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## PRESIDENT'S MESSAGE

# A proud, life-changing moment

*New admittees must know both sides of respect*

Jock Schulte

**I**t was dark and sleeting as I pulled out of my driveway, headed for Helena. A group of 65 soon-to-be fresh admittees to the Montana State Bar would be assembled at the House Chambers, along with relatives, friends and, of course, the Montana Supreme Court. Since the weather reports were not promising, I was pleasantly surprised when I reached Clinton to find the sun gloriously rising, the sky crystal clear, and the day destined to be beautiful, with all of the magnificent fall colors in full regalia.

What a wonderful day to be admitted to practice law in Montana and become a member of the State Bar.

My presidential duties include the privilege of addressing the new admittees prior to their taking the admission oath. University of Montana Law School Dean E. Edwin Eck delivered some sage words, including the acknowledgment that for the UM law graduates, their relationship with the Law School faculty had now transformed from that of student-teacher to that of colleagues. Chief Justice Karla Gray, in her always-relevant remarks, commented on the joyousness of the occasion, the happiest of proceedings over which the Court presides.

And the chief justice was right. The excitement of the occasion and the genuine emotions displayed were overwhelming. Watching the reaction of parents, spouses, mentors, friends and admittees as the motions were made for admission was indeed a very happy and special experience. Observing the pride on the new Montana lawyers' faces – when Attorney General Mike McGrath made his motion to admit them – was priceless. If I ever had any doubt about whether I would enjoy my term as president, this ceremonial duty erased it.

So, against this backdrop, I did my best to import some words of wisdom to this rightfully proud group. Recognizing the importance of my task, I turned to pages 268 through 271 of the 2007 Lawyers' Deskbook & Directory for guidance in preparing my remarks. On these pages, the Standards of Professional Courtesy to Clients, the Standards of Professional Courtesy Among Lawyers, the Standards of Professional Courtesy & Ethics between the Judiciary & Attorneys, and the Ten Commandments for Trial Lawyers (written by George Dalthorp when he was president of the Bar) are published.

The principles set forth on these pages are timeless. Attempting to distill these standards (or commandments) down to one overriding principle, I focused on RESPECT (Thank you, Aretha). By being qualified and eligible for admission to practice law in Montana, each new admittee has earned and deserves respect. This respect is due each and every lawyer holding the privilege of practicing law.

Respect does not stop at receipt; it must be given as well. A lawyer must respect roles. Remember that the disputes are between the clients, not the lawyers. Our duty is to represent our clients by resolving their cases in the best way possible and closing the files. To accomplish this, we must keep perspective, offer objective and independent advice, and respect our role in the attorney-client relationship, which includes respecting opposing counsels' roles in *their* attorney-client relationships.

To the public, lawyers are the most common face on the judicial branch of government. This requires lawyers to constantly display respect for the legal process, the system of justice, fellow attorneys and the judiciary. Therefore, we must not make, tolerate or condone derogatory comments or personal attacks upon attorneys, clients or the judiciary. Lawyers must preserve and foster the integrity of the judicial system. Enhancing access to justice for all people is an important component of displaying our respect for the legal process and our system of justice.

By embracing respect, a lawyer's ability to act and lawyer with compassion will be enhanced. There is always disagreement in a lawsuit. By respecting the process and each party's individual role, a lawyer will be better able to focus on the law and the search for the truth, thus transcending the difficulty of the disagreement. This enhanced focus will result in clients and the general public recognizing that lawyers respect each other, the judiciary and our system of justice, thereby ultimately enhancing the public's respect.

These newly admitted lawyers have every right to be proud. Joining the profession of the highest calling, their lives will be forever impacted. They are entitled to respect because they have earned it. By practicing with respect, they will keep it. ○



# Montana's Self-Help Law Program

By **Tara Veazey**, coordinator  
Self-Help Law Program

In 2007, the Montana Legislature helped move Montana one step closer to fulfilling one of our noblest democratic ideals by including \$505,000 in one-time-only funding for the creation of a Self-Help Law Program, to be administered by the Montana Supreme Court.

For the first time ever, Montana courts will have designated funding to build resources for self-represented litigants and the courts that serve them. The funding for the Self-Help Law Program was made possible by a grassroots effort supported by dozens of groups representing diverse constituents from across the state, including, but certainly not limited to, AARP, the Coalition Against Domestic & Sexual Violence, Consumer Credit Counseling Services, the Montana Judges Association, Montana Legal Services Association, the Montana Supreme Court's Commission on Self-Represented Litigants and Equal Justice Task Force, and the State Bar of Montana's Access to Justice Committee.

## The need for self-help resources

With this funding, the Montana Supreme Court, local courts, clerks of district courts, and service providers have an unprecedented opportunity to address the critical challenges posed by uninformed self-represented litigants. For most of these self-represented litigants, hiring an attorney is not a financial option. One in every five among us in Montana lives at or below 125 percent of poverty (\$25,000 per year for a family of four). For these families, struggling to meet their basic human needs, few resources are left over for addressing critical legal issues related to their employment, housing, credit and family. Although Montana Legal Services Association (MLSA) does provide valuable assistance to low-income Montanans with civil legal problems, like legal services programs throughout the nation, MLSA has seen an over 50 percent decrease in federal funding over the last 30 years, leaving only 13 lawyers available to provide direct representation to the over 180,000 eligible people living across this vast state.

Every court staff, judge, clerk of court and opposing attorney who has had a case involving a self-represented litigant knows that without adequate assistance, overwhelmed self-represented litigants can drain the scarce resources and time of our courts. For the uninformed self-represented litigant, the consequences can be even more severe, ultimately denying them the rights and remedies promised to them under the law. With a relatively modest budget, the new Self-Help Law Program will make significant strides in ameliorating these threats to our courts and low-income neighbors.

Here are some of the Self-Help Law Program priorities:

### ■ Form Development.

Although the Montana Supreme Court created the Commission on Self-Represented Litigants over five years ago, until now all forms approved by the Commission have been created by dedicated volunteers, primarily attorneys with Montana Legal Services

Association. With funding from the Self-Help Law Program, the Supreme Court Administrator's Office is currently negotiating a contract with MLSA for the development of a full-time form development position.

Priorities for form development are being determined based on more than 100 survey responses from judges, clerks of court, legal services providers and low-income advocates. The form-development contract will include an obligation to conduct thorough evaluations of all forms, including testing by low-income Montanans and feedback from judges, clerks, lawyers and service providers.

■ **Self-Help Law Centers and Workstations.** The bulk of the remaining Self-Help Law Program funds will be distributed to local courts and/or clerks of court for the development and staffing of self-help law centers and workstations. Based on an analysis of local needs, the Supreme Court Administrator's Office has begun working with the judges and clerks of court in Yellowstone County and Flathead County on the development of local self-help law centers.

The centers will be located in the county courthouses and will offer a central place where members of the public can go to find legal information, download forms, and get referrals to legal services, pro bono programs and other helpful community organizations. The Self-Help Law Program will provide funding to hire local staff who can assist users of the centers during designated hours. Unfortunately, the budget for the program cannot possibly fund staffed self-help law centers in every courthouse in the state. However, the staff and volunteers of the centers will be able to provide assistance to users of workstations in several remote courthouses using a combination of phones, webcams and Internet "chat" features. The Supreme Court Administrator's Office will determine partnering courts for these self-help workstations based on local interest and analysis of need.

■ **Law School and Student Involvement.** Finally, the

**More SELF-HELP LAW, Page 34**

# The importance of MENTORING

*Let us be taught.  
Then, let us teach.*

By **Charles Wood**  
The Montana Lawyer

*Bar trustees wonder: Can we find  
experienced and trusted advisors for law  
students and young attorneys?*

When you put 17 lawyers of all ages into a room to discuss what's important to their legal careers, a theme quickly develops. Then, so does a priority.

The theme: mentoring.

The priority: to establish a program to have experienced lawyers teach good law practices to inexperienced lawyers.

The place to start? The State Bar of Montana Board of Trustees, who heard the 17 lawyers talk of the importance of mentoring in their lives, have decided to start at the beginning – with law-school students.

UM law professor Bari Burke, in a column in the August 2007 edition of *The Montana Lawyer*, explained how most medical schools, with the help of licensed physicians, hold “white-coat ceremonies” for first-year med students, to introduce to them – while giving them white coats at this early stage in their medical careers – the important, core values of the medical profession.

“The white-coat ceremony is a time to recognize and celebrate the wonderful human attributes associated with the medical profession’ in a way that ‘helps to identify the characteristics of a complete doctor,’” Professor Burke quoted an author as saying. ‘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.’”

## A disconnect

Through CLEs, committee meetings

and other venues, the State Bar of Montana has tried to define what it believes are the core values of the legal profession in Montana. But after the 17 lawyers made their presentations to the State Bar’s Board of Trustees retreat near Red Lodge last June, the trustees agreed that there is a disconnect between the practicing bar in Montana and the students at the University of Montana School of Law. Instilling core values through mentoring in this state, they felt, has been a random exercise depending on students or young lawyers to approach older lawyers for advice, or the approach initiated by an older lawyer seeing a floundering young attorney. As discipline reports show, there are some middle-aged Montana lawyers who never received a copy of the ‘psychological contract’ in which they accepted those values.

## Little attorney contact

When attorneys interact with UM law students, they are usually Missoula attorneys – which is a good thing considering the general excellence of Missoula attorneys. But it leads to a provincialism which tends to keep UM Law grads in Missoula for their careers instead of fanning out across the state (this is the subject of an upcoming *Montana Lawyer* article). The Law School’s Women’s Law Caucus and the Bar’s Women’s Law Section are in the second of a UM mentoring program that also involves attorneys from Helena and Billings. But the numbers of mentors are still small (see story on next page).

The Board of Trustees debated why the Montana Bar has so little involvement with UM law students. Could it be that some of the faculty have never had a law practice and may actually be hostile to the Bar? That early Bar mentoring programs

fell through from lack of dedication to the cause? That the State Bar simply has not reached out to the Law School, and vice versa? That Montana attorneys simply don’t have time to be mentors?

Although the retreat discussion covered a wide range of things that are important to legal careers, mentoring was brought up over and over. Whether a ‘briefcase ceremony’ might be performed at the UM School of Law for entering students is not the point. The point is the early and long-lasting service that practicing, or even retired, attorneys can perform for law students or young lawyers.

## The gift of mentoring

At the Board retreat, the panel of new UM law grads said the practice of law was a lot less defined than they expected it to be.

“It has helped to be exposed to different attorney styles, to have someone as a model,” said Heather McDowell, who practices in Billings with Crowley, Haughey, Hanson, Toole & Dietrich. She said she learns most from those lawyers “who are dedicated to their clients.”

Several of the younger panelists said they came out of school with a “worshipful attitude” about the practice of law – only to find, upon seeing things they don’t like in the practical application of law, that the shine tarnishes.

Mentoring can help keep the law school “psychological contract” intact. Kent Sipe, a young lawyer who clerked for Judge Wayne Phillips in Lewistown

and was a Fergus County deputy county attorney, said he has two mentors that have a total of more than 50 years experience. "They've taught me never to lose my credibility," he said.

Without mentors, young lawyers are exposed to an imbalance of negative impressions. The young panel described as what they see among lawyers as too much whining, lack of credibility, lying.

Student internships with law firms is one form of mentoring. Lindsay Osbourne, a new law graduate, said her internship "made a big difference in the way my law career started." Brad Brown, also a new graduate now practicing with the Crowley firm in Bozeman, started law school wanting to be a prosecutor, but after a round of job interviews found that he could "get more mentor time at Crowley than from overworked public attorneys." That's why he went into civil practice.

### The social interaction

A panel of four lawyers with 15 or more years experience told the Bar Board that attorneys at their level have

too little time to advise young people. Billings attorney Mary Dyre complained that all the new technological tools are short-circuiting personal interaction and camaraderie among lawyers. The social skills, she said, sometimes don't develop "to show us how to conduct ourselves with clients or with the community." Such technological barriers have spawned the mediation industry, said Billings attorney Mike Anderson, "because we just can't talk to anyone."

Mr. Anderson, however, bemoaned the fact that in the two large law firms he has worked in, he has had no mentors. He blames the billable hours system which leaves no time for mentoring. Jim Murphy, another 15-plus years lawyer from Billings, on the other hand, described how the local judge for whom he clerked insisted that he be in court every day to watch, and learn from, the action.

And these panelist said you don't have to be too old to *have* mentors. "My two partners are 14 years younger than I am," said Mr. Murphy. "Every day we kick around issues – a lot of

### Initial steps taken toward Bar mentoring program

- Fall 2006, Women's Law Caucus project established (see story below).
- Winter 2007, Student Bar representatives begin regular attendance at Bar Trustee meetings.
- June 2007, Board retreat discussions affirm need for a program; trustees make it a priority.
- Summer 2007, mentoring committee set up, begins work (see Page 8).
- August 2007, Bar officers begin lecture series for UM Law School students (see Page 8).
- UM law student receives internship to work with State Bar (see Page 8).

## Women's Law Caucus takes first steps at mentoring UM School of Law students

By **Anne Peterson**, student  
UM School of Law

Question: Why would one crazy second-year law student want to take on a project that matches an unknown number of first-year law students with an upper-class mentor and a mentor that is a busy practicing attorney?

Answer: In my first year of law school, I was a participant in the student-to-student mentoring program that the Women's Law Caucus (WLC) provided. It was important to me to make a connection with someone at the law school who had been through the "tough stuff." However, I also had a practicing attorney who I could go to and ask the questions I had about practicing and find out what working as an attorney was truly about. I was lucky, and I wanted other people to be able to have that connection.

Practicing law in Montana means we practice in a very small community. It is important to make contacts with many practicing attorneys for a variety of reasons: net-

working and career advice and just having a friend to ask questions of, is very important.

The one thing I felt was lacking in the Law School was that connection with working lawyers. The main goal of the mentoring program is to foster relationships with current attorneys and those who will (hopefully) be practicing soon.

With the help of some very dedicated members of the State Bar Women's Section, we have 14 attorneys from Missoula, Helena and Billings that are mentoring first, second and third year students. The mentoring program has nearly doubled since last year, and the WLC has 18 first-year students interested in working with a mentor. We are four mentors short, but by the middle of this month I am confident that every member of the Women's Law Caucus will have a practicing attorney to guide them.

We recently held our first event in Missoula, the Women's Law Caucus Mentor Dinner. The response from all sides was fantastic; we hope this will be the first of many events and the first of many years that a mentoring system is provided to the students.

---

**ANNE PETERSON**, a second-year law student at UM, is the president of the Woman's Law Caucus. Any attorney that is interested in becoming a mentor for the Caucus can contact her at [anne.peterson@umontana.edu](mailto:anne.peterson@umontana.edu).



[two-way] mentoring takes place.”

Helena attorney Ed Bartlett, on the next panel – lawyers with “other” kinds of practices – said because he had been in corporate and governmental law practice for so long that he was mentored by a younger lawyer when he joined a private law firm.

A panel of retired attorneys expressed how important mentoring was to both ends of their careers – being taught, then teaching. Many retired attorneys mentor young lawyers, some of them through the Bar’s Emeritus Attorney Program.

## Back to law school

New law grad Brad Brown said, however, that Montana’s law school is too insulated from Montana’s Bar. Ellen Donahue, another new law graduate, said “We need more Bar presence in law school, we need the legal connections.” But Mr. Brown said he has given up on trying to get to know every Montana lawyer – “things out there are less personal as the number of attorneys grows.”

Does that have to be – or is Montana really growing more lawyers who would be mentors if given the chance? That is what the Bar trustees want to find out as it sets up a mentor-program committee and increases its contact with the School of Law.

*(Other Montana attorneys who partic-*

## New law-school links

■ **Student interning with Bar.** Sue Strachan, a third-year law student at the University of Montana, will intern for eight hours a week at the State Bar. The year-long internship gives Ms. Strachan law-school clinical credits, and is part of the effort to forge more links between the Bar and the Law School. Ms. Strachan will provide Law School information for *The Montana Lawyer*, work with the CLE Institute and help research ethics opinions.

Ms. Strachan is originally from Minnesota, where she grew up on a dairy farm. Prior to attending law school, she worked for 20 years in mortgage banking. She is involved in the Student Bar Association, the Rural Advocacy League and Phi Delta Phi. She was appointed to be the ABA Law Student Division national liaison to the Real Property, Probate & Trust Section.



Sue Strachan

■ **Bar officers give UM presentations.** On Sept. 4, four State Bar officers initiated a new lecture series for UM Law students, giving a presentation to about 45 students on “What is the State Bar?” The speakers were Peggy Probasco, outgoing president; Chris Tweeten, new president-elect; Bernie McCarthy, past president; and Chris Manos, executive director.

Speakers from the Bar plan to deliver lectures and Q&As with first, second and third-year law students this month (on pro bono obligations and opportunities) and in November (non-traditional practices of law), and again in February, March and April. The UM Student Bar Association will canvass law students for topic ideas for the Bar lectures.

*ipated on the panels at the Board retreat were:*

*New lawyers – Scotti Gray.*

*Lawyers with 15 or more years in practice – Brad Finn.*

*Lawyers with “other” practices –*

*Shiell Anderson, Dorothy Bradley and Sherry Matteucci.*

*Retired lawyers – George Dalthorp, Molly Shepherd and Stephen Foster.)*

## Panel looks for mentoring models as Bar considers setting up program

The State Bar of Montana Board of Trustees has named a committee to collect information about the needs for mentoring among new Montana lawyers.

The committee, headed by Bozeman attorney Carl Borgquist, also will gather information about established mentoring programs across the country.

A mentoring program is being “approached with caution,” said State Bar Executive Director Chris Manos. “We must make sure there is a real need that is being indicated by newer lawyers,” he said, adding that “we don’t want to create something for which there

is no need.”

Mr. Manos said the initial targets for the mentoring would be:

- Students at the University of Montana School of Law.
- New lawyers that are enrolled in the State Bar’s Rookie Camp program – or, new lawyers who have not taken part in Rookie Camp, or both.
- Graduates of the UM School of Law – or, graduates from other law schools, or both.

Mr. Manos said that the Bar must also give careful thought as to who will be the mentors. “What will you have those

mentors teach,” he asked. He said a major emphasis might be on “core values” of Montana’s legal system. But he added that the State Bar still has some debating to do over just what those core values are.

The State Bar is just now “formulating ideas,” Mr. Manos said. “We’d like to broaden what the Women’s Law Caucus is doing with its mentoring program” (see story on previous page).

Also being examined is how the Montana Legal Services Association is mentoring its new attorneys.

Mr. Manos said any new Bar mentoring program for law students or Rookie Camp attendees might be in place by the fall of 2008. For the other categories of new lawyers, there is no timeline considered yet. ○

## A MEMORIAL

# A man of courage and determination

By the **Great Falls Tribune**

**T**he Montana Supreme Court gathered in September to remember the life and legal career of the late Justice Fred J. Weber, a former Havre attorney who served 15 years on the state bench.

Justice Weber retired from the Supreme Court in 1995. He died May 11 at his home in Helena. He is survived by his wife, Phylliss (Schell), a Great Falls native, and four children who grew up in Havre.

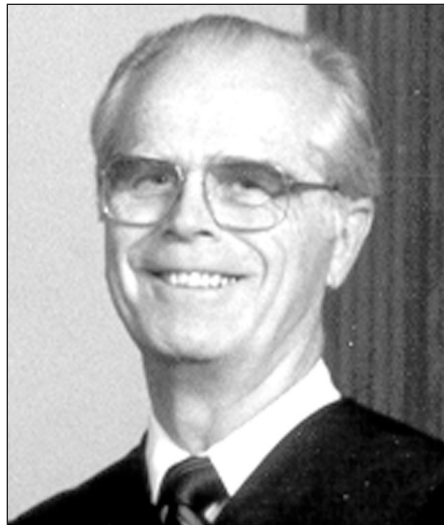
"For over 60 years he rendered distinguished service to his country, to the citizens of Montana, and to the judiciary. He was truly an honest country lawyer," wrote Chief Justice Karla Gray in a memorial read at the memorial in the Supreme Court courtroom in Helena.

Justice Weber was born Oct. 16, 1919, in Deer Lodge to Victor and Dorothy Weber, who owned a haberdashery business. A graduate of Powell County High School, he went on to the University of Montana, joined the ROTC program and later served in the Army during World War II. He joined the ski troops of the 10th Mountain Division and served with distinction in the European Alps, according to Weber's biography, written by Chief Justice Gray.

Weber kept his war stories to himself, so little is known of his European service, Justice Gray said.

"After the Korean conflict, knowing he would not be required to use his service pistol again, he threw it in the Milk River," she said.

Upon his honorable discharge from the Army, Weber returned to the University of Montana and studied Law, graduating in 1947, and was admitted to the practice of



The late Montana Supreme Court Justice Fred Weber: 'An honest country lawyer.'

law in Montana and the federal courts that same year.

He worked for the Montana Power Company for a short time as a corporate lawyer, but was not especially happy, Justice Gray wrote. In 1948, he joined a private practice in Havre with Max Kuhr, a country lawyer. While working in the firm of Kuhr & Weber, he quickly earned a reputation as an extremely competent attorney, Gray said.

Once, while representing a client in a Glasgow courtroom, Weber was so adamant about a case that a judge threatened him with contempt and jail time. If Mr. Kuhr hadn't intervened by telephone, Weber would have been spending time in the Valley County jail, Gray said.

"For those of us who knew him, it is difficult to imagine Fred Weber being hailed for contempt," Justice Gray said. "It is not, however, difficult to imagine that he would be a fearless advocate for his clients."

While in Havre, Weber was active in Rotary, served on the hospital board and on his parish council and offered his services to several churches.

In 1981, Weber took a seat with the state Supreme Court and often worked far into the night, Gray said.

"The opinions that Justice Weber wrote were meticulously crafted. He insisted that his law clerks research and write carefully, and he did likewise," Gray said. "Still, he had the courage to make an unpopular decision."

After Justice Weber retired from the Supreme Court in 1995, he and Mrs. Weber remained active, using their new-found free time to play tennis, cross-country ski and ride bicycles, Justice Gray said. They also volunteered at St. Peter's Hospital in Helena for many years. ○



# Tweeten to lead Bar in 2008-2009

Helena attorney Chris Tweeten, the past secretary-treasurer of the State Bar, was elected as the association's president-elect in the Bar's August elections.

Mr. Tweeten will become Bar president in September 2008 when the term of the current president, Jock Schulte, expires. Mr. Tweeten will continue to serve on the Bar's Executive Committee with the other elected officers.

Mr. Tweeten will be replaced as secretary-treasurer by Joe Sullivan (see story below). Before he held that office, Mr. Tweeten served on the Bar's Board of Trustees. He also has chaired the Bar's Public Law and Federal Practice sections.

Mr. Tweeten is the chief civil counsel in the state Attorney General's Office. He has served as president of the 1st Judicial District Bar Association, comprised of lawyers from Lewis & Clark and Broadwater counties.

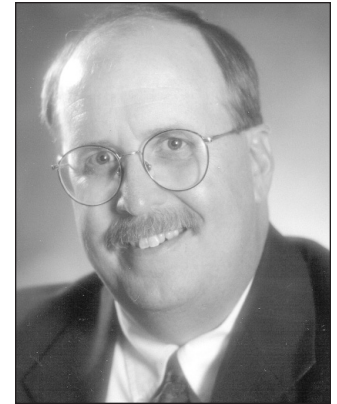
Mr. Tweeten was raised in Havre. He received his undergraduate degree from the University of Montana in 1974, and his law degree from UM School of Law in 1977. He served as law clerk for Senior U.S. District Judge William J. Jameson from 1977-1978. From 1978-1989 he served as an assistant attorney general for the State of Montana, principally handling criminal appeals, Indian law matters, research and drafting of opinions, and civil litigation. From 1989-1993 he was associated with the firm of Hughes, Kellner, Sullivan & Alke in a general civil trial practice in Helena.

Since 1993, he has been a senior attorney in the Office of

the Attorney General, serving as chief deputy attorney general from 1993-1996, chief counsel from 1996-2000, and chief civil counsel from 2001. His duties as chief civil counsel include civil litigation, supervising the drafting of opinions from the attorney general and his civil staff, and consultation with the attorney general and other staff attorneys on a wide variety of civil law issues, including ethics. He has appeared frequently before the 9th Circuit Court, and has argued more than 100 cases in the Montana Supreme Court.

In 1984 Attorney General Mike Greely appointed him to the Reserved Water Rights Compact Commission, which is responsible for negotiating settlements of Indian and federal reserved water rights in Montana. He has served as Chairman of the Commission since 1993.

Mr. Tweeten and his wife Jeanne live in Helena with their beagle, Mugsy. Their sons Andy and Jon live in Washington, D.C., and Missoula, respectively.



Chris Tweeten, the new president-elect.

## New officer, new trustee are elected

Great Falls attorney Joseph M. Sullivan is the State Bar's new secretary-treasurer and Helena attorney Bruce M. Spencer is a new State Bar trustee following the State Bar's August elections.

Mr. Sullivan, who ran unopposed, replaces former Secretary-Treasurer Chris Tweeten, who was elected the Bar's president-elect. Mr. Spencer will fill the Board of Trustees seat from Area F left vacant by Helena attorney Dan McLean, who resigned from the Board at the end of his term.

**MR. SULLIVAN**, who has been a long-time State Bar of Montana trustee, has a bachelor's degree in Mathematics, cum laude, and a law degree from Gonzaga University. He is admitted to practice in state and federal courts in



Joe Sullivan

Sullivan law firm of Great Falls. He practices law in the areas of insurance default, insurance law, personal injury, civil trials and civil appeals.

**MR. SPENCER** attended the University of Montana for his undergraduate degree and obtained his JD

Oregon, Washington and Montana. He is co-chair of the State Bar's Law Education & Information Committee. He also is president of the Great Falls Central Catholic High School Board.

Mr. Sullivan is a partner in the Deschenes &

from the University of Oregon. He is a shareholder with Smith Law Firm, the oldest law firm in Montana. His practice emphasizes creditors rights, commercial law, commercial litigation, real estate and automotive law.

Mr. Spencer is a member of the National Association of Retail Collection Attorneys, the American Bar Association, and the American Association for Justice. He is licensed to practice in Montana state and federal courts and is admitted to practice in the 9th U.S. Circuit Court of Appeals, the U.S. Court of Claims and in the Federal Circuit Court of Appeals.



Bruce Spencer

## Smith stays on as Board chair

The State Bar Board of Trustees, at its September meeting, asked Missoula attorney Cynthia Smith to stay on as its chair for another year.

Ms. Smith, who was first elected by the Board as chair in September 2006, accepted the Board's proposal. The Board occasionally in the past has voted to have its chair remain in charge for a second term.

Board members elected in August to new terms as trustees were Peter Helland and Ryan Rusche (Central and Eastern Montana); Tom Keegan and K. Paul Stahl (Lewis & Clark and Broadwater counties); and Pam Bailey, Vicki Dunaway and Mark Parker (Yellowstone, Stillwater, Carbon and Big Horn counties).



Cynthia Smith

## New trustee sought in Area D

The State Bar of Montana is seeking an active Bar member to fill the vacancy and term of Board Trustee Joseph Sullivan who represented Bar Area D (Cascade, Glacier, Pondera, Teton and Toole counties). Mr. Sullivan was elected to be Bar secretary-treasurer in the August elections.

Bar members seeking the trustee position would be one of two trustees for Area D.

Selection would be made by the Board of Trustees at its Dec. 7 meeting in Helena. Candidates will be invited for interviews.

The term of office would be until September 2008. Area D elections are to be held August 2008. Powers and functions of the trustees are found in Section 4, By-Laws of the State Bar of Montana (Deskbook 2007).

Send letters specifying qualifications and reasons for seeking the position to Chris Manos, executive director, State Bar of Montana, Box 577, Helena MT 59624 **no later than Nov. 16, 2007.** For questions, call Chris Manos at 447-2203.

## Bar offers discount on software suite of WordPerfect tools

The State Bar of Montana is offering its members a substantial discount on the software suite WordPerfect Office X3.

The Bar is partnering with the Corel software company to drop the suite's price from \$135 to \$99.

The software allows for the sharing of and the ability to open, edit and create files in Microsoft Word, Excel and PowerPoint between users. Users can choose to work in "Microsoft Mode" or WordPerfect Office Mode."

The software also has a built-in Adobe feature that provides the ability for users to open PDF files with WordPerfect to edit and reuse the content of those files.

Among its other specialized tools that automate daily tasks is a "MetaData Removal" feature that removes confidential and sensitive information hidden in your documents.

To obtain the WordPerfect Office X3 software for \$99, go to [www.corel.com/barassociation](http://www.corel.com/barassociation) or call (888) 267-3548 ext. 2673.

## At the September Board meeting

*This is a summary of the actions taken in the Sept. 12 State Bar of Montana Board of Trustees quarterly meeting in Missoula:*

### Report of the chair – Cindy Smith

Ms. Smith welcomed Helena attorney Bruce Spencer to his first meeting as a trustee and congratulated re-elected trustees and new officers (see stories on this and preceding pages).

### Reports requiring Board action

Executive Director Chris Manos presented information regarding the ABA Publishing Discount Program. The program would provide discounted rates to Bar members on ABA publications, regardless of whether they are ABA members. The Bar would then receive a percentage of revenue from sales. The Board approved the program as a membership benefit of the State Bar, but the exact percentage discount to Bar members will be determined by the trustees at a later time.

### ABA delegate report – Bob Carlson and Damon Gannett.

Mr. Gannett reported on his attendance at the last meeting of the ABA House of Delegates. He highlighted several resolutions that were presented including a resolution that supported increased funding to support school stability, enrollment, attendance and success of children and youths in foster care; a resolution that urges legislation to promote voting by people with disabilities; and a resolution supporting the principle of appointment and retention of career and government attorneys. He further reported that a Resolution & Impact Review Committee was appointed by the House of Delegates to track and review adopted

**More on BOARD MEETING, Page 40**

## Greco rebukes government

While challenging Montana lawyers to fight for their independence, former ABA president Michael Greco excoriated the Bush administration in his keynote address at the State Bar Annual Meeting banquet.

Before a packed house, Mr. Greco took after specific members of the administration for trying to limit individual rights and keeping attorneys from doing their jobs. He complained about Charles Stimson, who has since resigned from the Defense Department, for suggesting that corporations should punish law firms for representing Guantanamo detainees. He criticized U.S. Justice



Greco delivering keynote speech.

Department officials for “coercing” corporations to waive the attorney-client privilege. He pointed to the “ignorant” and “mean-spirited efforts” in several states, including Montana, to recall judges. He bemoaned the loss of habeas corpus. He invoked the name of

Alberto Gonzales. He also criticized several Congressional bills as among the actions that “try to diminish and marginalize the role of the lawyer in society.

Mr. Greco compared “the harm to the legal profession” done in the United States the past several years to that which most Americans thought happened only in third-world countries. “Harm to the people of *any* nation because of a failure of the rule of law due to a weakened legal profession and judiciary is harm to the legal profession and judiciary in *every* country,” he said.

Mr. Greco did outline several ways the ABA and lawyers worldwide are beginning to fight back, including a set of core legal principles set forth in a meeting he attended in Paris.

**YOU CAN READ** Mr. Greco’s entire speech at the home page at [www.montanabar.org](http://www.montanabar.org).



Catherine Sanders Reach during her CLE.

## A modern legal toolbox

OneNote, wikis, GoogleDocs, Copernic, CompuLaw. . .

These are just a handful of the many modern tools that Montana attorneys may use to operate their law practices, said Catherine Sanders Reach in her CLE presentation at the Annual Meeting.

Ms. Reach, associate director of the ABA’s Legal Technology Resources Center, discussed dozens of ways attorneys can use technology to improve scheduling, timekeeping and billing, research, and document management in their practices. She named specific software that is on the market, and discussed the effectiveness of each with Montana attorneys in the room who are now using them.

**FOR A LOOK** at Ms. Reach’s suggestions, see her PowerPoint presentation at the home page at [www.montanabar.org](http://www.montanabar.org).

## Guantanamo resolution OK’d, but not without controversy

State Bar of Montana members who attended the Bar’s annual business meeting during the Annual Meeting passed a resolution asking the United States to close the detention camp at Guantanamo Bay and restore detainees’ rights to due process.

The resolution, passed by a majority of about 50 Bar members at the meeting,

is the first such resolution passed by a state bar organization, said

Missoula attorney Jim Taylor, who drafted the resolution. The resolution’s passage drew press coverage in the *Missoulian*, and press inquiries from as far away as the *Miami Herald*.

But it also drew the attention of Montana lawyers who were not on hand to vote on it. Several have complained

**More RESOLUTION, Page 42**

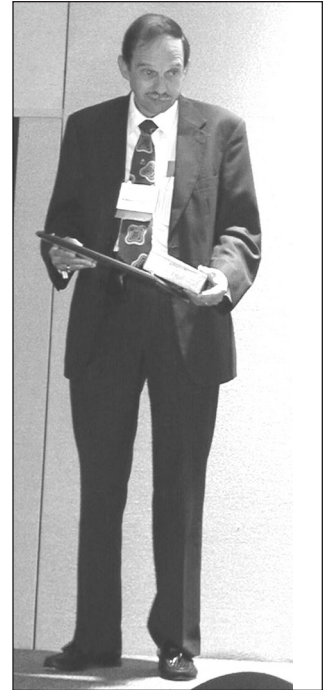
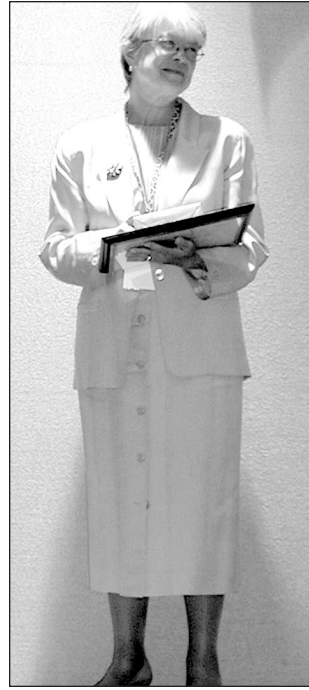
## Audio CDs of Annual Meeting CLEs available

Starting later this month, CDs containing the audio of the 2007 Annual Meeting CLE presentations will be available for State Bar members and local bar associations to order for CLE credit.

Watch for them on the State Bar Bookstore pages in *The Montana Lawyer* magazine, or order from the online Bookstore at [www.montanabar.org](http://www.montanabar.org).



## AT THE ANNUAL MEETING



**THE AWARD WINNERS** – From left to right, retired District Judge Gordon Bennett, delivers his speech accepting the Jameson Award at the Annual Meeting banquet; Torian Donohoe listens to her introduction as Pro Bono Award winner; and Jacqueline Lenmark and Ed Sheehy Jr. hold their Professionalism Awards.



Incoming Bar President Jock Schulte received the gavel from outgoing President Peggy Probasco.



The Hilton ballroom was filled for the Annual Meeting banquet.



Seven of the 16 winners of the State Bar's 50-year membership pins and plaques were in attendance at the banquet to receive, and pose with, their awards, to hearty applause.

## Foundation honors a bank

The Montana Justice Foundation (MJF) presented Mountain West Bank with the first annual Leadership Bank Award at the State Bar Annual Meeting.

The Leadership Bank Award was created to recognize Montana banks that demonstrate a strong commitment to ensuring the success of the Interest on Lawyers' Trust Accounts (IOLTA) program and increasing funding for access-to-justice programs in Montana.

"Mountain West has demonstrated an exceptional level of commitment to the access-to-justice cause," said MJF Director Amy Sings In The Timber.

The IOLTA program works through the partnership of Montana bankers and lawyers in a charitable endeavor to benefit Montana communities. Leadership Banks are financial institutions that have gone above and beyond IOLTA-bank eligibility requirements.

Mountain West Bank was a pioneer in the Leadership Bank movement in Montana. In 2004, after several years of predominantly low IOLTA interest rates nationwide, the bank took the initiative to tie its IOLTA rates to a recognized industry benchmark and waive all fees and service charges on IOLTA accounts. The bank has held fast to this high standard of commitment to the IOLTA program. Currently, IOLTA accounts held with Mountain West Bank earn an interest rate of over 4.0 percent.

"We are happy to do our part for this important cause," said the bank's Chief Financial Officer Dick Morgan.

The bank's actions and continued commitment have paved the way for MJF to expand access-to-justice pro-



Mountain West Bank's Dick Morgan, left, holds the award after receiving it from Jon Motl of the MJF Board.

grams in Montana by providing increased funding to grantees like Montana Legal Services Association (MLSA), Cascade County Legal Clinic, and CASA/GAL.



Bar President Peggy Probasco, left, former ABA President Michael Greco and futurist Stuart Forsyth on stage at the Friday morning "Future of the Profession" CLE.

## CLE looks at 'futures' of the legal profession

*With homage to Yogi Berra, the following material was provided at the Annual Meeting CLE by Pasadena, Calif., "legal futurist" Stuart A. Forsyth:*

Not enough has been said, and far too little has been written, about the future of our great profession. That is understandable. It is a tough thing to do. But it is also an important thing to do if we are to play a role in shaping our own future, instead of merely letting it happen to us.

*The future isn't what it used to be. – Yogi Berra*

That is the problem with the future. It just will not stand still. There is nothing fixed to examine. It keeps changing right out from under us just as we are beginning to understand it.

Despite this morphing quality of the future, we can understand something meaningful about it and we can influence what it will be.

At the Friday evening reception, outgoing Bar President Peggy Probasco shows the print of bright red shoes (her favorite color) given to her by the Bar for her service.



**More FUTURES, Page 30**



## NOTICE: Your 2007 Lawyers' Deskbook & Directory is out-of-date!

There have been more than 1,000 attorney address changes in the past year, plus changes to judges, rules, committees and commissions and more. The *2008 Lawyer's Deskbook & Directory* has all this information in a format that makes it easy to find what you are looking for. Included are state and federal courts, law-related organizations, local District Court rules, Rules of Professional Conduct, sample fee agreements, the most current and comprehensive listing of State Bar of Montana attorneys, a useful legal resource guide, firm section and more! And now, you can get a Mid-Year update of the book on CD. Use the order form below to order your copy(ies) today!

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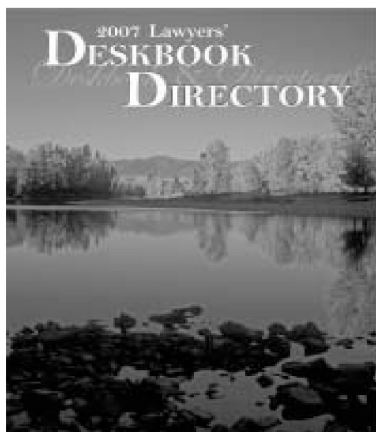
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October 16 Sidney – USDA Tech Transfer Room  
**New & Important Laws for Charity** 2.50 CLE credits.  
Presented by MNA, (406) 449-3717

October 17 via satellite  
**Ethics for Tax Professionals in Montana** 1.80 CLE credits,  
including 1.80 Ethics credit. Presented by Edward Jones,  
(800) 441-2018

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 18 Great Falls – McLaughlin Auditorium  
**Legislative Update on Charitable Giving** 3.0 CLE credits.  
Presented by the McLaughlin Research Institute, (406) 452-  
6208

October 18 Helena – Location to be announced  
**Paralegal Seminar on Electronic Discovery** 6.0 CLE credits.  
Presented by HalfMoon LLC, (715) 835-5900

October 18-19 Helena – Metcalf Building, Capitol Complex  
**Writing Administrative Rules of Montana** 10.0 CLE credits.  
Presented by the Professional Development Center, (406) 444-  
3985

October 19-20 Missoula – DoubleTree Hotel  
**Annual Tax Institute** 10.25 CLE credits, including 1.0 Ethics  
credits. Presented by the UM School of Law, (406) 243-6509

October 22 Missoula – Grant Creek Inn  
**Divorce Economics** 7.50 CLE credits. Presented by Nicholas  
Bourdeau CPA, (406) 727-8365

October 23 Teleconference  
**Montana Charitable Giving Update** 1.50 CLE credits.  
Presented by Cannon, (800) 775-7654.

October 23 Bozeman – GranTree Inn  
**New & Important Laws for Charity** 2.50 CLE credits.  
Presented by MNA, (406) 449-3717

October 24 Helena – Great Northern Hotel  
**New & Important Laws for Charity** 2.50 CLE credits.  
Presented by MNA, (406) 449-3717

October 25 Great Falls – Sletten Cancer Institute  
**IRA and Business Gifts** 2.0 CLE credits. Presented by the  
Benfis Foundation, (406) 455-5836

October 25 Helena – Great North Hotel  
**Fraud Training for Attorneys** 5.25 CLE credits, including 1.0  
Ethics credit. Presented by AARP, (406) 457-4703

## 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](http://www.seminarweblive.com/mt/index.cfm?showfullpage=1&event=showAppPage&pg=semwebCatalog&panel=browseLive)

■ Lorman Education Services' teleconferences at  
[www.lorman.com/teleconferences/](http://www.lorman.com/teleconferences/)

October 25-26 Butte  
**Annual Bankruptcy Law Seminar** 10.25 CLE credits, including  
1.0 Substance-Abuse Ethics credit. Presented by the CLE  
Institute of the State Bar of Montana and the Bar's Bankruptcy  
Law Section. See details under CLE:Upcoming CLEs at  
[www.montanabar.org](http://www.montanabar.org)

October 26 Bozeman – Jefferson Room, Holiday Inn  
**State Bar Road Show** 3.50 CLE credits. Presented by the  
State Bar of Montana staff and officers, (406) 447-2205.

October 30 Great Falls – Holiday Inn  
**New & Important Laws for Charity** 2.50 CLE credits.  
Presented by MNA, (406) 449-3717

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](http://www.umt.edu/law)

November 6 Missoula – Hilton Garden Inn  
**New & Important Laws for Charity** 2.50 CLE credits.  
Presented by MNA, (406) 449-3717

November 7 Kalispell – Hampton Inn  
**New & Important Laws for Charity** 2.50 CLE credits.  
Presented by MNA, (406) 449-3717

November 8 Butte – Holiday Inn Express  
**New & Important Laws for Charity** 2.50 CLE credits.  
Presented by MNA, (406) 449-3717

November 13 Billings – MSU Billings Downtown  
**New & Important Laws for Charity** 2.50 CLE credits.  
Presented by MNA, (406) 449-3717

November 13 Teleconference  
**Credit Shelter Trusts – The Dramatic Impact of New Laws**  
1.50 CLE credits. Presented by Cannon, (800) 775-7654  
November 13-14 Helena – Metcalf Building, Capitol Complex

**Writing Administrative Rules of Montana** 10.0 CLE credits. Presented by Professional Development Center, (406) 444-3985

November 16 Bozeman – Comfort Inn  
**Montana Child Support** 3.75 CLE credits. Presented by Nicholas Bourdeau CPA, (406) 727-8365

November 20 Helena – Metcalf Building, Capitol Complex  
**Preventing Harassment** 3.0 CLE credits. Presented by the Professional Development Center, (406) 444-3985

November 28 Missoula – Holiday Inn Express  
**Privacy & the Right to Know** 6.50 CLE credits. Presented by the Professional Development Center, (406) 444-3985

November 30 Helena – Metcalf Building, Capitol Complex  
**State Ethics Law** 3.0 CLE credits, including 3.0 Ethics credits. Presented by Professional Development Center, (406) 444-3985

November 29 Helena – Park Plaza Hotel  
**When Construction Projects Go Bad** 6.75 CLE credits, including .50 Ethics credit. Presented by Lorman, (866) 352-9539

December 4 Teleconference  
**Working with Trusts** 1.50 CLE credits. Presented by Cannon, (800) 775-7654

December 5 Billings – Holiday Inn Grand  
**Estate Planning Techniques** 6.50 CLE credits. Presented by Lorman, (866) 352-9539

December 13 Helena – Metcalf Building, Capitol Complex  
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December 19 Helena – Metcalf Building, Capitol Complex  
**Privacy & the Right to Know** 6.50 CLE credits. Presented by the Professional Development Center, (406) 444-3985

## STATE BAR CALENDAR

### October 25

**Content and advertising deadline** for November edition of *The Montana Lawyer* magazine

### October 25-26

**Annual Bankruptcy CLE**, War Bonnet Hotel, Butte

### October 26

**State Bar Road Show**, 1:30-4:30 p.m., Holiday Inn, Bozeman

### November 2

**State Bar Executive Committee** meeting, 10 a.m., State Bar Offices, Helena

### November 16

**People's Law Center** meeting, 12:30 pm, State Bar offices, Helena

### November 22

**Thanksgiving**, State Bar offices closed

### November 25

**Content and advertising deadline** for December/January edition of *The Montana Lawyer* magazine

### December 6

**State Bar Executive Committee** dinner meeting, 7 pm, Helena

### December 7

**State Bar Board of Trustees** meeting, 9 a.m., State Bar offices, Helena

### January 4

**State Bar Executive Committee** meeting, 10 a.m., State Bar Offices, Helena

### January 7

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

### January 18-20

**2008 CLE & Ski**, Huntley Lodge, Big Sky

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### **Criminal Jury Instructions**

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Book plus CD \$105

### **Handbook for Guardians & Conservators**

2005, 60 pages incl. 5 forms  
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### **2008 Lawyers' Deskbook & Directory**

Available in January  
Book \$35

### **MT Family Law Form Book**

2005, 93 pages incl. 26 forms  
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### **Landlord-Tenant Disputes**

Author: Klaus Sitte, director of Montana Legal Services

### **Oil & Gas Update**

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

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### **Business of Technology Law**

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### **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

*For CLE materials from 2005 or earlier, please call Gino Dunfee at (406) 447-2206.*





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# Roberts speech compares lawyers and smokejumpers

From the **Missoulain**

Referencing the work of acclaimed Montana writer Norman Maclean on Sept. 13, Chief Justice of the United States John Roberts Jr. sought to inspire and encourage a future generation of lawyers, comparing the fundamentals of their chosen profession to firefighting.

"It might seem that smokejumpers and litigators have nothing in common," Roberts told an overflow audience at the University Theatre. "But both are willing to jump into an environment that others try to avoid" and that contains a problematic situation.

Drawing on passages from "Young Men and Fire," Maclean's nonfiction account of Montana's tragic 1949 Mann Gulch forest fire, Roberts settled into a classic Western theme as he delivered the ninth installment of the Judge William B.

Jones and Judge Edward A. Tamm Judicial Lecture Series.

The series was created in 1997 to promote better public understanding of the judicial system, honoring two former Montanans who had distinguished careers on the federal bench in Washington.

In his first speech since suffering a seizure in July, Roberts, 52, appeared hale as he faced a crowd of approximately 1,000 people, while others watched a live video feed of the speech

from UM's Music Recital Hall. The audience included most of the state's judiciary.

Although Roberts acknowledged that lawyers, unlike firefighters, don't regularly put their lives at risk, he periodically returned to the theme. Invoking the experience of a smoke-jumper who survived the Mann Gulch disaster – one of the few – Roberts explained how the seasoned firefighter carefully assessed small details about the situation, then lit a backfire and lay down as the flames burned around him.

"Whether in firefighting or in lawyering, the ability to recognize the details that matter is invariably what makes a difference," Roberts said.

Earlier in the day, Roberts offered students a glimpse at life on the high court – the most inscrutable branch of the U.S. government – during a question-and-answer session at the UM Law School [see story on next page].



Missoulain photo

John Roberts, the chief justice of the U.S. Supreme Court, as he delivers his address on the UM campus on Sept. 13.

However, to the disappointment of some curious students, Roberts did not shed light on any pending Supreme Court cases or constitutional issues.

Instead, he offered guidance to young lawyers and students. Cautioning them about certain mundane aspects of practicing law, he assured the crowd that young lawyers are part of a "broader enterprise" that cannot function without serious men and women who are excited about the profession.

He also encouraged lawyers to replace their reflexive actions with "reasoned response" in order to dig deep into the heart of society's biggest problems.

"Our profession promotes and protects the rules of law on which our liberties depend," said Roberts, who became the 17th chief justice of the United States on Sept. 29, 2005, replacing William Rehnquist, who died of thyroid cancer.

Roberts' swearing-in marked the first addition to the court in 11 years – the longest stretch without a new member since 1823 – and at 50 years old, Roberts became the youngest chief

justice in more than 200 years.

Roberts's seizure in July was his second in 14 years. Officials have not disclosed details of his diagnosis or whether he will need medication.

Before Roberts gave his speech in Missoula, he was welcomed by a standing ovation and introduced by Thomas F. Hogan, chief U.S. district judge for the District of Columbia.

Robert S. Bennett, the attorney best known for representing

President Bill Clinton during the Monica Lewinsky investigation and *New York Times* reporter Judith Miller in the case of ousted CIA agent Valerie Plame, also delivered remarks before Roberts's speech.

Roberts said he was grateful for the kind introductions and the warm welcoming, and joked that "Washington needs infusing from Montana more than Montana needs infusing from Washington."

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## Chief justice, UM students swap Cheese Puffs & Doritos

By **Sue Strachan**,  
3rd-year law student  
UM School of Law

In addition to the quality faculty and programs at the University of Montana School of Law, many students are also attracted to the mountains, rivers and natural beauty that surround Missoula.

In September, the Law School was honored to welcome a visitor who values the same things – John Roberts, chief justice of the U.S. Supreme Court

The chief justice was in Montana to fly-fish, but he was able to spend a few days at the School of Law, speaking formally at the Jones-Tamm Judicial Lecture Series. He also made time to meet with law students and faculty.

The long-term impact of the Roberts Court could be very significant – Justice Roberts is still in his early 50s, and the issues to come before the Court will likely be both controversial and divisive. Some have argued that President Bush's most important long-term decision may be the appointment of Chief Justice John Roberts.

During a question-and-answer session, where only students were allowed to ask questions, Justice Roberts talked with us for almost two hours. It was made clear that it was not appropriate to ask questions about pending or current cases, of course, but otherwise there were almost no restrictions on the discussion.

He began by giving us a brief history

of the Court, and explained some of its day-to-day operations. It was interesting to learn how cases are selected. More than 10,000 cases are submitted to the Court each year, yet only about 85 cases are heard. Justice Samuel Alito, as the

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*Bad news: the chief justice can no longer visit his neighborhood Starbucks because of security.*

---

newest member of the court, is responsible for all messages and deliveries (mainly coffee for Justice Scalia) that arrive while the body is meeting.

The queries posed to Justice Roberts ranged from highly personal to conceptual questions about the Court, its processes and its future. We learned how Roberts hires law clerks (take the donut when offered and have a joke ready) and his thoughts on diversity of the court (he rejects the idea of diversity for its own sake.)

Six of the nine justices attended or graduated from Harvard Law School, and eight of the nine are white males. Justice Roberts commented that he would not have met a student's criteria when she mentioned women, Native Americans, Hispanics and graduates of law schools other than Harvard. Justice

Roberts went on to say that the Court is diverse in that all the justices have different professional experiences: they come from administrative agencies, non-profit organizations, circuit and appellate courts and the academic field. When asked about Indian law, Justice Roberts stated it is not an area of expertise he requires in a law clerk.

Most students at the Law School expected that the visit would consist mostly of the Q-and-A session and the afternoon lecture, but several Law School students were surprised to be able to spend an hour over a brown-bag lunch with the chief justice. Brown-bag lunch meant exactly that – the leader of the highest court in the land shared a sandwich and chips with the students. Student Bar Association President Luke Berger will be able to tell his grandchildren that he traded his Cheese Puffs for Chief Justice Roberts's Cool Ranch Doritos.

While talking informally with the chief justice, we learned that he is a Notre Dame fan, he likes classic 1960s rock and roll, and that he misses dropping by his neighborhood Starbucks because of the increased security surrounding him.

Following a speech and visit by Justice Sandra Day O'Connor a few years ago, this occasion continues the strong tradition of significant visits to the University of Montana School of Law. The close contact students had with Chief Justice Roberts during his visit reflects what so many of us value about this school – its direct access and small population, which enhances each student's involvement. Chief Justice Roberts's visit will be a significant experience for many of us at the University of Montana.

○

# Best practices for credit card acceptance

The challenge with accepting credit cards for payment is that attorneys are held to a strict set of ethical and accounting guidelines to safeguard client funds and prevent the commingling of earned and unearned fees. As a result, attorneys must be careful to structure their credit-card payment arrangements to ensure compliance with state guidelines.

To begin taking credit cards, attorneys must open a merchant account. The risk when opening a traditional merchant account is that processors are unaware of the rules for attorneys and can seldom differentiate the requirements of a law firm from those of a retail establishment or even another professional service. That is why due diligence is necessary when establishing a merchant account.

The best practices described below can help you to evaluate your merchant account and realize the benefits of credit card acceptance.

The best practice is to have separate merchant accounts for credit-card retainers and earned fees. A firm may then deposit payments accepted for retainers

or unearned fees into a trust account and deposit payments accepted for earned fees, invoices or past due balances into an operating account. A Law Firm Merchant Account follows this practice and provides law firms with deposit flexibility.

The second best practice to remain compliant with guidelines is to deduct processing fees for both transaction types from the operating account. This process keeps the balance of the trust account intact. In addition, processing fees from both earned and unearned transactions are not taken out of the individual deposit, but deducted as a one time withdrawal from the operating account at the end of the processing month. Traditional merchant services are designed to deduct processing fees from the actual transaction only depositing the difference.

For example, a \$100 transaction with a 2 percent fee would result in a \$98 deposit to the account. With a Law Firm Merchant Account, the entire \$100 is deposited.

Once a merchant account is estab-

lished, the third best practice is to promote credit card acceptance through the firm's website and marketing materials. The benefits are immediate. The convenience of credit cards can often be the deciding factor when selecting an attorney. Providing clients with an immediate payment option also eliminates the issue of "slow pay" and "no pay" clients. Past-due balances can be instantly reduced by including credit card payment as an option on billing and collection statements.

In spite of the regulations, ensuring your merchant account is structured properly is easy. Use the best practices described above and your firm will soon realize the benefits of credit card acceptance.

**IF YOU ARE INTERESTED** in the State Bar of Montana's approved Law Firm Merchant Account program, call (866) 376-0950 for a consultation on your current program or to open a new account. You may also visit <http://montanabar.affiniscap.com> for more information.

## Why the new disability program for Bar members is a good idea

By William Pollock  
Disability Specialists Inc.

Whether you are insured by a group long-term disability (Group LTD) policy through your law firm or corporation, or have purchased association group coverage from a national association such as the ABA or ATLA, your group coverage may have restrictions that can reduce or eliminate benefits at the time of claim.

The purpose of this article is to help educate State Bar of Montana members on the limitations of group disability products and to describe the supplemental individual disability products now

available to SBM members at discounted rates and on a simplified issue basis (meaning, in most cases, no medical exams).

Association group products vary substantially from one association to the next. Therefore, it's difficult to make general statements about how they work. They typically do not have all the weaknesses of group long-term disability (LTD) but are more expensive. They also do not have the same comprehensive definitions of disability as individual policies.

For example, the definition of total disability may not insure you in your

occupation to age 65. Instead, the policy will stipulate that after you have been totally disabled for 24 months, you are only considered disabled if you cannot work in any occupation you are suited for based on education, training or experience.

If you have purchased an association group policy, it is our recommendation that you review your coverage with one of our advisors. It's better to find out now what, if any, limitations exist in these policies than to find out at the time of claim.

**GROUP LTD** is the type of coverage purchased by firms with at least 10 employees and insures everyone in the firm. Below are some of the limitations

**More DISABILITY, Page 34**



# Wrongly accused

*UNTIL PROVEN INNOCENT*

*Political Correctness and the Shameful Injustices  
of the Duke Lacrosse Rape Case*

By Stuart Taylor Jr. and KC Johnson.

Illustrated. 420 pp. Thomas Dunne Books/St. Martin's  
Press. \$26.95.

Review by **JEFFREY ROSEN**

for the New York Times Sunday Book Review

From the Scottsboro Boys to Clarence Gideon, some of the most memorable legal narratives have been tales of the wrongly accused. Now "Until Proven Innocent," a new book about the false allegations of rape against three Duke lacrosse players, can join these galvanizing cautionary tales. We know how the story ended: the attorney general of North Carolina dismissed all charges against the lacrosse players, declaring them completely innocent, and he denounced Michael Nifong, the district attorney who brought the case, as a "rogue prosecutor." Nifong was not only disbarred and disgraced; his name has become a synonym for gross prosecutorial abuse. To be "Nifonged" now means to be railroaded.

In their riveting narrative, Stuart Taylor Jr., one of America's most insightful legal commentators (and a former reporter at *The New York Times*), and KC Johnson, a history professor at Brooklyn College and the City University of New York, portray Nifong as "evil or deluded or both." They call him a "race-baiting demagogue" who tried to fan racial hatred

against innocent white students (and lock them up for 30 years) in order to win black votes in his re-election campaign.

Soon after an African-American stripper claimed she had been gang-raped at a Duke lacrosse party, the authors charge, Nifong should have known that the woman he called "my victim" was lying. She made the claim of rape only when threatened with confinement in a mental health center. She then recanted and re-recanted, offering a series of contradictory claims to having been raped by 20, five, four, three and two players, before finally settling on three, none of whom she could confidently identify. Her fellow stripper at the party called her story a "crock."

Nifong didn't know all this, however, because, incredibly, he never interviewed his "victim" about the facts. Instead, he set out systematically to demonize the accused players, violating pretrial publicity rules while suppressing evidence of their innocence.

After the accuser proved unable to identify her assailants during two photo lineups, Nifong told the police to give her a third chance, showing her pictures only of the 46 white lacrosse players without any pictures of "fillers," or nonsuspects. This violated local, state and federal rules for reliable identification procedures. He refused to drop the charges after no DNA from any of the players was found on the accuser. When the DNA of as many as four other men, none of them Duke students, was found on her, Nifong refused to turn over this crucial exculpatory evidence to the defense. And he refused even to meet with defense lawyers to consider the conclusive "digital alibis" they had assembled from cellphone calls, ATM deposits and time-stamped photos proving their clients could not have committed the crime. In this case, the technologies of the surveillance state served the cause of liberty.

**NIFONG'S SINS ARE NOW** well known, but Taylor and Johnson argue that he was aided and abetted by the news media and the Duke faculty. They are withering about the "lynch mob mentality" (in the words of a defense lawyer) created by bloviating cable-news pundits on the left and the right. But they are also sharply critical of what they call the one-sided reporting of the nation's leading newspapers, including *The New York Times*. With a few exceptions, the authors suggest, the *Times's* coverage consistently showed a "pro-Nifong bias," most notably in a front-page article apparently trying to resurrect the case after it seemed on the verge of collapse.

At least "many of the journalists misled by Nifong eventually adjusted their views as evidence of innocence" came to light, the authors conclude. That's more than can be said for Duke's "activist professors," 88 of whom signed an inflammatory letter encouraging a rush to judgment by the student protesters who were plastering the campus with wanted posters of the lacrosse team and waving a banner declaring "Castrate." Even when confronted with DNA evidence of the players' innocence, these professors refused to apologize and instead incoherently attacked their critics.

In the same spirit, the authors charge, the president of Duke, Richard Brodhead, fired the lacrosse coach, canceled the season and condemned the team members for more than eight

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months. The pandering Brodhead, in this account, is more concerned about placating faculty ideologues than about understanding the realities of student life on his raunchy campus.

**IN THEIR FINAL CHAPTERS**, the authors go further. They believe that Brodhead was trying to avoid the fate of Lawrence Summers, deposed as president of Harvard for his incorrect views about gender equality, and that in the “alternative universe” of academia, no university president can challenge the conceits of political correctness that are corrupting our greatest campuses. Here the book becomes a little hyperbolic and reads more like a blog than like the meticulous narrative that has come before.

But if the authors are at times carried away by righteous indignation, they can surely be forgiven in light of the consequences of the abuses they describe. Taylor and Johnson have made a gripping contribution to the literature of the wrongly accused. They remind us of the importance of constitutional checks on prosecutorial abuse. And they emphasize the lesson that Duke callously advised its own students to ignore: if you’re unjustly suspected of any crime, immediately call the best lawyer you can afford.

**JEFFREY ROSEN**, a law professor at George Washington University, is the author, most recently, of “The Supreme Court: The Personalities and Rivalries That Defined America.”

## DISCIPLINE

### Sex with client draws suspension

A Billings lawyer who had a sexual relationship with a client has been suspended from practicing law in Montana for four months, the *Billings Gazette* reported.

The disciplinary action against Solomon Neuhardt followed an Office of Disciplinary Counsel complaint last April that accused him of having a sexual relationship with a woman charged in 2005 with several felony drug counts. Mr. Neuhardt represented the woman in Yellowstone County District Court for about six months before withdrawing from the case, the *Gazette* said.

The Montana Rules of Professional Conduct prohibit attorneys from having a sexual relationship with a client “unless a consensual sexual relationship existed between them when the client-lawyer relationship commenced.”

All seven justices of the Montana Supreme Court signed the suspension order on Sept. 17, saying that Mr. Neuhardt’s four-month suspension was to begin Oct. 15.

Mr. Neuhardt admitted the rules violation to the Supreme Court. In a recent e-mail to the *Gazette*, he said that “life is a series of adjustments” and called the suspension of his license a “blessing in disguise.”

“I have received tremendous support from the legal community and thank those for their support,” he said in the e-mail.

### Attorney practiced law during suspension

Missoula attorney Jon O. Shields, who had earlier been suspended for 30 days, has had his suspension lengthened by the Montana Supreme Court for practicing law during the suspension period.

The Commission on Practice found that Mr. Shields had failed to inform an Indiana federal magistrate and Indian counsel of his Montana suspension and was “acting deceitfully therein.” Mr. Shields admitted to the violation under Rule 26, which keeps details of the violation confidential.

The Montana Supreme Court ordered on Sept. 19 that Mr. Shields be given an indefinite suspension from the practice of law for at least seven months.



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## Grants help DOVES fight for victims

*Flathead group will hold clinics for area lawyers*

The staff at DOVES (Domestic Violence Education & Services), a private nonprofit crime-victim advocate organization serving Lake County and the Flathead Reservation, worked with more than 350 victims of domestic violence, stalking and sexual assault last year.

Services included assistance with orders of protection, information and referral, personal and court advocacy, and emergency financial assistance.

What the services did not include last year, but will now, is increased access to justice for those who need the services of a civil family-law attorney, the DOVES staff said.

**DOVES RECENTLY** received notification from the U.S. Department of Justice,



Attorney Amy Rubin, standing, who supervises the Victims program, helps a DOVES client understand a legal form.

Office on Violence Against Women, that the organization was awarded \$400,000 through a Legal Assistance for Victims grant. This two-year grant provides the funds for DOVES and the Confederated Salish & Kootenai Tribes to each hire a lawyer to work solely on civil cases that involve domestic violence, sexual assault or stalking.

These on-staff lawyers will provide assistance ranging from advice and assistance for those representing themselves (including pro se clinics), to representing individuals in district court cases involving orders of protection, divorces, parenting plans and child-support calculations.

The Legal Assistance for Victims grant also will allow DOVES to offer clinics on family law for area lawyers and other interested parties. DOVES encourages the involvement of pro bono attorneys and will provide support services and CLE opportunities to its pro bono attorney recruits. DOVES' professional liability insurance includes coverage for pro bono attorneys.

**DOVES WAS ALSO** a recent recipient of a Montana Justice Foundation grant that provides mileage reimbursement to victims and their attorneys for case-related travel, thus reducing yet another barrier to access to justice.

DOVES intends to hire a .8 FTE lawyer and a part-time legal assistant. The Salish & Kootenai legal department will hire a full-time lawyer. (See job openings for an attorney and legal assistant in the classified ads on Page 45 and 46.) DOVES has contracted with attorney Amy S. Rubin to supervise the Legal Assistance for Victims program.

**MORE INFORMATION** may be found at [www.doveslakecounty.org](http://www.doveslakecounty.org).

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# Comments sought for changes in bankruptcy rules & forms

The U.S. Bankruptcy Court for the District of Montana has drafted changes in its local rules and forms, and is seeking public comment about those changes. The comment period ends on Dec. 1, said Bankruptcy Judge Ralph Kirscher.

The proposed local rules and forms may be downloaded or printed from the Court's web site at

[www.mtb.uscourts.gov](http://www.mtb.uscourts.gov)

Click on "2007 Proposed Bankruptcy Rules and Forms."

The major revisions of the rules are to incorporate changes as the result of the passing of the Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA) in 2005, said Bankruptcy Court Chief Clerk Bernie McCarthy. "Some time-line difference and the like

were enacted in BAPCPA that required changes in our rules. In addition, this was the opportunity to incorporate and make formal various general orders promulgated by the Court for the implementation of the Case Management-Electronic Filing System (CM/ECF)."

He said there should not be too many surprises for the practitioner "as much of what is here has been in effect in some manner." But for lawyers practicing in Bankruptcy Court, he emphasized the need to read these new rules thoroughly.

Submit your comments, by Dec. 1, 2007, to: Neal G. Jensen, chair of the Rules Committee at [neal.g.jensen@usdoj.gov](mailto:neal.g.jensen@usdoj.gov) or to Bernard F. McCarthy, chief clerk of court, at [bernard\\_mccarthy@mtb.uscourts.gov](mailto:bernard_mccarthy@mtb.uscourts.gov).

## Court appointments

*The Montana Supreme Court has made the following appointments to Court task forces and commissions:*

### ● Equal Justice Task Force:

Alison Paul, an attorney with the Montana Legal Services Association in Helena, has been appointed to serve a three-year term, replacing Bob LaRoche of MLSA who did not wish to serve another term.

Reappointed to three-year terms were Municipal Court Judge Mary Jane Knisely, and Tammy Plubell of the Attorney General's Office.

### ● Uniform District Court Rules

**Commission:** Bozeman attorney Monte Beck has been reappointed to a four-year term.

## ORAL ARGUMENTS

*The following oral arguments are scheduled before the Montana Supreme Court:*

### October 2007

■ Cause No. DA 07-0025 – STATE OF MONTANA, Plaintiff and Respondent, v. BRITTEN WINKEL, JR., Defendant and Appellant.

ORAL ARGUMENT is set for Wednesday, Oct. 24, 2007, at 9:30 a.m. in the Courtroom of the Montana Supreme Court, Justice Building, Helena.

■ Cause No. DA 07-0228 – STATE OF MONTANA, Plaintiff and Respondent, v. EUGENE HOWARD ASHBY, Defendant and Appellant.

ORAL ARGUMENT is set for Wednesday, Oct. 24, 2007, at 1:30 p.m. in the Courtroom of the Montana Supreme Court, Justice Building, Helena.

■ Cause No. DA 06-0586 – IN RE: THE CHARLES M. BAIR FAMILY TRUST, Petitioner.

ORAL ARGUMENT is set for Wednesday, Oct. 31, 2007, at 1:30 p.m. in the Courtroom of the Montana Supreme Court, Justice Building, Helena



## WORKING TOGETHER

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# Negotiation Theory & Practice

Alain Burrese

## BATNA



In Roger Fisher and William Ury's classic negotiation book "Getting To Yes: Negotiating Agreement Without Giving In" they use decision theory to craft the notion of BATNA, or Best Alternative to a Negotiated Agreement. Many people have heard of this term, but how many actually think about it before or during negotiations?

The only reason to negotiate is to produce a result better than you can obtain without negotiating. What is the result the negotiation is producing? What are the alternatives? What is your BATNA – your Best Alternative To a Negotiated Agreement? According to Fisher and Ury, that is the standard against which any proposed agreement should be measured. They go on to claim that that is the only standard that can protect you both from accepting terms that are too unfavorable and from rejecting terms it would be in your interest to accept.

Not every negotiation concludes with an agreement. There are times when you can do better by walking away. In any negotiation, alternatives exist. They may not all be attractive, but they will be there. The best alternative is your BATNA. A successful negotiation will end with a result that is better than your BATNA. If the result is not better than your BATNA, you should walk.

### Finding your BATNA

Preparing your BATNA before negotiating is essential when determining when to walk or when to talk. If your "bottom line" is arbitrarily pulled out of the air, it won't help you much when making decisions. Your bottom line should be based on your alternatives and what you can get elsewhere. If your bottom line is not based on your BATNA, how will you know if it is realistic or not? How will you know if you can do better? If you know your BATNA is better than the opposing side is offering, you can walk with confidence. If it's not, you can become more creative with your negotiating and work toward a deal.

Some negotiators enter negotiations without knowing what they will do if they cannot reach agreement. This can lead to uncertainty about when to continue negotiations and when to walk. Negotiators who know what they will do if they don't reach agreement have much greater confidence.

To determine your BATNA ask yourself, "What could I do to satisfy my interests if we do not reach an agreement?" Come up with possible alternatives and list the pros and cons of each. Then determine what you will *really* do. This will

most likely be your BATNA.

I say "most likely" because many people don't think creatively about other ways to satisfy interests. So be sure to spend a little time to really determine alternatives. Alternatives usually are not fixed in stone. Once you have determined your BATNA, take a few more moments to think about how you might make your BATNA easier, more probable, or better at satisfying your interests.

If you only accept deals that are better than your BATNA, improving your BATNA guarantees you a better result.

### Consider their BATNA

Every negotiator has a BATNA, including the other side, whether they have thought about it or not. It can be extremely beneficial to determine at what point *they* should walk out of the negotiation. What is *their* best alternative? If you knew this, wouldn't negotiation be easy?

You certainly won't be able to determine their exact BATNA with any degree of confidence. Negotiations involve uncertainty. However, you might be able to make a good guess at what they might do if you do not reach agreement. You may be able to determine ways to make their BATNA less attractive, harder to implement, or less valuable, all of which may help your side of the negotiations.

### Conclusion

The Best Alternative To a Negotiated Agreement is an important concept. Unfortunately, some negotiators fail to think about their and their opponents' BATNAs before negotiations begin. Those that do, including those that don't know the term but instinctively think through their BATNA as they prepare, enter negotiations with much more confidence knowing where they are going if they decide to walk away.

Roger Fisher, one of the authors of "Getting To Yes," also co-wrote a book with Danny Ertel titled "Getting Ready To Negotiate: The Getting To Yes Workbook, A Step-By-Step Guide To Preparing For Any Negotiation." Besides being a resource for this article, this book will help you with your negotiation planning, including determining BATNAs. It contains a number of worksheets to help you think of alternatives, select your BATNA, and identify alternatives open to the other side.

Regardless of how you determine your alternatives, remember that knowing your Best Alternative To a Negotiated Agreement will make you a more confident negotiator. Knowing when to walk is powerful. And by knowing and strengthening your BATNA you will improve the outcomes of all of your negotiations.

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**ALAIN BURRESE** is a mediator and attorney with Bennett Law Office in Missoula. He conducts mediations and settlement conferences as well as speaking and training in negotiation and mediation. He can be contacted at: [www.bennettlawofficepc.com](http://www.bennettlawofficepc.com) or (406) 543-5803.



To: Active Members  
From: The State Bar of Montana

## RE: STATE BAR OF MONTANA MEMBER DISABILITY INSURANCE PROGRAM

The State Bar of Montana has recently facilitated the development of a Disability Insurance Program for Active Members, age 60 and under. You have the option of choosing **Disability Income** (insures your earnings), **DI Retirement Security** (insures your retirement savings), and/or **Overhead Expense** (pays the fixed expenses of your business). All of these policies are issued by Principal Life, an A+ rated insurance company.

If you are currently insured by a Group Long Term Disability policy or an Association Group Disability Policy, you should consider the State Bar of Montana Disability Program as a supplement to your Group coverage. **Group products do NOT provide the same level of comprehensive coverage as the State Bar of Montana Individual Disability Income Policy, do NOT insure your retirement savings, and do NOT pay the fixed expenses of your business.**

Below is a brief summary of the program highlights.

- Your premiums are **discounted 10%** because you are an active member of the State Bar of Montana.
- If 3 or more members of the same firm purchase coverage, the policies will be issued with a 20% discount.
- You can insure up to **100%** of your income.
- The **premiums are level and guaranteed not to change, to age 65.**
- Your coverage goes with you **without increases in premium or changes in the benefits**, regardless of where you work or what associations you belong to.
- **Physicals or blood tests may not be required** (based on age and the amount of coverage applied for).
- If you meet the Simplified Issue Requirements, you are **guaranteed to be issued a policy at standard rates with the 10% discount.**
- The DI Retirement Security and Overhead Expense Policies are available **in addition to** the maximum Disability Income coverage for which you qualify.

**Disability Specialists, Inc. (DSI)** is the program administrator and will manage the enrollment process. You will be contacted by one of DSI's advisors and given a very brief overview of the Disability Insurance Program. Those of you who are interested will be e-mailed a detailed summary of the program benefits and individualized premium quotes.

**If you want information on the program now**, call DST's enrollment office at (888) 279-8348. Identify yourself as an active State Bar of Montana member and you will be provided with the program details. You may also visit [www.gotodsi.com/sbm](http://www.gotodsi.com/sbm) to request a quote and learn more about the program.

**If you do NOT want to be contacted**, your name will be put on the Do Not Call List if you write your name and "DNC" on the top of this announcement and fax it to DSI at (503-620-2099) or e-mail [DNC@gotodsi.com](mailto:DNC@gotodsi.com) with your name in the subject line. If you choose to be put on the Do Not Call List, you will have 30 days from the date of this letter to enroll in the program on a Simplified Issue Basis. If you do NOT enroll within 30 days of the date of this letter, you will NOT be able to enroll on a Simplified Issue Basis in the future.

We are very excited about the Disability Insurance Program and encourage you to talk to the DSI representative when he or she calls.

*It's tough to make predictions, especially about the future.*  
— Yogi Berra

No one can truly predict the future. No one can truly say exactly what will happen. Often such assertions are strongly held beliefs. Sometimes they turn out to be true. More often they do not.

What we can do is to understand that:

■ **The future is created by our own actions,** together with those of billions of others on this planet, as we make choices each day. For example, whether we buy a book in electronic form online or in printed and bound form from *Amazon.com*, a huge retailer like Barnes & Noble or our local neighborhood bookshop helps to shape the future of book publishing and distribution in the United States.

■ **There is more than one possible future from any given point in time.** Think of the future as a cone of possibilities stood on its head with the point, at the bottom, being the present. The farther we go upward into the future, the more possibilities there are because so many more choices can be made.

■ **While there may be an infinite number of possible futures from any given point in time,** some of them are more meaningful, and some are more probable, than others.

■ **Some of those probable futures are more desirable to us than others,** and we can choose which one(s) we prefer.

■ **We can understand some of the key factors that influence the future.**

■ **We can see signs of these key factors in the present and in our past.**

■ **Based on this knowledge, we can take actions to foster the future(s) we prefer.**

*Stay alert. You can observe a lot by watching.* — Yogi Berra

**HOW, EXACTLY, CAN WE** do this? First, it is helpful to categorize those things that influence the future. Professional

futurists group these things as follows:

■ **Current Conditions.** What is the current situation? What are the most important factors that describe it, and how did it get to be as it is? An example of the current condition of the legal profession is the polarized nature of the practice of law, where more than one third of lawyers in the United States practice in large firms, big business and government, while more than half practice alone or in small firms. The roots of this current condition are in the birth of multi-national corporations and big government (both state and federal), with the concomitant growth of law firms as big businesses.



Stuart Forsyth: the future contains more possibilities the farther away it is.

■ **Cycles.** A cycle is something that has an established pattern of change. For instance, a cycle can have a fixed pattern of change over time such as the life cycle of birth, growth, decline and death. Or a cycle can increase, decrease and then increase again over time, such as the economic cycle. (During the 1990s we thought we had successfully substituted steady, unending growth for the economic cycle, but the economy firmly disabused us of this notion and reasserted its cyclic nature.) Often one cannot predict exactly when a cycle will change (have interest rates bottomed out yet?), but one can predict that it *will* change.

■ **Trends.** A trend is something that is measurable and either increases or decreases over time. Because it is measurable, its rate of change also can be discerned. The increasing Hispanic population in the United States is a trend.

■ **Emerging Issues.** An emerging issue is one that will have significant impact on our future, but we are not yet quite sure how. It has not yet turned into a trend. Personal computers were an emerging issue in the 1970s, e-mail in the 1980s and the World Wide Web in the 1990s. Genetic engineering, nanotechnology and the War on Terrorism are emerging issues today.

■ **Wild Cards.** A wild card is something that, viewed from the perspective of before it happens, is highly unlikely to happen, but would have huge impacts if it did. The collapse of the Soviet Union and the fall of the Berlin Wall were wild cards, as was 9/11. A shift from our current income-tax structure to a "simplified" income tax, or even its elimination in favor of a value-added tax, would be a wild card for tax practitioners.

**WE CAN SEE THESE** things in history. We can see them all around us today. We can even create mechanisms to moni-

tor them as they change, particularly cycles and trends.

Note that most of the examples given come from *outside* the legal profession. As lawyers, we exist within the fabric of society. Most of the things that cause change within our profession come from society at large. They are not unique to our own profession. It is easy to lose that perspective when we are so busy keeping up with all the changes in the law and becoming the very best professionals we can be.

For example, commoditization of, first, products, and now services, is a trend in our society. It has been brought about by communications technologies that have empowered a consumer to know much more about a potential purchase, thereby shifting economic power from the seller to the buyer. When something becomes a commodity, a buyer's purchase decision among competing products or services is largely influenced by only two factors: price and brand name. People buy corn flakes because they are generic and cheap, or because they are a brand they know and trust. The societal commoditization of services is impacting the legal profession as clients seek "simple" divorces and other legal services based largely on price.

*When you come to a fork in the road, take it. – Yogi Berra*

The myriad strands of these components (current conditions, cycles, trends, emerging issues and wild cards) can give rise to countless different futures, depending on which strands and components are dominant. Some of these possible futures are probable, i.e., people can see that there is a reasonable likelihood that they could really happen. These are the futures that are of most interest to us because they are real possibilities. Professional futurists call them alternative futures, and that is why this article is entitled "The Futures of the Legal Profession."

**ANY VISION OF THE FUTURE** inherently embodies the values of those who envisioned it, whether or not those values are articulated. We all react strongly to value statements, instinctively adopting those alternative futures that embody values similar to our own and abhorring those that do not.

From among those alternative futures we like, we can pick one that we prefer the most. For a profession such as ours, the preferred future likely will embody our collective values as lawyers. It is important to note, however, that our own preferred future may not be the same as the future that society prefers for lawyers because our values may be somewhat different. Society is the likely winner of any such struggle over the future of the legal profession.

*If you don't know where you are going, you will wind up somewhere else. – Yogi Berra*

But how do we weave the strands of these components (current conditions, cycles, trends, emerging issues and wild cards) into the fabric of a cohesive vision of a viable future?

One of the most effective ways is simply to tell a story about the future we envision. These stories are called scenarios. Science-fiction novels and movies are often scenarios

about a particular future. Government has used them for centuries in the form of war games, and businesses for decades in the form of scenario planning, which was first made famous by the Royal Dutch/Shell Group of companies.

The American Bar Association's Committee on Research About the Future of the Legal Profession (ABA Futures Committee) used the scenarios to envision a number of alternative futures for our profession, two of which it presented in its final report to the ABA Board of Governors. See <http://www.abanet.org/tech/ltrc/research/futures/home.html>. "The Diary of the Last Lawyer" was a bleak scenario about the end of this noble profession, which had been subsumed by technologies capable of according justice without human interaction other than by the parties themselves. The Interview with the U.S. President in 2016 was a far more hopeful scenario, which envisioned a flourishing profession deeply engaged in helping people and society.

*In theory there is no difference between theory and practice. In practice there is. – Yogi Berra*

There is little point (other than intellectual curiosity) in thinking about the future unless you are willing to do something about it. Yes, you can do something about it because the future of tomorrow is created by the choices we make today. Sure, there are millions of others involved in this process, and we alone cannot control it. But we can influence it. And influencing is a skill that lawyers possess in abundance.

For example, here are the actions that the ABA Futures Committee determined will have to be taken by the legal profession in order to achieve its preferred future:

#### **FOSTER:**

- National and international valuing of the Rule of Law – even in terrorist times – and understanding of how it allows societies and citizens to prosper.
- Diversity in the profession.
- Legal education that teaches law students how to be lawyers.
- Dual-degree programs that allow law students to obtain training in other fields relevant to the practice of law.
- Development of technology to assist in the delivery of legal services, including self-help programs, artificial intelligence and expert systems.

#### **PROMOTE:**

- Extensive and frequent lawyer communication with clients.
- The multi-jurisdictional practice of law (including international).
- Unbundling of legal services.
- Alternative dispute resolution, both voluntary and mandatory.
- The use of private means to resolve disputes, particularly in large cases.
- Mandatory pre-litigation dispute-resolution processes.
- Courts requiring litigants to disclose the evidentiary and

legal basis for a claim at the time of filing.

#### **FACILITATE:**

- Pro se representation.
- Do-it-yourself solutions to legal needs.
- Working together with non-lawyers to provide clients with the most appropriate mix of services.
- Significant numbers of lawyers elected to legislatures at all levels of government.
- Public funding to enable legal services providers and public defenders to meet caseload and quality standards.
- Programs that allow law students to pay off their law school debts by working in any sort of public interest setting.
- A government-funded lawyer for a party who cannot afford one in a civil proceeding.
- Business expenses for employee prepaid legal services plans to be tax-deductible.

This is not just a set of action steps to achieve a preferred future. It really is the heart of a strategic agenda for the entire legal profession.

*Never give up, because it ain't over 'til it's over.* – **Yogi Berra**

**AS YOU READ THE DIFFERENT** perspectives on our future, think about what is important to you and how it fits into the broader context of your own vision of what the future of lawyers should be.

Whatever your values and beliefs, it is important that you realize how empowered you are to help shape the future of this great profession – perhaps for yourself, and certainly for the children and grandchildren who choose this calling, as well as for all the people who comprise this wonderful country.

Freedom is never free. Nor is the future. The price to be paid for a better future is our thoughts, caring and actions today.

## **2020: justice by the people**

### *A Stuart Forsyth scenario on the future of the profession*

*What is a scenario? A scenario is a portrayal of a probable, alternative future. It is not a prediction; it is a possibility, told from the perspective of the future, as if it had happened. This scenario is intended to provoke thought, dialogue and action....*

**G**reat technological strides have pervaded the U.S. by the year 2020. The Internet, begun in 1969 as a way for defense-related research programs to communicate with each other, exploded in the 1990s and became ubiquitous in the 2010s. Almost everything non-tangible is now accessed or delivered electronically, and in 2015 FedEx/UPS took over the remaining package-delivery activities of the atrophied United States Postal Service.

In 2018 the federal government finally included Internet access among the rights guaranteed to the poor through federal and state assistance programs, recognizing that without such access their rights to participate in our electronic democracy would be non-existent. Notices are sent electronically, responses

are required to be transmitted electronically, money is electronic, voting is done electronically and laws, rules and regulations are disseminated electronically. Indeed, well over 99 percent of the U.S. population not only has access to, but also actually uses the Internet as an integral part of daily life.

Technological strides have pervaded the practice of law as well.

The artificial intelligence (AI) expert systems research from the 1980s was first applied to medical diagnostic systems in the 1990s, reaching AMA and public acceptance by the end of the first decade of the New Millennium. Similar work was done in the law, as AI scientists explored how lawyers analyze legal problems and prepare arguments for their clients and how judges rule on objections and motions and decide cases. Tentatively at first, both lawyers and judges began to use these systems as tools to make their own work better and easier. By 2015, AI legal tools had received wide acceptance within government and the profession. By 2020, they were commercialized and made available to the public, the first product being MicrosoftJustice.

This latter step required repeal of prohibitions against persons not licensed as lawyers from “practicing law.” First begun by Arizona in the 1970s, the repeal steamroller really got moving in the early 2000s under pressure from consumers and other professions (especially

large accounting firms), the former seeking lower-cost legal services and the latter seeking access to the profits of the legal profession.

The practice of law in the U.S. changed in a number of ways as well. Justice now is done much more by the people as most solve their own legal problems themselves. Most disputes now never reach the formal legal system. Having ready access to the law, legal analytical tools and vast factual data, people resolve many disputes themselves.

For example, a recent boundary dispute between neighbors was resolved by fixing the location of a wall by 1-inch-resolution GPS transponders, downloading property-title records and surveys from the country records office, analyzing the problem and possible solutions with Quicken Home Lawyer and arriving at an economic settlement to which both neighbors agreed without ever consulting lawyers.

Mediators and arbitrators resolve most other disputes. The Online Yellow Pages are filled with ads for such service providers who draw upon psychological and sociological skills as well as legal skills in helping the parties themselves arrive at their own solution. Religious and community leaders are often used in this role as well, and some communities have created their own neighborhood resolution experts for those who prefer to resolve disputes within their own



community.

The federal government itself has made great strides in reducing areas of dispute with the government under President Rivers' "Government For the People" program. The IRS bought TurboTax in 2017, offering it free to every taxpayer over the Internet. Aided by AmVisa's new MasterTaxCard, which both records economic transactions as they occur while noting their tax-deductibility, April 15th has become much less painful.

Lawyers are fewer and farther

between now, and they normally work on only the most complex problems, often in concert with other professionals. Comprehensive, instead of piece-meal, solutions are brought to human problems of which the law is only a part, e.g., a divorce triggered by alcoholism, where treatment and rehabilitation are provided together with change in legal status, property division and custody terms. For disputes that are ultimately economic, lawyers now have access to the same decision-aiding AI tools as judges. Their use early in the dispute process often

leads to settlements without expensive litigation. Indeed, litigation is now both rare and swift as technology has automated the case preparation and presentation process, the virtual courthouse is available 7/24/365, and virtual juries deliberate and decide disputed facts from afar.

Justice in our country always has been for the people. Today it is much more of the people and by the people as well.

○



## It's Time!

Time to verify your individual listing for the **2008 Lawyers' Deskbook & Directory**

Be sure we have your current contact information by sending your address/phone/fax/email to [jdiveley@montanabar.org](mailto:jdiveley@montanabar.org) by **November 7, 2007**

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*We're looking for a few good law firms....*

Firms: Don't forget to be included in the Law Firm Section\* of the **2008 Lawyers' Deskbook & Directory!**



Send your firm's information, including all affiliated attorneys and staff to Jill Diveley at [jdiveley@montanabar.org](mailto:jdiveley@montanabar.org) by **November 7, 2007.**

\* 2 or more attorneys only please

Administrator's Office is working with the University of Montana School of Law to explore ways that the law school and, in particular, law students can be involved with the Self-Help Law Program, from volunteering at self-help workstations to creating community legal-education materials. The collaboration with the law school will offer exciting opportunities for both resource development and involving a new, energetic generation of public-interest lawyers in this exciting endeavor.

### **Meeting the challenge**

The Supreme Court is thrilled that the Legislature has recognized the needs of self-represented litigants and provided the funding to build a meaningful program to meet those needs. All components of the Self-Help Law Program will include thorough evaluation so that we have powerful data for

the 2009 Legislature regarding the importance and efficiency of the program. We know that the access-to-justice community across Montana will continue to contribute to these important endeavors, and we hope that many more of you will join us in meeting the challenge of equal justice. As Chief Justice Gray has said repeatedly, "We can and will achieve equal justice for all in Montana. Because we care, and because we must!"

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**TARA VEAZEY** is the Montana Supreme Court's Self-Help Law Program coordinator. She is on temporary leave from her position as an attorney with Montana Legal Services Association to help the Court get this new program off to the strongest possible start. If you have any questions about the Program or would like to help, contact Ms. Veazey at [tveazey@mt.gov](mailto:tveazey@mt.gov) or (406) 841-2904.

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### **More DISABILITY, from Page 23**

we typically see in Group LTD programs.

- Many Group LTD plans cap their benefits and most limit benefits to 60 or 70 percent of income. As a result, the high income earners in the firm have a lower percentage of their income insured than associates and lower income partners.

Example: If the maximum benefit you can collect under your Group LTD plan is 60 percent of your income to \$6,000 per month, then any attorneys earning more than \$10,000 per month have less than 60 percent of their income insured. An attorney earning \$20,000 per month is only insured for 30 percent of income (\$6,000/\$20,000 = 30 percent).

- Most Group LTD Benefits are reduced by Social Security and Workers' Compensation.

- The definitions of disability contained in Group LTD policies are typically more restrictive than those in individual disability policies. This means that they can pay less benefit under the same claims scenario than an individual disability income policy.

Example: Almost all Group LTD policies limit benefits for "mental and nervous disorders", which include stress related disabilities and typically alcohol and drug related claims, to 24 months.

Since stress is one of the leading causes of disability, this is a very bad restriction to have in a policy.

- Group LTD is not portable. If you leave your firm you lose your coverage.

- Group LTD benefits will be inadequate to continue retirement savings during periods of total disability. So, when you reach age 65 and your disability income benefits stop, your retirement accounts could be inadequate to support you and your spouse.

Does this mean you should cancel your Group LTD policy? Absolutely not!

Group LTD is an inexpensive way to provide benefits for attorneys and staff. However, because of the limitations discussed above you should supplement your group coverage with the more comprehensive individual disability products.

**IN AN EFFORT TO HELP** its membership, the State Bar of Montana has facilitated the development of Individual Disability Income, Overhead Expense, and DI Retirement Security (insures retirement savings) policies, through Principal Life, that SBM members can purchase at discounted rates and, in most cases, without taking the medical exams normally required to obtain this type of coverage.

These policies can be used to supple-

ment your Group LTD, as follows:

The Disability Income Policy will allow you to insure up to 100 percent of your income against catastrophic disabilities and provides the most comprehensive definitions of disability.

The DI Retirement Security Policy ensures that retirement savings continue during periods of total disability. This coverage is available in addition to the maximum disability income coverage you qualify for.

The Overhead Expense Policy pays the fixed overhead of your office if you are disabled. If you are a sole proprietor or in a small firm, if you are disabled, not only do you need money to pay your personal expenses and to continue saving for retirement, you also have to pay the fixed overhead of your office or your share of the overhead if you have partners. Rent, staff salaries, loan payments for equipment, etc. don't go away simply because you are disabled.

Disability Specialists Inc. (DSI) is the plan administrator. You can request personalized premium quotes and view the details of each policy by visiting DSI's website at [www.gotodsi.com/sbm](http://www.gotodsi.com/sbm) or you can call their Bozeman office at (888) 279-8348 (8 a.m. to 4 p.m.). Just identify yourself as a State Bar of Montana member when you call and you will be given information on the products you are interested in. ○

# Annual CLE Seminar

- Punitive Damages—Recent Montana Developments
- Ethical Considerations and Practical Tips for Dealing with the Press
- Emerging Discovery Issues—Electronic Discovery

**November 9, 2007**  
**6 CLE hours**  
**Doubletree Edgewater**  
**Missoula, Montana**

A limited block of rooms has been reserved for MDTL program participants. Call **406.728.3100** and ask for the MDTL room block.

## Montana Defense Trial Lawyers

7:30–8:15 am **Registration**

### MORNING SESSION

- 8:15–9:00 am **Punitive Damages—Recent Montana Developments**  
 Gary L. Graham, Esq., Missoula
- 9:00–9:45 am **Legal Update**  
 Mark S. Williams, Esq. Missoula
- 9:45–10:00 am **Break**
- 10:00–11:00 am **Ethical Considerations and Practical Tips for Dealing with the Press**  
 PANEL: Betsy Brandborg, Esq., Helena; Eve Byron, Special Projects Editor, Helena Independent Record; Gary L. Graham, Esq., Missoula  
 MODERATOR: G. Curtis Drake, Esq., Helena
- 11:00–12 noon **Emerging Discovery Issues—Electronic Discovery**  
 Todd L. Nunn, Esq., K&L Gates, Seattle, Washington; Ted Webber, Esq., K&L Gates, Seattle, Washington
- 12 noon–1:00 pm **MDTL Meeting and Lunch** (on your own)

### AFTERNOON SESSION

- 1:00–3:45 pm **Emerging Discovery Issues—Electronic Discovery** (continued)  
 Todd L. Nunn, Esq., K&L Gates, Seattle, Washington; Ted Webber, Esq., K&L Gates, Seattle, Washington

### Fees

	On or Before Oct. 29	After Oct. 29
<input type="checkbox"/> MDTL Member	\$245	\$310
<input type="checkbox"/> Nonmember	\$280	\$345
<input type="checkbox"/> Paralegal	\$165	\$195
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**Registration Policies:** The registration fee includes all sessions and course material. Payment must accompany registration form to receive early registration discount. *Cancellations received in writing by October 29 will be subject to a \$25 service charge. No refunds will be made after October 29.* Course material will be mailed to pre-paid registrants who were not able to attend the conference. Registration substitutions may be made at any time without incurring a service charge.

### Registration

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Phone 406.443.1160 • Fax 406.443.4614

e-mail: [suew@mdtl.net](mailto:suew@mdtl.net) • website: [www.mdtl.net](http://www.mdtl.net)

# Ravalli deputy named top prosecutor of 2007

Deputy Ravalli County Attorney William E. Fulbright has been chosen as the Outstanding Prosecutor of the Year for 2007 by the Montana Coalition Against Domestic & Sexual Violence (MCADSV), the Montana Attorney General's Office, and the State Bar of Montana.

Mr. Fulbright was chosen "for his commitment and excellence in prosecuting domestic and sexual violence cases," the three groups said in a news release. The yearly award acknowledges exceptional service to victims and exemplary efforts to eradicate violence in the community.

Mr. Fulbright joined the Ravalli County Attorney's Office in 2002. He is recognized for using evidence-based prosecution, which relies on all evidence, not only victims' testimony. He is honored for working effectively with

law enforcement, victim-services programs, and victims to successfully prosecute cases while maintaining high standards for victims' rights.

Mr. Fulbright also is recognized for understanding domestic and sexual violence dynamics and the importance of prosecution towards ending the cycle of violence. He is also noted for his compassion and empathy in working with victims.

Besides his prosecutorial duties, Mr. Fulbright is a board member of Emma's House, a child advocacy center where children who have been abused and their families can receive medical care and have forensic interviews performed to assist in the investigation and prosecution of child abuse.

Mr. Fulbright was chosen for the award by representatives of MCADSV, the Montana Attorney General's Office,

and the State Bar of Montana.

Prosecutors were nominated by their colleagues, based on nominees' understanding "of the critical role of arrest and prosecution in holding offenders accountable and using evidence-based prosecution," the news release said. Nominations were also required to be based on nominees' collaboration with law enforcement and victim services programs, high standards for victims' rights, and compassion and empathy for victims.

The 2007 Outstanding Prosecutor Award was to be presented to Mr. Fulbright on Oct. 5 in Hamilton at the 10th Annual Report to the Community Luncheon hosted by the Ravalli County Coalition Against Domestic and Sexual Violence.

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## NEWS ABOUT MEMBERS

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**Jeffrey G. Winter**, formerly a shareholder with Church, Harris, Johnson & Williams of Great Falls has joined the Great Falls law firm of Hartelius, Ferguson, Baker & Durocher. Mr. Winter graduated from the University of Montana School of Law with high honors in 1996. He also obtained an LLM in Taxation from the University of Florida School of Law in 1997 where he was a graduate editor of the *Florida Tax Review*. Mr. Winter's new practice will focus primarily on personal injury, wrongful death and insurance bad-faith litigation. His new contact information is Hartelius, Ferguson, Baker & Durocher, PO Box 1629, Great Falls MT 59403; (406) 727-4020; [jeffrey.winter@hfbklaw.com](mailto:jeffrey.winter@hfbklaw.com)

The Montana School Boards Association announced that **Karla Smerker** has successfully completed the two-day Certified Legal Assistant/Certified Paralegal (CLA/CP) national certification examination put on by the National Association of Legal Assistants. Ms. Smerker is among 73 paralegals in Montana and 14,341 paralegals nationwide who have attained this goal, the Association said. Ms. Smerker has been with the Montana School Boards Association for five years.

The Billings law firm of Halverson & Gilbert announced the association of **Thomas L. Mahlen Jr.** with their firm. Mr. Mahlen was raised in Danbury, Wisc. He graduated from the University of Wisconsin, Superior, in 2004 with a BA in Journalism and a minor in German Cultural Studies. He graduated from the University of North Dakota School of Law with distinction in 2007. His area of practice will be civil litigation, insurance defense and commercial law.

The Stanford and Lewistown law firm of Hubble, Ridgeway, Unmack & Westveer announced that **Heather Perry** is a new partner in the firm. Ms. Perry has a farm and ranch background and lives in Utica, Mont. She attended the University of Great Falls, where she earned a BS in Accounting, and the University of Montana School of Law where she earned her law degree. The firm will now be known as Hubble, Ridgeway, Westveer & Perry. Charles Fredrick Unmack died in 2004. Ms. Perry will continue her practice in business and commercial litigation, estate planning, probate administration and litigation, agricultural property and easement transactions, and water rights. Prior to joining Hubble, Ridgeway, Unmack & Westveer, Ms. Perry clerked for the Hon. Sam E. Haddon, U.S. District Court judge for the District of Montana.

The Great Falls law firm of **Scott, Tokerud & McCarty** has relocated to Suite 507 of the Davidson Building located at 8 Third Street North in Great Falls. The firm's phone and fax numbers remain the same: (406) 727-2200, phone; and (406) 727-2227, fax. The firm's new web site can be found at [www.ScottTokerud.com](http://www.ScottTokerud.com). Scott, Tokerud & McCarty's practice areas include estate planning, business succession planning, corporate and business law, estate and trust administration, Medicaid and long-term care planning, guardianships and con-

servatorships. The firm's attorneys are:

■ **Keith Tokerud**, emphasizes estate planning and business exit planning. Mr. Tokerud received his BA degree, magna cum laude, from the University of Pennsylvania and JD from the University of Michigan. He is a member of WealthCounsel and the Business Enterprise Institute.

■ **Jon S. McCarty**, who focuses his practice on estate planning, estate and trust administration, tax planning and elder law. Mr. McCarty received his BS degree, with honors, and his JD, with honors, from the University of Montana. He is a member of WealthCounsel and the National Academy of Elder Law Attorneys and is past chair of the State Bar's Elderly Assistance Committee.

■ **Laura Walker**, emphasizing estate planning, elder law and estate administration. She obtained her BA degree, with honors, from Montana State University, and JD Degree from the University of Montana. She is a member of WealthCounsel.

■ **William S. Scott**, focusing on estate planning, probate and trust administration. Mr. Scott graduated from the University of Montana School of Law, with honors, where he was editor of the *Montana Law Review*, and has been licensed to practice law in Montana for over 60 years.

The international law firm of Dorsey & Whitney announced that two of the firm's Missoula attorneys are included in "The Best Lawyers in America 2008." They are **Mae Nan Ellingson**, public-finance law, and **John W. Manning**, corporate and securities law. "The Best Lawyers in America" selects attorneys based on surveys in which thousands of top U.S. lawyers evaluate their professional peers.

The law firm of Crowley, Haughey, Hanson, Toole & Dietrich announced that the following seven attorneys have become associated with the firm:

■ **Caroline Adams**. Ms. Adama graduated from University of Montana School of Law in 2007. During law school, she clerked for the Hon. Donald Molloy, chief judge for the U.S. District Court of Montana, and served on the *Montana Law Review*. Ms. Adams also interned for Smith & Thiel Law Offices and Tuholske Law Office, and has served as a volunteer mediator for both the Center for Dispute Resolution in Missoula and the Community Mediation Center in Bozeman. Ms. Adams earned her bachelor of arts in Psychology at Pomona College in California. Prior to law school, she taught high school on Guam, and taught art at Montana State University, having earned her Master of Fine Arts at MSU-Bozeman in 2000. Ms. Adams will practice in the Litigation Department of the Bozeman office.

■ **Daniel Browder**. Mr. Browder received his BS from Cornell University, his JD with honors from the University of Montana School of Law in 2007, and will receive his MBA from The University of Montana in 2008. In law school he competed on the National Moot Court Team, served as co-editor-in-chief of the *Montana Law Review*, and authored an arti-



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cle in the Summer 2006 edition of that publication. Mr. Browder lives in Victor with his wife Sharon and children, and effective Oct. 1, was to start practice in the firm's Commercial Department in the Missoula office.

■ **Bradford Brown.** Mr. Brown graduated magna cum laude from Valparaiso University in 2004 with a BA in Political Science and Criminology, and with honors from the University of Montana School of Law in 2007. While in law school, Brad served as the managing editor of the *Montana Law Review*. He will practice in the Litigation Department in the Bozeman office.

■ **Tanis Miller.** Ms. Miller graduated with honors from Butler University in 2004 with a BA in Political Science and French, and from the University of Montana School of Law in 2007. While attending law school, she interned for the U.S. Attorney's Office and completed her clinical work with the Missoula City Attorney's Office. She will practice in the Litigation Department in the Billings office.

■ **Adam Olschlager.** Mr. Olschlager graduated from the University of North Dakota in 2003 with a BA in Information Systems, and from the University of North Dakota School of Law in 2007. He will practice in the Litigation Department in the Williston office.

■ **Robert Sanford.** Mr. Sanford graduated in 1996 from Sewanee, The University of the South with a BA in

Economics and Spanish, completed the teacher education program and competed on the varsity soccer team. Mr. Sanford served as the assistant coach for Sewanee's men's soccer team from 1996-1999 and served as the head boys' soccer coach at Franklin County High School. He taught Spanish at the high-school level and at the University of Wyoming, where he earned his MA in foreign languages. He graduated with honors from the University of Wyoming's College of Law in 2007, where he served as articles editor for the *Wyoming Law Review* and served on Wyoming's first-place moot court team. While in law school, he interned with the Wyoming Governor's Office and with the law firms of Brown, Drew, Massey and Anthony, Nicholas, Tangeman. He will practice in the Litigation Department in the Billings Office.

■ **Monique Stafford** graduated with honors from the University of Montana in 2004 with degrees in English and Sociology. While attending the University of Montana School of Law, she interned with the Williams Law Firm in Missoula and performed her clinical requirements with Judge Lynch. In her last year, she was the captain of the law school's Relay for Life team and vice magister of Phi Delta Phi, a legal fraternity. She graduated from law school in May 2007. Ms. Stafford will practice in the Litigation Department in the Billings office.

## DEATHS

### James Haughey, Billings attorney

Billings attorney James McCrea Haughey died on Sept. 13, at age 93.

He was born and raised in Kansas. After attending the small Deep Springs men's college in California, he majored in art at the University of Kansas. It was there that he met his wife, Katie. He graduated from KU Law School in 1939.

In 1943, he joined the law firm of Coleman & Lamey. He remained with the firm for 64 years and was a retired partner in the firm now named Crowley, Haughey, Hanson, Toole & Dietrich.

Though Mr. Haughey made his living as an attorney, his life revolved around art. He was a talented watercolor artist and was an elected member of the American Watercolor Society and other professional artists' leagues. He had numerous one-man shows and some of his paintings traveled on world tours. He traveled extensively, always drawing, sketching and painting. He is known for his caricatures of famous people and friends. He also became an outstanding photographer.

Mr. Haughey served in the Montana Legislature for 10 years, where was senate minority leader. He wrote the bill that created the Montana Arts Council and, along with his wife, was a founder of the Yellowstone Art Museum. He also was a founding member of the Rocky Mountain Mineral Law Foundation and, for 52 consecutive years, he made a painting of the location where the annual meeting was held. Many cherished prints of these paintings.

Mr. Haughey served on the boards of dozens of legal and arts organizations, as well as many other community non-profits. He was a lay reader at his church.

Mr. Haughey learned to play the piano and organ when he was 40. He took up running at 50 and at 60, ran one mile for every decade of his age. He sang in barbershop quartets and loved to recite poetry. He was an active member of the Billings YMCA, where he exercised three times a week until earlier this year. He received the Y's Phillip N. Fortin Humanitarian Award in 2003. He also received the Distinguished Alumni award of the University of Kansas School of Law and a Lifetime Achievement Award from the Yellowstone Art Museum.

Mr. Haughey is survived by his daughter and two sons.

### D. Scott Asay, Billings attorney

D. Scott Asay, 50, of Billings, died during an outdoor church activity on July 25,

Mr. Asay, a self-proclaimed mountain man, cowboy and trapper, was born in Worland, Wyo. He was brought up in the Church of Jesus Christ of Latter Day Saints, earned his eagle scout rank and served a two-year mission in Boston. He graduated summa cum laude and received a law degree and an MBA from Brigham Young University. While in college, he met LeAnn Sanderson and later married her.

Mr. Asay had a successful 19-year career with EBMS, but "his heart was always at home on the ranch or in the moun-

tains, where he taught his children the value of a hard day's work," his obituary said. "Scott was, by definition, a renaissance man who enjoyed the adventures of the outdoors just as much as reading the classics and writing his own. He will be remembered always for his diligent service and leadership in his family, church and community."

He is survived by his wife, three sons and a daughter.

### **Bill Mouat, Billings attorney**

William (Bill) Gavin Mouat, 88, died Aug. 10 at the Valley Health Care Center in Billings after an extended illness.

Mr. Mouat was born in Myers. After Rosebud County split into two counties, he became the first baby registered in the newly formed Treasure County. He went on to graduate as the valedictorian of Hysham High School class of 1935, one month after his 16th birthday.

Mr. Mouat enrolled in Kinman Business College in Spokane. Upon completion of his courses there, he went to work as a secretary for one of the superintendents at the Grand Coulee Dam project in Washington. He then continued his education at the University of Idaho, where he graduated with a bachelor of arts degree in history.

Mr. Mouat was a World War II veteran and served in three branches of the military: the Army, the Navy, and the Marines. He received his commission and wings as a Navy pilot in 1945. The next year, he married Shirley Manning in Hysham.

Upon his graduation from law school at the University of Montana, the Mouats moved to Billings. Mr. Mouat worked for three years as a court reporter for Judge Guy Derry before opening his own practice. At that time, there were no machines to assist in court reporting, Mr. Mouat did all of his work in shorthand and used a standard typewriter to create all legal transcripts.

Mr. Mouat practiced law for more than 50 years, specializing in mining law. Later, attorney Craig Martinson joined him at his firm. Mr. Mouat is survived by his wife and three sons.

### **Charles Leaphart Hash, Kalispell attorney**

Charles Leaphart Hash, 86, died on Sept. 16.

He was born in Billings. His family moved to Kalispell, where he attended Central School and Cornelius Hedges School at the school's inception.

In 1932, his family moved to Missoula. Shortly after the move, his father, who was the assistant supervisor for the Lolo

National Forest Service, was killed by a lightning strike.

After losing his father, Mr. Hash resided with his maternal relatives William and Mary Leaphart in Washington, D.C. While there, he graduated in 1939 from high school.

During World War II, he served four years with the 15th Air Force as a bombardier, with overseas duty in Italy.

After the war, in 1946, he married Margaret Louise Draper in Bel Air, Md. With the assistance of the G.I. Bill, he attended Johns Hopkins University in Baltimore. The Hashes drove a 1936 Ford Phaeton to Missoula to attend UM School of Law, where his Uncle Bill Leaphart was the dean. In 1951, Mr. Hash received his law degree from UM, where he was editor of the *Law Review*.

Mr. Hash was accepted as a law clerk for Federal Judge Walter Pope at the 9th Circuit Court of Appeals in San Francisco. In 1952, he and his wife moved to the Flathead Valley, and he began practice in Kalispell, first with Baldwin & Baldwin, then with D. Gordon Rognlien. Later, Ken O'Brien joined the firm of Rognlien & Hash.

Representing a wide range of clients, Mr. Hash practiced law full-time until his death. In 1955, he participated in the formation of First Federal Savings & Loan Association (now Glacier Banc Corp.) and had been an attorney for them since.

Mr. Hash was chairman of the Flathead County Central Democratic Committee for three terms. He also served on the City-County Planning Board, the Flathead National Forest Advisory Council, and the Montana Board of Natural Resources. In addition, he was a member of various school boards and many service organizations.

Mr. Hash was a conservationist, supporting the preservation of the pristine quality of Montana's natural resources. He was an avid fly fisherman.

He is survived by his wife, a son and a daughter.

### **Other deaths**

• **Marjorie Marie Wilkinson**, former Crow tribal chief judge, died Sept. 26 in Billings at age 62. She studied Criminal Justice at the United Tribes College and Bismarck State, and was certified in Indian Law at the Judicial Indian College in Reno, Nev. She served many years as associate judge for the Crow Tribe before she became chief judge. Ms. Wilkinson's testimony in a federal court case, and later concurred by the U.S. Supreme Court, was instrumental in establishing the Indian Child Welfare Act, her obituary said.

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## **BOARD MEETING, from Page 11**

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resolutions.

### **Montana Justice Foundation – Damon Gannett**

Mr. Gannett advised that Foundation money for the hiring of a pro bono coordinator will be supplied to the Montana Supreme Court. The Court will handle the hiring of this position as well as determine how those funds will be allocated.

### **Lawyers' Assistance Program – Mike Larson**

Mr. Larson said that a client had successfully gone through

treatment and completed it successfully. Mr. Larson also said that he will speak at the ABA's National Conference for Lawyer Assistance Programs this month.

### **Report from the UM School of Law – Luke Berger**

Mr. Berger, of the Student Bar Association, reported that bids for the construction of the new Law School building should be finalized by the end of October.

### **Executive director's report – Chris Manos**

Mr. Manos reported that the basic upkeep of the Modest Means program is currently being handled within the Bar, but



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the program may become part of the new pro bono coordinator position managed by the Supreme Court.

Trustee Joe Sullivan said the Bar's Law-Related Education (LRE) Center is putting together applications for a VISTA member to manage the third year of the LRE program. A big part of the new VISTA's job will be to put in place revenue sources to keep the LRE Center operating in the future.

#### **Bar counsel's report – Betsy Brandborg**

Ms. Brandborg reported that this year's State Bar Road Show program was well-received in Helena, Great Falls and Dillon. She also said that the Bar was asked to participate in the Law School's clinical program (see intern story on Page 8).

#### **Equal justice coordinator report – Ann Gilkey**

Ms. Gilkey reported that for the first time, money was awarded by the Legislature to help fund a pro bono coordinator position. In addition, \$75,000 per year was awarded by the

Montana Justice Foundation to assist the position.

Ms. Gilkey said the College Cost Reduction Act, which would give public service workers lower payments on their student loans with the balance of the loan forgiven after 10 years, was passed by Congress (see commentary on Page 44).

#### **Other business**

The Board re-elected Cynthia Smith to be Board chair for another year. The Board also thanked Bernie McCarthy and Dan McLean for all their hard work as longtime members of the Board. Mr. McCarthy, who just ended his year-long tenure as past-president, will no longer serve with the Board or Executive Committee, although he will continue to serve on the Bar's Past President's Committee. Mr. McLean decided not to seek re-election to the Board in August.

**THE NEXT MEETING** of the Board of Trustees will be held at 10 a.m. Dec. 7 at the State Bar offices in Helena.

### **RESOLUTION, from Page 12**


that it cannot represent the opinion of the State Bar as a whole if so few members voted for it. In reaction to those concerns, the State Bar Executive Board will soon discuss whether there are alternative methods for debating and voting on resolutions to allow broader member

participation, said Executive Director Chris Manos.

Supporters of the resolution said the detention of hundreds of alleged enemy combatants without charges strips them of a principal right to challenge their imprisonment in United States courts. "This is not a political statement, but a statement about the rule of law," said

Mr. Taylor. "I never thought I would be standing in front of a group of lawyers talking about whether or not it's appropriate for someone to have a trial. But that's where we are today."

Critics of the resolution said it was inappropriate for the State Bar of Montana to pass judgment on the detention camp, whether it's right or wrong,



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and tried to strip the Guantanamo-closing language from the rest of the resolution. "I don't think this organization is the proper tribunal to determine these issues," said Ward Shanahan, a Helena attorney. "I object to making a judgment on behalf of the entire Bar of Montana."

Proponents fired back that it was every lawyer's civic duty to uphold the law of the land, and look to each other for aid in preventing the "erosion" of civil liberties. "I think it's critical that as a bar association we stand up and say this is wrong," Mr. Taylor said. "We

need to have rules that apply to everyone across the board."

One outspoken supporter was Charles Carpenter, a State Bar of Montana member who practices law in Washington, D.C., and has represented prisoners at the Guantanamo camp since January 2005. Quoting John Winthrop, Mr. Carpenter asked lawyers to help restore the notion of the United States as "a city upon a hill."

"If not us, then who?" Mr. Carpenter asked.

Another supporter, Neil Haight of

Helena, the former executive director of Montana Legal Services, said the Bar would be remiss in its obligation to uphold the rule of law. "I think it's a cop-out to say this is not something the Bar should be doing," Mr. Haight said.

After the resolution passed, Mr. Taylor noted that it is not customary for a state organization of lawyers to send such a message. But critics also claim such a sweeping resolution is beyond the purview of the State Bar. ○

## MONTANA ATTORNEYS

# Billings lawyer helping college obtain its first scientific patent

A Billings attorney is helping Montana State University Billings obtain its first patent.

The University said "a major step in science is taking place in a small way – in fact, it's on a molecular level," and added that the patent is "a huge advancement for the university."

Dan Carter of the MSU-B News Services said, "It's a story that involves two researchers who also teach, a collaboration that could reach to Vermont and an MSU Billings alumnus whose legal expertise guided the university through the patent process.

That alumnus and patent attorney is Toni Tease.

Mr. Carter explained the scientific breakthrough:

Research by Dr. David Butler and Dr. Kurt Toenjes, scientists and faculty members in the Department of Biological & Physical Sciences, found a possible new use of a synthetic compound that could help stem the spread of fungal diseases. Painstakingly done in crowded old research labs and around their teaching schedules, Butler, Toenjes and the university now have their names on patent papers filed with the U.S. government. And as their research proceeds, any hospital, laboratory, specialist or patient who has had to deal with the dangerous spread of fungal or yeast infections will likely be paying close attention.

While reviews are taking place, novel use of the compound holds a "patent pending" status to protect the intellectual property, thanks to the legal work by Ms. Tease.

"Think of [the synthetic compound] as providing the right direction over urban growth," Mr. Carter said. Left unchecked when sprawl gets going, infrastructure damage can occur. The right kind of direction, however, leads to a balanced develop-

ment. In this case, the research by Butler and Toenjes involves a small molecule (BH3I-1) and its ability to block the growth transition of *Candida albicans* (*C. albicans*). The infection is usually confined to the skin and mucous membranes, but in premature babies, AIDS patients and those on immunosuppressive drugs, it can spread throughout the body.

*C. albicans* is the most common cause of human fungal infections and scientists say it is a major opportunistic pathogen of immunocompromised hosts, including those undergoing chemotherapy and tissue transplants. Studies indicate that up to 90 percent of AIDS patients suffer from infections tied to *C. albicans*. Approximately 10,000 people die each year from such infections, said Toenjes.

The scientific challenge lies in not going too far, Mr. Carter said. If you try to stop *C. albicans* altogether, other valuable cells are destroyed in the process. In normal healthy humans, *C. albicans* exists in our bodies in a balanced state that does us no harm. The pending patent involves a new way



Attorney Toni Tease, upper right, with MSU-B researchers Butler, standing, and Toenjes, and Arts & Sciences Dean Khaleel, left.

of using BH3I-1 to limit changes in *C. albicans* so it doesn't grow out of control.

Butler and Toenjes have noted that using BH3I-1 would keep the fungi in check without destroying any other healthy cells, which is a problem with many antifungal drugs.

When the two scientists also started talking about filing for a patent to protect their rights and the university's rights, they got help from Ms. Tease, a registered patent attorney.

Ms. Tease's connection to MSU Billings goes back several years, when she got advice from Dr. Tasneem Khaleel, now dean of the College of Arts & Sciences, on what upper-level science courses to take to meet requirements for taking the patent exam, the MSU-B New Services reported.

"It meant a tremendous amount to me to work on this," said Ms. Tease, whose intellectual property work ranges from mechanical devices to antibiotics to software. "I am a patent attorney because of MSU Billings."

Ms. Tease studied economics at Harvard and received her

law degree from the University of Connecticut. She practiced law in New York and Washington, D.C., before coming to Montana in 1995. Until 2001, she was a member of the law firm of Crowley, Haughey, Hanson, Toole & Dietrich. She practiced in-house with a software company from 2001 to 2003 and opened her own firm in late 2003.

Dr. Butler was one of Ms. Tease's professors at MSU-B, and it was Butler who called on her later for her legal expertise. "To have the kind of top professors I had in David Butler and others was phenomenal," she said. "And to have them call me several years later to work on this patent application was fantastic." Butler said he was excited to have a reason to retain her legal services. "She was a star student," he said.

The patent-application process helps protect the rights of the researchers and the university. Ms. Tease said the process lets Butler and Toenjes proceed with their work in the lab without having to worry about legal issues. It could take four or five years for the patent to issue, she said. ○

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## COMMENTARY

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# Paying for public service: an important first step

By **William H. Neukom**, president  
American Bar Association

If it weren't for public service lawyers – including prosecutors, public defenders and those who provide legal aid to the poor, disabled and victims of domestic violence – the rule of law that defines our society would break down. It is in our nation's interest to invest in those who serve the public interest.

Unfortunately, many public-service law offices are in crisis, because salaries for new lawyers are too low to pay off staggering education loans. Vital service jobs are going unfilled, or are subject to high turnover.

Last month, Congress took an important first step in helping those, including lawyers, who choose a career in public service, by giving them new tools to cope with crushing educational debts. It passed the College Cost Reduction and Access Act, which President Bush signed Sept. 27.

The Act, which ensures that borrowers can repay their education loans, also provides special relief to many categories of public service, such as the military, public safety, public education and many forms of social work.

The bill would retire most or all of a borrower's federal student loan debt following 10 years of qualifying public service and timely repayment on their loans.

For those with high educational loans, the cost of public service can be brutal, and open-ended. Studies show that most law school graduates have a combined debt from undergraduate and graduate studies in excess of \$80,000, or loan payments of more than \$1,100 a month.

Prosecutors, public defenders and legal aid attorneys—who help the poor with civil cases involving housing, health

employment and other critical issues—have starting salaries in the \$35,000-\$45,000 range, making repayment difficult or impossible.

Many law school graduates simply turn away from public-service work, looking instead to higher-paying private sector jobs. Our nation's government, education, charity, and many other sectors of society, directly suffer from this talent drain.

Those who do not fulfill 10 years of service or repayment while in qualifying jobs do not receive any benefit. It is a program reserved for those who commit a significant portion of their career to such laudable service. This is a fair offer, and a sound investment in a healthy justice system.

But the mere possibility of a deferred benefit is itself insufficient to attract new talented law graduates into the most sensitive of these positions, namely prosecutors and public defenders and those who provide legal assistance to families, the disabled, and others.

Congress should close this gap and approve programs, such as those contained in the unanimously approved Higher Education Amendments Act of 2007, that would provide a limited period of direct loan payment to new lawyers who work at least three years in these positions.

Many elected prosecutors and heads of public defenders' offices say these recruiting tools are critically needed to help make these positions competitive in the marketplace for new graduates.

New graduates can choose where to work, but our nation cannot similarly choose whether to provide these services.

It is therefore incumbent on our nation to ensure that these obligations are consistently fulfilled, and with the best and the brightest talent possible. Programs that promote these ends are an important investment in justice for all. ○



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## ATTORNEY POSITIONS

### ATTORNEY FOR CROW TRIBE: The

Crow Tribe of Indians is accepting applications for a full-time in-house attorney position. The successful applicant will be responsible for juvenile prosecution and Indian Child Welfare Act matters on behalf of the Crow Tribe, and will be expected to divide her/his time as appropriate to cover each respective area. S/he will represent the Tribe in all proceedings involving juvenile offenses, and in all Indian Child Welfare Act cases in which the Tribe has an interest. Duties include practice in tribal and state courtrooms arguing motions, trying cases to judges and juries, as well as occasionally arguing special actions and appeals; participating in teleconference and telephonic hearings as required; pre-trial motion practice through appellate arguments; drafting legal documents for all stages of proceedings; participation in plea negotiations and pre-trial discovery with opposing counsel; and other related duties as assigned or required. Minimum qualifications include a juris doctorate degree from an accredited law school; admission to the Montana Bar, and commitment to tribal sovereignty and Indian self-determination. Applicant must be willing to sit for the next available administration of the Crow Tribal Bar Exam, have prior legal experience in the areas of Indian Child Welfare Act casework and juvenile

prosecution, working knowledge of the Federal Rules of Evidence and demonstrated knowledge of Federal Rules of Criminal Procedure and Federal Indian Law. Desirable qualifications include an ability to work efficiently in a bilingual courtroom setting; proficiency in the Crow language is desirable but not required. Must be able to pass a criminal background check with no felony convictions and no serious misdemeanor convictions within the past five years and must pass a pre-employment drug test. Salary depends on experience. Preference in filling vacancies is given to qualified Crow tribal members, and to qualified members of federally recognized Indian tribes. Interested individuals should submit a letter of interest, resume, and three (3) references to: Crow Tribe Human Resources Department, PO Box 159, Crow Agency MT 59022 and to: Office of Executive Counsel – Crow Tribe, Crow Agency MT 59022. Questions should be directed to Heather Whiteman Runs Him at the Office of Executive Counsel at (406) 638-2059, or e-mailed to [heatherw@crownations.net](mailto:heatherw@crownations.net). Position open until filled.

### ATTORNEY - DOMESTIC VIO-

**LENCE LAW:** DOVES, a private crime victim advocate non-profit organization located in Polson, is seeking qualified applicants for a .8 FTE civil attorney position in Lake County. Applicant must be admitted to the Montana Bar. Preferred applicant will have three years experience in family law or domestic violence services; the attorney will provide representation in custody and dissolution cases and order of protection hearings; education for advocates; and pro se assistance to clients for survivors of domestic violence, sexual assault and/or stalking. For more information, visit [www.doveslakecounty.org](http://www.doveslakecounty.org). Submit letter of interest, resume and writing sample (recent law school grads should include transcripts) to Amy S. Rubin, c/o DOVES, PO Box 1773, Polson MT 59860;

include email address. Applications will be reviewed beginning Nov. 1, continuing until position is filled.

**DEPUTY COUNTY ATTORNEY:** The Musselshell County Attorney's Office is seeking a half-time deputy attorney. Must have JD from accredited law school, admitted to Montana Bar or making application. Experience in criminal law and trial experience is preferred. For a detailed job description, contact the Musselshell Clerk and Recorder's Office at (406) 323-1104 or e-mail Jane Mang at [mshlcocr@midrivers.com](mailto:mshlcocr@midrivers.com). Salary \$19,000 - \$21,000 depending on experience - benefits available). Submit a letter of interest, transcript, resume and references to the Musselshell County Attorney's Office, Musselshell County Courthouse, 506 Main Street, Roundup MT 59072. Deadline: Open until filled.

**CHIEF LEGAL COUNSEL** for the state Dept. of Natural Resources & Conservation. For job and application details, go to a Job Service or to the following web sites:  
<http://dnrc.mt.gov/jobs> or  
<http://mt.gov/statejobs/statejobs.asp>  
Closing date: Nov. 1, 2007.

**ATTORNEY:** Missoula lawyers seek additional lawyer with 0 to 3 years experience to help with active and growing general trial practice including personal injury, real estate, commercial, insurance and family law. All inquiries will be held confidential. Send resume and cover letter to Terrazas Law Offices, PO Box 9077, Missoula MT 59807; (406) 541-2550.

**ASSOCIATE COUNSEL:** Zoot Enterprises Inc., a banking software and services firm, is seeking an associate level attorney with one to five years experience to join its fast-paced in-house legal team. The primary job focus will be on transactional matters, but practice includes a broad mixture of legal fields. Successful applicants will

have superior communication, analytical and customer service skills. The ability to prioritize, multi-task and lead in a fast-paced team-oriented environment is preferred. Fun, friendly work environment with competitive salary and benefits. Apply on-line at [www.zootweb.com](http://www.zootweb.com).

#### **PUBLIC DEFENDER ATTORNEY,**

Office of the State Public Defender. \$40,000 to \$50,000 plus state benefits. Locations may include Missoula, Kalispell, Helena, Billings, Butte, Great Falls, Bozeman and other rural areas. Perform public defender work for indigent clients. Contact Barb Kain, Human Resource Officer, [bkain@mt.gov](mailto:bkain@mt.gov) for further information and application requirements.

**ATTORNEY:** Bozeman firm is seeking attorney with 4+ years experience for immediate responsibilities in land use, business, construction, real estate and general practice counsel and litigation. Excellent professional opportunities with performance based compensation. Apply by faxing resume and writing sample to Wittich Law Firm PC, (406) 585-2811.

**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.

**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 email [jmr@wkdtlaw.com](mailto:jmr@wkdtlaw.com).

### **ATTORNEY POSITIONS SOUGHT**

**BUSY PRACTICE?** I can help. Former MSC law clerk and UM Law honors graduate with 5-plus years legal experience available for all types of contract work, including legal/factual research, brief writing, court/depo appearances, pre/post trial jury investigations, and document review. For more information, visit <http://www.meguirelaw.com>; e-mail [robin@meguirelaw.com](mailto:robin@meguirelaw.com); or call (406) 442-8317.

### **LEGAL ASSISTANTS & OTHER PROFESSIONALS**

**LEGAL ASSISTANT:** DOVES, a private crime victim advocate non-profit organization based in Polson, has received two-year grant funding from the Office of Justice through the Legal Services for Victims program, to hire a half-time legal assistant to assist staff attorney in providing civil legal assistance to victims of domestic violence, sexual assault and/or stalking in Lake County. This position may be combined with a grant-reporting and data-entry position to become a 30 hr/week job, with full benefits. The successful applicant will have excellent written and verbal communication skills; will be detail oriented; will have the ability to prioritize and to multi-task as well as work a flexible schedule; will have the ability to work both independently and as a member of the team. For more information, visit [www.doveslakecounty.org](http://www.doveslakecounty.org). Please submit a cover letter, resume and three references to DOVES, PO Box 1773, Polson MT 59860. Position is available immediately, and will be open until filled.

#### **LEGAL ASSISTANT/PARALEGAL:**

Competitive salary, depending on experience, with comp. benefits package in busy law firm. Perform legal document production, litigation support and case preparation, scheduling, maintain client

contacts, etc. Experience with court and administrative filings, and highly proficient in WordPerfect, transcription, legal terminology, citation format, and file management. Qualified individuals please send cover letter and resume to Marlana Reichert at Hughes, Kellner, Sullivan & Alke, PLLP, P.O. Box 1166, Helena, MT 59624 or by email to [mreichert@hksalaw.com](mailto:mreichert@hksalaw.com)

### **LEGAL RESEARCH & PARALEGAL SERVICES**

#### **PARALEGAL SERVICES:**

Comprehensive support services for attorneys provided by an experienced Montana paralegal. Thorough, efficient and accurate. Proven ability to write effective personal injury demands. Collosus Level I and Level II certified. Quality legal memos, motions, pleadings and discovery. Experienced with Federal and State Court cases; Reasonable rates. References available. Visit <http://www.mtparalegalser vices.com>; e-mail [B\\_Bonnington@ mtparalegalservices.com](mailto:B_Bonnington@ mtparalegalservices.com); or call (406) 863-9336.

#### **LEGAL RESEARCH & WRITING:**

Fast, accurate and thorough legal research. Effective legal writing - briefs, motions, pleadings, appeals. Attorney with 20-plus years of civil litigation experience. JD, UCLA; admitted in California and New Mexico. Reasonable rates. Local references. [HLWashburn@aol.com](mailto:HLWashburn@aol.com); (406) 442-1298.

### **OFFICE SPACE / SHARE**

**BILLINGS:** Grand Building, downtown at 100 N. 27th Street. Two blocks from county and federal courthouses. Available Nov. 1. Office for attorney and common reception area for assistant(s). Reasonable rates. Wireless Internet access. Furnished or unfurnished. Call (406) 248-3900 (Steve) or (406) 252-6000 (Frank).

### **CONSULTANTS & EXPERTS**

**CERTIFIED LEGAL NURSE CONSULTANT:** Professional, affordable

assistance with medical lawsuits. Certified Legal Nurse Consultant, Registered Nurse, 20+ years' experience. Specialties: screen cases for merit, assess causation/damages, interpret medical records, facilitate communication. Accept cases involving health, illness, injury, workers' compensation, general negligence, defendant or plaintiff. Marni Allen, RN, CLNC. (406) 690-4314; [www.madeddlegal.com](http://www.madeddlegal.com).

**MEDICAL MALPRACTICE:** We have thousands of physician expert witnesses. Fast, affordable, flat-rate referrals to board certified, practicing doctors in all specialties. Your satisfaction guaranteed. Just need an analysis? Our veteran MD specialists can do that for you, quickly and easily, for a low flat fee. Med-Mal EXPERTS, Inc. [www.medmalEXPERTS.com](http://www.medmalEXPERTS.com); (888) 521-3601.

**INTERPRETING & TRANSLATIONS SERVICE:** English into Spanish or Spanish into English. Over 15 years of experience. Simultaneous, consecutive, interpreting and translations of documents, in the legal and medical fields, workers' comp or any miscellaneous documents. References upon request. Call: (406) 370-6049 or (406) 777-2802. See web site: [www.spanishinterpretingservice.com](http://www.spanishinterpretingservice.com).

**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.

**FORENSIC DOCUMENT EXAMINER:** Specialization: Identification / elimination through examination and comparison of handwriting, typewriters, photocopiers, printing processes, paper and inks. Forensic document apprenticeship through the Colorado Bureau of Investigation. Plum Creek Forensic Laboratory LLC, Darla McCarley-Celentano, PO Box 21, Castle Rock CO

80104-0021; phone / fax (303) 663-2450; e-mail [rdacelentano@att.net](mailto:rdacelentano@att.net).

**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](http://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](mailto:jimmyweg@yahoo.com).

## **MEDIATION**

**ALLEN CHRONISTER:** Attorney with over 25 years of experience in civil litigation and in mediating a wide variety of disputes, available for mediations. Reasonable rates, will travel. Allen Chronister, PO Box 1152, Helena MT 59624; (406) 449-3691; [almont@mt.net](mailto:almont@mt.net)

**MICHAEL H. KEEDY:** As a former district court judge, I bring 12 years valuable experience to bear in settling your case. In addition, I have over 30 years' experience in a variety of other legal pursuits. Conference rooms are available at our Kalispell offices. Please call me at (406) 752-7122 or 888-865-8144.

**SARAH H. SEILER, LCSW, LAC:** Specializing in family dispute resolution, child-centered divorce mediation, guardian ad litem representation and custody investigations. Contact Resolution Consultants Inc., PO Box 604, Townsend MT 59644; (406) 980-1615 or 266-5475; [sseiler@wildblue.net](mailto:sseiler@wildblue.net)

**SOLOMON ARBITRATION & MEDIATION** for Labor & Employment. Glenn Solomon, arbitrator/mediator. Training: Cornell School for Industrial & Labor Relations, Institute for Conflict Resolution. Experience: 25 years of employment law practice. Montana Wrongful Discharge From Employment Act cases. Reasonable rates. No charge

for travel. Call: (888) 341-3508 or e-mail: [glensol@aol.com](mailto:glensol@aol.com).

## **INVESTIGATORS**

**INVESTIGATIONS & IMMIGRATION CONSULTING:** 34 years investigative experience with the U.S. Immigration Service, INTERPOL, and as a private investigator. President of the Montana P.I. Association. Criminal, fraud, background, loss prevention, domestic, workers' compensation, discrimination and sexual harassment, asset location, real estate, surveillance, record searches, and immigration consulting. Donald M. Whitney, Orion International Corp., PO Box 9658, Helena MT 59604. (406) 458-8796 / 7.

## **EVICCTIONS**

**EVICCTIONS LAWYER:** We do hundreds of evictions statewide. Send your landlord clients to us. We'll respect your "ownership" of their other business. Most evictions cost about \$216 including all fees and costs. Call for a price list. Hess-Homeier Law Firm, (406) 549-9611, [thesshomeier@msn.com](mailto:thesshomeier@msn.com)

## **MISCELLANEOUS**

**BILLINGS:** Law office furniture, law office equipment including computers and law library for sale, available Oct. 31, 2007, Grand Building, 100 North 27th Street, Suite 400. Call Frank at 406-252-6000 or 406-861-4215.

## **WEB**

**MONTANA LAW WEEK**  
*The Weekly Digest of Montana Law*  
[www.MontanaLawWeek.net](http://www.MontanaLawWeek.net)

**FLATHEADLAW.COM**  
*"The single resource for legal information in Northwest Montana."*

You can find the Child & Family Services Policy Manual at  
[www.flatheadlaw.com/dependent-neglect.html](http://www.flatheadlaw.com/dependent-neglect.html)

**MontanaLawHelp.org**  
Legal Information and Resources  
For Low to Moderate Income Montanans

Need to get your electronic trial skills up to speed?

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