

# MONTANA LAWYER

State Bar  
— of —  
Montana

June/July 2018 | Vol. 43, No. 8



## BAD NEWS

**Receiving it at times is  
unavoidable. How you deliver it  
to clients can make all the difference.**

### **Also in this issue**

**Knowing how to say no is a critical  
skill for attorneys to learn**

**A new way to do pro bono:  
Online and on your own time**

**Retired UM prof teaching, learning  
lessons on law in Republic of Georgia**

**Fastcase Bytes: Getting the most  
out of your legal research benefit**

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**HON. LESLIE HALLIGAN**  
President

### 'Notorious' career documented

Early this spring, while attending ABA meetings in Washington, D.C., I took some time to visit the National Portrait Gallery. There I found myself wandering through the galleries, viewing portraits of our presidents, and discovering "The Four Justices," a large portrait depicting United States Supreme Court Justices Sandra Day O'Connor, Ruth Bader Ginsburg, Sonia Sotomayor and Elena Kagan. As I admired the portrait, a docent passed by and explained that the artist, Nelson Shanks, had enlarged the image of Justice Ginsburg, portraying her in nearly equal proportion to the other justices. It has become even more evident to me that Justice Ginsburg is deserving of this larger than life depiction. Several weeks after my return, "RBG," a documentary exploring Justice Ginsburg's life and career, premiered in Missoula; and following the film, I joined a panel of women judges and attorneys who gave voice to the experiences of Montana women in the legal profession.

Justice Ginsburg faced many challenges in her career, challenges not unlike other women who have entered a male-dominated profession. After being accepted to Harvard, she was chastised for taking a man's spot. As one of nine women in a 500-person class, she became the first female member of the Harvard Law Review. While attending law school, she managed family responsibilities and supported her husband through cancer treatment. She transferred to Columbia Law School and graduated first in her class. Despite her educational achievements, she had difficulty finding employment in the private sector because of her gender. She eventually entered academia. During the 1970s, she directed the Women's Rights Project of the American Civil Liberties Union and won five of six cases she argued before the U.S. Supreme Court. She served on the U.S. Court of Appeals for the District of Columbia, and was nominated by President Clinton as an associate justice of the Supreme Court in 1993.

Justice Ginsburg has become known for her work ethic, intellect and for championing women's rights and equality. Despite ideological differences, she developed a close friendship with her colleague, the late Justice Antonin Scalia. She is described in the book "The Notorious RBG" as "committed to bringing up other women and underrepresented people and to working together with her colleagues even when it seems impossible." She has fought not just for the women

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**JOHN MUDD**  
Executive Director

### Difficult conversations

This month's Montana Lawyer is full of thoughtful and practical advice about communication. In our cover story, we tackle how you deliver bad news to a client; surely one of the most difficult challenges we face as lawyers and one all lawyers are certain to face in practice. Missoula attorney P. Mars Scott walks us through some practical tips for those inevitable and difficult conversations. Meanwhile, Mark Bassingthwaite presents his own tips on how to say no to a representation. That can be a challenge, but as Mark advises readers: "take control, and say no when necessary."

Want to provide some pro bono limited scope legal help anonymously? Montana Legal Services has debuted its new service "Ask Karla," named in honor of the late Hon. Karla Gray, which can let you do just that. Angie Wagenhals tells us about the new service and how to get involved. And what about the coming robot lawyers who will do all of that work for us? Sharon D. Nelson and John W. Simek take us into the intersection of artificial intelligence and the law with some observations about what's next in the profession.

Finally, Jeffrey Renz, retired Clinical Professor of Law at the Alexander Blewett III School of Law, takes us across the globe to the Tblisi, Georgia, with his observations about teaching evidence in the former Soviet republic, an teaching experience very different from his American one.

The Montana Lawyer will return this August with some exciting changes on the horizon. Until then, enjoy this issue and your summer, wherever this may find you.

All my best,  
John

### CAREER MOVES

#### Scanlin announces retirement, transfer of practice to Adams

Red Lodge attorney Elizabeth Scanlin is pleased to announce her retirement and the transfer of her law practice at



Adams

111 N. Broadway in Red Lodge to Heidi K. Adams, of HKA Law PLLC.

Adams is a 2012 graduate of Seattle University School of Law and is admitted to the state bars of Alaska, Montana, and Washington, as well as several tribal bars and federal courts. Adams can be reached at 406-446-1016, P.O. Box 2008, Red Lodge, MT 59068, or at heidi@hkadamslaw.com.

#### Brooks joins as senior counsel at Doney Crowley

Cynthia Brooks has joined the Doney Crowley P.C. law firm in Helena as senior counsel.

Prior to joining Doney Crowley, Brooks was chief remediation counsel for the State of Montana Department of Environmental Quality, where she supervised a staff of seven and was responsible for overseeing attorneys charged with enforcing Montana's environmental remediation laws. She also served as the state's senior Superfund attorney for over 20 years; career highlights include the



Brooks

successful trial and appeal to Montana Supreme Court of liability for a \$35 million cleanup at a site near Kalispell, the successful defense of the state in toxic tort and property devaluation cases, and representation of the state in the Asarco bankruptcy, resulting in total payments to the governments and related trusts of around \$1.794 billion, the largest Superfund recovery in history. Brooks

also has extensive experience in brown-fields redevelopment, governmental relations, and multimillion-dollar contracts. She received 18 performance awards during her tenure with the state.

Previously, Brooks was in private practice in Missoula with the law firm of Datsopoulos, MacDonald, and Lind P.C. and also clerked for the Montana Supreme Court.

Brooks holds a bachelor's degree in finance and economics, with honors, from the University of Montana and graduated with honors from the University of Montana School of Law in 1992 where she also served on the Editorial Board for the Montana Law Review. She is a fourth-generation Montanan. She serves on the Board of Directors of the Helena Youth Soccer Association and is extensively involved in Helena's competitive soccer community.

Brooks' law practice with Doney Crowley P.C. focuses on environmental regulatory compliance, governmental relations, real estate and property transactions (including due diligence and risk management), contracts, toxic tort and environmental litigation, and complex multi-party negotiations. She can be contacted at cbrooks@doneylaw.com.

#### Mullowney joins as associate at McLean, Younkin & Willett

McLean, Younkin & Willett in Bozeman is pleased to announce Tyler Mullowney has joined the firm as an associate.

Raised in Billings, Mullowney graduated from Montana State University Billings in 2014 with his Bachelor of Science in political science. He graduated from the University of Montana's Alexander Blewett III School of Law



Mullowney

in 2017. Prior to law school, he interned with the Montana Office of the State Public Defender. While in law school, he interned with McLean, Younkin & Willett.

Mullowney's practice focuses on real estate, commercial law, estate planning, and probate. He is admitted to practice before the Montana Supreme Court and the U.S. District Court, District of Montana. He may be reached at 406-582-0027 or tmullowney@bozeman.legal.

#### Kalispell firm announces new partner, associate location

Henning, Keedy & Lee PLLC has recently changed its name, moved to a new location, added two new partners and welcomed a new associate.

The Kalispell law firm Henning, Keedy & Lee recently changed its name to Henning, Rutz & McCormack. Additionally, the firm moved to a new



McCormack

location at 1131 S. Main St., Kalispell, MT 59901. You can contact the firm at 406-752-7122 or at its website grizzlylaw.com.

The law firm is pleased to announce it James "Jim" McCormack a member at the beginning of the year. Prior to becoming an attorney, Jim served for 20 years in the U.S. Army as a Ranger and with Special Forces. He served five combat tours after 9/11



Danno

as a Green Beret in Afghanistan, Iraq and the Philippines. After retiring from the Army, McCormack attended the University of Montana School of Law. He has been with the firm since 2016 where he is engaged in both civil litigation and criminal defense.

McCormack is admitted to practice in Montana state and federal courts. He can be reached at 406-752-7122 or jmccormack@grizzlylaw.com.

The law firm has also recently added Ashley Danno to its practice. Danno is a Flathead County native and graduated from Flathead High School in 2006. She earned her B.A., summa cum laude,

## Member and Montana News

from Vanguard University of Southern California in 2010. She earned her law degree from the University of Montana School of Law. While in law school, she served as the president of the Montana Trial Lawyers Student Chapter.

Danno's practice is focused primarily on civil litigation and she is admitted to practice in Montana state and federal courts. Ashley can be reached at 406-752-7122 or [ashley@grizzlylaw.com](mailto:ashley@grizzlylaw.com).

### Tanner named partner, shareholder at Boone Karlberg

Boone Karlberg P.C. in Missoula has announced that Randy J. Tanner is a new partner and shareholder with the firm.

Tanner was born and raised in rural southern Illinois. He moved to Missoula to study forestry at the University of Montana, where he earned his Ph.D., and then attended the University of Montana School of Law. He met his wife, Jamie Bray-Tanner, a forensic scientist, while attending the university. They have a



Tanner

for the District of Montana.

He joined Boone Karlberg's litigation and appellate practice in 2013.

### Moulton Bellingham in Billings welcomes Baucus to firm

Moulton Bellingham PC in Billings has announced that Stephanie Baucus has joined the firm.

Baucus is a seasoned attorney with over 15 years of experience in corporate matters, litigation, white collar criminal defense, internal investigations, compliance planning, government relations,

5-year-old daughter, Ada.

Tanner clerked for Judge Sidney R. Thomas, United States Court of Appeals for the Ninth Circuit, and Judge Donald W. Molloy, United States District Court



Baucus

public affairs, corporate social responsibility, and nonprofit service.

Most recently, she worked as in-house counsel at a consulting firm, after serving as an associate director at the U.S.

Department of Justice in Washington, DC. In private practice for seven years before that, she represented clients in all types of legal matters, including disputes involving banking, energy, insurance, securities, healthcare, mortgage lending, government contracts, international business and trade, antitrust, transportation and aviation, intellectual property, and food and product safety. She concentrates on civil, criminal, and administrative matters for individuals, companies, and nonprofits and advises clients on

News, next page



Alexander Blewett III  
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*Dana Fitzsimons*

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**News**, from previous page

government and public relations.

Baucus graduated from Harvard Law School and earned her B.A., summa cum laude, from Emory University with majors in political science and religious studies. She serves on the Montana Human Rights Commission, as well as Secretary of the Board of the YWCA, a

## ACHIEVEMENTS

### Vicevich earns LL.M. in cyber, telecommunication, space law

David L. Vicevich of Butte earned a Master of Laws in cyber, telecommunications, and space law from the University of Nebraska-Lincoln College of Law and received his degree during commencement exercises May 5.



Vicevich

The LL.M program at UNL was established with a grant from NASA and a partnership with the U.S. Air Force Strategic Command. Vicevich attended on a NASA scholarship and his thesis focused on cyber insurance. He has expanded his practice in the Northwest to include consulting on cyber insurance, e-commerce, and data breach response.

He can be reached at 406-782-1111 or [dave@vicevichlaw.com](mailto:dave@vicevichlaw.com).

## APPOINTMENTS

Gov. Steve Bullock recently appointed a number of Montana attorneys to state boards and commissions.

**Kathleen VanDyke**, a retired mediator and attorney from Bozeman, was appointed as a public representative to the Board of Public Accountants.

**Steven Small**, an associate at Holland & Hart in Billings, was appointed as a public representative to the Board of Architects and Landscape Architects.

**The Honorable Brad Newman** of Butte was appointed to the state Board of Pardons and Parole. Newman, a 2nd Judicial District Court judge, replaces

## Submitting to Member & Montana News Section

The Montana Lawyer welcomes submissions from Montana attorneys about new jobs, honors, publications, and other accomplishments. Please send submissions to [editor@montanabar.org](mailto:editor@montanabar.org).

former chair Scott Cruse, who announced his resignation from the board in April. Newman, who is not running for re-election as a judge, has been a deputy county attorney and a legislator.

**Stephanie Baucus and Tim Tatarka**, both of Billings, were appointed to the state Human Rights Commission. Baucus is an attorney with Moulton Bellingham in Billings. She previously worked as in-house counsel at a consulting firm and at the U.S. Department of Justice. Tatarka is an assistant U.S. attorney with the U.S. Attorney's Office. A 2010 graduate of the Stanford University Law School.

Alexander Blewett III  
SCHOOL OF LAW  
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NINE WEEK-LONG COURSES WITH CLE OPTIONS

## SUMMER INDIAN LAW PROGRAM

June 4 - August 3, 2018

*Spend the summer in beautiful Missoula studying Indian Law! The Blewett School of Law invites you to participate in the 11<sup>th</sup> annual Summer American Indian and Indigenous Law Program:*

**Indian Law Research** | June 4 - 8

**Mastering American Indian Law** | June 11 - 15

**American Indian Children and the Law** | June 18 - 22

**Designing Effective Governmental Regulations** | June 25 - 29

**Alaska Native Law and Policy** | July 2 - 6

**Native Hawaiian Law** | July 9 - 13

**Water Law in Indian Country** | July 16 - 20

**Indigenous Peoples in International Law** | July 23 - 27

**Public Policy and the Tribes** | July 30 - August 3

*All courses run from 9:00 a.m. - 12:00 p.m. with the exception of Alaska Native Law and Policy, which will meet July 2, 3, 5 and 6 from 9:00 a.m. - 12:40 p.m. CLE credit for each course can be viewed on the program webpage. CLE registration fees are \$650 for all courses.*

View descriptions and registration info online at [umt.edu/indianlaw](http://umt.edu/indianlaw)

# Pierce elected President-Elect of State Bar

Juli Pierce of Billings was elected State Bar of Montana President-Elect in voting tabulated on June 1.

Pierce, an attorney at Moulton Bellingham in Billings, is the current chair of the bar's Board of Trustees. She was the only candidate for President-Elect on the 2018 ballot. She was first elected to the Board of Trustees in 2013 and re-elected in 2015 and 2017.



Pierce

The bar's current President-Elect, Eric Nord, will take over as State Bar President at the Annual Meeting in Kalispell Sept. 19-22. Pierce will assume the President-Elect duties term at that time.

Nine trustee positions were on this

year's ballots. Jessica Wilkerson of Montana Legal Services Association's Bozeman office was elected to her first term. She will be the only new trustee to join the board in September.

Also in the elections, Shane Vannatta of Missoula, a past president of the bar, was re-elected as the State Bar's delegate to the American Bar Association. Vannatta has served in that capacity since 2012.

Ballots were mailed to members on May 1. Deadline to mail completed ballots was May 21. Following is a list of all winners.

## 2018 STATE BAR OF MONTANA ELECTION WINNERS

### President-Elect

Juli Pierce, Billings

### State Bar ABA Delegate

Shane Vannatta, Missoula

### AREA A Trustee

### (Flathead and Lincoln Counties)

Ryan Hennen, Whitefish

### AREA B Trustees

(Missoula, Mineral, Lake, Ravalli and Sanders Counties)

Beth Brennan, Missoula

Brian C. Smith, Missoula

David Steele, Missoula

### AREA C TRUSTEE

(Silver Bow, Deer Lodge,

Beaverhead, Granite, Jefferson, Madison and Powell Counties)

Kaylan Minor, Dillon

### AREA D TRUSTEES

(Cascade, Glacier, Pondera, Teton and Toole Counties)

Paul Haffeman, Great Falls

Channing Hartelius, Great Falls

### AREA G TRUSTEES

(Gallatin, Park and Sweetgrass Counties)

Christopher Gray, Bozeman

Jessica Wilkerson, Bozeman

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Online calendar available through

The National Academy of Distinguished Neutrals

[www.nadn.org/michael-viscomi](http://www.nadn.org/michael-viscomi)

## Water Law Section inaugural Annual Meeting to feature Q&A with water judge, panel talks

The State Bar of Montana's Water Law Section will hold its inaugural Annual Meeting in Bozeman on Aug. 10.

The meeting will feature a Q&A with Chief Water Judge Russ McElyea, a panel discussion with members of the Water Adjudication Advisory Committee, and a panel discussion with members of the Water Policy Interim Committee.

The meeting will be from 1 to 4:30 p.m. at the Montana Water Court Courtroom in Bozeman, followed by a no-host meet and greet at MAP Brewing Company at 5 p.m.

The section will also be filling two officer positions at the meeting: Chair-Elect and Secretary. The Secretary position is a 1-year term. The Chair-Elect position rotates into the Chair position in 2019-2020 and Past-Chair in 2020. If you are interested in nominating yourself or someone else for one of the vacant officer positions noted above, please contact Pepper before Aug. 1 at [dana@riverandrangelaw.com](mailto:dana@riverandrangelaw.com) or 406-599-7424.

If you are not yet a Water Law Section member, you can still attend the Annual Meeting if you join and pay the applicable dues by Aug. 1. For more questions on joining the section, please contact Dana Pepper at [dana@riverandrangelaw.com](mailto:dana@riverandrangelaw.com) or Abby Brown at [abby@farvebrownlaw.com](mailto:abby@farvebrownlaw.com).

## 3 attorneys apply for 21st Judicial District judge opening

Three Hamilton attorneys have applied with the Judicial Nomination Commission for a 21<sup>st</sup> Judicial District judge vacancy.

The commission began accepting applications for the in May to fill the seat to be vacated by Judge James A. Haynes. Judge Haynes is retiring effective July 31.

The following attorneys have applied:

■ Jennifer Boatwright Lint,  
Boatwright Law Office

■ Howard Frank Recht, chief civil  
counsel, Ravalli County Attorney's Office

■ Thomas John Schoenleben Jr.,  
Bitterroot Law

The commission is now seeking public comment on the applicants. The

applications may be viewed at [http://courts.mt.gov/supreme/boards/jud\\_nomination](http://courts.mt.gov/supreme/boards/jud_nomination). Comments will be accepted until 5 p.m. on Thursday, July 12.

Comments become part of an applicant's file and will be posted on the commission's web page and forwarded to the Gov. Steve Bullock. Public comment may be submitted to:

Judicial Nomination Commission,  
c/o Lois Menzies, Office of Court  
Administrator, P.O. Box 203005,  
Helena, MT 59620-3005; by email to  
[mtsupremecourt@mt.gov](mailto:mtsupremecourt@mt.gov); or by calling  
406-841-2972.

The Commission will forward the names of nominees to the governor for

appointment after reviewing the applications, receiving public comment, and interviewing the applicants if necessary. The person appointed by the Governor is subject to Senate confirmation during the 2019 legislative session. The position is subject to election in 2020, and the successful candidate will serve a six-year term.

Judicial Nomination Commission members are District Judge John C. Brown of Bozeman; Jan Bishop of Missoula; Karl Englund of Missoula; Elizabeth Halverson of Billings; Hal Harper of Helena; Lane Larson of Billings; and Nancy Zadick of Great Falls.

## Annual Meeting resolution proposals due Aug. 7

Any State Bar of Montana member who would like to propose a resolution to be voted on by membership at the 2018 Annual Meeting must submit it no later than Tuesday, Aug. 7.

All properly submitted resolutions will be reviewed by the Past Presidents Committee to ensure they are consistent with the Constitution and the By-Laws of the State Bar of Montana and orders of the Montana Supreme Court.

Resolutions must be submitted to Executive Director John Mudd and may be sent by email to [jmudd@montanabar.org](mailto:jmudd@montanabar.org) or by mail to State Bar of Montana, c/o John Mudd, P.O. Box 577, Helena, MT 59624. The 2018 Annual Meeting will be held in Kalispell Sept. 19-22.

## High school mock trial finds success in Idaho

High school students from Helena found success at the mock trial competitions in Idaho this spring. Three teams, composed of students from Helena and Capital high schools, competed against teams from schools in eastern Idaho at

the regional competition in Pocatello. Two Helena teams placed second and third, earning invitations to the Idaho state competition in Boise.

In Boise, the Montana students competed against the best teams in Idaho earning sixth and 10th place overall finishes. In addition, Emma Eodice, Jordan Straub, and Aurora Boutin earned individual awards for their exemplary performances.

The students compete in Idaho because Montana does not have a statewide mock trial program.

The high school mock trial teams are coached by Helena High teacher Kacey Askin and by Helena attorneys Kayleigh Brown and David Morine. For more information on starting a mock trial team in your area, please contact Askin at [kaskin@helenaschools.org](mailto:kaskin@helenaschools.org); or Morine at [dmorine@hwlawmt.com](mailto:dmorine@hwlawmt.com).

## Volunteers sought for summer, fall legal document clinics

Attorneys and paralegals are needed to volunteer at a series of legal document clinics that the Montana Aging Services Bureau is holding around the state this summer and fall.

The first clinic will be held June 21 in Browning. Additional clinics will be in Whitefish, Red Lodge, and Butte, and possibly in Helena and Wolf Point.

The clinics are from 9 a.m. to 4 p.m., with an orientation starting a half an hour before. Volunteers will see a maximum of six individuals to complete basic estate planning documents. Laptops and forms will be provided. Volunteers will be reimbursed for mileage, hotel and per diem.

Adult Protective Services will hold a training session on financial exploitation and determining capacity the day before each clinic, with the exception of the June 21 clinic in Browning. The training has been approved for CLE credits.

If you have questions or would like to volunteer, contact Katy Lovell, legal services developer, at 406-444-7787 or 1-800-332-2272.

### Clinic schedule:

June 21 — Browning

July 25 — Whitefish

August 23 — Red Lodge

September — (Date and location to be determined)

October 3rd (tentative) — Wolf Point

October 18 — Butte

## Montana teens chosen finalists in 9th Circuit civics essay, video contest

Six Montana high school students were selected as finalists in the 2018 Ninth Circuit Civics Contest.

This year's theme was "150 Years after Ratification of the 14th Amendment: What Does Equal Protection Mean to Students?" and focused on key court decisions and legislation related to equal protection and schools. Students in grades 9-12 in public, private and parochial schools and home-schooled students of equivalent grade status were challenged to write an essay or produce a short video on the topic.

All 15 federal courts in the Ninth Circuit held local contests with winners going on to compete in the circuit-wide competition. Montana winners are:

**Essay:** First place, Zach Mangels, a sophomore at Skyview High School in Billings; second place, Sylvia Stoker, a senior at Corvallis High School in

Corvallis; and third place, Alec Good, a senior at Great Falls High School in Great Falls.

**Video:** First place, Layla Brinkerhoff, a senior at Fort Benton High School in Fort Benton; second place, the team of Austin Grove, Tucker Walter and Katelyn Bacon, seniors at Moore School in Moore; and third place, Lilly Green, a senior at Fort Benton High School.

District of Montana winners go on to the larger Ninth Circuit contest, which offers additional prizes of \$2,000, \$1,000 and \$500 for the top three essays and videos, and a trip for the first-place winners accompanied by a parent or guardian, to attend the 2018 Ninth Circuit Judicial Conference in Anaheim, Calif. The winning essay will be read and the winning video will be shown on July 23 during the opening session of the circuit conference.

## 2 reappointed to Commission on Courts of Ltd. Jurisdiction

The Montana Supreme Court has reappointed two members of the Commission on Courts of Limited Jurisdiction to new terms to end June 30, 2022.

In a June 1 order, the court said that Pondera County Attorney Mary Ann Ries and Kalispell City Attorney Charles Harball were recommended by their respective associations to continue to serve on the commission.

## Wyoming chief justice Burke retiring effective Oct. 8

The chief justice of the Wyoming Supreme Court plans to retire this fall.

Chief Justice E. James Burke's retirement Oct. 8 will give Gov. Matt Mead the opportunity to have appointed all five state Supreme Court justices.

He became a Wyoming first District Court judge in 2001. He was appointed to the Supreme Court in 2005 and became chief justice in 2014.



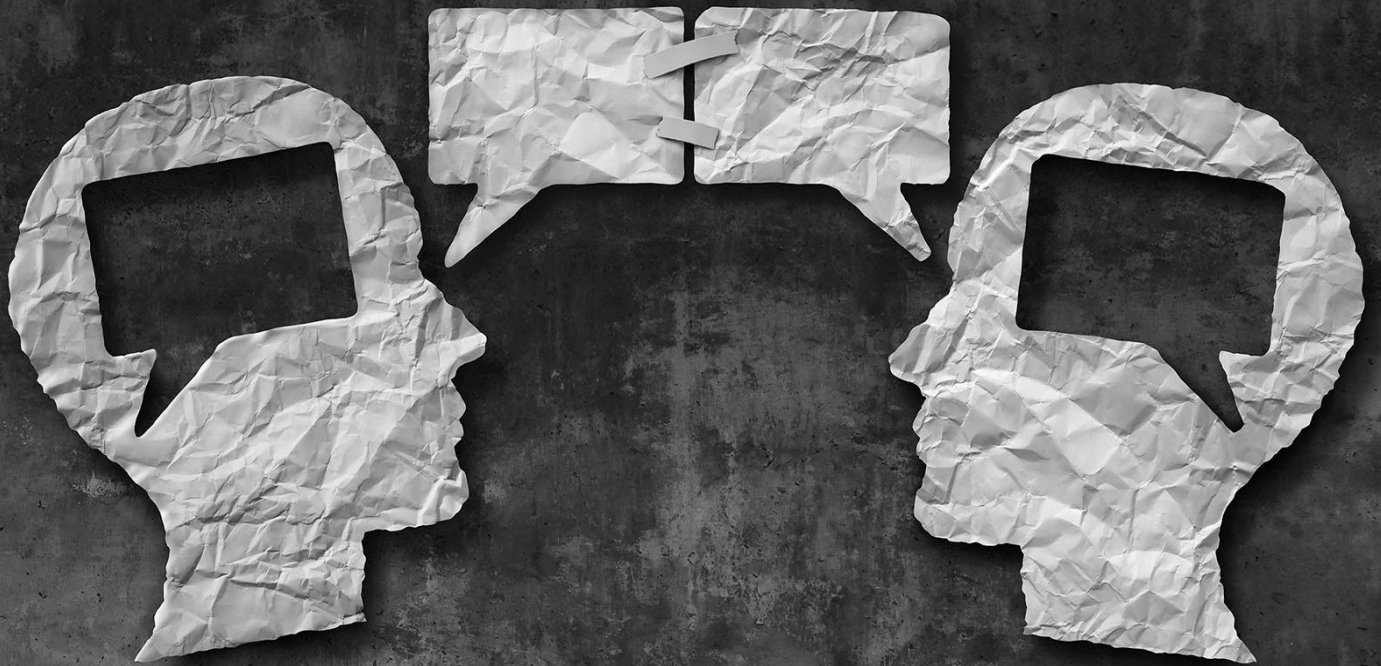
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# The art of delivering



# BAD NEWS

By P. Mars Scott

# Unfavorable results are inevitable in the practice of law. How you handle the negatives is a key to your success.

**T**he Los Angeles Times recently published an article written by Dr. Tom Roberts, an internal medicine resident at Massachusetts General Hospital, wherein he discussed the importance of doctors and hospital staff properly delivering bad news to patients and their families when medical treatments don't go right; yet medical schools and hospitals don't train doctors and hospital staff on how to properly deliver bad news. We are all excited when sustained efforts result in victories and when that happens, delivering good news is easy. But there are times when sustained efforts don't result in victories and when that happens, someone has to deliver the bad news. Like so many things, there is a right way and a wrong way to do that.

Dr. Roberts' article prompted me to think about legal education and lawyer mentoring. There is only so much time to instruct law students on the fundamentals of legal education, and law schools can't teach everything about the practice of law. Lawyer mentoring after law school depends upon the programs set up in individual law firms, and for sole practitioners, it depends upon experienced lawyers voluntarily spending time with them which is generally limited. Of the post law school mentoring time, there is probably little mentoring about how to deliver bad news to clients.

As Professor Irving Younger of the University of Minnesota Law School reportedly stated, if you're trying real cases with real issues against real attorneys with an impartial judge or jury, statistically the best or worst that you can do throughout your legal career is 50 percent. If your results are more or less than 50 percent, something is wrong with the equation. For everyone in the legal trenches, there will be a day when you will need to deliver bad news to your client.

Dr. Roberts, who also has an MBA from Stanford University, stated that many successful business leaders direct much of their energy toward mastering the art of difficult conversations.

Leadership and professionalism means you accept the responsibility of dealing with bad news. Success in business is not easy but if you can't effectively deal with negative issues as they arise in your practice, you will not be successful. How do you do that?

There isn't a formula for delivering bad news that works for every case, but here are 10 points for consideration<sup>1</sup>.

**1. You are the one to deliver the bad news.** You, the lawyer, are in charge of the case and therefore you are in charge of delivering the bad news. That's leadership. Under no circumstances should any staff member be the one to deliver the bad news. Don't leave a voicemail message that you lost on an issue. Most importantly, don't email a bad decision without first talking to the client to let them know that it's coming. Clients don't want to be ambushed. Deliver the news up front. Keep in mind; it might be harder for you to deliver the bad news than it is for the client to hear it because sometimes they are expecting it.

**2. Know the details of the decision.** Dr. Roberts stated that success in business is about getting the details right in critical conversations. That's also true in the practice of law. Before you call your client, make sure you understand the details and nuances of the ruling and that you are prepared to discuss why the ruling came out as it did. You might also consider having a timeline that charts the course of the case and shows when certain tactical decisions were made that may have had an effect on the outcome. If you haven't already prepared a timeline, your billing statement might help you create one.

**3. Practice.** Mentally practice your upcoming conversation with your client and envision the outcome you hope for. Think about possible reactions to the news from your client and visualize your

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<sup>1</sup> Several of these ideas come from the article written by Maurice Grant and Eileen M. Letts in GPSOLO January/February 2008.

## 10 tips for communicating unfavorable news



**1.**  
Deliver the news yourself



**6.**  
Start at the beginning



**2.**  
Know all the details



**7.**  
Avoid blaming



**3.**  
Practice what you will say



**8.**  
Acknowledge mistakes



**4.**  
Don't delay!



**9.**  
Embrace silence



**5.**  
Give yourself enough time



**10.**  
Look for the bright side

Montana Lawyer graphic

# LEARNING TO SAY



**The huge burden that can result when attorneys take on more than they should is a problem both from a quality of life and a risk management perspective**

By Mark Bassingthwaite



**S**ome people seem to view having to say no as requiring them to be confrontational; and for these folks, confrontations are difficult things to get through. Others view saying no as being rude. Now, certainly how a “no” is delivered can be rude; but the act of saying no in and of itself isn’t. Regardless of the reason or situation in which one might struggle with saying no, it’s a valuable skill to learn. In fact, in the context of a law practice, the ability to say no can be a real life saver because we’re talking about quality of life issues here.

When visiting law firms around the country, I often ask a few questions about firm culture in an attempt to understand the environment in which everyone is working. For example, is the setting conducive to allowing staff and attorneys to maintain a healthy balance between their personal and professional lives? If yes, that’s great! If no, I become concerned. The risk of a malpractice claim is now higher than it otherwise would have been if for no other reason than that missteps can happen more readily when we’re not at our emotional best or if our batteries are running low.

Upon further questioning in those settings where things are out of balance, it is common to find that work hours for some are beyond reasonable. I am not trying to suggest that working long hours is a direct cause of malpractice claims. It is not. In fact, I have met a number of attorneys and staff who work incredibly long hours and remain quite happy and content. However, these individuals also often play hard when they are not working. Most importantly, they have found ways to stay refreshed and sharp during the time they devote to their personal lives. My focus is really directed toward those individuals who feel that their own work circumstances are burdensome. When pressed, I will often hear from these individuals comments along the lines of “I really don’t know how to turn down clients so I have taken on more than I had planned,” or “This client has been a client of mine for many years and I can’t risk saying no to the additional work even though the work isn’t something I am comfortable handling.” Others have shared “While I knew I shouldn’t have taken this client’s matter on, I didn’t

know when the next prospective client might come through the door and I do have bills to pay.” I have even heard “Making these kinds of personal sacrifices is one of the costs that come with being an attorney.”

The inability or refusal of an attorney to say no to taking on more clients than she should, to willingly take on additional work that is beyond her comfort zone, or to agreeing to work with a recognized problem client requesting her services can readily evolve into a serious problem. While the occasional sacrifice is often fine, for the attorney who habitually struggles with saying no, the work environment can quickly be experienced as a huge burden resulting in feeling overwhelmed or out of control. This isn’t good, either from a quality of life or risk management perspective. If left unattended for any length of time, burnout or depression often follows.

This is why it’s important to learn to say no. It can be done creatively, respectfully, and non-confrontationally. Consider a statement along the lines of these very respectful ways to say no:

■ “At present, due to the number of pending cases here at our firm, we are not able to represent you in this case. Please understand that it is our firm policy to decline representation on any matter where we do not feel confident that we can invest all of the time and energy necessary to do the best possible job for our client.”

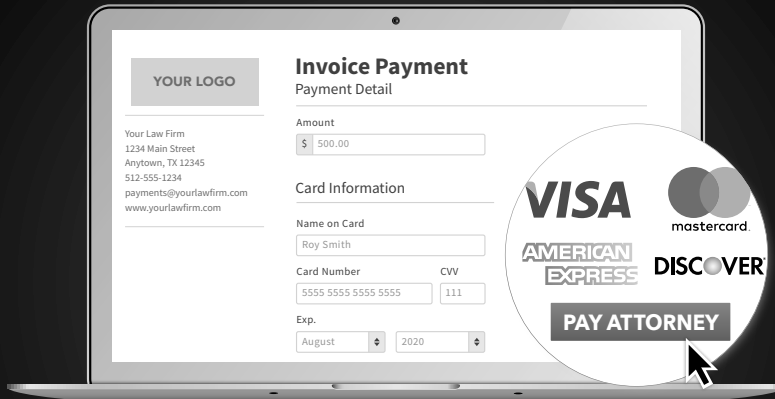
■ “While I greatly appreciate your continued loyalty, my legal judgment tells me that you are best served by my assisting you in finding an attorney with the level of experience this particular matter calls for.”

If your practice is going to be truly full for a time, consider instructing staff to inform all potential clients that you currently are not accepting any new clients for X number of months and that they are free to check back at that time. All of these approaches are examples of ways to say no in a non-confrontational and respectful way.

Allow me to share one final thought to further drive a point home. Time has always interested me and I am particularly fascinated by how others manage time. A number of years ago I knew a physician who regularly allowed his patient schedule to get overbooked and he could never keep up. Yet every afternoon, without telling anyone and in spite of patients waiting, he would simply walk off site and grab a cup of coffee for 10 to 15 minutes. Although this drove his staff crazy, he always came back refreshed and ready to take on the rest of the day. While I wouldn’t recommend this as a way to manage time or clients, there is something of value to be learned here. As I see it, this doctor was on to something. This was his way of reminding himself who was in control of his professional life. He was.

So go ahead, take control, and say no when necessary. It really is OK.

***ALPS Risk Manager Mark Bassingthwaight, Esq., has conducted over 1,000 law firm risk management assessment visits, presented numerous continuing legal education seminars throughout the United States, and written extensively on risk management and technology. You can find many of his recent seminars to assist you with your solo practice at our on-demand CLE library, at [montana.inreachce.com](http://montana.inreachce.com). You can contact him at: [mbass@alpsnet.com](mailto:mbass@alpsnet.com).***



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# MLSA's Ask Karla offers a new way to do pro bono: Online and on your own time

**Angie Wagenhals**  
**Montana Legal Services Association**

The Montana Legal Services Association (MLSA) is proud to introduce the next phase in its expansion of limited-scope pro bono opportunities. Launched on May 1, AskKarla.org is MLSA's new online advice site that allows attorneys to anonymously answer civil legal questions posted by income-qualified clients on a secure online platform. It is an easy and effective way to do pro bono on an attorney's own schedule.

In fact, the site is designed to make it as easy as possible for attorneys to do the type of pro bono work they want to do. Attorneys create an account and choose from a queue of questions on a variety of civil legal issues posted by client users. Attorneys can check cases out of the queue to review prior to providing an answer. Once an attorney finds a question they want to answer, it's as easy as typing a response. As with all MLSA pro bono programs, MLSA provides volunteers with malpractice insurance and any support they need.

Most lawyers want to give back to our community with pro bono services but don't have much time to volunteer.

AskKarla.org allows lawyers to anonymously answer vetted civil legal questions posted by Montanans living in poverty. Best of all, attorneys can do this on their own schedule and in less than an hour. The 2018 Annual Pro Bono Report prepared by the Montana Supreme Court Statewide Pro Bono Program reports that 29 percent of respondents indicated that pro bono in the state would improve



**AskKarla.org**

with an increase in opportunities for finite hour contributions. This feedback echoes what MLSA has long heard from volunteers. Montana attorneys are dedicated to pro bono as part of their practice but also lead active lives and maintain busy practices, making full representation pro bono cases difficult to take on. Using a Pro Bono Innovation Fund grant awarded by the Legal Services Corporation, MLSA has been busy developing limited-scope pro bono opportunities around the state in response to this feedback. AskKarla.org is the latest effort to increase opportunities to do limited scope around the state.

The site is named after the late Chief Justice Karla Gray to honor her long dedication to access to justice. Chief Justice Gray gave her all to championing the mission for equal justice for all Montanans. She believed that the most fundamental promise of our country, equal justice under the law, could be achieved only by assuring that every person who needs access to justice gets it.

AskKarla.org is an attempt to work toward that assurance of equal justice under the law. MLSA designed the site to be easy for attorneys to use and to be an accessible and helpful resource for clients. If you are interested in volunteering by providing advice over the site, please visit AskKarla.org and click the "Volunteer" button. You'll create an account and will be given access to the queue of questions after MLSA verifies your account. If you have any questions about the site or how you can get involved, please contact MLSA Pro Bono Coordinator Angie Wagenhals at awagenha@mtlsa.org or call 406-442-9830 ext. 148.

**Angie Wagenhals is the pro bono coordinator at Montana Legal Services Association.**

## Want to sign up?

If you are interested in volunteering by providing online advice, visit AskKarla.org and click the "Volunteer" button. You'll create an account and will be given access to the queue of questions after MLSA verifies your account. If you have any questions about the site or how you can get involved, please contact MLSA Pro Bono Coordinator Angie Wagenhals at awagenha@mtlsa.org or 406-442-9830 ext. 148.



# (The Other) Georgia on his mind: Lessons on law and evidence in a former Soviet state

Montana Lawyer editor Joe Menden suggested I write “an article on what you’ve been up to in Georgia,” assuring me that a lot of members would be interested. So because, as our greatest President would say, “a lot of members are interested in what I have to say,” here goes.

First we must be clear, because a lot of members have been to Atlanta, some even to Columbus, Georgia, and other regions of the Peach Tree State. We are not talking about That Georgia but about the Other Georgia, the one that some mistakenly identify as part of Russia. I live in Tbilisi, the capital of Other Georgia and I currently teach a course at Tbilisi State University.

My course is “Science in the Courtroom.” I would have called it Scientific Evidence, but this is one of those places that consider jurisprudence to be a science.<sup>1</sup> The first half of the course addresses wrongful criminal convictions and their causes. The second half presents various scientific disciplines that are used properly in court cases. I thought this would be a useful course in this former Soviet republic. When Professor Greg Munro and I visited a forensic lab in another former Soviet republic, we asked if defense counsel was permitted to see the records of various lab tests. We were told, “No, because we do not make errors.” When we asked if the defense had the opportunity to retest evidence, the same answer was combined with the respondent’s astonished look.

Teaching students means that your students often teach you. It was my experience with them over the last few days that prompted me to write this article.

I recently finished grading their mid-term examination and listened to their oral presentations of their course paper. Both revealed some realities of Georgian courtroom life. One exam question

## The science of jurisprudence



Former UM law school professor Jeffrey Renz says the insights of students in his “Science in the Courtroom” at class Tbilisi State University in the Republic of Georgia are often revealing about the state of legal life there.



Montana Lawyer graphic

presented a fictional expert, who held a Ph.D. in linguistics and philology, a Ph.D. in psychophysiology, and a master’s degree in audio engineering. The expert claimed to be able to distinguish truth-telling from lying based on the tone, rhythm, and speed of a person’s speech. I asked students, before you use him as an expert, “What do you want to know from him and about his technique?”

My sense of the question was that the expert’s degrees were genuine. After all, expert witnesses in the United States never inflate their resumes. Actually, there was a crime lab expert who claimed a degree in a double major, the second of which was in a science discipline. It is useful to have a science degree if you use terms like “dosing” and “experiment” in your expert testimony.<sup>2</sup> In preparation

for the expert’s trial appearance an enterprising law student discovered that the expert’s university did not offer the second degree at the time the expert matriculated. (The expert retired from forensic testimonial life shortly afterwards.) I digress, but it is good to know, or in this context, bad to know, that there are exceptions. The majority of my students responded, “first I would check to see that his degrees were genuine.” If you have worked in this part of the world, you know that in the past there were two ways of earning a degree. The first involved books and the second involved money.<sup>3</sup> (That, the money part, has been done away with since 2004, when the new president of Georgia fired all university administrators in one day.) I gave the

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## Continuing Legal Education

For more information about upcoming State Bar CLEs, contact Meagan Gallagher at [mgallagher@montanabar.org](mailto:mgallagher@montanabar.org). You can also find more info and register at [www.montanabar.org](http://www.montanabar.org). Just click in the Calendar on the lower right of the home page to find links to registration for CLE events.



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# Running with the machines: Artificial intelligence advances bring benefits, threats to practice of law

By Sharon D. Nelson Esq. and John W. Simek  
Sensei Enterprises

Back in 2015, we wrote an article entitled “How Will Watson’s Children Impact the Future of Law Practice?” What a lot has happened since then! The children of Watson and other Artificial Intelligence (AI) technologies continue to spawn at an ever-accelerating rate.

Only recently has genuine real-world usage of AI in law firms begun to flourish. Amid the initial hype, much of what was ballyhooed as AI, in our judgment, was not. Even today, there is an astonishing amount of hype – everyone wants to say they’ve boarded the AI train. As we write, an article from InfoWorld was just published entitled, “Artificially Inflated: It’s Time to call BS on AI.” While great ‘clickbait’, we think the title overstates the case. The peaks and troughs of AI are well documented, and as we are now at a peak, the hype factor gets greater, while the reality (often very good) is lost in the noise of the hype.

As large firms, which certainly need to be at the forefront of innovation, begin to invest considerable sums in AI, the landscape is changing. Large law firms simply cannot afford – for monetary and brand reasons – to be left behind. Clients will begin to see the efficiencies of AI and its extraordinary possibilities wherever AI may be found. AI will be a honeypot to clients seeking those efficiencies and possibilities.

A brief note: An article of this length cannot adequately address all the players in the legal AI market and what they can do. We call out a few names simply because we’ve run into these companies through colleagues or our reading.

## Fear of ‘Robot’ Lawyers

There is no shortage of lawyers who fear they will be replaced by AI. Those who sell AI have come, in the last two years, to realize that it is hard to sell a



product that people fear will compete for their jobs. Thus we have seen marketing morphing. Ross Intelligence, once called “The Superintelligent Lawyer” on the website, is now referred to as “an artificially intelligent system that gets smarter each day to advance your legal career.” Now that is a major change in tone! There’s even a video showing how Todd, “an exceptional lawyer” is originally afraid of ROSS taking his job and is stuck in the mundane and repetitive task of legal research but then comes to see ROSS as freeing him to spend time focusing on his clients rather than legal research.

So that is why we named this article “Running with the Machines” — we are indeed going to have to find a way to coexist with AI. This may take the form of new jobs made possible with AI or new ways of doing our jobs. No matter what the vendor marketing says, it is clear that jobs will be lost — and it is probably a fool’s mission at this point to predict how many. What we can predict is that a large amount of legal work which lends itself to automation will indeed be automated precisely as predicted by British futurist Richard Susskind.

On the plus side, AI will be beset by all sorts of problems — especially AI devices connected to the Internet of Things, replete with the kinds of vulnerabilities that are already well documented. That will foster more litigation, without a doubt. Will the machines need competent trainers? Of course. Will such things constitute a silver lining to an ominous cloud? Maybe. There will still be many jobs on the chopping block.

In December of 2016, we learned that five percent of Accenture’s workforce is no longer human. At Accenture, that percentage equates to 20,000 full-time-equivalent positions. Accenture describes itself as a leading global professional services company providing a range of strategy, consulting, digital, technology and operations services and solutions. That kind of work sounds very much like the kind of professional services offered by lawyers.

Scholars Dana Remus and Frank Levy have suggested that AI will have a “moderate” effect on areas such as legal research, drafting and due diligence, which one study puts at 40 percent of legal work. In many areas of law, only a

“light” impact is anticipated — at least in the short term. Not sure we see it that way, but for the sake of balance, it is worth citing another view.

More accurate, as we see it, is the conclusion of a Deloitte insight report released in 2016 which said that “profound reforms” will occur in the legal sector over the next decade, estimating that nearly 40 percent of jobs in the legal sector could be automated.

## Understanding AI

Amid so many resources on AI, the Defense Advanced Research Projects Agency (DARPA) has a pretty good handle on what constitutes AI. There are three AI phases broadly defined as:

Handcrafted knowledge (many systems have this). These systems can’t really learn and handle uncertainty poorly — they can only enable reasoning over narrowly defined problems. The early self-driving cars were in this category, unable to distinguish a shadow from a rock in desert driving, not knowing where to drive to be safe. Most cybersecurity applications fit here — they can study computer code, compare it to known vulnerabilities and fix it, but that’s all.

Statistical Learning (such as Kira Systems, Watson (and ROSS), Lex Machina). These applications are trained on big data. They perceive the natural world, they may have facial recognition, and they learn from data sets. Their reasoning intelligence and abstracting capacities are still limited. They are best at classifying data and predicting consequences from it.

They are statically impressive but in individual cases, often unreliable. Note that it took less than 23 hours in March of 2016 for Twitter to corrupt Tay, a bot devised by Microsoft for what the company described as an experiment in “conversational understanding.” Microsoft said the more you chat with Tay, the smarter it gets, learning to engage people through conversation. But Tay was bombarded with racist, misogynistic remarks — and Tay began to respond in kind. Microsoft pulled it in less than 24 hours.

Contextual Adaptation (we’re not there yet). These systems will construct explanatory contextual models to explain, for instance, why they made a decision that a cat was a cat. Sounds simple enough, but the reality is very complex.

These systems will also reason and learn in a much more human-like way.

If you find all this fascinating, as we do, watch this 16-minute video to learn more:

<https://www.youtube.com/watch?v=-O01G3tSYpU>.

## Where Legal AI is Today

Michael Mills, the co-founder and Chief Strategy Officer of Neota Logic, regularly updates a graphic which shows the current state of AI in the legal industry. He identifies players in the following areas of law: E-discovery, Contract analytics, Prediction, Legal Research, Expertise Automation.

There are roughly 40 companies focused in the legal sector which Michael believes qualify as using AI.

So . . . what can AI actually do? We talked to Mark Tamminga, the partner in Leader Innovation Initiatives at Gowling WLG and asked how his firm uses Kira AI. He referred us to Rich Kathuria who is the firm’s National Director, Project Management and Legal Logistics. Here’s what Rick had to say:

“AI shows real potential – in the right circumstances and even in the not-so right circumstances. We used Kira recently for a very large contract analysis project for one of our clients. The project involved reviewing various agreements and documentation to assess the risk associated with various assets. Since Kira did not have built-in models for these types of documents, Kira was not immediately able to extract the required information automatically. But we were able to use the learning capabilities of Kira to teach it to identify the key clauses within the documentation that we were looking for.

Kira learned these well and after the training, it was able to pull out the relevant clauses in various documents. In addition, Kira’s ability to convert the scanned documents into readable text and run comparisons against other similar agreements made the project run much more efficiently.”

We read that as a pretty good endorsement. And indeed, one of the major features of the new generation of AI is the fact that the machines are learning – faster and with more reliability.

## E-discovery

We will look at this only briefly, because there is no doubt among the experts that technology assisted review (TAR) contains some AI. Machine Learning, Natural Language Processing (NLP) and similar techniques like data or text-mining, big data analysis, concept search, topic modeling, clustering, audio search and machine translation are all AI techniques that can be used to identify specific document categories and to search for relevant information in these documents.

While there many companies offering TAR, certainly one of the leaders is Catalyst. In October of 2016, Catalyst put forth a peer-reviewed graphic showing how, using TAR 2.0, 1 reviewer could do the work of 48 reviewers using TAR 1.0, reviewing 723,537 documents in five days. You can find this infographic at <http://catalystsecure.com/resources/library/infographics/1301-how-does-1-reviewer-do-the-work-of-48>.

## Contract analysis

JPMorgan Chase is saving on law firm dollars by using software called “COIN” — short for Contract Intelligence — to review commercial loan agreements. The software reviews documents in seconds, doing work that once required 360,000 hours of work each year by lawyers and loan officers. How can you read that and really think that lawyers jobs aren’t at stake in an AI world?

The bank says the software has helped reduce loan-servicing mistakes that were often attributable to human error in interpreting 12,000 new contracts per year.

DLA Piper is using artificial intelligence software for due-diligence document review in mergers and acquisitions. The software searches text in contracts and then creates a summary and an analysis.

Reed Smith is testing artificial intelligence software by RAVN System, reviewing hundreds of pages of documents to identify and pull out certain items in contracts. RAVN made some mistakes, but it improved when lawyers added information to their queries. The platform also picked up some mistakes missed on a first review by lawyers.

We have recently seen good press about another company called LawGeex



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which uses artificial intelligence to review contracts and spot missing or problematic clauses. It sure looks like a lot of transactional lawyers might have cause to be nervous about losing work to the machines.

## Prediction

Let's take a look at one of the leading companies is up to these days. Lex Machina was acquired by LexisNexis in 2015 and seems to be going great guns. Lexis Advance is a legal research service that now includes litigation analytics from Lex Machina. When you next have an antitrust, copyright, patent, trademark, or securities case, you can use Lexis Advance to research the judge presiding over your case. Soon (maybe even by the time this article is in print) you'll also be able to research opposing counsel and competing law firms.

Lex Machina transforms data from federal court dockets into live charts. In Lexis Advance, you can access this data by clicking on the hyperlinked judge's name in the text of a case or in the new Legal Analytics box to the right of the case text.

This link takes you to a summary with the judge's biographical information, open cases by practice area, comparisons to other judges in the district, cases filed by year, and case timelines. These latter charts give you a sense of how long the dispute may take to resolve and the odds of a trial. Lexis Advance users can access these summaries without a Lex Machina subscription.

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to the Lex Machina website if you have a subscription. Lex Machina's Motion Chains enables you to analyze your odds of success for a specific type of motion based on historical data. Similarly, you can see how opposing counsel has performed on similar cases or before your judge. You can also research parties, case damages, venues, practice areas, etc. for business development purposes. As you research, you can download briefs, exhibits, and other documents from cases of interest. We haven't even given you the full breadth of what you can do with Lex Machina apps, but it is increasingly impressive.

## Legal Research

ROSS Intelligence is the AI platform that first seemed to catch the attention of the legal world. As we go to press, ROSS has been licensed by K&L Gates, Dentons, Lathan Watkins, BakerHostetler, Salazar Jackson, vonBriesen, Bryan Cave, Womble Carlyle, Dickinson Wright, Fennemore Craig, and likely more by the time you read this article.

Schooled originally in bankruptcy law, ROSS is now working on intellectual property, knowledge management systems and contract review systems. ROSS can read more than one million pages of case law in a second, which is rather mind-blowing.

Andrew Arruda, the CEO and co-founder of ROSS Intelligence, notes that AI is in its early days, rather like the Model T of cars. He also notes that all the tech giants, IBM, Google, Amazon, etc. are going "all in" on AI. Not much doubt about that.

## Expertise Automation

Certainly one well-known leader in this area is Neota Logic which offers an artificial intelligence platform that enables clients to intelligently automate their expertise at Internet scale through an operationally useful form – as applications embedded in business systems or consulted interactively in a browser.

As we were writing this article, Neota announced the release of Neota Logic System 8.0 which included a comprehensive redesign of the proprietary hybrid reasoning engine that is the foundation of the platform along with a host of new features. We noted that Neota's home page quotes Gartner, the well-known research company, which has predicted that by 2020, 85% of customer interactions will be managed without a human. We imagine that will include a lot of law firm clients as well.

## Calling the Future

We are taking a chance here — and prepared to eat a healthy slice of crow pie if we are wrong — but we are pretty sure that the practice of law will morph quickly over the next decade thanks to AI. Not all the changes will be welcomed by the legal profession, but we will have to learn to run with the machines. It's that or extinction. Time to lace up those running shoes.

***The authors are the president and vice president of Sensei Enterprises, Inc., a legal technology, cybersecurity and digital forensics firm based in Fairfax, Va. 703-359-0700; [www.senseient.com](http://www.senseient.com)***

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## President, from page 3

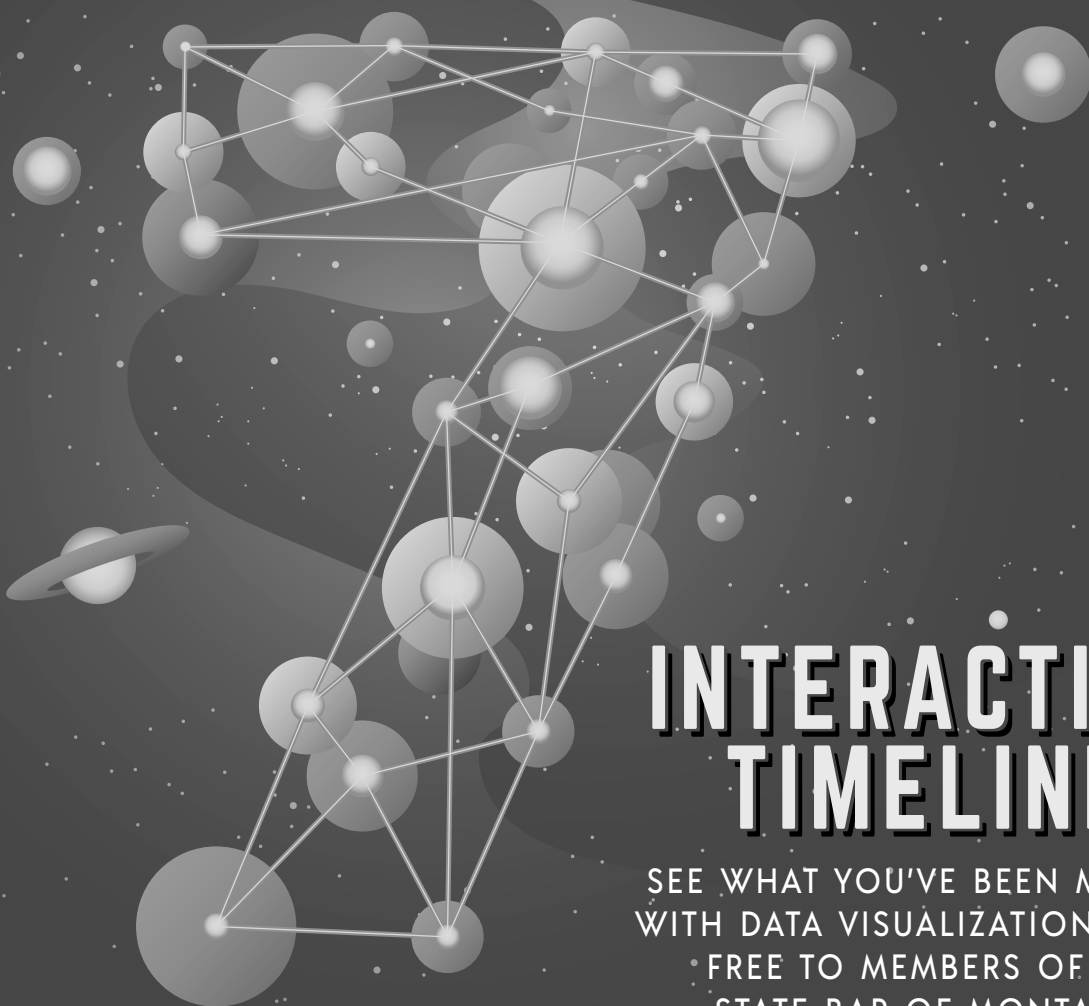
left behind, but for the men who were discriminated against as well, believing that "women will have achieved true equality when men share with them the responsibility of bringing up the next generation." At age 85, Justice Ginsburg continues to be articulate, forceful and unintimidated. Young adults gravitate to her, have coined slogans like "There's no Truth without Ruth" and express a

newfound interest in the legal profession. For a bit of inspiration, I highly recommend that you experience the exceptional life of Justice Ginsburg by viewing the documentary "RBG."

Like Justice Ginsburg, Montana has its share of fiercely independent women who have blazed trails and fought gender discrimination. As one of 15 women who serve among the 46 Montana district court judges, I have benefited from these trailblazers. I continue to benefit from the unwavering commitment of

women and men who support diversity and equality in the legal profession. As I reflect on Justice Ginsburg's struggles and achievements, I know that we share in the responsibility to improve our legal profession and to educate the next generation. I hope that you will reflect on how your actions serve to inspire others and how through your work you help to advance the opportunities and protections afforded to all individuals in our system of justice.

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likely responses. The ultimate conversation probably won't go as rehearsed, but you will at least have the fundamentals and the base lines of the conversation in mind.

**4. Don't delay.** Delivering bad news quickly is critically important. Montana Rule of Professional Conduct 1.4(a)(1) states that you have a professional and ethical duty to promptly convey important information about your client's case to them. Bad news doesn't get better with age and sitting on bad news will not change or improve it. After all, the client will eventually learn about it and if you delay delivering bad news, you will only exacerbate the issue. Your client will respect you more if you deliver bad news as soon as you can. Further, you don't want your client learning about the bad news from another source, such as the opposing party. Besides, getting the bad news off your chest keeps your stress level down.

**5. Set aside time to discuss the issues.** Clients want to know your thoughts and analysis of the decision. Make sure you have the time to discuss the bad news with the client so you can be completely attentive to the client's questions and concerns. This point might conflict somewhat with the *Don't Delay* point so you might need to make a judgment call on how to balance both, but don't let this point draw you into the temptation to delay the conversation. Set aside sufficient time for the discussion with your client as soon as you can. Also, it may take more than one conversation for your client to fully assess the decision. Many times, clients will think about the information and then come back to you with more questions, (and you might be explaining several points more than once). It might also help to put a detailed analysis in a follow-up letter to your client once the bad news has been delivered.

**6. Know how to begin.** As Professor Gardner Cromwell at the University of Montana School of Law advised us as law students, always start at the beginning. Sometimes you don't know how to start your difficult conversation. Keep your conversation factual and professional. The best approach is the direct approach. "John, we didn't do well with the court. We lost our motion." The tone of your

voice is important. It needs to be level and sincere, compassionate and understanding, and not emotional.

**7. Don't blame.** Your client may become angry. Let them express themselves without interrupting, but it's best not to blame opposing counsel, the judge, or your staff about the decision. Your client won't appreciate you evading responsibility by faulting someone else. By and large, everyone in the legal system is doing their job, and you will gain points with your client by respecting the operation of the legal system. But do treat your client with empathy. Treat them how you would like to be treated in the same situation.

**8. Acknowledge mistakes.** The follow up to "don't blame" is acknowledge any mistakes that were made. Deal with the mistake up front and don't be evasive or cover it up. Another way to do this might be to discuss the mistake in hindsight; maybe a different strategy should have been employed, or a certain witness not called. If your client has been part of the decision-making team, they will understand that at the time, you made the best decisions possible.

**9. Be comfortable with silence.** There may be moments in the conversation where a silence occurs. Resist filling in gaps. Silence means the client is processing the information and the sooner the news is processed, the quicker you can get to managing the news. Sometimes silence can have a calming effect by allowing the client to think about decision and not react emotionally to it. Periodic silence also gives you a chance to work on your response to their reaction.

**10. Look for silver linings and formulate a plan of action.** Don't deliver the bad news and then end the conversation without creating some optimism about going forward. Clients will focus on the negatives, but clients also want to know that you are still on their team and that you are concerned about them. Make sure you place the issues in perspective and that you point out alternatives and options like an appeal or taking subsequent remedial actions. A plan of action can have a soothing effect because it helps the client to start thinking more rationally about what will happen next in their lives. But don't spin it. Any positives must be based in reality. Honesty is the best policy.

Ultimately though, the best way to

deliver bad news is to have had a strong, positive relationship with your client from the beginning of the case where you treat your client with respect and dignity for who they are, and your client is trusting of you and your judgment. In the well-known book, published by the American Bar Association entitled "*How to Draft Bills Clients Rush to Pay*" written by J. Harris Morgan and Jay G. Foonberg, the authors discuss the disparity in the priority of expectations between attorneys and clients. Attorneys think clients mostly want an efficiently run office and staff, then they want the best legal advice they can get, and then to be charged a fair fee for their services. Do you know what clients want most?--an attorney who cares about them and who will stand up for them. Their number one priority is their lawyer's concern for them and their situation, followed by honesty and ethics, then competence, and lastly efficiency and a fair fee. Lawyers believe the opposite, thinking that clients want efficiency first, then competence, and then a fair fee. Concern for the client was dead last on the lawyers' list of priorities. Lawyers who are only projecting their legal analysis based on what they learned in law school fail to understand the client's perspective. These same lawyers think clients will employ them again if they won their case. However, in reality, clients will re-employ, or recommend, their attorney if their attorney showed concern for them and worked hard on their behalf; but keep in mind, concern for your client should include managing their expectations. If you don't deal early with their unrealistic expectations by either dissuading them from what they want, or at least explaining in detail why their expectations are probably not achievable in court, you will have a much harder time getting your client to accept the bad news. Having managed client expectations from the start can help with the delivery of bad news.

A successful practice depends upon how much concern you have for your clients and the efforts you put out for them. The client who believes you care about them will not only pay their bills, but will be more understanding and accepting that not all days in court are good days.

**P. Mars Scott as practiced law in Montana for 38 years. His practice focuses primarily on family law issues.**

**GEORGIA**, from page 16

students extra credit for that answer.

Today my students presented their papers on such various topics as eyewitness testimony, DNA evidence, and the like. These revealed some other aspects of legal life here.

Georgia adopted a jury system for serious crimes about 10 years ago. It is not yet hugely popular because the participants sense that a Georgian jury will be prosecution.<sup>4</sup> Not having a jury tradition means that judges play a larger role in jury trials. My students report, for example, that a judge may exclude eyewitness identification evidence where the eyewitness first reported only the height of a suspect and later pointed to a photo of the accused. This enhanced gatekeeping mechanism is one way that bad eyewitness identifications may be excluded from court. I found this approach intriguing.<sup>5</sup>

Finally we come to the last issue in eyewitness testimony in Georgia. In the United States we worry about mistaken identification and identification that is tainted by the manner in which photographic or live person lineups were

conducted.<sup>6</sup> The additional issue in Georgia is, "the concern about witness bribery."<sup>7</sup>

There you have it, members interested in what I have to say. If the readership of the *Montana Lawyer* increases as a result of this article, I may submit a new one. If not, I'll just resort to the proven juridical method of bribing Joe.

**Jeffrey Renz was the Clinical Professor of Law at the Alexander Blewett III School of Law from 1993 until his retirement in 2016.**

## Endnotes

1 Forget the Blewett School of Law. Come here and you may obtain a science degree without ever entering a laboratory.

2 Before you start thinking about the tu quoque fallacy, let me say that, yes, I have an actual science degree and, no, I did not receive it from National Public Radio.

3 I recall the occasion—not in Georgia—when one of my university hosts wanted to pay my hotel bill. When I declined, his colleague said, "It's exam time, he can afford it."

4 This is unlike the United States where actual scientific experiments conducted by prosecutors show that juries are pro-defense and pseudo-scientific experiments conducted by the defense bar show that juries are pro-prosecution. (These

experimental results have an accuracy of  $\pm 50\%$ .)

5 We have a somewhat similar mechanism in the United States, where federal, and some state, court judges are permitted to comment on the trial evidence in a manner similar to British judges when they instruct the jury. Montana courts have a gatekeeping mechanism, too. It involves the judge putting her foot in the gate to keep it open, letting in all sorts of scientific nonsense. The exception, of course, is the polygraph, which is excluded because of "exaggerated popular opinion," which was shown by actual scientific experiments conducted by the justices of the Montana Supreme Court in 1983. *Barmeyer v. Montana Power Co.*, 202 Mont. 185, 657 P.2d 594 (1983), *overruled on other grounds by Martel v. Montana Power Co.*, 231 Mont. 96, 752 P.2d 140 (1988).

6 I say, "were," because serious efforts have been made to remove the taints (which were mostly unintentional).

7 We do not have that concern in the United States, where our primary concern was witness survival. Our more refined justice system limited bribery to juries and judges. See J.A. Lukas, *Big Trouble: A Murder in a Small Western Town Sets Off a Struggle for the Soul of America*, 314-315, 325, 331-33, 442-443 (Touchstone, New York, New York, 1997); James Tuohy and Rob Warden, *Greyford: Justice Chicago Style* (G.P. Putnam's Sons, New York, New York 1989). (In a classic violation of the separation of powers doctrine, the judicial corruption activities revealed by Operation Greyford were taken over by the State of Illinois's executive branch.)

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## McCann disbarred, called 'neither fit nor worthy to practice'

The Montana Supreme Court has disbarred attorney Genet McCann for what the Commission on Practice called her “outrageous” conduct both in district court and in disciplinary proceedings.

The case arises out of McCann’s involvement in guardianship and conservator proceedings concerning her mother and her simultaneous representation of her brother in the probate of their father’s estate. The commission determined this representation to be in violation of Rule 1.7 of the Montana Rules of Professional Conduct.

But the commission reserved its harshest words for attacks McCann reportedly made against opposing parties,

The commission found that McCann, 62, of Big Sky, made “demeaning, baseless, and unwarranted” attacks against her mother’s appointed guardian and the appointed co-conservator of her father’s estate in the two cases. It further found that she made “insulting, scurrilous, libelous, and outrageous accusations” against Judge James Manley.

“Ms. McCann had numerous opportunities to correct or at least mitigate her conduct,” the commission wrote in its recommendation for disbarment. “In each instance, she took the approach of escalating the dispute by engaging in unprofessional name-calling, accusatory statements of bias, and relying on a hodgepodge of groundless claims and unsupportable theories that failed to articulate a coherent legal position. She is truly the poster child of not just a vexatious litigant, but a vexatious lawyer, unwilling or unable to see the outrageous nature of her conduct, both in the district court and in these disciplinary proceedings. Simply put, in the view of the Commission, she is neither fit nor worthy to practice law.”

The commission found that McCann’s conduct violated M. R. Pro. Cond. 3.1, 3.3, 8.2, 8.4(c) and 8.4(d).

According to court documents, McCann also did not show up for her March 23 disciplinary hearing before the commission, sending her brother as a representative to say that she was on her way and would be arriving several hours late.

The Supreme Court accepted the commission’s recommendation of disbarment — along with a concurrent seven-month suspension for a separate disciplinary complaint — effective 30 days from the June 5 order. McCann also must pay the costs of the proceedings.

### Bjornson receives public censure for felony DUI

Missoula attorney David H. Bjornson received a public censure from the Montana Supreme Court and his license was put on probationary status for 10 years after he was convicted for felony driving under the influence in November 2017.

According to Bjornson’s conditional admission, it was his seventh DUI-related offense.

The Supreme Court’s Commission on Practice recommended the discipline. The commission said its recommendation was “reluctantly made by a slight majority of the members,” adding that all the commission members were concerned how the discipline would be perceived by the public and other lawyers. The commission called Bjornson’s criminal history “deeply troubling.”

The commission said it factored the conditions of Bjornson’s criminal sentence, described as onerous, into its recommendation. Bjornson was sentenced

to five years with the Department of Corrections, all suspended. In imposing the discipline, the Supreme Court noted that if Bjornson violates the terms of his probation, he will be incarcerated and will lose his license to practice law.

He could also lose his license if he violates any of the terms of his license probation. Those conditions include being barred from using or possessing alcohol, marijuana, or illegal drugs or entering an establishment where intoxicants are the principal item for sale. He also must follow all recommendations of his chemical dependence treatment providers and provide the names and contact information of the treatment providers and monthly progress reports from them to the Office of Disciplinary Counsel. He also must pay costs of the proceedings.

The public censure is scheduled for Tuesday, June 12, in the Supreme Court’s courtroom in Helena.

### Horton censured for client communication violation

The Montana Supreme Court ordered Bozeman lawyer Michael A. Horton to receive a public censure for failure to maintain prompt and reasonable communication with a client.

In a conditional admission, Horton acknowledged that he failed to advise the client of motions to enforce a previously reached parenting agreement and for contempt of court until two months after they were filed. He also did not provide a billing statement requested by the client.

Horton also admitted that he failed to produce all documentation requested by the Office of Disciplinary Counsel.

Horton was ordered to appear for a public censure at on June 12 in the Supreme Court’s courtroom in Helena.

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*The State Bar of Montana will publish memorials free of charge or any State Bar of Montana member who has died. Please email submissions to [jmenden@montanabar.org](mailto:jmenden@montanabar.org) using the subject line "In Memoriam."*

# Browning, 77, was founding member of Browning, Kaleczyc, Berry & Hoven, former chief of staff for Sen. Max Baucus

Steve Browning, a founding member of Browning, Kaleczyc, Berry & Hoven, died on May 15 at his home in Arizona. He was 77.

Browning was born in Indianapolis on Sept. 13, 1940. He received degrees in chemistry and law from Indiana University and a degree in city planning from Harvard University.

In 1970 he and his wife, Judy, moved to Washington, D.C. where he worked as a staff attorney for the Lawyers' Committee for Civil Rights and later as chief of staff for Sen. Max Baucus. In 1982 he started a law firm in Helena, which later became known as Browning, Kaleczyc, Berry & Hoven. The two-man firm grew to include 19 partners with offices in Helena, Missoula, Bozeman, and Great Falls.

Apart from his family and friends, his passions were sports (especially golf and basketball) and public service. He served on various Montana governmental boards, including the Montana State Board of Science and Technology, the Montana Historical Society, the Montana Power Authority, and the Governor's Task Force on Endowed Philanthropy. He helped to develop the Montana Community Foundation, the Helena Area Community Foundation, the Myrna Loy Center, and the American Indian Institute. He was instrumental in the passage of the Montana Endowment Tax Credit and the Montana Fish, Wildlife and Conservation Trust.

His belief that a community is judged largely by its support for the arts prompted him to join with like-minded Montanans to turn the vacant century-old Lewis and Clark County Jail in

Helena into the Myrna Loy Center for the Arts.

He died in Tucson on May 15, 2018, after a long struggle with pulmonary fibrosis. A celebration of his life will be held at a later date. Memorial gifts can be made to the Humane Society of Southern Arizona, Salvation Army of Tucson, Tucson Community Food Bank, or Southern Arizona Legal Fund.

## Craig Dwight Martinson

Longtime Billings attorney Craig Dwight Martinson died on May 12, 2018, in Omaha, Neb., of heart failure. He was 72.

Martinson graduated from the University of Nebraska in 1968 with a Bachelor of Business Administration degree followed by a law degree in 1973. He served in Korea during the Vietnam War in between his education, 1968-1970.



Martinson

During law school, he met the love of his life, Myrna Dahl Martinson. After graduating, they moved to Billings, to be close to the mountains, where they lived together for over 40 years.

He worked as an attorney through his life in Billings. He was an esteemed, loyal, honest, and professional attorney full of integrity.

Craig served on numerous community boards. At the time of his death, he was serving on St. John's Lutheran Ministries Board of Directors. He served his church, American Lutheran, including as a past president, fundraiser, and usher.

In lieu of flowers, memorials in his name may be given to the American Heart Association, or any charity of your choice.

## Iris H. Basta

Iris H. Basta died on April 5 in Boise, Idaho, of complications from Alzheimer's disease. She was 75.

Iris was born February 12, 1943 in Beach, N.D. She was the 1961 Sentinel Butte High School valedictorian. After high school, Iris landed a job in Glendive, MT as an attorney's assistant where she met and married Dan Basta. They had two children, but divorced in 1970. Iris and her children left eastern Montana for Helena in 1975, where



Basta

she was able to attend Carroll College. She then went on to graduate from the University of Montana (magna cum laude) in 1992 with her Juris Doctor.

Iris brought her law degree back to Helena where she was a successful attorney at Jackson Murdo and Grant, PC. In 1997 Iris became a partner until she retired in 2011.

In lieu of flowers donations can be made to Healthy Mothers, Healthy Babies at <http://hmbb-mt.org> or The Walk to End Alzheimer's at <http://act.alz.org/goto/conniebastagriffin>.

## Online 'In Memoriam' page

The State Bar of Montana's online "In Memoriam" page lists Montana attorneys who have recently died, with links to online obituaries where possible. There you can also find a form to submit a memorial for inclusion in the Montana Lawyer.

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**CLASSIFIEDS Contact** | To see more jobs, or to advertise on the State Bar's online Career Center, visit [jobs.montanabar.org](http://jobs.montanabar.org). All Career Center postings include Montana Lawyer classified (limit 60 words for print ad). For all other Montana Lawyer classified inquiries, email [editor@montanabar.org](mailto:editor@montanabar.org) or call 406-447-2200.

### ATTORNEYS

**ASSOCIATE ATTORNEY:** Newly-formed MurphyMyers PLLC seeking an ambitious and hard-working litigation associate to join our team. Practice areas include medical malpractice defense, insurance bad faith defense, insurance coverage, products liability and general personal injury defense. Some prior litigation experience is preferred; a willingness to hit the ground running is required. We are looking for a self-starter interested in joining us on this exciting adventure. Competitive salary and benefits package based on experience. Website: [MurphyMyers.com](http://MurphyMyers.com).

**ASSOCIATE ATTORNEY:** Hi-Line Law, PLLC, a growing Havre, Montana law firm, is seeking an associate attorney. Applicant must have strong writing and reviewing skills, and be detail oriented. The firm's practice areas include: business & corporate law, land and business transactions, business formation, estate planning and civil matters. Applicants with interest or experience in these areas or experience in other areas will be considered. Hi-Line Law, PLLC offers opportunities for advancement, and competitive salary and benefits. Applicants should send a cover letter, resume, and writing sample. Position will remain open until filled.

**ASSOCIATE ATTORNEY:** Well-established, busy Bozeman and Whitehall law firm, E.J. Guza & Associates, PLLC, seeks associate. Fun, easygoing, fast-paced, hardworking, professional atmosphere. Wide, diverse practice, including civil, criminal, construction, employment, contracts, municipal and personal injury law. Requirements: Montana bar license, excellent communication skills, social skills, and work ethic. Salary D.O.E. Position available immediately. Submit cover letter, transcripts, references, resume to E.J. Guza & Associates, PLLC, Attn: Jessi Yulga, 25 Apex Drive, Suite A, Bozeman, MT 59718; or [jjyulga@ejguzalaw.com](mailto:jjyulga@ejguzalaw.com).

**COMMERCIAL ATTORNEY:** Frampton Purdy Law firm, a busy, boutique firm in Whitefish, Montana, is seeking an experienced commercial attorney. Depending on experience, this attorney's practice could include tax-related matters (advising, compliance, reporting, controversy), estate planning and administration, business formation and other commercial/real estate transactions. Apply by email to [wanda@framptonpurdy.com](mailto:wanda@framptonpurdy.com).

**STAFF ATTORNEY:** This Staff Attorney position will provide poverty law services to domestic violence victims throughout the state of Montana. Grant funding at present concentrates services on the Northern Cheyenne and Fort Peck Indian Reservations. Salary: \$50,000 and up, DOE. MLSA offers an attractive benefits package, including health, dental, vision, and life insurance, retirement and educational loan repayment assistance. To apply, send a letter of interest, three professional references, writing sample, and resume to [hiring@mtlsa.org](mailto:hiring@mtlsa.org). See full listing at [jobs.montanabar.org](http://jobs.montanabar.org)

**ENVIRONMENTAL LAWYER:** The State of Montana Department of Justice Natural Resource Damage Program is hiring an Environmental Lawyer. The position is focused on litigation and negotiation and providing legal support for restoration planning and implementation. For more information visit <https://mtstatejobs.taleo.net/careersection/200/jobdetail.ftl?job=18141304&tz=GMT-06%3A00>. Position open until filled with first round of reviews on July 9th.

**FULL TIME ASSOCIATE ATTORNEY:** Thomas C. Orr Law Offices, Missoula, MT is seeking a motivated, energetic, licensed attorney with 2-4 years experience practicing law to join our staff. We are a small general practice firm with emphasis on family law, real estate transactions, and property management. The ideal candidate will be someone with a strong work ethic, ability to take the initiative, and desire to build their own client base. We offer a competitive salary, dependent on applicant's experience, as well as paid holidays, vacation, and profit sharing after 1 year. Please email resume and cover letter to [tom@tcorrlaw.com](mailto:tom@tcorrlaw.com).

**LITIGATION ATTORNEY:** Moore, Cockrell, Goicoechea & Johnson, P.C., a civil defense litigation firm in Kalispell, Montana is accepting applications for a litigation attorney position. The Firm is interested in applicants at all levels of experience. Salary/benefits very competitive. Submit a cover letter, resume, transcript, writing sample, and references to Moore, Cockrell, Goicoechea & Johnson, P.C., Attn.: Sean Goicoechea, PO Box 7370 Kalispell, MT 59904 or email [sgoicoechea@mcgalaw.com](mailto:sgoicoechea@mcgalaw.com) and cc: [ksmith@mcgalaw.com](mailto:ksmith@mcgalaw.com).

### PARALEGALS/LEGAL SECRETARIES

**OFFICE ADMINISTRATOR:** Busy civil litigation firm in Billings, MT seeks an Office Administrator for full-time or part-time work. Previous experience in a law firm and/or with accounts payable/receivable a plus. Advanced computer proficiency, strong organizational skills, attention to detail and interpersonal skills required. Competitive salary and benefits D.O.E. Please apply through the listing at [jobs.montanabar.org](http://jobs.montanabar.org), or mail cover letter, resume, and references to P.O. Box 1619, Billings, MT 59103.

**PARALEGAL:** Busy civil litigation firm in Billings, MT seeks a Paralegal/Legal Assistant. Previous experience in a law firm preferred. Advanced computer proficiency, strong organizational skills, attention to detail and interpersonal skills required. Competitive salary and benefits D.O.E. Please apply through the State Bar website or mail cover letter, resume, and references to P.O. Box 1619, Billings, MT 59103.

### ATTORNEY SUPPORT/RESEARCH/WRITING

**ENHANCE YOUR PRACTICE** with help from an AV-rated attorney with 33 years of broad-based experience. I can research, write and/or edit your trial or appellate briefs, analyze legal issues or otherwise assist with litigation. Please visit my website at [www.denev-ilegal.com](http://www.denev-ilegal.com) to learn more. [mdenevi81@gmail.com](mailto:mdenevi81@gmail.com), 406-210-1133.

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## MEDIATION

**MICHAEL A. VISCOMI**, of Viscomi, Gersh, Simpson and Joos, PLLP, in Whitefish, practice now limited to mediation, arbitration and special master assignments throughout the state of Montana. For scheduling, call (406-862-7800), email ([randi@big-skyattorneys.com](mailto:randi@big-skyattorneys.com)) or use online calendar available through the National Academy of Distinguished Neutrals ([www.nadn.org/michael-viscomi](http://www.nadn.org/michael-viscomi)).

## OFFICE SPACE/SHARE

**BILLINGS:** Looking for attorney(s) to share fully furnished office and legal assistant in Billings, Montana. Reasonable terms. For more information email: [bruce@bharperlaw.com](mailto:bruce@bharperlaw.com) or call 406-255-7474.

**HELENA:** Furnished office spaces and use of nice conference room in an established law firm in the Penwell Building near Historic Last Chance Gulch. Suitable for a lawyer or other professional. \$600 per month rent includes: All utilities, receptionist, direct internet abilities, Wi-Fi, personal phone line, fax, conference room, shared storage as well as a w welcoming reception lounge. For more information please call 406-204-5710, ask for Ellie or email: [ellie@hullmtlaw.com](mailto:ellie@hullmtlaw.com).

**OFFICE SHARING OPPORTUNITY:** Looking for attorney to share fully furnished office and legal assistant in Great Falls, MT. Reasonable terms. Great view. For more information email: [ageiger@strainbld.com](mailto:ageiger@strainbld.com); 406-727-4041.

**PREMIUM PROFESSIONAL OFFICE SPACE FOR RENT:** Helena, Aspen Court Building, 33 S. Last Chance Gulch, Suite 1A. On the walking mall. One office available, approximately 16 ft. x 11 ft. with large window. Located in a small law firm suite. \$700 per month. Lease includes use of secretarial space, copy room, break area, common areas, kitchen, scheduled access to conference rooms, and also includes utilities and janitorial services. Office furniture available for use. Tenant to pay for own phone, parking, and internet service. Public parking lot immediately adjoining. Up to a three-year lease available. Please call Teri at 442-8560 ext. 2.

## CONSULTANTS & EXPERTS

**ARCHITECTURAL EXPERT, FORENSIC INVESTIGATION & ANALYSIS:** 43 years architectural experience. Specializing in Contract Administration; Specifications; and Architect / Owner / Contractor relationships. Extensive knowledge of building systems, materials, construction methods; Accessibility Regulations and Standard of Care; and forensic architectural investigation. Provides consulting and expert witnessing services. Attorney references upon request. Frank John di Stefano, PO Box 1478, Marion, MT, 59925, Phone: 406-212-7943.

**BANKING EXPERT:** 34 years banking experience. Expert banking services including documentation review, workout negotiation assistance, settlement assistance, credit restructure, expert witness, preparation and/or evaluation of borrowers' and lenders' positions. Expert testimony provided for depositions and trials. Attorney references provided upon request. Michael F. Richards, Bozeman MT 406-581-8797; [mike@mrichardsconsulting.com](mailto:mike@mrichardsconsulting.com).

**EXPERIENCED BANKING EXPERT/CONSULTANT** – 40+ years of banking experience 30 years of which were in executive management positions in banks ranging in size from community banks to multi-billion dollar, multi-state banking organizations. Executive responsibility for all phases of lending, lending disciplines and credit assessment. Special expertise in determining borrower creditworthiness and the appropriateness of lender behavior. Outstanding legal references upon request. Please contact Leon Royer by telephone at 406-932-4255 or by email at [backcastranch@gmail.com](mailto:backcastranch@gmail.com).

**CONSTRUCTION EXPERT:** Over 25 years residential and commercial construction experience. Expert services include bid or project document reviews, onsite inspections for specification compliance or deficiencies, written reports, consultations, and in-person testimony. Work history includes extensive construction and legal experience - large firm construction management, small firm business ownership, and legal firm paralegal work and practice administration. For CV, fee schedule, references or other information call David Nedrow at 406-855-1823 or email [406.cbms.llc@gmail.com](mailto:406.cbms.llc@gmail.com).

**FORENSIC DOCUMENT EXAMINER:** Trained by the U.S. Secret Service and U.S. Postal Inspection Crime Lab. Retired from the Eugene, Ore., P.D. Qualified in state and federal courts. Certified by the American Board of forensic Document Examiners. Full-service laboratory for handwriting, ink and paper comparisons. Contact Jim Green, Eugene, Ore.; 888-485-0832. Website at [www.documentexaminer.info](http://www.documentexaminer.info).

**PSYCHOLOGICAL EXAMINATION & EXPERT TESTIMONY:** Montana licensed (#236) psychologist with 20+ years of experience in clinical, health, and forensic (civil & criminal) psychology. Services I can provide include case analysis to assess for malingering and pre-existing conditions, rebuttal testimony, independent psychological examination (IME), examination of: psychological damage, fitness to proceed, criminal responsibility, sentencing mitigation, parental capacity, post mortem testamentary capacity, etc. Patrick Davis, Ph.D. [pjd@dcpcmt.com](mailto:pjd@dcpcmt.com). [www.dcpcmt.com](http://www.dcpcmt.com). 406-899-0522.

## EVICCTIONS

**EVICCTIONS LAWYER:** We do hundreds of evictions statewide. Send your landlord clients to us. We'll respect your "ownership" of their other business. Call for prices. Hess-Homeier Law Firm, 406-549-9611, [ted@montanaevictions.com](mailto:ted@montanaevictions.com). See website at [www.montanaevictions.com](http://www.montanaevictions.com).

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