

THE MONTANA

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THE STATE BAR OF MONTANA



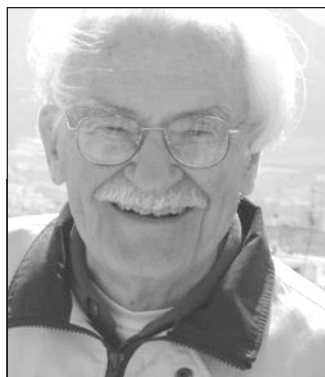
**A preview of
the Court's**

**new
rules**

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**Gordon Bennett
wins this year's
Jameson Award**

Plus other State Bar award winners

Also: Montana's 'hottest' bachelor lawyer



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MESSAGE FROM THE PRESIDENT-ELECT

Turning up the momentum

Tweaking the components that keep you satisfied

Jock Schulte

Perched on my cabin deck, I am awed by the beauty of Flathead Lake. A gentle breeze is blowing, the temperature has the cool, crisp feeling of the fresh morning air prior to the heat of the afternoon that is certain to come. Life is good on this summer morning in Montana!

I recognize how fortunate I am as I contemplate my upcoming tenure as president of the State Bar of Montana. It truly is an honor to have the opportunity to lead the State Bar and serve its members, the Montana lawyers. Thank you for electing me and thank you, President Peggy Probasco, for your fine stewardship of the State Bar.

As lawyers, we understand the awesome responsibility and privilege associated with being a member of the State Bar of Montana. Managing our responsibility and finding satisfaction, both professionally and personally, is a challenge eluding some and seemingly flowing naturally to others.

During my term as president, the State Bar of Montana is embarking on a venture to determine what components are integral to achieving this satisfaction. Some of the early efforts undertaken to fulfill this task are described below.

As most of you know, the Annual Meeting of the State Bar of Montana will be in Missoula at the Hilton Garden Inn on Sept. 13-14. The Hon. John Roberts, chief justice of the United States Supreme Court, will deliver the University of Montana School of Law Jones-Tamm Lecture on the UM campus. The Annual Meeting agenda includes a time slot so we may attend the chief's lecture, with bus transportation provided between the Hilton and the campus.

We are also honored to have Michael S. Greco, immediate past president of the American Bar Association, as the keynote speaker at the Banquet. Those who have heard Mr. Greco speak can attest to his ability to convey his passion on the core principles of the U.S. Constitution and the fundamental values of the legal profession.

Besides the glamour of such distinguished individuals, the Annual Meeting promises to be one of the best ever. The theme is "Lawyers In Transition" and reflects the State Bar of Montana's continuing commitment to providing relevant services to its members.

At the annual Board of Trustees Retreat in Red Lodge in June, the topic was "Profession In Transition." The agenda included five panel discussions moderated by State Bar Past President Don Murray. The panels consisted of one with three new lawyers, one with three just-graduated law students, one with four lawyers with 15 or more years in practice, one with four lawyers who no longer practice but have other careers, and one with three retired lawyers.

The discussions were intellectually stimulating and very thought-provoking. The panelists candidly spoke about their expectations and goals on becoming a lawyer, the choices made (or not made) that have impacted their careers, the satisfaction (or lack thereof) derived from the

practice, including positive and negative impact on their lives, and thoughts on their individual futures and the future of the profession. Each panel and its members brought a distinct perspective on matters lawyers experience with at various times in their careers and lives.

After the panel discussions, a list of recurrent themes was created by

the Board of Trustees and these themes will continue to be developed so the State Bar of Montana can use this information to continue to serve its members. I will describe some of these themes in future President's Messages.

The Board of Trustees also amended the State Bar of Montana Mission Statement, making it a priority to increase the Bar's presence at the University of Montana Law School. Discussions have already begun with Dean Eck in order to fulfill this priority. The State Bar of Montana intends to make professional activities available to law students at reduced or no cost, as well as identify the many important functions and services provided by the State Bar to its members. A committee was created to explore the development of a mentoring program to match lawyers from around the state with law students.

There is much happening with the State Bar as we continue in our mission to "lead the legal profession and serve the public interest." I will do my best to fulfill that mission during my term as president and invite all comments, ideas and criticisms that will assist in this endeavor. ○

The Board amended the mission statement, making it a priority to increase the Bar's presence at the Law School.

Retired district judge, now a mediator, wins State Bar's top honor

A highly regarded Montana District judge – who has also set a high standard for his activities on behalf of the legal profession after retiring from the bench – has been awarded the 2007 William J. Jameson Award by the State Bar of Montana.

The award will be presented at the Annual Meeting in September to Gordon Bennett of Helena, who retired after serving 17 years as a Helena district judge. Judge Bennett is now active as a mediator, and has put in countless hours as a teacher and presenter on topics that improve and defend Montana's legal system.

The Jameson Award, named after the late federal judge William J. Jameson of Montana, is the State Bar's highest award, and is given to the State Bar member who has exemplified the highest values of the legal profession through his or her career.

ALTHOUGH A SUMMARY of Judge Bennett's important rulings as a judge would be long enough to fill this magazine – especially the ones with major statewide impact because he sat in the Capital City – his nominations heralded his service to his profession and his community.

Helena District Judge Dorothy McCarter, who was one of three State Bar members to nominate Judge Bennett for the award, was a clerk for the judge for 3-1/2 years.

"Judge Bennett was a terrific mentor. I sat in on his trials and court proceedings and we had many discussions about procedure and law. He trusted me to draft decisions and memoranda for him. He taught me the right way to substantiate legal discussion and analysis with proper legal authority. He also taught me how to conduct myself in the courtroom and the importance of being prompt and prepared. I believe that I learned more law from my clerkship than from my years at law school.

"As Judge Bennett's law clerk, I served as a sounding board for him when he needed to analyze a legal problem. I have fond memories of his coming into the courtroom, where I worked at my desk, walking over to the window with his hands in his pockets, looking out at the lawn and the trees, and

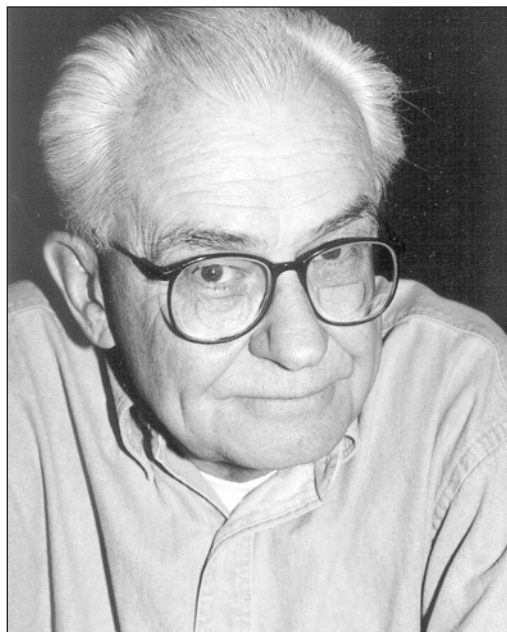
saying, 'Miss Dot, what do you think about this issue?' I loved those discussions, and I learned so much.

"While on the bench,

Judge Bennett was an active advocate for alternative dispute resolution in domestic as well as civil disputes," Judge McCarter continued. "When he left the bench, he began conducting settlement conferences in civil litigations and quickly became known in the legal community as one of the best settlement masters in the state. He settled several cases pending in my court over the years.

Judge Bennett continues to be active in the community, Judge McCarter said. "He speaks to members of the various legal associations and to law students, and is always willing to provide assistance and advice to lawyers.

"Judge Bennett is one of the most highly respected professionals in Montana."



Gordon Bennett

MICHEAL LAMB, a Helena attorney who was a clerk for Judge William J. Jameson 27 years ago, also

placed Judge Bennett's name into nomination for the Jameson Award.

"Judge Bennett's career is a monument to public service," Mr. Lamb wrote. "And then, when he retired from the bench, he began a new career as a leader in the Alternative Dispute Resolution (ADR) program — as advocate for ADR, as a mediator, and through his leadership in the ADR Committee of the State Bar. . . the judge has been a tireless advocate for justice and the justice system."

A few years ago, Mr. Lamb wrote an article for the Montana Trial Lawyers Association's *Trial Trends* magazine on the "Life & Times" of Judge Bennett. Mr. Lamb provides us with much of Judge Bennett's history:

Judge Bennett graduated from Helena High School in 1940. After two years at Carroll College, he served in the Army for three years. At the conclusion of the war he entered Carlton College where he earned an economics degree. He admitted to spending at least some time downing 32-ounce "Chicago bowls" in the beer parlour next to

the bank which that was robbed by Jesse and Frank James in their infamous Northfield, Minnesota, raid. He then attended graduate school in journalism at the University of Missouri at Columbia in 1951, dividing his time equally between studying Shakespeare and Mark Twain.

Upon his return to Montana he was employed as a reporter for the *Great Falls Tribune*. He had responsibility for the police court, the sheriff's office, city hall and the courthouse. After considerable time doing this, it occurred to him that all of the stories of any significance involved the law. He entered Georgetown Law School intending only to attend for one year — the idea being that it would make him a better reporter.

However, according to Judge Bennett, while he was in Washington a 'terrible thing happened.' This was the McCarthy era, and most of his first year of law school was spent in the Senate caucus room watching McCarthy's encounter with the United States Army. As a result, he almost flunked out of law school. To prove to himself he could do better, he attended the second year and then, being so close to his degree, he finished, graduating in 1955.

While enrolled in a bar-review class in the District of Columbia, he walked outside one day into 90 degree heat and 90-degree humidity, took a long look at the heat radiating from the asphalt and became lonesome for Montana. He left and never looked back. Without much in the way of prospects, he took the Montana and Colorado bar exams. Finding himself out of work, he returned to the family farm in Daniels County.

Sometime later, while on a visit to Helena, attorney and ex-commander of the VFW Jack Mahan told him that Montana Attorney General Forrest Anderson was looking for some help. Young attorney Bennett applied for a job and was interviewed by the attorney general. As [Bennett] expressed it, Forrest Anderson seemed "greatly unimpressed." However, as he was leaving the building, a secretary ran after him and inquired, "You say you are a reporter?" Being readmitted into the attorney general's office, the inquiry was made, "Are you really a goddamn ink slinger?" The attorney general needed help writing a press release, and the deal was done. He was hired to work for Forrest Anderson and Anderson's first assistant, Duke Crowley, and remained in that position for two years.

In 1958 he moved to Glasgow and worked with attorney Paul Hoffman. He became involved in both Lee Metcalf's and President Kennedy's campaigns. He then became a solicitor for the Department of Interior under Stewart Udall with responsibility for the Fish & Wildlife Service, the National Park Service and the Office of Territories.

By 1962 he had had enough of Washington again and — cognizant of the axiom that "the only cure for Potomac Fever is embalming fluid" — he left Washington and returned to Montana. Upon his return, friends urged him to

run for associate justice of the Montana Supreme Court against Stanley Doyle. He finished in second place and then opened an office practicing law in the Montana Club building in Helena.

When Forrest Anderson was elected governor, [Bennett] was appointed chairman of the Unemployment Compensation Commission, now the Department of Labor. Then in 1971, he was appointed judge of the Helena District Court and served in that capacity until his retirement in 1988. Having lived with our overloaded court system for the better part of two decades, he became an advocate of alternative dispute resolution and ultimately became a mediator.

Mr. Lamb quoted Judge Bennett as saying that credibility is the "beginning, middle and end" of what we do as attorneys. Our success in all aspects of the job will be a fraction of our credibility — with clients, with opposing counsel, with judges, and most importantly, with the jury, the judge said.

See the winners of the Professionalism, Pro Bono and Haswell Awards on Page 13.

HELENA ATTORNEY Wendy Holton, who also nominated Judge

Bennett for the Jameson Award, provided her observations from her days as Judge Bennett's law clerk:

"I first became aware of Judge Bennett in 1986 when I was a fellow in the Prettyman Program at the Georgetown University Law Center. My mother sent me, in a series of copies, an article from Helena's newspaper, the *Independent Record*, which, I think, was titled something to the effect of 'People Who Make a Difference In Helena.' . . . I knew the second that I read it that this was the person that I wanted to work for when I came home. The most compelling fact was that he faced down a mob on the courthouse steps that was protesting his respect for the right to a reasonable bail — a right that embodies the presumption of innocence. This sounded like a scene in a movie. It represents the kind of courage that many of us aspire to but will never achieve. I sent a letter of application, hoping against hope that he would notice it. To my great delight he hired me.

"Working for Judge Bennett was the best legal and ethical education I have had. An embarrassing event from my perspective, but one that reflects his true integrity, happened the first day that I worked for him. He gave me a file and asked me to draft an opinion. I asked how it should come out. He responded by telling me that that was an unethical question — I should read the law and tell him how the law said it should come out. I never asked such a question again but simply researched to the best of my ability and provided him the results. That is exactly what he wanted me to do. It is the very epitome of how a judge should approach a case.

"Judge Bennett's mentoring has been invaluable to me in many other respects as well," Ms. Holton continued. "He, very literally, taught me to write. I was an accounting major at

More JAMESON AWARD, Page 30

A preview of Montana's new rules of appellate procedure

By **Karla Gray**, chief justice
Montana Supreme Court

On July 3, 2007, the Montana Supreme Court officially adopted new Montana Rules of Appellate Procedure. The new Rules are available online now at <http://www.courts.mt.gov>. They will be published in the 2007 Montana Code Annotated.

The new Rules contain numerous major changes and are organized to make them more user-friendly for everyone involved. The new Rules are effective Oct. 1, 2007, and are applicable to all new and pending proceedings at the Court on and after that date.

MAJOR CHANGES INCLUDE:

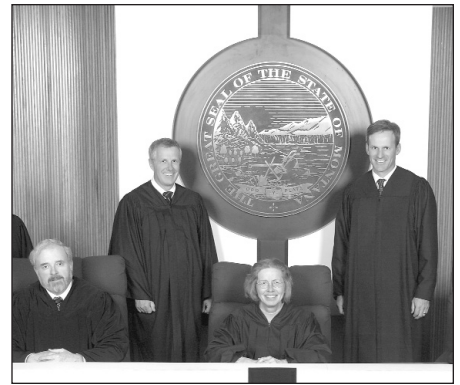
- Party designations are changed.
- All deadlines are *filing* deadlines. The 3-day mail rule is deleted; Saturdays, Sundays and holidays are counted; and the 7- and 10-day deadlines have been lengthened.
- Notices of appeal – accompanied by the filing fee – are filed directly with the clerk of the Supreme Court and contemporaneously served for filing with the clerk of the district court.
- Transcripts must be requested from the court reporter, in writing, on the same date the notice of appeal is filed, with

copies to the clerk of the district court and the opposing party.

- Notices of appeal in proceedings regarding abused or neglected children must be filed within 30 days.
- District courts may not extend the time for preparing transcripts in proceedings involving abused or neglected children or involuntary mental commitments, and motions for extension of time for transcript preparation must be filed by the appellant with the clerk of the Supreme Court, together with a supporting affidavit. A presumption against granting motions for extensions of time exists in abused or neglected children and involuntary mental commitment appeals.

The Court has intended, since the inception of this project two years ago, to complete the work on the new Rules in time for inclusion in the 2007 MCA. Of equal importance, we always knew that entirely new Rules would require an advance period for study, training and familiarization before the effective date. The July 3 adoption and online posting of Montana's new Rules of Appellate Procedure provide that necessary lead time – for lawyers and their staffs, self-represented litigants, the district courts, court reporters, clerks of the Supreme Court and district courts and their staffs and, of course, the Supreme Court and its staff.

We know that each of us – all of us – involved in the administration of justice in Montana will use this lead time to ensure a smooth change-over on Oct. 1, 2007. ○



The New Montana Rules of Appellate Procedure are effective Oct. 1, 2007. There are many changes in the new Rules. Here are three to keep in mind.

New Rule 14 dealing with extraordinary writs, supervisory control and original proceedings replaces current M.R.A.P. 17. The new Rule defines the criteria for each type of proceeding and specifies how these proceedings are commenced and responded to. There

Practice pointers for the new rules

By **Jim Nelson**, justice
Montana Supreme Court

are specific procedural filing requirements and new word and page limitations. These proceedings are to be filed and responded to as summary pro-

ceedings unless the Court determines otherwise based on the summary petition and response. Supervisory control will now be available to challenge the grant or denial of a motion for substitution of a judge in a criminal case.

New Rules 4(4)b and 6(6) deal with interlocutory appeals under M. R. Civ. P. 54(b). There will be an entirely new way of handling these types of appeals.

More POINTERS, Page 9

Trust account overdraft notification rule

By **James E. Aiken**
Great Falls attorney

A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property.

Who among us would quarrel with that proposition? I can hear a longtime lawyer friend say: "If a lawyer decides to steal a client's funds it doesn't matter whether the funds are deposited in a trust account, the firm operating account, or a desk drawer."

My friend possesses unquestioned honesty and integrity (in addition to being a good lawyer) but he resents being told what to do. He also recognizes the necessity for rules designed to reduce the incidence of loss of clients' funds from mismanagement, misuse and misappropriation.

The opening proposition is lifted from Rule 1.15(a) of the Montana Rules of Professional Conduct. The Rules are found beginning at page 243 of the 2007 Lawyers' Deskbook & Directory. When the client's property consists of funds, the mechanism for separating that property from the lawyer's property is an IOLTA Trust Account – as particularized in Rule 1.18 of the Montana Rules of Professional Conduct.

Funds belonging to a client or a third party, or in which the client or third party may assert an interest, must be deposited in a Lawyer Trust Account. The May 2006 issue of *The Nevada Lawyer* lists several rules for determining what funds must be held in the trust account:

- Earned attorney fees should *not* be placed in the account.
- Unearned attorney fees (a retainer) must be deposited in the account and promptly removed when an undisputed fee is earned.
- Where there is a dispute as to ownership of funds the disputed amount must be held in a trust account until the dispute is resolved.

IN APRIL 1990, our Board of Trustees approved the Trust Account Maintenance & Audit Requirements and therein defined the records required in the maintenance of the Lawyer Trust Account (Directory, Page 227). Those records include: (1) account register, (2) cash receipts journal, (3) cash disbursements journal and (4) client ledger. The records should clearly identify the date, source, reason and parties with an interest in all deposits, and the date, destination and reason for all withdrawals. I question whether a Lawyer Trust Account should ever be used for "cash disbursements," but if there is an

occasion to do so the lawyer should be meticulous in the documentation.

THE TRUST ACCOUNT

Overdraft Notification Rule (page 229, Directory) became effective Dec. 1, 1992. Montana is one of 35 states and the District of Columbia to have an overdraft notification rule. Lawyers licensed to practice in Montana are required to place their trust accounts only in

approved financial institutions. (The list of approved financial institutions is available at the State Bar office.) To be approved, a financial institution must agree to notify the State Bar (specifically the Lawyers' Fund for Client Protection Board) in every instance when a Lawyer Trust Account is placed in an overdraft condition.

As then chairman of the LFCP Board (then the "Client Security Board"), I reviewed the first overdraft notice under the new rule in January 1993. The lawyer explained, and his records confirmed, that on the same day he deposited a personal injury settlement check in his trust account he handed the client a trust account check for the client's share of the settlement. The insurance company that issued the settlement check refused payment because the client-payee had not endorsed the check.

A bank may give immediate provisional credit for a deposited check, but it can reverse that credit if the deposited check is dishonored. It behooves all of us to know when a provisional credit becomes final. A bank officer should be able to explain the process. A review of Article 4 of the Uniform Commercial Code may afford insight. The problem is not solved by post-dating the check given the client, since most financial institutions will disregard the post-dating and negotiate the check.

BETWEEN JANUARY 1993 and February 2007, the Lawyers' Fund for Client Protection Board received 309 Lawyer Trust Account overdraft notices. The State Bar informs the lawyer or firm of the overdraft, requests an explanation and forwards copies to the LFCP Board chair. The LFCP Board chair conducts a preliminary review of the relevant facts and may request additional information or documents from the lawyer, firm or financial institution. In a potentially serious case the LFCP Board chairman may notify the chairman of the Commission on Practice and recommend an audit of the lawyer's or firm's trust account.

The most common explanations for an overdraft condition are: (1) issuing checks on uncollected or not-deposited funds and (2) financial-institution error. A recurring underlying

theme points to poor record keeping by a lawyer or firm. Frequent responses include: "I was too busy to balance the trust account checkbook," "I grabbed the wrong checkbook," or a variation, "I grabbed the wrong deposit slip." Occasionally the written response to an overdraft notice was tardy or the explanation inadequate if not convoluted.

During the first 10 years of the rule there were 12 instances when it became clear the overdraft conditions resulted from mismanagement of trust account funds. In 7 of the 12 instances, the overdraft notices led to the discovery of misappropriation of funds. In one case, the checks that caused the overdraft condition were made payable to a casino. That information prompted a call to the chair of the Commission on Practice. In two instances, employee theft caused the overdraft and in one of those cases the lawyer first learned of the theft when I went to his office. The employee was fired that very day.

THE APRIL 2006 *Bench & Bar* article, "Overdraft Notification," reviewed 16 years of experience with Minnesota's overdraft notification rule. The author concluded, "The positive results from the overdraft notification program make it one of the discipline system's most effective tools both for preventing and detecting trust account misuse and misappropriation."

The Montana rule has a 14-year history. A review of that history shows progress in the use and maintenance of Lawyer Trust Accounts. The first 4 years produced a total of 49 notices. We received 23 notices in 1997 and 34 notices in 1998. In 1999 there were 59 notices. Thereafter the numbers began to decline, with 8 notices in 2005 and 19 in 2006.

An analysis of the 27 notices from 2005 and 2006 provides additional evidence of progress. Nine of those overdrafts occurred when clients cashed trust account checks before the checks deposited to cover them had cleared. Banks admitted errors in 6 cases. Lawyer or firm errors (including wrong checkbook, wrong deposit slip, poor record keeping) accounted for the remaining 12 overdrafts. The 27 lawyers and firms provided prompt and credible explanations in response to the notices.

I attribute these positive results to efforts by the Law School and Professor David Patterson, and by the State Bar and our Court.

Members of the LFCP Board recently learned that affordable trust-account management software designed for Montana

lawyers should be available the latter part of 2007. We expect its availability will be announced in *The Montana Lawyer* and we are encouraged by the potential for that software to further reduce lawyer and firm bookkeeping errors.

HAS THERE BEEN a decline in the total amount or number of claims approved for payment by the LFCP Board? It is difficult to provide a meaningful analysis in response to that question. A large payout attributed to one lawyer or a large number of smaller payouts involving one lawyer skew the statistics. Moreover, the year in which the LFCP Board approves payment is usually not the year the client's loss occurred.

In 2002, the Board approved payment of nine claims totaling \$364,000. One claim involving one lawyer represented more than 96 percent of the total. A total of \$9,200 was approved for payment in 2003. One lawyer was responsible for more than 90 percent of the \$52,963 approved for payment in 2004. One lawyer was responsible for more than 90 percent of the \$83,238 approved for payment in 2005. In 2006, the Board approved payment of 14 claims totaling \$69,502. Two lawyers were responsible for 12 of those claims and over 95 percent of the total. Of those five lawyers, three had at least one overdraft notice prior to the misappropriation (theft) of client funds, though the overdrafts were not related to the misappropriations.

I BELIEVE THE OVERDRAFT NOTICE rule has produced the desired effect of encouraging lawyers and firms to review and tighten their trust-account record keeping. In assessing the impact of the rule on reducing monetary losses to clients, I can confidently state in a few cases the overdraft notices prevented further misappropriation by lawyer or employee.

It is my opinion we have sufficient experience with the Trust Account Overdraft Notification Rule to now review and consider changes to the Trust Account Maintenance & Audit Requirements.

JAMES E. AIKEN, an attorney with the Great Falls law firm of *Jardine, Stephenson, Blewett & Weaver*, is a long-time member, and former chair, of the Board of the Lawyers' Fund for Client Protection.

POINTERS, from Page 7

The person appealing an order or judgment certified as final under Rule 54(b) must attach a copy of the certification order to the notice of appeal or cross appeal. Upon the filing of such a notice the clerk of the Supreme Court will immediately forward copies of the notice

and order to the Court. Before briefing, the Court will determine on the basis of the certification order alone whether it meets with the strict requirements of Rule 54(b), new M. R. App. P. 6(6) and Montana's case law. Briefing will be allowed to proceed on the appeal only if the Court determines that the certification order is legally sufficient.

Pay close attention to the new forms. Many require additional information and certifications. The forms are designed to assist the practitioner in avoiding frequently committed mistakes.

At the 2007 Annual Meeting...

A look at the future of the profession

Two big names in the American legal profession will be part of the State Bar of Montana's 33rd Annual Meeting in Missoula on Sept. 13-14.

The site for the meeting was changed from the originally scheduled Butte this year to Missoula in order that attendees could attend the University of Montana's Jones-Tamm Lecture to be given by U.S. Supreme Court Chief Justice John Roberts. And the Annual Meeting banquet keynote address and CLE presentations will be given by Michael S. Greco, the immediate past president of the American Bar Association, whose theme during tenure was a reaffirmation of the legal profession's core values and America's constitutional principles.

Delivering the theme of the Annual Meeting – "Lawyers in Transition" – will be a full day of CLEs featuring noted national experts on the subject – preceded by a half-day of the State Bar's famed Rookie Camp for newer lawyers.

Except for Justice Roberts's speech and a half day of golf at Missoula's Canyon River Golf Club, all this year's Annual Meeting event will be at the new Hilton Garden Inn at 3720 North Reserve. A color brochure with a tear-out and mail-in registration form was mailed to State Bar members on Aug. 1.

Here is the Annual Meeting agenda:

WEDNESDAY, SEPTEMBER 12

1:30 p.m. Board of Trustees' meeting. Bar members are invited to attend

1:30 p.m. Montana Justice Foundation meeting

THURSDAY, SEPTEMBER 13

7 a.m. Rookie Camp registration desk opens

7:30 a.m. Rookie Camp faculty meeting

8 a.m. Golf at the Canyon River Golf Club. Tee times reserved for Thursday morning. Contact Andrew George at (406) 728-4310 or ageorge@in-tech.com

8 a.m.-12:15 p.m. Rookie Camp

10 a.m.

Resolutions Committee meeting – The Committee meets annually to review proposed resolutions and make recommendations at the annual business meeting

12:15 p.m.

Rookie Camp Luncheon – Featuring former ABA president Michael S. Greco. Hosted by Western Montana Bar Association & ALPS

1:30 p.m.

Annual Meeting registration desk opens

2 p.m.

U.S. Supreme Court Chief Justice John Roberts delivers the University of Montana's Jones-Tamm Lecture at the University campus. Free bus transportation provided from Hilton Garden Inn to UM campus and back (see registration form that was mailed to Bar members to sign up for bus)

5 p.m.

President's Reception

6:30 p.m.

Annual State Bar Banquet. Keynote speaker Michael S. Greco, former president of the American Bar Association. The Jameson Award will be presented to the Hon. Gordon Bennett, and several lawyers will receive their 50-year Bar membership pins

Following the Banquet New Lawyers' Section meeting

FRIDAY, SEPTEMBER 14

6:30 - 10 a.m. Health screening for Annual meeting attendees provided by Mountain West Benefit Solutions.

7 a.m.

Elderly Assistance Committee meeting

7 a.m.

Annual Meeting registration desk opens

8 - 11:30 a.m. "Lawyers in Transition" CLE Seminar

8 a.m. **Part I: Moving at the Speed of Change: A**

Find the Annual Meeting registration form on the State Bar web site home page at www.montanabar.org.

Profession in Transition – A conversation with former ABA president Michael Greco and State Bar President Peggy Probasco, moderated by Stuart Forsyth. (2.0 CLE credits, including 0.5 Ethics credit)

10:15 a.m. **Part II: Surfing the Tsunami: Managing the Information Overload** – Presented by Catherine Sanders Reach, followed by a panel with Ms. Reach, Mike Greco and Peggy Probasco, moderated by Stuart Forsyth. (1.50 CLE credits, including 0.5 Ethics credit)

11:45 a.m. Annual Awards Luncheon – Guest speakers, Hon. Karla Gray, chief justice of the Montana Supreme Court, and Jock Schulte, president-elect of the State Bar of Montana. The State Bar also will present the George L. Bousliman Professionalism Awards, Haswell Award, Distinguished Service Awards and Pro Bono Award

1:15 p.m. Annual Business Meeting – Resolutions will be reviewed and voted upon

2 - 5 p.m. **“Lawyers in Transition” CLE Seminar continues** (3.0 CLE credits)

2 p.m. **Part III: Scroll > Book > Blackberry: Planning for Technology in the Law Office** – Presented by Catherine Sanders Reach

2:45 p.m. **Part IV: Balancing Public Access with Privacy Rights: Your New Responsibilities** – a panel with State Law Librarian Judy Meadows, Helena Clerk of District Court Nancy Sweeney, Missoula Justice of the Peace Karen Orzech, and Ian Marquand, Special Projects Coordinator for the Montana Television Network

3:15 p.m. **Part V: Future Trends: What I’m Going to Do** – a conversation with members of the State Bar of Montana

5 p.m. Annual Meeting Adjourns

6 p.m. Paralegal Section Annual Meeting, hosted reception and buffet dinner

Health Screening to be provided on 2nd day of Annual Meeting

Mountain West Benefit Solutions will provide a health screening – blood pressure, etc. – for attendees at the Annual Meeting.

This service, which Mountain West call “bio-screening,” will be provided free of charge to its insureds and for a nominal fee to non-insureds.

The screening will be done from 6:30 a.m. to 10 a.m. on Friday, Sept. 14, at the Hilton Garden Inn.

Annual Meeting’s guest presenters

Michael S. Greco, a partner with Kirkpatrick & Lockhart Preston Gates Ellis in its Boston office, is Immediate past president of the ABA. He is a trial lawyer with



more than 35 years of business litigation experience, as well as an arbitrator and mediator at the state, national and international levels. He served

as president of the Massachusetts Bar Association, the New England Bar Association, the New England Bar Foundation and the Board of Trustees of Massachusetts Continuing Legal Education. He earned his law degree from Boston College.

Stuart Forsyth is head of The Legal Futurist, a Pasadena, Calif., visioning and strategic planning service for the legal profession. He also is the executive director of the Los Angeles County Bar Association, the largest voluntary metropolitan bar association in the nation. A speaker to bar groups across the country, Mr. Forsyth also created a process for the American Bar Association to envision the clear future of the U.S. legal profession. A lawyer with a juris doctorate from Georgetown University, he is working on a master’s degree in Studies of the Future at the University of Houston.



Catherine Sanders Reach is associate director of the ABA’s Legal Technology Resource Center, where she focuses on the information-seeking behaviors of lawyers. Her articles have been published in *Law Technology News* and *GPSolo* magazine, and her continuing research on the digital library most recently appeared in the *AALL Law Library Journal*. She has a master’s in Library & Information Studies from the University of Alabama.



IMPORTANT UPDATES*

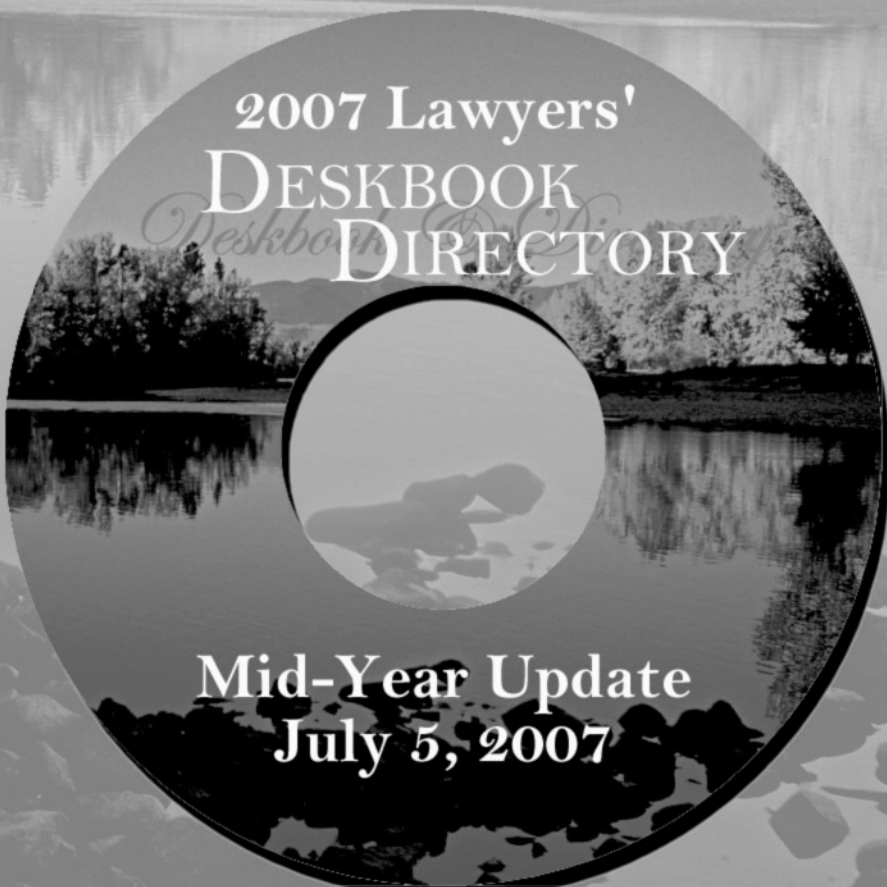
The Mid-Year update CD includes important updates and revisions to your
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*Updates are in the PDF format for IBM computers
and will be available and distributed after July 5, 2007.

If you are unsure whether or not you have already pre-purchased a copy,
or for more information, call (406) 442-7660.



2007 Lawyers'
DESKBOOK
DIRECTORY

Mid-Year Update
July 5, 2007

Two lawyers honored for their professionalism

Jackie Lenmark: tireless service to Montana citizens & groups

Helena attorney Jacqueline T. Lenmark will be given the 2007 George Bousliman Professionalism Award for her service to the people of Montana, including work for legal services for the poor and for her extensive legislative lobbying for Montana organizations.

"She is, singly, the most courteous attorney to courts, clients, opposing counsel and other parties that I have known in my 27 years of practice" said Paul Stahl, Lewis & Clark County deputy county attorney, who nominated Ms. Lenmark for the award.

Ms. Lenmark has been a longtime bar examiner, has volunteered lobbying services to the State Bar for many years and has provided Bar members with a running tally of relevant bills during legislative sessions. She has been a member of a dozen state study commissions, advisory councils and task forces for the Attorney General, Labor & Industry, Insurance Commission, Workers' Compensation, and the Legislature. Mr. Stahl credits Ms. Lenmark with the advance



More LENMARK, Page 30

Ed Sheehy Jr.: putting the law above his personal feelings

Edmund F. Sheehy Jr., a regional public defender now based in Missoula, has earned the State Bar's George Bousliman Professionalism Award this year for his "extraordinary professionalism" in advancing a death-penalty client's expressed interest in terminating further appeals, even though Mr. Sheehy is a death-penalty opponent.

Mr. Sheehy served as standby counsel for David Dawson in the proceedings leading up to Dawson's execution in August 2006. "Ed has devoted his career to the defense of persons charged with crimes in this state," wrote Chris Tweeten, chief civil counsel in the state Attorney General's Office, in a letter nominating Mr. Sheehy for the Award. "I nominate him for the Bousliman award because of the extraordinary professionalism he displayed in serving as standby counsel and advancing Dawson's expressed interests in terminating any further appeals, despite Ed's own personal views regarding the death penalty and the extraordinary pres-



More SHEEHY, Page 30

Missoula's Donohoe tops in pro bono

Missoula attorney Torian Donohoe has won the State Bar's 2007 Pro Bono Award for going "above and beyond the call of duty with respect to her pro bono cases."

Ms. Donohoe, with the Missoula law firm Wells & McKittrick, worked hard specifically on two cases involving dissolution of marriage and particularly child custody," said Evonne Smith Wells, the Missoula attorney who nominated her for the Pro Bono Award.

One case involved a pro se litigant on the opposing side who had serious mental problems, Ms. Wells said. "Not only was Torian highly sensitive to her own client's needs for safety and the need for a high level of legal representation, Torian was also highly sensitive to the special needs of the opposing party who, during the case was also a danger to himself and who went so far as to threaten Torian as well."

She said Ms. Donohoe worked tirelessly on the case, making sure that the safety and emotional needs of the individuals involved – and especially the children of the parties – received the utmost attention. She worked hard to find and employ appropriate expert and social services for this family. The case also necessitated



More PRO BONO AWARD, Page 31

Biking story wins for Miles City attorney

Jo Ridgeway, a lawyer in Miles City, has won her second Frank Haswell Award for writing the best story to appear in *The Montana Lawyer* in the past year. Her article, "Five Days on two wheels," documented the experience of five attorneys, herself included, who rode bicycles in the CASA/GAL bike ride from Glacier to Yellowstone Park.

Ms. Ridgeway's story and photos in the November 2006 *Montana Lawyer* earns her the \$200 prize endowed by the late Chief Justice Frank Haswell.

She and Micheal Lamb of Helena won the prize in 2005 for "When that lawyer discipline letter arrives."

Runner-up this year was an article by Karen Powell, chair of the Montana Tax Appeal Board, on "Securities law and raising capital in Montana."

Bar offering credit-card processing program for lawyers and law firms

The State Bar of Montana is now offering a credit-card processing program for law firms and solo lawyers.

The Bar recently negotiated a Law Firm Merchant Account system with Affinscape, the company that will help the Bar provide member services and databases and a new web site.

This special Law Firm Merchant Account – with which lawyers and law firms can begin accepting credit card payments – is not available through normal merchant services or banks. And the processing costs are lower than the traditional business programs.

This secure credit-card solution has three major benefits: (1) It safeguards and separates client funds into trust and operating accounts, completely avoiding the risk of comingling earned and unearned fees; (2) it provides a new payment option that attracts clients and wins business for attorneys who did not previously offer to take credit cards; and (3) it improves cash flow and reduce collections.

“If you are considering or already accept credit cards in your practice, we encourage you to confirm that your program is competitive and can properly processes transactions,” said State Bar Executive Director Chris Manos. Call for a no obligation consultation with State Bar partner Affinscape Merchant Solutions at (866) 376-0950 for more information.

STATE BAR CALENDAR

September 3

Labor Day, State Bar offices closed

September 10

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

September 12

State Bar Board of Trustees meeting, 1:30 p.m., Hilton Garden Inn, Missoula

Montana Justice Foundation meeting, 1:30 p.m., Hilton Garden Inn, Missoula

September 13-14

State Bar Annual Meeting, Hilton Garden Inn, Missoula (See Page 10 for complete program)

September 13

Rookie Camp Faculty meeting, 7:30 a.m., Hilton Garden Inn, Missoula

Rookie Camp, 8 a.m.- 12:15 p.m., Hilton Garden Inn, followed by the Rookie Camp luncheon

Resolutions Committee meeting, 10 a.m., Hilton Garden Inn, Missoula

Chief Justice John Roberts of the U.S. Supreme Court delivers UM Law School's Jones-Tamm Lecture, UM, Missoula

September 14

Annual Meeting CLE: Lawyers in Transition, 8 a.m., Hilton Garden Inn, Missoula

September 25

Ad and content deadline for October edition of *The Montana Lawyer* magazine

September 28

Dispute Resolution Committee meeting, 11:30 a.m., State Bar offices, Helena

October 1

Application deadline for January Bar Exam

October 2

Fee Arbitration Committee meeting, 1:30 p.m., State Bar offices, Helena

October 3

Member Benefits Trust meeting, 9:30 a.m., Montana Banker's Association, Helena

October 4

Swearing-in Ceremony for new lawyers, 10 a.m., House Chambers, State Capitol, Helena

October 4-5

Women Talking... CLE, Chico Hot Springs

October 5

Dispute Resolution CLE, Comfort Inn, Bozeman

October 12

Annual Construction Law Institute, Strand Union Building, MSU campus, with a live satellite video site at MSU Billings Conference Center

Summary of Board of Trustees June 8 meeting

By **Jill Diveley**, membership coordinator
State Bar of Montana

The following are highlights from the State Bar Board of Trustees meeting held June 8 in conjunction with the Board Retreat at Rock Creek Lodge near Red Lodge.

REPORT FROM THE PAST PRESIDENT – *Bernie McCarthy*

Mr. McCarthy reiterated how valuable a resource are the members of the Bar's Past President's Committee. The members' expertise and wisdom should be utilized for CLEs and other Bar programs, he said.

COMMITTEE REPORTS REQUIRING BOARD ACTION

- **Model Law Firm Pro Bono Policy.** Attorney Klaus Sitte, on behalf of the Access to Justice Committee, first presented the proposed policy during the April trustees meeting (see the model policy in the June/July issue of *The Montana Lawyer*).

The Board eliminated the second sentence in Paragraph I under Commitment to Pro Bono because it appeared to conflict with the second paragraph. The deleted sentence said, "This firm has a long and distinguished tradition of providing pro bono legal services and providing service to charitable, religious, civic, educational and community organizations at either no fees or for substantially reduced fees." The Board then adopted the amended policy (see the policy on the home page at www.montanabar.org)

- **Free CLEs for pro bono.** Susan Gobbs, chair of the State Bar CLE Institute, advised the trustees that the Institute was providing certificates for free CLE to attorneys that provide 50 hours of pro bono service under an organized program.

- **Professionalism Awards.** The Trustees reviewed and debated several nominations for the George L. Bousliman Professionalism Awards. The Board chose Helena attorneys Jacqueline T. Lenmark and Edmund F. Sheeh, Jr. as the 2007 award winners (see stories on Page 13).

- **Strategic Plan.** The Board voted to adopt the proposed 2007-2008 State Bar Strategic Plan after amending it. To view the plan as adopted, see www.montanabar.org/groups/exec_board/index.html.

MONTANA JUSTICE FOUNDATION – *Damon Gannett*

Mr. Gannett reported that the Foundation held its annual grant meeting in Helena on April 30. Grants were awarded totaling almost \$480,000. Among the award recipients were several CASA Programs, Community Mediation Center, Cascade County Law Clinic, Montana Legal Services Association and the Domestic Violence Education & Services program.

REPORT FROM THE LAW SCHOOL – *Fritz Snyder*

Professor Snyder reported that the University of Montana's School of Law building project was now fully funded due to generous donations and \$4.7 million awarded by the Legislature. Construction on the project will begin in the fall.

EXECUTIVE DIRECTOR'S REPORT – *Chris Manos*

Mr. Manos previewed the new appearance of the Bar's web site that will take effect soon. Staff member Jill Diveley also updated the trustees on the features of the new web-based database and management system that will be implemented by the end of the year.

Mr. Manos reported that the experimental phase of the Bar's Modest Means Program was to end in July. A meeting was held in June to discuss how to continue the program and the possibility of hiring a pro bono coordinator. ○

Bar a sponsor of 'Path to Eden' video

The State Bar of Montana, through its Lawyer Referral Service, has become one of 18 Montana organizations to support a video DVD titled "The Path to Eden" that is designed to assist new landowners in understanding the responsibilities that accompany land ownership.

This project evolved after seeing the positive response that was generated from an earlier 12-minute film "Owning Eden," that was created by the Montana Department of Fish, Wildlife & Parks. The Rural Landscape Institute offered to

produce the new 26-minute "Path to Eden" DVD to help new landowners, especially those from out of state, meld into Montana communities. Addressed are issues such as community relations, ranch manager selection, wildlife management, range stewardship, noxious weeds, water rights and rural values. Former NBC anchorman Tom Brokaw, who owns a Montana ranch, is featured throughout the video.

Joining the State Bar's Lawyer Referral Service in sponsoring the DVD are the Gallatin Conservation District;

JLF & Associates; associations of Conservation Districts, Counties, Realtors, and Stockgrowers; Chamber Foundation; state departments of Environmental Quality and Fish Wildlife & Parks; Grazing Lands Conservation Initiative; Montana History Foundation; MSU Extension; Natural Resources Conservation Service; Off the Beaten Path LLC; Southwest Montana Farm & Ranch Brokers; and Undaunted Stewardship.

Request copies of the DVD and a printed resource guide at www.pathtoeden.org or by calling the Rural Landscape Institute at (406) 522-7654.

Upcoming CLE seminars for Montana lawyers

August 22 Helena – Colonial Hotel

Leadership Summit: Protection of Children 13.0 CLE credits.
Presented by the Montana Supreme Court, (406) 841-2967

August 30 Helena – Metcalf Building, Capitol Complex

Preventing Harassment 3.0 CLE credits. Presented by the
state Personnel Division, (406) 444-3985

September 1 Missoula – UM School of Law

**Football CLE: Recent Developments Affecting Business &
Estate Planning** 2.0 CLE credits. Presented by Associate
Dean Elaine Gagliardi and Professor Kristen Juras. See
www.umt.edu/law

Other web & phone CLEs for Montana credit are:

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

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

September 5 Helena – Metcalf Building, Capitol Complex

Records and Information Management 3.0 CLE credits.
Presented by the state Personnel Division, (406) 444-3985

September 5 Teleconference

**Recent Developments & Ethical Rules: New Demands on
Professionals** 1.50 CLE credits. Presented by Cannon,
(800) 775-7654

September 6 Missoula – Grant Creek Inn

Land Use Law 6.0 CLE credits. Presented by National
Business Institute, (800) 930-6182

September 8 Missoula – UM School of Law

**Football CLE: Recent Developments Affecting the Criminal
Law Practitioner** 2.0 CLE credits. Presented by Professor
Andrew King-Ries. See www.umt.edu/law

September 11 Helena – Metcalf Building, Capitol Complex

Writing Administrative Rules of Montana 10.0 CLE credits.
Presented by the state Personnel Division, (406) 444-3985

September 13 Billings – Hampton Inn

Records Management & IT 6.25 CLE credits. Presented by
the Big Sky Chapter of ARMA, (406) 443-0907

September 13 Helena – Metcalf Building, Capitol Complex

Privacy & the Right to Know 6.50 CLE credits. Presented by
the state Personnel Division, (406) 444-3985

September 18 Billings – Holiday Inn

Access & Choice 4.0 CLE credits. Presented by Montana Fair
Housing, (800) 929-2611

September 21 Havre – Great Northern

State Ethics Law 3.0 CLE credits, including 3.0 Ethics credit.
Presented by the state Personnel Division, (406) 444-3985

September 22 Missoula – UM School of Law

Football CLE: Professionalism Beyond the Rules 2.0 CLE
credits. Presented by Professor Bari Burke. See
www.umt.edu/law

September 24 Missoula – UM Law School Castles Center

Public Land Law Conference 10.50 CLE credits. Presented by
the UM School of Law *Public Land & Resource Law Review*,
(406) 243-6568

September 25 Helena – Metcalf Building, Capitol Complex

Ethical Issues in Public Service 16.50 CLE credits. Presented
by the state Personnel Division, (406) 444-3985

September 25 Kalispell

Advanced 1031 Exchanges 3.75 CLE credits. Presented by
Summit 1031 Exchange, (406) 255-1596

September 27 Billings – Holiday Inn Grand

Legal Issues in Montana Agriculture 11.50 CLE credits.
Presented by The Seminar Group, (206) 463-4400

September 29 Missoula – UM School of Law

Football CLE: Recent Developments in Insurance Law 2.0
CLE credits. Presented by Professor Greg Munro. See
www.umt.edu/law

October 5 Chico Hot Springs

Women Talking... 7.0 CLE credits, including 1.0
Ethics/Substance-Abuse credit. Presented by the Women's
Law Section and the CLE Institute of the State Bar of Montana,
(406) 447-2206. See details under CLE:Upcoming CLEs at
www.montanabar.org

October 5 Bozeman – Comfort Inn

Dispute Resolution CLE Presented by the CLE Institute of the
State Bar of Montana. Details will be mailed to Bar members

October 5 Missoula

Discipline for Public Sector Employees 3.75 CLE credits,
including 1.25 Ethics credit. Presented by MEDS-PDN, (715)
836-9900

October 6 Missoula – UM School of Law

Football CLE: Ten Tips for Better Appellate Briefs 2.0 CLE
credits. Presented by Professor Larry Howell. See
www.umt.edu/law

October 10 Helena – Wingate Inn

Resolve Debts Quickly and Easily 6.0 CLE credits, including 1.0 Ethics credit. Presented by the National Business Institute, (800) 930-6182

October 12 Bozeman – Montana State University (with satellite video site at MSU Billings)

Annual Construction Law Institute 6.50 CLE credits. Presented by the Construction Law Section and the CLE Institute of the State Bar of Montana, (406) 447-2206. See details under CLE:Upcoming CLEs at www.montanabar.org

October 18 Helena – location to be announced

Annual Montana Water Law Conference 11.0 CLE credits, including 1.0 Ethics credit. Presented by The Seminar Group, (206) 463-4400

October 23 Teleconference

Montana Charitable Giving Update 1.50 CLE credits. Presented by Cannon, (800) 775-7654.

October 25-26 Butte

Bankruptcy Presented by the CLE Institute of the State Bar of Montana. Details to be mailed to Bar members.

November 3 Missoula – UM School of Law

Football CLE: Recent Employment Law Developments 2.0 CLE credits. Presented by Professor William Corbett. See www.umt.edu/law

Oral arguments now on CD

The State Bar is offering videos of some of the Montana Supreme Court oral arguments. The videos, on compact disk, are free to Bar members, local bars and other groups who wish to watch. They only require a \$25 returnable deposit to ensure their return to the Bar.


The program is starting with four oral arguments, all videotaped by community television stations in Helena and Missoula. The State Bar will make more oral arguments available when they are taped by community TV.

The CDs now available from the Bar are:

- *Rebekah Klein v. State Dept. of Corrections*, April 4, 2007.
- *Oberman et al v. United States*, April 11, 2007.
- *State of Montana v. Charles Dunn*, June 13, 2007.
- *Dept. of Revenue v. PPL Montana*, June 13, 2007.

Briefs in the cases can be found at www.montanacourts.org/library.

To receive the CDs by mail, call (406) 442-7660 and send a deposit check to State Bar of Montana, PO Box 577, Helena MT59624.



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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

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

Handbook for Guardians & Conservators

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

2007 Lawyers' Deskbook & Directory

Sold out! Order the 2007 mid-year update CD (available in July) \$20

MT Family Law Form Book

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

Public Discipline Under MT Rules of Professional Conduct

2007, 104 pages annotated
Book \$35

Public Information Flyers

tri-fold brochures, \$10/bundle of 100

Bankruptcy
Client Bill of Rights
Dispute Resolution
Divorce in Montana
How Lawyers Set Their Fees
Purchasing Your Home
Renting a House or Apartment
Small Claims Court
After an Auto Accident
When You Need a Lawyer
Wills & Probate

Statute of Limitations Manual

1998, 95 pages w/2001 Update
Book \$25

Step-parent Adoption Forms

2003, 5 forms
Book \$20

U.S. & Montana Constitutions

Pocket-sized booklet
\$4 each

MONTANA CD/DVD SEMINAR RENTALS

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NEW! Surviving Credit Card Debt

5.0 CLE credits
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NEW! 2007 Criminal Law Update

Speaker: Prof. Andrew King-Reis
2.0 CLE credits
DVD, prints materials included

2007 Wrongful Discharge CLE

Speaker: UM Prof. William Corbett
2.0 CLE credits
DVD, print materials included

2007 Copyright Law CLE

Speaker: UM Prof. Scott Burnham
2.0 CLE credits
DVD, print materials included

2007 Best of State CLE

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- Small Firm & Solo Practice
- Engagement & Disengagement Letters
- Community Property in Another State: Effect on MT Dissolution
- Adult Felony Sentencing
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Updated 4/12/07

2007 Landlord-Tenant CLE

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3-CD set, audio only

Print materials included

2007 Montana Ethics CLE, Butte

5.0 CLE credits, inc. 5.0 Ethics credits

Set of 4 DVDs, print materials included

2006 State & Federal Court Decisions Affecting Criminal Law

2.0 CLE credits

DVD, print materials included

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

2005 MT Constitution & School Funding

5.0 CLE credits

DVD, no print materials available

MONTANA DVD SEMINARS FOR FREE

DVDs, \$25 deposit required

2006 Early Childhood Development 'Implications for Court'

1.5 CLE credits

2006 Streamlining Treatment & Legal Requirements

1.5 CLE credits

2006 Building a Case for Permanence

2.75 CLE credits

2005 Substantive & Procedural Dependency Law

1.5 CLE credits

2005 Adolescent Brain Development

1.0 CLE credit

2004 Guardian Ad Litem's Role in Abuse & Neglect Proceedings

2.50 CLE credits

CLE MATERIALS

on CD or via e-mail, \$35

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

Dealing with Pro Se; Appellate Procedure Rule Changes; Security Approach; Technology; Local Fed Ct Rules; Voir Dire; Opening & Closing Statements

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

Copyright Law Update

Prof. Scott Burnham – Mini CLE

Criminal Law Update

Prof Andrew King-Ries – Mini CLE

Ethics

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

Landlord-Tenant Disputes

Author: Klaus Sittle, 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

CLE materials from 2006:

Annual Meeting CLE – Bozeman

Effective Communication, Work-Life Balance and Rules of Prof Conduct

Bankruptcy

Ch. 13 Update; Case Updates; Tax Returns; Post BAPCPA discussion; Means Testing, Abuse Under Sec. 707(b); Ethics; Local Rules Revision; Adobe Acrobat; Judges Panel

Bench-Bar

Trial Advocacy; Elec. Data Discovery; Sup Ct Case Mgmt; Fed Rules Changes; Primer on Findings & Conclusions; What Jurors Think

Business of Technology Law

Intellectual Prop. Protection; Financing a Tech Bus, incl. Ethical Discussion; Client's Perspective in Protection; Strategic Transactions and Licensing; IP/Tax Cocktail: 1 pt tax, 2 pts Entity Choice; Ethics

Case Prep. & Mgmt

Effec. Investigation & Disc; Jury Cnsltg/Profiling; Mock Voir Dire-Ethical Considerations; Case Mgmt, Elec Case Filing; Juror Feedback

CLE & Ski

Electronic Communication Mistakes; Constitutional Issues-Practical & Political; Sup. Ct. Update; Med. Mal.; W/Comp; Ethical Dilemmas; Panel on Respect for the Judiciary

Construction Law

Delays and Getting Paid; Proving Delays, Pricing Damages; Experts and Ethics; ADR and Regulatory Takings; Contract Time and "Untimely Performance"; Mediation

Criminal Law Update

Prof. Andrew King-Ries — Mini CLE

Discovery

Pursuit of Truth; Bench Perspective; Civil-Phis & Defense Perspective; Criminal-Prosecution vs. Defense; E-Discovery & Corp. Records Compliance; Fed and State Court Updates; Ethical Considerations

Elder Law I

New POA forms; Guard & Conserv.; Ethics; Agencies; Long-Term Care; Trust Law & Accounting update

Elder Law II

POA forms; Trust Law & Accounting; Long-Term Care; Trusts & Annuities; Guardian & Conservatorship; Agency on Aging; Medicare

Employment Law

W/Comp Pitfalls; Wrongful Discharge Act; Indep. Contractors; Trial Judge and Employment Cases; Wage & Hour; Discrimination & Sexual Harassment; Personnel Policies

Equal Justice Conference

Consumer Law & Elderly; Ethical Considerations; Agencies; Contested Family Law Cases; Motions Practice in Family Law; Judge's Perspective

Family Law

Effective Trial Techniques; Trying Non-Parental, 3'd Pty Custody, Visitation or Contact cases; Tools for Pro Se Litigants; Appellate Briefs; Mediating; Minimize Malpractice Risks; Community Property in Another State

Real Estate

Kelo case; Open mtg; Land Use; SB 116-Subdiv. & Platting Act

Underinsured Motorist Coverage

Prof. Greg Munro – Mini CLE

Wrongful Discharge Update

Prof. William Corbett – Mini CLE

Attorney for state on *People* magazine's 'Hot List'

An attorney for the Montana Department of Fish, Wildlife & Parks was named one of *People* magazine's hottest bachelors in the nation, the *Billings Gazette* reported.

Bill Schenk got a photo and write-up in the "Lean, Green, Sexy Machines" category in *People*'s June 25 special issue. He appeared alongside the likes of actor Matthew McConaughey and singers Kenny Chesney and Justin Timberlake, the *Gazette* said.

Mr. Schenk, of Helena, a 2000 graduate of the University of Montana School of Law – according to one of his surprised female classmates – got the pick as one of the hottest bachelors in a category for "ecocrusaders."

The 40-year-old water rights specialist said a *People* reporter looking for environmentalist bachelors got in touch



Bill Schenck, shown after appearing in the *People* spread. The photo in the magazine was just too sexy to republish here, although he appears to have clothes on. His dog, however, seemed to be undressed.

with two women in his agency's human resource department who have taken an interest in his dating life and decided to

nominate him for the hot list.

"At the time I'm thinking, what are the odds?" he said.

Then a photographer and another person Schenk called a "groomer girl" came out with props and a "package of way-too-tight white T-shirts."

"I just went along with it and said, 'Why not enjoy the ride?'" he said.

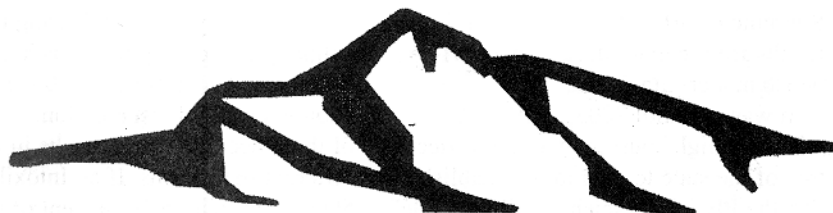
The magazine's brief write-up notes the ways he helps the environment: hanging laundry to dry and recycling even cereal box liners – "They make excellent pooper-scoopers for his dog Carmen," *People* wrote, quoting him as saying, "I lead a very low-consumption lifestyle." He told the magazine his perfect date "would involve an entire weekend. On Friday we'd run out to a train, camp out. On Saturday, we'd hike the mountain, come back down in the late afternoon, and then find a good place to watch the sunset." He did not say whether Carmen would be on the trip.

Mr. Schenk said he has not been flooded with calls or e-mails from women wanting to talk to one of the "hottest bachelors" – with the exception of one woman who has called three times (hanging up twice).

He said it was good to see *People* do a spread on regular guys who are into the environment.

"I thought it was kind of nice to make the cut," he said. "As superficial as *People* magazine is, it's kind of nice they do a story that says, 'Look, here are some mainstream guys that are into conservation or environmental stuff.'"

"For me, it's just silly and fun. Why not?" ○



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Registration will be included with this year's Annual Meeting brochure mailed to Bar members in July. For more information, call the State Bar at (406) 442-7660. Ask for Jill or Betsy or email to

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Proposals aim at rule of law, legal services

Two proposed resolutions were submitted by State Bar of Montana members to the Bar's Resolutions Committee by the July 31 deadline. The deadline is set so that the proposals may be published in August *Montana Lawyer*, before the September Bar Annual Meeting at which the proposals will be debated and voted upon.

The proposals will be considered in two meetings at the Annual Meeting. First, the Resolutions Committee will meet at 10 a.m., Sept. 13, to decide whether or not to recommend that the resolutions be approved. Second, the annual bar business meeting at 1:15 p.m. on Sept. 14 will put the resolutions up to a vote of all Bar members who attend. Both meetings will be at the Hilton Garden Inn in Missoula.

Here are the two proposed resolutions:

Calling on Congress and the president to restore respect for the rule of law

Submitted by James Park Taylor, Missoula attorney and member of the UM School of Law faculty.

Whereas, the Executive and Congressional Branches of government have adopted certain policies and taken certain actions, including suspending the Writ of Habeas Corpus, enacting the Military Commissions Act, adopting the Combatant Status Review Tribunal process, and detaining individuals at Guantanamo Bay, and

Whereas, the members of the State Bar of Montana believe that such policies and actions are contrary to fundamental principles of the Rule of Law, and

Whereas, the members of the State Bar of Montana have a moral, ethical, and professional responsibility to speak publicly about the direction of our legal system,

Now, therefore, the State Bar of Montana adopts this resolution and calls on Congress and the President to take the following actions to restore respect for the Rule of Law:

1. Restore the right to habeas corpus.

The Writ of Habeas Corpus has been a part of English and American law at least since the Magna Carta in 1215. Congress, through the Military Commissions Act of 2006 and the Detainee Treatment Act of 2005, has attempted to suspend the Writ in violation of Article I, Section 9, Clause 2 of the Constitution. The Writ may only be suspended in cases of

Rebellion or Invasion, and then only if the public safety requires it. Those detained in the custody of the United States have the right to a proper judicial forum to test the legality of their detention.

2. Repeal the Military Commissions Act of 2006.

Those charged with crimes outside of an active theater of combat should be tried either in Article III courts or in our military system of courts-martial. The Military Commissions Act of 2006 is fundamentally flawed. It will not be possible to obtain fair trials under the system created by Military Commissions Act. The Act:

- Impermissibly suspends the writ of habeas corpus.
- Creates a permanent national security court with special rules that apply only to non-citizens.
- Expands the jurisdiction of military commissions to offenses not properly triable under the laws of war.
- Expands the jurisdiction of military commission to include non-combatants.
- Allows the use of evidence obtained through coercion.
- Creates jurisdiction based on evidence obtained through torture.
- Retroactively creates immunity for prior breaches of the War Crimes Act of 1996 by United States' personnel.
- Improperly attempts to prohibit courts from considering foreign or international sources of law when interpreting the Act.

3. Reform the Combatant Status Review Tribunal process to provide fundamental due process protections.

In a traditional armed conflict, those captured in a theatre of war may be detained for the duration of the conflict. Given the unconventional nature of the current conflict, the conflict may continue indefinitely. It is not appropriate to detain individuals indefinitely without charges or the right to meaningful review of their status. The Combatant Status Review Tribunal process does not provide due process. There is no time limit on how long the government can detain individuals without charges. The detainees have no right to counsel. The detainees likely will have no access to the evidence the CSRT will consider. The detainees may not ever learn the specific allegations against them. The CSRT panels can consider evidence obtained through torture.

It is the view of the State Bar of Montana that such detention should be limited in time by Congress, and that those detained should have access to a fair process to contest their detention, including:

- Access to counsel.
- An impartial tribunal.
- Notice of the basis for their detention.
- Access to the evidence to be used against them.
- A prohibition on evidence obtained through torture.
- The opportunity to introduce evidence on their behalf.
- The use of compulsory process to obtain evidence.
- The right to cross-examine their accuser.

4. Close the detention facility at Guantanamo Bay, and transfer the detainees to secure military facilities in the United States where they can receive due process.

Closing the Guantanamo Bay detention facilities has been urged by Secretary of Defense Robert Gates, Secretary of State Condoleezza Rice, former Secretary of State Colin Powell, British Attorney General Lord Goldsmith, former British Prime Minister Tony Blair, former Secretary-General of the United Nations Kofi Annan, German Chancellor Angela Merkel, Amnesty International, the American Civil Liberties Union, Human Rights Watch, Human Rights First, and the United Nations Commission on Human Rights, among others.

Guantanamo Bay continues to be a source of international opprobrium for the United States' legal system, highlighting a system that has allowed torture, forced feedings, and other abuses of human rights.

Urging strong support for legal services to the poor

This proposed resolution was submitted by Klaus Sitte, executive director of Montana Legal Services Association.

WHEREAS, the State Bar of Montana and its predecessor, the Montana Bar Association, has supported the operations of Montana Legal Services Association since its inception more than 40 years ago;

WHEREAS, nearly 20 percent of all Montanans are eligible for services from Montana Legal Services Association; and

WHEREAS, the State Bar's Equal Justice Coordinator works with Montana Legal Services Association, the Montana Supreme Court's Equal Justice Task Force and many other access-to-justice stakeholders in Montana; and

WHEREAS, the State Bar and MLSA has partnered and collaborated in numerous projects supporting access to justice;

WHEREAS, Montana's Judges are responsive and supportive in creating new and effective pro bono and pro se programs throughout the state; and

WHEREAS, the private bar is supportive and responsive to the need for legal representation of persons living in

poverty; and

WHEREAS, private attorney involvement, together with the strong delivery system of the Montana Legal Services Association, is still unable to serve all the legal needs of those unable to pay for legal services; and

NOW THEREFORE BE IT RESOLVED, that the State Bar of Montana, in its Annual Meeting, assembled at Missoula, this 14th day of September 2007, does hereby

STRONGLY URGE Congress to maintain a firm national commitment to providing access to justice for the nation's poor, as called for under the Legal Services Corporation Act; and

STRONGLY URGE the United States Congress to increase federal funding and support for the legal services programs nationwide; and

STRONGLY URGE all members of the State Bar of Montana to uphold the oath of office as attorneys at law and to fully comply with the Rule 6.1 of the Montana Rules of Professional Conduct; and

STRONGLY URGE all members of the State Bar of Montana to participate in pro bono programs established through the collaboration and cooperation between the State Bar of Montana, local bar associations, MLSA, and various other entities, to assist in providing legal services for Montanans living in poverty. ○

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Supreme Court amends the Rules of Evidence

The Montana issued the following order, signed by all seven justices, on June 20:

NO. AF 07-0031

IN THE MATTER OF THE PETITION FOR AMENDMENT OF THE MONTANA RULES OF EVIDENCE

On January 16, 2007, the duly appointed Montana Commission on Rules of Evidence (the Commission) filed with this Court a Petition for Amendment of the Montana Rules of Evidence (Rules). The Petition was filed following meetings of the Commission and its acceptance of testimony and writings from interested parties both supportive of and opposed to the proposed rule changes.

In its Petition, the Commission recommends the adoption of four proposed changes to the Rules. They are:

(A) A revision of Rule 407 to comport with Federal Rule 407 and our holding in *Rix v. General Motors*, 222 Mont. 318, 329-30, 723 P.2d 195, 202-203 (1986). The revised Rule 407 would read as follows:

Rule 407. Subsequent remedial measures.

When, after an injury or harm allegedly caused by an event, measures are taken that, if taken previously, would have made the injury or harm less likely to occur, evidence of the subsequent measures is not admissible to prove negligence, culpable conduct, a defect in a product, a defect in

a product's design, or a need for a warning instruction. This rule does not require the exclusion of evidence of subsequent measures when offered for another purpose, such as proving ownership, control, or feasibility of precautionary measures, if controverted, or impeachment.

(B) An amendment to Rule 803(8) to delete the last sentence thereof, in accordance with our decisions in *State v. Clark*, 1998 MT 221, 290 Mont. 479, 964 P.2d 766, ¶ 30, and *Crawford v. Washington*, 541 U.S. 36, 124 S.Ct. 1354 (2004). Rule 803(8) as revised would read as follows:

(8) Public Records and Reports. To the extent not otherwise provided in this paragraph, records, reports, statements, or data compilations in any form of a public office or agency setting forth its regularly conducted and regularly recorded activities, or matters observed pursuant to duty imposed by law and as to which there was a duty to report, or factual findings resulting from an investigation made pursuant to authority granted by law. The following are not within this exception to the hearsay rule: (i) investigative reports by police and other law enforcement personnel; (ii) investigative reports prepared by or for a government, a public office, or an agency when offered by it in a case in which it is a party; (iii) factual findings offered by the government in criminal cases; (iv) factual findings resulting from special investigation of a particular complaint, case, or incident; and (v) any matter as to which the sources of information or other circumstances indicate lack of trustworthiness.

(C) An amendment to Rule 804(b) to add the language contained in Federal Rule 804(b)(6), termed the "forfeiture by wrongdoing" provision. Proposed Rule 804(b)(6) is set forth below:

Rule 804. Hearsay exceptions: declarant unavailable.

...

(b) Hearsay exceptions. The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:

...

(6) Forfeiture by wrongdoing. A statement offered against a party that has engaged or acquiesced in wrongdoing that was intended to, and did, procure the unavailability of the declarant as a witness.

(D) An amendment to Rule 806 to delete a misplaced comma in the first sentence between (2) and (C), so that the rule would now read as follows:

Rule 806. Attacking and Supporting the Credibility of

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a Declarant.

When a hearsay statement, or a statement defined by Rule 801(d)(2)(C), (D), or (E) has been admitted in evidence, the credibility of the declarant may be attacked and, if attacked, may be supported by any evidence which would be admissible for those purposes if the declarant had testified as a witness.

On June 20, 2007, at a public meeting of the Montana Supreme Court following duly published notice, the Court discussed the Commission's proposal to amend Rules 407, 803(8), and 806. The Court determined that discussion of the proposed amendment to Rule 804(b) would be postponed to a

future date and time, following duly published notice. Peggy Tonon, Chairperson of the Commission, spoke in favor of our adoption of the amendments to the three foregoing rules. There being no opposition, and following discussion, the Court voted unanimously to adopt the proposed amendments to Rules 407, 803(8) and 806, MRE, as set forth above.

Accordingly, and pursuant to the authority vested in this Court under Article VII, § 2(3) of the Montana Constitution,

IT IS HEREBY ORDERED that Rules 407, 803(8) and 806 are AMENDED, as set forth herein, effective October 1, 2007.

ORAL ARGUMENTS

September 2007:

■ Cause No. DA 06-0724 – BONNER SCHOOL DISTRICT NO. 14, Petitioner and Repondent, v. BONNER EDUCATION ASSOCIATION, MEA-MFT, NEA, AFT, AFL-CIO, Defendant and Appellant.

ORAL ARGUMENT is set for Wednesday, Sept. 5, at 9:30 a.m. in the courtroom of the Montana Supreme Court, Justice Building, Helena.

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■ *Rebecca Klein v. Montana Dept. of Corrections*, argued on April 4, 2007. Issue: did a fired Corrections employee fail to to grieve and arbitrate specific claims under a collective bargaining agreement?

Appointments

■ Missoula District Judge Ed McLean has been re-elected by his fellow judges to serve another four-year term on the Montana Supreme Court's Judicial Standards Commission.

■ Belgrade City Judge Michele Snowberger and State Law Librarian Judy Meadows have been re-appointed by the Montana Supreme Court to new three-year terms on the Commission on Self-Represented Litigants.

DISCIPLINE

Billings lawyer censured, on probation

Billings attorney Matthew L. Erikson was to be publicly censured on Aug. 7 and placed on probation for two years by the Montana Supreme Court in an order issued on July 11.

Mr. Erikson filed a conditional admission to the violation of six of the Montana Rules of Professional Conduct. Under Ruled 26 of the Montana Rules for Lawyer Disciplinary Enforcement, when an attorney files such a conditional admission the details of the violations are not made public.

The Rules of Professional Conduct that Mr. Erikson was charged by the Commission on Practice of violating were: Rule 1.1, competent representation of a client; 1.2, scope of representation and allocation of authority between client and lawyer; 1.3, diligence; 1.4, communication; 1.5, fee arrangements; and 3.2., expediting litigation.

The Supreme Court attached the following conditions to Mr. Erekesson's two-year probation:

- He must continue with prescribed medical treatment.
- If he continues in private practice, he must maintain the practice at a manageable level.
- He must provide quarterly written reports to the Office of Disciplinary Counsel.
- He must provide ODC with a health-care information release so that ODC can obtain information from his treatment providers.

Mr. Erikson also was ordered to pay the costs of the disciplinary proceeding against him.

Out-of-state lawyer disbarred here

An attorney from Washington state whose address is now unknown has lost his license to practice law in Montana following his conviction in western Washington's federal court for felony wire fraud.

The Montana Supreme Court disbarred Edward L. Tezak after the Washington State Bar Disciplinary Board did the same. The Montana court was following Rule 27 of the Montana Rules of Lawyer Disciplinary Enforcement, which prescribes reciprocal disciplinary proceedings in Montana after proceeding are carrier out in the lawyer's home state.

Tezak's last known address was in Taft, Calif., but he no longer resides there.

If medical schools can do it, why can't we?

The use of 'white coat ceremonies' to introduce a profession's values

By **Bari Burke**, professor
University of Montana School of Law

What would you propose as the welcoming ceremony to law school were you to be primarily concerned with introducing students to the *profession* of law (not simply law school) and with the role of lawyers as professionals? How would you impress upon entering students that entering law school, not the swearing in after graduates pass the bar exam, is the beginning of a legal career and a professional identity? And that lawyers are more than experts on the law — we are respectful and compassionate counselors who help people solve their problems.

More than 90 percent of medical schools in the country now have adopted a “White Coat Ceremony” to do precisely that for entering medical students.¹ In 1993, Dr. Arnold Gold introduced the ceremony at the Columbia University College of Physicians & Surgeons, in which entering medical students are “congratulated on their achievement in being selected as medical students, and told about the commitment that, as student doctors, they are making both to becoming and staying proficient in the science and technique of medicine and also to the human obligations of being a doctor — especially to the central obligations of caring for their patients...”²

The white coat ceremony is “a time to recognize and celebrate the wonderful human attributes associated with the medical profession.”³

The Gold Foundation states that the white coat ceremony “helps to identify the characteristics of a complete doctor.”⁴

The ceremony is intended to impress upon [students] the primacy of the doctor-patient relationship. It encourages them to enter into a psychological contract in which they accept the obligations inherent in the practice of medicine: to be excellent in science, to be compassionate, and to lead lives of “uprightness and honor.” It is designed to clarify for students that a physician’s responsibility is to take care of patients and also to *care* for patients.⁵

White coat ceremonies are formal, although celebratory as well. Parents and friends of entering medical students are invited to watch the ceremony and attend a party or reception afterward. During the ceremony, the medical faculty, dressed in their own white coats, stand while the new students enter the auditorium. After the talks of the dean, perhaps a distinguished alumni, and almost universally a physician with expertise in medical humanities, comes the “robing ceremo-

ny,” from which the ceremony derives its name.

Each entering medical student climbs onto the stage and members of the stage party, including the dean, help each student into his new white coat. The students are introduced one by one to the audience. After introductions are completed, the students stand and collectively read an oath or declaration of “professional commitment.” In many ceremonies, students sign a book in which the declaration is included.

The components of the ceremony are each designed to “help create an environment that fosters establishing a psychological contract for professionalism and empathy medicine.”⁶

White coat ceremonies emphasize attention to values — the values of family and friends in the audience, the values of the medical school and the medical profession, and the entering students’ commitment to the values, obligations and responsibilities of the medical profession.

This ceremony has its critics⁷ who raise three primary objections:

- The white coat ceremony requires that students take an oath before they understand the responsibilities and implications of the responsibilities imposed by that oath.

- The white coat ceremony aligns students with faculty, beginning the process of making students part of the professional “club” and removing students from identifying with their own culture and the cultures of their patients.

- The ceremony attributes to the white coat only its positive associations with professionalism and humanism and ignores that it can also symbolize, for example, an imbalance of power between physician and patient and paternalism in medicine.

A fourth, and perhaps more significant criticism, is that there are better, alternative or additional rituals for demonstrating to entering students “compassionate and humble caregiving.” At least one critic suggests instituting “first Fridays” on which students would visit community sites, such as free clinics, domestic violence shelters, adult day-care centers, rape crisis centers, drug treatment programs or hospice settings” to participate in the activities at those sites.⁸ A second alternative is “weekly small-group sessions in which students reflect on their ethical and humanistic values throughout” their medical clerkships or residencies — a journey of self-discovery during medical education, allowing them to withstand the rigors of training that might be experienced as contradictions to core values.

Of course, a medical school (or even a law school) could implement some version of both activities. Doing so would reinforce the messages conveyed at the white coat ceremony.

More than a dozen law schools have adopted a similar ceremony, including an oath.

My specific question for you:

You are a member of the “Orientation” Committee at the

law school. That committee is discussing whether to adopt such a ceremony during Orientation Week, and if so, what it should look like. If so, what would be the comparable elements of a ceremony to welcome entering law students to the legal profession and their professional responsibilities? If not, what objections do you have? Do you have any alternatives to the white coat ceremony to suggest to the committee?

By the way, do lawyers have a symbol analogous to a white coat to distribute to entering law students?

NOTES

1. For detail on these ceremonies, see Raanan Gillon, "White coat ceremonies for new medical students," 26 *J. Med. Ethics* 83 (2000).

2. Gillon, *infra* footnote 1.

3. Jeffrey S. Wilson, "The Kind of Doctor You Want to Be," Presentation at the White Coat Ceremony, University of Iowa (8/18/2006). www.medicine.uiowa.edu/ocac/programsrecords/whitecoat/wcc_keyadd06.htm.

4. Gillon, *infra* footnote 1.

5. "The Arnold P. Gold Foundation "White Coat Ceremony," Office of Student Affairs and Curriculum, Student Programs and Records, University of Iowa College of Medicine, www.medicine.uiowa.edu/osac/programsrecords/whitecoat/index.htm.

6. Gillon, *infra* footnote 1.

7. One of the most persuasive articles criticizing the ceremony is, Delese Wear, PhD, "On White Coats and Professional Development: The Formal and the Hidden Curricula, 129 *Annals of Internal Medicine* 734 (1998). A second critical article to which many have responded is R.M. Veatch, "White coat ceremonies: a second opinion," 28 *J. Med. Ethics* 5 (2002).

8. Delese Wear, PhD, "On White Coats and Professional Development," *infra* footnote 5.

9. William T. Branch Jr., MD, "Deconstructing the White Coat," 129 *Annals of Internal Med.* 740 (11/1/98).

UM Law & Policy Conference to examine energy policy

Energy issues facing the nation and the role the American West plays in providing energy resources are the focus of the 31st Annual Public Land Law Conference to be held at the University of Montana School of Law Sept. 24-26.

The *Public Land & Resources Law Review* will present a program with an emphasis on how our laws and policies can position the Rocky Mountain States to play a leadership role in sustainable energy policies.

"Rocky Mountain Energy Leadership: Strategies for a New Energy Future" will begin with a keynote address by Patricia Limerick, director of the Center for the American West and co-author of the report "What Every Westerner Should Know About Energy." The keynote address will be held at the University Center Theater on Monday, Sept. 24. The keynote address and a reception following the speech at the offices of the Clark Fork Coalition are free and open to the public.

Leaders from government, industry, academia, the legal and conservation communities and beyond will explore

opportunities and challenges the Rocky Mountain region faces in light of growing and changing

energy demands. The conference will offer a broad context of national law and policy as well as detailed discussions of current regional issues. Speakers will cover a variety of topics, including the Energy Policy Act of 2005, the role of renewable energy resources, reducing carbon emissions, Gov. Schweitzer's "Clean and Green" energy plan, and the trans-boundary effects of coal mining in Canada north of Glacier National Park.

The conference offers 11.0 CLE credits for attorneys. Faculty members and full-time students may attend at no charge, but are asked to register.

Registration forms, conference fees and a schedule of events are online at www.publiclandlawconference.org.

The Public Land Law Conference is presented by the *Public Land & Resources Law Review*, a student-run publication of UM's School of Law, in partnership with the University's Public Policy Research Institute.

For further information, call 406-243-6568 or e-mail plrlr@umontana.edu.

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JAMESON AWARD, from Page 6

Montana State University. At the time, the accounting curriculum had virtually no writing requirements. Imagine entering, and graduating, from law school with only remedial writing skills. Judge Bennett always told me that ‘it will write when it writes’ and, until it wrote, keep working on it. When I produced a draft he would edit it in a way that, very kindly, taught me how to improve. I doubt that I would have had a successful legal career if I hadn’t worked for him.”

Ms. Holton said that in addition to the impact he had on his clerks, “every attorney who had the opportunity to practice in his court is a better lawyer for that experience.” He also shared his knowledge and wisdom as an adjunct professor at the University of Montana Law School and as an instructor at numerous seminars. “In short, hundreds of careers have been positively impacted by him,” she said. She called him “a true jurist – thoughtful, compassionate, and tireless in his quest for

justice . . . Judge Bennett brings honor to the legal system.”

Ms. Holton added, “The integrity he brings to the system gives it credibility not only with attorneys but, more importantly, with the parties and the community as a whole.”

Ms. Holton said that Judge Bennett “stays involved and tirelessly works for the principled advancement of the law. Since leaving the bench, he has devoted much time to the development of the mediation practice in Montana. His current passion is working to ensure that judges are selected in a manner that does not lend itself to the most petty kind of politics. He remains courageous and willing to speak the truth – regardless of the risk.

“Judge Gordon Bennett is a treasure,” she concluded.

THE JAMESON AWARD will be presented to Judge Bennett at the Annual Meeting Banquet, which begins at 6:30 p.m. Thursday, Sept. 13, at the Hilton Garden Inn on North Reserve Street in Missoula. ○

LENMARK, from Page 13

of the new Public Defender System and as a primary mover in Workers’ Compensation Fund improvements.

Ms. Lenmark’s work also has benefited Helenans and their attorneys. “She first instituted self-help workshops for legal-service clients in Helena,” he said. “She has been secretary-treasurer for the local bar [association] for 20 years – there wouldn’t be a local bar without Jackie’s many hours and dedication.”

Ms. Lenmark is an associate and shareholder with the Helena law firm of Keller, Reynolds, Drake, Johnson & Gillespie, since 1985, with a practice emphasis on government relations,

insurance regulation and defense litigation. She is currently the Montana legislative counsel for the American Insurance Association, Montana Water Well Drillers Association, Montana Coalition for Privacy & Free Expression, Montana Health Systems Inc., American Council of Life Insurers, American Civil Liberties Union, and Montana Cultural Advocacy. In past years she has been legal counsel for other organizations in the fields of insurance, health and finance.

Ms. Lenmark received her law degree, with honors, from the University of Montana School of Law in 1985 after earning a BA from Loma Linda University and a master’s from Andrews University. At UM, she was editor-in-

chief of the *Law Review*.

During her career, she has been president and a director of the 1st Judicial District Bar Association, a member of the State Bar CLE Institute, on the board of the Montana Defense Trial Lawyers Association, and member of the American Judicature Society; Phi Delta Phi legal fraternity, Association of Trial Lawyers of America, Defense Research Institute, and the Federation of [Insurance] Regulatory Counsel. She was on the legal staff of the Montana Legislative Council for eight years.

Ms. Lenmark is now serving on the UM School of Law Board of Visitors, and has been on the Montana Board of Bar Examiners since her appointment by the Montana Supreme Court in 1993. ○

SHEEHY, from Page 13

sure that was exerted through the courts by death penalty opponents.”

Mr. Tweeten narrates the Dawson case and Mr. Sheehy’s role:

David Dawson murdered three members of a Billings family in 1983. After multiple unsuccessful appeals, he decided in 2005 to terminate all litigation activity regarding the legality of his conviction and sentence. He filed pro se motions to terminate his appeals. The attorneys who were then representing Dawson opposed his motions. Ed Sheehy was appointed to serve as standby counsel for Dawson, who continued to proceed pro se. In parallel proceedings in state and federal court, courts determined that Dawson was competent to decide to forego further litigation

of his case, and terminated the representation his post-conviction counsel. *State v. Dawson*, 2006 MT 69, 331 Mont. 444, 133 P.3d 236; *Dawson v. Mahoney*, 451 F.3d 550 (9th Cir. 2006). On remand, the Montana 13th Judicial District Court set Dawson’s execution for Aug. 11, 2006.

On July 11, 2006, a group of death penalty opponents – including the Montana Association of Criminal Defense Lawyers, the American Civil Liberties Union of Montana, The Montana Association of Churches, The Montana Catholic Conference, two retired judges, 10 legislators and two citizens – commenced a series of legal actions seeking to override Dawson’s wishes and compel an evidentiary hearing on certain issues surrounding Dawson’s execution. Dawson personally opposed these efforts, with the assistance of Ed Sheehy as standby counsel. The opponents’ claims were rejected by the Montana 1st Judicial District Court, the U.S. District Court for the District of Montana

and the Montana Supreme Court twice, the last rejection occurring on Aug., 2006, the day before Dawson's execution.

Ed Sheehy is personally opposed to the death penalty. He informed the state district court that he is a member of two of the organizations that sought to compel further litigation of Dawson's case over Dawson's objections. He nevertheless presented an extraordinarily eloquent oral argument to the court pleading Dawson's claim that his interests were superior to those of the opponents and that Dawson's personal right of privacy should override their political opposition to Dawson's execution.

I represented the state in these proceedings, and witnessed the skill and passion with which Ed Sheehy advocated for Dawson's rights, without consideration of his own personal views or those of his professional associates who sought to overcome those rights. His conduct was in the finest tradition of our profession, and deserves recognition by the State Bar. It satisfies several of the criteria for the Bousliman award:

■ Ed's conduct was in the highest traditions of public service.

■ Ed's advocacy encouraged respect for the rule of law, demonstrating that our laws prevail over considerations of politics and personal viewpoints.

■ Ed subordinated his own personal views and opposed the position of a professional organization of which he is a member, all in pursuit of the interests of his client.

Mr. Sheehy graduated cum laude from Gonzaga University School in June 1978. He served as a law clerk for former Chief Justice Frank Haswell. In that position, he got involved in the first death penalty appeals concerning Dewey Coleman and Duncan McKenzie.

In 1979, he went to work in the Helena firm of Cannon & Sheehy. He and Ross W. Cannon were partners for 27 years. In that partnership, Mr. Sheehy handled public defender cases both in state court and federal court. He also did private criminal defense work, tried major civil cases, and handled numerous appeals to the Montana Supreme Court. He also spent five years working at Montana State Prison and the private prison

PRO BONO AWARD, from Page 13

emergency orders, "all of which Torian worked diligently on and gave appropriate priority," Ms. Wells said.

"Torian has logged over 157 hours on this one case, and contributed over 45 pro bono hours of her time into another contested custody case this past year."

In a letter to the State Bar one of Ms. Donohoe's pro bono clients recounts, "Had it not been for her tireless dedication to the divorce process and parenting plan, I don't know where my children or I would be . . . I left a very emotionally abusive and controlling husband and felt like I was at his mercy because I did not have legal representation. My prayers were answered by Ms. Donohoe."

Ms. Donohoe was admitted to practice in 1991. She is an

at Shelby assisting inmates with post-conviction petitions, habeas corpus petitions, and Section 1983 civil rights actions.

Mr. Sheehy first became a public defender in 1982 in Lewis & Clark County. He then tried several major homicide cases in Helena. In 1986, he was appointed to represent a defendant charged in the nationally notorious slaying of TV actor Patrick Duffy's parents in Boulder. He has been involved in several highly publicized criminal cases, both as a public defender and as a retained criminal defense lawyer.

In his work with Mr. Cannon, they maintained offices in Browning, Missoula and Helena. He has tried criminal cases in federal court in Missoula, Helena, Great Falls and Billings. He has tried cases in state court in every county in Montana but the northeast and southeast part of the state.

On July 1, 2006, he became the regional deputy public defender in Region 2 in the Office of the State Public Defender, covering Missoula, Mineral and Ravalli counties.

Mr. Sheehy has done death-penalty work since 1991. He is one of a few Montana lawyers that is death-penalty qualified. He is also one of a few death-penalty qualified attorneys that has handled both the innocence and guilt stage of a homicide case as well as the penalty stage. In his last four death penalty cases, all of his clients have avoided the death penalty either by appropriate deals or going through a penalty phase hearing where a judge has found that the mitigating circumstances outweigh the aggravators.

Mr. Sheehy also handled several of the homicide cases arising from the 1991 prison riot at Montana State Prison. ○



WORKING TOGETHER

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associate with Wells & McKittrick and an appellate judge for the Rocky Boy and Salish Kootenai tribes. She was previously employed by the University of Montana, focusing on alternative dispute resolution at the school of education and the Indian Law Program at the Law School.

At Wells & McKittrick since 2003, Ms. Donohoe works in the areas of property, family law and appellate practice. She is on the faculty for the 2007 Rookie Camp and has worked as an instructor at the UM School of Law's mediation clinic.

Ms. Donohoe was raised on a ranch outside of Absarokee. A graduate of the University of Montana and Northwestern School of Law, she has worked for the Northwest Power Planning Council, the Columbia River Inter-Tribal Fish Commission and the Division of Educational Research & Service at the University of Montana. She also served as legislative counsel for former congressman Pat Williams and Senator Max Baucus in Washington, D.C.

Her work in the field of mediation and restorative justice has been recognized by both the American Bar Association and the U.S. Department of Justice. She has served on the boards of three humane societies as well as number of other

committees and boards including the Missoula Food Bank, Montana Public Broadcasting and the Montana Mental Health Association.

"Without the support of Wells & McKittrick – and particularly Evonne Smith Wells, and Laura Hawley, legal assistant – my work would not have been possible," Ms. Donohoe said. She said she has been blessed with many wonderful mentors: "First and foremost my late mother who instilled the value of public service; the late Phil Tawney, esquire, the late Leo Graybill, esquire, Evonne Smith Wells, esquire, and Art Lusse and Kitty Lusse of Montana Mediators."

Ms. Donohoe underscored the importance of pro bono work, "As a society we tend to measure progress by newspaper clippings and sound bites which ultimately blinds us to the profound need in our own communities. As attorneys we have both the opportunity and responsibility of ensuring that the poor and underserved have a seat at the table of justice. Reaching out to one abused, battered, neglected or infirm person lends the promise of hope which can change a life and ultimately that of the larger community – one person at a time."

Complete Lawyer focuses on aging of attorneys

The free online law-practice magazine *The Complete Lawyer* is presenting in its August edition the subject of "The Graying of Lawyers." This issue asks: What are the ethical obligations that arise when older lawyers can't comply with the rules of professional responsibility? What is our responsibility when they unwittingly provide inadequate legal service to clients? How can we help preserve the dignity of aging colleagues? How do we continue to benefit from their wisdom and experience? Finally, how can recent breakthroughs in neuropsychology help us con-

trol our own aging so that we age well?

Included in the magazine are interviews of three State Bar of Montana members: Jack Mudd, senior vice president of Providence Health & Services in Seattle and former UM Law School dean; Bar Past President Bernie McCarthy; and Helena attorney and Bar Trustee Dan McLean.

Find the issue at <http://montana.thecompletelawyer.com>.

The September edition will focus on "What Can Law Schools Do Better."

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In New Orleans: O Lawyer, where art thou?

How the bigger law firms are failing defendants in that still-devastated city

By **Lisa Lerer**
for Slate.com magazine

Law firms are the cavalry of the legal world. Disaster strikes, and the firms, with thousands of lawyers and millions of dollars, ride into town to clean up the mess.

But what happens when the cavalry doesn't show?

That's the situation in New Orleans, where almost two years after Katrina, the criminal-defense system is still in a state of emergency.

Public defense was never the city's strength: When the levees broke, there were about 7,000 criminal defendants waiting to see a state-appointed lawyer. Immediately after the storm, the city jailed roughly 5,000 of them, many on shaky legal grounds. Most remained

locked up for over a year before speaking with a lawyer. The public defender's office is slowly working through the backlog, but is still overwhelmed. It's a situation public defenders bitterly call "Gitmo on the Bayou."

In response to the crisis, more than 2,700 law students traveled to New Orleans and the Gulf Coast, on trips a bit reminiscent of the famous civil rights freedom rides. The students do just about everything but appear in court, including interviewing defendants and collecting evidence. Public defenders from different parts of the country took sabbaticals from their day jobs to come down as well. But however welcome, this is as effective as washing the bathroom floor with a toothbrush, say New Orleans public defenders. Eventually, you'll clean up the mess, but a mop could take care of the problem a whole lot faster. The law firms are far stronger and richer than anyone else in the legal world. Why aren't they helping the Bayou's criminal-defense bar recover?

To be fair, big law has done a lot for the region. Firms donated thousands of hours to the legal rebuilding effort, sending lawyers down to help with FEMA appeals, small-business recovery, and Road Home grants. The Mississippi Center for Justice, a Jackson-based nonprofit founded in 2003, convinced 19 law firms to donate 810,000 hours last year, adding up to a value of \$3 million.

Most of this work, however, has been on civil matters.

Generally, it makes sense for law firms to concentrate on helping with civil suits, because criminal defendants have a constitutional right to representation. Remember *Gideon*? The 1963 Supreme Court case ordered states to pay for attorneys for poor people accused of crimes, making pro bono work on their behalf relatively superfluous. The flip side of state-funded defense, however, is that when it fails, firms aren't prepared to help pick up the pieces. For poor litigants in New Orleans, that often means waiting months in jail before even meeting a lawyer.

It's the systems firms use to efficiently donate legal hours that hold them back from effectively helping criminal litigants. The idea of an organized firm pro bono program started gathering steam about 15 years ago. In 1993, the American Bar Association revised its Rules of Professional Conduct to describe donating 50 hours of free legal work a year as a "professional responsibility." The Pro Bono Institute at Georgetown University Law Center challenges firms to donate either 100 hours per attorney or an amount of time equal to 5

percent of the firm's total billable hours. More than 150 large firms have signed off on the standard.

That doesn't mean they meet it: According to the American Lawyer's 2006 pro bono survey, only about 37 percent of law firm attorneys at the 200 biggest firms did at least 20 hours of work last

BAD LEGAL TIMES. The Gulf Coast was outrageously underserved in legal services before the storm. Mississippi had one legal aid attorney for every 19,000 poor citizens, one legal nonprofit, and a lackluster volunteer culture. Many local firms and law schools barely had any sort of pro bono program. New Orleans wasn't much better off. Just this year, Adams & Reese became the first firm in the city to mandate that all its lawyers do 10 hours of pro bono work per year. Stone Pigman Walther & Whittmann, another New Orleans firm, created a pro bono coordinator position.

year. Still, even if the firms miss their pro bono goals, most consider setting them good for business. A strong pro bono program is a recruiting hook for top law students and junior lawyers, who give more weight to pro bono in deciding where to work than they used to. Industry publications, like the "American Lawyer's A-List," include pro bono in their ranking criteria for firms.

Today, at most big firms, pro bono works like a well-oiled machine. Many have pro bono coordinators or partners working full time to vet projects and match them with the appropriate lawyers. The firms generally expect the public interest providers to present packaged, clear projects with a set scope and time frame. Firms will go far for the most desirable cases. As the *Wall Street Journal* recently reported, some donate money, office space, or clerical help to nonprofits in return for the first crack at interesting legal matters. Lawyers Without Borders Inc. requires an upfront donation of \$7,500 a year before it gives firms access to the best cases.

But if the cases don't fit the traditional format, firms won't touch them. And firms generally feel most comfortable doing

the kind of work they know best. Hand them a real-estate dispute, small-business negotiation, or intellectual property problem, and they'll come at it with a flurry of paper and army of suits. But dealing with drug charges, petty thefts, and assaults? Not so much. Also, it takes lawyers to get lawyers. Even in the midst of legal chaos, firms want a fully developed plan of action. If a firm is going to take on a criminal case, in a district with different laws, it wants assurance that its lawyers will be heavily supervised. No firm likes a malpractice suit. And no lawyer wants to give any client – whether paying or not – bad legal advice.

In New Orleans, there's no legal master plan and almost no one to oversee the volunteer defense lawyers. Orleans Parish lost almost all of its public defenders after Katrina, plummeting from about 40 to fewer than 10. In 2006, a Department of Justice report obtained by the *Los Angeles Times* recommended 70 full-time public defenders. With the city in a perpetual state of legal panic, no one has time to package up projects for firms. Also, since it takes weeks to learn how to navigate the dysfunctional system, volunteers ideally need to stay for several months. Firms are willing to send down lawyers for a week or two, but they won't give up a client-serving body for months on end.

In other cities with more developed pro bono infrastructures, nonprofit middlemen negotiate this kind of culture clash. For example, nonprofit groups like New York Lawyers for the Public Interest coordinated much of the legal response after 9/11. But in the Gulf Coast, there's no one to play mediator

and no great pro bono force to spearhead a shift from civil to criminal work.

So, what can a Creole-loving firm do? Taking the small cases may be tough for firms, but challenging the entire system wouldn't be. Firms are great at impact litigation. Be it a suit against a city, state, or large public institution, firms have pushed the law forward in amazing ways through large-scale litigation. They can do the same in New Orleans. The current system raises some serious constitutional questions. For starters, poor litigants get no representation between the time bail is set and weeks later when the district attorney's office decides whether it will take the case to trial. Public defenders are funded largely by court fees – money paid by the indigent defendants themselves when they're convicted. Two New Orleans criminal court judges found the funding system unconstitutional, but the case has yet to be presented before the Supreme Court.

Another way firms could help: They can fund a New Orleans pro bono coordinator, in the way that they regularly sponsor public interest fellowships. The coordinator could work full time packaging the projects and rallying the law firm troops. The firms could get projects suited to them, and the city's defense lawyers could spend their time doing their jobs.

The cavalry, it seems, might just need a good scout.

LISA LERER writes for the blog *Politico*. This article appeared on *Slate.com* on July 6.

NEWS ABOUT MEMBERS

Amy Poehling Eddy has joined the Kalispell law firm of Bottomly Ellingson Eddy as a partner, her partners Joe Bottomly and Jeffrey Ellingson announced.

Helena attorney **Brenda Wahler** will be the 2007-2008 president of the First Judicial District Bar Association. Ms. Wahler is a 2002 graduate of the University of Montana School of Law, has been an active member of the State Bar of Montana's Law Education & Information Committee, and is an attorney for the Child & Family Services Division of the Department of Public Health & Human Services.

James D. Elshoff, who practiced family law in Montana for more than 22 years, has relocated to San Marcos, Texas. He can be contacted at jelshoff@earthlink.net. In Montana, he resolved more than 2,000 divorces, many of them by mediation and amicable settlement, he said. He authored the "Montana Family Law Handbook" and the "Montana Criminal Law Casebook," and served short terms as Cascade County justice of the peace and substitute municipal judge in Bozeman. Mr. Elshoff finished second in his Texas Auction Academy class and received an honorary promotion to "Colonel." While he will remain licensed to practice law in Montana, he said he will be teaching various law courses at

Texas State University and selling real estate by auction.

Two attorneys in the Missoula office of the multi-state law firm Dorsey & Whitney have been selected as leading U.S. lawyers by independent legal research firm Chambers & Partners. The Dorsey Montana attorneys ranked by Chambers for their work in mergers and acquisitions are **John Manning** and **Mae Nan Ellingson**. Based on thousands of client interviews nationwide, Chambers ranks law firms and individual attorneys according to technical legal ability, professional conduct, client service, diligence, commitment and other qualities most valued by clients.

Land and water attorney **Diane Conradi** of Whitefish has been appointed to the state Environmental Quality Council (EQC), a 17-member committee comprised of six house and six senate members, four members of the public, and a representative from the governor's office. The Council, created by the Montana Environmental Policy Act, studies state activities relating to the environment and oversees the state's natural resource agencies. It meets seven times during the period between the legislative sessions. Ms. Conradi's nomination was sponsored by state Sen. Dan Weinberg of Whitefish. Ms. Conradi has worked closely with the state and the

Whitefish community to develop a recreation-based conservation plan on local trust lands, and she co-authored an extensive report on trust land management in the West entitled: "Trust Lands in the American West: A Legal Overview and Policy Assessment" (find it at www.trustland.org/publications/trustlands).

Six attorneys in Holland & Hart's Billings office were acknowledged as leaders in their practices by *Mountain States Super Lawyers*, which recognizes only the top five percent of attorneys in each state. Holland & Hart had more attorneys

listed in this publication than any other firm in the region, which includes Montana, Nevada, Wyoming, Idaho, and Utah.

The following Holland & Hart attorneys were listed as Montana's leading lawyers in their respective practice areas: **Jeanne M. Bender**, general litigation; **Stephen Foster**, business litigation; **Charles W. Hingle**, bankruptcy and creditor-debtor rights; **Laurence W. Petersen**, mergers & acquisitions; **Donald W. Quander**, environmental; and **Robert L. Sterup Jr.**, employment & labor.

DEATHS

Emilie Loring, attorney and activist



Montana attorney Emilie Loring, 84, died in Missoula on June 16.

Ms. Loring was born in Brooklyn, N.Y. Her accomplishments included a bachelor's degree with high honors in history from Swarthmore College; a master's (with honors) in political science from the University of Montana; and juris doctorate with high honors from the UM School of Law. She did an internship for the National Labor Relations Board

in Seattle, all while her daughters finished high school. After law school, Ms. Loring partnered with Ben Hilley in Great Falls, representing the Montana Teachers' Union.

Emilie was admitted to practice in state and federal courts, the U.S. Supreme Court (on a motion by Mike Mansfield), U.S. Circuit Courts of Appeals for the D.C. Circuit, 9th Circuit and 10th Circuit, Blackfeet Tribal court, confederated Salish & Kootenai tribal court, Fort Belknap tribal court, tribal court of Chippewa Cree, and received the Western Montana Bar Association Distinguished Attorney Award.

Ms. Loring helped provide election coverage for Montana for NBC News, worked as a legislative attache for the House of Representatives while living in Boise, Idaho, did organizing, negotiating, and educational work for the Textile Workers Union of America, CIO, while living in Chicago. She was active in the League of Women Voters.

Ever the labor union activist, Ms. Loring worked tirelessly and gave generously in support of civil, political rights and progressive causes, her obituary said. She staunchly supported the ACLU and remained a board member of Montana Legal Services. She was a member of the Special Committee on Standards for Admission to Practice Law in Montana.

Ms. Loring maintained a lasting relationship with the American Farm School in Northern Greece, which provides education and training in farming and animal husbandry.

Ms. Loring met her late husband, Len Loring, an AFL-CIO

representative, during tumultuous times in America's labor movement. They married in 1948. She leaves two daughters.

Patrick Springer, Kalispell attorney

Kalispell attorney Patrick M. Springer, 68, died June 10 of prostate cancer.

Born in Mankato, Minn., Mr. Springer pursued a degree in composition and arranging of music from the University of Minnesota in Mankato. He joined the Army in 1961, serving in the special intelligence division.

He attended the University of Montana School of Law, receiving his law degree in 1969. He later settled in Kalispell with his wife and family.

He served as the county attorney from 1974 to 1978, spent time as a Kalispell City Council member, was elected twice to the Study Commission and served on the Selective Service Draft Committee.

He participated in many community organizations, including serving as the voice of the Kalispell Lakers for many years. Glacier Park and music remained his passions throughout his life, his obituary said.

Mr. Springer is survived by his wife, Lorraine, and two daughters.

Bjarne Johnson, Great Falls attorney

Great Falls attorney Bjarne Johnson, 89, died at a Great Falls nursing home on June 9.

Born to Norwegian immigrant homesteaders in Dutton, Mont., Mr. Johnson leveraged his skills as a butcher and fishing guide in Yellowstone Park to work his way out of the Depression, off the farm and through law school, graduating from the University of Montana School of Law in 1942.

Following his discharge from the Army, Mr. Johnson set up his law practice in Great Falls in 1943. Later joined by his college friend, Carter Williams, the two began their law practice in an office so small that if one had a client, the other had to leave, his obituary said. In 1949, the two joined their practice with I.W. Church and George G. Harris, forming the law firm of Church, Harris, Johnson & Williams, a firm that continues at its original location, though the original office has now become simply a corner of the waiting room.

Throughout his career, Mr. Johnson always viewed the prac-

tice of law as more than simply a business, and in addition to his practice, he devoted a lifetime of effort supporting not only local charitable causes, but supporting the improvement of the law, both statewide and nationally.

Mr. Johnson was a trustee on the Great Falls School Board for six years, and he remained active afterwards in related educational task forces and committees and was active in supporting foreign exchange-student programs. He was instrumental in the creation of two local charitable foundations, the George and Laurin Harris Charitable Trust and the Joseph Blankenbaker Charitable Trust, both of which are dedicated to local causes and to furthering education. Mr. Johnson has long provided enthusiastic support for the McLaughlin Research Institute and its scientific endeavors.

In 1969, Mr. Johnson was appointed as the Montana chairman of the Joint Editorial Board, a national organization devoted to the improvement of law and the creation of uniform laws for consideration and adoption by individual states. He worked endless hours to reform Montana's then antiquated probate code. After years of education and work with bar and lay groups around the state, the Montana Legislature, with Mr. Johnson's leadership and assistance, became one of the first legislatures in the country to pass the Uniform Probate Code in 1974. In recognition of his probate code reform efforts, he was specifically recognized for his leadership and service by the Montana State Bar Association in 1975.

Mr. Johnson was appointed in 1985 by the Montana Supreme Court to the Commission on Practice, charged with the ethical oversight of Montana lawyers, and he served on that commission until his retirement in 1996. In recognition of his tireless service to the Montana State Bar Association, he was awarded the Distinguished Alumnus award by the

University of Montana School of Law in 1996.

Mr. Johnson was one of Montana's few fellows in the American College of Probate Counsel, now known as the American College of Trust & Estate Counsel. He was elected president of the College in 1972-1973, a position to which no other Montana attorney has served in the history of the College.

Survivors include his wife of 63 years, Joyce Knudsen Johnson, two sons and a daughter.

Ray Brault, assistant attorney general

Raymond (Ray) W. Brault, 80, of Missoula, died at home from natural causes on July 20.

He was born and raised in Kansas. He enlisted in the Marines toward the end of World War II. After his return home, he attended Washburn University in Topeka, Kan., and the University of Montana in Missoula. He served for a time in the U.S. Army and was stationed in Germany until 1951. He also worked as a detective in Chicago.

In 1961, Mr. Brault took his bar exam for a career in law. He had a private practice with Tipp, Hoven & Brault in Missoula before moving to California for four years. He came back to Montana where he worked for the state of Montana as assistant attorney general for the Department of Agriculture until his retirement.

Mr. Brault attained a private pilot's license, had been an instructor with the Arthur Murray Ballroom Dancing in Topeka, is listed in Who's Who in the West, and was a member of the VFW and the Moose Lodge.

Preceded in death by one son, Mr. Brault is survived by his wife, Wanda, and two sons.

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ATTORNEY POSITIONS

ATTORNEY: The Lake County

Attorney's Office is seeking an attorney to fill a full-time position. Applicants must be currently licensed to practice law in Montana or preparing to take the Montana bar exam. The successful applicant will have primary responsibility for civil matters including zoning and land use issues; abuse, neglect and dependency cases; mental health commitments and advice to county department heads. The position requires knowledge of civil law and procedure as well as familiarity with legal research and word processing. Submit a letter of interest, resume and references to the Lake County Attorney's Office, 106 4th Avenue East, Polson MT 59860.

ASSOCIATE: Small Billings firm seeks full-time associate attorney in general practice, emphasizing transactional law, including real estate, banking and health care. Private practice or clerkship experience preferred. Send letter of interest, resume and writing sample to Jeff Weldon at Felt, Martin, Frazier & Jacobs PC, PO Box 2558, Billings MT 59103-2558.

ASSOCIATE: Missoula firm seeks associate to practice civil litigation. Strong research and writing skills required. Competitive salary and benefits avail-

able. Employment dependent on being a member of the State Bar of Montana in good standing. Send letter of application, resume, three references, and a writing sample to *The Montana Lawyer* #7-25, PO Box 577, Helena MT 59624.

ATTORNEY: The Montana Legal Services Association has an opening for a staff attorney in Billings to provide civil legal services in employment law matters to low income people. MLSA is funded in part by the Montana Justice Foundation. Salary depends on experience. Send a letter of interest, resume and three references to: Montana Legal Services Association, 616 Helena Ave., Suite 100, Helena MT 59601, or hiring@mtlsa.org.

ASSOCIATES FOR IDAHO: Idaho's largest firm seeks associates for its Boise office with an interest in a transactional and/or real estate practice. One to no more than three years of private or corporate experience in either area preferred. Strong law school academic record required. All replies confidential. Contact Eugene A. Ritti at Hawley Troxell Ennis & Hawley, PO Box 1617, Boise ID 83701, ear@hteh.com.

DEPUTY COUNTY ATTORNEY: The Lake County Attorney's office is seeking an attorney to fill a full-time position. Applicants must be currently licensed to practice law in Montana or preparing to take the Montana bar exam. Experience in criminal law and trial experience is preferred, including experience as a legal intern. The position requires knowledge of criminal law and procedures, rules of evidence and civil procedures and familiarity with legal research and word processing. Salary dependent upon experience. Submit a letter of interest, resume and references to the Lake County Attorney's Office, 106 4th Ave. East, Polson MT 59860.

ASSOCIATE ATTORNEY: Kasting, Kauffman & Mersen PC of Bozeman is

seeking an associate attorney to assist in the firm's practice areas. Practice areas include business, real estate, commercial litigation and family law. Please send resumes to Hiring Partner, Kasting, Kauffman & Mersen PC, 716 South 20th Ave., Suite 101, Bozeman MT 59718. (406) 586-4383.
www.kkmlaw.net

LAND-USE PLANNING / ENVIRONMENTAL LAW PROFESSOR: The University of Montana School of Law invites applications for a tenure-track position teaching in the area of Land Use Planning/Environmental Law, to commence in the Fall of 2008. More information, including a full position description and the hiring criteria, is available on our web site: www.umt.edu/law. Application materials should be submitted by Oct. 15, 2007.

TAX ATTORNEY: The Spokane office of Witherspoon, Kelley, Davenport & Toole is seeking an attorney to join its tax practice group and enjoy a sophisticated practice in a growing market. The ideal candidate will have special interest in ERISA, employee benefits, and executive compensation, as well as other areas of taxation, including estate planning, business formation, mergers and acquisitions, and other transactions for both public and private companies. Candidates should possess strong academic credentials and excellent drafting skills. Interested candidates should submit a cover letter, resumé and transcript to: Hiring Partner, 422 W. Riverside Ave., Suite 1100, Spokane WA 99201; or fax to (509) 458-2717 or e-mail jmr@wkdtlaw.com.

ASSOCIATE ATTORNEY: Lubnau & Bailey PC of Gillette, Wyoming, seeks associate with minimum 3-5 years experience in family law, including litigation and trial experience, to join established high volume domestic practice covering northeast Wyoming. Experienced applicant will be an enthusiastic, aggressive litigator who has demonstrated compas-

sionate advocacy on behalf of litigants, families and children. Appellate experience a plus. Excellent written and verbal communication competency a must with proven time management skills and a self motivated, outgoing personality. Member of the Wyoming State Bar in good standing; or eligible for admission under reciprocity. Applicants also licensed in Montana will be given preference. Competitive salary commensurate with experience, comprehensive benefit package. The successful candidate will demonstrate an interest in equity ownership, and a long term commitment to the firm and the Gillette community. Forward a letter of interest and resume to PO Box 1028, Gillette WY 82717. www.etseq.com

STAFF ATTORNEY: Itron Inc., a NASDAQ listed company located in Spokane, Washington, is seeking a staff attorney to join its expanding legal department. We are looking for candidates with 3-5 years experience in commercial and licensing matters. For more information, please visit our website at www.itron.com.

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ATTORNEY POSITIONS SOUGHT

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LEGAL RESEARCH: Comprehensive and accurate legal research. JD, UM School of Law; MBA, UM School of Business Administration. Located one block from UM Law Library. Local references available. Very reasonable rates. Contact Minot at mtlegalresearch@aol.com; (406) 546-2771.

LAW PRACTICES FOR SALE

LAW PRACTICE, OFFICE & CORNER LOT FOR SALE: Seeley Lake, Montana, in the beautiful Seeley-Swan Valley. Manufactured building in good condition. Excellent opportunity for attorney. Call (406) 240-4626 for details.

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FORENSIC DOCUMENT EXAMINER: Trained by the U.S. Secret Service and U.S. Postal Crime Lab. Retired from the Eugene, Ore., P.D. as their examiner. Qualified in state and federal courts. The only examiner in the Northwest certified by the American Board of Forensic Document Examiners. Full-service laboratory for handwriting comparisons and other document-related examinations. Contact Jim Green at (888) 485-0832 in Eugene, Ore.

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INSURANCE CONSULTANT / EXPERT WITNESS - BAD FAITH: 20 years multi-line claims experience, including Montana claims. JD & CPCU credentials. (425) 776-7386, www.expertwitness.com/huss.

COMPUTER FORENSICS & DATA RECOVERY: Retrieval and examination of computer and electronically stored evidence by certified computer examiner. Expert testimony on findings. Practice limited to civil and administrative matters. No charge for preliminary review. Contact Jimmy Weg, CFCE, Weg Computer Forensics LLC, 512 S. Roberts, Helena MT 59601. (406) 449-0565 (evenings); jimmyweg@yahoo.com.

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