



In this issue:

President's Note, Pages 1 & 2
 WCBA New Lawyer Section, Page 2
 Courthouse News, Page 2
 New Lawyer Event, Page 3
 Law Library News, Page 3
 Cell Phone Forensics, Pages 4 & 5
 CLE/Dinner Registration, Page 7

President's Note

Lawyers associated for justice, service, professionalism, education, mentoring, social interaction and leadership for our members and our community.



For those of us at the April CLE, presenter Eleanor H. Chin of Davis Wright Tremaine gave us a lot to think about when it comes to electronic discovery issues. The first take away lesson for me was that you have to know what to ask for and how to ask for it. If you weren't able to make it to the CLE or you want more information, look for Sim Rapoport's article on pages 4-5.

Dinner was also very enjoyable in April as it was our staff appreciation dinner. It was nice to see the court, lawyers and judges invite their assistants, court staff, interpreters, and pro tem judges so we, as a group, could join them in acknowledging and thanking them for the important work they do. Julie Viner is our own assistant at the Washington County Bar Association and she keeps us going. Thank you Julie! I also have to thank Carol Hawkins, our newsletter editor without whom this newsletter would not be possible. (I know it would not be possible because I would not cut and paste all those articles together myself.) Thank you for all your excellent work Carol!

May CLE

This month's CLE will be presented by the Family Law Bench Bar Committee and we expect

Upcoming Events/CLEs

May 8: Family Law Bench Bar

June 19: Annual Picnic & Spring Meeting

WCBA Newsletter

Washington County Bar Association
 PO Box 912
 Hillsboro, Oregon 97124
 Phone: 503.648.0300
 Fax: 503.693.9304
 May 2013, Page 1 of 7
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 Deadline: 20th of preceding month



that it will be a full house. The CLE is expected to run about 15 minutes longer than the usual one-hour presentation, so dinner may start a little late. Since we expect a large crowd for dinner we will have two

lines for check-in; there will be an express line for those who have pre-paid, and a separate line for those who prefer to pay at the time they check in. If you want to pre-pay, go to www.wcbabar.org/calendar.asp.

Annual Business Meeting May 8

In addition to having a popular CLE topic, May's meeting is also our business meeting. We have two board member openings on the ballot and we will be electing the next president-elect position. If you would like to be on the board of the Washington County Bar Association, please contact me so we can get you on the ballot. Please also feel free to contact me for information on the expectations and time commitment for members.

Oregon Supreme Court

Please join us for the May 8 dinner as the Oregon Supreme Court Justices will be our dinner guests.

Like Us On Facebook

Since news and events don't just happen once a month, like us at <http://www.facebook.com/WaCoBarAssociation> to get news about events as they come up. This site is updated regularly to provide timely information on events in Washington County.

Courthouse Security Cards

Please Take Note! For those of us who have security card access to the courthouse, there are new security policies in place regarding attorney mag-

The WCBA uses email to promote its programs and services to members only and does not share its email list with third parties. If you would like to be removed from our email list, please reply to this message with the word "remove" in the subject line.

netic key access. See the WCBA Newsletter article at <http://www.wcbabar.org/newsletters/2012/november.pdf>.

Since mag keys began to be used in the late 1990s, more than 2000 attorney mag keys have been issued. Washington County's mag key access has previously been a one time and for always system. In other words, once you got your mag key, you didn't have to worry about it again. However, an audit in 2012 found that deceased, disciplined and inactive attorneys still had mag keys here in Washington County. Therefore, new procedures were put in place to improve key control and increase revenue. The revenue is aimed to help staff the security stations and keep them open.

The new procedures identify attorneys who were originally approved for a mag key in the next month. For example, if you first got your mag key in May August 2007, court administration will send an attorney a notice via email the month before, i.e. July, to let you know that you need to renew your mag key. Court administration will process new and renewing applications for mag keys through the Presiding Judge for approval and \$25 annual fee checks made payable to 'Washington County' through County Facilities. Once approved, your key is active for one year. If you don't renew before the end of the month in which you must renew, your mag key will automatically deactivate at the end of the month. In this example, if you don't renew by the end of August, your key will deactivate at the end of August. If you forget, your key can be quickly reactivated with an approved application and \$25 fee.

If anyone has questions regarding this procedure, please contact Trial Court Administrator Richard Moellmer at 503.846.8787,
richard.e.moellmer@ojd.state.or.us

[Civil Case Settlement Conferences](#)

Washington County offers settlement conferences in civil cases. See information on the court's website at <http://courts.oregon.gov/Washington/Services/Civil/pages/processes.aspx>. Here you will find the telephone number for calendaring where you can call and arrange for a civil settlement conference. You will also find more information about civil processing and case management in Washington County including Arbitration and procedure related to Arbitration. Experienced arbitrators are available including those with construction litigation experience.

*Sincerely,
Kathy Proctor*



Washington County Courthouse News

by Amy Velázquez

We are including information regarding changes at the courthouse in our newsletter as we hear about them. If you know of any changes that are important to the legal community, please feel free to forward them to Amy at avelazquez@harrislawsite.com so they can be included in future newsletters.

Court Staff Moves

Judge Thompson has a new clerk, Samantha "Sam" Lark. Ms. Lark previously worked previously for the State of Alaska Court System and at the United States District Court in Anchorage. Her contact information is as follows: 503.846.4826, sam.a.lark@ojd.state.or.us.

Judge Kohl has a new clerk, Susan Wilcox, formerly with Judge Thompson. Her contact information is as follows: 503.846.2669, susan.l.wilcox@ojd.state.or.us.

Judge Cobb has a new clerk, Tanya Damm. Ms. Damm formerly worked in probate. Her contact information is as follows: 503.846.4588, tanya.damm@ojd.state.or.us phone. Teresa Parfet, Judge Cobb's former clerk, is now her Judicial Assistant. Her new phone number is 503.846.3443.

The county has a new Probate Commissioner: Parmie Van Dyke. Ms. Van Dyke was Judge Cobb's former Judicial Assistant. She may be reached at 503.846.2351.

Save the Date!

The WCBA Annual Bar Picnic is Wednesday, June 19th at Oak Knoll Winery.



SAVE THE DATE

Friday, May 17

WCBA NEW LAWYER SOCIAL EVENT!

The Washington County Bar New Lawyers Division (WCBNLD) is having its third-ever meeting on **Friday, May 17, from 5:30-7pm** at the Harris Law Firm, 165 SE 26th Ave, Hillsboro OR 97123.

During our last meeting, speakers from the Washington County Library and the State Law Library came to share information about the resources available through the library. If you haven't met your librarians, go meet them. They want to help you and they have a gold mine of information to share!

At our last meeting, a new lawyer mentioned that it would be nice to have one place where new lawyers could look to see what organizations are out there that they might want to join. I am working on such a list and will provide it in the next newsletter and on Facebook. Don't forget to like us on Facebook (see link on p. 1) as this is likely to be an ongoing resource for up to date information.

Please join us at the next New Lawyer Social Event - bring your mentors. More experienced lawyers who wish to meet and share information with newer lawyers are welcome. Refreshments will be provided. Please RSVP by contacting Amy Velazquez at avelazquez@harrislawsite.com. Other members on the WCBNLD subcommittee include Kathy Proctor, kproctor@proctorlawpc.com, Arthur Saito, Arthur@stahancyk.com, Nicole Schneider, nls@helzercromar.com, and non-voting WCBNLD member Joel Geelan, jgeelan@proctorlawpc.com.

Don't worry if you are not a member yet. The first year of membership to the Washington County Bar Association is free. Show up and sign up. See you there.

Kathy Proctor



LAW LIBRARY NEWS

Washington County Law Library

111 NE Lincoln

Hillsboro, OR 97124

Phone: 503.846.8880

Email: lawlibrary@co.washington.or.us

Website: <http://www.co.washington.or.us/LawLibrary/>



New CLEs at the Law Library (and Law Library catalog app)

We've just processed many new OLI and OSB CLE course materials that you can check out for MCLE credit.

Check our *Catalog* and *New Book* lists at our website - or email or phone us if you have questions or special requests. We welcome suggestions about which CLEs we should purchase.

Yes, there's an app (Android and iOS) for the Law Library's catalog. Visit the Law Library's website, click on *Catalog*, and read the instructions. (Note: this is an *Library World* app for our catalog, not for our website.)

Legal Research Tip: More Free Legal and Non-legal Database Access

Did you know that Oregon public libraries give you access to dozens of legal and non-legal subscription databases like the amazing Ancestry dot com database and many full-text news, magazine, and journal collections?

Get Two Powerful Library Cards: If you live in Multnomah or Washington County, you can apply for a library card in each county, netting you access to databases at both public library systems. They have a reciprocal agreement - and we all benefit from that collaboration. (You will need to apply for the cards in person, but you then have remote access to most of the databases.)

If you have database questions, talk to your local public library reference librarians or give us a call. Laura has been invited to serve on the Oregon State Library's *2013 Task Force on Statewide Collaborative Reference Service* and she represents you and other legal researchers. The *Task Force* will examine how Oregon libraries can work together to meet the information needs of all Oregonians.



Forensic Collection of Cell Phones

by Sim Rapoport

Background

As recently as 10 or 15 years ago, owning a cell phone was something of a novelty. By 2011, however, 85% of adults in the United States owned a cell phone. And, of those, 42% owned smartphones.

And, by 2011, as many as 26% of homes had abandoned landlines in favor of cell phones. This trend shows no sign of slowing down as younger generations - who have never had a landline of their own - establish their own households.

Cell phones are becoming an integral part and a personal record of people's lives. Cell phone owners rely on their devices not only as telephones, but also as cameras (54% of users), internet browsers (44%), and mobile bankers (18%).

Information collected by cell phones - whether through a business call, a tweet, or the filming of a family event - is recorded and preserved within the phone long after it has been forgotten or even deleted. Forensically, a phone can be a vital tool in establishing liability or non-culpability in a civil case, or demonstrating an individual's guilt or innocence in a criminal case.

Although a cell phone's capacity for data storage may be immense, the way in which a cell phone stores data means that some items may be overwritten fairly quickly. Older phones may only store data for fifty calls before the information is lost.

What is not overwritten becomes a chronicle of the cell phone owner's personal habits and interactions. A cell phone can reveal the identities of the people the owner spoke or texted with, the number of calls and messages, dates and times, and length of communications. The calendar tracks events attended, the browser history reveals a person's interests, and the photographs show a picture story. The longer a person has owned the phone or re-used the SIM card, the more complete the record.

Extracting Evidence from a Cell Phone

Unlike a laptop or a desktop computer, cell phones do not have standard operating systems across all models, thereby making forensic data extraction more difficult. Most cell phones can be read via compatible computer cable, Infra-Red, or Bluetooth, but some older phones and prepaid phones cannot have their data extracted to a computer. The "collection" of these phones needs to be done the old-fashioned way - by making the data appear on the phone's screen and then taking a picture.

Although a cell phone is like a miniature personal computer in many ways, its components work differently. Cell phones have greater control over access to memory since they are designed for memory conservation. The phone itself is a combination of the handset, the SIM card, and a memory card. With a newer cell phone, information is typically stored directly on the handset. The SIM card is responsible for identifying the subscriber, containing limited information on call records, and retaining a few text messages. If a phone has a memory card, it stores the user's pictures, games, and applications.

Forensic examiners use a number of tools to extract information from cell phones instead of just cracking them open or taking pictures of what is present on the screen. Popular tools include XRY, Lantern, MPE+, Paraben Device Seizure, MobilEdit!, and EnCase. Each has advantages and disadvantages, and no single tool works with all cell phones.

Even after the data has been extracted, the forensic examiner must still manually check the cell phone to ensure the extraction tool did not miss any obvious data. Missing key pieces of data is a sign that a collection was not complete.

Information that might (or might not) be extracted includes:

- Serial numbers of SIM card and handset
- Serial number of previous handsets using the same SIM card
- Cell phone's personal settings
- Details of previous calls made, received, and missed, along with corresponding timestamps
- Text messages received and saved, along with corresponding timestamps
- Deleted text messages
- Music, voicemail, and similar files
- Photographs and other media, as well embedded information pertaining to date and time of creation
- Data from applications stored on the cell phone
- Calendar entries
- Email
- Internet browsing and search history.

The risk of improper collection is loss or spoliation of evidence.

Gaining Evidence from Service Providers

In addition to collecting information from the cell phone itself, information may also be obtained from service providers. Service providers keep detailed records for tax reasons and marketing purposes, and because homeland security laws require communication records to be maintained for at least ninety days (see 18 U.S.C. § 2703) although records may be retained for longer periods. To access this information, non-governmental parties will need the owner's written consent and will often need a subpoena.

Information that a service provider may have retained includes:

- Telephone numbers for each call, and additional detailed information if the party is registered with the service provider
- Date and time of the call's start and finish
- Time at which a text was sent and received
- IP addresses assigned to the device
- Cell tower history (which helps track the movement of the phone)
- Paid bills

Retention Periods of Some Major Providers

	Verizon	AT&T	Sprint	T-Mobile
Call Logs	1 year	5-7 years	2+ years	2+ years
Texts	3-5 days	Not retained	Not retained	Not retained
Text Details	1 year	5-7 years	2 years	2 years
IP Session Information	1+ years	3 days	60 days	Not retained
IP Destination Information	90 days	3 days	60 days	Not retained
Bill Copies	3-5 years	5-7 years	7 years	Not retained
Cell Tower History	1 year	3+ years	18-24 months	4-6 months

-U.S. Department of Justice, 2010

It is important to know what might be recovered from a service provider since information can sometimes be retained longer than within the cell phone and the information cannot be destroyed by the cell phone account holder. These records can also provide a unique perspective regarding the cell phone user's habits, such as special purchases posted to the bill and call records going back many years beyond the user's current cell phone.

Securing Evidence

During an investigation, the cell phone should be secured as early as possible. Any delay increases the risk that evidence could be lost or destroyed. Cell phones have a limited amount of memory, service providers only keep records for so long, and the cell phone's custodian could potentially damage the phone beyond the point that data will be recoverable. Upon securing the phone, a chain of custody (COC) document needs to be created to detail all recovery steps taken and to track the phone as it changes custodians. Any known passwords should also be recorded in this document.

For many people, a cell phone is an indispensable belonging, and the owner should be reassured that forensic analysis will be completed in a timely manner, that the phone will be returned as soon as possible (sometimes within several hours or less), and that the phone will not be damaged. And, information is not only collected from cell phones within the other party's custody or control, a party will often want to preserve the information on cell phones within that party's custody or control.

Recommendations

To ensure a safe, efficient, and defensible collection, establish a procedure before the cell phone is secured.

- Secure the cell phone at the first opportunity.
- Turn off the cell phone to prevent regularly scheduled network updates that may overwrite evidence.
- Ensure the cell phone is secured for transport so that it will not be damaged or accidentally turned on.
- Fully charge the cell phone. Allowing the battery to completely discharge may result in the loss of date, time and other information.
- Establish a chain of custody (COC) document to track the forensic analysis process and any changes in custodians.
- Obtain any passwords for the cell phone (e.g., passwords for lock screen or voicemail).
- Establish the identity of the cell phone's registered owner.
- Establish a history of cell phone ownership.
- Determine if any further collection is necessary, such as from other cell phones or from service providers.

In an increasingly digital world, more and more evidence lies within cell phones. It is important to collect this information correctly and defensibly, because even one mistake can lead to the spoliation of evidence and a lost or significantly weakened case.

Is Your Client's Home Involved?



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The WCBA MAY CLE & DINNER MEETING

Wednesday, May 8

Check in at 4:30pm, CLE at 5:15pm

Representing Children Who Resist Contact With a Parent

A Psychological Perspective

Presented by Edward Vien, Ph.D. and Todd Ransford, Ph.D.

The Washington County Family Law Bench Bar Committee's Premiere of
Representing Children: A Training Video

Washington County Judges Family Law Update Regarding Representing Childre

Join us for dinner immediately following the CLE; our guests will be

The Oregon Supreme Court Justices

Cocktails at 6:30pm, Dinner at 6:45pm

The Old Spaghetti Factory, 18925 NW Tanasbourne Dr.

Hillsboro OR 97124

Please send your pre-registration form to:

Julie Viner

PO Box 912

Hillsboro OR 97123

Phone: 503.648.0300; fax number 503.693.9304; or via email to wcba.association@frontier.com.

Please register no later than May 6th so that we will be able to guarantee space.

Each month, paid-for DINNER registrants will be entered into a drawing where one person will win a voucher for a FREE DINNER at the next meeting.

DINNER COST \$15 (PLEASE CHOOSE AN ITEM)

Dinner Reservation

Name: _____

_____ Potpourri Spaghetti Sampler (Mizithra Cheese, Meat, Clam & Tomato Sauces)

_____ Spaghetti with Meat Sauce

_____ Spaghetti with Marinara

_____ Spaghetti with Mizithra Cheese

_____ Fettuccini Alfredo

_____ Baked Chicken with Steamed Broccoli

(Gluten free & Whole Wheat Pasta Available upon Request)

CLE Reservation

Name: _____

_____ Yes, I will attend the CLE, Number of attendees _____

(\$15 for members, \$25 for non-members)