one grammar text, so in formal writing is more acceptable when coupled with that.2 Accordingly, the sentences below would all be better versions of the previous sentences.

I am so grateful that I could cry.

I am so proud that I could burst.

I am so nervous about fitting into my clothes that I’ve started eating vegetables again.

Note, the so ... that creates a cause and effect in the sentences; maybe that structure is more acceptable because the cause and effect is more interesting than a regular old hyperbolized sentence.

Grammar Girl goes so far as to say that the use of so as a vague intensifier is a mistake, whereas very is merely frowned upon. I’m not sure I understand the rationale and have not found much corroboration for the idea that using so as an intensifier is definitively incorrect. Merriam-Webster notes that so as an intensifier is “condemned in college handbooks but is nonetheless standard.”3 My takeaway has been to think of so like I think of other intensifiers; if it would seem exaggerative or inappropriate to say very or extremely, I shouldn’t say so. But I’m not willing to call it wrong yet.

“Familектs”

I also learned this year that family units create their own unique dialects called “familектs” or “Kitchen Table Lingo.” The unique micro-dialects are filled with words and phrases used commonly (and sometimes solely) by the members of that unit. I suppose I’ve experienced Kitchen Table Lingo my whole life, but I had not thought about it until I read about it. I believe the enunciation of the concept of Kitchen Table Lingo originated with The English Project, a group of language enthusiasts who study the evolution of the English language. At the very least, The English Project wrote the book on it.4 Familектs derive from a whole host of sources, including regional phrases, confused children, inside jokes and pop culture. Sometimes a family will borrow quotes from TV or movies that work their way into everyday speech. For example, I often say to my family, “You serious, Clark?” when I mean, “Really?” I trust that they’ll get the reference that might seem non sequitur to others.

We certainly have our own language in my household, mostly collected from the words my children have misunderstood or mispronounced. Waves are “pumbles.” High heels are “top heels.” We say “hootel” instead of hotel. Familектs, like many other language dialects, are shared within our own communities, but we tend to alter their use when we merge with other communities. I wish we didn’t — the world might be more delightful if we shared our familектs with one another. What words and phrases do you use in your household that make up your unique dialect?

A Couple Fun Tricks

We have many words in English that sound alike but do different things, and remembering which to use where can be a challenge, especially when on the spot. This year, I learned a couple fun and easy tricks for distinguishing between two difficult pairs.

The first pair is who and whom. I can explain when to use who and whom in grammatical terms: Use who when it is a subject in the sentence; use whom when it is an
object. But a grammatical explanation is not a quick trick. The “trick” is to think about which other pronouns you could swap into the sentence. If the writer can swap in he, she or they, she’d use who. If the writer can swap in him, her or them, she’d use whom.

The second trick distinguishes between further and farther. In American English, in their adjective uses, farther relates to physical distance (e.g., “How much farther do we have to drive?”), and further relates to a psychological or figurative distance (e.g., “His research went further than anything before it.”). To my ear, one sounds correct in one context and not the other, but that’s not a trick I can pass along to others. The trick seems obvious and silly, but farther has the word far in it, and far sounds more like physical distance.

Just a final note to hype up the word further: Further has uses beyond just its adjective. It can be used as a verb (“to further one’s education”) and as a transition (“Further, you can use it as a transition.”). Further doesn’t do as much as further.

Humor is Really Hard

It’s hard to write funny. I didn’t learn this anew as much as I had it reaffirmed when I read two humorous memoirs this year. One worked, and the other didn’t. The first made me laugh out loud, but it was dry and subtle. I found the second one heavy-handed. To me, it read like, “I’m telling this story in a very funny way! And this part is very funny and cute, too!” Based on reviews of the two books, other readers perceived them very differently. Some reviewers were bored by the first; some reviewers thought the second was a rollicking hit. It seems an obvious point that we don’t all share a common sense of humor. So what? Well, losing a reader here and there is OK for a memoir, but it’s a bit more perilous when communicating in a professional context. If I were to incorporate “(She’s) not that innocent,” into a filing, I’d chuckle, but others might not. Not all jokes land.

You can certainly find articles and blogs encouraging lawyers to incorporate a bit of humor into their legal writing. Some writers have written about judicial humor. I suggest proceeding with caution. If you wonder whether a reader will get or appreciate the joke, stay safe and go the serious route.

Order of Adjectives

Get this: When using more than one adjective to describe something, there is a
very particular order in which to list them. I had no idea this was dictated by a rule. Adjectives should be listed in the following order: quantity, opinion/quality, size, physical quality, shape, age, color, origin, material, type and purpose. That’s a lot to keep straight. More generally, subjective adjectives (e.g., incredible, terrific) should come before factual ones (e.g., square).

Writers tend to intuitively follow this order closely. You never see anyone write, “a blue magnificent sky” or “orange six pumpkins.” I suppose I mostly follow the rule; I just didn’t know there was one.

Leave ‘Literally’ Alone

I learned that it’s time to stop policing the word literally. Like some of the readers of this fine column, I’ve been a grouch about literally for years, wishing writers would stop using it to mean figuratively. But it seems most dictionaries during the past decade have updated its definition to sanction the metaphoric use of literally. “Kids today” didn’t ruin it. It’s time to move on.

I Was Right

The most important thing I’ve learned over the past year or so is that I was right all along. In past columns, I have written about the trouble with multitasking and the importance of blocking out chunks of uninterrupted time for writing. I believed I was right, but I hadn’t tested the theory under extreme circumstances.

After spending a year working from home with nothing but disruption, I have confirmed that writing requires focus. The distractions of work have been compounded at home: another email alert, the dog needs to go out, a kid is hungry, someone’s knocking at the door, the neighbor is judging my yard again. I can’t get anything done. I feel at once crushed by my life’s constant disruptions and validated knowing I was right that writing requires time and space to focus.

Conclusion

I’m constantly learning new things about writing and how to teach writing. One wonderful thing about aging is that I forget half the things I learn, so I get to learn new things twice and maybe even three times! What have you learned about writing recently? Send me an email; I’m always eager to learn what writing ideas you’re thinking about.

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Elizabeth Ruiz Frost teaches Legal Research and Writing and other courses at the University of Oregon School of Law. Reach her at efrost@uoregon.edu.

ENDNOTES

2. Id.
4. The English Project, Kitchen Table Lingo (2008)
6. About one thing

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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 Michael Austin at (503) 431-6340. He can also be reached by email at editor@osbar.org.
Examining the Pro Se Justice Gap

Innovation Attempts to Curb Troubling Numbers

By Janay Haas
At the Klamath County courthouse, the big clock in the clerk’s office is edging toward lunch hour. A security guard hovers just outside the office, getting ready to lock the door. It’s 11:57 a.m., and two more people approach the service window.

The first person, a young man waving a sheaf of papers, demands incredulously, “What do you mean, I can’t give him the papers myself?” The clerk patiently explains the service process, sorting the customer’s papers into stacks as she goes along.

The second person, a dignified-looking middle-aged woman, pushes a single sheet of paper across the counter. Her voice starts out calm but spirals into a wail: “There was a hearing. They didn’t tell me about it. What do I do now?” Two clerks try to figure out what went wrong. Lunch will have to wait.

It’s a typical morning at the Klamath County court clerk’s office. It could be a typical morning at any court clerk’s office in Oregon, or in almost any other state.

In the 21st century, the courthouse is a place where people without legal training try to make their way through an opaque justice system, a system with rules and procedures designed by the use of lawyers, not laypeople. And state courts all over the country, recognizing the disconnect and the impact it has on access to justice, are looking closely at a variety of problems and some revolutionary solutions.

**The Pro Se Problem**

It doesn’t take a legal expert to know that unrepresented litigants are at an enormous disadvantage in court. And it’s no surprise that they often fare poorly.

“I feel terrible when going up against a pro se,” admits Grants Pass lawyer Holly Preslar. “It’s an unfair fight. I don’t play games, I follow the rules, but they don’t know what those rules even are. I believe I have always been successful for my own client against all self-represented parties.” How should they testify? What should they do with their documents? “While most judges try to assist them to the extent possible ethically, the hearings just seem to drag on and on,” she observes.

There are more and more self-represented litigants, notes the Hon. Kirsten Thompson, former presiding judge in Washington County Circuit Court. “Judges see them all the time and in all manner of cases, but perhaps most frequently in the area of family law, as most criminal defendants get appointed counsel, and general civil cases don’t get as far without attorneys.”

The numbers of unrepresented people who manage to somehow make it into court are staggering. Oregon Supreme Court Chief Justice Martha Walters reported to the Oregon House Judiciary Committee in February that in 2019 there were about 18,000 residential eviction cases in which over 97 percent of tenants, with their homes at stake, had no lawyer.

Data from the Oregon Judicial Department show that, since 2019, in about 86 percent of family law cases, at least one party was unrepresented at the time of judgment. Hearing requests during that same period for Family Abuse Protection Act orders, Sex Abuse Protection orders, and Elderly and People with Disabilities Protection Act orders included at least one unrepresented person in 89 percent of cases — cases in which some litigants were in significant personal danger.

In 2018, the Legal Services Corporation, the agency that partially funds many legal aid programs throughout the country, found in a national survey that 86 percent of low-income Americans with the types of cases that legal aid programs normally handle got no help or minimal help. A similar survey in Oregon had even worse results — 86 percent were left without help of any kind. People of color, homeless people, domestic violence survivors, physically disabled people, and the elderly have greater legal needs but also are underserved, concluded the Oregon State Bar Futures Task Force in 2017.

It’s not only the poorest citizens who lack legal representation, according to an American Bar Association study. Nationally, about a third of middle-income Americans are unable to obtain legal assistance they need.

The bottom line: More people than ever need legal services and are not getting them. Small, incremental improvements over the years — such as family court facilitation and mediation programs, informal divorce trials, etc. — have helped, but have not kept pace with that need. Other factors are at play, undermining the advances.

**The Changing Business**

The costs of lawyering have escalated over the last 20 years — training, insurance, marketing and advertising, bilingual staff, office technology, cybersecurity, and onerous student loans are just some of the things that have impacted what lawyers need to earn to stay afloat.

For lawyers who cling to the Atticus Finch family-lawyer model of practice, the billable hour has priced many potential clients out of the market. And as the legal profession has begun to call itself the “legal industry,” the general population has not surprisingly begun to think of legal services as a commodity. Clients today believe that their legal needs can be met in less costly, more efficient ways.

At the same time, rapid changes in technology have opened new avenues for assistance. As the OSB Futures Task Force noted, “tech businesses . . . have developed online service delivery models ranging from the most basic form providers to sophisticated referral networks.” And lawyers increasingly market through blogs, websites, and other social media, sometimes using web-based platforms for limited-scope consultations.

**Emerging Ideas to Close the Gap**

Fresh thinking is sweeping through state bar entities across the nation. At the forefront have been Utah and California, whose supreme courts and state bars encouraged what’s become known as a “sandbox” approach to innovation. In the sandbox model, potential service providers experiment with new methods of serving litigants while pilot-program status allows maximum consumer protection with minimal risk to the integrity of the justice system.
Exposing the Pro Se Justice Gap

Other states soon joined in the inquiry into ways to improve the delivery of legal services and access to the justice system: Illinois, Colorado, Alaska, Arizona, New York — and Oregon.

At the center of most of the innovation proposals is regulatory reform: permitting new business models for the provision of legal services, including (but hardly limited to) models that authorize qualified paraprofessionals to give guidance and, yes, legal advice in limited contexts.

A second key initiative is the expansion and consolidation of up-to-date law-related forms and information made available where unrepresented litigants can access more of what they need to go it alone. As Thompson has seen in her courtroom, litigants conduct research on the web, and “ask their friends and neighbors, . . . but in the area of family law, we have abundant and reliable information from parenting education sessions and the OJD and Department of Justice websites. If folks can be pointed in the right direction, reliable information is there.”

For its part, Oregon has been pursuing both these ideas, and making measurable progress.

The “Portal” Streamlines Information

Reducing the number of unrepresented people in Oregon’s courts was the charge the OSB Futures Task Force gave to a “self-navigator” workgroup in 2016. The workgroup’s mission was to review online resources available to unrepresented litigants that would help them recognize when they had a legal problem, assess the merits of their cases, find legal assistance, and proceed efficiently through the court process to a successful outcome. The group also needed to identify gaps in online assistance and consider how to remedy them.

By 2020, the mission got the express support of the Oregon Judicial Department in its two-year strategic campaign, which would look to develop a “portal” that consolidated, streamlined, and updated legal information for consumers.

As many practitioners know, three Oregon entities produce extensive web-based information — the OJD, the OSB and Legal Aid Services of Oregon/Oregon Law Center. There is substantial crossover on some topics, and none in others. For example, the OSB site, under the tab “Information for the Public”, offers information on more than 100 topics of general interest including estate planning, business incorporation, landlord-tenant law, immigration, marijuana law, and professional malpractice. The legal aid website, known as OregonLawHelp, focuses on “survival” issues for low-income Oregonians — affordable safe housing, protection from eviction, access to medical care, personal safety in relationships, and child support and other income maintenance. The OJD site offers information on court locations and hours, and court processes and forms, along with extensive explanations of how they are to be used — such as in child support enforcement.

The three sites compete with dozens of for-profit web entities that sell forms, provide information that may or may not apply under Oregon law, or connect consumers with lawyers they may not be able to afford. Some, of course, are simply scam operations.

Each of the Oregon legal information sites is on its own sometimes expensive platform. And each entity struggles to keep its information current — in several languages — as the law changes.

A further difficulty is that, with the exception of the language on the legal aid site, most of the information available is accessible only to readers and listeners who are relatively sophisticated — that is, people who can read at a high school or college level. The average literacy rate among American adults is at a fifth-grade level, and dramatically lower among Black, Latinx, and low-income persons generally. Twenty-one percent of Americans are functionally illiterate, reading at a third-grade level, according to the Program for the International Assessment of Adult Competencies. In other words, the majority of Americans who find online information relevant to their situation are unable to process it effectively.

Launching a single “portal” site that consolidates the tools and information available on the three self-help sites would involve a significant one-time initial cost. But it would also entail an ongoing cost of updating forms and legal information, likely in written, oral and visual formats.

Some Oregonians who rely on internet access in order to educate themselves about their legal rights may be out of luck for another reason. As the pandemic made painfully clear, access to the internet itself is not distributed equitably throughout the state, with its many rural and remote communities. Marilee Aldred, the trial court administrator for the Malheur County Circuit Court, notes that, for example, her jurisdiction “has a large marginalized population who are unable to access some of the online resources. [There is] a lot of stress for those who are in crisis and who lack resources to accomplish tasks in an online world.” In the family law arena, she says, litigants tend not to have access to a fax machine and struggle with scanning documents. And a large minority of litigants “who are setting up appointments to review documents have limited access to internet or are living in a remote area with spotty service.”

In January 2020, the bar, the OJD and the state’s legal aid providers convened the “Justice for All Summit” to examine ways to maximize the usefulness of the various self-help resources to provide better access to Oregonians with unmet legal needs. Among the stakeholders present were the Oregon Law Foundation, the Campaign for Equal Justice, the Multnomah Bar Association, Oregon Consumer Justice, and several other legal service organizations and non-profits that provide advice and referral to unrepresented litigants.

Together these entities recommended the construction of a single, comprehensive portal open to all, but focusing on the legal needs of lower-income Oregonians, said Oregon Law Foundation executive director Judith Baker in a memo to the BOG. The expanded site should guide users quickly and easily to relevant topics; use plain language to inform users of their legal options and provide tools to take the next steps, including interactive form assembly; and help users find community-based resources.

To make the site happen, Baker wrote, the project must have staffing that is expert at both content development and interactive management. There must be a determination to designate the agency under whose auspices the site should be established, and, finally, how to fund the portal in a sustainable way.
Examining the Pro Se Justice Gap

Luckily for Oregon, several other states have already implemented single-site portals, so there are models from which to draw. Oregon, wrote Baker, “will not have to reinvent the wheel.”

With questions about funding and continuing oversight still being examined, there’s no launch date set for this project, but work to bring it into existence is continuing.

Paraprofessional Licensing

The issue of the relationships possible between lawyers and legal paraprofessionals with the public has been a topic of debate for decades. Accountability has driven those discussions. State bar associations and regulatory entities enforce standards of competency and ethics among lawyers, but have no purview over non-lawyers. Prohibiting practice outside the regulated bar has been the simplest way to protect consumers from incompetent or unscrupulous non-lawyer advocates.

Over time, some lawyers have come to see paraprofessionals as competition. Others have incorporated supervised paralegals into their practices, finding that having highly trained staff allows them to serve more clients and results in greater client satisfaction.

The disconnect between unmet litigant need — especially in landlord-tenant and family law — and the very limited lawyer services available has caused a shift in thinking in many jurisdictions. Local court systems with adequate budgets have established the right of low-income tenants to appointed counsel in eviction cases, for example — Louisville, Seattle, Cleveland, Milwaukee and New York City have taken this approach. Maryland, Washington State, Denver, Charlottesville, Santa Monica, Delaware and Nebraska are considering appointed counsel as a solution as well; New Jersey has just begun a pilot program.

Given the budget shortfalls that have plagued the Oregon court system for more than a decade, efforts here have instead turned to the potential for paraprofessionals to effectuate improvement in access to justice. That effort began in 2017, when the Regulatory Committee of the OSB Futures Task Force established a workgroup to explore a licensing model.

Approving the workgroup’s recommendations, the BOG then formed the Paraprofessional Licensing Implementation Committee to draft rules that would allow paraprofessionals to perform some basic services in landlord-tenant cases and family law. The proposed rules are still in development. Once finalized, they will be subject to review by the BOG, and then, if the BOG approves them, the Oregon Supreme Court must be willing to adopt them.

The committee, headed by Thompson, has 12 members, including three judges and two public members. (The committee has a recent vacancy for a public member.) Just as importantly, there is a large heterogeneous advisory committee — of legal practitioners, independent paralegals, law schools, tribal representatives, and others with various perspectives about serving and protecting consumers.

The model currently in discussion would require applicants seeking to become licensed paraprofessionals to have education and experience. They would be required to carry liability insurance and to continue periodic training. The scope of their work would be limited to landlord-tenant and family law cases.

Although some local bar associations have taken a position against licensing paraprofessionals because of the perception they will create competition for clients, the committee has expressed the opinion that the advantages will outweigh the disadvantages more often than not.

“Paraprofessionals can be a wonderful adjunct to existing practices,” explains Thompson. “They are more likely to be hired by or come up in the ranks of a law firm, rather than putting out their own shingle.”

Thompson says she sees the paraprofessional as something like a nurse practitioner — “the vast majority of things you want you can get without seeing the doctor. But the nurse practitioner will make referrals to the doctor.”

For small firms, a paraprofessional is a real economic resource, Thompson continues. And judges are less likely to question whether services performed by a paraprofessional are legal services or merely administrative tasks that are not reimbursable. She also expects that some currently unregulated independent paralegals will be brought into the fold of licensed paraprofessionals so that they can be more competitive.

As for clients, Thompson says access to a skilled paraprofessional “is a great opportunity to get assistance that they are not already getting. It won’t help everyone, but it has the potential to help many people. And, for people who want to do this kind of work in a good, professional way, it provides a path.”

One Unexamined Gap

The most visible signs of unmet legal needs are found in court records, where they are documented by the OJD. In contrast, the travails of people without lawyers involved in administrative law decisions go almost undocumented. State tax decisions, land use planning decisions, Oregon Health Authority rulings, outcomes at the Construction Contractors Board, and workers’ compensation
records rarely say if a person was represented or pro se. But Beaverton lawyer Sarah Garrett, with experience in workers’ compensation cases from the employer side and earlier experience helping severely disabled applicants for Social Security disability benefits, calls administrative law judge hearings involving pro se appellants “heart-breaking.” The Portland office of the Social Security Administration’s disability determinations unit has some of the lowest benefits approval rates in the country, she says. Getting benefits approved takes skill.

“Fewer people are aware of how many people have to go through with their administrative hearings pro se,” comments Beth Englander, a state support unit attorney at the Oregon Law Center in Portland. “SSI and SSD termination cases and overpayment cases are always a gigantic, unfilled need, especially because lawyers think there are private attorneys to meet this need — but private attorneys generally don’t do those cases because it is very hard to get paid for that work. Also, terminations and overpayments tend to be extremely complicated for people to navigate themselves.”

Low-income Oregonians in particular are tied to administrative-law systems: housing authority hearings about eviction and subsequent loss of subsidized housing; food stamp qualifications; Medicaid (Oregon Health Plan) eligibility; temporary financial assistance (TANF); disaster relief; in-home care issues; and, especially during the COVID era, unemployment benefits eligibility. “All these issues have such a huge impact on our clients’ survival that their importance can’t be overstated,” Englander says.

For now, at least, this gap in access to justice remains largely unaddressed.

Serving All Oregonians

As Thompson cautions, no one innovation is going to solve all of the problems presented by the lack of resources for unrepresented Oregonians with legal needs. But Walters is confident that the Oregon justice system can improve access by eliminating barriers, enhancing service options, leveraging technology, and simplifying forms and processes over the next two years.

“It will be essential for courts and practitioners to think about how best to serve all Oregonians,” Walters urges. “We are all a part of this system of justice and must work to make it truly just.”

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Order in the Courts

In a Look Back, Oregon’s Judicial System Celebrates Achieving an ‘Electronic Courthouse’

— By Cliff Collins —
This summer marks the fifth anniversary of completing statewide implementation of Oregon eCourt, a monumental undertaking that took years to accomplish and involved hundreds of court staff, judges, lawyers and other stakeholders.

The June 2016 milestone brought the last of Oregon’s circuit courts into an integrated system of electronic case management, filing and service, and document access.

Before the transformation, attorneys had to file cases and motions in person, at the courthouse, Monday through Friday, during business hours. There was no way to automatically serve most parties. Law offices and courts routinely produced, copied, managed and stored thousands of pieces of paper. They also had to search and wait for paper copies of case files and documents, sometimes making requests in multiple counties to get what they needed.

Former Oregon Chief Justice Paul J. De Muniz recognized the need to transition the state’s courts to a 21st-century system that would better meet the needs of the legal community and the general public. The business world had begun converting to digital document exchanges in the 1990s, and De Muniz knew the courts must catch up with the rest of the world, says former Oregon Supreme Court Justice Thomas A. Balmer, chief justice during much of the project and a major driver and overseer of the work.

The idea represented a big conceptual leap because it meant “moving away from the way we had run courts since the 1840s, where each case involved a single paper file, (and moving) to a digital form where the file, including all case documents, was accessible 24/7 to all judges, staff, attorneys and — for most cases — the public,” Balmer says.

“I envisioned eCourt as a business transformation project that would greatly increase the public’s access to courts and support greater centralization of judicial operations necessary to meet the needs and expectations of those served by the judicial branch,” De Muniz says. “eCourt was also intended to serve as a catalyst for change, requiring the branch to confront traditions and culture that had been unquestionably accepted for over 100 years and were impediments to changes that would permit the branch to operate more efficiently on less revenue.”

When he became chief justice in 2012, Balmer fully endorsed De Muniz’s notion. “One of the reasons I pushed it was that it was an access-to-justice issue,” Balmer says. “This was going to improve the way we met public needs, and a way to address access-to-justice needs evenly.”

In the end, proponents say the digital transformation of Oregon’s courts saves 50 million pieces of paper a year while greatly expanding information access and services for lawyers, judges and the public.

Accepting Change

For the Oregon State Bar, the changeover began when 2004 OSB President Bill Carter asked a new OSB Board of Governors’ member, Salem attorney Mark B. Comstock, to represent the bar on a feasibility study. Comstock says the purpose of the study was to determine “whether there was sufficient interest from the practicing lawyer” in moving to the “electronic courthouse” envisioned by De Muniz.

The committee studying the issue found an overwhelming desire to have such a system in Oregon, but the big question, according to Comstock, was how to implement it. Initially, the dream was, “Let’s buy the PACER software the federal courts use and apply it to our circuit courts and tax court,” he says. However, having practiced in both the federal and state courts, Comstock knew, and the Oregon Judicial Department agreed, that the types of cases handled electronically in federal courts were different from many of the cases at the circuit court level, which often contain more sensitive information, such as health, mental health, juvenile and family law cases, he says.

At the time, the Oregon Judicial Information Network (known as OJIN) which was based on decades-old technology, provided only basic case-register information electronically, listing cases by number, not party name. That meant each county held thousands of paper files that were available only by retrieving stored files and could be used by only one individual at a time. The Oregon Judicial Department knew that integrating all the necessary components — and taking into account the legal and policy issues and privacy concerns about who can access them — would constitute an enormous challenge.

At first, those working on the transition project aimed to purchase an “off-the-shelf, best-in-breed product and an integration program that would make everything work together,” Comstock says. But the plan changed. Instead, they sent out requests for a vendor that could work with the state to provide an integrated system to meet the needs of all sizes of courts in Oregon’s 36 counties and 27 judicial districts. The department chose the Odyssey system from Texas-based Tyler Technologies.

A comparative advantage for Oregon was its unified, well-organized statewide court system, and it also enjoyed “a good relationship with the organized bar across the state,” says Balmer. Before that unified court system was implemented in the early 1980s, counties administered the courts, as they still do in many other states. By having a central administration, the state could make decisions such as implementing what became Oregon eCourt, he says.

Of course, just because Oregon employed a unified court system didn’t mean that everyone affected supported the transition. Bryant Baehr, chief information officer for the Oregon Judicial Department, who was in charge of acquisition and technical implementation of the new system, says reaction varied across the board. "Some
people really embraced it,” he says, while some lawyers and judges chose to retire sooner than they would have because they said, “I’ve been doing it this way for 30 years and I don’t think I can change,” as Balmer puts it.

Appellate Court Administrator Daniel Parr, who served for five years as the Oregon Judicial Department’s eCourt liaison, providing hands-on assistance to help attorneys across the state adopt the new system, also notes that at first “not everybody wanted to jump on board.” But he observes that, “as we got going and more people adopted the system, there was a changed dynamic from fear of change to ‘Let’s get this going quickly.’” When people saw the advantages, such as 24-hour filing ability and instant access to documents, their attitude changed, he says.

**A Gradual Rollout**

The Oregon Judicial Department planned a five-year rollout, beginning in mid-2012 with a pilot court, followed by three early-adopter courts over the next nine months. The implementation then followed a sequential schedule in which groups of courts around the state went online every several months through mid-2016, with the largest courts going live as stand-alone events.

The state’s decision to move each judicial district onto the new system in a gradual statewide implementation, and to use pilot and early-adopter counties to test both the software and the implementation processes so that modifications could be made, proved to be prudent and was key to its success, maintains Parr. “At the end of each implementation, we went back and looked at lessons learned,” then made modifications as needed before moving on to the next district or group of districts.

Yamhill County Circuit Court, under then-Presiding Judge John L. Collins, was first to implement Oregon eCourt.

Collins describes the effort as very collaborative and well planned, with “great support from Tyler (Technologies) and an excellent tech team in Salem.” He adds, “It took a ‘We’ve got this’ attitude by all — judges, staff, administration, tech support, including ample training and on-site coaching. It took buy-in by the bar and the public we serve.”

Yamhill County attorneys also played an important part in the introduction of electronic case management and File and Serve.
"There was certainly a learning curve, changing over from paper filing to electronic filing," says Karin A. Moshier, a partner with Haugeberg, Rueter, Gowell, Fredricks & Higgins in McMinnville, a law firm that helped test the new tools. "But overall, it's been a significant improvement to the system. It's a much more efficient way for lawyers and staff to file court documents and to receive feedback from the court via email," such as indicating that the document has been accepted, or that documents have been signed by a judge. "The eService option makes it easy to electronically serve opposing counsel, or send copies to clients, which can cut down on paper and mail." Firms can even submit filings on weekends, and after hours when the court is closed.

"It's also very helpful to have access to the Oregon eCourt Case Information website, which I believe became available around the same time as File and Serve," Moshier adds. "This allows us to access court records and documents in all cases."

Building on the experiences in Yamhill County, the circuit courts in Crook, Jefferson and Linn counties went live in December 2012 as "early adopters." Amy Bonkosky, trial court administrator for Crook & Jefferson County Circuit Courts, served on a steering committee to perform an assessment "to determine the willingness and readiness for change. Some courts were not wanting to be first. We were definitely interested." She recounts that the Oregon Judicial Department wanted to start with courts of a certain size, not the largest first.

Bonnosky performed double duty for six months by serving as a statewide change manager, organizing outreach trainings and helping to educate judges, lawyers, staff and other stakeholders about why the changeover was needed. The goal was to "build momentum and address any fears they had," she says.
Transition from the old OJIN system to Odyssey took place during weekends, to minimize disruption, and was preceded by two weeks of intensive training and preparation for the implementing courts, followed by three weeks of technical and financial-side follow-up support where needed, Bonkosky says.

“It was not easy,” concedes the OJD’s Baehr. “For 16 months, every weekend we had some project to make sure this was successful.”

Accessibility vs. Privacy

From the outset, proponents and those charged with implementation of Oregon eCourt acknowledged that a tension exists between two essential but sometimes conflicting policy goals: the need to provide as much information to the public as possible about cases within the court system, and the responsibility to maintain reasonable data security to safeguard sensitive information provided to the courts.

There were a lot of concerns about access, such as members of the press who wanted quick access to court information, says Comstock, who chaired the Oregon State Bar-Oregon Judicial Department eCourt Implementation Task Force and chaired or served on that and other committees related to the transition for a total of a dozen years. He points out that court filings contain much sensitive information, calling them “a treasure trove of information, some of which is useful for financial fraud.” The challenge, he says, was how to deal with confidentiality and make eCourt useful to attorneys, judges and court staff.

In the end, Comstock thinks the state was successfully able to “get a system that allows certain types of cases to be confidential.”

Early on, the Oregon Legislature gave the chief justice the authority to promulgate rule changes needed to convert from a paper to an electronic system, a critical factor in the changeover.

“A lot of rule changes were needed for the Uniform Trial Court Rules to get some semblance of uniformity across districts,” Comstock explains.

Then-Chief Justice De Muniz appointed Lisa J. Norris-Lampe, appellate legal counsel for the Oregon Supreme Court, to chair what became the Law & Policy Work Group, created in mid-2007. Since its inception, the work group has included judges and trial court administrators from
across the state, as well as judicial department staff, an OSB attorney member and a legal aid community attorney member. The 20-member work group’s charge was to identify and recommend law and policy positions and other changes required to support an electronic court environment, and to identify and facilitate adoption of court business processes that could be standardized to accommodate a statewide technology system, says Norris-Lampe.

Having worked on Oregon’s appellate electronic systems for several years, “I was steeled for it,” she says. “I knew it would be a lot of work.” The Law & Policy Work Group labored for many years on access recommendations and statutory and rule changes necessary for the transition. Norris-Lampe met for six months or more with Tyler Technologies to learn the “ins and outs” of the system in relation to security, access, eFiling and eService.

Norris-Lampe and others intimately involved with the transition point out that moving to eCourt helped prepare the state for carrying on the business of the courts and the legal system during the pandemic. For example, while almost all appellate court personnel have been working from home, Norris-Lampe has been able to watch hearings, read rulings as soon as they are posted, quickly distribute
information about rulings to judges, and allow multiple people to view file materials at once.

An employee in the Oregon Judicial Department for 25 years, Norris-Lampe cannot believe the contrast between how it was before and now, which she calls “remarkable. It serves Oregonians well because we can do our work so much more efficiently.”

Support for self-represented litigants, through user-friendly tools such as uniform, statewide eForms and Guide and File, has been a key achievement that enhanced access to justice, says Multnomah County Circuit Court Judge Nan G. Waller, who served on the statewide leadership “Sponsor” group for Oregon eCourt.

“Big state IT projects are risky,” she observes. “As there should be, there is a lot of scrutiny. In the end, we became the golden child,” as a result of running the project well and completing it successfully. “Looking back, I can’t imagine doing paper files.” Oregon eCourt, she says, is delivering on its vision of “Better access, better information, and better outcomes.”

“IT really was a massive project to get this going statewide,” says Bonkosky, of Crook & Jefferson County Circuit Courts. “There were some risks with going with a vendor, but the risk has paid off. It (the transition) has been extremely successful and saved a lot of time and resources.”

Comstock feels gratified. “It turned out well,” he says. “It’s a sea change in how courts function. We got a good system that was within the cost the department was thinking about. It’s a good system that works for practicing lawyers and judges, and the costs were not that onerous.”

Baehr concurs, pointing out that the project came in under budget, at $96 million compared with the $120 million budgeted.

“I really enjoyed working with the Oregon State Bar on this,” he says, including many individuals such as OSB Director of Public Affairs Susan Grabe, Comstock, and Circuit Court Judges Collins and Todd L. Van Rysseleberghe of Clackamas County. “They helped us develop a better product from an outside-in perspective and cared about how the system was put together. They devoted hundreds of hours of time.”

“I feel overwhelming joy looking back at all the involved teams,” Baehr says. “I look back with a lot of pride at the people involved. This ran really well, and it took a village.”
eCourt Continues to Improve

John L. Collins, who served as the Yamhill County Circuit Court presiding judge during the implementation of Oregon eCourt, notes how the benefits continue to this day, especially during COVID-19.

“I cannot imagine operating through the pandemic with OJIN and old paper files. The ability of attorneys, litigants and the public in general to gain access 24/7 online has been a key part of our being able to provide access without coming to the courthouse,” Collins says.

He cites several other benefits, including:

- Greatly improved self-help for pro se litigants, allowing legal business to proceed that would otherwise have been largely impossible during COVID restrictions. For example, eForms, Guide and File, and ePay are all eCourt innovations.
- The ability to file exhibits, pleadings, memos, etc., electronically, which has been key in holding Webex hearings.
- The ability to keep expanding to increase efficiency and effectiveness. Materials, forms and guides are kept up to date in real time. Plus, people now can receive text reminders about court dates, which will improve appearance rates.
- The ability to access any file anywhere in the state court system. “For example, a judge can access a domestic relations case in another county just as easily as one in the judge’s county,” Collins says. “That is very important, even critical,” when related issues in juvenile cases or those involving restraining orders arise.

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Starting a Legal Career during COVID

New Lawyers Adapt to Big Changes in Education, Training

By Karen McGlone
Last January the new dean of Willamette University College of Law, Brian Gallini, summarized the school’s pandemic survival strategy: “We are reinventing ourselves,” he says.

For years, Willamette had promoted the unique benefits of the in-person experience at the Salem law school. But during the COVID-19 outbreak, Willamette embraced online learning. During a pandemic, new challenges called for new ways of doing things; reinvention became the strategy for many.

Willamette’s approach reflects the determination among law students and attorneys, legal employers and law schools to adapt legal learning and practice to a remote world. Those who persisted and succeeded did so through resilience and reinvention.

“Our goal during the pandemic has been to give flexibility but also certainty to students,” Gallini says of Willamette’s strategy. Once Oregon Governor Kate Brown’s stay-at-home order went into effect in March 2020, Willamette University College of Law, University of Oregon School of Law and Lewis and Clark Law School transformed their programs into online legal education.

The change provided students with certainty that their law school education could continue.

“We’re helping students learn to deal with the stress of establishing a new routine even as the world changes under our feet,” Gallini says.

Nathanial Belachew

Sharae Gross, chief talent officer for Pacific Northwest law firm Miller Nash and formerly a practicing attorney with the firm, believes the turmoil of the pandemic and the times will shape better lawyers. “Law students are experiencing lessons in change and flexibility,” she says. “The class of 2023 has spent their whole law school experience online. This is teaching all of us to be more flexible and adaptable.”

Initial Adaptations

For Nathaniel Belachew, J.D. 2021, the world began to change shortly after he attended the NW Public Interest Law Fair as a Willamette 2L in February 2020. He recalls the intensity of competing for a job in a room crowded with other well-qualified law students. “I had to have a different mindset to compete,” he says.

The following month, COVID-19 hit the United States, the world went remote and Belachew had to develop yet another mindset. He felt he couldn’t be certain of anything initially. He had been offered a summer externship with the NW Workers Justice Project, but with the pandemic and stay-at-home order looming indefinitely, he couldn’t be sure what would happen with the job or his education. As professors and employers scrambled to employ new technology, he couldn’t be certain how or whether it would work at all.

“It was such a change going from in-person learning to remote,” he recalls. “It was a big change.” His classes and study groups shifted to Zoom; exams were via computer. He realized his law school experience would not be what he had planned.

Belachew had reinstituted Willamette’s Black Law School Association at the beginning of his 2L year. When many of his peers chose to leave law school at the start of the pandemic, Belachew recognized that the support he’d garnered for the fledgling organization would wane. “There were so many things I would not be able to participate in,” he says.

Adjusting to lost experiences and opportunities was not easy, but Belachew also began to realize there were positive aspects to a remote world.

“Many law students have Imposter Syndrome,” he observes, referring to feelings of self-doubt people can develop despite obvious success and competence. “It seems more amplified when you’re physically surrounded by other highly intelligent, highly competitive law students.”

Remote classes seemed to level the law school playing field. Everyone became more human as images of pets wandering across computer screens entertained classes and interrupted discussions. Willamette’s law professors were understanding. “Behind a computer, interactions seem less intimidating,” Belachew observes. “It allows for more effective teamwork.”

His externship with the NW Workers Justice Project was converted to a remote opportunity. He was able to take initial complaints from workers over the phone, and learned how to develop rapport and trust with clients despite the lack of visual cues.

Fires, Family Issues Enter the Equation

Felipe Alonso III, U of O law school’s associate director for the Center for Career Planning and Professional Development, points out that in addition to a pandemic, law students encountered multiple disasters last fall.

“Our Class of 2023 had barely started law school in this new remote environment when they also had to deal with horrific smoke and wildfires,” he reminds people. Alonso was referring to the September 2020 wildfires that destroyed homes and forced evacuations across the state. The Holiday Farm fire destroyed more than 500 homes in areas just east of Eugene, home of the University of Oregon.

“That our students just keep moving forward through it all is amazing,” Alonso continues. “They have shown incredible resilience. They have had to attend and finish law school, prepare for the bar examination, and look for jobs in an unprecedented environment.”

Law students also have had to deal with family and personal issues related to the pandemic. Melodye Mac Alpine, associate dean of Willamette’s College of Law, points out that, “Many of our students are trying to balance their own academics while dealing with financial strain, job losses, isolation from friends and family, and efforts to maintain their own well-being throughout all of this.”

Ana Escobed, J.D. ‘21, was dealing with clients’ family issues as well as her own as she weathered the pandemic. As a Willamette 3L and a newlywed, Escobed was still adjusting to married life, preparing for and taking the February bar exam and expecting her first child — in addition to externing with a family law firm in Salem.
She had a front row seat to the pandemic’s effect on many families. It wasn’t the main cause for strife among the divorce clients she saw, but it didn’t help. “I think many couples had underlying issues to begin with and being together so much during the pandemic made them worse,” Escobed says.

Remote Externships, Clerkships

Many larger law firms transformed themselves into remote entities during the pandemic while small employers and rural firms tended to maintain their in-person practices while observing the required COVID-19 protocols.

“The remote externships absolutely worked — much to my surprise” concedes Willamette law Professor and Director of Externships Theresa (Terry) Wright. She was concerned that students who worked remotely would miss out on much of what is valuable about the in-person experience. “I was really impressed with how well the remote program worked and the extent to which employers thought this out,” says Wright. “It has changed my approach to remote externships. I am much more open to the idea now.”

Such openness can create unique opportunities for students.

Brittany Congdon, J.D. ’21, clerked for a judge with the 9th Circuit District Court for the District of Alaska while she was a 3L at Willamette. She telecommuted from Salem, Oregon, to Anchorage, Alaska.

She was able to listen to court hearings remotely, then “join” the judge and his clerks in-chamber while they discussed the recent proceedings, legal arguments and reasoning.

“I was able to see things from the perspective of a judge — learn how orders are written and decisions are made. It was something you could only learn by actually seeing and hearing it happen,” she says.

In-Person Experience Not Replaced

While remote opportunities will continue, they will not replace in-person, on-site experiences.

“When students are working on site, they get a lot of informal exposure to more experienced attorneys,” Wright explains. “They learn from listening to others’ conversations and discussions.” She feels that remote experiences are good, but they should include some in-person learning as well.

Libby Davis, associate dean of Student Affairs at Lewis and Clark Law School, agrees that there is a loss of human connection and spontaneity in a remote world.

“I think the longest running issue with remote learning and externships has been the lack of connection students feel to their colleagues, and in some cases to the clients. There has definitely been a loss due to the inability to really build connections to colleagues,” she said.

Gareth Ford, a 2022 J.D. candidate at UO’s law school, has had two remote summer externships. He found both rewarding, but as a new lawyer, he felt the absence of peers and mentors while he was trying to learn the ropes.

“Starting a job via Zoom can be a strange experience,” he says. “There are no tours of the office, lunches with coworkers or chit chats at the water cooler to help break the ice. Personal relationships evolve at a different pace, but they do still develop.”

Phylis Myles, associate dean of Career Services at Willamette University College of Law, noted that some grads were frustrated about not getting feedback on their work from attorneys.

“Sitting in front of the computer at home without interaction and no ability to casually ask a question is hard mentally — especially when you are learning the ropes,” she says.

Jesse Thompson, J.D. ’21, agrees. As a Willamette law student during the pandemic, he clerked for two government offices: one remotely; the other in-person with masks. He preferred the in-person experience.

“It was great. If I had a question, I could just walk down the hall and ask. When I worked remotely, I felt a lot more hesitant to reach out,” he admits.

During the remote externship, Thompson had one in-person conversation with

COVID-19, Portland Protests Shape In-Person Experience

Before she graduated from Willamette University College of Law, Megan Mizuta, J.D. ’21, had two consecutive clerkships. She clerked first for the Appellate Division of the Oregon Department of Justice. When the pandemic struck, transitioning to remote work was easy.

“Appellate work is all writing and research,” she says. With her laptop, Westlaw and a word processing program, she felt ready to telecommute.

In her second clerkship, Mizuta’s world changed under her feet every day.

Selected to clerk with the U.S. Attorney’s Office in Portland, Mizuta arrived for her first in-person workday at the Mark O. Hatfield Federal Courthouse in Portland on June 1, 2020, just days after Portland protests, of which some were declared riots. She arrived to find graffiti covering the courthouse as well as many Portland businesses and landmarks.

“I had to find my way into the lobby,” she recalls. “The lobby was all boarded up. It was surreal.” Most courthouse staff were working remotely, but due to security requirements, the federal court was not equipped to provide law clerks with remote access. Clerks reported to the office in person.

Later a story of her experience was posted on Willamette University’s website. “Most of the activity happened at night,” she explained about the cycle of riots. “But we’d see the debris every morning and walk through the fence and concrete barriers and boarded-up lobby.” Eventually remnant tear gas wafted into the courthouse lobby, forcing the building to close at least once.

But Mizuta remained unphased, choosing to view the experience through a historic perspective. “I think about how many clerks were working in U.S. attorney offices in the United States, and I realize how different my experience was from theirs.”
his supervisor. It was very productive, but unfortunately it was his exit interview at the end of the term. “I find it’s easier to be open when I can read the room” he discovered. “With remote relationships, I feel like we’re all kind of learning our way as we go.”

Given the choice between fully remote work or a fully in-person job, he says he would choose fully in-person.


Sharae Gross, chief talent officer for Pacific Northwest law firm Miller Nash, outlines some key elements of her firm’s approach to integrating new associates and summer associates in a remote office:

1. **Be proactive.**
   Ask senior attorneys to:
   - Schedule time to connect with new associates by phone or via Teams or Zoom if your remote schedules don’t match. Popping in for a spontaneous chat is less likely.
   - Facilitate a new associate’s introduction to other attorneys at the firm.
   - Summarize for the new associate who’s who in relevant practice areas, industry groups and firm leadership; offer background on their working style.

2. **Be flexible.**
   Attorneys often get mental fatigue when starting something new — whether it’s new technology or a new job. Consider:
   - Reducing typical number or length of Zoom meetings or social gatherings.
   - Having a phone call instead of a full-fledged meeting.
   - Keeping agendas and meetings short, and building in breaks between meetings.

3. **Reevaluate constantly.**
   - Ask what works; what doesn’t. An expectation that’s reasonable of a senior attorney may be too much to ask of a new associate.
   - Recognize that when an attorney is new, everything they experience or learn is new. It’s easy to be overwhelmed.
agrees that adapting is key when it comes to COVID-19-era externships. “While remote and in-person externships differ in many ways, they do share one common characteristic: the externship is what you make it,” she says.

Expanding on What’s in Place

Many firms recognized early in the pandemic that social and cultural integration for new attorneys and summer associates would be a challenge in a remote relationship. Large firms with multiple offices, pre-existing remote systems and digital resources seemed to transition to remote onboarding more easily than smaller, single-office firms.

Stoel Rives, a national firm with 10 offices across the U.S., had in place a new-attorney integration plan when the world went remote. Once entire offices began working remotely, they decided to expand and modify the plan to include summer associates.

Breanna Schmidt, director of talent development in the firm’s Portland office, explained that in addition to being paired with mentors, junior and summer associates are welcomed through an email from the managing partner. They’re introduced to the local office with an “Introducing our new summer associate ...” video.

The firm had many basic training videos of its own — all available online — but also began to use more of the education resources available through the American Bar Association and the Practicing Law Institute.

Schmidt checks in with each new hire at regular intervals to see how the new attorney is doing and whether they have unanswered questions or need equipment and resources.

Finding Connections

Gross, of Miller Nash, says making sure the “extra touches” are there while onboarding new associates is a top priority. “If someone new is not comfortable proactively reaching out, helping them learn how to connect is important,” she explains.

Michael Keane, managing partner for Garrett Hemann and Robertson, a 19-attorney, Salem law firm, says onboarding new attorneys at the beginning of the pandemic took some reconfiguring.
Initially partners hoped the governor’s shutdown would be short-term. But as the firm hired more new associates and four months of pandemic seclusion became six, firm leaders recognized that their former learn-as-you-go strategy would no longer work.

“How do you replicate on Zoom what has been successful in person?” Keane asked.

Ultimately he concluded there was no perfect substitute, but there were things that worked. The firm revised its mentorship training program and developed lessons for teaching the basics like time keeping, workflow and software to new associates. They also explored the best way for partners to provide sustainable feedback to young lawyers and train new associates how to work with multiple partners.

Most important, Keane says, was being cognizant of reaching out to others and building relationships — remotely for now. “Being 100 percent remote is not ideal,” he reflects, noting the challenge new associates have had with learning the firm’s culture and history.

A mix of remote and in-person work is what GRH is planning for their “new normal” as the pandemic appears to recede. The firm is building a new office, anticipating more remote work and attorneys who drop in. The plan includes smaller attorney offices and more space devoted to common areas like conference rooms and the lunchroom. They also plan to get the fastest, most reliable internet they can.

At Miller Nash, Gross doesn’t expect the remote practice of law to go away. Although new associates are excited to head back into the office to see colleagues, she thinks they’ll still want the ability to flex between in-person and remote work.

Gross also suspects that more experienced attorneys may want flexibility too. The pandemic provided the opportunity to work remotely — a first for many long-time attorneys. Now they may welcome the opportunity to maintain some of the benefits of remote work by continuing some work from home.

They, too, may reinvent their practice of law.

Karen McGlone is Portland-area freelance writer. Reach her at kmcglong@gmail.com.
Dan Bunch’s Career Spans from Military to Circuit Court Bench

A Passion for Public Service

By Melody Finnemore

As he neared retirement in late June as the highest-ranking Air National Guard (ANG) military lawyer in the country, Major General Dan Bunch, the ANG assistant to the judge advocate general (JAG) of the United States Air Force and also a Klamath County Circuit Court judge, shared how his work in the legal profession began and how it might bring him full circle to the career he originally envisioned for himself.

The Virginia native graduated with a bachelor’s degree in English from Hampden-Sydney College in Hampden-Sydney, Va., in 1987. He had every intention of earning a Ph.D. and teaching English literature until he did poorly on the exam required to enter graduate school.

“I was full of myself and thought I knew everything and didn’t need to study,” Bunch says, adding salaries were low for teachers who did not have an advanced degree. A friend suggested he take the LSAT, which he did successfully and was accepted at the University of Virginia School of Law “having never once in my life thought about practicing law or being a lawyer.”

As he earned his law degree and participated in summer internships, Bunch quickly realized he didn’t want to work for a large firm. “I was looking at a lot of people who were in their late 20s to early 30s who were under a great deal of pressure and didn’t seem very happy to me.”

During his third year of law school, he met a U.S. Navy JAG who invited him for a tour of the USS JOHN F. KENNEDY (CV 67), an operational aircraft carrier. Bunch says he was excited about the prospect because his grandfather had served on a ship in the Pacific theater during World War II.

Commissioned into the Navy JAG Corps in 1990, Bunch served two years on the island of Guam, primarily as trial counsel before Navy and Marine Corps courts.

“That was a tough, tough place to be. There’s a lot of isolation, few sandy beaches and it’s hot as can be,” Bunch says. However, he notes, it was also one of the best experiences of his life because he met his wife, Mary Liz, a graduate of Willamette University’s College of Law who was serving as a prosecutor in Guam.

Bunch credits his naval service on Guam with giving him significant experience in trying cases, a rare opportunity for a young lawyer. It stoked his passion for practicing law for the first time since he’d started in the field. After his time in Guam, Bunch then reported for duty onboard the KENNEDY, the same carrier that had fueled his desire to join the Navy some three years prior. He became fascinated with the operational aspects of the ship, whose crew of 5,200 doubled the population of his hometown in Virginia.

During his early years in the military, Bunch prosecuted myriad courts martial. Onboard the aircraft carrier he ran the ship’s disciplinary program, calling it “a bear when you consider that the majority of the crew members were between 18 and 22 years old.” Over the years, Bunch also investigated a number of fatal accidents involving friendly fire.

Family Life Shifts Professional Priorities

Balancing family life with a military career is a difficult task as the travel and constant moving locations can take a toll. While Bunch was serving in the Adriatic Sea, the first of his three children was born. It was three months before he met her in person. The Navy did not intend to return Bunch to a military courtroom, so he joined the Air Force in 1994 and relocated his family to Alaska.

He remained in active duty for four more years, including serving as a circuit trial counsel on the Western Circuit at Travis Air Force Base in California, where he handled some of the most difficult prosecutions facing the Air Force. When he left active duty in 1998, Bunch became a prosecutor in Alaska but remained in the Air Force’s reserve component.

As they contemplated the next chapter in their lives, Bunch and Mary Liz talked about moving to Oregon. She had grown up on the coast and had fond memories of visiting her uncle in Klamath Falls. When they moved there in 1999, they were offered a place to stay near Running Y Ranch while Bunch prepped for the Oregon bar exam.

It wasn’t long before he settled into the area’s natural beauty and sense of community, and he joined a private practice. Among those who encouraged Bunch to stay in Klamath Falls was then-Assistant District Attorney Marci Adkisson and, some 20 years later, the pair now serve together on the Klamath County Circuit Court.
That year, Bunch also transferred to the Oregon Air National Guard, where he was the staff judge advocate of the 173rd Fighter Wing at Kingsley Field (Klamath Falls) for nearly 10 years. In 2007, he joined the surge in Baghdad, Iraq, where he was a team chief in the Law and Order Task Force.

In Iraq, Bunch was primarily involved in assisting Iraqi officials investigate and prosecute politically motivated assassinations. Shortly after his return, he was awarded the Bronze Star and promoted into the National Guard Assistant Program, where he worked on various high-level projects.

Lieutenant Colonel Mike McLane of the Oregon Air National Guard is a circuit court judge for Jefferson and Crook counties and serves as a staff judge advocate. He met Bunch and Mary Liz in 2003 when the Oregon Air National Guard and Army National Guard JAGs met for a joint CLE training at Black Butte Ranch.

“At that time the Iraq invasion had occurred so, because of 9/11 and the Iraq war, there were lots of reservists and members of the guard activated,” McLane says, adding the JAGs were charged with helping military members prepare for deployment and providing support for their families while they were gone. He and Bunch got to know each other and became friends.

With their three children now adults, Dan and Mary Liz Bunch recently added a pair of Schnoodle dogs to the family.
When Bunch and Mary Liz moved back to Virginia to care for Bunch’s father while his health was failing, McLane filled Bunch’s position at Kingsley Field as an Air National Guard JAG. After Bunch’s father passed and the family moved back to Klamath Falls, McLane and Bunch worked more closely together. “He’s very bright, he has a great sense of humor and he’s the epitome of public service. He’s a family man and a great community member, and he has been a very close and great friend all these years,” McLane says. “I stayed at their house a lot and got to know all of their kids growing up. I enjoyed many good meals and wine with Dan and Mary Liz Bunch.”

Noting that Bunch gives a nickname to nearly everyone he knows, “Iron Mike” McLane is honored that he was invited to sit in the front row and take pictures as Bunch received his Bronze Star from General David Petraeus during a ceremony that honored his service in Iraq. “What he did over there was exceptional and I think would make every Oregonian proud if they were privy to all the details,” he says. “I’m very proud of him. With his dedication to duty and willingness to put himself at risk to complete the mission, I know that every officer who knows him was proud of him.”

**Military Shapes Civilian Career**

As an Air National Guard assistant, Bunch has been assigned to Air Force Space Command, Air Combat Command and the Pentagon, where he has worked for the deputy judge advocate general and now the judge advocate general. He assisted the judge advocate general and the director of the Air National Guard by providing leadership and planning for about 440 judge advocates and paralegals throughout the 54 states and territories. Just before his retirement in late June, Bunch described his work for the National Guard Assistant Program as complex, involving operational missions seven days a week, 24 hours a day, and “persistent constitutional and fiscal law questions” that drove his work at the Pentagon. “The last year has been extremely complicated, occasioned by domestic operations tied to COVID-19, civil disturbances, the response to January 6th and more,” he says.

He added that he encountered numerous issues regarding the appropriate utilization of U.S. airmen and complicated questions...
related to cyber and space operations and use of force. “Given that all 54 states and territories have had these questions, I have worked closely with Pentagon leadership to ensure that there are uniformly understood and applied answers to these questions. That is, we don’t want Virginia doing one thing and Oregon another, to the extent possible.”

In his civilian career, Bunch served as county counsel for Klamath County before joining its circuit court. He says the problem-solving skills and camaraderie he developed in the military provided a smooth transition to his work as a judge.

“I like to look at a situation, figure out what the right answer is and pursue that answer ethically and morally,” he says. “I’ve been in and around fairly high-conflict stuff as a lawyer and as a judge for 31 years now and that goes with the territory.”

When he retires from the circuit court bench in a few years, Bunch will explore options that include another effort to join the Oregon Court of Appeals. Having worked as an adjunct professor for the Oregon Institute of Technology for several years, Bunch may pursue a job in his first love – teaching.

“I have always viewed teaching as one of the most important professions in our nation. I believe there remains great opportunity for colleges and universities to include a number of legal courses in their curriculum. I worry that a number of our college graduates have obtained very little education regarding the basic constitutional and legal framework of the United States,” he says.

Bunch has participated in several boards, including Citizens for Safe Schools, and was a founding board member of Klamath County’s first charter school, Eagle Ridge.

In addition to their three adult children, he and Mary Liz have two young Schnoodle dogs. “For the past several years, military service has consumed all of my free time. I hope to return to literature, figuring out the guitar and, Mary Liz willing, motorcycling,” he says.

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Melody Finnemore is a Portland-area freelance writer. Reach her at precisionpdx@comcast.net.
The way law firms operate has undergone a drastic change over the past year, in both the physical and digital worlds. We’ve seen law firm employees working remotely, a heavier reliance on cloud-based technology solutions and services, and firms operating on a reduced budget through an economic crisis caused by the COVID-19 pandemic.

This new norm has created an operating environment that hackers once could only dream about, blending a rise in cybercrime during a time of crisis with the inability of some law firms to respond, pivot and adapt quickly. As a result, ransomware is now the No. 1 cybersecurity threat that the legal profession faces. They faced immediate changes in the way they worked, but the truth is that they were not prepared.

Law firms recognize that there are security problems within their networks. Many just don’t know where to start to identify and fix them. Others accept the risks of taking no action. But all is not lost. There are steps that law firms can take now to get control of the situation, to identify where the problems exist and remediate them.

The first step is realizing that something needs to be done. The next step is finding where the problems exist, and that is accomplished through a security assessment. After all, you can’t fix what you don’t know is broken.

Security Assessments Are Essential

We are now at a point in time where attorneys are receiving requests from clients or prospective clients for independent security assessments or proof of one recently having been performed. Many are also receiving requests to provide clients or prospective clients with their firm’s cybersecurity measures, along with any documentation or guidelines.
Ethical Hacker (CEH), GIAC® Penetration Tester (GPEN), and PenTest+.) Also, make sure the resulting report will follow the guidelines of a reputable organization such as the Center for Internet Security.

It’s worth pointing out that assessments can take a few weeks to complete, depending on the scope of the project and the number of endpoints. You will want to know when the assessment will start and end, including if any after-hour or weekend work is required to minimize the impact on critical systems.

The drafting of the report can take several days, depending on the level of detail provided. Before starting an engagement, vendors will ask you for network diagrams, asset inventory lists, a listing of software and licensing agreements, administrator user names and passwords to network devices, servers, and other security devices. To expedite the engagement, it will be helpful to have this information readily available.

What you want from the assessment is to know what critical vulnerabilities you have so those can be fixed right away. After that, the report will identify medium and low risks. Address medium risks as soon as you can. The idea is to plan a timeline, often constructed around budget constraints or impact on productivity. The low risks should of course be addressed, but they don’t carry the level of concern that critical and medium risks do. Some of the risks can be addressed by your technology provider, whether in-house or outsourced.

Remember that a vulnerability assessment is not the same thing as a penetration test. Pen tests are exercises where the tester acts as if they are attackers trying to infiltrate your network, exploit any discovered vulnerabilities and compromise your data. In other words, they act like an attacker would act. We recommend that firms start with a vulnerability assessment, as they are much more affordable and will provide a baseline of your security posture. Pen tests are much more expensive and could be considered later if warranted.

Penetration Testing Explained

In penetration testing, you are asking a company to pretend they are the “bad guys” and attack you — it is scary stuff, and tends to be expensive. For most solo/small law firms, pen testing is probably overkill unless you have major-league clients or extremely high-value data.
The company you hire will generally require a “get out of jail free” agreement, saying that they are not liable for any damages resulting from a successful compromise of your network. Pen tests can take anywhere from a few weeks to several months to complete, depending on the scope of the engagement and the type of test agreed upon.

There are different types of pen tests — white box, black box and hybrid (sometimes called gray box). In a white box engagement, the vendor works hand-in-hand with the client in exploiting the systems. The client will provide the vendor with information about their network, including internet protocol address ranges, types of hardware and software.

Often in a white box pen test, the client will set up an administrator account for the vendor to use during the exploit process. The vendor may even be allowed to place a “pen test laptop” on the local network to attempt the exploits, thereby speeding up the process. These engagements often cost less than a black box pen test, take less time to complete and are nearly as effective in identifying successful attack vectors into your network as a black box pen test. A white box pen test of a single network with less than a hundred endpoints can run up to $20,000 or more from start to finish.

In a black box pen test, the vendor is provided with no information or detail about the client network — including the number of endpoints, types of services or applications or the number of physical or logical locations. The vendor is left on their own to perform the reconnaissance and discovery, attempting to break into the client’s network just like a hacker does.

A black box test is a more realistic attack because it takes the stance of a non-informed potential attacker. It simulates a very realistic scenario, helping a business be on its highest guard. These types of pen tests can take months to complete and can be extremely expensive, depending on the scope of the engagement. We’ve seen these types of engagements cost $100,000 or more, depending on the size of the company.

A hybrid pen test engagement is a combination of the two, in terms of requirements, the information provided to the vendor, cost and timing. These aren’t as common, but it’s helpful to be aware that these engagements do exist and can be more thorough than a white box but less expensive than a black box engagement.
Parting Pearls of Wisdom

Now that you have information and guidance on both security assessments and pen tests, it’s time to take action. Reach out now to other firms that you trust for recommendations and referrals for these services. The time to act was before the crisis, but it’s not too late — especially if you’re one of the lucky firms that hasn’t experienced a security incident since the start of the pandemic.

Trust us, we’ve seen and heard it all — from ransomware outbreaks crippling networks and destroying client data to millions of dollars being wired to fraudulent accounts, all with devastating outcomes for the unfortunate law firms.

Vulnerabilities are constantly changing and require security assessments to be performed at least annually. These engagements identify vulnerabilities in your information systems — including software, computers, mobile devices and network devices, along with their configurations — and provide steps to address them. Immediately fix the most critical vulnerabilities and create a plan to address the medium and low vulnerabilities. Once you complete this process and fix the problems, the security posture of your network will increase to a level it has never seen before.

Lastly, a parting warning: There is no silver bullet when it comes to cybersecurity and protecting your systems. There is no 100-percent, foolproof solution, so run from any vendor who says that there is. But there are steps that you can take to be proactive (such as a security assessment) and to batten down the hatches.

Don’t be foolish and think it won’t happen to your firm because you’re too small. All law firms have a figurative bullseye on their back; if you are lucky enough to have escaped serious harm thus far, your luck may run out without preventive actions on your part.

Michael C. Maschke is the CEO and director of cybersecurity and digital forensics of Sensei Enterprises Inc. Sharon D. Nelson is a practicing attorney and president of Sensei Enterprises Inc. John W. Simek is vice president of Sensei Enterprises Inc. Together, they provide legal technology, cybersecurity and digital forensics services from their Fairfax, Virginia, firm. Learn more online at senseient.com.
Virtual OLIO 2021
Set for Aug. 6-8

The Diversity & Inclusion Department of the Oregon State Bar administers a number of programs to support its mission, the flagship program for law students being the Opportunities for Law in Oregon (OLIO) program. OLIO is a fundamental tool for recruiting and retaining diverse legal talent in Oregon and increasing the diversity of the Oregon State Bar. OLIO fosters an engaged, supportive and inclusive legal community necessary to advance our legal profession and improve legal services to an increasingly diverse population of clients and customers, locally and globally.

This year’s OLIO event will be held virtually Aug. 6-8. To find out more about OLIO, sign up or contribute financially, visit www.osbar.org/diversity. On the website you can also view a short video showing the impact of OLIO in the participants’ own words.

OLF Executive Director & OSB Chief Access to Justice Officer Needed

The Oregon State Bar is looking for someone to provide executive administration for the Oregon Law Foundation (OLF). This person provides C-suite leadership and oversight for the Oregon State Bar (OSB) access to justice programs, including Referral and Information Services (RIS) and Legal Services Programs (LSP). Please visit osbar.org/osbcenter/openings.html for job details. The Oregon State Bar is an Equal Opportunity Employer.

Make a Difference By Volunteering With the OSB

The Board of Governors is looking for members interested in volunteering with the Oregon State Bar. Opportunities for involvement vary widely from mentoring a new lawyer, participating on a committee, or serving as bar counsel. Volunteering with the bar through one of the 35 different boards, committees, or task-oriented positions is a great way to network, develop leadership skills, strengthen the profession and give back to the community.

The Board of Governors will appoint more than 250 members this November.
for terms beginning Jan. 1, 2022. Members interested in being considered are encouraged to apply by Tuesday, Sept. 14, through the online survey at www.osbar.org/volunteer/volunteeropportunities.html. Every attempt will be made to place each applicant in a volunteer position.

Questions regarding volunteer opportunities can be directed to Karla Houtary at khoutary@osbar.org or (503) 431-6367.

More Recorded 2021 PLF CLEs Now Available on Website

The following programs are now available on the PLF website at www.osbplf.org:
- Potential Malpractice Risks for Bankruptcy Practitioners – presented June 17
- Avoiding Malpractice Claims When Filing and Serving a Complaint – presented May 25

Letters to the Editor

The Bulletin welcomes letters. They should be limited to 300 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.
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.

LINCOLN NEHRING
OSB #055455
Salt Lake City, Utah
Form B resignation

Effective May 20, 2021, the Oregon Supreme Court accepted the Form B resignation of former Salt Lake City, Utah, attorney, Lincoln Nehring. At the time of his resignation, there was a reciprocal discipline matter pending against Nehring alleging violations of RPC 8.4(a)(2) (committing a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness or fitness as a lawyer) and RPC 8.4(a)(3) (engaging in dishonesty, fraud, deceit or misrepresentation that reflects adversely on the lawyer’s fitness to practice law).

The resignation recited that Nehring does not have any client files or records pertaining to active or current Oregon clients.

ATHUL K. ACHARYA
OSB #152436
Portland
Public reprimand

By order dated April 7, 2021, the disciplinary board adjudicator imposed a public reprimand on Athul K. Acharya as reciprocal discipline arising from a proceeding in California.

In California, Acharya was criminally charged with two misdemeanors — battery on a police officer, and resisting or obstructing an officer — arising from an October 2017 encounter with law enforcement officers while intoxicated at a college football game. The state reduced the charge to misdemeanor simple battery, to which Acharya pleaded no contest. He was convicted, successfully completed a court-imposed probation and his conviction was eventually expunged.

In September 2020, the California State Bar Court approved a stipulation whereby Acharya received a private reprimand with conditions, including attending ethics school, and passing an ethics exam. Although denominated as “private,” a reprimand under these circumstances becomes part of the attorney’s public membership record with the California State Bar.

In Oregon, the adjudicator found that Acharya’s conduct violated Oregon RPC 8.4(a)(2) (committing a criminal act that reflects adversely on his fitness as a lawyer). In imposing reciprocal discipline, the adjudicator determined that a public reprimand was the substantial equivalent of the private reprimand.

LEILA LOUISE HALE
OSB #142084
Henderson, Nevada
Public reprimand

By order dated March 30, 2021, the disciplinary board adjudicator publicly reprimanded Leila Louise Hale in a reciprocal discipline matter arising from her conduct in Nevada.

The State Bar of Nevada reprimanded Hale and ordered her to pay $1,500 in costs for misconduct in two separate client matters. In both, she used non-lawyer staff to make home visits to the potential clients; in one matter, this staff member gave legal advice to the potential client. In both matters, Hale used contingency fee agreements that required a $1,000 hourly rate for all work if the client discharged Hale’s firm. When one of the clients discharged her from representation, Hale created one notice of attorney lien that overstated attorney time and legal fees earned on the case, and a subsequent notice that claimed $1,000 per hour for her time on that matter.

The adjudicator found that Hale’s conduct violated Oregon RPC 1.5(a) (charging or attempting to collect a clearly excessive fee); RPC 5.3(a) (failing to make reasonable efforts to ensure that a nonlawyer employee’s conduct is compatible with the lawyer’s professional obligations); and RPC 5.3(b) (making the lawyer responsible for a nonlawyer employee’s conduct that would violate ethics rule if committed by the lawyer, when the lawyer ratifies the conduct or fails to take reasonable remedial action).

NEIL PATRICK HALTTUNEN
OSB #206806
Dallas
Conditional admission allowed

On Dec. 20, 2020, the Oregon Supreme Court issued an opinion allowing Neil Patrick Halttunen’s application for admission to the Oregon State Bar. The Board of Bar Examiners had opposed the application.

The court recounted that, while working as a police officer in 2009-12, Halttunen abused his position of trust and authority to pursue romantic and sexual relationships with vulnerable women he encountered while performing his official duties. In a resulting internal investigation, he was dishonest with his employer about his conduct. He resigned from the police department before the investigation was completed. When later notified that he was the subject of investigation by the Department of Public Safety Standards and Training, Halttunen relinquished his certification, which ended the agency’s investigation and permanently barred him from working as a public safety officer in Oregon.

The court found that, in the years following his misconduct, Halttunen achieved a marked degree of self-improvement and rehabilitation. He successfully completed law school, passed the bar exam and maintained employment as a clerk with a law firm. He established and maintained stability in his home life, and benefited from counseling. Psychological experts testified that he demonstrated new insights into power differentials, his past pattern of violating boundaries and the impact of his conduct on others. The court also noted expert testimony that Halttunen had developed tools and a support network to help him maintain his reformation. In addition, a wide range of references who were aware of his past conduct attested to his changed behavior and present good character.
The court determined that Halttunen had carried his burden to demonstrate that he had reformed and now possessed the requisite character and fitness to practice law. However, to ensure that Halttunen continued to maintain his awareness and adhere to appropriate behavior, the court imposed conditions on his admission for a 48-month period, including ongoing counseling with a mental health treatment provider.

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The Oregon State Bar is looking for someone to provide executive administration for the Oregon Law Foundation (OLF). Provides C-suite leadership and oversight for the Oregon State Bar (OSB) access to justice programs, including Referral and Information Services (RIS) and Legal Services Programs (LSP).


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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.

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CONGRATULATIONS TO OUR NEW PARTNERS!

Ryan P. Flatley
Ryan specializes in business law, estate planning, real estate law, and taxation.
ryan.flatley@thedeculpepper.com
(503) 416-6133

Mercedes W. Rhoden-Feely
Mercedes specializes in estate and trust planning, marital agreements, and estate and trust administration.
mercedes.rhoden@thedeculpepper.com
(503) 416-6135
Among Ourselves

De La Salle North Catholic High School (Portland) is honoring the late Michael “Mike” Kelley with the naming of the gymnasium at its newly constructed school. Kelley passed away in October 2020 after a courageous battle with cancer. An incredible basketball player himself, Kelley earned a full-ride scholarship to Carroll College, before he went on to study law at the University of Notre Dame. Although he was a skilled litigator for his firm, Haglund & Kelley, his true passion was coaching his four children on their various teams. Kelley served on the De La Salle North Catholic Board of Trustees from 2014-20 and worked tirelessly to help the school find its new location.

Michael R. Silvey has published Trans - actions: Memoir and Life Lessons of a Trans - actional Real Estate Lawyer. It relates to his 50 years of real estate transactional experiences (1971-2021). Silvey highlights the changes in transactional law and the shifting politics of law firms. He also writes about true stories regarding large real estate deals involving prominent names such as Walter Cronkite, Ed Daly, Paul Allen, CBS, World Airways and the Portland Trail Blazers. It is available only on Amazon in paperback or an e-book.

Miller Nash Graham & Dunn has unveiled the new Miller Nash LLP, which includes a streamlined firm name, new brand and client-focused website (miller nash.com). The new site highlights added value and insights for clients and serves as a channel for supporting the firm’s values and priorities, especially the championing of diversity, equity, inclusion and the communities it serves.

Troutman Pepper’s Portland office managing partner, Román Hernández, recently was named a 2021 Oregon Building Diversity honoree by the Daily Journal of Commerce. The award celebrates diversity, equity and inclusion in the Portland-area building industry and environment.

Nicole Elgin has joined the board of directors for the Multnomah Bar Association Young Lawyers Section. Elgin has been active with the YLS since 2016, having previously served as chair of the Pro Bono Committee, as a member of the Service to the Public Committee and as a 3L liaison for Lewis & Clark Law School.

Bob Banks recently was appointed by the board of directors of the Financial Industry Regulatory Authority to serve on its Investor Issues Committee. The IIC advises the board on issues that affect institutional and retail investors. Banks will serve a two-year term beginning in the fall.

The Oregon Criminal Defense Lawyers Association recently published an article in The Oregon Defense Attorney submitted by Jesse Win. Barton, entitled “Ending ‘The New Jim Crow’ in Oregon.” His article presents an argument that Oregon’s incarceration policies are only marginally correlated to crime rate reductions and contribute to systemic and institutional racism. Jenelle Meeks Barton contributed to the article.

Moves

Anthony Li has joined Reynolds Defense Firm. His previous experience includes private criminal defense as well as public defense work with the Federal Public Defender’s Office and the Oregon Innocence Project. The Reynolds Defense Firm, located in Portland, exclusively specializes in representing people facing DUI charges.

David J. Elkanich has joined Buchalter as a shareholder in the firm’s Portland office. He will be the chair of the firm’s newly formed Professional Responsibility Practice Group. Elkanich focuses his practice primarily on legal ethics, risk management and discipline defense. He advises lawyers, law firms, in-house legal departments, as well as students and other professionals, on how to navigate a variety of ethics issues.

Chenoweth Law Group has announced two new attorney hires. David Hutchinson joins as an experienced litigator, focusing on business disputes, trust and estate litigation, and construction and real estate disputes. Daniel Lerner brings his experience as a litigation attorney focused on business and employment related disputes. Lerner has spent several years as a volunteer mock trial coach for his alma mater, Lincoln High School.
Diane Peters has joined Kickstarter PBC as its general counsel. In her new position at the global crowdfunding organization that brings creative projects to life, she is a member of the leadership team and provides strategic legal advice across the company. She leads the organization’s public policy work, as well as oversees its trust and safety division.

In Memoriam

Roger C. Germundson, 86, died peacefully on March 7, 2020. Born in Hope, North Dakota, on May 4, 1933, Germundson grew up on a farm where he learned the value of hard work. He enlisted in the Navy in 1951 and joined the Seabees serving in Korea, Alaska and Japan, specializing in heavy equipment. Discharged in 1955, he made his way to Oregon where he worked in construction and insurance before becoming an attorney in 1967.

Germundson practiced law in Gresham his entire career. His first marriage to Donna Jacobson resulted in the birth of his four children. He and his second wife, Jackie Collicott, purchased land and a home in Troutdale, where they loved hosting their children and grandchildren. After Collicott’s prolonged illness and subsequent death, he married Donna Nichols.

Germundson loved his family, music and riding RVs. Survivors include his wife, four children (Cheryl, Carl, Mary and Curt), nine grandchildren and 14 great-grandchildren.

Other Notices

Lyle Bosket
51, Salem, May 9, 2021

Alan T. (“Tom”) Nettleton
75, Portland, May 2021

Nicholas D. Zafiratos
94, Astoria, April 18, 2021

Walter B. Hogan
72, Myrtle Point, April 17, 2021
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LAW LIBRARY, COMPLETE SET OR- EGON REPORTS and Oregon Ap- pelate Reports, $3,500, (503) 650-8010.

OFFICE SPACE

1400 5W MONTGOMERY STREET, PORTLAND – Two offices and support staff space available. Close-in Goose Hollow neighborhood. Share space with law firm (at your expense). Monthly rent $750-$850 includes parking. Contact Tammy at (503) 222-3526 or receptionist@gaylordeyeremon.com.

1910 CLASSIC PORTLAND 4-SQUARE IN THE HEART OF HOL- LYWOOD – Additional offices are cur- rently occupied with solo practicing at- torneys (domestic relations, elder law and mediation services). This would be an ideal situation for a solo prac- titioner and paralegal/legal assistant. Someone who is open to case sharing and coverage in DOM REL would be preferable. Office and support staff spaces are currently available: Office 1: 2nd floor: large east-facing windows - 217.05 square feet with 1 separate space for support staff included for $1,500 per month. Space 2: 2nd floor: 89.3 square feet, Space 3: 2nd floor: 60.6 square feet, price negotiable on Space 2 and 3, assuming main ten- ant and support staff. Please call/text Dianne Gridley at (503) 358-7927.

175 SQ/FT – Furnished EXECU- TIVE OFFICE IN BEND, OR – Attor- ney sublease only. Furnished office in a bright, professional, executive office environment. No set up fee's, use of large windows, security and front desk reception. $700/month In- cludes: • 24/7 access • utilities (wi-fi, power, water, garbage) • exterior maintenance • shared use of kitchen facilities • shared use of conference room • common reception area • signage options available. • and a brief cover letter to Anita Darling at adarling@mbglaw.com.

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756-1213.

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is seeking an associate attorney with three or more years of substantive trial or transactional experience to join the firm. The ideal candidate will have experience with mergers and acquisitions, corporate finance, real estate and general corporate representation of businesses. Experience with structuring and drafting a wide range of transactional documents and contracts desired. Strong academic credentials and analytical ability required. To apply, please send a cover letter, resume, writing sample and law school transcript (unofficial is acceptable) to Kris Cuburn at kco-burn@arnoldgallagher.com or Arnold Gallagher P.C., P.O. Box 1758, Eugene, OR 97440-1758. All replies are confidential. Arnold Gallagher P.C. is an equal opportunity employer committed to diversity in the workplace.

CREDITOR’S RIGHTS ATTORNEY – EUGENE LAW FIRM – Hersher Hunter, LLP is the largest full-service business firm in Eugene, and is seeking an associate attorney to work in its creditors’ rights practice group. This is a growing practice that will involve creditors’ rights work in Oregon, Washington, and Idaho. We are looking for candidates with two or more years of experience in creditor’s rights and creditor bankruptcy fields. Past experience in financial services institutions is preferred. Candidates should send materials to Nicholas Frost, at nfrost@hershnerhunter.com. Hersher Hunter, LLP is an equal opportunity employer.

CRIMINAL DEFENSE AND JUVENILE ATTORNEY OPPORTUNITY IN CENTRAL OREGON – Ring Bender, a debtors’ rights and defense consortium in Jefferson County (Madras) Oregon. $15,000 per month, and it is required that practice will solely focus on this court-appointed caseload. Must have primary business office located in Madras. Attorney is responsible for their own expenses. Experienced Consortium members are available to provide advice and guidance as needed. Email Resume and Cover Letter to Jennifer K. Kimble at JenniferKimble@ringbenderlaw.com.

ENVIRONMENTAL LAW & LITIGATION ASSOCIATE – Ring Bender LLP, an environmental, natural resources and litigation law firm, is seeking a mid-level associate. Our firm has offices in Oregon, California and Pennsylva-nia and our clients include private business and public agencies. The ideal candidate will have four to six 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. Due to COVID all Ring Bender team members are working remotely (telecommuting, drafting an ad- trial or for other essential tasks) but we expect to move toward reopening in late 2021/early 2022. The position will be based in Oregon but the associ- ate will support our cases in Cali- fornia, Washington, Pennsylvania and potentially other locations so will-
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ESTABLISHED WALLA WALLA IMMIGRATION LAW FIRM (#1129) with consistent YoY growth and 2020 gross revenue over $430,000. This successful firm has a great reputation in its community, approximately 450-500 active client files, is completely turn-key and ready for new ownership. Email “#1129/Established Walla Walla Immigration Law Firm” to info@privatepracticetransitions.com or call (253) 509-9224.

EXPOSED | PRACTICE LAW FIRM (#1084) that has averaged Discretionary Earnings (SDE) of over $550,000 and weighted projected EBITDA of over $450,000, this is a tremendous opportunity for a solo attorney or existing firm to grow their business. The owner of the firm also owns the building and is willing to sell the real property at FMV, if desired. Call or email us to set up a viewing to learn more about this Practice. Email “#1133/Well-Established Pierce County PL Law Firm” to info@privatepracticetransitions.com or call 253 509-9224.

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KING COUNTY PRACTICE SPECIALIZING IN CANNABIS LAW (#1104) with a stellar reputation within the community. In 2020, the Practice brought in over $960,000 in gross receipts. The Practice/Case breakdown by revenue is 85% Cannabis Business Counseling and 15% Personal Injury. The Practice is located in a modern, thoughtfully designed, fully-furnished ~3000SF office space that the Practice leases. The Practice employs seven (7) employees: four (4) attorneys, including one licensed patent agent, (2) legal professionals, and (1) front desk person. If you are interested in exploring this opportunity, call or email us to set up a viewing or to learn more about this Practice. Email “#1104/Profitable Seattle Immigration Law Practice” to info@privatepracticetransitions.com or call 253 509-9224.

TOP-NOTCH, SUCCESSFUL LAW FIRM IN GIG HARBOR, WASHING- TON (#1140) poised for growth and ready for new ownership. For more than 12 years, the practice has focused on Personal Injury, Motor Vehicle Accident, Estate Planning, Probate, Business Law, and Real Estate & Construction. This 4-person turnkey firm is well-known for its accessibility and responsiveness, resulting in solid word-of-mouth referral growth. With average gross revenues from 2018-2020 of more than $430,000, the Practice is well known for its accessibility and responsiveness, resulting in solid word-of-mouth referral growth. With average gross revenues from 2018-2020 of more than $840,000, this successful firm is well known and respected in the community. In 2020, the Practice brought in over $960,000 in gross receipts. The Practice/Case breakdown by revenue is 85% Cannabis Business Counseling and 15% Personal Injury. The Practice is located in a modern, thoughtfully designed, fully-furnished ~3000SF office space that the Practice leases. The Practice employs seven (7) employees: four (4) attorneys, including one licensed patent agent, (2) legal professionals, and (1) front desk person. If you are interested in exploring this opportunity, call or email us to set up a viewing or to learn more about this Practice. Email “#1104/Profitable Seattle Immigration Law Practice” to info@privatepracticetransitions.com or call 253 509-9224.

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LEGAL EXPERT WITNESS: ETHICS ADVICE & OPINIONS – Christopher R. Hardman - Providing defense services against Bar disciplinary proceedings; legal ethics advice, consultations, and opinion letters. Mr. Hardman is a former Bar Counsel of the Oregon State Bar Office of Disciplinary Counsel; and a former Bar prosecutor. He is a speaker and moderator at Ethics Continuing Legal Education Seminars sponsored by the Bar, New Lawyers Division and others. He may be contacted at his office: Christopher R. Hardman, (503) 916-1787, or Fax (503) 916-1789; 25 NW 23rd Pl Ste 6, PMB 497; Portland, OR 97210.

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It was Tuesday at 12:45 p.m. I just had settled a wrongful death medical malpractice case. Part of the money was to be placed in structured settlements for a deceased father’s two young daughters with a financial advisor providing several options for each girl. The insurance company writing the proposed structures had set a deadline just a few days away. Due to the pandemic, I was working from home, but I had access to all my office files via GoToMyPC.com.

I called the girls’ mother in Eugene to talk about the options. She had received the documents but had not been able to study them on her smartphone. I suggested we meet on Zoom at 1 p.m. so we could look at the documents together. It was now 12:50 p.m.

In the next 10 minutes, I set up a Zoom conference, called the financial advisor in Portland to see if he could join us, sent Zoom invitations to both the financial advisor and the mother, downloaded the structured settlement documents from my office computer to DropBox, then uploaded the documents from DropBox to my iPad at home. I then started the Zoom conference precisely at 1 p.m.

Using Zoom’s “share screen” on my home desktop computer, I connected to my iPad. Then, using the “call out” and “split screen” features of iPad’s TrialPad app, I enlarged the proposals and displayed them — side by side — so the mother, financial advisor and I could compare their risks and yields. By 1:45 p.m., we had completed our discussion and the mother had decided which annuity company to use and how to structure the funds.

As awful as the pandemic has been in other respects, it has brought an enormous capacity to increase our productivity and efficiency. Unfortunately, many attorneys are terrified of technology. Some even brag of their electronic incompetence. They jokingly boast that children grasp technology better than they do.

My plea is simple: Take whatever time is needed to learn to use these tools with skill and ease. The learning curve is surprisingly easy. Begin using Zoom (or WebEx or any other similar platform) to visit clients remotely in their homes. As you gather documentary evidence, remotely visit clients again and discuss your concerns by using “share screen” to display documents. Once you have mastered client meetings, then start managing your own technology in depositions ... then in mediations ... then in bench trials. And then — if it becomes necessary to avoid a trial postponement of perhaps several years — be ready to use your technical skills in a remote jury trial. It is not that hard.

Zoom, WebEx and other platforms are so similar that once you have mastered one, the others become that much easier. There are, however, a few important distinctions. The biggest difference, for example, between Zoom and WebEx is that Zoom accommodates an iPad extension in the “share screen” mode, while WebEx does not. If you are using Zoom on your desktop and share the screen using an iPad with the TrialPad app, your exhibit will display without showing your entire screen. In WebEx your entire screen will display (although there is an easy work-around). For those who still resist, I offer these three tips:

1. Take just 10 minutes to learn how to set up a Zoom (or WebEx) conference and to copy and email the invitation to others.
2. Take another 10 minutes to learn how to do “share screen.” (If you can already read documents on a computer, and can navigate between different screens, “sharing” your screen is as easy as carrying passengers after you have learned to drive.)
3. After that, just practice, practice, practice — at every needed opportunity.

Trust me — it’s not scary. Just 20 minutes gets you going. Once you can use this technology, it will liberate the way you work in ways you cannot imagine.

Kelly Andersen is with Andersen Morse & Linthorst in Medford. He has more than 40 years of legal experience to his credit.

Endnotes
1. I am aware that some firms use technology that allows access to all firm documents via the cloud. For various reasons, our firm has chosen not to operate from the cloud.
2. I am not suggesting showing off or using technology just because you can. Once you’ve mastered electronic skills, you will find endless opportunities to put those skills to productive use.
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