



WASHINGTON COUNTY BAR ASSOCIATION

January-March 2010

NEWSLETTER

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The Lawyers' Campaign for Equal Justice

Investing in access to justice in Oregon

By Larry A. Brisbee, Washington County Chairman

The time has again arrived for all Oregon lawyers to rise and stand tall in support of what we all seek: equal access to justice for all persons in our community. The Campaign for Equal Justice, a unique opportunity for lawyers, has begun the 2009-2010 campaign to raise funds to support legal aid in Oregon for those who cannot afford to have even the most fundamental of legal rights protected.

To help in understanding the magnitude of the ongoing problem, I offer a few nuggets of information of which you may not be aware. This may provide some additional insight into how serious the problem is for those without financial resources:

- 1) To be eligible for legal aid services, one must qualify under the federal poverty income standards. Families on food stamps and temporary assistance to needy families (TANF) would ordinarily qualify. More than 700,000 low income and elderly Oregonians qualify for legal aid services, but only a fraction are able to get the legal aid they need because of limited resources.
- 2) Legal aid assistance is limited to high-priority needs (food, shelter, medical care, income maintenance and physical safety). About 40% of the cases deal with family law matters helping victims of domestic violence.
- 3) The poverty population in Oregon has significantly increased and it is not getting any better. Here in Washington County alone, a place close to all of us, the increase in applications for benefits by those who qualify under the federal poverty income standards over the period October 2007-June 2009 reached more than 70%.
- 4) Unemployment in Oregon has reached an all-time high, with more than 100,000 jobs simply disappearing. Literally thousands of Oregonians will soon lose the safety net of unemployment benefits.
- 5) A study jointly sponsored by the Oregon State Bar, the Oregon Judicial Department and the Office of the Governor, found that less than 20% of the legal needs of low income Oregonians are served each year.

Until one stands in the position of having a real need for legal help that cannot be met, there is no way to fully appreciate the feeling of helplessness and often abuse exerted by those in a position of power. This is what The Campaign for Equal Justice has endeavored to meet and defeat. This does not mean that those who seek the help of legal aid lawyers have an unfair advantage. Quite to the contrary, it means that everyone is on a "level playing field." The

Continued next page

inability to gain access to our legal system is the fallout from poverty and it takes time, effort and money to assure reasonable access.

The concept of “paying it forward” has received a fair amount of notoriety in developing goodwill. So it is here, in a somewhat different context that you can make an investment in the justice system that has enabled all of us to pay forward and do our part in making sure that those in the greatest need will not be foreclosed from meaningful access to justice, particularly when the need is greatest.

I recognize that the current state of the economy does not bode well for charitable causes. For those who are able, I encourage generous giving to this very worthy cause for which Oregon lawyers have received national

recognition for stepping up to be counted. The point is not so much how much you are able to give, but that you give what you can, big or small.

You have no doubt received and probably seen brochures and letters nudging you to financially support The Campaign for Equal Justice. You will receive at least one more letter on this subject and that will be coming from me. Join with me in doing our part to ensure that more of those in real need can have meaningful access to our justice system.

Spotlight on Judge Charles Bailey

By Rachel Houston



Judge Charles Bailey

Judge Bailey was born in Alabama and moved to Oregon when he was two years old. He grew up in Oregon and spent time in Oklahoma during the summer months visiting family. His father served in the Army and his mother worked in a family owned business coordinating community events.

Judge Bailey attended Lakeridge High School in Lake Oswego and pursued his college degrees, which he began at Southern Oregon in Ashland and completed at the University of Oregon. While at the University of Oregon he double majored in Political Science and Sociology. He attended law school at the University of Oregon.

One of his first jobs while in school was working for his family’s business as an events’ coordinator on projects ranging from the Blues Festival in Portland to county fairs in Jackson and Deschutes counties. While in law school, he worked as a legislative assistant for Tom Brian, then a state representative. This is where he saw how laws are written and realized politics was not his cup of tea. After law school, while still working for his family’s event business, Judge Bailey was hired as a floating clerk in Multnomah County. Eventually, his work as a floating clerk led to his being hired by Judge James R. Ellis. Judge Bailey has tremendous respect for Judge Ellis, especially his common-sense approach to law. In 1998, Judge Bailey

began his work with the Washington County District Attorney’s office beginning with misdemeanors and then moving to the Juvenile Court system.

After his work as a prosecutor in the Juvenile Court, he continued his prosecution career on the Child Abuse team. He found his job on the Child Abuse team was one of the most fulfilling parts of working as a prosecutor by helping children through the criminal justice system. He learned that not only were some of the children self-reliant, but also brave and spirited; they had to be, in order to disclose the abuse to the Grand Jury and testify at trial. But he also observed an innate spirit of strength in a quite a few children while talking with them throughout the process. This taught him just how difficult it had to be to make the disclosures of abuse and then proceed with telling their stories.

Judge Bailey worked as a prosecutor until his election in November 2006, when an open position became available for judicial office. He credits his wife and family’s support while he was running for judge as a large part of his success. He is especially proud of his family and says that his wife Marie is also his best friend. He recognizes that it was her efforts and sacrifices during his campaign to run for judicial office that helped him focus on the task of becoming elected. She managed a larger role of parenting their three children. He acknowledges her hard work and support as a partner throughout his career.

Judge Bailey’s court manages the Position One docket

which includes: 1) Criminal Probation Violations; 2) Small Claims Court - on Tuesday and Thursday mornings; 3) Forcible Entry and Detainers (FED); and 4) Criminal Preliminary Hearings – Fridays. The court has a Special Assignment pertaining to DUII Diversions, which he administers. Judge Bailey’s belief regarding probation violations is one of personal accountability on the defendants; conditions of probation must be fulfilled, with the defendant understanding the expectations of probation.

The most rewarding aspect of Judge Bailey’s job is performing weddings, since this event is one of celebration, and not conflict. The most challenging aspect of his position as a judge was when he worked as a Family Court judge, deciding child custody cases. Looking out for the best interests of the children presented competing challenges between loving and yet fighting parents.

Judge Bailey’s judicial style is to expect professionalism and preparation by attorneys. He commands an understated presence in his courtroom by making certain the focus is on litigants, attorneys presenting the cases, and jurors deciding those cases.

Judge Bailey finds time to volunteer for the Beaverton area Little League. He volunteers as the equipment manager and actively coaches his children’s teams. He believes in actively volunteering in a few organizations

that allow for a balanced approach to life through his work, family life, and community involvement. Prior to his election on the bench, he volunteered for the Domestic Violence Resources Center and served a chair of the board.

Recreation for Judge Bailey includes a variety of sports such as football, baseball, basketball and golf. His favorite football team is the Dallas Cowboys, who are America’s team. He also enjoys woodworking and hunting deer, elk, grouse, and pheasant. He and his family like to go on camping trips. And his favorite food is a medium rare steak (with a baked potato on the side).

Judge Bailey’s commitment to his job is to work as efficiently as possible with the limited resources and staffing currently available. He places an emphasis in criminal law, balancing both the rights of the criminal defendants and a victim’s right to be heard in court. During the sentencing process, Judge Bailey considers the risk of harm the defendant presents to the community along with the rehabilitation aspect of the defendant. It is important to him that litigants get their day in court and walk out believing their side of the story was heard by him.

ADVERTISE
WCBA Newsletter Contact: Julie Viner
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Newsletter Ad Rates Per Issue:
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- Business card size (2”x 3 1/2”)..... \$15/\$30
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- Half-page (5 1/2” x 8 1/2”) \$90/\$130

Note: ad sizes may be changing.

These ads will stand out and reach our county bar membership. Please send your ad one month prior to publication, along with payment, to:

WCBA, PO Box 912, Hillsboro OR 97123
Any questions, call 503.648.0300

ADVERTISE ON THE WASHINGTON COUNTY BAR WEBSITE

\$100 per year includes a link to your firm’s web site and one update for free.

Contact Julie Viner at wcba.association@verizon.net for more information.

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Please contact Julie Viner, our Administrative Assistant, with any questions regarding membership, meeting reservations, newsletter articles or classified ads. Leave a brief message (60 second limit) on our answering machine and she will get back to you as soon as possible.

Articles for the newsletter may be emailed directly to Carol Hawkins at wcbanews@comcast.net.

Letters, awards and other news items, and announcements are welcome. Articles by members are accepted. All submissions are edited for length, clarity and style, and are published on a space-available basis, at the editor’s discretion. Views expressed in articles are not necessarily those of the association. This publication does not purport to offer legal advice.

President's Message

By Elizabeth Lemoine, WCBA President



Elizabeth Lemoine

Dear Colleagues,

One of the perks of my position as President of the WCBA is that I was a delegate at the Oregon State Bar House of Delegates Meeting, which was held this year on November 6, 2009. Going into the meeting, I had a basic understanding about the function and purpose of

the group. I also had an idea of the resolutions that would be presented at the meeting, courtesy of small regional meetings that were held prior to the statewide event. What I didn't comprehend beforehand, however, was the breadth of representation throughout the state of Oregon. Attorneys from counties in every corner of the state, including those from large firms, small firms and solos, all presented compelling arguments regarding the various resolutions. It was surprising to see where they agreed and where they disagreed. One of the resolutions that created the most attention and discussion was the adoption of an Oregon Rule on Professional Conduct regarding pro bono service. It read as follows:

Whereas, the Board of Governors has formulated the following amendment to the Oregon Rules of Professional Conduct pursuant to ORS 9.490(1); and

Whereas, The Oregon State Bar House of Delegates must approve any changes in the rules of professional conduct before they may be presented to the Oregon Supreme Court for adoption pursuant to ORS 9.490(1); now therefore, be it

Resolved, That the addition of the following Rule 6.1 to the Oregon Rules of Professional Conduct is approved and shall be submitted to the Oregon Supreme Court for Adoption:

Rule 6.1 Voluntary Pro Bono Publico Service

Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least (50) hours of pro bono publico legal services per year. In fulfilling this responsibility, the lawyer should:

(a) provide a substantial majority of the (50) hours of legal services without fee or expectation of fee to:

(1) persons of limited means or

(2) charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means; and

(b) provide any additional services through:

(1) delivery of legal services at no fee or substantially reduced fee to individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civic, community, governmental and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate;

(2) delivery of legal services at a substantially reduced fee to persons of limited means; or

(3) participation in activities for improving the law, the legal system or the legal profession.

In addition, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means.

The responsibility set forth in this Rule shall not be enforced through disciplinary process."

Presented by Barbara DiIaconi, Region 1, Board of Governors (Reprinted from the House of Delegates Meeting Agenda.)

Some of the arguments in favor of the resolution included the fact that we are one of only a very few states that does not have an aspirational standard for pro bono service in our professional rules, that the current economic conditions dictate a stronger need for pro bono work, and that the rule would encourage more pro bono work. The arguments against included that the rule was on a "slippery slope" ("this rule may not be mandatory, but the next one could be"), that many small firms and solos could not afford to follow the rule, and that it excludes the non-legal volunteer work that many of us already perform with our public schools, little league teams, churches and community organizations. I thought the most interesting argument against the resolution was that even though it is aspirational, if an attorney was not able to meet the standard, didn't that make him or her "not professional"?

In the end, the resolution did not pass. Proponents of the resolution, however, say that this proposal, or some other version of it will likely be presented in future HOD meetings. HOD meetings are open to all attorneys and all are welcome to attend. I highly recommend it.



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What's New at the Washington County Law Library

By Laura Orr, Law Librarian

County law library news

The Washington County Law Library has a new website, www.co.washington.or.us/LawLibrary.

Check out the "Oregon Lawyer Research Links and Documents" webpage. The URL is www.co.washington.or.us/LawLibrary/lawyer-links.cfm.

You may also link directly to the Oregon Legal Research blog for legal research tips and announcements: oregonlegalresearch.blogspot.com/

Contacting the law library

Please feel free to call upon us if you have legal research, legal database, or legal publication questions. All Oregon law librarians work together to serve the legal community's legal research needs.

Washington County Law Library
111 NE Lincoln
Hillsboro OR 97124
Phone: 503.8468880
Email: lawlibrary@co.washington.or.us
URL: www.co.washington.or.us/lawlibrary
BLOG: oregonlegalresearch.blogspot.com/

Military law questions?

Do you have questions about veterans and active members of the military? There is a lot of help from the OSB and a network of Oregon attorneys:

1. The OSB *Bulletin*, July 2009 issue, was chock full of information on military law and Oregon lawyers.
2. The OSB website (www.osbar.org): Look for the "Oregon State Bar Military Assistance Panel"
3. PLF: The PLF February 2009 issue of In Brief article: "YES, You DO Need to Know About SCRA (Service-members' Civil Relief Act)"
- 4) PLF: "The One for All: What Every Practitioner Must Know about the Servicemembers' Civil Relief Act (SCRA)." March 6, 2009 CLE, sponsored by the OSB Military Assistance Panel, the PLF, and the Oregon State Bar.

CLE course materials

Your law library still purchases many OSB, OLI, and MBA CLE course materials that you may borrow and use for credit toward your MCLE requirements. You may check out up to three book-CD sets at a time. But

remember, in November and December, the checkout period is five calendar days, not the usual 10 days, and no renewals will be allowed for current CLE materials. (Other law library materials may still be checked out for up to 10 days). From January through October, CLEs may be checked out for 10 days.

Visit the law library website for a list of our current CLE holdings.

CLEs, and any law library circulating material for that matter, must be checked out, in-person, by a member of the OSB. You may mail them back to us or send them via messenger, hired or volunteer.

Overdue Law Library Materials

Stay out of the law library doghouse!

The law library has new checkout, renewal, and overdue materials policies, which you can read the next time you check out books. We still do not charge fines, but we do take other dogged steps if you forget that the book(s) you borrowed are not yours to keep (other lawyers want to use them too - who knew?) or if you neglect to respond to our phone calls or email messages.

We will:

- Phone and/or email you with due date reminder.
- Send you an overdue letter and a copy of the checkout policy.
- Send you an invoice for the price of the item(s).
- Notify the Washington County Bar Association law library committee (including the judges who serve on the committee) to ask if they know of extenuating circumstances or any other reason we should not contact the Oregon State Bar about your overdue books.
- Contact the Oregon State Bar to report your failure to return law library books or pay the replacement charge.

The law librarian, the Washington County law library committee, and the OSB take it seriously when lawyers don't return law library materials. Our letter to you says this: "We call your attention to OSB Rule of Professional Conduct 8.4(a) and ORS 164.005, 164.015, 357.975 & 357.990."

Classifieds

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Calendar of Events

Upcoming WCBA Newsletter Editorial schedule

- Next WCBA Newsletter deadline is March 1, 2010 (for the April-June quarterly issue).

Please submit your articles, calendar items and other news copy to Carol Hawkins at wcbanews@comcast.net by the deadline, preferably in Word or Rich Text Format. Please include a high resolution digital photo of the event or article author.

Schedule of Business Meetings, CLEs and Social Events

Washington County Bar Association

* All WCBA CLE programs are \$15 for those who register in advance and \$20 for those who register at the door. The nonmember rate is \$25. **Please register so we know how many CLE packets we need to prepare.**

WCBA meetings are now the third Wednesday every month just prior to the CLE and dinner meeting.

WCBA CLEs for 2010

We have a great line up for the 2010 Dinner CLEs, which include:

February 10

Bob Rosenthal will present a CLE on QDROs
Members of the Oregon Court of Appeals will be our dinner guests.

March 10

Search and Seizure CLE by DOJ
Members of the Oregon Supreme Court will be our dinner guests.

April 14

Possible Judicial Candidates forum (TBA)

May 12

David Markowitz will present a CLE on Depositions

June 9

Annual Barbecue Picnic at Hillsboro's Rood Bridge Park

See our information regarding Season Ticket options and using PayPal in this newsletter!

Brown Bag CLEs have moved from the 3rd Monday to the 3rd Thursday of every month.

Please join us for exciting CLE presentations at the courthouse annex, 180 E Main St., from 12 noon until 1 p.m. \$15 charge at the door pays for the one hour CLE credit. Season passes are also available for all CLEs.

February 18, 2010

Education Law: Everything you need to know about IEPs and Section 504 Enforcement

Sydney Brewster of Brewster & Mayne

March 18, 2010

Basic Estate Planning

Susan Snell of Martin, Elliott & Snell

April 15, 2010

Family Law and Same Sex Couples – Issues in formation and dissolution of domestic partnerships

Kimberly Brown

May 20, 2010

Criminal Law: The fall out of the Machuca decision

Pete Gartlan, Office of Public Defense Services

June 17, 2010

Employment Law – TBA

July 15, 2010

Juvenile Law – TBA

August 19, 2010

Pitfalls of Military Divorces in Oregon

Anthony Wilson

September 16, 2010

Business Law – TBA

October 21, 2010

Defending Collection Actions: Can they do that?

Brett Knewtson

November 18, 2010

Ethics – TBA

WASHINGTON COUNTY BAR ASSOCIATION

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Court News from Presiding Judge Tom Kohl

Civil news

The court recently completed a civil case management analysis to review and more fully understand our civil case flow. This study also included comparisons to our criminal case management – time to trial, set over rates, number of jury trials, etc. – and some comparisons to other metro area courts. The full report is on our website: courts.oregon.gov/Washington/Services/Civil/civil_main.page?

Family law news

A similar case management analysis for Family Law is nearly completed (see CIVIL NEWS). Once we have the final report, it will also be posted on our court's web page.

Beginning in January, Judge Suzanne Upton joined the Family Court Team – 80% of the time. She will continue to hear FED court trials on Monday mornings and criminal pretrial conferences on Monday afternoons.

Court filing fees

If you are unsure about filing fees, check the fee schedules, which are posted on our website: courts.oregon.gov/Washington/Rules_Fees/Court_Fees/fees.page?

Our court accounting department has the latest clarifications from the State Court Administrator regarding the nuances of the new fees.

Please be respectful of the staff at the counter, especially regarding fees. If you get a call to submit a fee after an order has been signed, please do so promptly.

Miscellaneous

Mark your calendars for January 26, noon–1:15 p.m. We are offering another CLE for civil and criminal case procedure “how to” in Washington County. Again, we will petition the Bar for official CLE credit.

HB 3508 (Additional earned time credit bill) – To date, Department of Corrections has filed 455 Notices of Eligibility with our court. Of those, formal hearings are required in approximately 70% of the cases.

CLE SEASON TICKET FOR 2010

We are now offering a Season Ticket option for the eight CLEs offered in 2010, (Jan, Feb, Mar, April, May, Sept, Oct, Nov) for the total cost of \$100.

As each CLE is normally \$15, this is an easy option to pay one time, and includes a \$20 discount. In addition, the Season Ticket includes all Brown Bag Lunch CLEs offered at the Annex for 2010.

Please contact Julie Viner at 503.648.0300, by fax at 503.693.9304 or wcba.association@verizon.net for payment information.

WCBA NEWSLETTER FORMAT MOVING FROM PRINT TO ELECTRONIC

This is the last mass formal printing of the *WCBA Newsletter*. Future editions will be transmitted via email electronically in order to save the organization printing costs and be environmentally conscious. If you cannot receive emails or would strongly prefer to continue to receive your newsletter in print, please contact elizlemoine@yahoo.com or wcba.association@verizon.net to let us know of your preference. We appreciate your support as we make this transition.

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Paul Vames and Judge Pro Tem Michele Rini



Jim Berrien and Rebecca Mehninger

WCBA seeking nominations for the 2010 Professionalism Award

The WCBA is seeking nominations from members for the 2010 Professionalism Award to be awarded to a Washington County attorney or Judge who exemplifies the highest standards of skill, professionalism and integrity. Please email your nomination, in 200 words or less, to WCBA President Elizabeth Lemoine at elizlemoine@yahoo.com or mail to Elizabeth Lemoine, WCBA, PO Box 912, Hillsboro OR 97214. The deadline for submissions is March 1. The recipient of the award will be honored at the June WCBA Barbecue, held at Rood Bridge Park.

High school students go to court

The case is fiction, but the enthusiasm is real as students from seven area high schools try this year's case in court on Saturday, February 27, in the courtrooms of the Washington County Courthouse. They are competing to represent Washington County at the 24th Annual Oregon High School Mock Trial Competition. Students will try the case of *State v. Lane*, a fictional case where there is a fire in a religious compound. A resident of a nearby town

is charged with arson and inciting a riot. The resident is a rap artist and believes the compound to be a cult.

Students assume the roles of attorneys and witnesses. Students know only minutes before their trial is to begin whether they will be arguing for the prosecution or the defense. Each team will argue the case three times throughout the day. Winning teams will advance to the state finals to be held March 12-13 in Portland. The team who wins state will travel to Philadelphia in May to represent Oregon at the National Mock Trial Championship.

Regional competitions are being held around the state. Mock trial competition is sponsored by Classroom Law Project and co-sponsored by the Oregon State Bar. They are joined by the Oregon Law Foundation, as well as Classroom Law Project's sustaining members, in giving high school students across Oregon the opportunity to participate in this event. Each year, approximately 1,500 students participate in the event and 500 attorneys and teachers around Oregon volunteer their time to coach teams and judge rounds of competition.

We are in need of judges for the February 27 event. Please visit www.classroomlaw.org or call Elizabeth at 503.620.3342 if you are able to participate in this exciting and worthy competition!

Washington County Bar Association

January – December 2010 Membership Application/Dues Form

The WCBA is a local association of lawyers serving Washington County practitioners. It provides a forum for the exchange of ideas and for local bar members to voice their views on matters of importance to their everyday practice. Consider the benefits of low-cost membership:

- \$ You will receive the WCBA Newsletter which keeps you informed (and sometimes entertained) on updated information from Washington County Judges, various bar committees, monthly CLE Programs, social dinners and activities, the law library, etc. The Newsletter is also an excellent and inexpensive place for advertising and classifieds.
- \$ Discount on monthly CLE programs and materials.
- \$ Discount on monthly dinner meetings with speakers or opportunities to express your views and become informed directly from local practitioners.
- \$ Events and committees for relaxation, networking and socializing with your colleagues.
- \$ Leadership opportunities and community service.

Membership Dues: \$75 per year (January 2010 to December 2010)
(Note: new members have this fee waived for the first year!)

Payable to:

Washington County Bar Association
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Hillsboro, OR 97124
Phone: 503.648.0300, Fax: 503.693.9304

Name: _____ OSB # _____

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Address: _____

Phone/Fax/E-mail: _____

One application per attorney, please.

Please return this form with your payment to the above address and indicate:

_____ New Member Referred by: _____

_____ Renewing Member

For internal use only:

Date received: _____

Check deposited: _____

Form revised 1/10

Added to mailing list:

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