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## President's Note

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

As the autumn nights get colder and the skies dark and dreary, I believe we all look forward to seasonal festivities to brighten our days. Whatever way we each celebrate our seasons, the WCBA Winter Social has become a tradition I hope we all look forward to participating in. It is again being held at the Glenn & Viola Walters Cultural Arts Center in downtown Hillsboro, with food provided by Claeys Catering. It is always so nice to attend the social in order to get to visit with each other as colleagues, without the distractions of CLEs and WCBA business. Come have some fabulous food, good conversation, and maybe walk away with a winning scratch-it ticket.

As much as we all like traditions, however, I am sure we sometimes continue to do the same things year after year out of habit, without stepping back to evaluate the reasons why. Should every tradition continue going forward or should some evolve or be replaced? Are the things we do truly traditions, or merely comfortable habits that are as appealing as a moth-eaten Christmas-themed sweater at the Goodwill?

In the interest of stepping back to evaluate, the WCBA wants your input. Do you have ideas for how the WCBA can improve? Would you like to become more involved in the local legal community or in WCBA as a whole? Do you like the idea of becoming more involved, but maybe you aren't quite sure that you are ready to join the Board of Directors?

There are tons of ways that WCBA could be more effective in serving Washington County in terms of fulfilling our organizational purpose of associating

# WCBA Newsletter

Washington County Bar Association

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November 2014, Page 1 of 7

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Deadline: 20th of preceding month

“for justice, service, professionalism, education, mentoring, social interaction and leadership for our members and our community.” As such, we are looking for not only ideas and input, but also for potential volunteers for various committees. From the newly revamped Law Library Committee to the potential for additional new committees to help get more people more involved in new and different ways; volunteers are needed.

This is particularly true where a need becomes apparent, such as with the newly announced evolution of the DVRC going forward, which prompted our eleventh hour change of CLE topics for this month.

Former WCBA President Kathy Proctor is a current member of the DVRC board and she will be presenting a timely CLE regarding those changes and the need for the legal community to step up to help a segment of the population that otherwise might have their stalking orders fall through the cracks.

Do you have an idea for a committee or want to volunteer? Find a board member, share your ideas, volunteer your time, and let's get started.

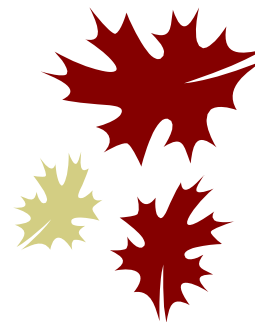
Too busy to volunteer? Consider donating to the Campaign for Equal Justice. See Larry Brisbee's article in this newsletter for more information on this important effort to provide financial assistance to organizations that help the disadvantaged get the legal assistance they need.

Oh, and make sure to save the date for the Winter Social. I can't wait to see you there!

*Rebecca Guptill  
President*

*Washington County Bar Association*

See upcoming events schedule on page 2.



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.

## LAW LIBRARY NEWS

### Washington County Law Library

111 NE Lincoln  
Hillsboro OR 97124  
Phone: 503.846.8880  
Fax: 503.846.3515  
Email: [laura\\_orr@co.washington.or.us](mailto:laura_orr@co.washington.or.us)  
Email: [lawlibrary@co.washington.or.us](mailto:lawlibrary@co.washington.or.us)  
Website: <http://www.co.washington.or.us/LawLibrary/>  
Oregon Legal Research website & blog:  
<http://www.oregonlegalresearch.com/>

**Law Library After-Hours Access and Rule Enforcement**  
Oregon attorneys who work or live in Washington County may request an after-hours key for 24/7 access to the Law Library.

Keys for after-hours access to the Law Library are available through the Trial Court Administrator's (TCA) office. Call the TCA and ask how to apply for a key: [503.846.8767](tel:503.846.8767). The TCA is also where you request a replacement key and return a key you are no longer permitted to use.

#### After-hours Access Rules:

First things first: Please follow the Rules! Please do not jeopardize after-hours access to the Law Library for everyone. After-hours access is a privilege not a right and continued access depends entirely on the good behavior of attorneys who use the Law Library after regular business hours.

#### Second: There are Rules!

You are responsible for knowing and complying with each and every After-Hours Access Rule. You should receive a copy of the Rules when you receive key access to the Law Library, but if you didn't, or if you misplaced yours, a copy of the Rules can be found on the Law Library reception desk where you have to sign in - and you do have to sign in.

By accepting and using your after-hours access key, you have agreed to comply with the Rules. A brief summary of the Rules:

- The key is for your use ONLY. No children, pets, relatives, friends ... NOT anyone else but you.
- You must sign in and out on the after-hours log.
- You must include your key and OSB numbers on the log. (There is even a picture on the sign-in sheet showing where to find your key number.)
- You must check out any books or other materials you remove from the Law Library.
- You must pay, or sign an IOU (on the reception desk), for any copies or printouts you make, whether or not you take your copies with you, print out 30 pages instead of 3, or mistakenly click on a print icon.

Your Law Librarian thanks you and, more to the point, lawyers who use the Law Library after-hours thank you. And your Law Library staff members are

always ready to give you a regular-hours tour of the Law Library.

*Laura Orr*  
Law Librarian



## Oregon Women Lawyers Career Development & Rainmaking Dinner Thursday, November 13

5-7:30pm | \$40  
Hotel Monaco, Fifth Avenue Room

Register at [oregonwomenlawyers.org](http://oregonwomenlawyers.org)

Who should attend? Lawyers who want to learn strategies and tips for rainmaking and career development from experienced leaders in the legal community, in a unique, interactive setting. All lawyers welcome. Questions? Contact Kathy Proctor at 503.352.0731.

#### Panel

Bonnie Richardson, Folawn Alterman & Richardson  
Aukjen Ingraham, Schwabe Williamson & Wyatt  
Holly Johnston, Marger Johnson & McCollom  
Carol McCoog, Hawkins Delafield & Wood  
Susan Pitchford, Chernoff Vilhauer McClung & Stenzel  
Coni Rathbone, Zupanic Rathbone Law Group  
Bonnie Richardson, Folawn Alterman & Richardson  
Dana Sullivan, Buchanan Angeli Altschul & Sullivan  
**Moderator:** Laura Salerno Owens, Markowitz Herbold

## Upcoming Events

**Wednesday, November 12**  
**CLE: Stalking Protective Orders  
Changes to the DVRC**  
Kathy Proctor, WCBA Past President

**Wednesday, December 10**  
**Winter Social at the Glenn & Viola Walters  
Cultural Arts Center**  
Cocktails at 6pm, Dinner at 6:30pm

**Wednesday, January 7**  
**State of the Court Address with incoming  
Presiding Judge Bailey**  
Bankruptcy CLE

## St. Andrew Legal Clinic Call for Volunteers

By Jennifer Peckham

St. Andrew Legal Clinic (SALC) of Washington County is in need of volunteer attorneys for their Night Clinic program. SALC is a nonprofit organization that helps clients of moderate- to low-income in domestic relations cases. The Hillsboro office serves clients in Washington, Columbia, and Yamhill counties.

Intakes with potential clients are done at Night Clinic, which is every Wednesday from 6:30-9pm. Volunteers arrive at 6pm and are served dinner. There is a need for both attorneys and receptionists to staff Night Clinic. No particular background or experience in domestic relations is required - you will receive hands-on training.

The volunteer receptionist checks in clients, takes payments, and tracks the appointments throughout the evening. Volunteer attorneys provide brief intake sessions (20-30 minutes) where they primarily issue spot and ask questions to not only confirm that SALC is able to help with the case, but also to provide a quote for services, based upon a sliding scale according to the potential client's income. The volunteer attorney meets with the staff attorney in charge to obtain the quote for services.

If you are a new attorney, volunteering at Night Clinic is a great way to gain experience with client intakes and to learn the foundations of domestic relations law. If you are an experienced attorney, volunteering for SALC is an easy and fun way to contribute your valuable knowledge and experience to benefit a worthy organization.

If you would like to volunteer, contact Diana Mendoza by phone at 503.648.1600 or email at [dmendoza@salcgroup.org](mailto:dmendoza@salcgroup.org) to get signed up. Thank you!

## Good news for spouses of decedents with reverse mortgages

By Matthew C. McKean

Reverse mortgages are growing in popularity, but one issue confronting spouses of elderly adults who have taken them out is what to do with the home (and the mortgage) once their spouse passes away. Fortunately, a recent rule issued by the Department of Housing and Urban Development (HUD) may bring relief to spouses of decedents with reverse mortgages.

In response to a recent case, *Bennett et al. v. Donovan*, 2013 WL 5442154 (D.D.C. Sept. 30, 2013) which determined that lenders cannot demand immediate repayment from a surviving spouse, HUD has issued a new rule that allows the non-borrowing spouse to remain in the home after the borrower dies.

Traditionally, the amount one can borrow in a reverse mortgage depends on several factors, including the age of the youngest borrower. If one spouse was considerably younger than the other, they would receive less money if both were on the loan. Because of this, lenders sometimes advised homeowners to deed the property to the older spouse and leave the younger spouse off the mortgage to increase the amount of the loan.

However, once the borrower died, the surviving spouse (not named on the loan) was often stunned to learn that there were only four options available to them, 1) pay off the loan from other funds, 2) sell the home and use the proceeds to repay the loan, 3) deed the home to the lender in lieu of foreclosure, or 4) do nothing and have the home foreclosed.

Now, the new HUD rule (which takes effect on reverse mortgages issued on or after August 4, 2014) will allow the non-borrowing spouse to remain in the home after the borrower dies (and the loan repayment will be deferred) so long as: 1) the non-borrowing spouse was married to the borrower at the time the loan closed (and remained married to the borrower for the duration of the borrower's lifetime), 2) the spousal status is disclosed at the time of the closing, 3) the non-borrowing spouse is named in the loan documents, 4) the non-borrowing spouse establishes legal ownership (or another ongoing legal right to remain in the home) within 90 days of the death of the last surviving borrower, and 5) the non-borrowing spouse meets all of the obligations described in the loan documents. If the non-borrowing spouse fails to meet any of the requirements, the loan becomes due and payable.

### We are pleased to introduce Sonya Fischer



We are excited to announce that Sonya Fischer has now become Of Counsel to YM&E. Sonya joins our firm with over 10 years of experience in family law and service to the community.



Yates, Matthews & Eaton, P.C.  
Family Law

503-224-7077  
[www.yatesmatthews.com](http://www.yatesmatthews.com)





## Call to Action:

### Let's Stand Up for Justice. Together.

By Larry A. Brisbee

It does not take much effort to find a lot of media attention being given to the influx of very successful companies who will likely bring employment opportunities to Washington County. Sizeable tax incentives encourage this kind of economic development and, at least on the surface, many would say this is good.

What that influx does not disclose is the ugly side of what has been happening and continues to happen in Washington County. Stated briefly, it drives the elderly and poor farther down the economic scale. Rents go up, prices go up and the ability to meet one's basic needs goes down. The fact is that the poverty level in Washington County is of enormous proportions. The homeless population is growing and this includes children separated from their families. This scenario presents a socioeconomic dilemma that has produced an extraordinary need for legal help for those that cannot afford to pay for it.

Those who are in the greatest need for help in dealing with such things as domestic violence and child welfare issues are commonly the victims of the socioeconomic divide that exists in Washington County. Interestingly, 80% of those receiving legal aid services are women and children. All lawyers living or practicing our profession where legal services for the poor and elderly are minimal know how devastating it can be.

Lawyers in Oregon formed The Lawyers' Campaign for Equal Justice in 1991 in an effort to raise funds to support the overwhelming need to provide legal services to the poor and the elderly. They are most in need and have virtually no resources to protect themselves.

The need for legal services by the poor and elderly in Oregon has grown over time. At this point in time, using the qualifying standard of 125% of the Federal Poverty Guideline, approximately 850,000 Oregonians are eligible for legal aid services. Legal aid programs have the resources to meet about 15% of the civil legal needs of the poor and elderly. It is anticipated that, through this next year, legal aid attorneys will provide legal help to more than 20,000 clients. That represents a lot of legal work but falls far short of the need.

Funding for what the legal aid programs in Oregon are able to do comes from several sources, most of which is from the state and federal government. The Campaign is but one of those services and clearly an important source. Nowhere else in this country do lawyers contribute and promote fundraising activities for legal aid that is even remotely close to that of the lawyers in Oregon. Clearly, it is the right thing for lawyers to do. An opportunity to give back and to do the right thing should be embraced. Fundraising is a big part of what the Campaign has undertaken, but not to be forgotten are those Oregon lawyers, many in number, who

not only give of their money, but also voluntarily give of their time to provide pro bono legal services. It should come as no surprise that even pro bono legal services have a cost in providing the infrastructure to support it.

When the Campaign for Equal Justice first began, the appeal was made to Oregon Lawyers to contribute funds to support legal aid programs. It was new at the outset, but it grew and, with time, lawyers recognized that their contributions, big or small, made a difference. Coincidentally, in the 23 years of its existence, the Campaign for Equal Justice, has raised legal aid contributions amounting to approximately \$23,000,000.

The Campaign for 2013-2014 involved more than 300 volunteers, mostly Oregon lawyers, and through their efforts, donations rose to \$1,226,948, coming from 3,180 donors. A major accomplishment by any measure. As a class, Oregon lawyers have stood tall in bringing legal services to the poor and elderly who are in need and are to be commended. Unfortunately, the need is not going away, making the commitment of Oregon lawyers to support legal aid into the future even more important.

The Hillsboro regional office service area led by Leslea Smith provides legal aid services to the five county area of Washington, Columbia, Tillamook, Clatsop and Yamhill Counties. The lawyers and staff of that office do a terrific job, but they are stretched thin, having to turn away many who are in need.

What can we do as Oregon lawyers find ourselves located in Washington County to deal with this situation? Washington County counts among its legal community approximately 1,500 lawyers. In 2013-2014, 150 of those lawyers contributed to the Campaign for Equal Justice, that being several fewer than the year before. Washington County lawyers have consistently shown high levels of professionalism. Commonly heard concepts of "giving back" and "paying forward" seem to fit neatly in the concept of professionalism. With a little editing, the Call to Action from the Campaign for Equal Justice is "what can you do to help legal aid in your community?" So, what can you do? The opportunity will present itself over the next few weeks via mail and otherwise. Take the step and do what you can to help.



## CLE Recap New Developments in Washington County Probate Practice

*“How to Avoid Awkward Conversations with Judge Erwin”*

Thank you, Judge Erwin, who presented the October CLE on probate practice in Washington County. He initially stressed the importance of remembering the ultimate goal of probate, which is to assist families through what is often a difficult time. The judge distributed a useful handout but his presentation was really focused on dos and don'ts in the probate department and some new developments as well.

First of all, the probate department is now part of the civil department. Rather than one judge, probate follows a team approach involving four judges. Judge Wipper has 30% of the cases, Judge Butterfield is just starting to get cases but will get to 30%, Judge Erwin will ultimately have 30%, and Judge Bailey is transitioning into his role as the next Presiding Judge and will have less than 10%.

Currently there is a 90 day lag in accountings. The court is training staff to do the accountings and the goal is to get down to 30 days. He urged everyone to remember that the probate department is young and currently understaffed, and to treat the staff with respect and be patient as the team develops.

The judge wanted to emphasize that in order to get an emergency guardianship, there must really be an emergency. Simply stating that someone has been admitted to the hospital isn't enough; you must provide sufficient facts to prove that there truly is an emergency requiring a temporary guardianship.

This is especially true to waive the two-day notice period. The presumption is not to waive but rather you must persuade the judge to waive it. Also try to avoid submitting medical documents with the motion, as it becomes part of the permanent record.

For attorneys who do conservatorships there is a case that is a must read. The case is *Fuentes v. Tillett* (Or. App., 2014). The bottom line of the holding of the case is that there is essentially no statute of limitations for breach of fiduciary duty until final account has been approved. Judge Erwin stressed the importance of thinking about how you may be leaving your client open to exposure in the future before taking certain steps.

The professional fiduciary companies in the metro area are in flux with mergers and overturn. You must tell the court upfront who is the decision-maker on behalf of the company and notify the court within 90 days if that primary decision-maker changes. It will cost \$130 to change the primary decision-maker.

If something changes that the fiduciary is required to tell the court in an accounting, the attorney must include a one-page document outlining the change along with the accounting. Attorney's fees are always reviewable by the court. The judge can change fees, so make sure that you provide sufficient detail to support your fees. Anticipate that the judge will have questions

and answer them in your statement of attorney's fees.

A fee paid from the estate to the attorney is an illegal fee. The court will not retroactively approve that fee, and the judge will file a bar complaint against you.

The court will not approve attorney's fees for just helping the client with the Guardian's report.

Don't put restricted accounts in a checking account. The court will ask you to change it.

Despite no local rule addressing the form of accountings, it is an unspoken requirement by the judge that you do it exactly like the requirements set forth in UTCR 9.160 through 9.190. It makes it much easier for the judge and his staff to review them if they are the same every time. The court is working on a new supplemental local rule to specify this requirement.

It is important to respond to the court promptly. Judge Erwin reminded everyone to check their spam filters and update their contact information. He also stressed that it is not the court's responsibility to act as a 'tickler' system for fiduciaries as it is their duty to abide by the deadlines.

### **Bad ideas**

1. Co-fiduciaries - don't ask the court to appoint co-fiduciaries.
2. Accountings are not "under advisement" Do not write the Chief Justice if you think it is taking too long.
3. Don't seek a distribution that is contrary to the will even if it is not objected to.
4. Don't be too needy but can ask up front to expedite.
5. Don't delay closing the case.
6. Don't tell the judge how Multnomah County does it.

Thank you again to Judge Erwin for this extremely helpful and insightful CLE.

*Amy N. Velázquez*  
Immediate Past President & Secretary  
Washington County Bar Association

## Classified advertising rates

\$20 for the first 50 or fewer words, and \$.50 per word thereafter. Classified ads must be prepaid.

To obtain a quote, send the proposed text to:

[washingtoncountybarnews@gmail.com](mailto:washingtoncountybarnews@gmail.com).

### Display advertising rates

Business card size (2" x 3.5")	\$30
1/4 page	\$50
1/2 page	\$90

Please submit your ad in JPEG format to:

[washingtoncountybarnews@gmail.com](mailto:washingtoncountybarnews@gmail.com).

To pay for your ad, visit

<http://www.wcbabar.org/newsletter-advertising.asp>

## WCBA Board Profile

### Meghan Bishop

By Rachel Twenge

Meghan Bishop is one of two newly elected members to the WCBA board of directors. Meghan practices juvenile and family law in both Washington and Yamhill counties as a solo practitioner. Prior to starting her own firm, she worked for Hillsboro Law Group. Meghan graduated from Willamette University School of Law in 2008. While attending law school Meghan was the research editor for the *Willamette Journal of International Law and Dispute Resolution*. She also clerked for a firm in Salem specializing in family law and criminal defense.

Meghan was born and raised in Beaverton and graduated from Beaverton High School in 2000 before heading to the mid-west to complete her bachelor's degree. Meghan double-majored in Psychology and Humanities Classics at Ohio Wesleyan University in Delaware, Ohio. After graduating from college she worked for the Social Security Administration as a disability adjudicator.

In her spare time Meghan enjoys cooking, wine tasting, and trying new restaurants. She lives in SE Portland with her golden retriever, Hayley.

Meghan will surely provide valuable insight and perspective to the WCBA. Please welcome Meghan to the board!



## Victim Rights Law Center (VRLC)

*Training on Oregon's new sexual assault protection order and civil remedies for sexual assault survivors.\**

The VRLC Portland office launched the Legal Assistance to Rape Survivors Project (LARS) to provide free civil legal services to victims of rape and sexual assault in Multnomah and Washington counties. The pro bono project provides direct legal services to survivors in the areas of privacy, safety, immigration, education, employment, housing, and public benefits. Since the launch of the project in April 2013, VRLC has provided free legal services to over 100 victims of rape and sexual assault.

Attorneys interested in volunteering for the project are welcome to attend an orientation training on **Wednesday December 3**, from **4-5:45pm** at the **Washington County Law Library** (111 NE Lincoln St Ste 250-L, Hillsboro OR 97124-3036). Staff attorneys Emily Brown Sitnick and Stacy Hankin will talk about the pro bono project, as well as provide an overview of Oregon's new SAPO and the civil legal remedies available for survivors. For more information, please [CLICK HERE TO REGISTER](#), or email Emily Brown Sitnick at [esitnick@victimrights.org](mailto:esitnick@victimrights.org) if you are unable to register online. Space is limited!

*\*CLE accreditation will be requested*

## WCBA Contacts

President Rebecca Guphill

President Elect Nicholas Heydenrych

Immediate Past President & Secretary Amy Velázquez

Treasurer Arthur Saito

Director Meghan Bishop

Director Elizabeth Lemoine

Director Matthew McKean

Director Jennifer Peckham

Director Rebecca Pihl-Mehringer

Director Simeon Rapoport

Director Rachel Twenge

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## WCBA Board Profile

### Rachel Twenge

By Meghan Bishop

The second new member of the board is Rachel Twenge. Rachel has a diverse legal experience, initially working as a hearings attorney representing claimants in their requests for disability in front of the Social Security Administration. She currently is an Associate for Proctor Law, PC in Beaverton, Oregon and enjoys practicing in Washington County.

Prior to becoming an attorney, she attended the University of Washington, majoring in communication and political science. During her undergraduate years, she interned with the Washington State Bar assisting with a program designed to introduce youth to the legal community and help them to develop their own quasi-legal dispute resolution programs. She also interned with the Washington Department of Justice in the consumer resources division. After receiving her bachelor's degree, she attended Willamette University College of Law. During law school she wrote for the U.S. Supreme Court Division of Willamette Law Online and was the treasurer for the Phi Alpha Delta legal fraternity. She also clerked for two firms in Salem, focusing on family law and personal injury.

Rachel is a native Oregon and graduated from Newberg High School. While in high school she toured Europe for two weeks playing clarinet in a youth orchestra with other musicians from all over the state. She recently got married at a beautiful vineyard in Dayton and returned to work after a wonderful honeymoon to Disneyland! She and her husband enjoy traveling, spending time with family and friends, and caring for our beloved Shiba Inu puppy, Kiba.

She is very excited to be on the board and looks forward to a wonderful year of assisting in progressing the mission. We are thrilled to have her as part of our team!

# The WCBA CLE & DINNER MEETING

## Wednesday, November 12th

### CLE: Stalking Protective Orders

*Changes at the DVRC & how the Legal Community can help fill the Gap*

**Presented by:**

**Kathy Proctor, WCBA Past President & DVRC Board Member**

Qualifies for 1 General or Practical Skills MCLE Credit

**CLE at 5:15pm, cocktails at 6pm, dinner at 6:30pm**

The Old Spaghetti Factory, 18925 NW Tanasbourne Dr.

Hillsboro OR 97124

Please send your pre-registration form to:

Rosie DeSantos

PO Box 912

Hillsboro OR 97123

Phone: 503.648.0300; fax number 503.693.9304; or via email to

[wcbassociation@frontier.com](mailto:wcbassociation@frontier.com) or [www.wcbabar.org](http://www.wcbabar.org).

Please register no later than October 3rd so that we will be able to guarantee space.

You can now also pay on our website, [wcbabar.org](http://wcbabar.org).

### Reservation for:

**Name:** \_\_\_\_\_

\_\_\_\_\_ Dinner + CLE = \$30 (member)

\_\_\_\_\_ Dinner + CLE = \$40 (non-member)

\_\_\_\_\_ CLE only = \$15 (member)

\_\_\_\_\_ CLE only = \$25 (non-member)

### Dinner

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

\_\_\_\_\_ Spaghetti with Meat Balls

\_\_\_\_\_ Spaghetti with Marinara

\_\_\_\_\_ Spaghetti with Mizithra Cheese

\_\_\_\_\_ Baked Chicken with Steamed Broccoli

**(Gluten free & Whole Wheat Pasta Available upon Request)**