

# OREGON STATE BAR BULLETIN

MAY 2026  
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*Also Inside:*

## Understanding Pet 'Custody'

The Rational, Emotional  
Ramifications of Sharing  
Animals in Oregon

## Evolving AI

*U.S. v. Heppner* and  
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There are a couple of recent cases that dig deeper into attorney-client privilege in the time of artificial intelligence. Matti Neustadt of the Oregon State Bar’s Technology Law Section reviews those rulings, as well as shares thoughts on how to work with clients who are going to AI before consulting with you. The article begins on page 19.

**FEATURES**

- 19 Evolving AI**  
*U.S. v. Heppner and the Impact on Attorney-Client Privilege*  
 By Matti Neustadt
- 25 Understanding Pet ‘Custody’**  
*The Rational, Emotional Ramifications of Sharing Animals in Oregon*  
 By Jillian Daley

**COLUMNS**

- 9 Bar Counsel**  
*A Shift in Approach: Proposed Changes to Rule 1.14*  
 By Dani Huck
- 13 The Legal Writer**  
*Difficult Conversations: Talking About Bad Writing*  
 By Suzanne Rowe
- 30 Profiles in the Law**  
*‘Ohana Inspires Advocacy: Hawaiian Heritage Guides Layla Kailani Maka’ui McLean*  
 By Brooke Strickland
- 34 Well-Being**  
*Know Your Limits: Boundaries at Work that Work*  
 By Laura Mahr
- 38 Legal Heritage**  
*The Bar’s Beginnings: The Oregon Bar Association Began in 1890*  
 By Gordon B. Dodds & Cathy Croghan Alzner

**DEPARTMENTS**

- 7 Briefs**
- 8 Discovery With...**
- 40 Bar News**
- 42 Bar Actions**  
*Discipline*
- 44 Bar People**
- Among Ourselves*  
*Moves*  
*In Memoriam*
- 48 Classifieds**
- 51 Attorneys’ Marketplace**
- 54 Photo Finish**

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The employment law firm **Buchanan Angeli Sullivan & Ferrer LLP** congratulates partner **Dana Sullivan** on her receipt of the Multnomah County Bar Association Professionalism Award, recognizing Dana for achieving the highest ethical standards and exemplary conduct in the practice of law. Dana has handled many high stakes employment cases and, regardless of the amount at issue, represents her clients' interests effectively and efficiently. We are proud to have Dana as our friend and colleague.

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## Well-Being Summit Set for May 29

The Oregon State Bar Well-Being Section will host its Well-Being Summit on May 29 from 8:45 a.m. to 3 p.m. at the OSB Center in Tigard, convening lawyers, judges and bar leaders to address relationships, resiliency and retention.

The summit will focus on practical, profession-wide strategies to support sustainable legal practices. Programming will include a judicial presentation on professionalism and professional relationships, a workplace panel focused on retention and organizational culture, a session on financial well-being and structural stability and an OAAP panel on emotional and relational resiliency in the legal practice. The summit will conclude with an open discussion on the future of the newly formed OSB Well-Being Section.

This program is pending approval for three to four MCLE credits.

For more information or to inquire about sponsorship opportunities, contact Michelle Ryan at [mryan@oregonlawcenter.org](mailto:mryan@oregonlawcenter.org).

## Please Participate in OJD Access and Fairness Survey

The Oregon Judicial Department's mission is to provide fair and accessible justice

services. To achieve this mission, the OJD created the Justice Campaign, which has four core commitments: improving services and access for all, especially marginalized and vulnerable community members; improving the court user experience by eliminating barriers; increasing the public's trust and confidence; and providing a welcoming and inclusive workplace and courthouse.

Every two years, OJD conducts a state-wide customer service survey called the Access and Fairness Survey, to hear directly from court users and justice partners (including attorneys, probation officers, advocates, etc.) about their experiences with the courts.

From May 1 to June 30, 2026, OJD will once again launch a campaign to promote the survey across all 36 circuit courts and the tax court. Although the survey is open year-round, OJD will be actively seeking responses from court users and justice partners during the two-month period. The survey is anonymous and available at [courts.oregon.gov/survey](https://courts.oregon.gov/survey) in English, Spanish, Vietnamese, Russian and traditional Chinese. Some courts will also offer paper copies and post information onsite.

Please take a moment to complete the survey and encourage your colleagues and clients to do so as well.

## OWLS Roberts & Deiz Award Celebration June 5

Join Oregon Women Lawyers (OWLS) to celebrate the Hon. Karin Immergut as this year's Roberts & Deiz Award recipient. She will be honored on Friday, June 5, at The Loft at 8th Avenue in Portland. Immergut is being recognized for her work as a dedicated mentor to women attorneys and law clerks throughout her career as U.S. attorney for Oregon, a judge on the Multnomah County Circuit Court and now as a United States district court judge for the District of Oregon. Visit [oregonwomenlawyers.org](https://oregonwomenlawyers.org) for more info.

## SALC Race for Justice Set for June 27

St. Andrew Legal Clinic (SALC), which provides affordable legal services for low-to moderate-income families in crisis, will

hold its annual Race for Justice on Saturday, June 27. The event's route runs through Laurelhurst and starts at Migration Brewing. Check-in starts at 9 a.m., followed by the kids' fun run at 10 a.m. and the 5K walk/run at 10:30 a.m. The post-race celebration takes place at 11:30 a.m. For more information, visit [salcgroup.org/raceforjustice](https://salcgroup.org/raceforjustice).

## MBA at the Portland Pickles June 26

Join the Multnomah Bar Association on Saturday, June 26, for some summer baseball when the Portland Pickles host the Bend Wolves at Walker Stadium (4727 SE 92nd Ave., Portland). An area in the Pickle Party Plaza on the first base line has been reserved for the group. Bring your legal friends, staff and family members. Gates open at 6 p.m. with first pitch at 7:05 p.m. Visit [mbabar.org](https://mbabar.org) and go to the Events tab for more information. ■

## Our Editorial Policy

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

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# Discovery With...

## Taylor Gersch

*Taylor Gersch is a member of the transactional business and real estate group with Gleaves Swearingen in Eugene. She became an Oregon State Bar licensee in 2021.*

### To date, what professional accomplishment makes you proudest?

It's difficult to point to a single accomplishment. What I take the most pride in is the consistency of the work — showing up every day to provide thoughtful, practical guidance to my clients. Many of the businesses I represent are deeply rooted in their local communities, so being able to support them in a way that creates a broader, positive impact is especially meaningful.

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

I serve as a board member for the Citizen Review Board and Head Start of Lane County. That work keeps me grounded in the realities facing our community — particularly the needs of children and families. It's a perspective that carries into my practice, reminding me that behind every legal issue are real people.

### What is your favorite place in Oregon?

That's a tough question — Oregon has no shortage of incredible places. From Government Camp to the Willamette River, Manzanita, Prineville Reservoir, Lake Billy Chinook, Dexter Reservoir, Autzen Stadium and Cape Perpetua, each offers something unique. That said, my current favorite is a bit closer to home. My fiancé and I recently became homeowners, and it is hard to beat a quiet evening in the backyard while our dogs, Poppy and Apollo, wrestle in the grass.



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

With the enactment of the Oregon Consumer Privacy Act, I've become increasingly interested in the evolving landscape of privacy law. It's an area that is changing rapidly and has significant implications for businesses of all sizes. Watching how regulatory frameworks develop — and how companies adapt in real time — has been particularly engaging.

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

I grew up working for my dad, who owns a construction business, and spent countless hours on job sites doing everything from demolition to finish work. If I hadn't pursued law, I would likely be putting my MBA and hands-on experience to use by starting a custom home building company with him.

### What book are you reading or podcast are you listening to right now?

I'm a longtime Formula 1 fan, so lately I've been listening to the BBC's "F1 Chequered Flag" and "F1: Beyond the Grid." The sport is fascinating not just from a competition standpoint, but from a business and engineering perspective — it's complex enough to be its own university course.

### How do you start your day?

I'm an early riser — usually up by 5 a.m. I start by feeding our dogs, then head to the gym for a workout, stretching and a sauna session. Beginning the day with movement helps set a productive tone and provides a level of clarity that carries me through the rest of the day. ■

May 2026

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## Proposed Changes to Rule 1.14

# A Shift in Approach

By Dani Huck



Now, that balance may be shifting.

The Oregon State Bar Legal Ethics Committee (LEC) is currently considering whether to recommend changes to ORPC 1.14 based on recent revisions to ABA Model Rule 1.14. These proposed changes would not simply update the language of the rule (throughout the article, additions will be **bold underline** with deletions in *italic strikethrough*). They reflect a broader rethinking of how lawyers approach representation of clients with impaired or limited decision-making ability.

### From ‘Diminished Capacity’ to ‘Decision-Making Limitations’

The first change to the ABA Model Rule is in the title of the rule itself. The former rule referred to clients with “diminished capacity.” The revised version instead uses the phrase “decision-making limitations” and includes a definition focused on a client’s ability to receive, evaluate and communicate information:

**RULE 1.14 CLIENT WITH DECISION-MAKING LIMITATIONS *DIMINISHED CAPACITY***

At first glance, this may seem like a modest revision. However, the change is doing more work than it appears.

The term “diminished capacity” has been criticized as imprecise and potentially misleading. It suggests a fixed condition, or a departure from some baseline level of functioning, when in reality a client’s abilities may vary depending on the situation, the complexity of the decision and the supports available.

By contrast, “decision-making limitations” directs the lawyer’s attention to what matters in practice — how the client is functioning in the moment, in the context of the representation. It also reflects a broader shift in how the legal system understands disability — not as a static label, but as something

that may be situational, variable and responsive to support.

For practitioners, this change may encourage a more careful and individualized assessment of the client, rather than reliance on assumptions or diagnoses.

### Maintaining the ‘Ordinary’ Relationship

The revised rule also replaces the phrase “normal client-lawyer relationship” with “ordinary client-lawyer relationship.”

(a) *When a client’s capacity to make adequately considered decisions in connection with a representation is diminished, whether because of minority, mental impairment or for some other reason, the A lawyer shall, as far as reasonably possible, maintain an ordinary normal client-lawyer relationship with a the client **with decision-making limitations, including when the client’s decision-making limitations impact the client’s ability to provide direction to the lawyer or make reasoned, informed choices. A person has decision-making limitations if the person has substantial difficulty receiving and understanding information, evaluating information, or making or communicating decisions even with appropriate supports or accommodations.***

Again, this may seem like a minor wording change, but it reflects a deliberate effort to avoid language that may unintentionally stigmatize clients with disabilities or limitations.

More importantly, the rule continues to emphasize that, as far as reasonably possible, lawyers must maintain that ordinary relationship. That means continuing to communicate with the client, to seek the client’s input and to treat the client as the decision-

**A** long-time client has recently begun to struggle with memory and decision-making. Meetings take longer. Instructions are sometimes inconsistent. At times, the client seems clear and decisive; at others, confused or uncertain. A family member offers to “help” and begins attending every conversation. Eventually, the family member starts answering questions for the client. You believe you’re working toward the client’s best interest, but it becomes harder and harder to ascertain what your client actually wants.

At some point, you start to wonder: What do the rules of legal ethics require of me in a situation like this?

For many Oregon attorneys, this scenario feels familiar. It is also one of the most challenging areas of legal ethics. Oregon Rule of Professional Conduct 1.14 asks lawyers to balance respect for client autonomy with the need to protect clients who may be at risk of harm. That balance is not always easy to strike, and it is rarely static.

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maker — even when doing so requires additional time, patience or creativity.

The expanded comments to the revised model rule provide significantly more guidance on how to do this in practice. They discuss techniques such as modifying communication methods, using plain language, adjusting meeting environments and incorporating supports that may help the client better understand and participate.

In many ways, the revised rule reinforces a simple but important point: The presence of decision-making limitations does not relieve the lawyer of core duties to the client.

### A Greater Emphasis on Support — Not Substitution

Perhaps the most meaningful shift in the revised rule is its emphasis on supported decision-making.

Historically, Rule 1.14 has sometimes been read to encourage relatively quick movement toward protective actions — particularly guardianship or conservatorship — when a client appears unable to act in their own interest. The ABA revisions seek to recalibrate that approach.

Under the revised framework, lawyers are encouraged to first consider whether the client can be supported in making decisions, rather than replaced as the decision-maker. This might include involving trusted individuals (with the client's informed consent), adjusting how information is presented or allowing additional time for decision-making:

(b) When the lawyer reasonably believes that the client: **(1)** has **decision-making limitations diminished capacity**, **(2)** is at risk of substantial physical, financial or other harm unless action is taken and **(3)** cannot adequately act in the client's own interest **to address the risk**, the lawyer may take reasonably necessary protective action **to address the risk** ~~including consulting with individuals or entities that have the ability to take action to protect the client and, in appropriate cases, seeking the appointment of a guardian ad litem, conservator or guardian.~~

Protective actions are certainly still available when necessary. But the revised model rule removes language that could be read to prioritize or normalize guardianship as a default response. Instead, it emphasizes that

such interventions can be intrusive and, in many cases, more restrictive than necessary.

### Protective Action and Confidentiality

The revised rule retains the familiar framework allowing lawyers to take protective action when certain conditions are met — when the client has decision-making limitations, is at risk of substantial harm and cannot adequately act in their own interest.

What changes is the level of guidance provided around how to apply that framework:

(c) Information relating to the representation of a client with ~~diminished capacity~~ **decision-making limitations** is protected by Rule 1.6. ~~However, When~~ taking protective action pursuant to paragraph (b), the lawyer ~~may be impliedly authorized under Rule 1.6(a) to~~ reveal information **related to the representation about the client, but only** to the extent **the lawyer** reasonably **believes** necessary to protect the client's interests.

The revised rule and comments clarify that any disclosure of confidential information must be tied to the lawyer's reasonable belief that such disclosure is necessary to protect the client's interests and must be limited accordingly.

As under the former rule, these decisions remain highly fact-specific. The revisions offer more structure, but they do not eliminate the need for careful, context-sensitive judgment.

### Clarifying the Role of Third Parties and Surrogates

The new comments to the ABA Model Rule also address an area that frequently causes confusion in practice: the role of third parties. Those comments can be found on the ABA website.<sup>1</sup>

When a client is accompanied by a family member or other supporter, it can be tempting — sometimes subtly, sometimes not — to allow that person to take on a more central role in the representation. The new comments emphasize that, absent appropriate protective action, the lawyer must continue to look to the client for direction.

At the same time, the comments recognize that third parties can play a valuable role when properly incorporated. They recommend obtaining the client's informed consent to the involvement of others and

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suggest that lawyers provide opportunities for private communication with the client to reduce the risk of undue influence.

The ABA's comments also provide more detailed guidance on clients with surrogate decision-makers, such as agents under powers of attorney or court-appointed guardians. The comments distinguish between these roles and clarify when a lawyer should take direction from the client versus the surrogate.

### An Invitation for Comment

The OSB Legal Ethics Committee is actively seeking input from the bar on whether Oregon should adopt these changes. If you have thoughts about how the proposed revisions would affect your practice, the LEC would like to hear from you.

OSB licensees are invited to submit comments to the LEC through its staff liaison, Ankur Doshi, OSB general counsel, at [adoshi@osbar.org](mailto:adoshi@osbar.org).

### Final Thoughts

Questions about client capacity — or decision-making limitations — rarely arise in clear or predictable ways. They tend to develop over time, often in the middle of an ongoing representation, and often in situations where competing duties are in tension.

The proposed changes to ORPC 1.14 do not resolve those tensions, but they do reflect an effort to provide clearer guidance. These revisions emphasize client autonomy and encourage less restrictive approaches where possible.

And as always, the Ethics Helpline is here to help you work through questions about client capacity when they arise. ■

### ENDNOTE

1. [americanbar.org/groups/professional\\_responsibility/publications/model\\_rules\\_of\\_professional\\_conduct/rule\\_1\\_14\\_client\\_with\\_diminished\\_capacity/comment\\_on\\_rule\\_1\\_14/](https://americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_14_client_with_diminished_capacity/comment_on_rule_1_14/)



Dani Huck is deputy general counsel for the Oregon State Bar.

## Talking About Bad Writing

# Difficult Conversations

By Suzanne Rowe



Some problems aren't strictly about writing; the grammar and punctuation might be perfectly fine, but the document fails because it doesn't serve its purpose (you wanted a letter, not a memo) or because the analysis is too thin or flat-out wrong. Other problems *are* mainly based on writing; the writer has helpful ideas but hasn't put them into a helpful written form. And sometimes, the analytical problems and writing problems are intertwined.

Once you identify the problem, think about where your conversation with the writer should take place. A new colleague might be more comfortable in his office or a conference room; being summoned to your office could add stress that could make the conversation more difficult. A walk to the nearby coffee shop might be easier still, but only if you're unlikely to be interrupted.

And consider the tone you'll use during the conversation. If a colleague is about to get fired for sloppy writing, the "mad mom face" might be appropriate. But treating the writer as an equal partner might keep the conversation from becoming too depressing and even more difficult.

### "I appreciate your effort."

Regardless of the problem you've identified, your conversation will likely get off to a better start if you recognize that the writer really, truly tried to produce a good document. I remember getting a document back from a supervisor who had drawn a single line through an entire page — from the top left to the bottom right — with a note that said simply, "Sorry." My little heart sank. But the supervisor began our conversation by saying, "I appreciate your effort." Then he told me why the analysis we had discussed was flawed, which of course I should have realized as I was writing the document. His acknowledgment that I had worked really hard on that flawed analysis motivated me to fix it and gave me the confidence that I could.

### "Let's just talk."

If you can't make heads or tails of the analysis in a document, the writer may have an analytical problem rather than a writing problem. It's very hard to write clearly about something that is still fuzzy conceptually.

To determine whether the problem is in analysis or writing, set the document aside and tell the writer, "Let's just talk." Investing a few minutes in a conversation can show you the problem, leading to the next part of the conversation.

If the writer can't explain what she was trying to write, she has an analytical problem. Your choices here are to invest time teaching the writer about legal analysis or to assign the project to someone else.

But if the writer knows exactly how to explain the analysis orally, then she has a writing problem. You might suggest she use software that transcribes this oral summary, which could provide a good basis for a better document. Alternatively, you could take notes as you listen and then hand them to the writer at the end of the conversation as a rough outline. If the writer grew up without Saturday morning "Grammar Rock," she might need a crash course in fundamentals. I suggest one of the following: Megan McAlpin, *Beyond the First Draft*, or Richard Wydick and Amy Sloan, *Plain English for Lawyers*. Lots of online sources provide quick explanations and exercises.

### "I got lost."

When you *can* distinguish heads from tails in the analysis of the document, but the tails came before the heads, try telling the writer, "I got lost." Beginning this way shifts the focus from "You're a bad writer," which is just going to make the conversation more difficult, to "I got lost and you can help me find my way." The writer who wants to improve will be happy to help you find your way, while realizing that the document failed

**W**hat do you say to a writer whose document doesn't meet your expectations? If your goal is to avoid conflict, or if you just don't have time, you say nothing. But if you are a foot soldier in the never-ending battle for better writing, you have to say something.

Any conversation about bad writing is bound to be difficult. Writers tend to form immediate and lasting attachments to their own words — whether those words fly from an iPhone, leap from a laptop, flow from a fountain pen or result from scrawls with a nubby pencil. Telling the author of such beloved words that they don't measure up is uncomfortable. But the only way that writer will improve is with honest assessment, clear guidance and another chance.

After laying some background, I'll suggest some opening lines. Don't try them in a bar.

### Getting Started

Of course, before you can have the conversation, you have to identify the problem.



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to meet its objective. The writer who just wants a year-end bonus might conclude that you're dumb (how did he get to be a partner when he got lost in my perfectly clear document?) — ensuring no year-end bonus and probably a short stay in your office.

### **"Omit needless words."**

One of the many marvelous quotes in Strunk and White's *The Elements of Style* is the simple advice to "omit needless words." Concise writing is often clearer than verbose writing. Short sentences are easier to digest than long ones. Simple sentences are more straightforward than those with twists and turns that require multiple commas, dashes and semicolons.

If you get a document that is filled with verbose, long, complex sentences, your conversation could be as simple as, "Omit needless words." Of course, then you'll need to sit down with the writer and show her which words are surplus and how to omit them without sacrificing meaning. Or you could refer the writer to a text or website on good writing.<sup>1</sup>

### **"Careful editing suggests careful analysis."**

Whenever I see a sloppy document — misspelled words, confusing grammar, bad formatting, yucky citations — I assume that the analysis is just as sloppy. That means I'm less likely to trust the writer's analysis. While I admit that I'm a curmudgeon, I suspect that most attorneys agree with my assumption.

You might begin this difficult conversation with these opening lines: "Thank you for your analysis of this problem. You've moved us closer to a solution. But when I first read the document, I was suspicious of your analysis because the editing was sloppy. Careful editing suggests careful analysis. The reverse is also true, and you weren't very careful."

### **"We have a client."**

Even a document that is clear analytically and well written might still fail. Attorneys tell me that one of the biggest problems new law clerks have is solving real-world problems. The newbies forget that the document isn't an exam or a class assignment, but a tool that needs to help the client get closer to the desired solution. So, while in law school it might have been fine to conclude that the hypothetical client didn't have a claim under one cause of action — and then stop — in

the real world, the writer needs to look for other causes of action or for alternative approaches to the desired end.

While getting this piece of writing from your junior colleague is frustrating, the resulting conversation with the author might not be too hard. Begin with, “We have a client, who is relying on us to solve problems. I agree with you that this approach won’t reach the solution the client wants, but that just means we have to think more deeply or creatively about how to do that.”

### “This project deserves more thought.”

Another frequent problem with new attorneys is that they mistake speed for effectiveness. I remember two summer law clerks who were racing each other to complete projects. They seemed to think that only one of them could get an offer of permanent employment (which might have been true) and that the most important factor was who could produce documents the fastest (which was absolutely wrong).

Unfortunately, the speed-demon projects that they wrote did little more than skim the analytical surface. The clerks’ supervisors were increasingly concerned that they were not getting deep, thoughtful responses. A quick answer is only beneficial if it provides sufficient analysis for good decision-making.

I suggested beginning a difficult conversation this way: “I appreciate that you tried to complete this project quickly, but it deserves more thought. We can’t sacrifice deep analysis for speed.” The writer might have spent so little time on the project that he didn’t realize that his surface analysis wasn’t enough. In that case, you might need to double back to “We have a client,” or “Let’s just talk.” If the writer realized the complexity but prioritized speed over thoroughness, try this: “When you realized that the project was more complex than I anticipated, you should have checked in with me.”

### What NOT to Say

Trying to sugarcoat the message isn’t going to help the writer at all. Lavishing false praise, followed by constructive criticism, is likely to confuse the writer. Is it good? Is it bad? Do not say any of the following unless every word is true:

*You’ve done a good job.* The writer might not hear the criticism that follows. The document’s good, right?

*This is almost there.* The writer will think that the problems you are raising

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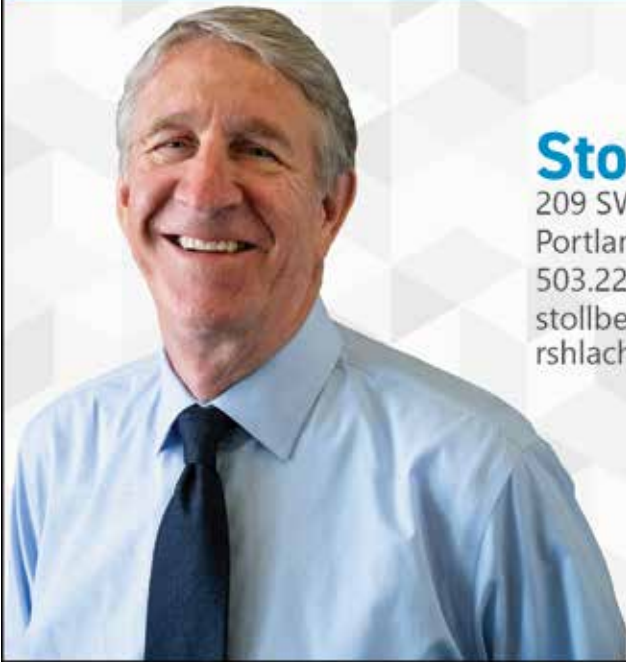
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are just minor polishing points or your personal quirks.

*This was so helpful.* Most writers really do want to help. And if you say they have, they'll be mentally celebrating rather than listening to your concerns.

### Conclusion: Opening Lines

The opening lines offered here work well in a mix-and-match world, so you might select a few that apply to the document at issue.

1. Acknowledge the effort. "I appreciate the time you spent on this project."
2. Show specific examples of the problem and explain why the problem made the document ineffective. If possible, show places where the writer got it right. "I couldn't follow your analysis here on page four. But see on page three how clearly it unfolds?"
3. Suggest what to do next. "Let's just talk through the analysis on page four."
4. Most of all, show confidence that the writer can improve. "You'll be writing documents like this frequently, and I'm sure you'll be able to do so independently in the future."

One difficult conversation can put a colleague on the path to better writing, while saving you from reading lousy documents in the future. ■



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### ENDNOTE

1. Generative AI can be useful for enhancing prose, but all the usual caveats apply, particularly about client confidentiality, skillful prompting and attorney responsibility for the final document. A writer who can't determine whether the AI recommendations are truly improvements needs to learn the basics first.

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# EVOLVING AI

By Matti Neustadt

***U.S. v. Heppner***  
**and the Impact**  
**on Attorney-Client**  
**Privilege**

The hype cycle of generative AI engulfs our news and media feeds. Lawyers are inundated with doomsday headlines about how AI will replace us, and our clients are constantly sold a marketing dream of replacing \$1,000/hour partners with \$20/month “agents.” After all, AI has been used for legal research, has generated passing scores on parts of bar exams and is marketed to law firms to tackle complex legal problems with ease. Who wouldn’t be ready to replace expensive professionals with a monthly subscription that provides legal strategy, risk assessment and compliance advice? The advice is nearly free, and you can always engage with a lawyer later if there is a need, right?

Well, in the famous words of every lawyer: “It depends.” Specifically, it depends on whether a member of the public wants their AI chat history and resulting AI-generated advice to be used as evidence in their trial.

## Two Cases on Every Lawyer’s Radar

There are two recent cases that shed some light on the current state of AI.

### Case 1: *U.S. v. Heppner*, Dist. Court, SDNY 2026

In October 2025, the Department of Justice brought charges against Bradley Heppner for securities fraud, wire fraud, conspiracy, making false statements to auditors and falsification of records. They alleged that Heppner defrauded investors in GWG Holdings, Inc., of \$150 million through a variety of undisclosed self-dealing transactions through multiple shell companies. But the most consequential legal development arising from this case isn’t about fraud — it’s about privilege and the impact AI has on attorney-client privilege and the work product doctrine.

When FBI agents executed a search warrant at Heppner’s Dallas, Texas mansion, they seized dozens of electronic devices. Shortly after the search, defense counsel informed the government that, before his arrest, Heppner had run queries related to the government’s investigation through Claude (Anthropic’s generative AI tool) in which Heppner had outlined defense strategy, analyzed the factual and legal landscape of the charges he anticipated and prepared these materials after learning of the grand jury proceedings against him. Heppner argued that the prompts used with Claude and Claude’s related responses should be considered privileged or attorney work product and not subject to discovery or use in the case against Heppner. The government disagreed.

We now have the first federal court holding that neither a defendant’s AI prompts nor the generated responses of AI are privileged, even when actions were taken in anticipation of trial.

### Case 2: *Warner v. Gilbarco, Inc.*, Dist. Court, ED Michigan 2026

Here, a pro se plaintiff, Sohyon Warner, sued her former employer for employment discrimination. After Warner admitted she had used ChatGPT to research legal questions and draft her filings, the defendants moved to compel production of all her AI queries and ChatGPT’s responses, seeking to override her assertions of attorney-client privilege and work product protection. In this case, however, the court found that the chats and prompts provided by Warner to ChatGPT were, in fact, privileged, with specific reference to *Anderson v. Furst* (ED Michigan, May 29, 2019) noting that a pro se litigant has a right to assert work product protection over such materials.

Does this mean we now have a circuit split when it comes to determining whether conversations with artificial intelligence tools can be privileged? It does not appear so but these two dueling holdings will greatly complicate legal practice for those of us who both use AI and whose clients use AI — a grouping that will likely soon include everyone.

## Privilege and Work Product Doctrine

Let’s do a quick refresher for those who haven’t revisited the intricacies of privilege in a while.

### *Attorney-Client Privilege: Protecting Communications.*

Attorney-client privilege (ACP) protects communications between a client and their attorney for the purpose of obtaining or providing legal advice. The privilege exists to encourage clients to communicate fully and candidly with counsel without fear that those communications will later be used against them. Privilege is narrowly construed, though, as courts prefer that all relevant evidence be available to all parties, so the final key requirement of privileged communications is that they are confidential. If a client discloses the same information to non-lawyers, the act of disclosure can waive privilege, and only confidential communications will maintain privilege.

### *The Work Product Doctrine: Protecting Documentation.*

The work product doctrine protects materials (not communication) prepared by or at the behest of counsel in anticipation of litigation or for trial. Its primary purpose is to allow lawyers a “zone of privacy” in which they can prepare and develop legal theories and strategies without risking those strategies being exposed to adverse parties. This work isn’t required to be done in a vacuum, though. Unlike the attorney-client privilege, work product protection can extend to materials prepared by non-attorneys, but only when those materials are provided at the instruction of counsel.

## Why No Privilege in *Heppner*?

As revolutionary as the holding appears to many non-lawyers (especially those pushing AI as a replacement for lawyers), it would surprise no lawyer who had been trained as a 1L on the three-part test. It failed all three parts of the ACP test and the only major part of the work product doctrine test.

### *First: Claude is not a lawyer.*

Hopefully, this is not a revolutionary statement for you. Claude is not a lawyer.

### *Second: There was no confidentiality.*

This one is interesting — because this referred specifically to the Privacy Notice and Terms of Use for Claude and is not generally applicable for all generative AI. By their clear reading, Claude’s terms note that neither the prompts nor the outputs are confidential and may be shared with governmental regulatory authorities.

### *Third: Claude was not used for the purpose of getting legal advice.*

Here, the court focused on what Heppner intended to do with Claude instead of what he intended to do with the *output from Claude*. While Heppner asserted that his intention was to obtain legal advice, here the court notes that Claude specifically refuses to give

legal advice, directing users instead to consult with an attorney, and that the attorney was not involved in the process of gaining any AI outputs from Claude — only receiving them after the fact.

*Fourth: Alchemy doesn't work.*

Both attorney-client privilege and work product doctrine invoke the idea of third parties being able to have privileged communications and produce privileged materials. This is limited, though, to when the communications are had and materials developed at the direction of counsel in anticipation of litigation. Here, no attorney directed Heppner to use Claude to develop a defense strategy or analyze the anticipated charges against him. He interacted first with AI, then his attorney. In the words of the court, “it is black-letter law that non-privileged communications are not somehow alchemically changed into privileged ones by being shared with counsel.”

Post-facto privilege simply isn't a thing.

### Why Was Privilege Protected in Warner?

Not to complicate things, but for almost the same reason: No licensed attorney was involved. Except here, the plaintiff was pro se. The law allows individuals to represent themselves, acting as their own lawyers, which in essence allowed Warner to create privilege with herself.

While Heppner had a lawyer, but the lawyer neither was the user of AI nor directing Heppner in his use of AI, Warner was both the client and the lawyer — which allowed her to both use AI and direct herself on the use of AI in a way that could maintain privilege.

### Is AI for Legal Dead?

No. Definitely not — our clients won't stop using it, and neither should you. What we should do is learn from this case on how we use AI and advise our clients on its use and prepare for it.

Does this mean that lawyers can stop worrying about being replaced by AI? Yes, but not for the reasons you might think. Our clients are not going to stop using it — including using it to try avoid paying for legal advice. They don't generally anticipate or budget for being caught up in litigation or criminal allegations. Many also don't anticipate transactional work that can lead to potential litigation or regulatory enforcement. So, AI will never replace the need for lawyers to clean up messes made by clients using AI. Most clients are only one mess away from learning that early legal engagement leads to overall lower risks and lower costs. For that reason alone, the profession is pretty safe.

Then, what does this mean for practitioners? Assume your clients — and your pro se litigants — are using AI. AI is being adopted at skyrocketing rates and available to anyone with an internet connection. This means that both corporate and individual clients might be coming in your door having already disclosed a large amount of sensitive information to a generative AI tool.

Here are three key questions to ask of clients using AI.

#### 1. Which AI tools were used?

Note that even Google and Bing search engines often automatically give responses from Gemini and Copilot, respectively. Using *Heppner* as a guide, your author asked Google, “What's the best defense to mount in a drunk driving case in Oregon?” and received an AI overview of six possible defense strategies. While the included details provided links to law firms, the disclaimer of “I am an AI, not an attorney. DUI laws are complex and fact-specific. It is highly recommended to consult a qualified Oregon DUII defense lawyer to determine the best strategy for your specific case” did not appear at the top, but was instead at the bottom of the full list of suggestions and before the “Dive deeper with AI” option.

#### 2. What were the terms of service and privacy notices of those tools?

The *Heppner* decision turned heavily on the terms of service of Anthropic's Claude. Not all AI tools have the same terms, particularly around privacy and data protection. It is more common for enterprise AI tools to have controls to prevent model training — which may still need to be configured by the user — but nearly all terms of service include a notice that the service provider will respond to a legal order such as a subpoena or warrant for data. The practical realities, of course, of obtaining a specific user's individual prompts may create a very complicated discovery process if going directly to the AI provider, but this doesn't mean it's impossible, as the AI provider may have to provide your client with notice of a legal order and a right to challenge it.



### 3. What information was disclosed or obtained?

Assuming your client used AI, make sure you know what they asked and what information they obtained. Even if you can't unring the bell that is "no privilege for the AI input or output," correcting client misunderstandings arising from AI and working under actual privileged communication channels — with clear guidance on when they should and should not use AI during their legal engagement — can prevent additional harm. Understand the information your client has provided and its source, including whether AI was used to generate it.

### Defending Against Pro Se AI

AI is giving pro se litigants access to more information, skills and confidence than they have ever had before. It is also giving them access to hallucinated case law and unreasonably optimistic opinions on their likelihood of success in a case. A recent survey by the law firm of Fisher Phillips saw a 49% increase in pro se filed employment law claims between 2024 and 2025 and an increase of 69% was seen in Fair Housing Act claims for the same period. Most were AI assisted.

While there is a lot of benefit when it comes to the democratization of information and legal help when it comes to access to justice, the reality of the AI-informed pro se litigant is that it will create a lot more work for lawyers and judges who must now supervise the legal work of the AI that the pro se litigant used. Bloomberg Law found that these cases cost 10-15% more to defend and may become even pricier as courts start holding attorneys — under the rules of ethics — responsible for identifying hallucinated case law and AI-generated false statements. Consider, for example, *Noland v. Land of the Free* (114 Cal.App.5th 426 (2025)) where the court sanctioned a lawyer for multiple hallucinated cases that were the basis of what was determined to be a frivolous appeal, but failed to issue sanctions payable to the other party (who bore significant cost in defending the appeal) on the basis that the opposing party had an ethical duty to notice those errors and raise them to the court. Only the court was therefore deemed to be harmed.

### Practice Changes

There are three strategies to consider right now as your practice continues to evolve.

#### *Update your engagement letters and estimates.*

Don't get caught unaware, and don't let clients get caught unaware. Consider updating your engagement letters to remind clients that their discussions with third parties — including generative AI like ChatGPT, Claude and Google Gemini — may not be privileged. Not just for what they may have asked AI before engaging with you, but also after. That's important because clients are unlikely to stop using AI after engaging counsel.

And if you are representing a client against a pro se litigant, consider increasing your cost estimates.

#### *AI at the direction of counsel.*

Is AI still useful? Absolutely — when used responsibly and with suitable oversight. AI is already being used for e-discovery and contract analysis — directing clients to use AI for specific purposes could

reduce their effort in aiding their representation. Use caution, though. Many of those tools are simply for the discovery of nonprivileged information to begin with, so merely directing the client does not mean that anything discovered won't also be discovered by a nonprivileged means. However, this method might protect specific prompts — for example, directing a client to use a specific prompt to discover facts that might be hard to find using common "auto-prompts" available in off-the-shelf legal AI tools might provide useful information for the case that opposing parties will have to work much harder to discover.

Maintaining privilege for AI use at the direction of counsel goes beyond simply what the client might do. Lawyers must also consider the AI use of expert witnesses, forensics consultants and investigators, as well as how technical tools like deal rooms and M&A valuation tools have embedded AI capabilities. It will become critical for lawyers to understand how those parties are choosing, configuring and using AI to maintain privilege. Use extreme caution if your strategy is simply saying "don't use AI" — that concept will soon become as quaint as expecting people not to use the Internet.

#### *For lawyers using AI directly.*

The good news for modern lawyers is that nothing in this case indicates that a lawyer will compromise client privilege through supervised and appropriate use of AI. Choosing and configuring an appropriate AI solution to ensure client confidential information is not shared with third parties can be done through vendor diligence and technical understanding. Oregon and other states have issued ethics guidance on this, and nothing in *Heppner* indicates that more is necessary.

### AI Will Not Disappear From the Law

*Heppner* is not anti-AI. It is pro-structure. It is pro-discipline. It is pro-professional responsibility. *Heppner* gives lawyers a framework to communicate with clients on the expectations of privilege in modern life. It is a reminder that privilege requires structure. Lawyers succeeding in this environment will be the ones who understand both how to use modern AI tools, how their clients can and will use AI tools, and how to identify and build the workflows that preserve the privileges necessary for the justice system to function. ■



*Matti Neustadt is a technology lawyer and legal tech entrepreneur who builds and advises clients on how to responsibly use AI and secure technology to improve business and legal outcomes. She serves on the executive committee of the OSB Technology Law Section.*

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**Understanding**

# **Pet** **'Custody'**

**The Rational, Emotional  
Ramifications of Sharing  
Animals in Oregon**

By Jillian Daley

Lewis & Clark Law School Professor  
Joyce Tischler with her late dog, Deja.

*Photo courtesy of Animal Legal  
Defense Fund.*

By law, clients cannot strike “custody” deals for pets as they are considered property in Oregon. However, a pet’s love cannot be divided easily.

For the people involved, including attorneys, both parties and the judge who may decide a case, navigating this dichotomy includes using one’s head — and heart. In fact, in the original case that led to O.R.S. § 609.020, dogs became property when a judge awarded \$200 to farmer M.D. McCallister after someone shot his favorite dog, a Scotch collie: “This fellow was exceptionally bright, and would mind instantly, and was very useful” (72 Or. 422 (Or. 1914)). Interestingly, McCallister wasn’t the only zoophilist in the courtroom. The defendant, Henry Sappingfield, said he fired to defend his horse and young dog when the Scotch collie “viciously” charged them.

### Animal Law Changes Glacially

Fast forward a century later, and the statute inspired by an “exceptionally bright” collie still stands. Truly, animal law has not evolved much as a whole in the past 100 years.

“It honestly has not, which is surprising given how fundamental to family dynamics pets can be,” says Daniel Margolin, founder of Margolin Family Law in Portland. “Until and unless there is some new legislation, pets will continue to be treated as personal property and their emotional relationship to the family will continue to be minimized.”



Dan Margolin with a guest dog named Sophie. Photo by Pearson Duden.

However, even though Oregon law has mostly stood as rigidly as a mountain, trailblazers have made more inroads for animal rights here than in most other states. Senate Bill 6 made Oregon the first state to accept animals as fully aware only 13 years ago: “Animals are sentient beings capable of experiencing pain, stress and fear; Animals should be cared for in ways that minimize pain, stress, fear and suffering.” Other states have since passed similar laws. Yet only a few other jurisdictions have recognized animal sentience: California, Colorado, Connecticut, the District of Columbia, Illinois, Maine, Montana, Massachusetts and Vermont (Kotzmann and Stonebridge 2021).

### Sharing Animals When Pet ‘Custody’ Is Not Codified

Still, there’s more work to be done in the realm of animal rights, even in Oregon. Our state has yet to institute the animal “custody” laws many other states have, led by Alaska in 2017. The other jurisdictions with “custody” laws include: California, Delaware, District of Columbia, Illinois, Maine, New Hampshire, New York and Rhode Island, with Texas and Vermont allowing it under certain circumstances (*Forbes*, 2024). This gap in Oregon adds complications to family law cases involving pet ownership disputes.

Without pet custody laws, Oregon judges must find a way to use property laws to determine who will continue to hear the patter of paws at home. Regarding that division, Geordie Duckler, who operates The Animal Law Practice, recommends that attorneys “follow the rules of partition of personal property per ORS 105.205 and *Killam v. Killam*, 251 Or 59, 60–61, 444 P2d 479, 480 (1968).”

How statutes and precedents are interpreted is in the hands of a judge, notes Joyce Tischler, a professor of practice for the Center for Animal Law Studies at Lewis & Clark Law School.

“It is still widely accepted that judges will just decide who gets the cat or the dog based on property law, and if they’re doing it on a straight property law analysis, they’re going to consider factors such as: Did one party own the animal before the relationship started? Did the parties adopt the animals during the relationship? So who owns the animals?” says Tischler, also the founder of the Oregon-based Animal Legal Defense Fund (ALDF), the first nonprofit wholly committed to legally advocating for and protecting animals.



Jessy A. Morris

Attorney Jessy A. Morris of Holtey Brown Newsom says she empowers her clients to consider their role in pet care, such as whose name was on the adoption papers, who is the primary contact at the vet’s office, who orders the food, who takes the dog to the park every Sunday, etc.

“Honestly, these are kind of similar inquiries that we make when we’re talking about child custody,” Morris notes. “There’s a factor in the child custody statute about the interest in and attitude toward the child. Some of the guidance that the court gives us in the case law is who is taking the child to the doctor, who is scheduling those appointments, who is reading to them at night ... (ORS 107.137 1 b).”

So, while it’s a property matter, the questions echo those asked in a child custody case, and for judges, that can feel like a family matter.

"Judges are humans, and oftentimes they have dogs or cats or both, and they love their companion animals," says Tischler. "And cats and dogs are becoming more part of the family. And so, some judges are willing to look at this battle over who gets the dog as a family matter and find that they will look at it similarly to how they view who the child is to live with."



Attorney Jessie A. Morris of Holtey Brown Newsom with childhood dog, Jamie, in Gunnison National Forest (Colorado) in 1999. Photo courtesy of the Morris family.

There's another similarity. Just as it is easier for a couple with an amicable parting to share time with a child, they can usually share a beloved pet without court intervention.

"People who both want the animal and are both genuinely interested in the animal emotionally are able to work it out," says family law attorney Amanda C. Thorpe of Cauble, Furr & Beguin in Grants Pass. "Like custody cases and parenting time of children, what we end up with sort of flows organically based on people's work schedules and who was a traditional care provider ... So the couples that can make it work don't have to put it before a judge, because they don't need to enforce it."

Yet, there are ways to make pet custody arrangements that work for everyone if a judge's intervention is needed. But how do attorneys create these agreements when pets are technically property? Morris says a private contract can be difficult to enforce, but a contract can be woven into a judgment.

"You can have that incorporated in the judgment as part of your agreement," Morris explains. "As soon as you take what the parties agreed to and put it into a judgment that a judge signs, and it's entered into the court record, then it's no longer just a contract. It becomes a court order that you must comply with or you risk being held in contempt."

How clients decide to do that varies. One example of an arrangement is clients give the "custody" of the dog to their ex, but they ask for "first right of refusal," Morris says. That means if they find they cannot care for the pet, they will ask their ex first before giving or selling the animal to anyone else. Pets aren't always prized for their love, however.

If a fancy cat or dog is worth a good deal of money, since pets are property, Morris seeks to balance out the pet's value with another item being divided up in the case. Then, unless the animal must be valued, which Morris has not experienced, it becomes a simple matter of balancing values. With a clear line to follow, including property values and judgments, sometimes the hardest thing can be breaking the news to your client that animals are considered property under the law.

Morris says that she reassures her clients that the law may seem cold, but judges are not.

"I tell my clients that, as far as the letter of the law, your pet is personal property, and then I say, however, judges are human beings, and they also have pets that they love and cherish," Morris says. "And so you're not going in front of someone who is unaware of the bond and affection you have for your pet."

### When Shared Pet 'Custody' Is the Wrong Choice

In relationships fraught with domestic violence, pet custody may be unsafe, and that's when Family Abuse Prevention Act Restraining Orders (ORS 107.718) offer some relief, Thorpe explains. For example, if a client's pet is abducted, the court can order that pet to

## Animal Law in Recent History

Some examples of recent advancements in animal law include the following.

**Animal Cruelty Enforcement Act of 2025:** This bill establishes a new section in the Environment and Natural Resources Division of the Department of Justice to enforce federal laws concerning animal cruelty.

**Oregon v. Newcomb, 359 Or. 756 (2016):** The Oregon Supreme Court declared that dogs are not just property, but sentient beings, allowing veterinarians to take blood samples from seized, suspected neglected pets without a warrant. It overturned a 2014 ruling in which the Oregon Court of Appeals declared a warrantless blood draw from a seized dog by a veterinarian to be an unlawful search under Article I, section 9 of the Oregon Constitution.

In 2015, the Oregon Supreme Court found that each animal abused in an animal abuse case may be counted as a separate victim for purposes of charging and sentencing (*State v. Nix*, 356 OR 768 (2015) and *State v Hess*, 273 Or App 26 (2015)).

In 2013, Senate Bill 6 enhanced penalties against those who commit animal abuse or neglect and provided licensing and oversight of animal care entities. The measure included findings that, "Animals are sentient beings capable of experiencing pain, stress and fear; Animals should be cared for in ways that minimize pain, stress, fear and suffering."

be returned because the statute states that the client has the right to “prevent the neglect and protect the safety of any service or therapy animal or **any animal** [emphasis added] kept for personal protection or companionship.”

A case isn't always that clear-cut, however. Thorpe recalls a domestic violence case in which a client lived in the home that she had financially shared with her ex-spouse. Her client was hospitalized, so she asked her ex-spouse to retrieve the dogs from the home, so he could take care of them while she was away.

“He used the access that was granted to the home for the benefit of the animals to get just incredibly personal information about her and weaponize it in the divorce case,” Thorpe says.

The couple didn't have children, so the dogs were their only connection, and he continued to use that link to hurt her, insisting she had failed to care for her animals and criticized the state of her home while she was hospitalized. Thorpe saw the toll this took on her client.

“Ultimately, we decided it was better that we just go ahead and let him have the care of the animals,” she says. “That was very hard on her and the last thing that I would have wanted for her and for her mental health as well. But there was no way through with that dynamic that would have been a workable agreement because he was couching his power and control techniques as acting for the welfare of the animals.”



Kat Pankratz, a veterinarian and board-certified veterinary behaviorist, with Kaeto the cat. Photo courtesy of the Animal Behavior Clinic in Portland.

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*Welcomes*  
**Lauren Butz**

Lauren Butz has joined Hirshon Lerner Hutchinson (HLH) in Portland. Butz is an experienced litigation attorney whose practice focuses on business and commercial disputes, real estate and construction litigation, and trust and estate litigation. Butz represents clients of all sizes and brings substantial courtroom experience ranging from small tort claim cases to complex commercial litigation.

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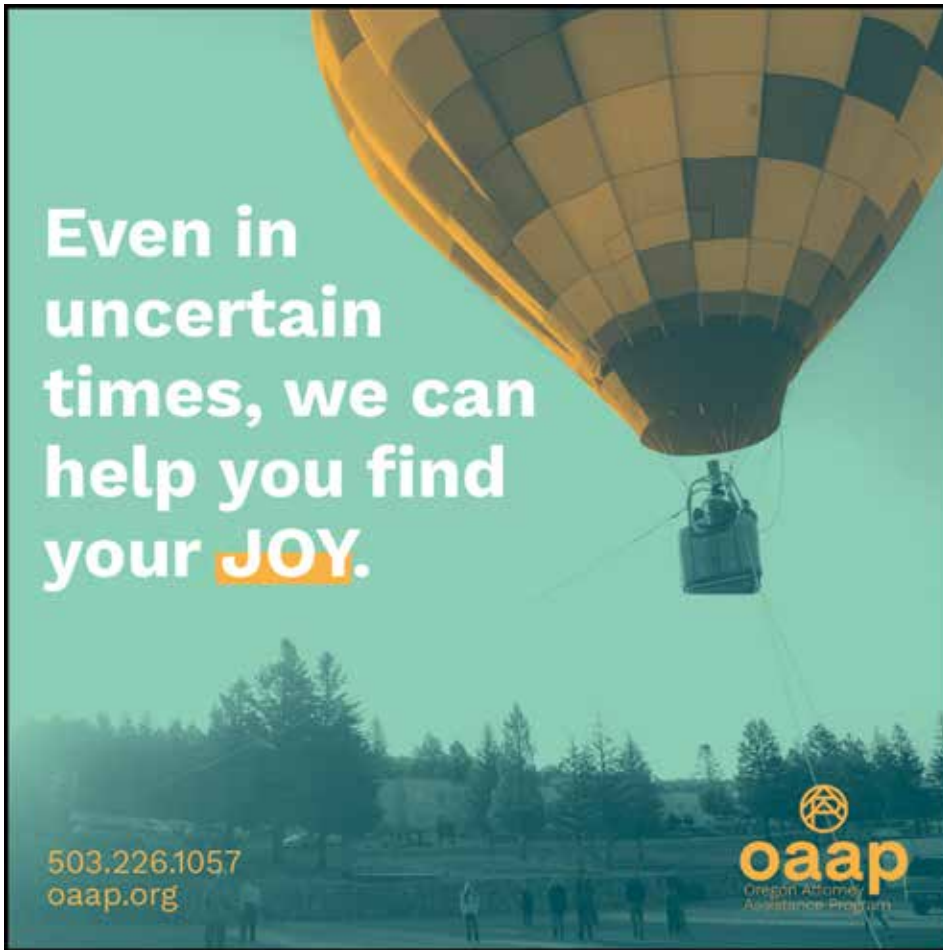
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Sharing a pet actually isn't always best for an animal either, says Kat Pankratz, a veterinarian and board-certified veterinary behaviorist at the Animal Behavior Clinic in Portland.

"As dogs (and people) form social bonds, it is possible for dogs to miss certain people that they've been bonded with," Pankratz says. "It is also possible that inconsistency and instability in a living situation could be stressful for the dog. This may be especially true for dogs that may have less emotional resiliency and are prone to fears and anxieties."

She adds that consistency and predictability are particularly important for cats.

"Cats are more likely to develop stress behaviors and be more susceptible to certain illnesses due to stress," she says. "Environment plays a huge role in influencing stress in cats. Especially for cats that have not been well-acustomed to travel, which appears to be the majority, travel is a stressful event and is one of the leading reasons for why cats do not get basic routine veterinary care in the United States," she says (Volk et al, 2014, Caney et al., 2022).

Sometimes, neither half of a couple can care for an animal after a divorce. Oftentimes, a dissolution of marriage will liquidate assets, including the family home, so property can be divided between the couple. Both halves of a couple may end up in a small apartment or living with a relative.

"Quite a few pets are just flat out displaced by the dissolution of relationships," Thorpe says.

The attorneys largely agreed that they were often surprised at the lengths their clients were willing to go to out of respect for their ex's love for a pet. For example, Morris says a client in a domestic violence case had an ex with whom she did not feel safe, but she knew he did love their dog. When the dog became sick, she knew she had to put him down. She also knew that, despite his mental health issues, her ex loved the dog, so Morris contacted a third party and "arranged for a time for her ex to come and say goodbye" during a supervised visit.

Couples act differently with their pet than other "property." That's because the value of a pet's love cannot be neatly divided like property, and while the law may seem cold, those who enforce it are not. After all, it was a man's love of his dog that inspired a

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judge to designate dogs as valuable property a century ago. And it is a family's love of their pets that will continue to spur the evolution of animal law in the present and 100 years from now. ■

*Jillian Daley is a professional grant writer and nonprofit consultant who worked as a newspaper journalist for more than 15 years. Learn more about her business, Jillian Daley, Wordsmith, at [info@jillian-daleywordsmith.org](mailto:info@jillian-daleywordsmith.org) or (971) 317-8532.*

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## *Hawaiian Heritage Guides Layla Kailani Maka'ui McLean*

### 'Ohana Inspires Advocacy

By Brooke Strickland



Layla McLean

Growing up in Hawai'i shaped every part of who Layla Kailani Maka'ui McLean is, grounding her in the true meaning of 'ohana — not just with her immediate family, but a larger community of people who loved and supported her. Raised by a single mother, McLean's early years were guided by those around her, including a group of other single moms affectionately known as the "Wild Betties," who all took her under their wing. McLean didn't have much in the material sense, but that never defined her. In fact, she found some of her greatest joys in the simple things and the beauty spent exploring the beach, playing in the sand and swimming until sunset.

"There was no status, no comparison — just community, nature and a sense of belonging that didn't depend on anything material," she explains. "What we lacked in money, we made up for in community and culture."

Her childhood dream was to be either a singer or a lawyer, and her mother, ever so gently and honestly, encouraged her to pursue the latter. So, building on those early

lessons in resilience, love and learning what community really means, she set out to blaze her own trail. That ultimately led to where she is today as a shareholder and attorney at Buckley Law in Lake Oswego.

"Growing up in Hawai'i taught me to see people fully, to honor culture, to lead with empathy and to value community," McLean says. "These lessons have shaped not only who I am as a person, but also how I show up as a lawyer, a colleague and a friend. Looking back, the law was always the thread that made sense. I was drawn to advocacy before I even knew the meaning of the word."

#### Turning Tragedy into Triumph

McLean shared that two experiences in her childhood fueled her longing to become a lawyer. The first thing was when her parents divorced when she was just a toddler. Her father, who struggled with addiction and had received an inheritance that could have helped them build a stable future,

squandered the funds unbeknownst to her mother. Devastated at what that meant, her mother divorced McLean's father and began rebuilding her life. A judge ordered the small remaining inheritance sum to be placed into a college fund for McLean as a safeguard for her future.

"But even that small protection didn't shield us from further turmoil. When my father failed to pay his divorce lawyer, the lawyer sued me — a four-year-old child — in an attempt to access my court-ordered college fund. My mom had to hire an attorney to defend me," McLean explains. "Although the judge dismissed the case, the situation struck me later as a gross misuse of the legal system and an unfair burden placed on children and single parents. When I was old enough to understand what had happened, I realized I wanted to become a lawyer with integrity, someone who could stand between vulnerable people and the kind of injustice my mom and I experienced."



McLean's true wealth always has come from the people surrounding her. Here she is pictured with family at Kailua.



McLean and her mother, Karen Anderson, jump for joy at McLean's swearing-in ceremony, where she officially became an Oregon State Bar licensee.



Beyond her extensive law practice, McLean is on the board of the Mount Hood Kiwanis Camp. Here she is shown at the MHKC auction gala.



McLean loved the nature and outdoor spirit of growing up in Hawai'i.

The second formative experience unfolded over several years while she and her mother lived in a studio apartment. Her mom was working upward of 80 hours a week to keep them afloat when she was suddenly blindsided by the IRS. She was told she was responsible for several thousand dollars of delinquent taxes that were owed on income her ex-husband had earned but not disclosed to her while they were separated.

"Already stretched thin, she was crushed, angry and overwhelmed by a financial burden that wasn't hers," McLean says.

McLean spent hours with her next-door-neighbor-turned-best-friend while her mom worked. McLean's mother found out that the family owned a successful real estate company and as part of a new development, they were required to allocate 10% of the condos as affordable housing for low-income applicants. After some encouragement, her mother applied through the city and they were eventually denied — even though they met all qualifications. The reason: The city imputed \$690 a month in child support that had been court-ordered but never paid.

"My mom pleaded with them to check the court record, which clearly showed years of nonpayment," McLean says. "They acknowledged it was unfair but said the rule was inflexible. If child support was awarded, it counted as income, whether the parent actually received it or not."

Her mother went directly to the mayor of Honolulu to explain her situation. After much persistence, the city reevaluated the policy, changed the rule, and soon, her

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“My mom’s advocacy and passion about justice not only changed our lives but corrected an injustice for every family who would come after us,” she says.

### Putting Down Oregon Roots

Eventually, the teenaged McLean and her mother moved to Oregon to be closer to family. She started high school, and the state quickly became embedded in her heart. She finished her undergraduate work at Portland State University, attended the East China University College of Politics and Law in Shanghai, China, where she lived for a summer and studied Chinese business law, and then went on to complete her juris doctor at Willamette University School of Law.

“I’ve stayed in Oregon because it became home,” she explains.

She joined Buckley Law in 2017 as an associate, became partner in 2021 and four years later stepped into her current role as the head of the trusts and estate planning department. Her practice focuses on helping people from all walks of life plan intentionally for their future. McLean says she’s honored to serve them with clarity and reassurance while helping provide a path forward.

“I take time to understand not only my clients’ financial goals, but also the values they want to pass on, the people they want to protect and the legacy they hope to leave,” McLean says. “I’ve had the privilege of working with some families across three — and now even four — generations, which has allowed me to help them pass down not only their wealth, but their intentions, their stories and their deeply held family values. Being part of that kind of continuity is one of the greatest honors of my work. What I love most about my work is the human side of it. I have the privilege of walking alongside clients during some of the most pivotal moments in their lives.”

McLean is also passionate about non-profit service, currently working on the boards of the Civics Learning Project (CLP) and the Mount Hood Kiwanis Camp. After learning about the Civics Learning Project from a colleague, the organization’s mission to empower students to become active, informed and engaged in democracy resonated immediately.

“Growing up watching my mom fight for fairness and navigate systems that weren’t designed for families like ours, I learned ear-

ly how important education, empowerment and advocacy are. CLP gives students those tools,” she said.

As for the Mount Hood Kiwanis Camp, McLean said that she started there as an undergraduate student working as a summer camp counselor.

“I had no idea how profoundly it would shape me, or how humbling and challenging it would be to devote a few weeks entirely to supporting one individual with special needs,” she says. “I have remained actively involved ever since, because the impact of those weeks is unmistakable.”

### On the Horizon

At the heart of McLean’s law practice is a resounding commitment to community and leaving the world a better place than when she found it. That motto is evidenced in her advice to people considering a career in law, too.

“Be the kind of lawyer who empowers the people around you,” she says. “Be a shining example of integrity, hard work, and compassion. When you approach challenges with the mindset of creating win-win outcomes, you inspire others to rise with you. Law school is hard. The practice of law is hard. But the difficulty is not a signal to stop, it’s an invitation to grow. You are capable of far more than you think.”

And as she ponders her own future as an attorney, one thing has and always will be a guiding light: Her dedication to inspiring others to bring their best selves to the work of law.

“Whether it’s through my work with clients, mentoring students or serving on non-profit boards, I hope to keep using my voice and experience to uplift others and help strengthen our community,” McLean says. “At the end of the day, what matters most to me and to our firm is people. If our clients feel seen, supported and cared for, then we’ve done our job. And if we can strengthen our community along the way, then we’re doing the work we were meant to do.” ■

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*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](mailto:stricklandbrooke@gmail.com) or [brookestrickland.org](http://brookestrickland.org).*

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## Boundaries at Work that Work

# Know Your Limits

By Laura Mahr



One of the books that I most often recommend to clients is Nedra Glover Tawwab's New York Times Best Seller, *Set Boundaries, Find Peace: A Guide to Reclaiming Yourself*. Why would a book on boundaries be at the top of my recommended book list for lawyers and judges? Because most everything we do in our profession — especially if we want to do it well — comes down to setting and holding healthy boundaries.

Tawwab, a Charlotte-based therapist with 2.5 million social media followers, wrote the book after an Instagram post she wrote, entitled "Signs That You Need Boundaries" went viral. In the introduction to her book, Tawwab shares an illuminating insight about therapy.

People don't come to therapy knowing they have boundary issues. When they walk in the door, boundary issues are disguised as issues with self-care, conflicts with other people, trouble with time management, or

concerns about how social media impacts their emotional state.

Reading this, I reflected not only on the challenges my coaching and consulting clients bring, but also on the places I get stuck in my own life. Tawwab makes an astute point: at the root of many presenting problems, the path forward often lies in learning to set and hold healthier boundaries. Isn't this also why clients often turn to lawyers? We help define, protect and uphold boundaries in the legal realm.

### What Are Boundaries?

Boundaries are the limits we set to protect ourselves and what we value. They are the parameters that define what is a "yes" and what is a "no." "Boundaries are expectations and needs that help you feel safe and comfortable in your relationships. Expectations in relationships help you stay mentally and emotionally well. Learning when to say no and when to say yes is also an essential part of feeling comfortable when interacting with others," Tawwab articulates. We set boundaries with ourselves and others all day long whether we are conscious of it or not.

Common areas where we set boundaries include:

- **Time:** when and how we are available
- **Work/Life:** how time is divided among work, family, friends and obligations
- **Energy:** protecting mental, emotional and physical capacity
- **Workload:** how much responsibility we take on
- **Communication:** what topics are acceptable to discuss
- **Personal Space:** comfort with closeness, privacy and physical touch
- **Emotional Sharing:** what personal information we disclose and with whom

- **Responsibilities:** what we agree to or expect others to carry
- **Technology Use:** screen time for work and personal life
- **Self-Care:** time reserved for rest, health, hobbies and restoration

As attorneys, boundaries are woven into nearly every aspect of our work — from protocols and client contracts to the way we communicate with clients and colleagues. They are often at the heart of the very matters we litigate, and the reason clients turn to us for advocacy. Clear, well-defined boundaries not only support the efficient functioning of our practices, but also help clients feel informed, confident and certain about what to expect.

### Porous, Rigid or Healthy?

Tawwab suggests three separate categories of boundaries: porous, rigid and healthy. Think about a spectrum with too porous on one end, too rigid on the other end, and healthy in between.

#### *Porous Boundaries*

Porous boundaries are overly loose, inconsistent or unclear. They often show up as:

- Saying "yes" when wanting to say "no"
- Oversharing information
- Feeling responsible for other people's feelings or outcomes
- Absorbing others' stress or pain
- People pleasing at the cost of one's own needs

*In legal practice:* Porous boundaries often lead to overextending, taking on clients' emotional distress as one's own, or permitting clients', colleagues' or judges' expectations to override personal limits. For those with porous professional boundaries, there is a risk of feeling resentful, exhausted or burned out.

### Rigid Boundaries

Rigid boundaries, by contrast, are overly strict or inflexible. They often show up as:

- Saying “no” when it may be more appropriate or enjoyable to say “yes”
- Keeping people at a distance, even when closeness is appropriate or desired
- Not taking responsibility for one’s impact on others
- Disengaging rather than working through challenges
- Being closed off to help or support

*In legal practice:* Rigid boundaries can look like emotional detachment from clients or colleagues, difficulty collaborating or refusing to seek mentorship or feedback. Over time, rigid professional boundaries can create isolation, interpersonal conflict, stalemates and burnout.

### Healthy Boundaries

Healthy boundaries represent a balanced middle ground. Healthy boundaries set clear limits that protect energy, values and integrity while allowing professional engagement and human connection. Healthy boundaries look like:

- Considering options and saying “yes” or “no” with clarity
- Feeling comfortable changing one’s mind
- Sharing information in a way that’s appropriate to the context
- Taking responsibility for one’s own feelings while allowing others to own theirs
- Communicating needs directly, even when it risks conflict
- Fostering connection without compromising self-respect

*In legal practice:* Healthy boundaries enable presence and professionalism without becoming enmeshed in clients’ matters. These boundaries bring a balanced workload with capacity and satisfaction in work. Healthy boundaries promote professionalism, lead to effective case resolution and foster the resilience and enjoyment needed for professional longevity.

### Boundaries in the Legal Profession

Let’s look at how this plays out in law practice. As you review the examples, notice which type of boundary (porous, rigid or healthy) feels most familiar to you.

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### Client Communication

- **Porous:** “I answer client calls, texts and emails outside of business hours. I feel anxious if someone needs me and can’t immediately reach me.”
- **Rigid:** “I refuse to respond to clients outside my office hours. I feel irritated when colleagues contact me after business hours.”
- **Healthy:** “I return messages within a set timeframe and communicate that policy clearly to clients. If I have a trial or meeting, I may vary the times. I feel clear about this boundary and capable of holding it.”

### Work Hours

- **Porous:** “I often work late into the night and through weekends. I do what it takes to get the job done, no matter the toll it takes on me. I feel like I’m always on.”
- **Rigid:** “I work strictly 9 to 5 and never adjust, even if it leaves others in the lurch or might negatively impact a case. I feel inflexible and on guard.”
- **Healthy:** “I protect my evenings and weekends for personal time but adjust when necessary. I feel refreshed when I go to work in the morning and excited about spending time with my loved ones at the end of the day.”

### Billing Transparency

- **Porous:** “I discount my time or don’t record certain hours to avoid client complaints. I feel resentful of my clients and try to avoid conflict.”
- **Rigid:** “I expect clients to accept my invoices as they are. I feel agitated if someone questions their invoice.”
- **Healthy:** “I provide clear, detailed invoices and explain charges if asked, while standing by the value of my work. If a client indicates a problem with an invoice, I feel comfortable taking a second look to see if I made a mistake.”

### Vacation

- **Porous:** “I take my laptop on every vacation and answer emails from clients and colleagues. I feel stressed about missing work emails.”
- **Rigid:** “I disconnect completely on vacation and won’t respond even if something urgent arises. I feel annoyed if anything work-related arises.”

- **Healthy:** “I plan time off in advance, set coverage for urgent matters, and step away to recharge. I feel energized for my vacation knowing there is a clear communication protocol if an emergency arises.”

### Deadlines

- **Porous:** “I rush to meet every deadline, whether real or self-imposed, no matter the cost to my time or energy. I feel rushed and scrambled all day.”
- **Rigid:** “I stick to deadlines rigidly and refuse to adjust, even when circumstances call for flexibility. I feel tense whenever I have a deadline.”
- **Healthy:** “I set realistic deadlines, plan my work around them and communicate proactively if changes are needed. I feel mobilized during the workday and enjoy having time to unwind at night.”

### Client Expectations About Case Outcomes

- **Porous:** “I assure clients I can get them the outcome they want, even when I can’t guarantee it. I ruminate about delivering on my promises.”
- **Rigid:** “I give minimal information and avoid discussing possible outcomes to reduce pressure. I feel worried about having enough work because I often lose clients after the first consultation.”
- **Healthy:** “I’m transparent about potential outcomes in client matters; I’m clear about what is within my control and what is not. I feel at ease when helping clients map a realistic course.”

### Managing Conflict Between Staff

- **Porous:** “I step in to resolve every disagreement, over-investing time and energy in minor conflicts. I feel drained by these interactions.”
- **Rigid:** “I ignore conflicts, letting tension fester without intervention or guidance. I feel incapable of resolving interpersonal conflicts and disappointed when people quit.”
- **Healthy:** “I address conflicts promptly, facilitate communication, and set clear expectations for respectful collaboration. I feel curious about how to find adaptive strategies and confident I have the skills to do so.”

### Delegating Tasks

- **Porous:** “I give unclear instructions when I assign a task. I often take back

tasks if the delegate has questions or complaints. I feel confused about how to get the help I need.”

- **Rigid:** “I find it difficult to delegate any meaningful tasks. I either keep all responsibility to myself or hold too high of expectations for others. I feel frustrated that I have to do everything myself.”
- **Healthy:** “I assign tasks with clear instructions and deadlines and provide support as needed. I allow staff to complete work independently while monitoring outcomes. I enjoy coming up with creative solutions to managing people and projects.”

### Well-Being

- **Porous:** “I overeffort and push myself to keep working no matter what. I feel exhausted and burned out.”
- **Rigid:** “I underperform and avoid challenging cases or high-stress clients to protect myself. I feel dispassionate about what I do.”
- **Healthy:** “I value getting rest, having downtime and taking care of myself physically, mentally, emotionally and spiritually. I feel effective and resilient in my work.”

### Know When to Hold ‘Em

Boundaries are not a “set it and forget it” matter. They require awareness and the willingness to adjust as circumstances and people change. Setting and maintaining healthy boundaries involves tolerating discomfort, whether from others’ frustration, persistence or differing expectations. Ongoing introspection plays a central role in knowing when to hold a boundary or when to adjust. We can check in with ourselves regularly to notice when boundaries feel porous or rigid and make adjustments accordingly.

Somatic awareness is a quick and effective way to guide the process of setting and holding healthy boundaries. For example, constriction in the stomach, shoulders or jaw signals discomfort and may indicate a boundary that is too porous or too rigid or that a healthy boundary has been broken. Alternatively, ease in the body, which could include relaxed breathing and open hands, often indicates alignment with our limits. Awareness of these bodily signals enables us to respond deliberately, safeguarding both limits and our well-being.

## Hope for a Better Boundaried Future

Speaking of boundaries, I have reached my word count! In closing, I offer encouragement about tuning into and adjusting your boundary habits. Remarkably, our brains are neuroplastic, meaning we can learn new behaviors and form healthier habits. You may find that you have healthy boundaries in some areas, and either rigid or porous in other areas. If you relate to either of the unhealthy boundary categories in the examples above, take heart as transformation is achievable. If you notice constriction or discomfort during your day, pause and check whether a boundary needs attention. Small, intentional steps — shifting away from extremes toward center — can gradually strengthen your boundaries and support both your professional effectiveness and personal resilience.

If you are curious about learning more about the complex world of boundaries, delve into Tewwab's book and perhaps, as she suggests, "Stop thinking about boundaries as mean or wrong; start to believe that they're a nonnegotiable part of healthy relationships, as well as self-care and wellness practice." Experiment with healthy boundaries and let me know how it goes! ■

*This article originally ran in the winter 2025 edition of The North Carolina State Bar Journal. It is being reprinted with permission.*

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Laura Mahr is a North Carolina and Oregon lawyer and the founder of Conscious Legal Minds LLC, providing well-being consulting, training and resilience coaching for attorneys and law offices nationwide. Through the lens of neurobiology, Laura helps build strong leaders, happy lawyers and effective teams. After bringing herself back from the brink of burnout with the tools she now teaches, Laura brings lived experience and compassion to thousands of lawyers, judges and support staff each year in her writing, coaching and CLE trainings. Her work is informed by 13 years of practice as a civil sexual assault attorney, 30 years as a teacher and student of mindfulness and yoga, and 10 years studying neurobiology and neuropsychology with clinical pioneers. If you would like help setting healthy boundaries for yourself or your legal team, contact Laura at [consciouslegal-minds.com](http://consciouslegal-minds.com).



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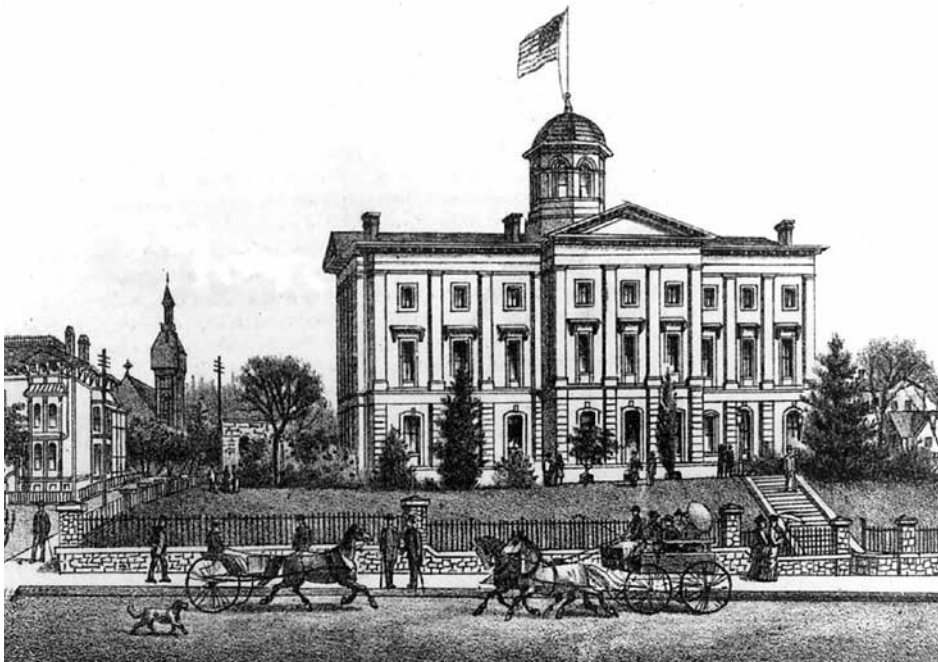
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## *The Oregon Bar Association Began in 1890*

# The Bar's Beginnings

By Gordon B. Dodds & Cathy Croghan Alzner



The courtroom of Federal District Judge Matthew P. Deady in Pioneer Courthouse was the site of the first annual meeting of the Oregon Bar Association.

**Editor's Note:** *This article is an excerpt from Serving Justice: A History of the Oregon State Bar 1890-2000, an OSB book written by Gordon B. Dodds and Cathy Croghan Alzner and published in 2004. Photos are reprinted with permission from the Oregon Historical Society.*

The 1870s saw the creation of the first national organization of lawyers. Meeting in Saratoga Springs, New York, in August 1878, 55 delegates formed the American Bar Association (ABA). The first work of the ABA was carried out through seven committees. Those committees' reports were discussed and evaluated at the annual meeting, which any member could attend and at which any member could debate and vote. The two emphases of these committees were law reform and legal education.<sup>1</sup>

The major issue was the need for uniform state laws, and in 1889 the ABA created a special committee to deal with it head on. Soon, several states had created commissions to work for uniformity, and in 1892, in conjunction with the ABA annual meeting, the first National Conference of Commissioners on Uniform State Laws (representing nine states) was held. Its first model law, which was widely adopted by the states, was the Negotiable Instruments Law, drawn up in 1882.<sup>2</sup>

In the realm of legal education, the ABA's first committee, on legal education and admission to the bar, quickly joined the national movement for reform in legal training. In recognition of its importance, it was transformed in 1893 from a mere committee to the first legal "section" of the organization. Although by the turn of the century most American lawyers were not members

of the ABA, the organization established itself as a force within the profession.<sup>3</sup>

### The Oregon Bar Association Is Formed

These momentous changes in national and professional life were also felt in one of the nation's most distant and lightly populated states — Oregon. Not all Oregonians were traditionalists, proud of the past, secure in the present and complacent about the future. Among those who recognized the need for change was a little band of eminent lawyers who met in Portland in 1890 to form the Oregon Bar Association.

Cyrus A. Dolph, the guiding spirit behind this venture and its first president, led the effort to draw up a constitution and by-laws, form an executive committee and plan the first annual meeting, to be held in the following year. The association's purposes were "to cultivate the science of jurisprudence, to promote reform in the law, to facilitate the administration of justice, to maintain the standard of integrity, honor and courtesy of the legal profession, and to cherish the spirit of brotherhood among the members thereof."<sup>4</sup> Before 1890, 29 states and the District of Columbia had founded bar associations. Besides Oregon, Michigan and Oklahoma founded their bar associations in that year.<sup>5</sup>

### The First Annual Meeting

On Oct. 17, 1891, a pleasant fall day, President Dolph called to order the first annual meeting of the association in the courtroom of Federal District Judge Matthew P. Deady. Dolph was born in New York, came to Oregon in 1859, taught school for a long time, and was admitted to the bar in 1866. In 1883, after a stint as Portland city attorney, he became the senior member of the law firm of Dolph, Mallory, Bellinger, and Simon. Like Dolph, many of the others who attended this meeting were distinguished in blending political and legal careers. Deady

was Oregon's most important judge in the 19th century. George Williams was once attorney general of the United States. Rufus Mallory had been a member of Congress and William W. Thayer had been governor of Oregon. William S. Newbury had been mayor of Portland and Erastus D. Shattuck had been a justice of the Oregon Supreme Court.<sup>6</sup>

After the approval of the minutes of the previous meeting, the delegates elected 28 new members, each of whom had to have been a member of the bar for at least one year. Old and new members then chose officers for the coming year: Lewis B. Box, president; Charles H. Carey, secretary; and Osian F. Paxton, treasurer. They also elected vice-presidents for each of the seven judicial districts and four members of the executive committee.<sup>7</sup>

The morning session closed with an address by the retiring president, who stressed three areas in which bar associations could contribute to the advancement of the legal profession: to enlarge the minds of individual members by giving them contact with other lawyers; to gain the benefit of "fraternal criticism," by which "we shall be incited to greater industry and zeal, and the standard of professional competency will be thereby elevated;" and "to take united action concerning legislation relating to our system of jurisprudence or affecting the material interests of our State." More specifically, and significantly in concert with the first aim of the American Bar Association, Dolph called for the formation of an Oregon Bar Association committee to submit to the state supreme court "for adoption a course of study to be pursued by students at law, and providing also for such a system of examination will guarantee the exclusion of all applicants not possessing requisite qualifications." In light of the later movements for an integrated bar, it is interesting that Dolph did not call for the association to be empowered to admit or disbar lawyers. The president concluded his address by touching on other themes that would engage the association throughout its life: legal ethics, excessive litigation, disrespect for judges, appeals to opinion to influence litigation, and contingency fees.<sup>8</sup>

Following the presidential address and another by Lewis L. McArthur on "The Formation and Adoption of the Constitution of Oregon," the delegates debated and adopted four resolutions — all directed to the Committee on Jurisprudence and Statutory

Reform. The first concerned Multnomah County's reputation as a "divorce mill," where 100-fold more divorces were granted annually than in jurisdictions of comparable population. The committee was to prepare a bill addressing this problem for submission to the state legislature if approved at the next annual meeting. The committee was also to study and report to the next meeting (but not to draw up bills) on "the unnecessary frequency of oaths and affidavits required under the existing laws of the state," the "fees of officers connected with the official administration of justice," and the election of a non-partisan judiciary.

The delegates also thanked the Union Pacific and Southern Pacific Railroads for — as was the custom of the day — providing free transportation to Portland for out-of-city delegates. At the close of their first meeting, the Oregon Bar Association members had set a course that emphasized those national and state concerns — legal education, ethics and legislation — that would engage it for many decades. ■

#### ENDNOTES

1. Walker Lewis, "The Birth of the American Bar Association," *ABA Journal* 64 (July 1978): 999.
2. Lawrence M. Friedman, *A History of American Law*, 2d ed. (New York: Simon & Shuster, 1985), 408.
3. Whitney North Seymour, "The First Century of the American Bar Association," *Ibid.*, 1040.
4. There are no extant records of the association before the report of the first annual meeting in 1891. These records contain the quotation about purposes and reveal the existence of a constitution, bylaws, executive committee and Dolph's presidency. Proceedings of the Oregon Bar Association at Its Annual Meeting, 1891 (n.p., n.d.) 3, 24.
5. Roscoe Pound, *The Lawyer from Antiquity to Modern Times: With Particular Reference to the Development of Bar Associations in the United States* (St. Paul: West Publishing Co., 1953), 273-275.
6. *History of the Bench and Bar in Oregon* (Portland: Historical Publishing Company, 1910, 123-124, 182-83, 278, 198, 274; Malcolm Clark, Jr., ed., *Pharisee among Philistines: The Diary of Judge Matthew P. Dedy, 1871-1892*, 2 vols. (Portland: Oregon Historical Society) 2:618-19.
7. *Proceedings*, 1891, 7-12.
8. *Ibid.*, 22-38.

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# BAR NEWS

## Retake Your Oath May 21

In honor of Law Day and in celebration of the Rule of Law, the Oregon Supreme Court and the Oregon State Bar invite all licensees to retake their oaths of office, in conjunction with the spring Swearing-in Ceremony. Participants can join in person and welcome our newest colleagues into the legal profession at 1:30 p.m. at Smith Hall, Willamette University College of Law in Salem; or they can join the ceremony from across the state (or country!) via Zoom. The Oregon New Lawyers Division will host a reception following the program in Salem. Participants at last year's event found the program moving — we hope you can join. For more information, see [osbar.org](http://osbar.org).

For a history of the Oath of Admission to the Oregon State Bar, see the April edition of the *Bulletin*.

## Law Month 2026: Volunteer Opportunities

May is Law Month, when the legal profession comes together to celebrate and support the Rule of Law, including an independent judiciary, a fair and accessible justice system and strong checks and balances among the three branches of government. One of the most impactful things that licensees can do to support the Rule of Law is to volunteer their skills to those in need of legal help. The OSB has created a calendar of events happening at legal nonprofits in the month of May. We encourage you to take a look and volunteer. See more at [osbar.org](http://osbar.org).

## Navigating the Demands of Practice CLE and Workshop

Legal practice places heavy demands on the cognitive skills that support executive functioning. This two-part presentation will bring together mental health and practice management professionals to offer complementary perspectives on these challenges. In part one, the Oregon Attorney Assistance Program will address the human and cognitive experience of working under pressure. In part two, the Practice Management Assistance Program will provide practical, systems-based

approaches that reduce cognitive load and support a sustainable practice. The cost is \$15 and includes lunch. This is approved for one MHSU and one Practical Skills MCLE credits.

The seminar will be held in two locations: 1) Wednesday, May 20, from 12-2 p.m. at the Hallmark Resort in Newport and 2) Wednesday, June 3, from 12-2 p.m. at the Wild Horse Casino in Pendleton. For more information and to register, go to [osbplf.org](http://osbplf.org) > Services > CLEs & Resources > CLEs.

## MCLE Reporting Deadline Is June 2

The deadline to electronically certify and submit MCLE reports for licensees whose reporting period ended April 30 is Monday, June 1. OSB licensees must complete 45 MCLE credits in each three-year reporting period. Special requirements apply to newly admitted and reinstated members. To view your MCLE reporting status, visit [hello.osbar.org](http://hello.osbar.org) and view your online dashboard. More details about MCLE reporting can be found at [osbar.org/mcle/index.html](http://osbar.org/mcle/index.html).

## PLF Excess Coverage is Essential for Non-Oregon Attorneys

All non-Oregon attorneys (attorneys with a principal office outside of Oregon and/or attorneys who do not participate in PLF primary coverage) must be formally added to a firm's excess coverage via amendment upon joining the firm. PLF excess firms can request coverage for a non-Oregon attorney by emailing [excess@osbplf.org](mailto:excess@osbplf.org).

## 2026 OSB Awards Nominations Due June 3

Nominations for the 2026 OSB Annual Awards are due by 5 p.m. on Wednesday, June 3. Electronic submissions are preferred and should be sent to [cpetrecca@osbar.org](mailto: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 [osbar.org/osbevents](http://osbar.org/osbevents).

## Take Necessary Steps to Receive OSB Emails

The OSB sends all regulatory notices via email to the email address we have on file. Because of the vital nature of these communications, please be sure to keep your email address current in our system. Also, have your IT team add the IP address (205.201.41.151) and sending domain ([informz.net](http://informz.net)) to your allow list. If you need assistance updating your system, email [it-support@osbar.org](mailto:it-support@osbar.org). ■



## Welcome, Hank Paillet

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# 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.*

### EMET JOEL KLEPPER

OSB #173909  
Portland  
30-day suspension

Effective Feb. 11, 2026, the disciplinary board approved a stipulation for discipline and suspended Portland lawyer Emet Joel Klepper for 30 days for his violations of RPC 1.3 (neglect of a legal matter), 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) and RPC 1.4(b) (failing to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation).

Klepper undertook a breach of contract action on behalf of his client and several months after filing a complaint, the circuit court issued a notice of dismissal for lack of prosecution. Klepper did not take action in response to the notice and his client's case was dismissed. Klepper then delayed telling his client that her case was dismissed for more than two months, despite communicating with her about other matters. When Klepper disclosed the dismissal to his client, he suggested that she find a new attorney but also told her that he was still willing to work with her. Klepper's client asked Klepper to keep working on her case, but he did not do so and told her that he would not do so if she was going to hire new counsel. Approximately one month later, Klepper sent his client copies of case documents, an accounting of his time and discussed the next steps that his client should take, but did not actually state that he was withdrawing. In response, Klepper's client sent him a series of questions about the posture of her case and what he intended to do, but Klepper did not respond. Several weeks later, the client sent

Klepper a text message asking for a response, but Klepper still did not respond.

The stipulation acknowledged that Klepper's conduct was aggravated by his multiple offenses. Klepper's conduct was mitigated by an absence of a prior record of discipline, absence of a dishonest or selfish motive, full and free disclosure to disciplinary board, and a cooperative attitude toward proceedings.

### REBECCA SIRIUS FRITCH FLANAGAN

OSB #131938  
Portland  
30-day suspension

Effective March 13, 2026, the disciplinary board approved a stipulation for discipline and suspended Portland lawyer Rebecca Sirius Fritch Flanagan for 30 days for her violations of RPC 1.16(c) (duty to comply with notice to or permission of a tribunal when terminating representation), RPC 1.16(d) (duties upon termination of representation) and RPC 8.1(a)(2) (duty to respond to disciplinary inquiries).

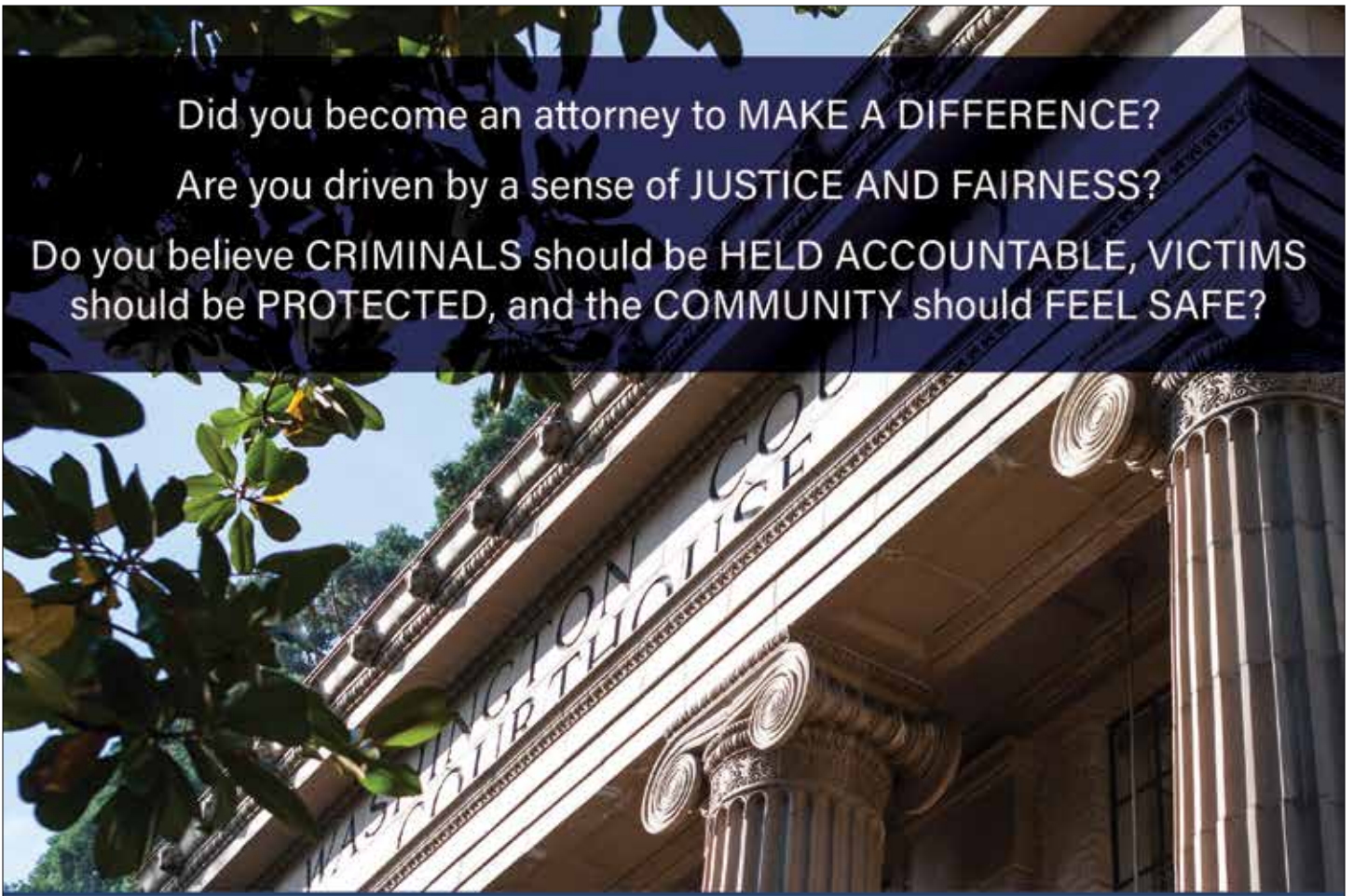
While representing clients in a probate matter, Flanagan temporarily closed her practice. After the closure exceeded the period originally anticipated by Flanagan, she constructively withdrew from representing her clients but failed to comply with court rules to formally withdraw and failed to notify her clients that she would no longer represent them. After the clients complained to the bar, Flanagan failed to respond to the disciplinary counsel's office's inquiries regarding her conduct.

The stipulation acknowledged that Flanagan's conduct was aggravated by her multiple offenses. Flanagan's conduct was mitigated by an absence of a prior record of discipline, absence of a dishonest or selfish motive, and personal and emotional problems. ■

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## Among Ourselves



Miller Nash attorney **Incainti Sofia McDonald** was recently appointed to the board of directors of the Turnaround Management Association's (TMA) Northwest Chapter. TMA is

a community of professionals who work to save businesses in financial distress. Members work with companies to improve performance, manage disruption, restructure, work through insolvency, preserve equity and ultimately improve financial results. As a member of the board of directors of the Northwest Chapter, McDonald helps develop educational programs, networking events, forums and conferences for members that span from Oregon and Washington to British Columbia and Alberta. ■

## Moves



**Heather A. Kmetz** was elected Sussman Shank managing partner effective Feb. 2. Kmetz brings a wealth of experience to her new role, having served as a member of the management committee

since 2022, chair of the tax and trusts, and estates practice groups, and former chair of the firm's business practice group.

**Connor King** has become a Watkinson Laird Rubenstein shareholder. King maintains a civil litigation practice representing plaintiffs and defendants in business, real estate, trust, probate and estate disputes, as well as government agency complaints, citations and violations. The firm also welcomes **Christine Boone** to Watkinson Laird Rubenstein. Boone represents clients in

civil litigation and is committed to providing thoughtful, effective advocacy.



**Stephanie Lynch** and **Mariel Combs** have partnered to form Portland-based law firm Lynch & Combs. They specialize in federal Indian law and natural resource issues affecting federal lands

and waters. Lynch's experience includes nearly 30 years in the Office of the Solicitor, United States Department of the Interior. Combs holds expertise in public lands management and has more than 20 years of experience advising federal and state agencies, nonprofits and the New Zealand Department of Conservation.



Davis Wright Tremaine recently welcomed two attorneys to its Portland office. **Paul Powell** advises

clients on complex communications and technology issues, including regulatory compliance, spectrum policy and FCC licensing. **Kasey Lee** advises companies on employee benefits and executive compensation, including retirement plans, equity incentives, and health plans, with a focus on ERISA and tax compliance in corporate transactions.



**Natalie Thorp** has joined Perkins Law as a non-equity partner. She focuses on family law, including complex divorce, highasset marital property and retirement division, child custody and parental rights matters, and appellate work.

In addition to her legal practice, Thorp co-

owns and manages a multi-entity business, providing her with practical insight into financial and business issues that frequently arise in family law disputes.



Cable Huston has added two new attorneys. **Eileen Eakins** has joined the firm as a partner in its municipal and energy groups. She brings extensive experience providing general counsel services to local government clients throughout Oregon. **Colin Milton**



has joined the firm as an associate in its litigation group. Milton's practice is litigation-oriented with a focus

on defending public entities. ■

## In Memoriam

**Warren Taft DeLaVergne**, 97, of Drain, passed away peacefully March 6. He was the



son of Wellington and Ella (Taft) DeLaVergne. He was born Oct. 31, 1928, in Huntington Beach, California, later moving to Creswell before entering the Army and finishing his law degree at the Universi-

ty of Oregon. Warren was a veteran, lawyer, justice of the peace and a successful commercial fisherman. He loved music and was an accomplished accordion player.

Warren was a devoted husband, caring father and cherished friend to many. His kindness, wisdom and unwavering support touched the lives of all who knew him. His career was law, but his love was fishing with his wife Margaret, tending his fruit trees in Arizona and sitting in the Arizona sun. He encouraged his children to strive for success

whether it was college, sports or hobbies. They traveled with their parents, creating lasting memories for their family.

Warren was a member of the Oregon State Bar, American Legion, Veterans of Foreign Wars, Masonic Lodge and the Sunnydale Grange.

He is survived by his wife of 72 years, Margaret, his two daughters, Muriel DeLaVergne-Brown (Bob) and Karen Ping (Barry), along with grandchildren, Sandra Beers, Michael DeLaVergne, and Steven Kasinger, along with two great-grandsons, Junior and Drake. Warren was preceded in death by his son, Warren Taft DeLaVergne, Jr., along with his parents and sisters Eleanor Tichenor and Virginia Fox.

**Stephen Thomas Boyke** was born on Oct. 30, 1953, in Chicago, Illinois, and grew up in the suburb of Palatine. He passed away from throat cancer on August 18, 2025. In his youth, Steve began his lifelong commitment to music practice and study, soon becoming a brilliant guitarist.

Steve completed a five-year program at the University of Illinois Urbana-Champaign and graduated in 1979 with a bachelor of music degree in classical guitar performance. He chose to attend the University of Oregon School of Law, where he earned his J.D. degree in 1988 and was awarded the Order of the Coif.

Steve had a long and successful career as a lawyer, and he will be missed by the close-knit community of insolvency practitioners in the Pacific Northwest. Steve's practice, which spanned more than 40 years in Portland, focused on representing debtors and bankruptcy trustees in commercial bankruptcy cases. He was a partner for many years at Greene & Markley. Steve taught CLE seminars to other lawyers, both statewide and regionally, over the course of his distinguished career. In 2008, he established his private practice of law in Portland. At the end of 2023, after he turned 70 years old, he retired.

Steve took great pride and fulfillment in having helped so many people in some of their darkest hours with their devastating

legal problems. He was gifted with the rare ability among practicing lawyers to analyze and present complex financial data. He was also a pioneer in using what was in the 1980s "new" computer technology to aid his financial analysis and assist in his presentation of "the numbers" to opposing counsel and the courts. He could make what often seemed confusing and incomprehensible clear to others. Steve was also a pioneer in the use of Chapter 13 bankruptcy to aid individuals facing the grim prospect of the entry of a huge judgment against them. He brought hope to these people when all seemed hopeless. He found solutions to problems many practitioners found insoluble.

Steve left behind an extended family, both in the Portland and Chicago areas, including his wife, Anne Harris; his children, Brian Bentz (Joanna), Heather Davis-Boyke (Spencer) and Weston Boyke; his stepchildren, Christopher Harris, Arielle Jacintho (Troy) and Davey Griffiths; his grandchildren, Madison Bentz and Brian Bentz Jr.; his step-grandchildren, Nikko

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Bolivar, Arianna Bolivar, Athena Jacintho and Tiberius Jacintho; and his sister Meredith Johnson (Greg).

**Stephen Loyal Griffith**, of Portland, died in a falling accident on Chimborazo, Ecuador, on Feb. 12. He was an avid mountain climber, hiker and biker.



Steve was born Dec. 9, 1945, in Washington, D.C. to Ernest and Margaret Griffith. He attended Sidwell Friends School, a PK-12, in Washington, D.C. Steve went on to Harvard University (B.A. 1967), University of Oxford (M.Phil. 1969) and Stanford University of Law School (J.D. 1977). He married Christine Dickey in 1981.

His career began as a U.S. Peace Corp volunteer serving and teaching in Liberia (1970-72). He clerked for Hon. James Burns, U.S. District Court (1977-78), was

on the Oregon House Judiciary Committee (1981) and was with Stoel Rives from 1979-2015. After retirement, he served as a visiting professor for Royal Thimphu College, Thimphu, Bhutan, and visiting lecturer for Jigme Singye Wangchuk School of Law, Thaba, Bhutan.

Steve received the OSB Public Service Award in 2014. He was on the Board of Bar Examiners, was a sought-after speaker and occasional column writer for the *Bulletin*.

His volunteerism was vast. Steve was a board member for Metro Crisis Intervention Service, City Club of Portland, The Wilderness Society, FACES Foundation and Chanticleer. He also gave time to the Portland School Board (two terms, chairperson four times), Oregon Youth Soccer Association (1988-1995) and the Lincoln High School Constitution team in the “We the People” competition (won state 10 times, national four times) and De LaSalle North Catholic High School Constitution team. He was the founder or co-founder of For Our Children’s Future, Mission: Citizen, Portland Youth

Choral Festival and Portland Supreme Court Project.

Steve was an accomplished pianist and member of Harvard Glee Club (world tour 1967), St. Andrews Presbyterian Church choir and Portland Opera Chorus (1978-84).

Steve is quoted as saying, “I just enjoy working with young people. I like to show them how the world works, how interesting it is, how many opportunities there are for them to make a difference, and how much potential they have.”

Steve’s thoughts on life can be found in the article and video on this site, *thebeer-chaser.com*.

In 2015, Steve and Christine were inspired to start The Garden School, a preschool in Gbarnga, Liberia. It opened in 2019. Memorials will help fulfil his dream of an endowment for the school (*thegardenschoolliberia.org*).

A memorial celebration is set for June 7, 2026, at 2 p.m. at the Lincoln High School theater auditorium, 1750 SW Salmon St, Portland. It will be live-streamed. Contact *christine.l.dickey@gmail.com* for details. ■

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

**ASSOCIATE ATTORNEY** – Criminal Defense/Family Law. We are a full-service family law and criminal defense firm providing services throughout Oregon and are seeking an associate divorce and family law attorney. We are seeking a licensed attorney to provide excellent representation to our clients on a variety of matters in the Portland Metro area. Requirements and Qualifications: JD from an accredited law school. License to practice law in Oregon. Litigation experience (1-2 years preferred; less for the right candidate). Benefits: Medical, Dental and Vision Insurance. Aflac options. Quarterly bonus. IRA retirement matching up to 3%. Firm pays OSB dues, malpractice insurance, and for up to 15 CLE credits per year. Compensation will depend on experience but will be competitive with salaries from the Oregon State Bar Economic Survey. Please email cover letter, resume, law school transcript (if a recent graduate) and references to: assistant@romanolawpc.com.

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**SEEKING AN SPPE SUPERVISOR** – My name is Rosa Leyva, and I am a graduate of the University of Idaho College of Law. I am passionate about criminal defense and committed to protecting the constitutional rights of all individuals within a justice system that often falls short of that promise. I gained practical experience working with Elkhorn Public Defender, where I developed a strong interest in advocating for clients facing serious legal challenges. While criminal defense is my primary passion, I am open to opportunities in other areas. I am also open to working on a contract basis and offer all areas of case support. **Contact:** [121218rosa.leyva@gmail.com](mailto:121218rosa.leyva@gmail.com) or 208-860-0557.

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The first business day of each month for the following month's issue.

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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:

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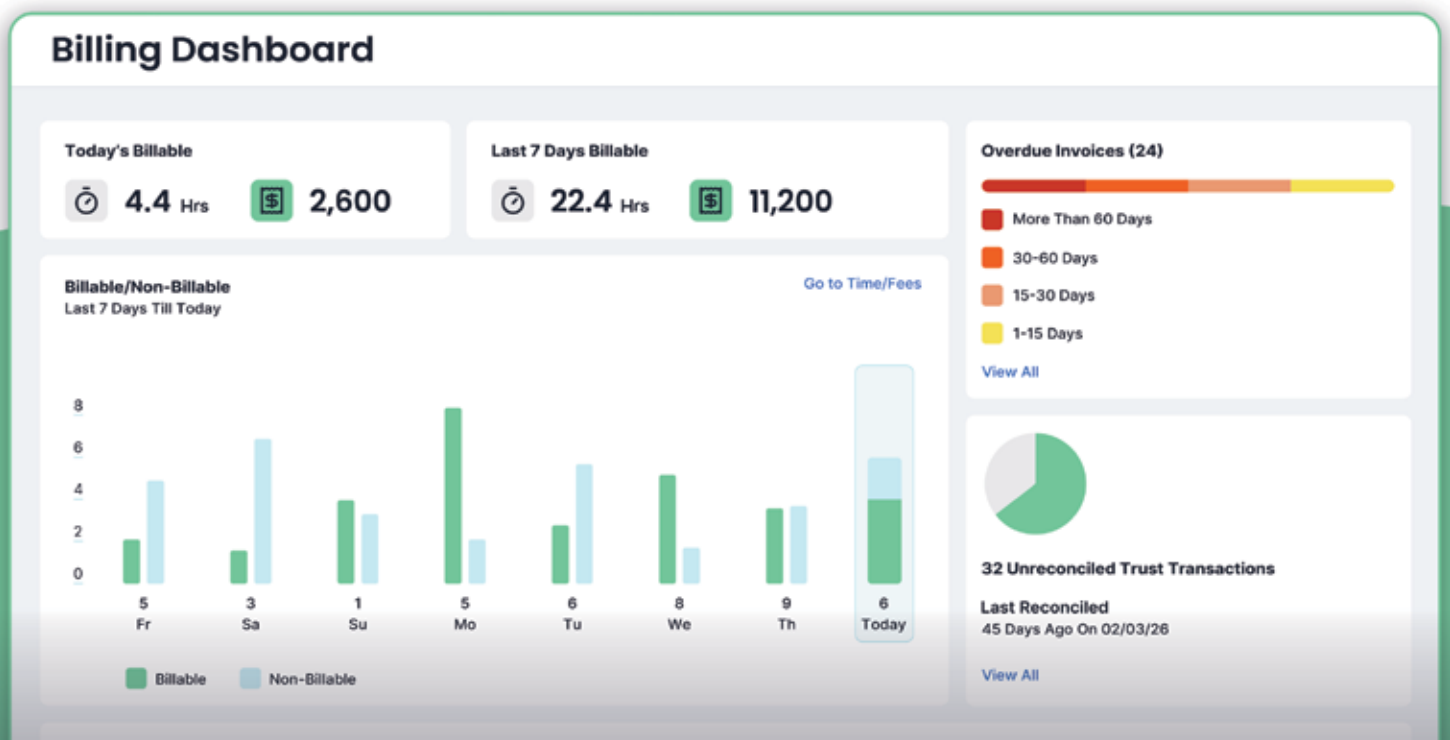
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## *Photo Finish*

Cathy Petrecca, the Oregon State Bar's licensee and volunteer engagement manager (and an OSB licensee), took this picture last year. "My daughters and I rented a house across from Whalen Island, on the Sand Lake Estuary, just north of Pacific City for a weekend getaway. My youngest went to practice her fly-fishing in the evening, and I lucked out with this shot. We saw great blue herons, bald eagles, loons, turkey vultures, hummingbirds, ospreys diving for fish and cormorants. All the birds!" ■

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](mailto: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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# 2026 OSB Annual Awards CALL FOR NOMINATIONS

The nomination deadline for the 2026 OSB awards honoring Oregon's most outstanding lawyers, judges and others is

**Tuesday, June 2, at 5 p.m.**

Nomination criteria, forms and other information about the following awards can be found at [www.osbar.org/osbevents](http://www.osbar.org/osbevents)

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For additional information, please contact  
Cathy Petrecca at (503) 431-6355 or [cpetrecca@osbar.org](mailto:cpetrecca@osbar.org)