

Lawyer

THE STATE BAR OF MONTANA

Court OKs the Bar's dues hike

UM picks
5 finalists
for dean of
Law School



**Bar
member
makes
some
political history**

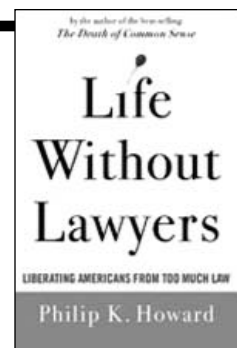


The
seesaw
of
justice

*New realities
begin working
against
lower-income Montanans,
but for unauthorized law practitioners*

BOOK REVIEW

**So America's liberated
from law. What now?**



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PRESIDENT'S MESSAGE

Legal Services needs your help

Take a case, give money, call your legislator

Chris Tweeten

Times are tough. Millions of Americans have lost their jobs, home foreclosures are at an all-time high, and the value of retirement funds across the country has disappeared. All of us have felt the pinch in some way.

For lawyers in Montana, things could be much worse. In major cities, old tall-building law firms have closed, merged, or downsized in response to the economic crash. Thousands of talented and experienced attorneys are on the street looking for work. While the job market for lawyers in Montana may be tightening, stories of widespread lawyer layoffs have not shown up in the news here.

Montana usually lags behind the nation economically. Our highs are not as high and our lows are not as low. One part of our economy, however, remains distressingly constant. Consider these facts:

- Roughly one in five Montanans – 190,000 of us – qualifies for services from the Montana Legal Services Association (MLSA). This means their annual income is no more than \$13,538 for an individual or \$27,563 for a family of four.

- Legal needs for this population already go unmet at an unacceptable rate. According to the 2005 Legal Needs Study, more than 80 percent of the legal needs of poor people do not receive the attention of a lawyer.

- Montana Legal Services currently has 14 attorneys to serve this population – 13,400 potential clients per attorney.

- Montana Legal Services' second-largest source of funding is the Montana Justice Foundation (MJF), which gains most of its revenues from IOLTA.

- In 2008, the Federal Reserve reduced its benchmark interest rate to zero. Rates of interest on deposit accounts have fallen to historic lows.

- Since IOLTA funds come from interest on deposits, the dramatic decrease in interest rates is projected to result in a 65 percent drop in IOLTA revenues by the end of this year.

THE RESULT OF THIS revenue shortfall has landed squarely on the shoulders of Montana Legal Services and other MJF grantees that provide essential services to the justice system. The MLSA Board recently announced the

layoff elimination of 10 staff positions, lawyers and non-lawyer staff, spread across all four Legal Services offices. When the layoffs take effect, a classic whipsaw will occur:

- The economic downturn will inevitably increase the number of Montanans who qualify for Legal Services assistance.

- The effect of this increase will be multiplied by the fact that the recession will cause this enlarged population to suffer an assortment of recession-related legal problems. Consumer credit issues, bankruptcies, landlord-tenant disputes, even divorce and family violence, become more frequent problems for people affected by economic hard times.

- MLSA will see its resources dramatically reduced at precisely the time it needs the resources the most.

And in case you think government is the answer, the Legislature's budget spending bill, as it currently reads, has eliminated the pro bono and the self-help law clerk positions from the Supreme Court's budget.

AS LAWYERS, WE HAVE always served as the safety net for access to justice in Montana. We contribute to the MJF, and through our pro bono obligations we take the cases MLSA cannot. We need to step up again.

When your local pro bono program calls with a referral of a MLSA case, take it if you possibly can. Reducing MLSA's caseload is one of the fastest ways we can make MLSA's resources go farther.

Contact your legislators now. Tell them that they cannot afford to eliminate the only small contribution state taxpayers make to access to justice and the legal needs of their low-income neighbors. The Legislature will add and subtract things from the budget bill until the last day of the session. They need to hear from people in their own communities about how important these issues are.

In addition, consider making an additional contribution to the Montana Justice Foundation. I know many of us include the MJF in our year-end charitable giving. Now is the time to do more. I plan to make an additional donation of 1 percent of my 2008 adjusted gross income. I challenge you to do the same. It's a small pinch for us, but if all of us would do it, MLSA could provide services to a lot more of the folks for whom the times are hardest. ○

Fewer props for proper justice

Unauthorized practice and access to justice are opposite sides of a see-saw. Financially stressed clients who believe they can't afford to hire an attorney resort to calling the "affordable legal services" ad they found at the laundromat or sandwich shoppe. Invariably, the provider is someone who has worked within a lawyer's office and believes he learned enough (without the hassle of law school and the bar exam) to counsel others. For a fee. Sometimes the fee they propose to charge rivals what an attorney would ask. Sometimes the unauthorized practitioner is selling forms and information that are available for free via the State Bar's website (see www.montanabar.org "for the public"). Clients willingly don't disclose where

they're receiving assistance, so long as it's affordable.

Access to justice and court support programs are at great risk of losing funding at the Legislature this session. At the time this is written, one program, noted in the story below, has been zero funded within the main judiciary budget. Another program barely saved with some frantic grant searching. Montana Legal Services has cut direct services and positions. The Justice Foundation's money to support MLSA and access to justice has decreased due to the economic downturn.

The see-saw effect between access programs and unauthorized practitioners may tip in the unauthorized practitioners' favor.

When controls needed most, unauthorized practice fight hits the wall of reality

By **Betsy Brandborg**
State Bar legal counsel

The Commission on Unauthorized Practice has petitioned the Montana Supreme Court to adopt revisions to the Rules on the Unauthorized Practice of Law. The goal of the proposed revisions is to simplify procedural mandates and restrict the Commission's obligations to those that can be accomplished within its limited budget. The Supreme Court will accept written public comments through April 20, 2009. (See the petition at www.courts.mt.gov under "New Rules.") Each person submitting comments must file an original and seven copies of comments with the Supreme Court clerk.

Resources supporting the Commission are limited

The Supreme Court's Commission on Unauthorized Practice receives minimal funding from the State of Montana (in the form of reimbursed expenses). The Commission's work is supported by the State Bar of Montana, which budgets approximately \$1,000 per year to support the Commission's work. The Bar also offers staff support in the form of an administrative investigator and assistance from Bar counsel.

The existing rules of the Commission, adopted by the Supreme Court in 2000, anticipated that funding could be developed to support the system contained within those rules. The Judiciary's budget for the 2007 biennium contained \$500,000 to support the work of the Supreme Court's Commissions. The Unauthorized Practice Commission

Programs providing competent legal help to Montanans are falling prey to hard times

By **Charles Wood**
The Montana Lawyer

In February, three statewide legal-assistance programs fell on hard economic times, threatening to cut off Montanans who also are suffering financially and who will be left more vulnerable to unauthorized legal practitioners.

As of this writing, one program—the state Pro Bono Program—has been saved for a while, at least. And the funding for another program—the Self-Help Law Program—is still a possibility, though it was cut from the Judicial Branch's budget.

But On Feb. 28, the board of trustees of the Montana Legal Services Association voted unanimously to reduce staff in several offices and close the Browning office, effective March 13. MLSA staff was reduced by 10 full-time equivalent positions. "Reductions in grant income, along with major reductions in income to the Montana Justice Foundation, have necessitated these drastic actions," MLSA Executive Director Klaus Sitte said in an e-mail to the State Bar.

THE RELATIVELY NEW state Pro Bono Program and Self-Help Program were approved for the court system by the 2007 Legislature. This year, however, the 2009 Legislature and the Governor's Office signalled early on that the two line items would have to be chopped from the Judiciary portion of the governor's budget.

The Court Administrator's Office announced to *The Montana Lawyer* in March that the position of state pro bono

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More LEGAL AID PROGRAMS, Page 23

believed that a portion of that appropriation would be available to support its work. The Court chose otherwise, and anticipated funding never materialized. Compounding the Commission's financial challenges, the dues increase recently ordered by the Court does not include additional funding for the Commission.

In addition to funding constraints, the Commission's efforts are hampered by a lack of interest by county prosecutors to engage with unauthorized practitioners. Unauthorized practitioners are tar babies. They know just enough about the law to tie those who complain of their actions in knots of litigation.

Why regulation of unauthorized practice is important

Attorney-client privilege and confidentiality are cornerstone values of attorney representation. Those who choose to go to unauthorized practitioners lose those and other protections afforded to clients of lawyers within the Rules of Professional Conduct and the attorney regulatory system.

A case decided in 1915 and quoted in the Court's decision on the Flathead's unauthorized practitioner Jerry O'Neil says it best. The primary reason for prohibiting the unauthorized practice of law is to protect the public from being advised and represented by unqualified persons not subject to professional regulation:

When we consider the relationship of attorney and client and its consequences to the client, as well as to his possible adversary, it becomes manifest that insistence upon due authorization of the persons acting as attorneys is of vital importance....The people have a right to presume that the law in this respect is being enforced; if it is not enforced, such persons as entrust their business to an unchallenged pretender are permitted, in matters of life, of liberty and of property, to lean upon a broken reed.

In re Bailey, 50 Mont. 365, 369, 146 P. 1101, 1103 (1915).

The Commission's revisions clarify the consumer protection goal within the "purpose" section of the rules.

There is progress by definition

The perennial challenge for the Commission in obtaining support from other governmental entities was the lack of a more specific definition of what constitutes the practice of law. Section 37-61-201, MCA circularly includes within its definition those "who shall engage in the business and duties and perform such acts, matters, and things as are usually done or performed by an attorney at law in the practice of his profession...." The Commission's Rules currently state: "Unauthorized Practice of Law" means the practice of law without being first duly qualified, as prohibited by statute, court rule, or case law of the State."

In its O'Neil decision, the Court upheld the constitutionality of the statute against a challenge of vagueness. The Court explained that there is sufficient information within the statute and case law to "give a person of ordinary intelligence fair

notice that the statute does not permit [the] contemplated conduct." For added clarity, the Court absorbed the district court's listing of indicia of the practice of law. That list includes:

- i. The giving of advice or counsel to others as to their legal rights or responsibilities or the legal rights or responsibility of others.
- ii. Selecting, drafting and completing legal papers, pleadings, agreements and other documents which affect the legal rights or responsibilities of others.
- iii. Appearing, or attempting to appear, as a legal representative or advocate for others in a court or tribunal of this state.
- iv. Negotiating legal rights or responsibilities of others.
- v. Holding one's self out or advertising one's self as an attorney admitted to practice law in Montana; or, holding one's self out as a non-attorney entitled to practice law in Montana; or otherwise advertising services in a manner that would reasonably mislead the public to believe that one is an attorney, or otherwise licensed or certified legal advocate in the courts of the State of Montana.

The revisions request that the above list of indicia be specifically included within the Rules on Unauthorized Practice.

The Commission scales back

In addition to absorbing the Court's boundaries on practice, the Commission is proposing to scale back its responsibilities, shifting the burden of prosecution to other better-equipped Montana enforcement authorities.

A critical proposal is that the Montana Consumer Protection Office within the Office of the Attorney General prosecute unauthorized practitioners. In the alternative, the Commission may request the county attorney where the alleged violation occurred pursue the action. In the event the county attorney does not act or is unable to act, the Commission is authorized to contact the attorney general and request that that office pursue the alleged violation.

Utilizing the resources available through the county attorneys and attorney general also serves to deflect the charge that the State Bar is a monopoly that engages in prosecutions to protect its own members. Protecting the public from being advised and represented in legal matters by unqualified persons is more efficiently realized when the responsibility for meeting that goal is in the hands of law enforcement entities.

The fourth set of revisions provide that information obtained by the Commission be public record, in accord with Montana Constitution Article II, section 9, the "right to know" provision. The current rules provide that information obtained by the Commission is confidential unless formal proceedings are initiated. Another related revision specifically permits the Commission to share otherwise private or confidential information with law enforcement authorities, the Office of Disciplinary Counsel, the Consumer Protection Office and other authorities to permit them to investigate or pursue enforcement of the violation of these Rules. The purpose of these proposals is to more directly communicate with the enti-

ties who have the resources to pursue an outcome that can provide greater public protection.

Cease-and-desist affidavits

Cease-and-desist affidavits have been developed by the Commission as a mechanism to record an alleged unauthorized practitioner's acknowledgement of the constraints attendant to the practice of law. After setting forth the boundaries and potential punishments, the affidavit concludes: "I further agree that I will not engage henceforth in any of the activities which constitute the unlicensed practice of law unless and until I am admitted to practice in this state by the Supreme Court of Montana." These affidavits have been effective in curbing the practice of law by unlicensed individuals who claimed not to have appreciated or understood the hazard imposed on those they intended to serve. The revisions incorporate these affidavits into the Rules.

Other organizational and ministerial matters

Currently, the Commission is required to consist of nine members, four of whom are practicing Montana lawyers and four who are not. The chairperson is the ninth member, and can be a lawyer or non-lawyer. The revisions propose to reduce the size of the Commission to seven – three Montana lawyers, three non-lawyers, and a chair. The purpose is to address the historic challenge of obtaining and keeping mem-

bers on the Commission and to reflect the fact that the Commission's burdens will be less, requiring fewer members within the scope of the revisions. Staggered term dates were mandated by the rules, but term limits on Commissions have never been an issue, so the mandate is proposed for elimination. The three-year term to be served by Commissioners is unchanged. The proposed reduction to seven resets a quorum of the Commission at four members.

The Commission also proposes to be allowed to conduct meetings via electronic mail (in addition to other traditional meeting mechanisms) as a cost-saving measure.

The current rules provide for the appointment of investigatory committees that investigate complaints, take sworn testimony, and submit written reports to the full Commission. The Commission has never implemented an investigative committee successfully. The mechanism is cumbersome and impractical and the revisions propose they be eliminated.

Also, the current rules mandate that complaints be submitted to the Commission in writing. The revision indicates preference for written complaints, but eliminates the mandate. This proposal addresses the "no one wants to touch it because it bites" factor ever-present in the world of unauthorized practice. In other situations, a complainant will direct

More **UNAUTHORIZED PRACTICE**, Page 23

The following is the State of the Judiciary Address that Montana's new chief justice, Mike McGrath, delivered to the Legislature on Feb. 4:

McGrath delivers his 1st 'State of Judiciary' address to Legislature

Thank you for giving me this opportunity. It is indeed an honor to be

here speaking on behalf of Montana's Judiciary. It is very gracious of you, and appropriate I might add, to provide this opportunity to both the Executive and Judicial Branches of Montana's government.

So what is so special about the Judiciary? What do these courts do?

The citizens of this state come to the courthouse when they are in crises:

- The rancher who can't irrigate because of a water dispute.
- The man injured through no fault of his own who cannot work and cannot pay his mortgage, buy groceries for his family, or pay his medical bills.
- The defendant wrongfully accused.
- The mother who needs child support to buy diapers and formula.
- The victim of a crime seeking justice.
- The father whose child is wrongfully being withheld from him.
- The business owner who has put a second mortgage on her house to stay in business and is now being sued.

■ The child crying in the crib after being abused and neglected by a parent.

All of these people come to the court because their lives are in crisis and cannot resume until this crisis is resolved. And they come because they know they have rights. They

know that there are laws that will protect them. They know that all they have to do is tell the judge their story and the crisis will be over.

And they know they will be treated fairly, by an independent judge – not a person beholden to money interests or partisanship or social status. Rather, a judge who will listen to their grievance and make a decision based on the merits of each individual case.

Alexander Hamilton said that the "ordinary administration of criminal and civil justice . . . contributes more than any other circumstance" to the public support of a system of government.

What our founders knew was that if this republic they had created was going to succeed, it had to be based upon the rule of law, and that rule of law requires an independent and impartial manner of resolving disputes – be they commercial matters, family crises, criminal charges, or removal of public officers.

And the system works!

TED OLSON SERVED as the U.S. Solicitor General in a

Republican administration. His wife was killed on 9/11. Recently he wrote:

Every day, thousands and thousands of judges – jurists whose names we never hear, from our highest court to our most local tribunal – resolve controversies, render justice, and help keep the peace by providing a safe, reliable, efficient, and honest dispute resolution process. The pay is modest, the work is frequently quite challenging, and the outcome often controversial. For every winner in these cases, there is a loser. Many disputes are close calls, and the judge's decision is bound to be unpopular with someone. But in this country we accept the decisions of judges, even when we disagree on the merits, because the process itself is vastly more important than any individual decision. Our courts are essential to an orderly, lawful society. And a robust and productive economy depends upon a consistent, predictable, evenhanded, and respected rule of law. . . Americans understand that no system is perfect and no judge immune from error, but also that our society would crumble if we did not respect the judicial process.

So I thank you for recognizing the importance of the Judicial Branch of our government and I thank you, again, for the opportunity to speak for the Judiciary.

Our legislative proposals this session are modest – but significant. By the way, the Judicial Branch, the court system for all Montanans, spends less than one percent of the entire state's budget.

WE HEAR A LOT these days about access to justice. If citizens cannot get their cases heard, if businesses don't have a way to resolve commercial disputes quickly, if the middle class can no longer afford to hire an attorney, if the poor have no redress for grievances, or if the system has become so complicated that only specialized attorneys can navigate the complexities, then they all are being denied access to justice.

Moreover, the old adage is true: justice delayed *is* justice denied.

Our budget proposes to add some judges in highly overcrowded courts in some of our growing communities.

We propose to reduce an extremely heavy workload at the Montana Supreme Court by bringing in a mediator to help settle cases that ought to be settled.

We propose to assist individual Montana citizens with court service areas, places where you can get proper forms and assistance with the court process without unnecessary expense. Not all legal matters need attorneys. There are many ways we can simplify the process and provide people with helpful solutions.

NOW WE RECOGNIZE that with judicial independence comes the corresponding responsibility, to be accountable:

- Accountable to the people we serve.
- Accountable to the Legislature, especially as to how we spend public funds.
- Accountable to the rule of law by virtue of the responsibilities we have to our Constitution and Montana statute.

In an effort to be more accountable, the Judicial Branch has

undertaken a series of performance measures. At the Supreme Court, a number of case-processing measures have been identified.

The Court is very much aware of concerns about backlogged cases. Significant improvements have been made in the last few months, and now only a few cases have been sitting for more than a year. We hope to adopt other efficiencies in the near future, while at the same time upholding our duty to the litigants to do a quality job.

In the district courts, performance standards are now being developed. Surveys of court users are completed and formulas have been adopted to accurately measure case loads and case timeliness.

FINALLY, LET ME SAY that there are a number of things we, the Judiciary, can do to prevent future expenditures of precious state funds.

Drug courts and treatment courts in general can and do save taxpayer dollars. And last session, legislators had the foresight to fund this program for the first time.

Two years ago, 50 percent of the children in foster care were there because of their parents' use of drugs – methamphetamine in particular.

An incredibly high percentage – up to 90 percent – of prison inmates (both male and female) are incarcerated with chemical dependency problems – as many as half, or more, for meth. And, of course, many of our prisoners have severe mental illness problems.

All of these social problems cause a tremendous drain on state and local government budgets. Treatment courts divert some of these people to less expensive and more effective alternatives. They can keep kids out of Pine Hills or even more expensive out-of-state placements.

Treating mental illness in a community can prevent tragedies like the recent episode in Glasgow.

Drug courts do reunite shattered families. Recently, I attended a graduation ceremony at a family drug court in Butte. One young woman had six children, all now out of foster care. She had a job and was a productive member of society and back together with her kids.

Many of our judges in Montana are committed to addressing these problems in their communities – problems they see every day. Treatment courts are a strain on judges' time and energy. However, they are very rewarding as well. They do see good things happen in a courtroom – not a common occurrence in our courts.

Nationally, it has been proven that treatment courts are by far the most effective thing we can do to address drug abuse and the problems that go with it. And thanks to you, last session, for providing some funding for these important programs. I hope they will be able to continue.

WE BELIEVE OUR proposals will help to ensure that the small business owner, the man injured through no fault of his own, the mom, the defendant wrongly accused, and the child crying in the crib get their opportunity to resolve their crises.

While I have been chief justice for only a short period of time, I have enjoyed the experience immensely. ○

Bills watched by Bar are slashed to seven

Only one, regarding Judicial Nomination Commission, passed by entire Legislature

The number of bills and bill drafts being closely tracked by the State Bar of Montana has dropped from 18 to 7 after 11 bills and drafts failed to meeting the Feb. 26 deadline for transmittal to the other chamber. Following is the list of Bar-watched bills that were still alive in the Legislative process at The Montana Lawyer's press time. The bills would affect the practice of law and the operation of Montana's courts. The list – updated daily with newly introduced bills, bills' status in the legislative process, fiscal notes, scheduled hearings, and the bill text – can be found on the home page at www.montanabar.org.

House Bill 155 – Require state agencies to develop procedures to protect personal information. Rep. JP Pommichowski (Democrat) is the main sponsor. This bill requires state agencies to protect certain personal information, develop procedures to protect Social Security numbers, and to provide a notification procedure regarding a breach suspected of compromising certain personal information.

The bill was passed by the House and then by the Senate State Administration Committee.

HB 301 – Include paralegal services in attorney fee awards. Sponsored by Rep. Deborah Kottel (D). The bill would allow inclusion of reasonable paralegal fees as a component of attorney fees that may be awarded to a prevailing party in certain cases. The bill also defines “paralegal.”

The bill was approved by the House and is now in the Senate Judiciary Committee.

HB 322 – Fair Arbitration Act. Sponsored by Rep. Anders Blewett (D), a Great Falls attorney. This bill requires a person nominated or appointed as a neutral arbitrator to disclose a conflict of interest. It also provides for vacating an award because of a failure to disclose a conflict of interest.

The bill was approved by the House and is in the Senate Judiciary Committee.

SB 125 – Clarify composition of Judicial Nomination Commission. Sponsored by Sen. Jim Shockley (R), a Victor attorney. This bill adds the 22nd Judicial District to the judicial districts represented in the composition of the Commission.

The bill, actively supported by the State Bar, was approved by the Legislature and transmitted to the governor for his signature.

SB 158 – Revise number of judges in judicial districts.

Sponsored by Sen. Gregory Barkus (R). If the bill passes, there would be district judges added to the following judicial districts:

- 1st (Helena), 11th (Kalispell), and 18 (Bozeman) – one new judge each, for a total of four judges in each district.

- 8th (Great Falls) – one new judge, for a total of five judges. (The April *Montana Lawyer* incorrectly said Missoula would be getting a fifth judge – it won't).

- 13th (Billings) – two new judges, for a total of seven.

The bill also provides for the election of a number of the judges in 2010.

The bill, actively supported by the State Bar, was passed by the Senate, and now resides in the House Judiciary Committee.

SB 191 – Provide funding for court security. Sponsored by Sen. Larry Jent (D), an attorney from Bozeman. This bill would require all courts of original jurisdiction to impose a user surcharge in criminal, civil, and probate cases. The surcharge must then be used by local governments for the payment of costs for court security needs.

The bill was indefinitely postponed on the Senate floor, and is probably dead.

SB 333 – Require election of Supreme Court justices from districts. Sponsored by Sen. Joe Balyeat (R). This bill requires a constitutional amendment, which must be approved by Montana voters. It would require that Montana Supreme Court justices be elected or appointed from districts established by the Legislature. Justices are now elected or appointed on a statewide basis.

Passed by the Senate, a hearing was held in the House Judiciary Committee on March 9.

Bills that died after missing deadline for transmittal to opposite chamber

HB 303 – Revises the Limited Liability Company Act.

HB 339 – Revise Limited Partnership Act.

SB 50 – Revise salaries for Supreme Court justices and district court judges.

SB 334 – Allow override of Supreme Court decision invalidating a statute.

SB 338 – Protect information relating to children in family law hearings and records.



Denise Juneau: a long road from Browning

*First Indian woman in statewide office
has always carried high expectations*

Excerpted from an article
by **Kristen Cates**
of the Great Falls Tribune

It's a long road from Browning's Last Star Housing Project to the office of the superintendent of Montana's public schools in Helena.

Along that road, Denise Juneau carried many titles: daughter, student, teacher, lawyer and basketball player.

On Jan. 5 she was sworn in as the first Native American woman elected to a statewide executive office — a title she's not yet comfortable with.

"I think you're always an American Indian first," she said. "It's a very unique relationship and very unique perspective to have. It will help in all kinds of ways."

The November election was historic on the national level, with Barack Obama being the elected as the first African American President in U.S. history. Juneau, the Democratic superintendent candidate, jokes that she garnered more votes in Montana than Obama — she had 234,000 votes to his 231,000 votes.

Juneau first battled through a four-way Democratic primary in June and, as the general election approached, she began to realize the distinction she would hold if she defeated Republican candidate Elaine Sollie Herman.

However, she didn't want to be pigeon-holed as a single-issue candidate just because of her ethnicity.

"There was a point when you came to the realization what it would mean," she said. "It was a very fine line to walk. You want to be true to who you are and where you came from, but you have to be on the other side of education."

JUNEAU, 41, SPENT most of her life in Browning. She is an enrolled member of the Blackfeet Tribe and a member of the Mandan-Hidatsa tribes of North Dakota.

She learned about her heritage through cultural events her family attended, but never in the classroom.

"I think it was just from an immersion in the community," she said. "It wasn't separate and apart from growing up. There was an understanding of who you were and how much Indian blood you had."

Juneau was born in Oakland, Calif., while her parents, Stan and Carol, worked as part of a Bureau of Indian Affairs relocation program to integrate Native Americans into urban, mainstream culture in the 1950s and '60s.

When she was 2 years old, her family moved to Billings, while her parents attended Eastern Montana College, where both earned teaching degrees. When Juneau was 6, the family moved to Stan's hometown of Browning.

"She always knew who she was," Carol Juneau said of her daughter. "That's one of the reasons we live here. We made a

conscious decision to move back. We thought it was important our children be raised in one of our communities."

Carol Juneau laments that Indian culture should have been part of her daughter's education.

"It would have been good for Denise to learn some of the language, for example," she said. "Neither Stan or I are native speakers. I think that kind of centers kids."

Stan Juneau said the family wasn't active in traditional activities, but they attended powwows and other dances in Browning.

"We did attend as part of the audience, and she was always with us," he said.

THERE ARE PLENTY of stories of people raised in Browning who didn't have parents around or who

lived in extreme poverty without much of an education.

Denise Juneau said she wasn't one of those kids.

Her mother is a retired student adviser and a Stay-in-School program director. Her father was a school counselor, athletic director and a superintendent before retiring.

Because her parents were well educated, Denise Juneau said she felt a responsibility on her shoulders — not just from her parents, but from other teachers — to do well in school.

"It was a double-edged sword," she said.

Dulce Whitford, Juneau's childhood friend from Browning, said the two grew up in the Last Star Housing Project near the hospital. The houses all looked the same, except for the paint. Whitford grew up in a green house just down the street from Juneau's gray house.

"We were just instant friends," Whitford said. "We were the tallest gals in the group."

Because of their height, the girls played basketball and Juneau's dad taught them how to play football. Whitford went



Great Falls Tribune photo

Denise Juneau, a graduate of the University of Montana School of Law, has a master's from Harvard and is now Montana superintendent of public instruction.

More DENISE JUNEAU, Page 22

Court approves Bar's request for dues increase

The Montana Supreme Court on March 4 issued the following order, signed by all seven justices:

IN RE THE PETITION OF THE STATE BAR OF MONTANA FOR A DUES INCREASE (No. 00-329)

Pursuant to Section VI, Montana Supreme Court Internal Operating Rules (2006), the Trustees of the State Bar of Montana have petitioned the Court for general dues increase and for a Pro Hac Vice fee increase.

The State Bar of Montana (Petitioner) has petitioned this Court to increase the dues for active members of the State Bar \$50, from \$150 to \$200 and to increase the dues for inactive members \$50, from \$75 to \$125. In addition, Petitioner has petitioned this Court to amend the 2005 Rules for Admission to the Bar of Montana on Pro Hac Vice for the sole purpose of raising the fee paid by Pro Hac Vice applicants to be the same as the annual dues paid by active members.

The State Bar submits that a dues increase is necessary to meet the State Bar of Montana's increased costs of administration, lawyer's assistance program, and to continue to perform the Bar's designated purposes. An increase in the pro hac vice fee will support activities of the Bar with pro hac vice admittees assuming responsibility for an appropriate share of the administrative costs.

On November 19, 2008, we published notice of the petition in *The Montana Lawyer* and on the State Bar of Montana's website and ordered that responses and comments from the State Bar membership and the public be submitted to the Clerk of this Court on or before February 17, 2009, with a response from the State Bar on February 20, 2009.

Seven comments in opposition to the increase were submitted along with three comments in support; including the Montana Trial Lawyers Association and the Lawyers Fund for Client Protection. The opponents are primarily concerned that the increase results in a disproportionate increase on inactive members, government attorneys, and small practitioners. In its reply to the comments, the State Bar pointed out that the concern that a dues increase unfairly affects certain classes of bar membership raises questions about the equity of the current dues structure within and between classes of membership, an issue beyond the scope of the present petition.

Having reviewed the petition along with the comments in

By now you should have received a packet of information that included the annual dues statement and CLE affidavit. There was a delay in sending out these forms this year due to the Court's decision on the proposed dues increase.

Statements include the increase, due April 13

Please note that dues payments and CLE affidavits are both due back at the State Bar offices on April 13.

To pay dues online you will need to go to www.montanabar.org and click on the "Login" button. An informational sheet on how to log in is posted under the Front Burner area of the homepage.

Again, the dues increase was \$50 for both inactive and active members. Active are now \$385 and Inactive are now \$150.

The statements also include:

- The State of Montana attorney license tax – \$25.
- The Lawyers Fund for Client Protection Assessment – \$20.
- The Disciplinary Counsel Assessment – \$125.
- The CLE filing fee – \$15.

We were unable to include section due on this year's dues statements because of the limitation of the new database. However, if you are in a section and want to continue membership, you can either include the amount in your dues check or go online and pay from the same area where you pay your dues.

If you are not a member of a section and wish to join, go to www.montanabar.org and click on the Bar Groups tab, then on the section name. Each section has its own web page that features a join form.

opposition and in support, we conclude that the State Bar of Montana has demonstrated that the proposed dues increase is both fair and necessary to allow the State Bar to meet its Court-ordered obligations.

IT IS HEREBY ORDERED THAT effective immediately:

1. The annual dues for active members of the State Bar are increased from \$150 to \$200 and the annual dues for inactive members are increased from \$75 to \$125.

2. Rule IV(D)(10) of the 2005 Rules for Admission to the Bar of Montana is amended to read as follows:

The completed application along with a one-time payment to the State Bar of the dues currently required of active members of the State Bar along with annual Office of Disciplinary Counsel and Lawyers Fund Assessments.

○

2009 Lawyers' Deskbook & Directory

Errata Sheet

Please make the following corrections:

3/2/09

Page iii. Table of Contents

State Bar of Montana Presidents
2006-07 Peggy Probasco
2007-08 John C. Schulte
2008-09 Chris D. Tweeten

Pages 56 District Courts

1st Judicial District
Judge McCarter's Scheduling Clerk should be:
Dawn Apple
dapple@co.lewis-clark.mt.us

Pages 61 – 62 District Courts

12th Judicial District (Chouteau County)
Clerk of District Court should be:
Rick Cook
rcook@mt.gov

16th Judicial District – (Carter & Custer Counties)
Clerks of District Court should be:
Marilyn Hutchinson (Carter County)
mhutchinson@mt.gov

Hazel Parker (Custer County)
hparker@mt.gov

Pages 72 District Courts

1st Judicial District Court Rules
Rule 4.B – Designation of Cases replace Judge Honzel
with Judge Seeley

Page 177 County Officials

Carter County – Clerk of District Court should be:
Marilyn Hutchinson mhutchinson@mt.gov

Chouteau County – Clerk of District Court should be:
Rick Cook rcook@mt.gov

Custer County – Clerk of District Court should be:
Hazel Parker hparker@mt.gov

Page 179 County Officials

Golden Valley County –
Clerk & Recorder's name should be listed as:
Mary Lu Berry

Page 180 County Officials

City Judge Susan Richardson should be listed as
City Judge Sharon Richardson

Page 232 Law Education & Information Committee

Brenda Wahler – add street address:
7 W. 6th Avenue, Suite 4S

Objective 1(g) should read:

to support Youth Justice programs and other civic/legal
education activities.

Page 298 Local Bar Presidents

First Judicial District Bar Association
Kim Wilson – kwilson@rmslaw.net

Gallatin County Bar Association
Edward Guza – eguza@qwnl.com

Lincoln County Bar Association
Stephen H. Dalby – sdalby@frontiernet.net

Northwest Montana Bar Association
Eric Hummel – eric_hummel@hotmail.com

Page 359 Membership

Jovick, Robert L.
Email should be: leagle@imt.net

Page 397 Membership

Inadvertently omitted:

Schwickert, Randy K.	(406) 862-5302
6336 Highway 93 S.	(406) 862-1447 fax
Whitefish, MT 59937	Active – 11/1974
lawoffices@centurytel.net	

Membership

Phillips Law Firm P.C.
Fax number for all attorneys should be: (406) 721-0058
Amy Olson Duerk Carey Schmidt
Del Linda Frost Paul M. Sharkey
John Francis Haffey
John Frederick Jenks
Robert J. Phillips

Please copy and distribute this to all in your office who have a 2009 Lawyers' Deskbook & Directory.

Page 1 of 2

Law education center needs some benefactors

By **Abigail Houle**, coordinator
Law-Related Education Center

The State Bar of Montana created the Law-Related Education Center to bridge the gap between the legal and non-legal communities. The Center, housed within the State Bar office and overseen by the State Bar's Law Education & Information Committee (LEIC), seeks to increase public awareness of Montana's lawyers and judiciary by producing original educational materials and helping coordinate law-related education events at schools and other public forums across the state. The Law-Related Education Center hopes to improve Montana citizens' understanding and appreciation of the legal system, and the roles they play in it.

Although the Bar is committed to providing materials to the public for little or no charge, the Center is dependent on outside funding to continue its services. Thus, donations to support the Center from attorneys, law firms, and other interested individuals are welcomed. Only with continued help can the Center continue to provide valuable community education services.

FOR THE PAST three years, the State Bar has utilized Americorps VISTA volunteers who serve as the coordinators of the Center. They have enabled the LEIC to tackle several public education projects. One of the Center's most notable accomplishments

has been its publication of the "Montana Student's Guide to Turning 18," an informative guide for young people entering adulthood in Montana. The guide discusses apartment rental, marriage, alcohol and drug use, and various other legal situations that individuals might encounter upon turning 18.

The guide has received very positive feedback from educators, lawyers, and law enforcement workers around the state who use it as a tool to teach youths about the state's legal and justice systems.

Recently, the *Billings Gazette* brought even more attention to the "Guide to Turning 18" by running an about the publication.

The guide is available to download as a pdf document from the State Bar's website at www.montanabar.org. A limited number of hard copies of the guide were produced in an initial print run, and the Bar hopes to produce an expanded second edition pending further funding.

CURRENTLY, the LEIC and the Law-Related Education Center is working with the State Law Library to develop a guide to Montana's court system, intended to help the public become more familiar and comfortable with the legal process. The Bar aims to have the guide published and ready for distribution by this summer. This publication will also be made available on the Bar's website.

Some other resources that the Law-Related Education Center offers include curriculum materials for educators. The educational tools are available on the Center's webpage, linked off the Bar's homepage at www.montanabar.org.

Over the past two years, the Center has put on sev-

eral community forums, including a presentation aired on local access television, where judges and lawyers discussed legal issues of interest to the public. The Center has also compiled a Speakers' Bureau, a list of lawyers willing to speak about law in classrooms.

The LREC helps to coordinate statewide law-related education events. In the past, the center has helped organize activities on Law Day, an annual, nationally-celebrated day devoted to law-related education. Each Law Day in Montana, lawyers have visited schools across the state to teach children about the legal system.

TO MAKE A DONATION to the State Bar of Montana Law-Related Education Center, call Charles Wood, (406) 447-2200 or e-mail cwood@montanabar.org



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Correspondence to:

PO Box 9433
Missoula, MT 59807
drdavis@patrickdavisphd.com

When ipsie dixit is not enough

Membership (cont.)

Cooney, Dee Ann	(406) 443-7298
P.O. Box 7775	(406) 441-5497 fax
Helena, MT 59604	Active - 10/1985
dcooney@mt.net	
Sehestedt, Michael W.	(406) 441-5472
2717-F Skyway Drive	(406) 441-5497 fax
Helena, MT 59602	Active - 6/1973
msehestedt@mtcounties.org	

Upcoming CLE seminars for Montana lawyers

March 26 Missoula – Missoula County Courthouse

The Law, the Guardian & Conversations With Kids 1.0 CLE credit. Presented by the 4th Judicial District Court, (406) 258-3461

March 26 Teleconference

Discovery From Start to Finish 1.0 CLE credit. Presented by the Institute for Paralegal Education, (800) 793-5274

March 27 Great Falls – Hampton Inn

Potpourri of Civil Litigation Services 6.0 CLE credits, including 1.0 Ethics credit. Presented by the CLE Institute of State Bar of Montana, (406) 447-2206. See Upcoming CLE listing on home page of www.montanabar.org for details of speakers, program, and registration

March 27 Billings – Crowne Plaza Hotel

Legal Ethics 3.0 CLE credits, including 3.0 Ethics credits. Presented by the National Business Institute, (800) 930-6182

March 30 Helena – Great Northern Hotel

Legal Ethics 3.0 CLE credits, including 3.0 Ethics credits. Presented by the National Business Institute, (800) 930-6182

March 31 Missoula – DoubleTree Edgewater Hotel

Legal Ethics 3.0 CLE credits, including 3.0 Ethics credits. Presented by the National Business Institute, (800) 930-6182

April 14 Helena – Great Northern Hotel

Medicare Secondary Payer Compliance 6.75 CLE credits. Presented by Medical Management Resources, Inc., (406) 449-3600

April 23 Billings – Billings Hotel & Convention Center

Commercial & Real Estate Loan Documents in Montana 6.75

Other web & phone CLEs for Montana credit are:

■ For the State Bar of Montana's approved online CLEs, go to www.montanabar.org and click CLE / Online CLE Courses

■ MTLA's SeminarWeb Live! Seminars at www.seminarweblive.com/mt/index.cfm?showfull-page=1&event=showAppPage&pg=semwebCatalog&panel=browseLive

■ Lorman Education Services' teleconferences at www.lorman.com/teleconferences/

CLE credits. Presented by Lorman Education Services, (866) 352-9540

April 6-10 Missoula – University Center South Ballroom and Roxy Theater

Browning Symposium on Rural Law 18.0 CLE credits. Presented by the *Montana Law Review*, www.montanalawreview.com. See ad on next page.

April 30 Missoula – Missoula County Courthouse

The Law & the Guardian Who Has Been Asked to Testify 1.0 CLE credit. Presented by the 4th Judicial District Court, (406) 258-3461

April 30-May 1 Butte – Holiday Inn Express

Montana Fair Housing Conference 13.0 CLE credits. Presented by Montana Fair Housing, (406) 782-2573

STATE BAR CALENDAR

March 27

CLE: Potpourri of Civil Litigation Issues, Hampton Inn, Great Falls

April 2

Annual Meeting Committee meeting, noon, Worden Thane Law Offices, 111 N. Higgins Ave. #600, Missoula

State Bar Executive Committee meeting, 1-5 p.m., Missoula

April 3

State Board of Trustees meeting, 9 a.m., UM Law School, Missoula

April 27

Board of Bar Examiners meeting, 10 a.m., State Bar offices, Helena

May 1

Law Day, nationwide

State Bar Executive Committee meeting, 10 a.m., State Bar offices, Helena

May 15

Bucking Horse CLE, Miles City

May 22

Technology Committee meeting, 10 a.m., State Bar offices, Helena

The Honorable James R. Browning Symposium Montana Law Review Rural Law Symposium

April 6 - 10, 2009

Events free and open to public. Food and beverages provided at all sessions. Free CLE credits.

Monday April 6, 2009: Ranching and Agriculture

Lunch Session. Noon-1:30 pm at UC Center Ballroom, 3rd Ballroom South

Topic: Competition in agribusiness and issues confronting Montanan packing industry. Speakers: Steve Bullock, Montana Attorney General; Anthony Johnstone, Solicitor, Office of Montana Attorney General.

Evening Session. 6:00 pm - 8:00 pm at UC Center Ballroom, 3rd Ballroom South

Topic: Addressing rural development challenges; USDA and agricultural practitioners. Speakers: Harrison M. Pittman, Director of National Agricultural Law at U. of Arkansas; Jake Cummins, Montana Farm Bureau.

Tuesday April 7, 2009: Water Law

Lunch Session. Noon -1:30 pm at UC Center Ballroom, 3rd Ballroom South

Topic: Stream Access. Speakers: Michelle Bryan-Mudd, UM Law Professor; Dan Vermillion, Fish & Game Commissioner; Mark Aagenes, Trout Unlimited lobbyist; Hugo Tureck, Montana Cattleman's Assn.; Delvin Geddis, Bozeman water law attorney; Montana Rep. Kendall Van Dyk.

Evening Session. 6 pm -8 pm at UC Center Ballroom, 3rd Ballroom South

Topic: Yellowstone River Compact case; Coal Bed Methane. Speakers: Jennifer Anders and Sarah Bond, Montana Attorney General's Office.

Wednesday April 8, 2009: Rural Practice

Lunch Session. Noon -1:30 pm at UC Center Ballroom, 3rd Ballroom South

Topic: Practicing law in rural Montana. Speakers: Rural Montana Judges and Practitioners

Evening Session. 6 pm -8:00 pm at UC Center Ballroom, 3rd Ballroom South

Topic: Rural practice experience, challenges, and issues. Speakers: Klaus Sitte, Montana Legal Services; Lisa R. Pruitt, UC-Davis Law Professor, Legal Ruralism blog.

Thursday April 9, 2009: Forestry

Lunch Session. 12 pm -1:30 pm at the UC Center Ballroom, 3rd Ballroom South

Topic: Climate Change. Speakers: Alan Campbell, Office of General Council for Dept. of Agriculture; Mary Sexton, Montana Dept. of Natural Resources Director; Dr. Johnnie Moore, UM Professor of Geoscience; Jenny Harbine, Earthjustice attorney; Moderator: Gregory Munro, Professor of Law at The University of Montana

Evening Session. 6 pm -8 pm at UC Center Ballroom, 3rd Ballroom South

Topic: Ranching as a "public" use of public lands: trophic cascades, predator control, and wildlife-livestock disease problems. Speakers: Debra Donahue, Law Professor, U. of Wyoming; Dr. Richard Knight, Professor of Wildlife Conservation at Colorado State U.

Friday April 10, 2009: Rural Meth Abuse

No Lunch Session.

Evening Session. 6 pm -10 pm at the Roxy Theater, downtown Missoula

Topic: Methamphetamine epidemic solutions. Speakers: Robert Bovett, Oregon Narcotics Enforcement Assn.; Bill Slaughter, Montana Meth Project.

8 pm Showing: Montana Meth, a new documentary chronicling the devastation of methamphetamine use in Montana.

MORE INFORMATION

www.montanalawreview.com (714) 454-5286 helia.jazayeri@umontana.edu

State Bar of Montana Bookstore

These Montana legal manuals and videos are for sale or rent via this mail-order catalog. Other Montana Bar-produced video seminars, are available for download to your computer on the Online CLE catalog at www.montanabar.org.

LEGAL PUBLICATIONS

NEW! 2008 Guide to Montana's Local and County Community Foundations

2008, 54 pages
Print only, free

Montana Students' Guide to Turning 18

2008, 22 pages
CD \$10
Free download at www.montanabar.org

Montana Probate Forms

2006, 288 pages
Book plus CD \$150

Civil Jury Instructions

(MPI – MT Pattern Instructions)
1999 w/2003 Update, 400 pages
Book plus CD \$200

Criminal Jury Instructions

1999 w/2003 Update, 400 pages
Book plus CD \$105

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2005, 60 pages incl. 5 forms
Book plus CD \$150

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Available now
Book \$40
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Book & CD \$50

MT Family Law Form Book

2005, 93 pages incl. 26 forms
Book and CD \$150

Public Discipline Under MT Rules of Professional Conduct

2006, 115 pages annotated
Book \$35

Public Information Flyers

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Dispute Resolution
Divorce in Montana
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Small Claims Court
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Wills & Probate

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2005 Chapter 13 Bankruptcy CLE

5.0 CLE credits
Set of 4 DVDs, print materials included

2005 Information Technology CLE

1.50 CLE credits
DVD, no print materials available

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2005 Adolescent Brain Development

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*2009 materials to be listed in May
Montana Lawyer*

CLE materials from 2008

2008 CLE & SKI

Effective Mediation Techniques; 2007 Supreme Court Update; Montana Stream Access; Managing the Complex Real Estate Case; Structured Settlements

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Leap Into Litigation

All Law, On All Matters; Who Wants to be Stress Free?; Subpoenas: 3rd Party, State; Federal & HIPPA; Settlements & Mediation; Legal Interviewing & Investigation

Oil & Gas

Elm Coulee Field; Right to Access & Surface Damages; Leasing from a Lessor's Perspective; BLM's Leasing Program; Lawyer-Created Title Problems; Natural Gas Power Plant Development; Joint Ventures & Audits

Water Rights for the General Practitioner

Water Rights Fundamentals & Jurisdiction; Water Court Perspectives; Supply, Demand & the Future of Water Rights Claims; Ditch Easements; Realty Transfer Certificates; Ownership Updates Under HB 39

CLE materials from 2007

Attorney/Paralegal Practice Tips

Investigating and Discovery; Electronic Filing; Fed Rules on Discovery And E-filing; Human Rights Bureau Overview

Bench-Bar CLE

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Best of State

Opening an Office; Engagement/Disengagement Ltrs; Community Property In Another State; Worker's Comp; Adult Felony Criminal Sentencing

CLE & Ski

Environ. Concerns for Developers; Engagement/Disengmt. Ltrs; Supreme Ct. Update; Impaired Practitioners; Pro Bono Obligations; Solo/Small Firm Tips

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Limiting Losses; Delivery Methods; Sustainability;

Supreme Court update; Representing the Owner; Design Professional Contracts

Copyright Law Update

Prof. Scott Burnham – Mini CLE
Criminal Law Update
Prof Andrew King-Ries – Mini CLE

Dispute Resolution

Education Mediation; Mandatory Appellate Mediation; Substantive Arbitrability; Ethics; The Judicial Review; The Art of Negotiation

Ethics

Reviewing the Basics; A Business View; Conflicts of Interest; Common Pitfalls; Flat Fees; Impaired Practitioners; Engagement Letters

Landlord-Tenant Disputes

Author: Klaus Sitte, director of Montana Legal Services

Oil & Gas Update

Elm Coulee-Horizontal Bakken in Richland Co.; Deducting Expenses from Royalties; Lessor's Perspective; Title Problems; Lease Forms; Company Perspective; Access Right & Surface Damages

Pre and Post-Trial Tips

Taking & Defending Depos; Recovering Atty's Fees; Declaratory J'ments; Impaired Practitioners; Electronics Expectations-Judge's View

Solo/Small Practice

Opening an office; Leaving a Firm-Ethical Considerations; Going from Large Firm to Small/Solo Practice; Hiring & Firing; Ethical Considerations when Client Lies in Court and Reporting Other Attorney's Misconduct; View from Bench: Courtroom Decorum & Pitfalls

Stream Access

History; Fish, W'lfe & Parks Interest; Bitterroot Rvr. Protect. Assn & Recreationists Perspective; Land Owners' Interest

Wrongful Discharge Update

Prof. William Corbett – Mini CLE

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Five law dean finalists are chosen

The search committee tasked with identifying the next dean of the University of Montana School of Law, announced in March that it had narrowed the field to five finalists.

"We were fortunate to attract a wide array of top-notch candidates, and interest in our dean position stretched across the entire country," said Perry Brown, UM's associate provost for graduate education.

"Collectively, these finalists represent a diverse range of experience in both legal education and professional practice, and all are highly qualified to take on this important leadership role," he said.

The new dean will replace the current UM Law dean, E. Edwin Eck, who announced that he will retire as dean on June 30, but remain on the Law School faculty.

From March 10 through April 9, each of the finalists were to visit the UM campus for a series of meetings and interactions with key groups and individuals.

The five finalists, as described by the search committee, are:

■ **Greg Murphy.** Since 1984, Mr. Murphy has been a shareholder with the Montana law firm of Moulton Bellingham in Billings. His major practice areas include health care, Indian law, and environmental litigation, and he has served as chair of the ABA Law School Accreditation Committee and chair of the Board of Trustees for the National Conference of Bar Examiners.

Mr. Murphy is a graduate of The University of Montana and

the University of Notre Dame School of Law.

■ **Elizabeth Reilly.** Associate Dean Reilly has been a member of the faculty and administration at the University of Akron School of Law since 1984. She is an accomplished legal scholar and in her 14 years as associate dean, she has performed all of the major duties expected of a law school administrator.

Prior to joining the faculty at Akron, she spent 6 years in private practice.

Dean Reilly is a graduate of Princeton University and the University of Akron School of Law, graduating first in her class and receiving the only 4.0 grade point average in the school's history.

■ **Irma Russell.** Professor Russell is currently at the University of Tulsa College of Law, serving as a National Energy-Environment Law & Policy Institute professor, and was director of that organization from 2006 to 2008. From 1993 to 2006, she served on the faculty at the Cecil C. Humphreys School of Law at the University of Memphis.

Prof. Russell is a noted scholar in the field of environmental law and currently serves as the vice chair of the ABA Section of Environment, Energy & Resources and has held leadership roles on a number of other national committees.

She is a graduate of the University of Kansas, receiving a BA in Liberal Arts, a BS in Education, and an MA in English Literature before earning her law degree.

■ **John Bogdanski.** Professor Bogdanski holds a faculty position at Lewis & Clark Law School in Portland, Ore., and is widely considered a leading scholar in the field of taxation and an expert on the topic of valuation. He is the founder and current director of Lewis & Clark's Federal Tax Certificate Program, and a five-time winner of the school's Leo Levenson Award for Excellence in Teaching.

Prior to his academic career, he was a partner at the Portland law firm Stoel Rives.

Professor Bogdanski received his undergraduate degree from St. Peter's College and a law degree from Stanford Law School.

■ **Loren Prescott.** Dean Prescott was appointed in May 2008 to lead the effort to establish a law school at Wilkes University to serve Northeast Pennsylvania.

He has served as a professor of law at Widener University and served two separate terms as the school's vice dean.

He holds a BA from the University of Washington, a JD from Willamette University

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College of Law, an LL.M. in Taxation from the University of Florida College of Law and is a Ph.D. candidate in Public Administration at Penn State University.

You can view the resumes and letters of application for each of the finalists listed above by visiting www.umt.edu/lawdean.

Once the candidate's visits to the UM campus are complete, the search committee will meet to perform a final review of the credentials of each candidate, Mr. Brown said. "Based on this review, and by considering the feedback of the Law School students, faculty and staff and the broader campus community, we will submit a recommendation to the [UM] Provost, who will then make a final decision."

The Provost has set the goal of naming the new dean in time to have the dean in place by July 1.



Advanced Trial Advocacy Program set for April

The University of Montana School of Law's 22nd Advanced Trial Advocacy Program is scheduled for May 26-29 in Missoula.

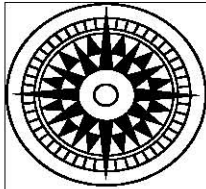
This intensive hands-on course in trial advocacy offers techniques and tips from jury selection to closing argument. The program uses the National Institute of Trial Advocacy format and is taught by Montana trial lawyers, judges, and communication specialists.

The topics included are effective jury selection, compelling opening statements, dynamic trial visuals, courtroom communication techniques, direct examination strategy, cross examination, presenting and attacking expert testimony, persuasive closing arguments and ethical pitfalls. The faculty includes Judge Gary Day, Judge Bart Erickson, Judge Sam Haddon, Judge Ted Lympus, Tom Beers, Elizabeth Best, Dana Christensen, Ron Clark, Mike Cok, John Connor, Randy Cox, Sean Goicoechea, Steve Harman, Randi Hood, Don Robinson, Karen Townsend, and John Warren.

This year's course uses a medical malpractice/products liability case involving the death of an individual following a heart transplant where the surgeon and the suture manufacturer are both sued.

Enrollment is a mix of law students and practicing attorneys and is limited, on a first-come, first-enrolled basis. Early registration is encouraged. The fee of \$900 for practicing attorneys includes instruction, books and materials, video tape and the awards reception. The course is approved for 27.5 CLE credits (includes 1 ethics credit).

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Meeting debates access to attorneys' records

By **Greg Tuttle**
of the Billings Gazette

Members of the Montana Supreme Court met with newspaper representatives and others in a public meeting on March 10 in Helena to discuss public access to the records of disciplined lawyers.

At the end of the hour-long meeting, the justices appointed a working group to propose possible changes to the rules, which the Supreme Court uses to enforce rules on lawyer conduct.

The rare public meeting of the Supreme Court was held after justices last year rejected a request by the *Billings Gazette* to open up the disciplinary records of Moira D'Alton, a former Billings city prosecutor.

In 2006, D'Alton was punished by the Supreme Court for violating the rules of lawyer conduct while working as a city prosecutor. But details of D'Alton's misconduct have remained confidential under the current Supreme Court rules for lawyer discipline.

In two appeals, the newspaper argued unsuccessfully that the Supreme Court rules violate the public's right-to-know provision in the Montana Constitution.

While rejecting the newspaper's request to open D'Alton's disciplinary records, the state high court agreed to hold a public meeting to consider changes to its disciplinary rules. The meeting held March 10 included all seven justices, a Helena attorney who represented the *Gazette* in its appeals and the executive director of the Montana Newspaper Association.

At the close of the meeting, Justices Patricia Cotter, James Nelson, and Brian Morris were appointed to the working group to consider possible rule changes. John Barrows of the Montana Newspaper Association, Shaun Thompson of the Supreme Court's Office of Disciplinary Counsel, and John Warren, chair of the Court's Commission on Practice, were also appointed to the group.

Warren did not attend the meeting, but in a written proposal submitted before the meeting he suggested revising the disciplinary rules so that records regarding lawyer misconduct are open for public review once a finding is made that an allegation has merit. Unsubstantiated or frivolous allegations against lawyers that do not progress beyond the Office of Disciplinary Counsel, which reviews such complaints, would not be publicly disclosed, according to Warren's proposal.

Mike Meloy, the attorney who represented the *Gazette*, said the newspaper supported Warren's proposal, which he said provides for the need to weigh an individual's right to privacy with the public's right to know by opening lawyer discipline records only after an initial finding is made that the complaint has merit.

Warren's proposal also calls for removing the confidentiality provided in some disciplinary cases when a lawyer makes admissions of misconduct on the condition that a certain punishment will be imposed. D'Alton made such a conditional admission, and the Supreme Court ruled in the *Gazette's* case that her expectation of privacy would be violated if the public had access to the details of her misconduct.


No schedule was set for when the working group appointed Tuesday might submit proposals for the revised lawyer disciplinary rules, Meloy said.

"I think the court will make a concerted effort to assure that whatever rule it comes up with comports with the right to know," Meloy said. "That may result in some fairly significant changes in how lawyers are disciplined privately." ○

Helena lawyer hit with suspension

Helena attorney R. Clifton Caughron has been indefinitely suspended from the practice of law in a Montana Supreme Court order issued on Feb. 4. The suspension is to last at least two years.

The court adopted recommendations from the Commission on Practice, but since Caughron made a conditional Rule 26 admission to the complaint the details of his violations are confidential. He was charged with violating professional rules on competent representation, candor to a tribunal, hiding evidence, and false communications regarding his practice.



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to Indian boarding school in South Dakota for some of her elementary years, but when she was home in middle school, her team sometimes played basketball against Juneau's team, which usually won.

"She was just a team player. She was never negative — even when I played against her," Whitford said.

Traveling outside of Browning for games and tournaments was sometimes a horrifying experience because she and her teammates heard racist taunts, had rocks thrown at their bus and were spit at. Juneau doesn't dwell on it, saying only, "We have a long way to go in this state." She said that in her younger years, she was very interested in science, but it was her high school English teacher, Anna Lunick, who eventually led her to Montana State University in Bozeman, where she earned her bachelor's degree in English.

"There was always the expectation that she would do well and she would go to college," Stan Juneau said. "She was

always a good student."

Whitford, who is now an Indian Education instructional coach in Great Falls Public Schools, said there are a lot of negatives that can surround growing up in Browning. But she and her friend always believed they had a lot of family support when it came to pursuing their goals.

"You just never let any of the negatives pull you back. Denise and my upbringing has made us stronger women today," Whitford said.

JUNEAU SAID THERE WAS some culture shock when she left Browning to attend college in Bozeman, where few people looked like her.

It was an even bigger shock when she went on to Harvard University on a scholarship to earn her master's degree in education. "You're leaving a community where everybody's like you," she said. "Boston was great, but I don't ever want to live there."

Juneau taught for a year in New Town, N.D., on the Fort Berthold Indian Reservation, where her mother grew up. Her job then took her to Browning, where she taught high school English. She then started working on her doctorate degree at the University of New Mexico but gave it up and moved back to Montana.

She got her feet wet in the Indian Education for All program under Nancy Keenan's administration at the Office of Public Instruction as an Indian education specialist. At that time, the program was funded solely with federal dollars.

Juneau went on to earn her law degree from the University of Montana, then work as a clerk for the Montana Supreme Court and at a law firm in Missoula, where she dealt with tribal law. She eventually left the firm to go back to Helena, taking the job as director of Indian Education for All at OPI under then-Superintendent Linda McCulloch.

WITH GENERAL FUND education dollars now funding Indian education, Juneau said she has seen leaps and bounds in the knowledge people have about Montana's real history, particularly the added Native American perspective.

"We are poised to be a very progres-

sive state," she said. "But it took us a while to get here."

Carol Juneau said that, at first, it was hard to believe her daughter when she called and said she wanted to run for office.

"Denise was a relatively shy young girl," her mother said. "She didn't try to take leadership roles in things. When she was in high school, she became more assertive."

However, the family attended different rallies and conventions, and Carol Juneau, who is a senator in the Montana Legislature, said her daughter was always right there with the family.

Denise Juneau said she decided to run for superintendent of schools partly because McCulloch was term-limited and partly because she felt it was necessary to address more of the issues facing public education. Her platform during the election was to bring back the conversation about the good of public education.

"Just knowing I could step up and do that work was enough," she said.

Juneau began her campaign nearly two years ago, putting more than 40,000 miles on her car since then to travel across Montana and spread her message.

TO OTHER STATEWIDE academic leaders, Juneau's election carries more significance than just moving offices.

Sandra Boham, director of Indian education at Great Falls Public Schools, said Juneau's presence will help school children — both Indian and nonIndian — see an accomplished woman, who happens to be Native American, in a leadership role. "We can see that Indian people aren't just stuck in the 1800s," Boham said.

Chris Lohse, a graduate a C.M. Russell High School, former policy adviser at OPI and the current director of research and data at the Council of Chief State School Officers in Washington, D.C., has a lot of experience working with Juneau.

"I just don't know of a person who has her skill set who is working in education at this point in time," Lohse said.

Juneau's knowledge of tribes in relation to education law is especially unique, he said. ○

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the Commission to advertisements or other actions taken by an unauthorized practitioner, but refuse to file a complaint. The revision eliminates a bureaucratic hurdle to the initiation of an investigation.

The current rules also mandate that no complaint can be dismissed without the full Commission's consideration. This mandate cements an inefficiency that is not the best use of the full Commission's attention. As the Court is responsible for designating the chair and vice chair, it can reasonably expect that those serving in that capacity have sufficient judgment and discretion to dismiss complaints that have no apparent validity.

Conclusion

Although the Court has granted the State Bar's dues request,

the enhanced revenues will not support the current rules of the Commission on Unauthorized Practice. To anticipate or rely on legislative appropriations within the Judiciary's budget is also unrealistic.

The Commission engaged in developing the proposed revisions after a realistic appraisal of what the Commission could do within the resources available to it. To that end, it can preliminarily investigate complaints and acts of unauthorized practice and refer those of confirmed validity to other entities with prosecutorial authority. Within the revisions, the panel fills an important role by identifying ongoing unauthorized practice, while screening those that can be addressed with the implementation of cease-and-desist affidavits. ○

A COPY of the Commission's full petition and the red-lined proposed rules are available on the Judicial Branch website at www.courts.mt.gov under "New Rules."

LEGAL AID PROGRAMS, From Page 5

coordinator, now held by Patricia Fain, will be funded by grant money through the Montana Board of Crime Control. "It allowed us to drop it from the [budget] proposal," said Beth McLaughlin of the Court Administrator's Office.

But it appeared there would be no rescue for the Self-Help Program, set up by the Montana Supreme Court to assist Montanans who wish to represent themselves in court. The Court is requesting \$247,000 for each of the next two years to operate the program. "The Court Help program will shut down on June 30, 2009, unless it is funded in this session," the Court Administrator's Office said.

But the hope of rescue appeared late in February in the form of President Obama's stimulus package. The stimulus money for Montana must be approved by the Legislature through House Bill 645. At *The Montana Lawyer's* press time, the first hearings on the bill were being held. "At this point, our focus will remain on securing federal funding for the [Self Help] program through economic stimulus money," Ms. McLaughlin said. "After looking at some options [including the Crime Control Board grant], we have removed the pro bono coordinator position from our [stimulus] request and reduced the overall request to \$495,000 over the biennium."

The process for allocating the federal stimulus money is a bit different. The joint House-Senate budget subcommittees in Montana were to hear testimony and proposals for amendments. Chief Justice Mike McGrath was to present the Court's Self-Help proposal, with supporting testimony by Helena attorney and State Bar Past President Ed Bartlett on behalf of the access to justice community. All requests for HB645 will be sent to the full House Appropriations Committee.

Since the Self-Help Law Program was established in 2007, it has:

- Established self-help law centers for the public in Billings and Kalispell and is considering proposals for such centers in eight other judicial districts.
- Established electronic legal forms which self-represented

litigants may use. Thirteen forms have been created or are being created so far.

- Recruited and trained self-help staff at the courts.
- Joined in a partnership with public libraries to make Internet legal resources available.
- Published a "Self-Help Litigation Bench Guide" for distribution to Montana judges and court staff.
- Begun publishing a series of guides to help self-represented litigants navigate the court system.

THE CRIME CONTROL Board's rescue of the state pro bono coordinator position, even though it is only for the next two years, brought a sigh of relief from Montana's legal community which has made a priority of providing access to competent attorney representation for free to Montanans who can't afford to hire lawyers. The Pro Bono Program, which had been coordinated statewide through the State Bar and a Court task force comprised of volunteers, is now expanding under the operation of Ms. Fain and several judicial district that have picked up the pro bono programs for their counties.

What would suffer if the Pro Bono Program hadn't been rescued? Ms. Fain outlined a number of the projects – established and manned by attorneys, judges and court staff in various counties – receiving assistance under the state program's umbrella during its first two years of existence:

- Billings Yellowstone Area Bar Family Law Project, which develops partnerships with local service providers and organizations to provide support services to both attorneys and clients – for example, domestic violence counselors and mental health professionals.
- Butte Pro Bono Program, which continues its award winning family-law pro bono services involving all lawyers in the district.
- Bozeman Pro Se Program, which offers direction and assistance to pro se (self-help) litigants through the assistance of volunteer lawyers and the Community Mediation Center.

More LEGAL AID PROGRAMS, Page 31

The terrifying prospect of an America without lawyers

By **Dahlia Lithwick**
Slate.com

So, what are we to do about all these lawyers? Well, if Philip K. Howard, founder of Common Good and author of "The Death of Common Sense," is right, the very last thing we want to be doing right now is watching as not one but two attorneys fill up all the sock drawers at the White House.

In his new book, "Life Without Lawyers: Liberating Americans From Too Much Law," Howard argues that Americans are slowly being choked to death by law. We churn out more than 70,000 pages of new rules in the federal register each year, and the proportion of lawyers in the workforce has nearly doubled between 1970 and 2000. In Howard's view, our reliance on law, lawyers, and lawsuits has turned Americans into fat, neurotic cowards who "go through the day looking over their shoulder instead of where they want to go."

"Life Without Lawyers" is knit together with the kinds of stories that make law-school graduates want to laugh right along with that joke about what you call a busload of lawyers at the bottom of the ocean. (Answer: a good start.) He reminds us about the Washington, D.C., judge who sued his dry cleaner for \$54 million for losing his pants; the teacher sued for repositioning a student's hands on a flute; the schools that now ban running (running!?) at recess; and the 5-inch fishing lure with the three-pronged hook with a label cautioning, "Harmful if swallowed."

Throughout, Howard paints a bleak picture of an America that is all "gray powerlessness" – a nation of broken-down citizens shuffling around in fear of litigation while municipalities tear down "dangerous" climbing structures and children comfort themselves with double-stuffed Oreos.

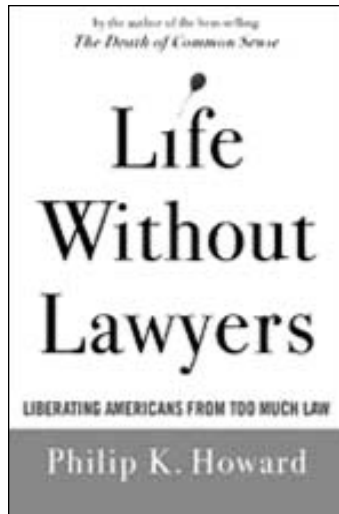
HOWARD'S DEPICTION of America as an ever-expanding sinkhole of laws and regulations actually echoes criticism recently leveled by former Bush administration lawyer, and my friend, Jack Goldsmith. Goldsmith, who ran the Office of Legal Counsel for a time, warned in his 2007 book, "The Terror Presidency," of a post-Watergate government culture in which the act of conducting warfare was smothered by over-regulation, inspectors-general, and fear. He describes a Bush administration that found itself "strangled by law."

Goldsmith's dismay over a pre-9/11 culture in which gov-

ernment officials were too terrified of potential future legal liability to act quickly or boldly perfectly echoes Howard's picture of an America that is now too scared of lawsuits to create, dream, or build.

Oddly, Howard's new book does not address the Bush administration's legal response to 9/11 at all. And that's too bad, because the "war on terror" actually provides a perfect natural experiment in his call to loosen the chokehold of law and allow lawyers to roam free and think big.

In the wake of 9/11, the decision was made, writes Goldsmith, to be more "forward leaning," more imaginative, and less risk-averse in the face of legal constraints on interrogation, information-gathering, and eavesdropping. And with a series of memos declaring that the laws of war did not constrain the president, followed by yet more memos setting out new legal guidelines, a bold – if wholly secret – new legal regime was born.



SO THE QUESTION one wants to pose to Howard in the wake of all this lawyerly liberation is whether the country was better off for it. Did America achieve any of the benefits he predicts? Howard urges, for instance, that liberating ourselves from law and regulation leads to a flowering of creativity. But that doesn't seem to have occurred in the legal aftermath of 9/11. In fact, when the Bush administration shucked off the rules and regulations governing warfare, the resulting ideas were anything but brilliant or new. It was by cutting and pasting random language from unrelated statutes authorizing health benefits that government lawyers like John Yoo created new definitions of torture. Instead of exploring the best

ways to update U.S. interrogation methods, we just reverse-engineered techniques taught at the Survival, Evasion, Resistance & Escape school and pilfered bad ideas from Fox Television's 24.

Howard further argues that if we could just get rid of the cumbersome web of laws and regulations that constricts us, the great untapped reserves of accountability and personal responsibility would flourish once more. In a column he penned recently in the *Wall Street Journal*, Howard wrote, "Accountability, not law, is the key to responsibility." And in his book he urges, "Accountability is the flip side of freedom. You will be free to act on your best judgment only if others are free to judge you." Yet, which lawyer has been held accountable for what amounts to the Jackson Pollock-ing of the rule of law over the past eight years? With the exception of former Attorney General Alberto Gonzales, not one Bush administration lawyer has been held responsible, or assumed a jot of personal responsibility, for his or her legal risk-taking.

To be sure, Howard mainly confines his criticisms of an overlawyered, rights-obsessed America to the realms of health care, education, public agencies, and the plaintiffs' bar. But his failure to address the brash risk-takers of the Bush Justice Department makes it difficult to read his book as anything

beyond a spanking of America's tort lawyers. His failure to at least grapple with the reality of the eight years we've just spent in a constitutional freefall starts to feel like an omission that swallows the project.

I SHARE A GOOD DEAL of Howard's concerns about frivolous lawsuits and the ways in which the fear of legal liability can impede sound educational and medical judgment. Inexplicably, my neighborhood playground also lost its "good slide" to a toddler injury. But the cure for "too much law" should not be too little, and the charge to lawyers who feel strangled by the law should not be, "Well heck, then, take some risks and make some up!"

If the last eight years can be made to stand for anything in the law books our grandkids will read, let it be for the proposition that the one thing scarier than a bus full of lawyers is a bus without them.

DAHLIA LITHWICK is a senior editor for *Slate.com* and writer of *Slate's* "Jurisprudence" column that appears occasionally on the State bar of Montana website. This article appeared on *Slate* on Jan. 31, and also appeared in *Newsweek* magazine.

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 Sean Goicoechea, Steve Harman, Randi Hood, Don Robinson, Karen Townsend, John Warren

From prosecutor to prisoner

From the **Billings Gazette**

Robert L. Eddleman, Carbon County's former top prosecutor and one-time Montana Supreme Court candidate, became a felon and inmate on March 11 after admitting to federal drug charges.

Moments after Eddleman pleaded guilty, Chief U.S. District Judge Richard Cebull rejected his request to remain free until his sentencing.

"He's remanded," the judge said.

A deputy marshal immediately cuffed Eddleman's hands behind his back and escorted him out of the courtroom. Eddleman was booked into the Yellowstone County jail. [KULR-TV in Billings announced later that Eddleman was transferred to the Dawson County jail on March 12 due to concerns for his safety at the Yellowstone County Detention Center. U.S. marshals said the transfer is typical for anyone with a background in law enforcement or the judicial system.]

IT WAS A STARK END to a legal career that included three years as Carbon County attorney, a stint as Stillwater County attorney, and an unsuccessful run for justice on the Montana Supreme Court in 2002.

*Although sentencing isn't until June,
Eddleman is remanded to jail*

Eddleman also was a public defender in Yellowstone County and worked in private practice.

Eddleman submitted a letter of resignation from his county attorney position on March 10 to the Carbon County commissioners. He has been on leave without pay since his indictment in December. His resignation was a condition of his plea agreement.

Carbon County Deputy Attorney Alex Nixon was sworn in as the new county attorney on March 12 after his appointment to the job by the county commission.

EDDLEMAN, 51, of Red Lodge, and his companion, Terri Jabs Kurth, 43, of Billings pleaded guilty in separate hearings on March 11 to a single count of conspiracy to maintain premises for the distribution and use of cocaine. They were indicted on four counts of cocaine-related charges plus a forfeiture count. The government accused them of buying cocaine and making the drug available to guests at parties at their homes.

Eddleman, however, argued that he did not sell drugs. "People would show up with their own cocaine and we knew that," Eddleman told the judge. "I've never sold cocaine, your honor."

The case is part of larger cocaine-trafficking investigation in Yellowstone and Carbon counties. At least seven other people have been indicted, including a Billings man who pleaded guilty to trafficking charges on March 11.

Judge Cebull allowed Kurth, 43, an interior designer and daughter of Jake Jabs, founder of Colorado-based American Furniture Warehouse, to remain free pending sentencing.

Judge Cebull set sentencing for June 17 for both defendants. They face a maximum of 20 years in prison and a \$500,000 fine.

Kurth agreed to pay \$50,000 to settle the forfeiture count prior to sentencing. If she doesn't pay, the government could move to take her houses in Red Lodge and Billings and her Lincoln Navigator. If she pays the settlement, her property can't be seized.

THE CHARGE REQUIRED detention upon conviction unless Eddleman and Kurth could prove exceptional circumstances or meet other requirements. Cebull allowed Kurth to remain free after a confidential meeting with attorneys.

Eddleman's attorney, Brian Fay of Bozeman, unsuccessfully argued for Eddleman's continued release, saying his mother was facing surgery and that Eddleman is the only family member available to care for her.

Plea agreements for Eddleman and Kurth call for three other counts to be dismissed at sentencing and for the government to recommend sentences at the low end of the guideline range. The agreements are sealed.

U.S. Attorney Bill Mercer said Eddleman's incarceration was "suggestive of the significance of the offense." ○

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Erin M. Erickson and **Jesse Beaudette** have become shareholders of the Missoula law firm of Bohyer, Simpson & Tranel.

Mr. Beaudette graduated from the University of Montana School of Law in 1997 after obtaining a bachelor of science in Physics in 1993 from UM. He is a member of the Western Montana Bar Association, the Montana Defense Trial Lawyers' Association, and the ABA. His areas of practice include insurance defense and coverage issues, as well as personal injury litigation.

Ms. Erickson graduated from the UM School of Law in 2002 after obtaining a bachelor of arts in English Literature from Gonzaga University in 1997. She is a member of the Western Bar Association, the Defense Research Institute, and the ABA. Her primary practice areas include employment and labor law, EEOC compliance, and insurance defense.

James C. Kilbourne, chief of the Appellate Section of the U.S. Department of Justice Environment & Natural Resources Division, was awarded the 2008 Presidential Rank Award by former Attorney General Michael Mukasey. The Presidential Rank Award is given to Department leaders in recognition of extraordinary career accomplishments over a sustained period of time. Only five percent of the Department's senior executives ever receive this prestigious award. Mr. Kilbourne, a 1977 University of Montana Law School graduate, has headed the Appellate Section since 1995 and is responsible for managing all environmental appellate litigation for the Justice Department.

Colleen M. Dowdall has become a principal in the Missoula law firm of Worden Thane. Ms. Dowdall has practiced law in western Montana since 1981, and was an associate at Worden Thane from 1989 until 1993. Before returning to Worden Thane in 2006, she represented Missoula County in land-use matters and related real estate and access issues, in her capacity as a deputy county attorney. Ms. Dowdall is recognized statewide as an authority on land use, subdivision, public and private access, and zoning law, including practice before local government boards and commissions and litigation of related matters.

Benjamin Cory has joined the Missoula office of the Crowley Fleck law firm. Mr. Cory received his undergraduate degree from the University of Montana in 2000 with a BA in Psychology, and his law degree from the University of Montana School of Law in 2005. Mr. Cory previously worked with Cederberg Law Offices in Missoula, where he had been working since September 2005. Mr. Cory is admitted to practice before the state and federal courts in both Montana and Wyoming, as well as the 9th Circuit Court of Appeals. Mr. Cory will practice in the Commercial Department in the firm's Missoula office, and his practice will continue to focus on business transactions, entity formation, and estate planning.



LOCAL BAR AWARDS – Attorney Travis Cushman, at right, received the Judge Robert P. Goff Pro Bono Award from the Cascade County Bar Association during its annual meeting on Feb. 17. He received the award for his outstanding service to citizens who would otherwise have no access to the civil justice system. Jason Kindsvatter, at left, received a Special Achievement Award for his continued devotion and commitment to the Cascade County Law Clinic.

The Dorsey & Whitney law firm has named **S. Wade Johnson** partner in the firm's Intellectual Property practice group. Mr. Johnson, a 2001 graduate of the University of Montana School of Law, is a member of the firm's Patent and IP Litigation groups. He practices in the areas of patent preparation and prosecution, patent litigation, patent opinions, and intellectual property licensing and acquisition. He is a licensed professional engineer with over eight years of engineering experience prior to graduating from law school. Mr. Johnson has patent prosecution and opinion experience in the areas of mechanical devices and systems, electromechanical devices, microprocessor controlled systems, wireless communication systems, and business methods. He is especially experienced in the area of medical devices, having drafted, prosecuted, rendered an opinion and or assisted in litigation regarding well over 100 medical device patents and patent applications. He also has patent experience regarding surgical methods, laboratory processors, patient transport devices, oral health products, medical fluid pathway connectors and valves, and medical facility communication systems. Mr. Johnson is admitted in Montana, Colorado, Minnesota and with the U.S. Patent & Trademark Office.

The Great Falls law firm of Jardine, Stephenson, Blewett & Weaver announced that two attorneys have joined the firm:

■ **Joseph Houston** received a bachelor's degree from the University of Utah and a juris doctorate from the University of Missouri-Columbia School of Law. While in law school he worked in the mediation clinic and was president of the student chapter of the J. Reuben Clark Law Society. Mr. Houston

offers legal services in many areas with an emphasis in civil trials. He is admitted to practice law in Montana state and federal courts.

■ **Joshua Campbell** received a bachelor's degree from Brigham Young University and a juris doctorate degree with distinction from the University of Nebraska-Lincoln. While in law school he worked for Professor Colleen Medill, a leading

expert in the area of employee benefits (ERISA), and was vice-president of the student chapter of the Federalist Society. Mr. Campbell offers legal services in many areas with an emphasis in bankruptcy (creditor matters), employee benefits, and business planning. Mr. Campbell is admitted to practice law in Montana state and federal courts.

DEATHS

John Cavan, Billings attorney

Long-time Billings attorney John J. Cavan, 89, died on March 7 in Billings.

Mr. Cavan was raised in Jordan, Mont., where his father practiced law and homesteaded in Garfield County. For high school, he attended a Jesuit school in Haverhill, Mass.

Mr. Cavan enlisted in the Army within a week of the attack on Pearl Harbor, and served in the Pacific Theater during World War II in the field artillery and counter-intelligence foreign service. He was also in the occupation army in Japan following the end of the war.

After the war, Mr. Cavan attended the University of Montana and the UM School of Law, earning his law degree in 1950.

Mr. Cavan practiced law in Billings for more than 50 years "and was widely regarded as one of the top trial lawyers in the state," his obituary said. He served as Yellowstone County attorney from 1955 through 1957, and was past president of the Yellowstone County Bar Association. He was the first recipient of the Yellowstone County Bar Association's Outstanding Professionalism Award in 1999.

Mr. Cavan was past president of the Youth Guidance Council, past president of Senior Helping Hands, and was on the board of directors of the Billings YMCA for several years. He was also one of the founders of Little Guy Football in Billings in 1956. Mr. Cavan served in the Montana Legislature as a representative of Yellowstone County from 1959 to 1961, and was the Yellowstone County Republican chair from 1960-1964.

Mr. Cavan is survived by his wife, Clare, two daughters and one son.

Sidney Kurth, Billings attorney

Billings lawyer Sidney Pearce Kurth, 89, died at his home in Billings on March 2. He was active up to his final days as an attorney, his obituary said.

Mr. Kurth was born and raised in Fort Benton. He was a 1942 graduate of the University of Montana, where he served as consul of the Beta Delta Chapter of Sigma Chi for two years. He joined the Marines in 1942 and was honourably discharged as a captain in 1946 after serving with the 3rd Howitzer Battalion at Guadalcanal. He was part of the invasion forces at Okinawa and was awarded the Purple Heart for a wound received during the battle of Peleliu Island.

Mr. Kurth received his LL.B. degree from the UM Law School in 1949. He earned an LL.M. in tax law from New

York University School of Law and started his legal career with US Steel in New York City. Wanting to raise his growing family in Montana, he returned to Billings in 1953 and started a private practice which spanned 55 years.

Mr. Kurth was an active member of the Republican Party and lobbied the Legislature on tax reform and other issues. Gov. Tim Babcock appointed him to the State Water Conservation Board from 1965-69. He continued to have an active interest in water and agricultural issues throughout his life. He was charter member of the Northern International Livestock Exposition, and he served on many related boards and committees over the years, most recently helping the Pro Rodeo Hall of Fame, as well as helping countless clients with issues in this area.

Mr. Kurth was a master Mason for 54 years, and was potentate of the Al Bedoo Shrine Temple in 2003. Mr. Kurth was a member of one of the first American groups to visit China in 1974. Over the years he and his wife, Susie, accompanied their children on cruises and trips that took them around the world.

Mr. Kurth, who was an Eagle scout, also was a Boy Scout leader as an adult. He was a president of the Black Otter Boy Scout District and president of the Yellowstone Valley Council. He was awarded the Silver Beaver Award for distinguished service by the National Court of Honor of the Boy Scouts.

Mr. Kurth is survived by his wife of 62 years, Inez Sue Fraser Kurth, four sons and one daughter.

Other deaths

● **Emmett A. Stallcop**, police judge and justice of the peace in Havre from 1950 to 1981, died at his home near Columbia Falls, on Feb. 11 at age 88.

● **Kathi Deliramich**, 52, a legal assistant for the Harkins Law Firm of Billings and, more recently, the Yellowstone County Attorney's Office, died following heart surgery on Feb. 25.

● **James Olson**, 67, a Cut Bank bail bondsman who had been a victim-witness advocate for the Cascade County Attorney's Office and a child-court administrator and prosecutor for the Blackfoot Tribe, died of cancer on Feb. 27.

● **Midge Shaw**, who served several terms as the clerk of district court in Dillon until her retirement in 1984, died in Dillon on March 6 at age 81.

CLASSIFIEDS

CLASSIFIEDS POLICY: There is a minimum charge of \$40 for all ads, even for State Bar of Montana members. All ads over 50 words are charged at 80 cents per word.

Send classified ads to *The Montana Lawyer* magazine, P.O. Box 577, Helena MT 59624; or fax to (406) 442-7763; or e-mail to cwood@montanalawyer.org. Please include billing address. The deadline for the May issue is April 10. Call (406) 447-2200 for more information.

JUDICIAL POSITIONS

MUNICIPAL JUDGE: Bozeman is opening a new half-time Municipal Court judge position (80 hours/month). Position is open until filled with an anticipated start date of April 1, 2009. Applicant must be a sitting or retired judge of a court of record or an attorney member of the Montana bar for 5 or more years. Compensation is \$38.03 per hour; with pro-rated benefits available for over ½ time. Interested parties please contact Michelle Westberg, chief clerk, Bozeman Municipal Court, 615 South 16th, Room 123; Bozeman MT 59715; mwestberg@bozeman.net; or 582-2040.

ATTORNEY POSITIONS

MOUNTAIN WEST BANK, N.A. is expanding its legal department and hiring another attorney, who will be located in Helena. This position reports to Mountain West Bank's vice-president/bank counsel, and applications will be accepted immediately. Duties will include providing legal advice to management and personnel on lending, contracts, commercial law issues, employment law issues, and other corporate matters. The position will also involve litigation and some travel. All applicants must have a JD degree and be a member of the Montana Bar. Applicants should have a working

knowledge of the Uniform Commercial Code, contract law, property law, and bankruptcy law. Applicants must be hard-working, with excellent communication and interpersonal skills, and a demonstrated ability to prioritize projects and complete multi-task assignments. Salary will be competitive and will depend on experience. Additionally, Mountain West Bank provides an excellent benefit package. All inquiries will be kept confidential. Send a cover letter, resume, and writing sample to: Amy Randall, Esq., Mountain West Bank, N.A., PO Box 6013, Helena MT 59604-6013; (406) 449-2265

ASSOCIATE: Sullivan Tabaracci & Rhoades PC seeks an associate attorney with no less than three years experience to primarily assist in its litigation practice. We focus upon commercial, real estate, and business law. We provide associates with excellent opportunities to expand their legal practice. In our effort to exceed our client's expectations, we hire only exceptional attorneys and staff. Situated in centrally-located Missoula, the firm's offices offer a spacious, technologically advanced and pleasant work environment. Successful applicants must be licensed to practice law in the State of Montana and demonstrate an exceptional academic background as well as superior research, analytical, verbal and writing capabilities. All applications will be held in confidence. Please submit your cover letter and resume to: Sullivan, Tabaracci & Rhoades PC, Attn: Office Administrator, 1821 South Avenue West, Third Floor, Missoula MT 59801. Info@montanalawyer.com; www.montanalawyer.com

LITIGATION ATTORNEY: Established Billings firm seeking a litigation attorney. 1-3 years experience with insurance coverage and defense background preferred. Strong research and writing skills necessary. All applications kept confidential. Competitive salary and benefits package. Send application, writing sample, transcripts, and resume to Halverson & Gilbert PC, PO Box

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ATTORNEY: Dawson County Domestic Violence Program is seeking a full-time civil legal attorney to work in Eastern Montana. This individual will provide civil legal assistance to victims of domestic violence, sexual assault and stalking. Salary depends on experience. Send a resume and a sample of your legal writing. Applicants must be admitted to practice in Montana. Send to: Dawson County Domestic Violence Program, P. Box 505, Glendive MT 59330

ATTORNEY: Established law firm in Kalispell is offering one or more lawyers the opportunity to join in a busy litigation, business and general practice firm. All applications will be kept confidential. Please submit cover letter, resume, writing sample and references to *The Montana Lawyer* #2-25, PO Box 577, Helena MT 59624.

ATTORNEY: 6-member Kalispell firm accepting applications for an attorney interested in litigation and/or general practice. 2-5-plus years experience preferred. Excellent support staff and facilities. Competitive, incentive-based compensation. Applications will be held in strict confidence. Send cover letter and resume to Evan F. Danno, Esq., Henning & Keedy PLLC, Eastside Brick, Suite 100, 723 Fifth Ave. East, Kalispell MT 59901.

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LEGAL ASSISTANTS & OTHER PROFESSIONALS

PARALEGAL: The Montana Legal Services Association has an opening for a paralegal in its Helena office. For more info go to www.mtlsa.org. Salary: \$26,000. Send a letter of interest, resume and three references to: Montana Legal Services Association, 616 Helena Ave. Suite 100, Helena, MT 59601.

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MEDIATION

ADR PRACTICE GROUP: Sullivan, Tabaracci & Rhoades PC ADR Practice Group has experienced and knowledgeable attorneys who offer their services as mediators, settlement masters, or arbitrators in disputes involving real estate, transactional, business, employment, personal injury, and probate matters. Our Missoula offices provide a spacious, comfortable setting for ADR sessions. However, we provide ADR services throughout Montana. Our ADR Practice Group includes: William "Rusty" Babington, Scott Manning, Chris Johnson, and Alea Sharp. For additional information please give us a call at (406) 721-9700 or visit our web site at <http://montanalawyer.com/areas.php>

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LEGAL AID PROGRAMS, from Page 23

Efforts are under way to revitalize the direct representation pro bono component into the community.

- Helena's Pro Bono Program.
- Cascade County Law Clinic.
- Western Montana Bar Association

Pro Bono Program.

■ The developing Flathead County Pro Bono Project.

■ A partnership with the University of Montana School of Law to develop Montana Lawyers for Montana Veterans, a program designed to provide pro bono assistance to veterans before the Board of Veteran's Appeals.

■ The Access to Justice Forum Series, which already has been presented in Helena, Great Falls, Butte, Bozeman, Billings, and Kalispell collectively including more than 600 participants.

MEANWHILE, THE Montana Legal Services Association board and staff are saddened by the cuts they had make "with obvious reluctance and deep regret," said Executive Director Sitte. But, he said, "The Board of Trustees of MLSA wants to assure those interested in access to justice issues that MLSA is operating on a sound fiscal and financial position. [National] Legal Services Corporation funding appears more stable than in prior years.

"In the short term, MLSA's remaining grants appear reliable," he added. "Of course, no one can anticipate the effect of even greater economic instability. Yet this board is confident that there is a stable plateau.

"Regrettably," he said, "current resources were simply insufficient to sustain the level of services MLSA currently provides.

"Yes," he concluded, "MLSA will serve fewer clients" – and that leaves the door open to unauthorized practitioners.

○

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