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WCBA Newsletter

Washington County Bar Association
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 March 2015, Page 1 of 4
 Published monthly, September-June
 Deadline: 20th of preceding month



President's Note

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

March is here, and Spring is officially in the air again - this year with an early taste in February, as our friends back east continued to be pummeled by apocalyptic snowfall. As I look out my window at sunny blue skies, I am reminded why our state is so lovely a place to live. Even as Oregon has been going through massive political upheaval, I am still happy and proud to call myself an Oregonian. I suppose Spring is a time for change and renewal in so many ways, so it is fitting on some level that Governor Kate Brown took office during a stretch of uncharacteristically spring-like weather.

With so many changes going on around us, however, some things stay the same. The Justices of the Oregon Supreme Court will be joining us yet again for dinner at our March meeting - Chief Justice Thomas Balmer fresh off of swearing Governor Brown into office. April is our Staff Appreciation dinner, when we can say "thank you" to our staff for putting up with us and our lawyerly ways and for being instrumental in our success. May, as per usual, will be our business meeting and election night. And in June, we will have our Summer Social at the stunning Ruby Vineyard as we did last year.

Not everything stays the same, however. Spring is a time for all things fresh and new. In that vein, we have some new CLE topics planned for the rest of the season along with the usual. March brings a Personal Injury law CLE presented by Paul Vames of the Harris Law Firm, focusing on Washington County personal injury cases and practice. It has been a while since we have presented a personal injury fo-

cused CLE, so I hope to see some new and different faces joining us. Similarly, May's CLE will focus on developments in Marijuana laws here in Oregon with an emphasis on what attorneys advising businesses and individuals need to know. Local attorneys Jim Underwood and Eddie Medina will be presenting the CLE and it is sure to be enlightening.

April will be our annual Family Law CLE. Judge Raines, Kelly Evans of Gevurtz Menashe and Lauren Christianson of Kids' Turn will present information on unbundled legal services and update us with regard to court changes and other changes relevant to family law. This CLE is always a popular event with local practitioners, and pairs well with Staff Appreciation night. (Did I mention Staff Appreciation night? Because, if I didn't, I really, really want to emphasize how important our staff is. So, show them you agree by bringing them to Staff Appreciation night!) Plan ahead now and invite them soon, as April is right around the corner.

Which is something they are likely dreaming of in New England right now... So let's enjoy those sunny days when we get them (and the few days of snow when they happen as well) and remember how great it is to live and work where we do - in Oregon, where "she flies with her own wings" and in Washington County, where we can hold a Summer Social at a serene vineyard only minutes from our courthouse.

At the end of the day, whether March brings sun or rain to our great state, I think we are pretty lucky.

Rebecca Guptill
 President

Washington County Bar Association



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Search & Seizure Highlights

On February 11, the Washington County Bar Association hosted its annual Search and Seizure case law update with Oregon Department of Justice expert David Thompson. Members in attendance were provided a case law update highlighting the top ten issues identified by Mr. Thompson as well as his expert insight on where the Courts appear to be headed on important search and seizure issues.

Here are some of the highlights:

Exigent Circumstances Doctrine Alive and Well. *State v. Fessenden*, 355 Or 759 (2014). Exigent circumstances justifying a warrantless entry onto property where animal patrol officer sees animal, in this case a horse, apparently in need of veterinary care to avoid further imminent harm to the animal or its death.

Burden Shifted on Consent Search Disputes; Deterrence Possibly in Play. *State v. Unger*, 356 Or 59 (2014) and *State v. Musser*, 356 Or 148 (2014). Holds that the burden is on the State to establish the validity of a consent search, and in determining such validity the Court looks to the totality of the circumstances including but not limited to the severity of any preceding police misconduct, the temporal proximity of the misconduct to the consent, and any attenuation. Previously the initial burden was on the Defendant to establish a causal connection between the State's prior illegal conduct and the validity of consent obtained.

These cases also suggest that Oregon Courts are now willing to consider deterrence of police misconduct an important factor within the "totality of the circumstances" analysis. This opens the door to Federal Fourth Amendment case law, e.g., *Brown v. Illinois*, 422 U.S. 590 (1975) and its progeny, which may play an increased role in future Oregon decisions. Mr. Thompson suggested it is presently unclear whether these cases signal a shift towards the deterrence model of suppression, or if Oregon Courts intend to consider police misconduct within the vindication of personal rights model of suppression. Justice Landau's concurring opinion in *Unger* is recommended reading regarding the possibility that deterrence of future police misconduct will become an additional purpose for the exclusionary rule under Article I, section 9.

***Dempster* in the Dumpster** (Arrest warrants no longer curative per se). *State v. Bailey*, 356 Or App 486 (2014). Overrules *State v. Dempster* rule - *Dempster* held that the discovery of an outstanding warrant for arrest during an illegal detention automatically purged the taint of that illegality from any evidence discovered in a search incident to arrest on the warrant.. Supreme Court holds that *Dempster* rule was not consistent with current Fourth Amendment law. In this case the discovery of the Defendant's name and his warrant status were obtained solely by virtue of an unlawful extension of a supposedly routine traffic stop, and thus the Court ruled

suppression of the evidence found in a search incident to arrest was the proper remedy.

Nicholas Heydenrych
President-Elect
Washington County Bar Association

Call for Help!

The OSB's Judicial Administration Committee is working to increase public understanding of how our court system works and how courts serve our communities. The judges in Washington County are participating in these efforts, and now we need your help! We need bar members to help identify opportunities where our local judges can get out into the community and speak about the courts. If you are a member of or have contacts with any business, social, or civic organizations in Washington County that might be willing to host a presentation from one of our local judges, or if you just have an idea of an opportunity that might exist for this type of outreach, please contact Danielle Hunsaker at 503.222.4424 or dhunsaker@larkinsvacura.com. Danielle is the chair of the Judicial Administration Committee and is responsible for coordinating outreach in Washington County.



WCBA Upcoming Events

Wednesday, March 11, 2015

CLE Personal Injury Law

Dinner Guests:

Oregon Supreme Court Justices

Wednesday, April 8, 2015

Family Law CLE

Staff Appreciation Dinner

Wednesday, May 13, 2015

Annual Business Meeting with Board Elections

Wednesday, June 17, 2015

Summer Social at Ruby Vineyards

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
 Email: lawlibrary@co.washington.or.us
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 Oregon Legal Research website & blog:
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Where Do I Find Law Review Articles?

This is a Frequently Asked Question (FAQ) at the Law Library and you have lots of options for finding articles:

Finding Articles by Citation:

1. **Email:** Send the citation to us and we'll send you the article, usually for no charge. If the vendor has a charge, we'll let you know.
2. **Google and Google Scholar:** Type the article citation, the author name, and key words in the title. A lot of authors, law schools, and legal publishers post their articles online, free, in front of firewalls.
3. **Look for the author's website, personal or institutional:** Some authors retain full copyrights to their publications and post links on their websites or their CVs. Also, law review articles are sometimes re-written or re-printed in more than one publication, under different titles. The legal arguments and analysis you are seeking is usually retained, and sometimes even updated. But make sure you keep good notes on the article you use and cite. You lose lots of points if you cite to the wrong version - and you will want to cry if you can't find it again. My advice? Save a PDF or even a print copy of the article for your own records.
4. **Public Library Databases:** Use your public library card and search LegalTrac, a database of law review articles, or HeinOnline, which is a magical database for legal scholars around the world and includes full runs of many legal publications not found elsewhere, not even Lexis, Westlaw, or Bloomberg.
5. **Your Law Library:** We have law reviews and other legal periodicals through Westlaw and Lexis. We also have a network of more than 3,000 law librarians around the country to help us with the toughest requests. Right here in Oregon we have a network of academic, state, and county law librarians who collaborate on all sorts of legal research requests.

Finding Articles through Subject Searches:

1. Google Scholar can be a remarkably useful tool for keyword research, albeit in a semi-random sort of way. But I can personally attest to finding useful articles that don't appear when using traditional legal research methods (and vice versa).
2. Search legal indexes to periodicals and full-text law review databases: Lexis and Westlaw are in the Law

Library or you can search LegalTrac and HeinOnline remotely, assuming you have a public library card, either Washington County (WCCLS) or Multnomah County. (HeinOnline is available only with a WCCLS library card.)

3. Last, but not least, don't forget to Shepardize law review articles for cases and articles that cite your lead article. Email us the citation and we'll email you the Shepard's or KeyCite report.



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THE WCBA MARCH CLE & DINNER MEETING

WEDNESDAY, March 11th

Washington County Personal Injury Cases

PRESENTED BY:

Paul Vames, Harris Law Firm

AND, The Oregon Supreme Court will join us for dinner

Date: Wednesday, March 11, 2015

Time: CLE- 5:15pm; Cocktails & Dinner - 6:30pm

Place: The Old Spaghetti Factory, 18925 NW Tanasbourne Drive, Hillsboro

CLE Credit (Pending approval): 1 General MCLE Credit

PLEASE NOTE:

- To pre-register, please check the appropriate box below and email, fax, or send via regular mail with the name of the attendee.
- Payment will be taken at the door unless you would like to pre-pay on our website via PayPal.
- We now accept all major credit cards at the door.
- Dinner selections will be made on arrival.

PRE-REGISTER:

WEBSITE: www.wcbabar.org

EMAIL: wcbabar@frontier.com

NEW FAX NUMBER 971.256.0631

MAIL: P.O. Box 912, Hillsboro OR 97123

NAME _____

- Dinner + CLE = \$30 (member)
 - Dinner + CLE = \$40 (non-member)
 - Dinner only = \$15 (member and non-member)
 - CLE only = \$15 (member)
 - CLE only = \$25 (non-member)
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