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OCF’s 2024 ONLINE PHILANTHROPY FORUMS

THE SPHERES OF INFLUENCE AND IMPACT IN PHILANTHROPY WITH DIEN YUEN

$84.4 trillion will be transferred between 2021 and 2045, 86% is expected to go to heirs, while the remainder will go to charity. In this presentation, we will look at the influencers of these wealth transfer plans, dive into the roles of advisors and gift planners, and apply what we learned by co-creating donor and client engagement strategies.

APRIL 24, 2024 | 12:00-1:30 PM | FREE

ADAPT, CHANGE OR DISAPPEAR: NEW APPROACHES FOR A CHANGING MARKETPLACE WITH DAVID YORK

New technology and ubiquitous access to financial information and resources have created an environment of ever increasing commoditization. With change, however, comes opportunity. This presentation will review these seismic shifts in wealth transfer planning and professional services, how these changes are affecting the financial services industry, and practical recommendations on how to connect with a new type of client and their heirs and thrive in the marketplace today.

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CHARITABLE GIVING WITH RETIREMENT BENEFITS WITH NATALIE CHOATE

This seminar explains the advantages and technical requirements of using retirement benefits to fulfill a client’s charitable goals, both during life and as part of the estate plan at death, including what types of charitable and partly-charitable entities are suitable recipients of this type of gift.

NOVEMBER 5, 2024 | 12:00-1:30 PM | FREE

Earn continuing education credits and stay informed on the latest developments in charitable giving and tax law at our free, online, 2024 Philanthropy Forums curated for attorneys, CPAs and wealth managers and hosted by nationally-recognized experts. Register at oregoncf.org/forums — and find yourself in good company.
Artificial intelligence has been a tool embraced by some and ignored by others. The reality is ... AI will be part of our professional and personal lives moving forward. This issue focuses on how AI impacts the law in Oregon. We give you an AI primer, explore AI's impact on access to justice and discuss how Oregon's three law schools are managing the pros and cons of AI with their students. Plus, the Bar Counsel column looks at AI legal ethics and the Legal Writer digs deeper into maintaining your voice in an AI world.
We’re not robots. We’re people.

-Tom Spooner

But the insurance industry has gone in the opposite direction. They’re lowballing settlements based on cold AI and algorithms; humanity has been squeezed out of the process. We refuse to play that game. We fought for the insurance industry for 50 years. We ensured that thousands of injured victims got fair compensation and defended them in their toughest trials. We know how they think—how they evaluate, analyze, and settle cases. That gives us an unrivaled perspective in how to beat them. And now we’re bringing that powerful insight to protect seriously injured accident victims. After decades spent defending the insurance industry, we are now taking them on.

Welcome to the new Spooner Staggs—a Personal Injury law firm.

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—Tyler Staggs

Things have changed in the insurance industry. And not in a good way. Treating people fairly matters. Doing what’s right matters. We fought for the insurance industry for 50 years, helping ensure that thousands of injured victims got fair compensation, and defending them in their toughest trials. We know how they think—how they evaluate, analyze, and settle cases. That gives us an unrivaled perspective in how to beat them. And now we’re bringing that deep insight to protect seriously injured accident victims. Whether in negotiations or jury trial, or even a Moody Insurance Bad Faith claim, we’re ready. And no one in Oregon knows how to try a case better than we do.

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“
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— Hiroko Peraza
Davis Wright Tremaine LLP

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6th Annual Hardy Myers Gala Set for April 25

The Oregon Crime Victims Law Center invites Oregon attorneys to celebrate the work of the 2024 Hardy Myers Victim Advocacy Award winner on April 25 at The Loft at 8th Avenue in Portland. This year will be a bit different — rather than dinner, hors d’oeuvres and drinks will be served so guests can mingle, connect with others and enjoy the evening. A cocktail reception will begin at 6 p.m. with a program to follow. To register for this event, visit https://tinyurl.com/2024HardyMyersAward.

2024 Oregon District Conference Is May 2

The 2024 Oregon District Conference is taking place May 2 from 8:30 a.m. to 5 p.m. at the Mark O. Hatfield Federal Courthouse (jury assembly room) in Portland. Register at https://www.ord.uscourts.gov/.

2024 MBA Annual Meeting and Dinner Is May 8

The Multnomah Bar Association Board of Directors will host its 118th Annual Meeting, Dinner and Judges Reception on May 8 from 5-8 p.m. at the Hilton Portland Downtown. Members of the legal community being recognized during the event include: Liani J. Reeves (MBA Professionalism Award); Portland State University Student Legal Services (MBA Diversity Award); Jeffrey A. Howes, Janice R. Morgan and Laura Rocheloi (MBA Awards of Merit); Alex N. Hutchinson (YLS Award of Merit); Molly A. Becker and Aime C. Lee Ohlmann (YLS Rookies of the Year); and Laura L. Donaldson, Zoë F. Habekost, Richard J. Parker and Dunn Carney (Pro Bono Awards). To register for this event, visit https://tinyurl.com/2024MBAAnnualMeeting.

Help Honor the Public Employee Collective Bargaining Act on May 30

The Oregon Employment Relations Board (ERB) and Oregon Chapter of the Labor and Employment Relations Association (LERA) are partnering to honor 50 years of the Public Employee Collective Bargaining Act (PECBA) with a day of recognition and programming on May 30 at the Salem Convention Center. Speakers, including labor and management practitioners, neutrals, academics and government officials, will lead discussions on a range of topics relevant to the labor relations community. From historical reflection, to PECBA’s impact on current practice, to questions of where we go from here, this coming-together will be an opportunity to celebrate, reflect and engage in community dialogue. More details about speakers, session topics and registration are available at https://lerachapter.org/oregon/.

NALP Report Shows Drop in Demand for New Talent

The National Association of Legal Professionals recently released its “Perspectives on 2023 Law Student Recruiting” report, which reflects how the market is readjusting from the post-pandemic hiring surge that seems to have left many law firms with talent levels that are misaligned with their longer-term client demands. Although 2023 ended with record profits for many firms, these profits appear to have been driven by increased fees, not lawyer utilization rates, which remained low through year end. As a result, firms across the industry are projecting excess capacity in the near term — or at least less need for new talent — resulting in the softest recruiting cycle for employers since the Great Recession and a challenging job market for students.

NALP’s report reveals that several key indicators of the competitiveness of a recruiting cycle, such as total offer volume and offer rates, fell this year, while other factors indicate a more conservative recruiting season, such as a higher percentage of callback invitations resulting in interviews and offer acceptance rates. To view the full report, visit www.nalp.org/perspectivesonrecruiting.

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.
Marcena Day

Marcena Day has been connecting with the community while writing an article discussing originalism, public education and urban planning. A graduate of the University of Washington School of Law, Day joined the Oregon State Bar in 2023.

To date, what professional accomplishment makes you proudest?

When I was a judicial assistant, my judge taught me, “Everyone deserves their day in court.” At the Civil Rights and Justice Clinic at the University of Washington School of Law, I helped represent a widow in a police brutality case. We lost, but we made sure she got her day in court.

What do you do out of the office that makes you a better lawyer?

I am more than a lawyer; I am a person. I think having this mindset encourages me to slow down to heal, to cultivate sustainable relationships and to make space for joy in my life. So, I dance (with passion) and sing (poorly) with folks in the community (frequently).

What is your favorite place in Oregon?

On a Saturday morning, I enjoy community yoga at Flow in the City and then I walk over to Deadstock for a personalized drink. The people there make these spaces feel welcoming, creative and complete.

Outside your practice focus, what other law area fascinates you?

I wrote a memorandum discussing the ways copyright law fails to protect Black musicians because their creative process is incompatible with the structure of copyright law. Since then, I’ve been trying to bridge my curiosity for music, art and the law. If you want to chat about music, fashion or art, let’s connect at Deadstock!

If you didn’t go into law, then what would have been your career path?

My mom told me this story about a neighbor who walked me home one day. Apparently, I saw her crying and I gave her a flower from our yard. One day when I grow up, I’ll become a florist.
Technology and Ethics

It’s no surprise that the legal profession lags in the adoption of new technologies. With new shifts in technology, the law struggles to adopt until technology becomes more mainstream. We’ve seen this challenge in the past with email and again with cloud computing. As these changes become more frequent, the RPCs are crafted to provide the flexibility necessary to apply to rapidly evolving technology. As the preamble notes, the ABA Model Rules of Professional Conduct and our RPCs are rules of reason.

Even with the unique abilities and challenges of generative AI in the legal field, we find that applying the underlying principles of the RPCs provide guidance as to how to best use this technology while also protecting our clients’ interests and the integrity of the legal system.

Competence (RPC 1.1)

A fundamental principle of legal ethics is that lawyers must provide competent representation to their clients. As noted by RPC 1.1, competent representation “requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.”

While RPC 1.1 focuses on substantive knowledge of the areas of law in which a lawyer practices, the rule inherently includes the competence more broadly required in the practice of law, including competent use of technology. The ABA made this inference explicit in the comments through the Commission on Ethics 20/20 in 2012. Comment [8] to ABA Model Rule (MR) 1.1 notes that

To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject. (emphasis added). Comment [8] recognizes an ongoing duty to update our knowledge of current practices, including understanding the benefits and risks associated with technologies utilized in the practice of law. Within the past 20 years, lawyers have witnessed the practice of law fundamentally change with the introduction of technologies such as online legal research, email, electronic filings in court and e-discovery platforms. Many technologies which were once new and the subject of intense scrutiny are now mandatory to practice law.

Understanding the risks and benefits of technology is an area of competence frequently overlooked by attorneys. It requires learning how the technology functions at a high enough level that we are aware of the risks associated with it. Attorneys are better equipped to evaluate the risks to their clients by understanding the technology.

Many of the ethical lapses involving attorneys and AI start with a misunderstanding of generative AI itself. Within five months after the introduction of ChatGPT to the public, an attorney used the program to generate an opposition to a motion and submitted it to a court in Mata v. Avianco, Inc. ChatGPT “hallucinated” in the filing, generating names to nonexistent cases. In each instance, the attorney’s explanation for submitting documents citing nonexistent case law revealed that the attorney misunderstood the fundamentals of the technology. Attorneys stated that they believed that these generative AI programs were “super search engines” akin to Google.
They did not understand the potential risks of using the new technology, including the potential for fabricating citations, nor did they properly evaluate what had been generated, using their own professional judgment to supervise the work performed by the tool. Attorneys that understand the risks employed with AI know that they must evaluate the content created by AI to ensure accuracy.12

These cases highlight the need for attorneys to be competent in technology utilized in their practice. If we want to use these technologies, we must also fundamentally understand how they work.

Confidentiality (RPC 1.6)

One of the unique aspects of AI tools, and especially generative AI tools, is their ability to improve through iteration. However, iteration requires massive amounts of source data.13 Generative AI incorporates user prompted data to train and improve its responses to user requests for information. The use of data and information within generative AI raises significant concerns for lawyers given our duty to protect confidential client information from unauthorized disclosure.

Our duties to protect client information are found in RPC 1.6. Specifically, RPC 1.6(a) states:

a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).

RPC 1.6(c) further specifies:

A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.

“Information related to the representation of a client” is a defined term under RPC 1.0(f) denoting “information protected by the attorney-client privilege under applicable law, and other information gained in a current or former professional relationship that the client has requested be held in violate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client.” The Oregon Supreme Court has noted that this definition is broad in scope and may encompass publicly available information if such information could be detrimental or embarrassing to the client and if not generally known.14

At first look, generative AI and the attorney’s duty of confidentiality may appear incompatible. However, introductions of new technologies in the practice of law and the ethics analysis involved with those new technologies provide attorneys with guidance as to how to ethically utilize generative AI if they wish to do so. Oregon Formal Opinion 2011-188 states that attorneys have the duty to review the capabilities of the technology to securely store client data. That means that attorneys must make a “reasonable effort” to determine whether a third party follows industry standards for confidentiality and security.15

RPC 1.6 requires us to understand what happens to our data when it is submitted to an AI program. If an AI program is storing an attorney’s data for other purposes, an attorney must evaluate if they can risk utilizing the AI program, even if they’re using nonspecific and hypothetical data, without exposing information related to representation of the client.16 Comment (19) to Model Rule 1.6 provides us with guidance, noting “(f)actors to be considered in determining the reasonableness of the lawyer’s expectation of confidentiality include the sensitivity of the information and the extent to which the privacy of the communication is protected by law or by a confidentiality agreement.”

As an example, ChatGPT generally does not provide protection for confidential information.17 It provides warnings within its terms and conditions that data provided to ChatGPT will be utilized to “provide, maintain, develop, and improve our Services, comply with applicable law, enforce our terms and policies, and keep our Services safe.”18 An option is also provided to opt out of data collection.19 Newer AI tools specializing in assisting lawyers are affording more robust data protection and specifically stressing the protection of client data in the same manner as many other legal software solutions.20 However, an attorney seeking to use such tools must review the terms and conditions of such software to ensure that the necessary protections are available to keep their client’s information confidential.

An additional aspect of utilizing an AI tool, and any tool that stores client information online, is the potential for a data breach.21 Incorporating AI requires an understanding of the security measures in place that secure and protect the data from data breaches and other potential intrusions. Attorneys should undertake reasonable steps, including reviewing the terms and conditions and the privacy policy, of AI tools to determine whether the AI tool complies with industry standards for confidentiality and security.22

Duty to Communicate under RPC 1.2 and 1.4

If you decide to use a secure AI tool in your practice, do you need to inform your client that you use such a tool? While AI may feel like a research tool like Westlaw or Lexis, its capabilities may require disclosure of use to the client, along with discussion to allow the client to make an informed decision.

Our duties under RPC 1.2 and 1.4 define how we must communicate with our clients about the representation:

RPC 1.2(a): . . . (a) lawyer shall abide by a client’s decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.

RPC 1.4(b): A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Both of these RPCs create a duty to abide by the client’s objectives and provide enough information to the client to allow them to make informed decisions. However, lawyers do not have to inform their client of every single step of the representation.23 For instance, lawyers do not generally disclose the type of electronic research database or the type of word processing software they use.

Whether there is a need to communicate with the client on the usage of AI can vary substantially depending on how an attorney uses AI. For example, relatively trivial uses of AI, such as word suggestions in word processing24 can be nonconsequential to the representation and do not require disclosure.

On the other end of the spectrum, in a recent criminal trial in D.C., an attorney...
utilized a never-before-used AI program to draft the closing argument of the trial without informing the client defendant. The defendant is now seeking a new trial based on ineffective assistance of counsel, noting that the closing argument used by his counsel made frivolous arguments and ignored multiple weaknesses within the prosecutor’s case.

With the unique aspects of generative AI, and its relative infancy in legal practice, lawyers are “well-advised to consult with clients before using generative AI to assist with anything other than de minimis usage.” Guidance from New Jersey reaches a similar conclusion, noting “(The New Jersey) RPCs do not impose an affirmative obligation on lawyers to tell clients every time that they use AI. However, if a client asks if the lawyer is using AI, or if the client cannot make an informed decision about the representation without knowing that the lawyer is using AI, then the lawyer has an obligation to inform the client of the lawyer’s use of AI.” Considering the breadth of potential uses for AI, transparency will be a critical factor in ensuring that our clients understand how we use generative AI and what information we use with generative AI. It also provide us with an understanding of the concerns the client may have about confidentiality and AI. Many firms experimenting with generative AI have explored placing initial disclosures within their engagement letters to start the discussion with their clients.

Duty to Supervise under RPCs 5.1 and 5.3

Imagine a scenario where you request your paralegal to prepare a letter to your client on a matter. The paralegal sends you a draft letter to review within 30 minutes. Amazed by the efficiency of your paralegal, you review it, don’t see any issues with the letter and sign off on it. Two weeks later, you get an angry call from your client. There has been a data breach at FoundationAI, a generative AI tool open to the public. The data was published, and apparently your client’s information was in the data, even though your firm does not contract with FoundationAI. After discussing with your staff, you learn that your efficient paralegal has been using FoundationAI for drafting correspondence and other memoranda. In order to do that, she’s provided client information through the prompts to tailor the letters.
This scenario has occurred\(^1\) and is a likely scenario that many lawyers may encounter related to generative AI. As these publicly available models become more available and useful, there will be a substantial number of associates and nonlawyer staff tempted to use the programs for certain types of work, especially letters and other correspondence. Attorneys need to be prepared to provide guidance and training to lawyer and nonlawyer staff alike about acceptable technologies and the risks that such technologies pose.

RPC 5.1 and 5.3(a) place responsibility on the supervising attorney for the work of their associate attorneys and nonlawyer staff. RPC 5.1 states:

A lawyer shall be responsible for another lawyer’s violation of these Rules of Professional Conduct if:

(a) the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved; or

(b) the lawyer is a partner or has comparable managerial authority in the law firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

And RPC 5.3(a) states:

With respect to a nonlawyer employed or retained, supervised or directed by a lawyer:

(a) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person’s conduct is compatible with the professional obligations of the lawyer.

Attorneys in supervisory roles have an obligation to know the technology their associates and nonlawyer staff are using and make sure they conform with the RPCs. This rule extends to third parties that the lawyer contracts with for services to their firm. ABA Comment (3) to Model Rule 5.3 emphasizes:

“When using such (nonlawyer) services outside the firm, a lawyer must make reasonable efforts to ensure that the services are provided in a manner that is compatible with the lawyer’s professional obligations.”

Because of the transformative capabilities of AI, it is paramount that attorneys provide time for discussions and training to staff about how and when to use AI, and when using AI increases risk and exposure to a violation of our ethical duties.

To avoid ethical pitfalls, attorneys must be proactive. Attorneys with staff should consider offering proper training and education on AI tool usage, establishing expectations about what tools employees can use, setting clear policies and procedures for using AI technologies, and implement robust quality control and review to ensure their obligations under RPC 5.1 and 5.3 are met. Absent any type of training, policies, or education for their staff, attorneys face a significant risk.

**Candor to the Court**

Generative AI does not change our duty of candor to the court encompassed within the RPCs. Under RPC 3.3(a):

(a) A lawyer shall not knowingly:

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

An attorney’s submission of unverified and fictitious cases cited by a generative AI obviously runs afoot of this RPC, as well as several other RPCs related to truthfulness.\(^2\) The publicity of several cases involving fictitious cases cited by generative AI has raised additional concerns with the judiciary. Several judges have standing orders prohibiting the use of generative AI.\(^3\) Additional judges have required disclosure of the use of generative AI.\(^4\) In November 2023, the U.S. Court of Appeals for the 5th Circuit specified certification of either that a document was not drafted by generative AI, or that a document drafted by generative AI was further reviewed for accuracy by a human.\(^5\)

Attorneys utilizing generative AI should be aware of any standing orders within the courts they practice in case they do require disclosure of generative AI.

**Additional Guidance**

Oregon’s Legal Ethics Committee is reviewing whether additional guidance on AI would assist Oregon attorneys in clarifying their ethical duties. Currently, California,\(^6\) Florida,\(^7\) New Jersey\(^8\) and North Carolina\(^9\) have issued opinions related to generative AI. Other states are also considering releasing additional opinions. California issued practical guidance on generative AI late in 2023, which noted several best practices and considerations for using generative AI. It also noted:

Generative AI use presents unique challenges; it uses large volumes of data, there are many competing AI models and products, and, even for those who create generative AI products, there is a lack of clarity as to how it works. In addition, generative AI poses the risk of encouraging greater reliance and trust on its outputs because of its purpose to generate responses and its ability to do so in a manner that projects confidence and effectively emulates human responses. A lawyer should consider these and other risks before using generative AI in providing legal services.\(^10\)

Florida echoed those sentiments and reiterated an attorney’s duty of competency in using generative AI:

“Lawyers should be cognizant that generative AI is still in its infancy and that these ethical concerns should not be treated as an exhaustive list. Rather, lawyers should continue to develop competency in their use of new technologies and the risks and benefits inherent in those technologies.”\(^11\)

Each of these states evaluated many of the same questions raised here and provided guidance to their practitioners. If you believe that an opinion related to AI would be helpful, Oregon’s Legal Ethics Committee would like to hear from you. You can provide feedback to them at feedback@osbar.org.

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*Ankur Doshi is general counsel for the Oregon State Bar. He wrote about the 2023 Client Security Fund Report in the February/March Bulletin.*
ENDNOTES


2. Mata v. Avianca, Inc., No. 22-cv-1461 (PKC), 2023 U.S. Dist. LEXIS 108263, at *2 (S.D.N.Y. June 22, 2023) (“[Plaintiff’s attorneys] abandoned their responsibilities when they submitted non-existent judicial opinions with fake quotes and citations created by the artificial intelligence tool ChatGPT, then continued to stand by the fake opinions after judicial orders called their existence into question.”).

3. Andrew Perlman, “The Legal Ethics of Generative AI,” at 3, 17, (February 22, 2024), Suffolk University Law Review, forthcoming, available at SSRN: https://ssrn.com/abstract=4735389 (“When [email] first became available, ethics opinions urged considerable caution and even suggested that lawyers might violate their duty of confidentiality by using it. We have now reached the point where lawyers must have an email address in order to remain licensed to practice law.”).

4. id. at 18 citing Letter from ABA Comm’n. on Ethics 20/20 Working Group, to ABA Entities, Courts, Bar Associations (state, local, specialty and international), Law Schools, Individuals, and Entities.(Sept. 20, 2010).


7. See In re Schaefer, 33 D.B. Rptr. 461 (2019) (attorney expected to know how to communicate with clients and court via email); In re Fjelstad, 31 D.B. Rptr. 268 (2017) (attorney expected to know how to utilize electronic filing with the court); In re Heinzelman, 31 D.B. Rptr. 11 (2017) (same). See also Perlman supra note 3 at 17 (attorney requires email address to be member of California State Bar).


9. See Jordan Murphy, “AI in the Legal Sector – an Overview for Information Professionals, Legal Information Management, 23 (Sept. 2023), at 150 (“Known limitations of the [ChatGPT] tool include ‘hallucinations’; outputs that sound plausible but are factually incorrect. These can arise from misunderstanding or a lack of contextual understanding.”).


11. Park v. Kim, 91 F.4th 610, 615 (2d Cir. 2024) (Second Circuit referred an attor-
16. California’s Practical Advice on Generative AI notes “A lawyer must not input any confidential information of the client into any generative AI solution that lacks adequate confidentiality and security protections. A lawyer must anonymize client information and avoid entering details that can be used to identify the client.” Cal. Practical Advice, supra note 12 at 2.


19. Id.


23. See Pearlman, supra note 3 at 7.

24. Id.


27. See Pearlman, supra note 3 at 7.

28. N.J. Supreme Court Committee on Artificial Intelligence and the Courts, “Notice-Preliminary Guidelines on The Use of Artificial Intelligence By New Jersey Lawyers,” (Jan. 24, 2024) at 4-5.


31. See Wagner, supra note 11 (noting that lawyer sanctioned for filing indicated that a first-year attorney had drafted the opposition citing fictional cases).

32. See RPCs 3.1, 4.1, 8.4(a)(3).


35. 5th Cir. R. 32.3 (Jan. 4, 2024).


38. N.J. Guidance at supra note 28.


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Writing in a New Age

By Rebekah Hanley

Generative artificial intelligence has taken legal professionals on a fascinating journey over the past year or so. As lawyers have read about and experimented with large language models, they’ve experienced a range of reactions: disbelief and denial; amazement and wonder; fear and loathing; enthusiasm and hope. Where opportunistic entrepreneurs see potential profits, risk-averse lawyers see likely liability, for both themselves and their clients. Practical and ethical questions abound. Optimistic lawyers hope that generative AI will, by streamlining tedious tasks, enhance access to justice and improve lawyers’ professional satisfaction and longevity. Meanwhile, pessimists worry that this technological advancement will reduce the demand for lawyers — licensed, knowledgeable, skilled problem-solvers.

However you might feel about generative AI, there is no avoiding it. It’s becoming more prevalent and more reliable with lightning speed. General-purpose large language models quickly revealed their potential — and their problems. But law-specific models with enhanced features, like data privacy protection and integrated citations linked to primary sources, are addressing many of those concerns.

As legal writers, we have a lot to think about: What can large language models do for us, what writing-related risks do they introduce and how can we minimize those risks?

Cautious Embrace Despite Serious Risks

For anyone who has chosen to look the other way since December 2022, here is a summary of where things stand. Move over, templates, forms and brief banks. You can now generate prose — an objective memo, a client email, a persuasive argument, a contract clause or virtually anything else you can imagine — in well under a minute by entering a prompt into a large language model, one type of generative AI tool. What you get in response may not be as accurate or as thorough as you need it to be, but it’s a start; you can then tease more information out of the large language model, and you can adjust and expand the work product that your commands prompt the model to generate.

I’m trying to use my words with care here. Even when you turn to a large language model for drafting help, you, the human, remain the “writer.” The quality of the output depends on your instructions — your precision, specificity and judgment. The large language model cannot think, craft or compose — not in the ways we understand those words. Instead, it connects units of language based on patterns. That means it’s not really a co-author or a ghost-writer; it can’t assume responsibility for work quality or receive credit for ideas. It can merely provide some drafting assistance, or automation, to the legal writer, who must then assess and revise with care.

Still, lawyers are cautiously embracing large language models because those tools are capable of materially improving the lawyers’ efficiency. And to the extent that those tools support the creation of thorough, accurate legal prose, they can facilitate the delivery of cost-effective representation. Indeed, so long as lawyers can adequately address confidentiality, accuracy and other ethical concerns, soon lawyers will likely need to use these tools to demonstrate technological competence and avoid overbilling clients.

I need to emphasize the “cautious” nature of lawyers’ growing interest in generative AI. We’ve received ample warnings about the enormous, costly risks of inappropriate reliance on a large language model. In case the cringe-worthy cautionary tales have somehow escaped your attention, here’s the lesson a few lawyers have learned in uncomfortable, embarrassing ways. Large language models “hallucinate” — or they would, if they were human. That is, the models present fictional answers, they sometimes offer imagined authority — descriptions of, and citations to, scientific studies and judicial decisions that do not exist.

As a result, lawyers must check the veracity of everything a large language model spits out. Updating authorities using Shepards or KeyCite is a well-established professional responsibility, but generative AI requires more. A large language model is like a nonlawyer assistant with near-perfect grammar and punctuation, along with a vivid imagination and supreme overconfidence. On the plus side, that assistant never gets distracted or grows fatigued. Still, “supervising” that assistant requires vigilance, even with the introduction of new, guardrail-enhanced, law-specific tools.

As responsible agents, fiduciaries and professionals, lawyers must use caution
when leaning on generative AI assistants. Lawyers will need to honor clients’ preferences and read the fine print in all terms of service before charging ahead with new generative AI tools. But lawyers also need to accept that writing with the help of a large language model is where our profession is headed.

**Less Obvious Costs**

The ability to produce effective written communication is among lawyers’ most critical professional skills. Indeed, some lawyers’ earned reputation as effective writers is *the thing* that reliably brings them new business; the careful writing they produce can help persuade decision-makers, satisfy clients and spur referrals.

All lawyers write (at least occasionally), but they do so with varying degrees of success. Even setting aside incomplete, inaccurate or unpolished work product, not all legal writing is equally effective. Based on 20 years of experience teaching legal writing, I can confidently report that individuals relying on the same facts, legal authorities, and rules can produce wildly different written work products.

That variation occurs because a lawyer’s writing is shaped by that lawyer’s choices — countless decisions about what to say and exactly how to say it. Some of those choices are deliberate, flowing from careful thought, creative experimentation, and focused revision; others are the semi-automatic result of the writer’s deep-seated preferences and experience-based judgment. The cumulative effect of those choices is the writer’s style and voice — a signature woven into the fabric of the text.

So what happens when we delegate the creation of a first draft to a generative AI assistant? Perhaps leaning on a large language model is just like delegating a first draft to a law clerk or junior attorney: Either way, the senior lawyer gets something better than a blank page as her personal starting point. Then again, perhaps material differences separate those two strategies. After all, the large language model does not — cannot — “think,” as a less-experienced human writer can. Instead, the large language model predicts the next most likely word or character. A law clerk or junior attorney might provide you with a brilliant first draft; in contrast, at least for now, a large language model offers something predictably average — something likely to be serviceable but with little to no chance of being extraordinary.¹
That’s cost number one of turning to a large language model for a first draft: Law school education plus capable supervision can help a junior legal professional craft fabulous work product that you are unlikely to coax out of a large language model (again, at least for now).

The mention of law school education raises a second concern, one that legal educators are wrestling with. We have extensive experience supporting students as they develop the skills and judgment necessary to thrive as written legal communicators. Trial and error, and the accompanying struggle and frustration, have long played an important role in cultivating students’ understanding of and ability to perform core lawyering tasks; trial and error has helped law students develop problem-solving skills and grit as well. Now, to the extent students begin turning to generative AI before they develop key knowledge and skills, they risk entering the profession with a shaky foundation, less practice-ready than peers who embraced the “desirable difficulty” of the traditional law school curriculum.

Third, the financial cost of this new technology presents additional challenges. The law-specific tools with safeguards appropriate for our profession are expensive. Not every lawyer can count on having access: Some firms will not invest in the technology, and some clients or courts will disapprove of its use. Therefore, all lawyers, including those just joining the discipline, must be able to generate clear prose without the assistance of a large language model.

Finally, consider the risk of skill atrophy. You’ve no doubt heard the adage “use it or lose it,” which can apply to our muscles and minds alike. You want to retain your outstanding legal writing skills — your unique flare for expressing ideas vividly and making complex, dry legal arguments seem both obvious and important? The more you defer to technology instead of crafting your own prose, the harder it may become to call upon those once-sharp skills when you need them.

**Skill-and-Style-Saving Strategies**

We are still in the early days of writing with the assistance of large language models; our discipline will build consensus around best practices in time. Until then, I tentatively offer the following strategies, which aim to support skill development by...
emerging professionals — and guard against skill atrophy among experienced practitioners—in the generative AI era. They also aim to help professional writers appreciate and preserve their own voice and style.

1. **Consider your order of operations.** Sometimes large language models offer relevant insights, but often they provide inaccurate facts, outdated law or otherwise flawed analysis. To help you catch those problems, think through your analysis before you prompt a large language model to generate a draft. That preparatory work will help make your prompts more specific and the resulting draft more useful. It will also allow you to maintain the healthy skepticism that is necessary to evaluate (and adjust) the automatically generated output.

2. **Be selective.**
   - **What document?** A large language model that helps you complete some projects may slow your progress on others. For example, you might automate the creation of a billing letter, a common contract or a simple motion, while still drafting from scratch when you tackle an appellate brief raising an issue of first impression.
   - **Which tool?** Each generative AI product has its strengths and weaknesses. That is why Lexis+AI is built on the back of a variety of general-use large language models. Pick one that is reliable for the type of work you seek to automate.
   - **What task?** Writing occurs in a series of stages; use generative AI to help with just one. For example, a first draft provided by a large language model can be quite helpful to those who struggle with a blank screen. Good writing requires rewriting, but you cannot revise and polish until you have prose on the page. Large language models can also be helpful at the revising and polishing stage. But to ensure that you are producing the best possible written work, resist the temptation to have one large language model generate a document and another revise it. Use generative AI to create a first draft, or to revise aspects of your own first draft, but not both.

3. **Add depth and detail.** Large language models, so far, tend to be superficial.
They produce generic and sometimes repetitive prose, skimming the surface when thorough analysis requires a deep dive. Many arguments get more precise and persuasive with detailed analogical reasoning; I’ve not yet observed the analytical depth that is the hallmark of outstanding written legal analysis in AI-generated prose.

4. Be judgmental, not deferential. Apply the same healthy skepticism to style that you already apply to content. Large language models generate prose that is organized, fluid and mechanically perfect, enticing users to believe that the work product is finished despite extensive opportunities for improvement. After you ensure that the material is accurate and thorough, ask more questions: Is there a more compelling way to tell this story? Could I make this language tighter or brighter? Would any word, punctuation, or sentence structure adjustments help the reader more readily understand this point or agree with this argument? Is the tone right for my audience? Does this sound like something I wrote?

Choose Hope

Legal writers have powerful generative AI tools to help them efficiently serve their clients’ needs. Time will tell how dramatically these tools affect lawyers’ writing processes and shape their written products. Based on my experimentation with large language models, I have been amazed and concerned. Now I choose to be hopeful — optimistic that our profession will harness the power of large language models to create sharper work with increased efficiency.

ENDNOTES

1. One study showed that when students rely on generative AI, grades at the bottom of the class get a boost, while the grades of top performers slide in the opposite direction — falling down, toward the average. Jonathan H. Choi & Daniel Schwartz, AI Assistance in Legal Analysis: An Empirical Study (Aug. 13, 2023), 73 J. Legal Educ. (forthcoming 2024), available at https://ssrn.com/abstract=4539836 (access to “GPT-4 substantially improved the scores of students at the bottom of the class and negatively impacted the scores of students at the top of the class”).

2. This term, coined by cognitive psychologist Robert Bjork in 1994, refers to the effort that will improve long-term performance on certain tasks.


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The Bulletin welcomes quality manuscripts from Oregon State Bar members for publication.

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.

Professor Rebekah Hanley teaches legal writing at the University of Oregon School of Law. As Oregon Law’s current Galen Scholar in Legal Writing, Professor Hanley is studying generative AI and its implications for law school teaching and the practice of law. She thanks her colleague Professor Suzanne Rowe and second-year Oregon Law students Aazaad Burn and Thomas Grossman for their suggestions on this column.

Choose Hope

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Understanding Generative AI

A Primer for the Next Step in AI and Its Legal Applications

By Justice Brooks
Over the past last 25 years, the legal profession has seen a significant evolution in the way technology is utilized to streamline processes and enhance efficiency. Fax machines, snail mail and desk phones are nearly extinct. They have been replaced by email, SMS communications and other digital alternatives. Traditional artificial intelligence (e.g. technology-assisted document reviews, search engine recommendations) is now commonplace. The next step in that evolution is generative artificial intelligence. This article aims to demystify generative AI and explore its applications within the legal sphere.

What Is Generative AI?

Generative AI is a branch of artificial intelligence that involves machines creating content — whether it be text, images, music or other forms of data — that is meant to be indistinguishable from content created by humans.

Unlike traditional AI, which operates based on predefined rules and patterns, generative AI employs techniques such as deep learning and neural networks to generate new, original content autonomously.

How Does Generative AI Work?

At the heart of generative AI are neural networks, computational models inspired by the structure and function of the human brain. These networks are trained on vast amounts of data, learning to recognize patterns and relationships within the data. Generative AI utilizes two main types of neural networks:

**Autoencoders**: These networks learn to compress input data into a lower-dimensional representation and then reconstruct the original data from this representation. Autoencoders are commonly used in tasks such as image and text generation.

**Generative Adversarial Networks (GANs)**: GANs consist of two neural networks — a generator and a discriminator — that are trained simultaneously. The generator generates synthetic data, while the discriminator evaluates whether the data is real or generated. Through adversarial training, both networks improve over time, leading to the generation of increasingly realistic content.

What Is Machine Learning?

Machine learning plays a pivotal role in the development and implementation of generative AI within the legal field. As generative AI systems rely on large datasets to learn patterns and generate new content, machine learning techniques such as supervised, unsupervised and reinforcement learning are for training and optimizing these systems.

Supervised learning enables generative AI models to understand the structure and semantics of legal texts by learning from labeled datasets of case law, statutes and legal documents.

Unsupervised learning techniques help identify latent patterns and themes within legal data, facilitating the generation of diverse and contextually relevant content.

Reinforcement learning allows generative AI systems to adapt and improve over time based on feedback received from users and real-world interactions, enhancing the quality and accuracy of generated legal content.

How Is Generative AI Different From a Google Search?

It’s important to distinguish generative AI from search algorithms like Google, as they serve different purposes and utilize distinct methodologies. While Google focuses on retrieving and ranking existing information based on relevance to user queries, generative AI goes a step further by creating new content autonomously.

Search algorithms operate within the confines of indexed data available on the web, relying on keyword matching, page authority and user engagement metrics to deliver relevant results. In contrast, generative AI generates original content by learning patterns and structures from large datasets.

While both technologies aim to assist users in accessing information, generative AI offers the capability to generate content tailored to specific needs or preferences, making it particularly useful in tasks such as content creation, natural language generation and creative expression. Conversely, search algorithms excel in retrieving existing information efficiently from vast repositories of data, providing users with access to a wealth of knowledge available on the internet.

Applications of Generative AI in the Legal Profession

The following are several ways generative AI can be used in the legal profession.

**Document Automation**: Generative AI can automate the drafting of legal documents such as contracts, agreements and pleadings. Generative AI algorithms can generate customized documents tailored to specific legal needs.
Legal Research: Generative AI can assist in this process by analyzing vast amounts of legal texts and generating summaries, case briefs or even predictive analyses of potential legal outcomes based on precedent.

Contract Review and Analysis: Generative AI can review contracts for key clauses, obligations and potential risks. It can also analyze contracts and identify relevant clauses, anomalies or discrepancies, thereby expediting the contract review process and reducing the likelihood of oversights.

Predictive Analytics: Generative AI can be utilized for predictive analytics in various legal contexts, such as predicting case outcomes, assessing the likelihood of settlement or identifying potential legal risks for businesses.

Legal Writing: By analyzing vast repositories of legal documents, including case law, statutes and precedent, generative AI can identify relevant arguments, legal principles and citations to support a particular case or position. Generative AI can then generate legal briefs tailored to the specific needs and preferences of legal practitioners. Generative AI can also assist in ensuring consistency and coherence across multiple drafts of legal briefs, reducing the likelihood of errors or omissions. See The Legal Writer column on page 17 for more information on this topic.

Ethical and Legal Considerations

While generative AI offers numerous benefits for the legal profession, its use raises important ethical and legal considerations. (See the Bar Counsel column on page 9 for detailed analysis on this topic)

Bias and Fairness: Generative AI algorithms are susceptible to biases present in the training data, which can perpetuate and exacerbate existing disparities in the legal system. It is essential for attorneys to be mindful of these biases and take steps to mitigate them when utilizing generative AI tools.

Confidentiality: Documents may contain confidential, proprietary or sensitive information that may only be disclosed in limited circumstances. Attorneys must ensure they are implementing and utilizing appropriate policies, protocols and security measures to protect the confidential information.

Professional Responsibility: Attorneys have a duty to provide competent representation to their clients. While generative AI can enhance efficiency, attorneys must exercise professional judgment and oversee the output generated by AI tools to ensure accuracy and quality.

Hallucinations by Generative AI

While generative AI offers tremendous potential in assisting with legal work, it’s essential to recognize the potential for “hallucinations” or the generation of inaccurate or misleading content. Like people, generative AI models are not immune to errors, and there is a risk of producing outputs that may contain inaccuracies, logical inconsistencies or misinterpretations of legal principles. These hallucinations can arise due to biases in the training data, limitations in the AI model’s understanding of legal concepts or unforeseen complexities in legal language and context.

Legal professionals must exercise caution and critical judgment when utilizing generative AI. It’s crucial to verify the accuracy and relevance of AI-generated content through careful review and analysis by experienced practitioners. Additionally, legal practitioners should continuously monitor and refine AI models to minimize the occurrence of hallucinations and ensure that the generated content aligns with their ethical and professional standards. By approaching generative AI tools with vigilance and skepticism, legal professionals can harness their capabilities effectively while mitigating the risks associated with inaccuracies or misinterpretations in legal work.

Put simply — verify, verify, verify.

Unanticipated Consequences

While generative AI holds promise for enhancing efficiency and productivity in the legal profession, its widespread adoption may have potential implications for the training of new lawyers. As generative AI tools automate routine tasks such as legal research, document drafting and contract review, there is a concern that reliance on AI technology could diminish opportunities for new lawyers to develop essential skills and expertise. Tasks that were traditionally part of a junior lawyer’s training, such as conducting extensive legal research or drafting pleadings from scratch, will become increasingly automated, limiting hands-on experience and exposure to the intricacies of legal practice. Moreover, as Generative AI systems evolve to perform more sophisticated tasks, there is a risk that junior lawyers may become overly reliant on AI-generated content, potentially compromising their ability to critically analyze legal issues, exercise judgment and communicate effectively with clients and colleagues.

To address these concerns, legal educators and practitioners must adapt training programs to incorporate instruction on how to effectively utilize AI tools while emphasizing the importance of foundational legal skills, critical thinking and professional judgment. By striking a balance between leveraging AI technology and preserving the essential elements of legal training, the legal profession can ensure that new lawyers are equipped with the competencies needed to navigate the complexities of legal practice going forward.

Conclusion

Generative AI represents a transformative technology with the potential to revolutionize various aspects of legal practice. By harnessing the power of machine learning and neural networks, attorneys can streamline workflows, improve decision-making and deliver enhanced legal services to clients. However, the adoption of generative AI also necessitates careful consideration of ethical, legal and professional implications. As the legal profession continues to evolve in the digital age, embracing innovative technologies like generative AI can empower attorneys to meet the demands of a rapidly changing legal landscape while upholding ethical standards and ensuring access to justice for all.

Justice Brooks is a principal at Foster Garvey in Portland. He recently presented on this topic at the American Bar Association Midyear Meeting, as well as the 2024 Litigation Section Institute and Retreat, cosponsored by the Oregon State Bar Litigation Section, which was held in Gleneden Beach.
Reality is *More Complex*

AI’s Efficiency Isn’t a Direct Line to Increased Access to Justice

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By Shannon Gormley
For over a decade, John Grant has worked to make lawyers more efficient. A tech worker-turned-lawyer, Grant decided to combine his knowledge of the two fields when he opened his consulting firm, Agile Attorney Consulting, in 2014. Since then, he’s used tech-industry software and methodology to help lawyers streamline their practices.

“I have this almost Pollyanna-ish belief that if I can teach more lawyers and law firms to make their practices more efficient, then they will be empowered to serve more people in an affordable way,” says Grant. “If we can get more law firms serving more people, then that makes legal help more accessible to the public.”

Now, with recent, rapid advances in artificial intelligence, Grant’s mission to increase access to justice by improving lawyer efficiency seems prophetic. Publications from Forbes to The New York Times and Reuters have all proclaimed that AI will be a boon for lawyer productivity, which in turn will make legal services more accessible. One American Bar Association article, which predicts that the “obvious” time-saving benefits of AI will translate into cost-savings for clients, claims that AI is “here to save us from ourselves.”

The advent of advanced large language models like OpenAI and ChatGPT comes at a time when the need for affordable, widely available legal services is increasingly acute. Ninety-two percent of low-income Americans do not receive any or enough legal help. Here in Oregon, 85% of attorneys are located in the upper Willamette Valley, and four counties have no private practitioners at all.

Could AI help? The logic used in many articles about the new technology seems simple enough: AI will make lawyers more efficient, and more efficient lawyers will be able to help more people. But the reality is much more complex.

“I haven’t seen any data to firmly support that conclusion,” says Rebekah Hanley, Oregon Law’s Galen Scholar in Legal Writing who is spending the year researching AI. “I think there’s some conjecture.”

Though Grant began working at the intersection of lawyer efficiency and access to justice long before the current AI boom, he describes himself as a “cautious optimist” about the new technology. But he doesn’t see the potential benefits as inevitabilities.

“You can’t just unplug one tool, plug in another tool and have the whole system magically get better,” he says. “You have to reapproach the design of the entire system”

Access and Equity

Growing up, Shiwanni Johnson had what she describes as a “distant” relationship to technology. She didn’t have a computer in her family home, and got her first cell phone later than many of her peers. Then, she went to law school. It didn’t take long for Johnson to see technology and law as deeply intertwined. During her second year at University of Oregon School of Law, she founded the Technology Law Club, aimed at exploring how tech — from e-discovery to spreadsheets — can make lawyers better at their jobs and improve access to justice.

Now a third-year associate, Johnson chairs OSB’s Technology Law Section. She regards the hype around large language models with skepticism.

“I think AI is undoubtedly a tool that will lead to more lawyer efficiency,” says Johnson. “But just because a lawyer is more efficient doesn’t mean that they’re providing access to justice.”

The assertion that AI will make lawyers more efficient and thus increase access to justice is sometimes treated as if it’s a single byte of information. But really, it’s two, and both rely on assumptions. And as Johnson points out, access doesn’t always mean equity.

“For me, access to justice means using the law to get people what they are entitled to under the law. Not only that, but also using the law in a fair and equitable manner,” says Johnson. “Artificial intelligence is so dynamic and so new that I don’t know if it necessarily serves either of those purposes.”

AI has already been used to perpetuate existing racial bias in the legal field. Generative models rehash the biases of the information they are fed, and the history of the legal field is replete with biases and inequitable outcomes.

The Oregon Judicial Department has been closely monitoring AI’s recent developments, its potential to make legal services more accessible and its possible pitfalls. “Artificial intelligence is not something to be ignored,” says Chief Justice Meagan A. Flynn. “I’ve heard multiple presentations about AI over the past year, including one at the Conference of Chief Justices. This conversation will also be happening in the coming months and years with our judges and staff at OJD. AI has exciting potential to help the courts, but it’s also something we must approach cautiously and with solid governance in place.”

In addition to the issue of algorithm bias, Flynn points to “hallucinations” — fake information that a large language model presents as factual — as a concern. In order for AI to successfully facilitate access to justice, Flynn believes that human oversight will be key.

“If bias or misinformation is built into AI products from the beginning, then the AI will reproduce that misinformation,” says Flynn. “We are responsible for protecting the integrity of the court process, checking that the information we rely on is accurate and ensuring that the decisions we make are based on case law and evidence that really exists, not something that is only computer generated.”

Additionally, many of the attorneys Flynn spoke to were concerned about who will and who won’t have access to top-of-the-line AI technology. For the moment, it’s mostly big law firms with big budgets. At a recent presentation, Hanley heard from several public interest attorneys who were anxious that AI would only put them at a greater disadvantage against better-resourced private parties.

It’s a trend that Grant has noticed, too. “If you’re using the public version of GPT, that parallels with the bespoke systems that AMLaw 100 firms are all already building,” he says. “It has the risk of making the gap between the haves and the have nots even wider.”

Angela Laidlaw, a family law attorney based in Oregon City and a member of the State Family Law Advisory Committee’s Futures Subcommittee, recently helped draft AI policy guidelines for the Oregon Judicial Department (at the time of the Bulletin’s interview, the guidelines were in committee review, and Laidlaw declined to discuss the specifics or speak on behalf of the committee). She points out that AI could also put pro se litigants at an additional disadvantage if they are up against a party with access to representation and advanced AI.

On a scale of 1 to 10, with 10 being the most optimistic about AI, Laidlaw would place herself at a 3 or 4. She is particularly concerned about the confidence with which generative AI presents false
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information. As a test, Laidlaw has asked ChatGPT to write essays based on untrue information. Each time, the algorithm has taken the prompt as if it was completely factual and authoritatively replied with an essay of entirely false information. She’s noticed that, for some reason, ChatGPT seems to believe that interrogatories are allowed in Oregon when they are not. Laidlaw describes it as an “echo chamber of false information.”

“AI is only as good as the information we put into it,” she says. “I have a hard time imagining in my lifetime that we could use AI without having a human interpret some of it or check it.”

Laidlaw does use ChatGPT in her own practice, mostly for summarizing information and what she refers to as a “tone check” – asking the large language model to make sure what she’s written comes across the way she intended it to. It has made her practice more efficient and has allowed her to help more clients.

“It’s still on a very small scale,” she says. Even so, “I really do think we can figure out ways to do more stuff in less time, which is better all-around.”

Large Language Models, Human Scale-Efficiency

Last February, Grant sat in a meeting room at the Multnomah County Courthouse and met with Oregonians facing eviction. He was volunteering with the Commons Law Center’s eviction defense clinic, which sometimes serves up to a third of the court’s morning docket. The access to justice gap is particularly prevalent in landlord-tenant law. Last year, only 8% of Oregon tenants and 42% of landlords had legal representation in eviction proceedings.5

The eviction defense clinic uses practice management software to help with basic procedures. But on the day that Grant volunteered, he was bemused to find a much more analog technology in use — a large paper chart used to track cases, with columns of Post-It notes divided by blue painters tape. The visual organization tool is known as a Kanban board, a tool that Grant often uses with his consulting clients. It helps him and his clients identify where work gets stuck due to system bottlenecks, something that AI, if used poorly, could make worse.

Some AI enthusiasts have suggested that software could help with client intake or new matter filing. But Grant worries that if the influx of filings overwhelms the human workers involved, work will just become more backed up.

“What most people will self-identify as a ‘I need to be more productive in my work’ problem is actually a ‘the system needs to have a more productive in the flow of work’ problem,” he says. The way Grant sees it, expecting lawyers to work faster through too great of a workload is like expecting a car to drive full-speed down a backed-up highway: “The car is capable of going 100 mph. It’s the traffic on the freeway that is keeping it from going that fast.”

The distinction between “efficiency” and “productivity” is important, but often ends up muddled. At face value, increasing efficiency is good for lawyers. It means that tasks take less time and are less tedious. Productivity, however, is a measure of how much work you can churn out — and most lawyers are already overworked. A recent Bloomberg Law study found that while work hours have gone down, the average rate of attorney burnout has not.6

To increase efficiency without increasing burnout, Hanley proposes “selective deployment” of AI. Given all of the review and oversight necessary, trying to use a large language model to spit out a final product for a client or judge may require more work, not less, and may also lead a lawyer to generate lower quality work. Instead, Hanley suggests using AI to help with small pieces of a project, especially those that you find particularly challenging or tedious. It can even be used to suggest new phrasings if you’re feeling stuck or write segments of a first draft to bypass the pressure of a blank page.

While working with Commons Law Center’s eviction defense clinic, Grant did find a use for ChatGPT when he wanted to check the compliance of some proposed changes to Multnomah County court procedures. Instead of manually searching through a thicket of Uniform Trial Court Rules, supplementary local rules, and Chief Justice and Presiding Judge Orders, he created a custom GPT with the relevant sets of documents, put guard rails around its ability to hallucinate and then asked the model specific questions about the proposed changes.

“It was great,” says Grant. “It really helped me focus on a small handful of provisions that were relevant to the questions that I had.”

For Grant, such improvements don’t change that organizations and individuals need to be realistic about how much work they can actually take on. He points out that even with the help of efficiency tools, the eviction defense clinic caps the number of people it can help each day according to how many lawyers and paralegals are physically on-site to help.

“We’re not going to be able to use the same systems and workflows that are built around human capabilities for a single person doing legal work, plug in AI and have it magically work at 1.5 or 2 times the human’s productivity level,” he says. Grant believes that, in a literal sense, keeping law at a human scale is good for clients, too: “When people hire a lawyer, they want to hire a human. They’re buying some element of, ‘there’s this other person in this with me.’ Meeting people’s social-emotional needs is an important component of meeting their legal ones.”

Beyond the Black Box

Sitting in her office on a sunny, unseasonably warm day at the end of winter, Johnson remains as insatiably curious about law and technology as she was when she started law school, despite her acknowledged hesitancy about embracing generative AI. Johnson believes that if lawyers are going to use predictive algorithms, as many of them already are, they should at least know what they’re dealing with.

Last fall, the Technology Law Section hosted a CLE aimed at just that. The day-long event functioned as a crash course in AI in the legal field, from ethics to practical applications. A talk from an Oregon State University robotics professor titled “Everything You Ever Wanted to Know About Large Language Models (But Were Afraid to Ask)” dug into how predictive algorithms work, when they fail and “the real risks associated with unrealistic expectations” of their capabilities.

If legal technology is going to help the public, though, Johnson believes that the public needs to be a part of the conversation. “I think it will require not only people in the tech industry — the people creating these AI tools — working directly with lawyers, but...
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also working with people directly in the community to whom they’ll be providing these services,” she says. “I also think it requires transparency to people using these services.”

Hanley, too, believes that more transparency is necessary moving forward. The inner workings of deep-learning AI are invisible to the user and in many cases, not fully understood even by its creators. Generative AI can still produce unexpected, unwanted outcomes, even as the technology rapidly improves. “There’s just more questions than there are answers,” says Hanley. “It seems like things could change dramatically tomorrow.”

In the meantime, finding the best ways for AI to increase access to justice might require rearranging the order of operations in a much simpler equation. For Johnson, if the goal is to help the public, then benefits to the public have to be discussed first, not as a downstream benefit of efficiency.

“The advances in technology should improve the system from a non-lawyer’s perspective, from people who are trying to access the legal system,” she says. “That makes it more fair and equitable.”

Shannon Gormley is the associate editor of the Bulletin.

ENDNOTES
2. https://justicegap.lsc.gov/#:~:text=Low%2Dincome%20Americans%20did%20not%2C%20restraining%20order%20against%20an%20abuser
The Next Generation

Law Schools Navigate AI Amid Rapidly Changing Landscape

— By Melody Finnemore —
Rebekah Hanley, a professor who teaches in the Legal Research and Writing Program at the University of Oregon School of Law, was prepared to speak about new developments in generative artificial intelligence at a mid-January faculty meeting when the presentation was postponed because of the snow and ice storm that wreaked havoc across the state.

Hanley, Oregon Law’s 2023-24 Galen Scholar in Legal Writing, is spending the year studying generative AI and its impact on law school teaching and the practice of law. She frequently speaks about AI in legal education and says she was hesitant to update her materials for the rescheduled presentation until right before it actually happened, because AI is changing and advancing so rapidly.

“It highlights one layer of challenge we’re all grappling with,” she says. “There is no point at which we can all pause, assess, make a plan and commit to sticking to it because the situation is so dynamic.”

Like Hanley, professors at Willamette University’s College of Law and Lewis & Clark Law School are navigating the use of AI in legal education in real time. From monitoring how students use it for assignments, projects and exams to teaching them how to incorporate AI responsibly and ethically as they begin practicing, Oregon’s trio of law schools joins others across the country in adapting to this light-speed evolution in the legal profession.

The American Bar Association last summer established the ABA Task Force on Law and Artificial Intelligence to examine the impact of AI on law practice and the ethical implications for lawyers. AI in legal education is one of five specific areas the task force is charged with exploring.

The task force seeks to inform the legal community about how AI can affect a lawyer’s ethical responsibilities, pose threats to confidential client data, and risk inadvertent waiver of attorney-client and attorney work product privileges. It also will look at how AI can increase access to justice and develop resources to make this technology understandable to lawyer and judges.

In December, LexisNexis announced that it would make its generative AI platform, Lexis + AI, available to 100,000 second- and third-year law and masters of law students at ABA-accredited law schools during the spring semester. Faculty training webinars were to be scheduled during the rollout.

The rollout followed a test run last fall in which 450 law school librarians, legal research and writing instructors, and legal technology professors were given access to the platform, which it said supported “conversational search, intelligent legal drafting, insightful summarization and document analysis.”

“In my classroom I have started experimenting with Lexis + AI. That requires me to be vulnerable in front of my students because I’m learning along with them,” Hanley says, adding it is important to educate students about the tools now so they can gain experience and understand the pros and cons of using them.

“Some students are very wary, nervous and unenthusiastic about these tools, while others are hungry for the opportunity to learn about them and how to use them well,” she says. “It feels tricky to continue to tell students not to use generative artificial intelligence when we see the profession moving in that direction.”

Hanley notes that AI can support student learning and “be a partner at the starting point” by helping to generate ideas, overcome writer’s block and facilitate research. Used later in the writing process, AI can assist with proofreading to polish writing. However, she adds, students must also understand their ethical responsibility to supervise the tool and verify all information that goes into their legal work product, a responsibility that will never change.

She led a class exercise in which her students prompted Lexis + AI to draft arguments and then critiqued the results to evaluate accuracy and thoroughness. They reviewed the depth and detail of the arguments and found that they were somewhat shallow, repetitive and superficial.

“I’m trying to teach students to think very critically about the information the generative AI spits out, and the students are learning that its ability to create meaningful, analytical legal prose is lacking in many respects,” she says. “I think that was an important lesson for the students. These tools will maybe save them some time, but the tools don’t compare to the knowledge, skills and judgement they have developed so far in law school and their own ability to explain things to their clients.”

Hanley says that faculty at Oregon Law have enjoyed the academic freedom to proceed with AI as they see fit for their individual teaching decisions, but the default position for students is to avoid using AI unless faculty says otherwise. She describes her own teaching strategy as a “task-by-task, day-by-day, assignment-by-assignment, tool-by-tool approach.” With the academic integrity section of class syllabi as a guide, in some courses students may be permitted — or even encouraged — to use AI for any purpose other than producing graded written work. Still, AI detection tools are not entirely reliable, which makes it problematic to determine when generative AI has been used for work that is graded, Hanley says.

The Next Iteration of Legal Tools

David Friedman, Willamette Law School professor and associate dean for strategic initiatives, likens talking about AI in law as “a little like an arms race” and that it is difficult to really know what it means for the profession.

“This information could be quaint and archaic a year from now, and a year ago we would have been surprised that we are even talking about it,” he says.

One thing Friedman is sure about is that human beings will always play the most important role in the final product. For example, two sides may be trying to resolve a dispute and both may have the same AI available, but their unique human insight and experience is needed to gain the edge in the argument.

Friedman points out that electronic discovery changed the structure of litigation and how staffing is managed, and AI is another version of that evolution in that it can provide economical shortcuts that might help by making legal services more accessible, efficient and cost-effective. Still, clients will need their lawyer’s advice.

Photo on Opposite page: Policies at Willamette University College of Law are constantly changing to the evolving nature of AI.
“Part of this is you have to embrace it, there is no point in being afraid of it. If you’re afraid of something, you’re not looking at the upside of how it can help,” he says. “At some point using AI will be part of what we expect when we think of lawyer competence, just the same way we assume they use the internet or computers. This is kind of the next iteration of that, it’s just faster.”

Willamette is now offering a seminar on law and AI, which Friedman says will continually change as the instructor strives to stay on top of the latest advances. He says faculty members expect to learn as much as students do through the seminar.

In terms of monitoring how students use AI for their work, Friedman calls it still very much a work in progress, in part because of how rapidly AI has developed and also how fast it changes.

“We realized very quickly that we had to be clear with ourselves and our students about what we are academically assessing, what we are teaching and in which context,” he says. “I think we’re kind of in an interim phase across education, in general, in figuring out what this means.”

As an example, students have been afforded a more open-source environment for exams, especially in remote courses held during the COVID pandemic. Now that may change drastically so faculty can better measure students’ abilities and ensure everyone is on a level playing field without the use of AI.

For a research paper or project, some faculty might permit AI to be used for brainstorming potential topics and research but not for the actual writing. “We had to make it very clear, first of all to instructors, about what these tools could do and how you have to manage that. Be clear with students about rules and what AI can be used for,” Friedman says.

The experiential component of law school has become more important as Oregon expands its types of examination for licensure. These include more experiential opportunities such as simulation courses and clinics in which AI could improve productivity, he adds.

Well-publicized dangers do exist, Friedman cautions, referring to attorneys in New York who were sanctioned by a federal judge for submitting legal briefs written by ChatGPT that included fake cases and citations. He describes those incidents as attorneys using AI recklessly as shortcuts.

“Lawyers have an obligation to figure out how to harness AI for clients without hurting them,” Friedman says. “For the foreseeable future, you’re going to have to use your human eyes to make sure everything is accurate.”

Clear Rules About Use Are Crucial

John T. Parry, associate dean of faculty and Edward Brunet Professor of Law at Lewis & Clark Law School, says a faculty member there also has developed a class on AI and the law. “One thing I think is interesting is that it’s not just the law and policy of AI, but the students will be using AI in the class and some of the same things they learn in the lawyering class so it will be both policy and hands-on,” he says.

A couple of robust faculty discussions led to the question of whether to draft an institutional policy about student use of AI. The difficulty is that such a policy either has to be so general that it wouldn’t be very useful or so specific that it would be dated in a few weeks, Parry says.

“Students are free to use AI, for example, as a study tool to outline a class or a case and that can be really useful. There is also a lot of AI that has already been out there. Lexis and Westlaw have added AI components and we don’t want to outlaw that because they will need to use that as lawyers,” he says.

Lewis & Clark Law School has a general understanding with its faculty that it is their responsibility to inform students that AI is only to be used with a professor’s permission to ensure there are no code violations. For exams, the law school can disable internet access on student laptops and professors have to opt in if they want their students to have internet access during an exam.
“We want faculty to be able to work with students if they want to on AI issues or rely solely on their own knowledge,” Parry says. “Students also realize it’s one thing to use it as a tool and they have seen the horror stories of lawyers turning things in with hallucinations included.”

Robert Truman, associate dean and director of the law school’s Paul L. Boley Law Library, says generative AI tools and concepts for research are introduced to students during their first year and that education continues into the advanced courses. The law school is exploring the potential for AI to be particularly useful for contract drafting classes.

When Truman polled professors of writing classes, they reported asking students who were creating briefs to run their research, writing and analysis through AI tools such as ChatGPT and perform a comparative analysis about how well these tools do — or don’t do.

“Like everyone else, we were thrown into this about a year ago and it’s all changing so fast, but the overall understanding is that AI tools of all sorts are being rolled into just about every legal tool and practice,” he says. “We know it is useful and our goal is to teach it in context so students use it to best serve their clients when they start practicing.”

Melody Finnemore is a Portland-area freelance writer. She recently profiled Kenna West of Polk County in the December 2023 Bulletin.
As lawyers, I believe we have a duty to use our position to work toward ensuring access to justice for all. This goes beyond our clients and to the heart of being a part of a system rooted in law. If justice is our goal, then equitable access must be our cause. For decades, Oregon lawyers have dedicated time and creativity to this vital cause. The work is not done.

This is why it is such a privilege to share news of a promising new program rolling out incrementally throughout the year.

For several decades, Oregonians in need of legal help or legal information have turned to several statewide entities for reliable information. The Oregon State Bar, the Oregon Judicial Department and Oregon’s statewide legal services providers, Legal Aid Services of Oregon and Oregon Law Center, have hosted public facing websites with volumes of information about Oregon law and courts, individual rights, how to manage one’s own legal issue, and where to find a lawyer when you need one.

Both staff and volunteer lawyers for these entities were charged with regularly updating all this information — on multiple websites — in response to statutory changes, new case law and updates to court rules or standard practices.

Meanwhile, the Oregon Law Foundation has been a core funder, supporter and partner to many of the state providers who advance this legal service work. And more recently, Oregon Consumer Justice has joined this network of legal service entities dedicated to ensuring that Oregonians can find the help and information they need from trusted sources.

For the past four years, these six partners have been working together to offer a better way for Oregonians to learn about their legal rights and service options.

Innovation Brings Opportunity

As this tech-heavy edition of the Bulletin demonstrates, times change. And with innovation comes opportunity.

This January, the new Oregon Law Help online portal went live in its initial “soft launch” phase. It is a game-changer for how the public will find the legal help they need. And for the first time, it brings the vital content of all four of the aforementioned partners into one accessible site.

Oregon Law Help is highly interactive, employing technology to help guide users through a series of questions to pinpoint their legal issues and direct them to either the information they need or to the best...
option for finding a lawyer or legal professional. The information is presented at accessible reading levels, according to the latest science guiding how consumers access and understand information.

The site launched in English and Spanish (with plans for additional languages) with content on family law, personal safety, housing law and Oregon courts. In a rolling release, new areas of law will be added throughout 2024 and 2025. As each new topic is added, partner entities will remove duplicative information from their website and guide users to a centralized location and support with the goal of having one user-friendly entry point for the public.

This is just the beginning. The site developers and statewide partners have intentionally designed an agile product that will continuously learn and adapt to how it is being used and respond to user and partner feedback. With sophisticated analytics integrated into development, this inaugural product will only get better. Rather than a service that updates at regularly scheduled intervals (every few years, as in traditional website management), the technological and conceptual framework ensures that Oregon Law Help will continuously update and improve. Staff is already examining ways to safely leverage generative AI, which will add even more robust enhancement capabilities to the site eventually.

In today’s age, the journey of an individual seeking help to navigate a complex legal crisis will almost always begin on their cell phone, or sitting at a public computer, or staring into a laptop screen. The evolution of technology offers powerful new tools — for our public and for attorneys. With this new site, we can harness technology during that moment of vulnerability to offer a pathway to quick, meaningful help from trusted sources in the legal services sector.

Oregon’s Collaborative Approach

To call this project a “big lift” would be an understatement. In another demonstration of Oregon’s commitment to collaboration in the legal services space, this multi-partner effort began in 2020 and has involved expertise spanning legal, communications and technology sectors across the state.

For those who have been tracking the work, it is gratifying to see it come to fruition. For those who will ultimately benefit from this resource, we have high hopes that it will get the right help quickly into the hands of those who most need it.

A very hearty thank you and congratulations to all the people and organizations who brought the Oregon Law Help project to fruition. This work not only marks a new era in our collective efforts to improve access to justice, but also serves as a shining example of the brilliant work that can be accomplished when we put our efforts together.

Lawyers interested in supporting this project can visit OregonLawHelp.org/get-involved for information on ways to get involved. The Oregon Law Help team welcomes feedback and invites lawyers with subject-matter expertise to consider taking a more active role by joining the Oregon Law Help content taskforce.

David Rosen is the 2024 president of the Oregon State Bar. He is the founder of High Desert Law in Bend. Reach him at drosen@osbar.org.

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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Six years ago, when the Oregon Judicial Department (OJD) started to identify the initiatives that would make up the recently concluded Strategic Campaign, I would have had trouble identifying any practical use for artificial intelligence, much less how it might affect the work of our courts.

Today we hear about new uses for AI all the time, in all parts of our lives. As you’ll read in this issue of the Bulletin, that includes the legal profession and the courts.

AI was a hot topic at the National Center for State Courts (NCSC) Court Technology Conference last fall. And when OJD and court leaders met for a summit last September as part of our planning for a new campaign, NCSC presented to us about the possibilities and the potential perils of AI.

The goals and values at the heart of OJD’s mission never change: We strive to provide fair and accessible justice services that protect the rights of individuals, preserve community welfare and inspire public confidence.

But, as we learned first-hand during the COVID-19 pandemic, sometimes we must pivot to new ways of serving court users — and pivot quickly.

Will AI prompt a pivot toward entirely new processes for Oregon courts? I cannot say for sure. But I can say that we will be paying close attention to both the promise and perils of AI as we continue to evolve and adjust the ways our courts deliver services.

The Oregon Judicial Department Justice Campaign 2024-27

As we launch our next strategic campaign, dubbed the Justice Campaign, artificial intelligence has a place of prominence in one of the nine initiatives that our courts have chosen to prioritize.

The initiatives for the Justice Campaign reflect the key role that the judicial branch plays in addressing virtually every major issue facing Oregonians today: addiction and recovery; housing and homelessness; mental health care and treatment; crime; domestic violence; the crisis of unrepresented persons in the criminal justice system; the need for equity, diversity, and inclusion; economic vitality and stability; environmental sustainability; support for the rule of law; and preservation of individual rights.

The Justice Campaign is built on input from OJD staff, leaders, judges, justice partners, court users and the public. A steering committee of court leaders and judges took those ideas and refined them into a list of priorities for the next four years.

At the heart of the Justice Campaign are four core commitments which remain essentially the same as during our previous strategic campaign, albeit with a few language refinements:

- Commitment 1: We will collaborate with community partners to improve services and access for people who are underserved, vulnerable and marginalized.
- Commitment 2: We will improve the court user experience by identifying and eliminating barriers to access to justice and ensuring safe, secure and accessible court facilities.
- Commitment 3: We will earn the public’s trust and confidence through communication, transparency, high ethical standards and promoting the rule of law.
- Commitment 4: We will provide a workplace and courthouse culture that is welcoming, supportive, and diverse, and where all people are treated with respect.

As for the initiatives we will prioritize to help us meet those commitments, we have nine:

- Immediately implement all available strategies to provide safe court facilities and sufficient law enforcement staffing to prevent harm to court users, employees, and judges, in coordination with federal, state and local partners.
- Improve community outreach and engagement by listening to the concerns of court users and collaborating with stakeholders to improve court services and evidenced-based problem-solving programs.
- Provide court proceedings that are accessible and conducted in a mode and manner that best serve the need for justice in our communities.
- Increase jury participation and improve the jury service experience to promote equitable, informed and engaged civic participation.
- Ensure that court web services are accessible and user-friendly.
- Expand the availability and accessibility of court forms, including
readability, translation and statewide consistency.

• Improve education, training and mentoring for all OJD staff and judges.

• Ensure that OJD is leveraging existing and emerging technologies, including artificial intelligence, while also protecting IT resources.

• Develop a multi-year plan to fund courthouse renovation or replacement that allows the courts in each county to provide safe, accessible and modern facilities that accommodate the use of technology, and that make the justice system accessible to all members of the community.

We are currently building and prioritizing a list of specific projects and activities tied to each of the initiatives. These projects are where the words of our initiatives and commitments turn into concrete actions to address the pressing issues facing the courts and our communities. Woven throughout our initiatives and projects is the equity framework that OJD has adopted to ensure that all of our decision-making is fair and accessible to all court users.

Also woven through those priorities is our awareness that we must actively collaborate with other branches of government, state and local leaders, attorneys and members of our communities to effectively fulfill our role in addressing the pressing issues facing the courts and our state. We need to listen as well as share our own ideas and insights.

The Justice Campaign provides us with the structure, focus and flexibility to improve court services, increase access to justice, and do our work with fairness, efficiency and accountability. I look forward to seeing how AI might shape what we accomplish in the next few years as we work together with others in the legal community to improve access to justice for all Oregonians.

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Chief Justice Meagan A. Flynn has served on the Oregon Supreme Court since 2017. She began her service as Oregon’s 44th chief justice on Jan. 1, 2023.
Eva Novick is constantly challenging herself. Whether it’s moving around the country in her younger years, trying out different law practice areas or exploring how technology is impacting law in Oregon, Novick certainly is motivated to make her mark. She just recently shifted her career focus.

Novick had spent 17 years protecting consumers with the Oregon Department of Justice, but just two years ago moved into her current role at Miller Nash, focusing on privacy law.

“Consumer protection law in Oregon is fairly static,” Novick explains. “Privacy law is the exact opposite. Every day, I’m trying to keep up with changing technology, new laws and new interpretations of old laws.

“What I love about both fields of law is that they impact our daily lives. I’m excited to be part of a developing field of law and shape how technology, including AI, will be used for the next 10 to 20 years. I want shape the law to maintain a level playing field, enable growth in companies, and protect individual rights, which collectively will make Oregon a stronger state for both businesses and consumers.”

The Journey

Novick grew up in North Carolina with parents who both worked in education. They instilled in her a deep love of learning, which served Novick well as she explored academic opportunities. She decided to trade hot and humid summers for cold and snowy winters, by moving to Boston to complete her undergraduate education at Brandeis University. During that time, she took several classes for a legal studies program and it didn’t take long for her to catch the legal bug. After school, she worked for a year as a legal assistant, then moved to Washington, D.C., to work as a paralegal. Both of those positions gave her the encouragement — and the foundation — to apply for law school.

She headed back to her home state to enroll in the University of North Carolina School of Law.

Her husband moved to Oregon for work before her 3L year. As she wrapped up her time at UNC School of Law, she visited Oregon several times during breaks to network and look for jobs.

“We wanted to live near a city and the Portland area was so much more vibrant than another city where he got a job offer,” she says. “Additionally, I have been a vegetarian my whole life and was thrilled to find great options with local produce at most restaurants. When we first moved here, we...
also loved exploring the amazing geographical variations across the state.”

Her commitment to networking and building relationships paid off and she was offered a job at the Oregon DOJ working on consumer-protection issues. Eventually, Novick was hired as an assistant attorney general, a role she held for 16 years.

“I continued to help with advancing the attorney general’s consumer protection agenda at the Legislature for a number of years and tracked bills, testified at hearings and led work groups to draft consensus language for bills,” Novick says. “That work led to leading work groups and following the administrative process to revise several administrative rules.”

Novick was tenacious in her settlement negotiations in Oregon-specific and multi-state actions. She resolved over 400 investigations, which resulted in the distribution of over $1 billion in restitution.

Jermaine Brown, of counsel at Markowitz Herbold, worked with Novick for almost a decade at the Oregon Department of Justice.

“Some of the things that stood out to me were her intense drive to achieve results for her client, her ability to consider all sides of an issue,” remembers Brown, “and her foresight in anticipating how important privacy rights would become in the legal field.”

**Today’s Work**

In 2022, Novick decided to make a change. She moved into private practice to focus on privacy law. In 2023, she stepped into her current role for Miller Nash, where she leads the firm’s privacy and data security team. She also works closely with clients on compliance with state, federal and international laws, while assisting with incident response.

Her natural knack for technology has been a defining part of her career.

“My favorite part of my job is helping companies re-think how they’re collecting, using and keeping data,” she explains. “As both technology and legal developments shift, some companies are at the forefront of implementing privacy compliance programs and others need to be coaxed a little more. Privacy compliance is often seen as a cost but, in addition to reducing costs from civil penalties and class action litigation and reducing the likelihood of a data security incident, it can also help companies gain consumer trust and additional business.”
Part of her commitment in her professional role at Miller Nash, in addition to the overarching field of law, is to harness the changes in technology in a way that benefits those using it.

“As lawyers, we need to understand how new technologies work, both to leverage the work we do and to understand how our clients use these technologies,” Novick says. “Artificial intelligence advancements will continue to impact both our personal and professional lives. As competent lawyers, we need to be able to use new tools while maintaining client confidences and working around limitations of the technology. Particularly in privacy law and AI law, practitioners need to depend on their legal expertise but also be creative in how to apply existing law — that was developed before these technologies existed — to new technologies.”

Michael Porter is a partner at Miller Nash and says that when Novick joined the firm, she already had a high level of professional engagement in the emerging area of privacy/data security and related technology issues. “Since her arrival, she’s added tremendous value for our educational institution clients, both K-12 and higher education, public and private — all of which are facing the rapidly developing legal and practical landscapes in these areas,” he says.

Volunteering and Mentorship

Being involved in and around the community is something that is engrained in Novick’s character. Novick served on the Oregon State Bar Consumer Law Section Executive Committee for many years. But as her career transitioned into more privacy-focused work, Novick decided to volunteer for the Technology Law Section Executive Committee. Today, she serves as the committee’s treasurer.

Additionally, she sits on the board of both parent-teacher organizations for her children’s schools, cooks meals that are delivered to Outside In, a local shelter for homeless teens, and volunteers for Hadassah, an organization that lobbies for women’s issues in the United States and provides funding for Hadassah Hospital, which does cutting-edge research on women’s health issues such as breast cancer. She also volunteers with the International Association of Privacy Professionals (IAPP) in Portland.

“I believe the world can be a better place if we all do our part,” says Novick, who also enjoys reading historical fiction books,
traveling with her family and playing piano in her free time.

During her time at the Oregon DOJ, mentorship also became important to her, which was evident in her supervision of law clerks and externs for more than a decade. The advice that she would give to young women entering the field of law is simple: Go for it.

“More women are graduating from law school than men these days,” she says. “There are so many resources available for young lawyers. Take advantage of formal and informal mentoring opportunities. Treat your clients and opposing counsel with respect and do your best. Everyone makes mistakes but it’s how you handle yourself that matters the most. Think about your desired career path and build a network to help you attain your goals.”

Brooke Strickland is a Pacific Northwest-based freelance writer who frequently writes for businesses and publications around the country. Reach her at stricklandbrooke@gmail.com or brookestickland.org.
Having an AI Workplace Policy Is Smart Business

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

In the Shadows

Remember Shadow IT? Say hello to Shadow AI.

There were plenty of articles written about Shadow IT — defined by Cisco as “The use of IT-related hardware or software by a department or individual without the knowledge of the IT or security group within the organization.” Shadow IT included cloud services, software and hardware.

Welcome to the sudden rise of Shadow AI. Its use, like that of Shadow IT, is often unknown to a law firm’s IT or security group. As lawyers gravitated with haste to using generative AI in 2023, the conversation at law firms rapidly turned to controlling the use of Shadow AI.

Do you have any idea how many of your firm employees are using AI? The likely answer is no. We’ve all been so busy exploring what AI can do in our practices that only the largest of law firms are likely to have thought about AI policies, much less tracking the actual use of AI in their firms.

While law firms and companies don’t like reporting on shadow IT problems, in 2023 Samsung issued a temporary ban forbidding any unauthorized AI applications after an internal data leak. We are sure similar edicts have been issued elsewhere, but that’s the kind of subject that companies and law firms prefer to keep quiet.

Hard to Track

AI is everywhere, but it’s not always visible. We forget that AI is embedded in videoconferencing programs, in many legal research programs, in our e-discovery software, in the browsers we use to search for information, in our smartphones — and the list goes on and on.

Sometimes it is more apparent that we are using AI — we understand that we are using it when working with ChatGPT, Harvey (which some major law firms use), Bard, Bing Chat, etc.

Has your law firm authorized you to utilize an AI? There’s the rub. In general, employers are often unaware of what generative AI is being used by their employees. And the employees like their AI — you might send a survey asking employees if they use AI and they might well say no even if the correct answer is yes — they don’t want to get in trouble, but they have no intention of giving their beloved AIs up. AIs have become addictive.

Do You Need an AI Usage Policy?

Absolutely. At least you need to document what is and is not allowed. You may choose to identify generative AIs, which your lawyers and staff may utilize. However, you will certainly want to underscore certain things. Do they need to tell the client if they are using AI? Most ethicists would say yes. Do they need to get permission for that use? If time is saved, is billing reduced? Do you ensure that no confidential data is given to the AI, either placed in its database or used for training?

In the end, your policy will constitute a set of guidelines and regulations which make sure that the law firm’s use of AI is ethical and responsible. The policy should address any cybersecurity issues, data privacy laws, federal/state regulations, ethical considerations, etc.

Finally, it should be made clear that no unauthorized AI may be utilized. This may reduce the amount of Shadow AI at your firm, but never imagine that a mere policy will put an end to the use of shadow AI by rogue employees.

Another Area for Employee Training

AI training is an industry these days — and the dangers of Shadow AI can certainly be addressed in a training session. We also suggest that Shadow AI be addressed in employee cybersecurity awareness training.

Many cyberinsurance companies require such training, so it is an additional “guardrail” to include a segment on the dangers of Shadow AI — indeed, on the cybersecurity dangers that may come with authorized AIs as well.

While most lawyers know they shouldn’t give client information to an AI, they may not realize how dangerous it is to give information about the firm itself to an AI. As an example, don’t construct a prompt along the lines of “How do you configure a TZ500 SonicWall firewall to allow FTP traffic?” Anyone who has access to that data (whether authorized or unauthorized) may use such information in a cyberattack. You’ll certainly want to underscore that danger in the training.

How Can You Monitor the Use of Shadow AI?

That’s the hardest question. There are solutions which provide full visibility into what applications are running and who is using them. Basically, you can scan for installed...
software and/or devices that are used to access your data and environment. What if you do not allow personal devices to access firm information? It’s a simple matter to check the device “partnerships” in your Microsoft 365 account to see if any of the phones appear to be non-firm-issued devices used to synchronize a user’s mailbox.

There are also software monitoring tools to capture a user’s activity even if a browser is used to access an AI environment. To be totally transparent, make sure you notify employees that you may be monitoring their activity. Some states even require that such notice be given to employees in a very prominent way.

Final Words

Embracing AI unreservedly is tempting. But go slow and be careful. Expect rogue behavior and have a plan to deal with it!

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May 14 Deadline to File for BOG Election

The OSB is currently seeking candidates for the Board of Governors election. There is one vacant seat each in regions 1, 3, 4 and 5. Seats are open to active bar members with a principal office location in each region. Candidate filing forms and information can be found at https://www.osbar.org/leadership/bog. The filing deadline is 5 p.m. on Tuesday, May 14. For more information, contact Danielle Edwards at (503) 431-6526 or dedwards@osbar.org.

‘Nonprofit Law in Oregon’ Is Now Available

Designed for the needs of legal professionals, “Nonprofit Law in Oregon” serves as the go-to primer for navigating the fundamental aspects of nonprofit law specific to Oregon. Preorder your copy of the book here: https://tinyurl.com/2024NonprofitLaw. A PDF download is included with your print book order.

Nominations Now Open for 2024 OSB Annual Awards

Nominations are now open for the 2024 OSB Annual Awards, which will be presented at the Celebrate Oregon Lawyers event on October 23. Help us honor our most outstanding lawyers, judges and citizens by nominating your deserving colleagues for these awards. Nominations must be received by 5 p.m. on Tuesday, June 4, 2024. Electronic submissions are preferred and should be sent to cpetrecca@osbar.org. Printed nominations should be mailed to: Oregon State Bar, Attn: Awards, P.O. Box 231935, Tigard, OR 97281-1935. For further assistance, contact Cathy Petrecca via email or at (503) 431-6355 or (800) 452-8260, ext. 355. The nomination form can be found at http://www.tinyurl.com/2024AwardNominations.

Report Your Pro Bono Hours for 2023

Reporting pro bono hours is important. When you report volunteer hours through the Pro Bono Roll Call, you are helping the bar and legal aid better target programs for Oregonians with low incomes. Your report
also helps the legal community and the public see how committed Oregon lawyers are to pro bono. Oregon attorneys are encouraged to report their pro bono time voluntarily by logging into the online member portal at https://hello.osbar.org and selecting “Pro Bono Reporting” in the Regulatory Notifications section.

**PLF Attorneys Taking Their Show on the Road**

The PLF Practice Management Assistance Roadshow continues from April through June 2024. Practice management attorneys are touring across the state, holding seminars and individual appointments to assist legal professionals. Discover how to identify areas for improvement and efficiently use technology to reduce malpractice risk and enhance client services. Gain insights to enrich your law practice regardless of your firm’s size, location, budget or practice areas. Look for broadcast emails with more information. If you have any questions, contact DeAnna Shields at deannas@osbplf.org.

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**Have an Item for the Bulletin?**

The Bulletin welcomes short items about Oregon lawyers and law firms for the Bar People pages of the magazine. Notices are published at no cost.

Email notices to: editor@osbar.org
Submissions are subject to editing and published in the order received.

The Bulletin publishes photographs (single headshots only) in “Moves” and “Among Ourselves” and “In Memoriam.” The fee is $20 for each photograph. The notice itself is free. Paid professional announcements are also available. Please contact Ronnie Jacko at (503) 445-2234, ronnie@llmpubs.com

Questions? Call the Bulletin, (503) 431-6340 or (800) 452-8260, ext. 340.
**BAR ACTIONS**

**Discipline**

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

**DEANNA L. WRAY**

OSB #974423
Portland
9-month suspension

Effective Feb. 2, 2024, the Oregon Supreme Court accepted a stipulation for discipline and suspended Portland lawyer Deanna L. Wray for nine months for violating RPC 3.4(f) (lawyer shall not advise or cause a person to secrete himself or leave the jurisdiction of a tribunal), RPC 5.3(a) (duty to supervise non-lawyer personnel), RPC 5.3(b)(1) (lawyer responsible for non-lawyer’s conduct when lawyer orders, has knowledge or ratifies such conduct), RPC 8.4(a)(1) (violation of the Rules of Professional Conduct through the acts of another) and RPC 8.4(a)(4) (engaging in conduct prejudicial to the administration of justice).

In 2015, Wray represented a potential witness in a criminal proceeding in which a juvenile was the alleged victim. The alleged juvenile victim was represented by another lawyer. In July 2015, the juvenile’s lawyer advised him to secrete himself so that law enforcement could not serve the victim with a subpoena for trial in the criminal case. The victim’s lawyer did so for the purpose of making the juvenile unavailable as a witness in the criminal case. The victim’s lawyer asked Wray if Wray knew of any place in Northern California or Southern Oregon where the victim and his mother could stay in advance until fees are earned or expenses incurred, RPC 1.15-1(d) (failure to deliver funds and other client property), RPC 1.16(d) (upon termination of representation, failure to return fees paid in advance or to return client property), RPC 8.1(a)(1) (knowingly making a false statement of material fact in a disciplinary matter) and RPC 8.4(a)(3) (dishonest conversion of client’s funds). Disciplinary counsel was also investigating two trust account overdrafts reported by Benton’s bank, which raised possible violations of RPC 1.15-1(a) (failure to keep client funds in trust and maintain complete records of trust account funds) and RPC 1.15-1(c) (failure to maintain in trust fees and expenses that have been paid in advance until fees are earned or expenses incurred).

The stipulation stated that Wray’s conduct was aggravated by her substantial experience in the practice of law and multiple offenses. Wray’s conduct was mitigated by the absence of prior discipline, the absence of a dishonest or selfish motive, full and free disclosure to the disciplinary board or cooperative attitude towards the proceedings, her character and reputation, and remorse.

**SAMANTHA M. BENTON**

OSB #144843
Hood River
Form B resignation

Effective Feb. 1, 2024, the Oregon Supreme Court accepted the Form B resignation of Hood River lawyer Samantha M. Benton. At the time of Benton’s resignation, disciplinary counsel was investigating two grievances that collectively alleged possible violations of RPC 1.1 (failure to provide competent representation), RPC 1.3 (neglect of a legal matter), RPC 1.4(a) (failure to respond to client’s reasonable requests for information), RPC 1.5(a) (collecting a clearly excessive fee), RPC 1.15-1(a) (failure to deposit funds into trust and to keep complete records of trust account funds), RPC 1.15-1(c) (failure to maintain in trust fees and expenses that have been paid in advance until fees are earned or expenses incurred), RPC 1.15-1(d) (failure to deliver funds and other client property), RPC 1.16(d) (upon termination of representation, failure to return fees paid in advance or to return client property), RPC 8.1(a)(1) (knowingly making a false statement of material fact in a disciplinary matter) and RPC 8.4(a)(3) (dishonest conversion of client’s funds). Disciplinary counsel was also investigating two trust account overdrafts reported by Benton’s bank, which raised possible violations of RPC 1.15-1(a) (failure to keep client funds in trust and maintain complete records of trust account funds) and RPC 1.15-1(c) (failure to maintain in trust fees and expenses that have been paid in advance until fees are earned or expenses incurred).

**SHAWNA RENE MEYER**

OSB #011580
Portland
Public reprimand

By order dated Feb. 15, 2024, the disciplinary board approved a stipulation for discipline and reprimanded Shawna Rene Meyer for violating RPC 1.4(a) (duty to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information), RPC 1.15-1(c) (duty to deposit client funds into trust) and RPC 1.16(d) (duty to return client file after termination and refund unearned fees).

A client retained Meyer in 2018 to pursue an employment discrimination/wrongful termination claim. Two days before Meyer filed an action for the client, he paid a cost advance, which was deposited into Meyer’s business account. Although the filing fee was less than anticipated, Meyer did not deposit and maintain the client’s unexpended funds in her trust account, and did not refund them to the client until April 2023.

After the client was deposed in February 2019, the client and Meyer discussed the low odds of his prevailing. She advised the client that, at most, he may receive a nuisance value settlement offer and advised that she would not contact him unless an offer was made. Meyer believed that the client agreed that they would not move forward on his case, and that no further action was necessary. However, the client did not share this understanding.

In March 2019, the court dismissed the client’s action for want of prosecution. Believing that the client had agreed that his case should not proceed, Meyer did not inform the client that his case had been dismissed. The client, unaware that his case was dismissed, continued to wait to hear from Meyer until November 2022, when he contacted the court and discovered that his case was closed.
The stipulation cited Meyer’s substantial experience in the practice of law as an aggravating factor. Mitigating factors included absence of prior discipline, absence of a dishonest or selfish motive, timely good faith effort to rectify consequences of misconduct, and remorse.

RENEE E. ROTHAUDE
OSB #903712
Portland
Public reprimand

By order dated Feb. 13, 2024, the disciplinary board approved a stipulation for discipline and reprimanded Portland lawyer Renee E. Rothauge for violating RPC 1.5(a) (charging or collecting a clearly excessive fee).

Clients engaged Rothauge to represent them in a contract dispute through a hybrid hourly/contingency fee agreement. Following a trial, Rothauge’s firm sought payment of the contingency fee despite no additional fee being contractually due.

The stipulation acknowledged that Rothauge’s conduct was aggravated by her substantial experience in the practice of law. Rothauge’s conduct was mitigated by an absence of a prior record of discipline, a cooperative attitude toward the proceedings, absence of a dishonest or selfish motive, and character and reputation.

ADAM MICHAEL STARR
OSB #125393
Portland
Public reprimand

By order dated Jan. 22, 2024, the disciplinary board approved a stipulation for discipline and reprimanded Portland lawyer Adam Michael Starr for violating RPC 1.5(a)(charging or collecting a clearly excessive fee).

Clients engaged Starr’s firm to represent them in a contract dispute through a hybrid hourly/contingency fee agreement. Following a trial, Starr sought payment of the contingency fee despite no additional fee being contractually due.

The stipulation acknowledged that Starr’s conduct was aggravated by his substantial experience in the practice of law. Starr’s conduct was mitigated by an absence of a prior record of discipline, a cooperative attitude toward the proceedings, and absence of a dishonest or selfish motive.
Among Ourselves

Tonkon Torp attorneys Sadie Concepción and Rosalie Fatta have joined the Ambassador Board of Court Appointed Special Advocates (CASA) for Children. CASA connects vetted, volunteer advocates with children who have been abused or neglected. As the children go through the trauma of the court system, their CASA volunteer works to guide them. Concepción is an associate in Tonkon Torp’s litigation department, where she represents entities and individuals in various complex commercial litigation matters, including trade secret and contract disputes. She is experienced in state and federal court, as well as in arbitration proceedings. Fatta is also an associate in Tonkon Torp’s litigation department. She has a diverse civil litigation practice, covering business disputes and the defense of professional services clients and employers in and outside of court.

Tonkon Torp labor and employment attorney Matt Heldt has joined the Emerging Professionals Board at Blanchet House, a nonprofit organization that provides clothing, hygiene items, community and transitional recovery programs to thousands of people every year. Heldt serves as an ambassador for Blanchet House, working to spread awareness and support of the Blanchet House’s mission. Heldt is an associate in Tonkon Torp’s labor and employment practice group where he works on litigation matters and offers employers strategy and advice on labor and employment issues.

Tonkon Torp litigation partner Paul Conable has been elected as a fellow in the American College of Trial Lawyers (ACTL). The ACTL, an organization of trial lawyers in North America, is dedicated to maintaining and improving the standards of trial practice, professionalism, ethics and the administration of justice. Fellowship in the ACTL is extended only by invitation to experienced trial lawyers who have mastered the art of advocacy and whose professional careers have been marked by the highest standards of ethical conduct, professionalism, civility and collegiality. Conable has a wide-ranging trial practice, representing both individuals and businesses in contract and investment disputes, government investigations and environmental matters. He serves on Tonkon Torp’s managing board and is past co-chair of the firm’s litigation department.

Moves

Sarah Mills has joined SBH Legal as an associate. She represents Oregon employers and insurers in workers’ compensation defense matters. Before joining SBH Legal, Mills practiced with another defense firm specializing in construction law and civil litigation.

Tonkon Torp has hired two attorneys to its litigation department. Rosalie Fatta has joined the firm and prior to Tonkon Torp, Fatta worked as a judicial clerk, externed for the Honorable Ann Aiken and was a certified law student at a firm where she represented indigent criminal defendants.

Eric Levine is experienced in appeals and complex civil litigation. He joins the firm from the Office of the Attorney General for the District of Columbia, where he was a Charles F.C. Ruff Fellow in the Office of the Solicitor General. In his litigation practice, Levine has authored briefs filed in state and federal courts. He has also contributed to amicus briefs filed with the Supreme Court of the United States.

Tonkon Torp has appointed partner David Petersen as co-chair of its business department. Petersen will co-chair the department with Jessica Morgan. Petersen is immediate past chair of Tonkon Torp’s real estate and land use practice group. With a practice focused on land use and local government law, Petersen has helped bring a wide range of development projects to fruition, including large-scale residential developments, big-box retail stores, educational and office campuses, mixed-use developments and master planned communities, and other industrial and commercial facilities.

Douglas Cushing has joined Cauble & Whittington’s Portland office as of counsel. Cushing has over 50 years in private practice in southern Oregon and the Portland metro area. His practice emphasizes estate planning, probate and trust administration. He has spent significant time in real estate, general business and commercial work in both Oregon and...
OSB Annual Awards
CALL FOR NOMINATIONS

The nomination deadline for the 2024 OSB awards honoring Oregon’s most outstanding lawyers, judges and others is Tuesday, June 4, at 5 p.m.

Nomination criteria, forms and other information about the following awards can be found at www.osbar.org/osbevents

- OSB Award of Merit
- Wallace P. Carson Jr. Award for Judicial Excellence
- President’s Diversity & Inclusion Award
- President’s Membership Service Award
- President’s Public Service Award
- President’s Public Leadership Award
- President’s Sustainability Award
- President’s Technology & Innovation Award
- The Oregon Bench & Bar Commission on Professionalism’s Edwin J. Peterson Professionalism Award

For additional information, please contact Cathy Petrecca at (503) 431-6355 or cpetrecca@osbar.org
Announcing a Convenient New Pro Bono Program

Oregon Free Legal Answers

In partnership with the American Bar Association

The OSB has launched a convenient new mechanism to offer pro bono legal services. Free Legal Answers allows you to log onto a secure website at your convenience, choose a legal question you are qualified to answer (submitted by a low-income Oregonian), and provide brief pro bono advice and other resources. Answer only as many questions as your time allows. Areas of law that are in demand include family law, housing, debtor/creditor and consumer law. This program has been lauded by lawyers around the country as a convenient and meaningful pro bono model. For more information: Oregon.freelegalanswers.org.

Questions? Visit oregon.freelegalanswers.org
Washington courts, as well as the federal courts in both states.

Conor Jones has joined Tim Jones as an associate attorney after four years as a criminal prosecutor in Washington County. His practice focuses on representing individuals and families in a variety of matters including wrongful death, medical malpractice and auto accidents.

VF Law has hired attorneys Michael McNichols and Victor Ramirez. The firm recently moved into a new office space at 6000 Meadows Road, Suite 500, Lake Oswego, where McNichols and Ramirez are based. McNichols has a quarter-century of legal experience, primarily focusing on trust and estate matters, real estate and business concerns. He is admitted to practice in Oregon and Washington. Ramirez joins the firm as an associate attorney. His work at the firm’s HOA practice encompasses collections, insurance defense, document drafting and covenant enforcement. He has experience with settlement negotiation and is fluent in Spanish.

Tyler Howell has joined Black Helterline as of counsel. Howell’s legal practice involves helping clients structure real estate and construction transactions to avoid risk and maximize retention of profits. He has pre-law work experience in commercial real estate and is also a seasoned litigator who has guided clients through real estate and construction disputes including partition, adverse possession, condemnation, non-disclosure, timber trespass and construction defect. He also serves an independent third-party referee in partition actions.
In Memoriam

Scott Armond Brooksby was born Aug. 13, 1962, in Eugene to Linda and Gerald Brooksby. He was the eldest of seven children and spent his early years in Minnesota until moving to Portland in 1972, where he spent the remainder of his childhood, graduating from Beaverton High School in 1981. Brooksby graduated from Brigham Young University with a BA and went on to earn his law degree at The Catholic University of America, Columbus School of Law in 1994.

While working at Bullivant Houser in Portland, Brooksby met the love of his life, Kristin Olson, and they were married on Sept. 24, 2005. In 2012, they started the law firm Olson Brooksby. Brooksby was a distinguished attorney who practiced commercial litigation, personal injury defense and aviation law. He was recognized as one of the “Best Lawyers in America” from 2018 to the present and named an “Oregon Super Lawyer” from 2008 onward. He published extensively and was invited to speak at various conferences nationwide regarding aviation law and product liability law. Brooksby also served as legal counsel to prominent companies and advised multiple global religious organizations.

Most of all, Brooksby loved being a father. He considered his greatest roles in life to be a doting husband to Kristin and a loving father to Gia, age 12, and Bianca, age 10. More than his exceptional professional success, his daughters were his true source of joy and fulfillment. It was fun to watch him enjoy the magic of their childhood and he was enchanted by their joie de vivre.

Brooksby also loved his pugs, and he would want any charitable donations to go to the Oregon Humane Society.

Brooksby was a master gardener, outdoorsman, an avid fisherman and he enjoyed traveling with his family. He was a great listener and was genuinely curious about others — not only what they were doing, but, more importantly, how they were doing. Not one for the spotlight, he was gifted at illuminating others. He also was patient, kind, caring and had a fantastic sense of humor.

Brooksby is survived by his wife, Kristin; daughters, Gia and Bianca; mother, Linda Brooksby; siblings, Alisa, Emily (Scott), Rachel (Nathan), Craig (Windy), Ben (Julie) and Anne (John); as well as 24 nieces and nephews; three great nieces and nephew; and many aunts, uncles and cousins.
Other Notices

Nathan L. Garcia
43, Brookings, Feb. 29, 2024

Jeffrey D. Waarvick
75, Newport, Feb. 7, 2024

Michael J. Heher
71, Corvallis, Jan. 19, 2024

Eldon R. Hugie
91, Bakersfield, California, Jan. 10, 2024

Richard Allan Finnigan
72, Olympia, Washington, Jan. 5, 2024

Terry Lukens
80, Bellevue, Washington, Jan. 1, 2024

Samuel W. Eastman
42, Austin, Texas, Dec. 23, 2023

Mary W. Johnson
70, Estacada, Dec. 21, 2023

Pamela Bond
61, Troutdale, Dec. 15, 2023

Daniel E. O’Leary
86, Portland, Dec. 7, 2023

Stephen H. Miller
79, Reedsport, Nov. 30, 2023

Amy Segel
70, Stayton, Nov. 28, 2023

Elisabeth Mason
52, Savannah, Georgia, Nov. 27, 2023

Jesse Coggins
68, North Bend, Nov. 27, 2023

James M. Kearney
55, Portland, Nov. 27, 2023

Joseph M. Meier
64, Boise, Idaho, Nov. 22, 2023

Russell S. Lipetzky
64, Salem, Nov. 21, 2023

Robert P. Ritter
78, Vancouver, B.C., Nov. 19, 2023

Lt. Col. David C. Davies
89, Lake Oswego, Nov. 12, 2023

Maurice K. Merten
78, Eugene, Oct. 31, 2023

James M. Brown
81, Bend, Sept. 8, 2023

Thomas La Follett
78, Potlatch, Idaho, Sept. 8, 2023

Alice M. Bartelt
76, Portland, Aug. 29, 2023

Wayne R. Appleman
85, Portland, July 18, 2023
OFFICE SPACE

AVAILABLE OFFICES (3) - In established workers’ compensation defense firm in Lake Oswego’s Lake View Village. Rent includes shared reception, conference room, kitchen, pool table, parking. High speed Internet and phone service available. Food company. Nearby food and drink. Contact RBabcock@bhclaw.com

BEAVERTON ATTORNEY OFFICE – Building for over 40 years on S.W. 2nd and Tucker. Choice of 1st or 2nd floor offices, with support staff stations, available. Shared building reception area, library and conference room. Parking included. $400 to $500 monthly. Tenants must practice in building with some overflow/referral. Office furniture available. Call Sheila at (503) 641-7888 or email sheilawagnon@lawyer.com

DOWNTOWN PORTLAND HISTORIC BUILDING - Offering professionals, small businesses, and non-profits sensible rents and a feeling of community. Move-in ready offices for lawyers. Secure building. Updated systems and finishes. Bike storage, showers, conference room, lounge with outdoor access. On Max line across from new Midtown Beer Garden food carts. Contact: Sean.Turley@am.jll.com; Midtown Beer Garden food carts. 503-201-8325.

FANTASTIC DOWNTOWN PORTLAND - Legal professional office space near Pioneer Square Great offices and cubicle spaces available to rent on available to rent on the 10th Floor 520 SW Sixth Avenue. Includes two great conference rooms. All offices have great windows, sunit with nice urban views on West hills. Collegial, respectful, colleagues in small and solo firms. One block north of Pioneer Courthouse Square; next door to all Max lines and other transit; streetcar is three blocks away. Excellent secure bike parking, exercise facility, tenant lounge, and building security. Automobile parking available for $ in basement; EV charging nearby. Monthly rent prorated from 2/1/24; Offices: $750-$950; cubicle space for $350. Lower rents possible for combinations. Printer/copier/phones/postage/internet available. Possible paralegal and part-time reception. Contact admin@henkelslaw.com / phone 541-270-6001 to see the spaces.

FOUR (4) CONTEMPORARY EXECUTIVE OFFICE SUITES - Eugene, OR. Located next to the Lane County & Federal Courthouses. Full concierge service available. $700/month fully serviced. Join other legal professionals in this Class A building. CW Walker & Associates, Matt Hogan, 541-228-1801, matt@cwwalker.net

GLADSTONE – 725 Portland Ave., Gladstone, OR, Commercial/Residential building. Prior well-known law office. Street frontage with business sign, dedicated parking and street parking. Options to rent whole building or office space. 2,000 sq ft. building square footage. Front reception area with built-ins and extra space for an assistant, four private offices, large conference room, storage/file room, full kitchen, two bathrooms and yard. Office staff available for hire. $800-$5,000. One block from post office. Call Tammy at 503-752-9121 or legalassistantgladstone@gmail.com

HILLSBORO – 2 elegant office suites 1 block from courthouse. $800.00 ea, utilities included w/first month free. For pics/info contact John Elliott (971) 404-6631 or JIMEDrum@Earthlink.Net

HOLLYWOOD/TWO PRIVATE OFFICES – 144 sq ft for $700, and 192 sq ft for $725, 2nd-floor office in classic home presently office of four attorneys with water law and estate practices. 10-minute walk to Hollywood Transit Station, street parking, and shared kitchenette. Rent includes notary services at 5 instances per week as well as conference room booking. Contact Jess Johansen @ 503-281-4100 or email from website: www.water-law.com

TWO LARGE, LIGHT-FILLED OFFICES AVAILABLE – 220-360 SQ ft, one east facing and one corner office. Four blocks to Multnomah/Federal courthouses. Air conditioned, shared conference room, elevator with security system, kitchen, show- er room, receptionist, and bike rack. $1350. Contact Desiree’ at desiree@stollberne.com or 206-581-1393.

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

LAKE OSWEGO KRUSE WAY – NEAR MERCATO GROVE 4035 Douglas Way, Lake Oswego, OR. Newly remodeled executive office space available. All private, windowed offices. An entire suite up to 4,000 sf is also available. Free parking. Law firm on the upper floor. Prices begin at $950 per month for the executive offices. Call Meghan 503-468-5573.

NEW IMMIGRATION LAW OFFICE SPACE OR LIVE/WORK – Dwelling in fantastic location across from the United States Citizenship and Immigration Services building in Portland, Oregon. 1,885 feet of modern industrial office space with polished concrete floor, two bathroom and 20-foot ceiling, all located at 1470 NW Overton Street, Suite A. This would also be a great live/work experience with the office (953 feet) on the ground floor and a 932-foot apartment in the loft. At $25/foot NNN (total is $9,927/month), this would be one of the least expensive apartments in the Pearl District, along with the ground floor office space tax write-off advantage. Contact Paul Rudinsky, (541) 954-3434 or paul@mckenzieriverco.com

OFFICE SPACE AVAILABLE PREMIER PORTLAND LOCATION – 1000 SW Broadway, 8th floor, two offices 13 x 9, or one office 14 x 13. Comes with a separate suite number and a dedicated mailbox for your suite. Located on a floor with a fitness center and direct access to a parking garage. The building provides the use of a large conference room located on the ninth floor with a capacity of 42. You will also have use of our private conference room, reception area, break room, internet, and phone system. The building has seven levels of secured and monitored parking. We are located two blocks from Pioneer Square and near theaters, hotels, and restaurants. The two 13 x 9 offices are $1,000.00 per month, and the larger 14 x 13 office is $1,350.00 per month. Available now. One year lease required. Contact Chris Roy at chris@roylawgroup.com

OLYMPIC MILLS COMMERCE CENTER OFFICE SPACE AVAILABLE – Personal injury and criminal defense firm with three office spaces for rent. 5th floor office space in The Olympic Mills Commerce Center with fantastic views and accommodations will be move in ready in March 2024. Perfect for a solo attorney with or without staff looking for a comfortable office that will impress. Call (360) 695-3309 or email mathew@philbrook-law.com for more information.

OREGON CITY OFFICE SPACE NEAR NEW COURTHOUSE - Two offices in an Oregon City Hilltop professional building, including adjacent support staff space. Very close to new courthouse, Family Justice Center, Juvenile Court and county office buildings. Share lobby, kitchen, staff break room and conference room with other professionals. Ample on-site free parking. High-visibility and long-established legal services location. Landlord pays for janitorial, maintenance, real property taxes and all utilities except for tenant’s phone and internet. $725/month for each office. Available mid-January. Call Tom at (503) 680-2884.

SMALL, QUIET BUILDING – Downtown Portland. Rent one or two unfurnished offices, with or without adjoining secretarial space. Prices range from $300 to $900. Building located on the corner of SW 6th and Clay on the transit mall, blocks from Multnomah County Courthouse and Justice Center, and US District Court buildings, one block to fitness center. Rent includes full reception and custom telephone answering, use of 8 to 10 M-F, use of library w/fireplace and conference room, standard office equipment, notary
EMPLOYMENT ATTORNEY - Peck Rubanoff & Hatfield (PRH) seeks an experienced attorney to join our law firm focusing exclusively on labor and employment law, in a collaborative small team environment. Qualified candidates must have at least 3 years of specialized experience in employment law, preferably in representation of both public and private sector employers. Responsibilities include daily counseling and advice for HR professionals and organizational leaders on all employment topics, including federal and state wage/hour issues, leave law compliance, disability accommodation, and discrimination and retaliation. Labor law experience (especially involving public sector unions) is a preferred qualification. We require active Oregon State Bar membership or ability to obtain it expeditiously through reciprocity. We offer a competitive salary, full employee and dependent medical insurance, and employer funded retirement. To apply, please send resume and cover letter to: hr@prhlaborlaw.com.

EMPLOYMENT OPPORTUNITY ON THE CENTRAL OREGON COAST – Oregon Coast Defenders, the indigent defense consortium for Lincoln County, is currently accepting applications from attorneys interested in providing contract indigent defense services for Lincoln County. Compensation commensurate with qualification level. Part or full-time caseload is available. Please submit resume and cover letter to Oregon Coast Defenders, PO Box 102, Tide-water, Oregon or you can email the same to groce@pioneer.net.

ESTATE PLANNING ATTORNEY - Corvallis, Oregon. Smith, Davison & Brasier, PC is an established Corvallis law firm with decades of combined experience among our attorneys in the areas of estate planning, business, probate and trust administration, tax and real estate. As a firm we take pride in being a collegial and supportive law firm that provides the highest quality of service to our clients. We’re seeking an attorney with a minimum of three years private law firm experience, who is capable of immediately taking on responsibility for representing clients in our areas of practice, while also being able to work as part of a team with other attorneys in the firm. We offer an opportunity for accelerated partner’s track consideration and a competitive salary, including a base salary and bonus based on performance, plus benefits. A successful candidate must have excellent communication and writing skills, a strong commitment to providing high quality client service and a desire to practice law in Corvallis, Oregon. Interested candidates should reply to this post by submitting a cover letter, and resume in confidence to: donnac@smithlaw.oregon.com.

ESTATE PLANNING ATTORNEY - Myatt & Bell, P.C. Are you an attorney passionate about helping clients secure their futures and protect their legacies? We’re searching for a dynamic individual to join our growing team. You will be part of a collaborative and supportive environment located in the Portland Metro area, work normal business hours, and receive a competitive compensation package that is on par with firms that demand late and weekend hours. The ideal candidate will be comfortable advising high net worth individuals, possess excellent communication and interpersonal skills, and enjoy client-facing appointments and the occasional networking event. Please apply in confidence to justinm@myattandbell.com or just send me an email to let me know you’re interested. Firm: Myatt & Bell, P.C. Position: Attorney. Employment Type: Fulltime. Salary: Competitive salary commensurate with experience. Benefits: Partner with clients to understand their unique estate planning goals and objectives; Craft customized estate plans to meet specific client need(s); Offer strategic advice on tax planning, asset protection, and wealth transfer strategies; Stay informed about changes in estate planning laws and regulations, and cultivate strong referral relationships with other professionals and organizations to help expand our client base. Qualifications: Juris Doctorate Degree; Admittance to Oregon State Bar (Washington State license a plus); Proven experience in estate planning, including wills, trusts, probate, and tax planning. Ability to communicate complex legal concepts effectively to clients; Detail-oriented with a high level of accuracy; Commitment to maintaining client confidentiality and providing exceptional service; Ability to work independently and collaboratively in a fast-paced environment; Proven track record of building and maintaining client relationships. Benefits: Incentive and merit-based bonus structure. Growth and professional development opportunities. 401K, Health, short-term disability, and long-term disability. PTO, dental, vision, life insurance. We welcome all applicants and strive to provide a collaborative and respectful work environment for all team members. We also take client service seriously, and as a Myatt & Bell attorney, you will be part of a team providing exceptional legal counsel and phenomenal client care. More information may be found at www.myattandbell.com.

EXPERIENCED ESTATE PLANNING AND BUSINESS LAW ATTORNEY - Portland based firm is seeking an experienced estate planning and business law attorney with at least 4 years of experience to join a successful, long-standing practice. We offer a competitive salary and benefits. To apply, please submit resume and references to Joe at pdxlawfirm24@gmail.com.

JOB POSTING FOR COGAP - The Central Oregon Guardian Assistance Program located in Bend, Oregon is seeking an Executive Director, 20 hours a week, health and dental insurance included, remote work acceptable, however, in-person in-office attendance at Board meetings required. Salary $75,000 - $100,000 depending on experience. Training provided by the current Executive Director. Approximate start date May 1, 2024, but negotiable. Education, Experience, and Licensing Requirements: Five or more years of experience in relevant work environment. Knowledge of Oregon guardianship and conservatorship laws and process. Law Degree and/or Nonprofit work experience preferred. For more information, please see www.co-gap.com or contact lisa@co-gap.com.

TRUST AND ESTATE LITIGATION ATTORNEY - Portland based firm is seeking a trust and estate litigation attorney with 3+ years of experience to join a thriving estate planning practice. We offer a competitive salary and benefits. To apply, please submit resume and references to Joe at pdxlawfirm24@gmail.com.

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Photo Finish

Janay Haas, an OSB member from Ashland and a regular contributor of features and profiles to the Bulletin, submitted this photo taken in April of 2021. It’s from just north of Hawthorn, Nevada, which is about 120 miles southeast of Reno and the county seat of Mineral County. She dubs it “Last Winter Storm.”

Do you have a photograph you’d like to share — beautiful flowers and towering trees, perhaps? Snow-covered peaks or a gorgeous sunset? Let Bulletin readers tag along on your next outing by sending your favorite images our way for “Photo Finish.”

Send high-resolution images to Editor Michael Austin at maustin@osbar.org. Make sure to include your name, and tell us where the photo was taken and what made your trip so special.
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