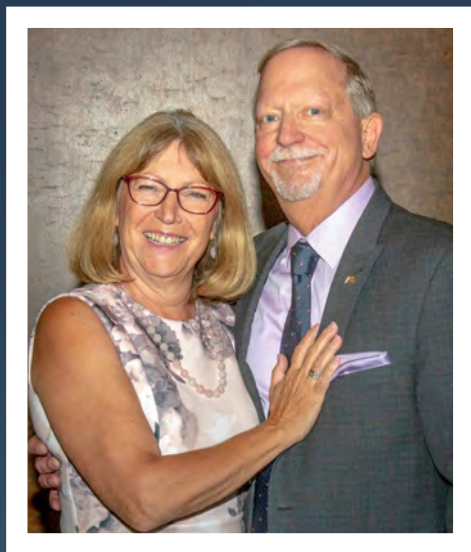


MONTANA  
LAWYER

SEPTEMBER/  
OCTOBER 2018



# Butte, American

**Bob Carlson is new president  
of American Bar Association**



SPECIAL EDITION

# Montana Defense Trial Lawyers

## 2018 Annual CLE Seminar

November 16, 2018 | 6 CLE credits (includes 2 ethics credits)

DoubleTree by Hilton Missoula-Edgewater, Missoula, Montana

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

For full schedule and additional information, visit [www.mdtl.net](http://www.mdtl.net).

### Seminar Overview

#### The Jury Likes Me, The Jury Likes Me Not - Building Rapport in the

**Courtroom:** What Jason Bloom brings to the table is strategic thinking about your case, based on an understanding of how and why juries do what they do. He has been studying the psychology of jury decision-making for nearly 25 years, and has been a full-time jury consultant since 1997. He has worked with talented and bright lawyers on very high-stakes bet the company type cases.



**Jason S. Bloom, M.A.,** Bloom Strategic Consulting, Dallas, TX - Although based in Dallas, Jason Bloom has a national practice. His experience includes over 12,000 hours of trial observation, over 350 mock jury studies across all types of cases, and assistance with over 150 jury selections in State and Federal Courts nationwide. Notable clients include Roger Clemens, Oprah Winfrey, Dr. Phil, and other celebrities, as well as Fortune 500 companies.

#### Current Cyber Attacks Impacting Law Firms and the Reasonable Steps You Can Take to Prevent Them:

Data breaches are impacting law firms in material ways due to firm's financial resources and the value of the intellectual property or personally identifiable information they handle on a daily basis for their clients. As a result of the monetary value of this data, cyber criminals, organized crime groups and even some nation states are targeting firms to steal cash or IP that they can then use or sell for financial gain. Firms need to be aware of these risks and take reasonable steps to protect themselves and their clients.

#### Online Privacy Best Practices for Law Firms, Your Clients, and at Home:

New technologies like Internet of Things (IoT) devices, social media apps like Facebook or Pinterest, and new regulations such as the European Union's General Data Protection Regulation (GDPR), or the California Consumer Privacy Act of 2018, are changing the way privacy is protected in the United States and abroad. This discussion will focus on current events and best practices for protecting the firm, your clients and your family in this changing privacy landscape.



**Dean Sapp, CISO,** Braintrace, Riverton, UT - Dean Sapp is a cybersecurity researcher, author, public speaker, and practitioner with 18+ years of experience helping small, mid-sized and large enterprises implement cost-effective and robust cyber security programs. Dean has published numerous articles on next-generation endpoint protection, hacking and securing databases, adopting the CIS 20 Critical Controls to prevent data breaches and many other cyber security topics.

**Mediation Madness, Magic, and Methods:** An expert panel of Montana mediators share insights, strategy, and secrets to maximizing the utility of your settlement conferences.

**Tracy Axelberg, Esq.,** Axelberg Mediation & Arbitration, PLLC, Helmsville, MT

**Michael Cotter, Esq.,** Office of Disciplinary Counsel, Helena, MT

**Gary Kalkstein, Esq.,** Kalkstein & Dye, P.C., Missoula, MT

**Michael J. Lilly, Esq.,** Berg Lilly, P.C., Bozeman, MT

**Dennis E. Lind, Esq.,** Datsopoulos, MacDonald & Lind, P.C., Missoula, MT

**Hon. Jeremiah C. Lynch,** U.S. Magistrate Judge, Missoula, MT

**Ward E. "Mick" Taleff, Esq.,** Taleff & Murphy Law Office, Great Falls, MT

**Moderated by Lee Bruner, Esq.,** Doney Crowley P.C., Helena, MT

### Seminar Schedule

|                       |  |
|-----------------------|--|
| 8:00 am               | Registration   |
| 8:30 - 10:30 am       | The Jury Likes Me, The Jury Likes Me Not - Building Rapport in the Courtroom                                     |
| 11:00 am - 12:00 noon | Current Cyber Attacks Impacting Law Firms and Reasonable Steps You Can Take to Prevent Them                      |
| 12:00 - 1:30 pm       | MDTL Annual Membership Meeting Luncheon & Election of Board Members<br><i>Lunch on your own if not attending</i> |
| 1:30-2:30 pm          | Online Privacy Best Practices for Law Firms, Your Clients and at Home  |
| 2:45 - 4:45 pm        | Mediation Madness, Magic, and Methods  |
| 4:45 pm               | Reception: Hosted by the Alexander Blewett III School of Law, University of Montana                              |

### Easy online registration at [www.mdtl.net](http://www.mdtl.net)

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Phone \_\_\_\_\_ State Bar # \_\_\_\_\_

|   | On or Before Oct. 19 | After Oct. 19 |
|---|----------------------|---------------|
| <input type="checkbox"/> MDTL Member          | \$260                | \$325         |
| <input type="checkbox"/> Nonmember            | \$345                | \$410         |
| <input type="checkbox"/> Paralegal            | \$175                | \$215         |
| <input type="checkbox"/> Claims Personnel     | \$140                | \$160         |
| <input type="checkbox"/> Law School Students  | Complimentary        | Complimentary |
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**Registration Policies:** The registration fee includes all sessions and course material. Payment must accompany registration form to receive early registration discount. **Cancellations received in writing by October 19 will be subject to a \$25 service charge. No refunds will be made after October 19.** Registration substitutions may be made at any time without incurring a service charge.

#### If mailing registration, send to:

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### ON THE COVER



**Butte's own Bob Carlson** took the oath of office as the new American Bar Association president this year. Some of the lawyers who know him best, both in Montana and nationally, pay tribute to Bob.

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#### SBMT ANNUAL MEETING IN WORDS AND PICTURES

Hundreds gather in Kalispell for important discussions, raise thousands for access to justice



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#### CONSUMER LAW PRIMER

Find out what every attorney should know about protecting the financial rights of their clients.

#### SURVEY GIVES MT SUPREME COURT HIGH MARKS

Court gets overall satisfaction rate of 90 percent for first time in history of Bench and Bar Survey



# 34

# 'Kill all the lawyers' — and the rule of law will die too

*"The first thing we do, let's kill all the lawyers."*

That was the quote on a T-shirt that a friend gave me in 1988 when I graduated from law school. It was intended as a good-natured poke in the ribs at the time and, not being well-versed in Shakespeare, it was not until many years later (after I had access to the Internet) that I discovered the context of the quote from "Henry VI." It is spoken by Dick the Butcher who was a follower of rebel Jack Cade. Dick the Butcher thought that if he killed all the lawyers, law and order would disintegrate and Jack Cade would become king. In context, it has been argued that Shakespeare actually intended the statement as a compliment to attorneys and judges for, without them, there would be no rule of law.

The scene from Shakespeare highlights the important role of lawyers and judges; it is a role that we should celebrate and publicize. Our profession guards the rule of law against all usurpers. And while lawyers and judges often do not appear to the general public to agree on much, we certainly agree that the rule of law is fundamental to our democratic society, and that no one should be above it.

Safeguarding the rule of law requires our strict vigilance. Statements like those made by Dick the Butcher are rarely made in a public forum. Instead, the rule of law is undermined in subtle ways that are not easy to detect but are still dangerous in effect. Over time, when these subtle attacks go unchecked they erode the public's faith in the rule of law. The result is harmful to us all.

If the rule of law is undermined, then even the Constitution is at risk. Its framework presumes that all citizens are bound by its tenets. When one person or group is perceived to be unbridled by its restraints then other individuals in society lose faith in the rule of law. They see the system as unjust and, therefore, expendable. They look to other ways to find justice outside the rule of law. In such a climate, as Dick the Butcher predicted, chaos ensues and usurpers arise.

We in the legal profession are in a unique position to promote and defend the rule of law. We understand how it works and its importance to society. We understand that if the rule of law crumbles away, what is left of justice in society will be only dust. With that understanding comes the responsibility to defend the rule of law and keep it intact.

Montana lawyers defend the rule of law in distinct ways. Some actively write articles defending the rule of law and, specifically, the judicial branch. Others educate the public either by visiting schools or civic groups. Still others run for legislative office and defend the rule of law in that forum. More often, Montana attorneys provide pro bono services that defend the rule of law in a subtler, but often more concrete and understandable, way to the general public.

More than 1,900 Montana attorneys provided over 164,000 hours of pro bono service in 2017. All that volunteering provides citizens, who do not have the means to pay for such services, access to the judicial system. And whether those attorneys know it or not at the time, they are doing more than providing services to their clients, they are defending and promoting the rule of law.

The State Bar is thankful to all who contribute their time, talent, and resources to this great profession and defend the rule of law for the benefit of our society.

***Eric Nord is a partner at Crist, Krogh and Nord in Billings. He became president of the State Bar of Montana at the bar's Annual Meeting in Kalispell on Sept. 21.***



ERIC NORD

***We in the legal profession are in a unique position to promote and defend the rule of law. ... We understand that if the rule of law crumbles away, what is left of justice in society will be only dust. With that understanding comes the responsibility to defend the rule of law and keep it intact.***

# A salute to Bob Carlson as he begins term as ABA president

This issue of the Montana Lawyer recognizes former State Bar of Montana President Robert (Bob) Carlson of Butte as he begins his tenure as president of the American Bar Association, one of the largest voluntary professional organizations in the world.

Not since Judge William J. Jameson in 1953-1954 has a Montanan led the ABA, however, Montana is unique among the nation's smaller, rural states in now having had two ABA presidents. Perhaps not surprisingly, both were born in Butte.

But Bob would be the first to say this achievement isn't about him, rather, it's about all of us as Montana lawyers and it's about service to the profession, our justice system, and the rule of law.

Bob's journey started with this organization and the many friendships forged in his selfless service to the State Bar of Montana. Bob and his wife, Cindy, have been fixtures at bar events for nearly four decades now.

In fact, Bob continues to serve on the Montana Supreme Court's Commission on Character and Fitness, even while he travels the globe talking about the centrality of the rule of law, including in places where that is still an evolving concept.

The reality is that without the many volunteers like Bob, our self-regulating profession simply would not function. Each day, literally hundreds of Montana lawyers are busy at work serving on the many Montana Supreme Court Commissions, the 17 different committees and the 18 sections of the State Bar of Montana.

Not all Montana lawyers are members of the ABA, a voluntary association. However, as one of our own now joins the ranks of other national legal leaders from Montana, we salute Bob's dedication and longstanding service to the State Bar of Montana and we honor this special moment for Bob and all of us fortunate enough to call ourselves Montana lawyers.

As we do that, I hope you will also take a moment to recognize and thank the many volunteers across Montana who have been a part of Bob's journey and, importantly, make the State Bar of Montana the special organization it is. As Bob would say, this is really about them, and he would want no less.



JOHN MUDD

*We salute Bob's dedication and longstanding service to the State Bar of Montana and we honor this special moment for Bob and all of us fortunate enough to call ourselves Montana lawyers.*

## MONTANA LAWYER

The official magazine of the State Bar of Montana published every month except January and July by the State Bar of Montana, 33 S. Last Chance Gulch, Suite 1B, P.O. Box 577, Helena MT 59624. 406-442-7660; Fax 406-442-7763.

**Montana Lawyer Subscriptions** are a benefit of State Bar membership. Subscriptions for nonmembers are available for \$50 per year.

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**Montana Lawyer Staff**  
**Publisher** | John Mudd  
**Editor** | Joe Menden  
 406-447-2200; fax: 442-7763  
[email: editor@montanabar.org](mailto:editor@montanabar.org)

**Postmaster:** Send address changes to Montana Lawyer, P.O. Box 577, Helena MT 59624.

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 Shane Vannatta, *Missoula (State Bar Delegate)*  
 Eli Patten, *Billings (Delegate at Large)*



# Patten appointed to represent Billings on State Bar of MT Board of Trustees

Eli Patten was appointed as a member of the Board of Trustees representing Billings at the board's meeting in September.

Patten replaces Juli Pierce, who resigned her trustee position upon being elected president-elect.

Patten's letter of interest in the position highlighted his past service to the State Bar of Montana, the Yellowstone Area Bar Association and the American Bar Association. He has been active in the bar's Bankruptcy Section for years, including a term as section chair. He previously served four years as a New Lawyers Section trustee. He has served in several capacities with YABA, including president (2016-2017).

He has been active in the ABA since 2014, currently serving as Montana's Young Lawyer Delegate to the ABA

House of Delegates.

Patten was among three candidates to apply for the trustee position.

The Board also approved changes to the bar's bylaws at the September meeting.

One of the changes removes extraneous language from Article I, §4(b), which deals with how the bar spends member dues "pursuant to the duty to participate in 'improving the administration of justice and law reform.'" The other change removes language calling for names of members suspended for nonpayment of dues to be published in the Montana Lawyer.

In other action, the board:

- Approved the renewal of the State Bar's lobbyist contracts for the 2019 session.

- Approved Billings as the site of

the 2019 Annual Meeting and Helena as the site of the 2020 Annual Meeting. The board also formed a working group to review the current structure of the Annual Meeting and present recommendations to the board. Trustees Beth Brennan of Missoula, Kate Ellis and Mike Talia of Helena, Ben Sather of Billings, and Immediate Past President the Honorable Leslie Halligan of Missoula are on the working group.

- Approved several changes to the Health Care Law Section's bylaws, including allowing the section to determine its dues on an annual basis. The bylaws previously specified that dues were \$20.

The board's next meeting will be on Dec. 7 in Helena.

## Silent auction raises over \$4K for Montana Justice Foundation

A silent auction held during the 2018 Annual Meeting raised more than \$4,000 for the Montana Justice Foundation.

This was the third year for the Art for Justice auction, and this year's was the largest yet according to MJF Executive Director Niki Zupanic. Montana lawyers donated 13 items, most of which were their own original artworks, raising a total of \$4,325.

Zupanic said the event was a great success and thanked bar staff, board members and auction item donors. She especially thanked Matt Thiel, a past president of the State Bar of Montana, who conceived of and coordinated the auction and solicited most of the donated artwork – including two of his own original oil paintings.

### Auction items:

"Stillwater Ranch," plein air oil painting, by Joe Bottomly, Kalispell

"Field of Dreams," & "Deer Lick," framed photos on canvas, by Steve Fletcher, Missoula

Kay Lynn Lee, Kalispell – "Lake McDonald Reflections," 18"x24", oil on canvas

"Seated Female Nude," 20"x20" drawing, graphite and watercolor, by Greg Munro, Missoula

"Le Jardin de Chateau Villandry," framed photo by John Patterson III, Missoula  
"Iris" 10"x20," oil on canvas; "Headwaters," 16"x20" oil on canvas, by Matt Thiel, Missoula

Monte Dolack limit-ed-edition print

Mary Beth Percival limit-ed-edition print

Flathead Lake condo, 4-night stay, donated by Hon. Dusty Deschamps, Missoula

Swan Valley cabin, 4-night stay, donated by Charlotte Beatty, Missoula

## 2019 LAWYERS' DESKBOOK & DIRECTORY

### 3 WAYS

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#### UPDATE ONLINE

Log in at [www.montanabar.org](http://www.montanabar.org) and edit your bio under "Manage Profile"

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### Verify your Listing!

All changes to your contact information for the next edition of the Deskbook & Directory are due by

**November 19, 2018**

\* for verification purposes, please include your Bar number or date of birth

### Attention Firms!

For \$40, get a listing in the Firm Directory in the State Bar of Montana's Lawyers' Deskbook. **To continue or add a listing**, please send in your information along with \$40 by November 19, 2018.

Include a logo\* at no additional cost!

Questions? Contact Jill at [jdiveley@montanabar.org](mailto:jdiveley@montanabar.org)

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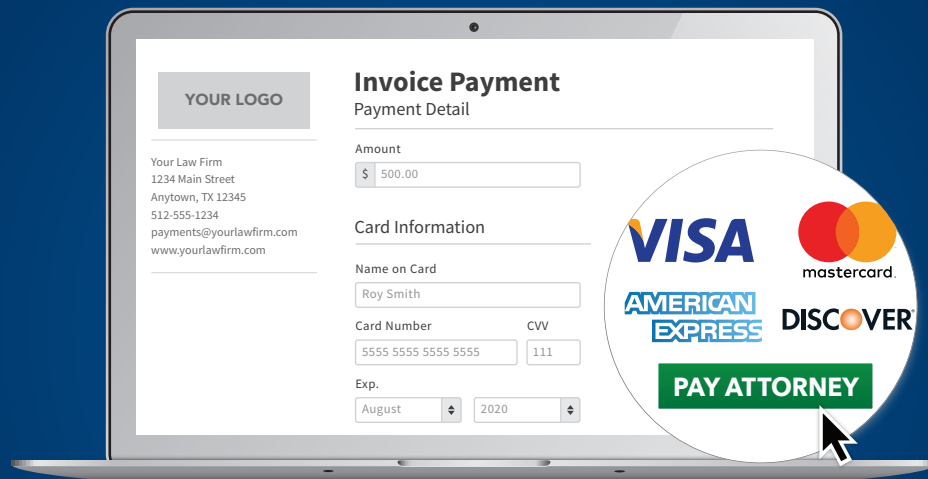
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## Montana Legal Justice announces new partner, new attorney

Montana Legal Justice PLLC has recently added a new partner, welcomed a new attorney, and moved to a new location.

Montana Legal Justice is pleased to announce Kelly M. Driscoll is a new partner with the firm. Driscoll was raised in Butte and attended the University of Montana, graduating with high honors. Following undergraduate, she worked for a domestic violence organization in Bozeman and then attended the University of Montana School of Law, where she graduated with honors.

Driscoll clerked for the Honorable Chief Justice Mike McGrath of the Montana Supreme Court. She joined Montana Legal Justice in 2016 and focuses her practice on child advocacy, family law, and guardianships. She regularly represents clients in appeals before the Montana Supreme Court.

Lael Gabrian joined MTLJ at the beginning of 2018. She spent the

previous two years working for the Office of the State Public Defender in Lake County where she defended indigent clients charged with felony



**Driscoll**



**Gabrian**

and misdemeanors or crimes, or involved in dependency and neglect cases, involuntary commitments, and guardianships. Gabrian is a native Montanan, born and raised on a ranch in southern Montana. She graduated with high honors from the University of Montana with a Bachelor of Arts degrees in anthropology and Spanish in 2003. She obtained her Juris Doctorate, along with a Natural Resources and Law Certificate, in May 2015 and was admitted to the State Bar of Montana

## HAVE NEWS TO SHARE?

The Montana Lawyer welcomes news about Montana legal professionals including new jobs, honors, publications, and other accomplishments.

Please send member news and photo submissions to [editor@montanabar.org](mailto:editor@montanabar.org). Email or call 406-447-2200 with questions.

that fall.

Gabrian is excited to help expand the firm's area of practice into criminal law and to continue her own work with access to justice for the people of Montana in the areas of family law and mediation. She is admitted to practice in Montana and the Salish and Kootenai Tribal Court.

Montana Legal Justice has recently moved to a new location at 521 N. Orange St. in Missoula. You can contact the firm at 406-356-6546 or at [www.montanalegaljustice.com](http://www.montanalegaljustice.com).



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## Storror named partner at Doubek Pyfer & Fox

Doubek, Pyfer & Fox, PC, has announced that Keif Storror was named a partner of the firm in June.

Storror graduated from the University of Montana in 2005 with a Bachelor of Science in wildlife biology.



**Storror**

He graduated from the University of Montana School of Law in 2013. After graduation, he served as the law clerk and special master to the Honorable Kurt Krueger, Second Judicial District

Court, Butte-Silver Bow County. He joined Doubek, Pyfer & Fox, PC in June 2015.

He represents people who have been injured by the misconduct or negligence of others and seek justice in Montana's courts. He is a member of the Montana Trial Lawyers Association.

## Soueidi joins as associate at Guthals, Hunnes & Reuss

Guthals, Hunnes & Reuss, P.C., in Billings has announced the association of Joseph A. Soueidi.



**Soueidi**

Soueidi joined the firm after practicing in Billings for three years. He graduated from Montana State University in 2004 and from the

University of Wyoming College of Law in 2014. Prior to attending law school, he worked for First Interstate Bank. His primary areas of practice are business and corporate law, banking law, commercial

bankruptcy, and estate planning and probate. He is admitted to practice in Montana, Wyoming and North Dakota.

Soueidi is the incoming president of the Bankruptcy Section of the State Bar of Montana. He also serves on the Board of Directors for the Billings Library Foundation and the Billings Symphony Orchestra and Chorale.

## Lawlor announces opening of new firm in Missoula

Michael Mahan Lawlor is pleased to announce the opening of Lawlor & Co., PLLC, located in Missoula and serving clients throughout Montana.

Lawlor's practice will continue to focus on representing clients statewide in alcohol and gambling license transaction and compliance matters, general business transactions, and estate planning.



**Lawlor**

For six years, Michael was the primary attorney for the Montana DOR Liquor Control Division, and

since returning to

private practice in 2014 has applied this expertise in representing bars, restaurants, breweries, hotels, casinos, grocery stores, distilleries, and other businesses that require licensing from Montana DOR and DOJ.

Lawlor is a sixth-generation Montanan, and a Helena native. He is a graduate, with honors, of the University of Montana School of Law, and of the University of Washington School of Law Graduate Program in Taxation. He served as a law clerk for Montana Chief Justice Karla Gray, and for United States Tax Court Judge Herbert Chabot.

Lawlor & Co. is also pleased to welcome Jessica Burbank, paralegal, who has worked primarily in the field of Montana alcohol and gambling regulation and licensing since 2001.

Lawlor & Co. can be reached at 406-625-7022, or [office@mtbevlaw.com](mailto:office@mtbevlaw.com).

## Brown joins Appellate Services Bureau of AG's Office

The Office of Attorney General Tim Fox at the Montana Department of



**Brown**

Justice welcomes Roy Brown, a new Assistant Attorney General in the Appellate Services Bureau.

Brown recently finished a judicial clerkship with Justice

James A. Rice at

the Montana Supreme Court. Brown is a 2017 graduate of the University of Montana School of Law, and a 2011 graduate of Gonzaga University.

## Fjeldheim joins AG Office's Appellate Services Bureau

The Montana Department of



**Fjeldheim**

Justice/Attorney General's Office welcomes Brad Fjeldheim, a new Assistant Attorney General in the Appellate Services Bureau.

Fjeldheim previously worked in private practice for six years at the O'Toole Law Firm in Plentywood. He

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is a 2012 graduate of Gonzaga University School of Law and a 2005 graduate of the University of Montana.

## Church, Harris, Johnson & Williams welcomes Stenson, Eck to firm

Church, Harris, Johnson & Williams, P.C. has announced that Amber Stenson and E. Edwin Eck have joined the firm.

Stenson is a member of the firm's tax and transactional practice group. She is excited to build her practice in estate planning, taxation, and real property and business transactions. Specifically, she plans to use her background in agriculture to help farm and ranch families with their unique needs.

She grew up on her family's ranch west of Dupuyer and attended high school in Conrad. She earned undergraduate degrees in finance and economics from Montana State University. She then attended law school at the University of Montana where she earned her Juris Doctor in May of 2018. During law school she did her clinical placement with the Rocky Mountain Elk Foundation.

She enjoys hiking, skiing and spending time on her family's ranch in Wibaux. She can be reached at 406-761-3000.



Stenson

Eck has joined the firm as an Of-Counsel Attorney. Eck was born and raised in Lewistown. In 1969, he received his Bachelor of Arts degree from Carleton College in Northfield, Minn. He was elected to Phi Beta Kappa. In 1973, he graduated from the University of Montana School of Law with a Juris Doctor degree. He went on to tax school at Georgetown University and received a Master of Laws (in taxation) in 1978.



Eck

He practiced law focusing on wills, trusts, charitable giving, and estate planning and administration with firms in Bozeman, Missoula, and

Billings. At the University of Montana School of Law, he taught courses on trusts, charitable tax planning, and estate tax planning. After teaching for 14 years, he served as dean of the law school for another 14 years.

From 2014 to 2017, he served as Chief of the Office of Consumer Protection, which oversees Montana charitable trusts and corporations. He was a deputy to Attorney General Tim Fox.

Since 1989, Eck has served as on the Montana's Uniform Law Commission. On a national level, he was one of eight Uniform Law Commissioners who served on the committee that drafted the Uniform Trust Code. In Montana, he chaired a 30-lawyer committee that reviewed the Uniform Trust Code and successfully sought its approval by the Montana Legislature.

Under the sponsorship of former U.S. Sen. Max Baucus, President George W. Bush nominated Ed to the IRS Oversight Board. After Senate confirmation in 2008, Eck served on that board for five years.

Eck has served on the boards of some charities, as trust director of the Montana Mental Health Trust, and as interim trustee of the Montana Healthcare Foundation.

Church, Harris, Johnson & Williams is a full-service law firm with locations in Great Falls, Helena and White Sulphur Springs. The firm has been serving businesses and individuals in a wide range of legal disciplines since 1949. Please visit our website at [chjw.com](http://chjw.com) for more information.

## Bishop joins Goetz, Baldwin & Geddes

Goetz, Baldwin & Geddes P.C. has announced Hallie E. Bishop, of Billings, recently joined the firm's legal team.

Bishop graduated from Billings Senior High School in 2010. In high school, Bishop was an All-State softball player. She attended the University of Montana, earning a Bachelor of Arts degree with honors in History. She then immediately began law school at the University of Montana, receiving her J.D. in 2017.

After graduating law school, Bishop served as law clerk for Justice Michael Wheat (until his retirement) and Justice Ingrid Gustafson on the Montana Supreme Court.

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  - ❖ Advanced AMI Mediation Training, 1997
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The background of the entire page is a photograph of two people silhouetted against a bright, cloudy sky. They are standing on a dark, rocky mountain peak. One person is standing and leaning forward, while the other is sitting or crouching, and they appear to be holding hands or reaching towards each other. The overall tone is inspirational and supportive.

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Hon. Jeremiah C. Lynch

## Lynch to retire in 2019 as US magistrate judge

U.S. Magistrate Judge Jeremiah C. Lynch of Missoula has announced that he will retire effective Aug. 2, 2019.

Judge Lynch, Montana's longest-serving active U.S. magistrate judge, announced his retirement in October in a letter to Chief U.S. District Judge Dana L. Christensen.

Judge Lynch was appointed on June 10, 2006, to his position in the Missoula Division of the District of Montana. A 1981 graduate of the University of Montana School of Law, he was a law clerk to U.S. District Judge Paul G. Hatfield of Great Falls from 1981-1996. He practiced as a trial lawyer in Great Falls with colleague and friend Thomas Boland from 1996 until his appointment as a U.S. magistrate judge.

During his time on the federal bench, he served on the Ninth Circuit Magistrate Judges' Executive Board, the Ninth Circuit Jury Instructions Committee, and as chair of the District of Montana's District Court Local Rules Committee.

Judge Lynch was born and raised in Butte, one of five children of John and Mary Lynch. He received a bachelor's degree in zoology from Carroll College in 1973 and a master's degree in zoology from Montana State University in 1976.

He and his wife, Teresa, have four children and eight grandchildren.

## Applicants sought for 4th Judicial District judge

Applications are being accepted for a newly created judgeship in the Fourth Judicial District.

The 2017 Montana Legislature created the judge position, the fifth for the district that covers Missoula and Mineral Counties. The legislature provided that the position initially be filled through appointment.

The Judicial Nomination Commission will accept applications until Monday, Nov. 19, at 5 p.m. from any lawyer in good standing who has the qualifications set forth by law for holding the position of district court judge. The application form is available electronically at <http://courts.mt.gov>. Applications must be submitted electronically as well as in hard copy. The commission will announce the names of the applicants thereafter.

The public is encouraged to contact commission members regarding the applicants during the public comment period, which will begin Tuesday, Nov. 20, and close Thursday, Dec. 20.

The commission will forward the names of three to five 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. If confirmed, the appointee will serve for a term ending Dec. 31, 2020. The position is subject to election in 2020, and the successful candidate will serve a 6-year term to begin Jan. 1, 2021. The annual salary for the position is \$132,567.

## Lint sworn in as Ravalli County District Court judge

Gov. Steve Bullock has appointed Jennifer Lint as Ravalli County District Court judge.

Lint was a sole practitioner and owner of Boatwright Law Office, P.C., in Halmilton. She has served as

a contract attorney with the city of Hamilton and the town of Pinesdale, a substitute justice of the peace for Ravalli County Justice Court and a substitute City Court judge for the city of Missoula, Municipal Court.

She is a graduate of Tufts University and received her Juris Doctorate at the University of Montana School of Law.

She was sworn in on Sept. 24.

## 4 apply for 12th Judicial District opening

Four attorneys have applied with the Judicial Nomination Commission for a 12th Judicial District judge opening.

The commission has received applications from the following attorneys:

- Stephen A. Gannon, Fort Benton;
- Randy Homer Randolph, Havre
- Thomas J. Sheehy, Big Sandy
- Kaydee Nicole Snipes Ruiz, Havre

The applications are posted at [http://courts.mt.gov/supreme/boards/jud\\_nomination](http://courts.mt.gov/supreme/boards/jud_nomination). Public comment can be submitted until 5 p.m. on Wednesday, Nov. 21. Comments can be mailed to Judicial Nomination Commission, c/o Lois Menzies, Office of Court Administrator, P.O. Box 203005, Helena, MT 59620-3005; emailed to [mtsupremecourt@mt.gov](mailto:mtsupremecourt@mt.gov); or made by phone at 406-841-2972.

The commission will forward the names of nominees to 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 the remainder of the term, which expires in January 2025.

# All 7 retired justices support Renk for Supreme Court clerk

Regardless of party affiliation, of the three candidates for Clerk of the Supreme Court, there is only one candidate who is qualified by disposition, training and experience to be elected and serve in that office — Rex Renk.

The clerk is responsible for maintaining the office as independent and non-partisan. Unlike other partisan offices, the office does not make policy. Here are just a few of the clerk's responsibilities and duties:

- accurately maintain the official court records and guarantee the public's constitutional right of access to those;
- guarantee the right of individual privacy in those records which are confidential by law or court order;
- assist filers to comply with the rules of appellate procedure;
- maintain the public view docket and the website which allow public internet access to public documents, court opinions and orders, and attorney disciplinary complaints;
- manage all office employees, present budget requests to and meet as necessary with the legislature; and
- assist justices and judges when called upon.

To this last point each of us has worked personally with Rex during our careers, both as attorneys and while serving on the Supreme Court. Whenever we had questions about documents or the status of filings, whenever we needed statistical or court management information, whenever we needed information about the status of an attorney disciplinary proceeding or licensing matter, whenever we required information regarding one of the Court's many boards and commissions, Rex provided it promptly, professionally and reliably. Not once did we question the accuracy or quality of Rex's work.

It is not an exaggeration to state that without a qualified, trained and experienced leader at the helm of the Clerk of Court's office, the important work of the third branch of government—Montana's judiciary in general and the Supreme Court in particular—will be seriously hampered. And, attorneys around the state will find the representation of their clients more difficult. The Clerk of the Supreme Court is not a job that an inexperienced and untrained partisan can simply jump into without ever having set foot in the office. Rather, performing the duties and responsibilities of this office

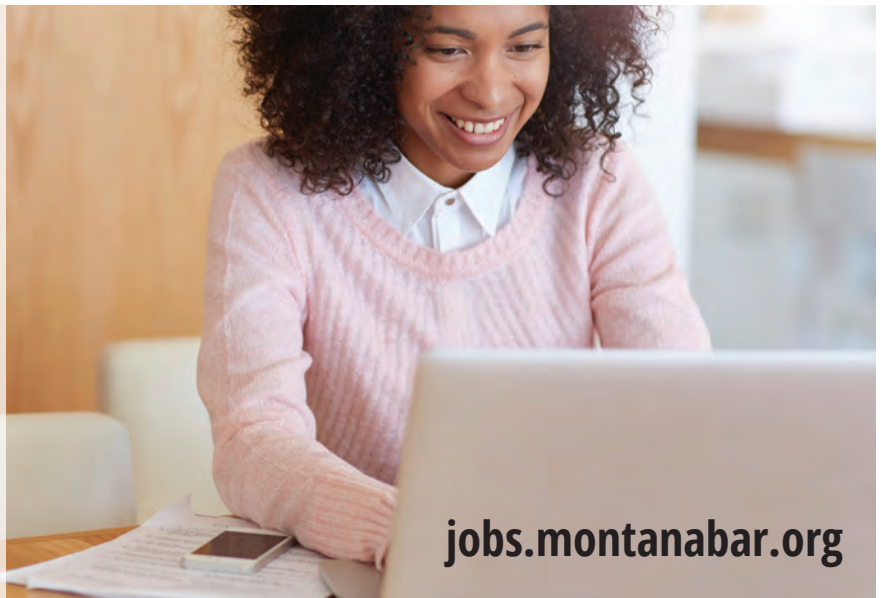
takes the knowledge and experience that Rex has accumulated over more than two decades.

Rex has been assisting the Clerk and Court and performing the above duties and responsibilities as the office's chief deputy for 23 years. He is the only candidate who can claim this experience and competence. He is the only candidate who can hit the ground running. Indeed, he is the only candidate who knows anything about the clerk's office at all. Rex is an upstanding citizen, a lifelong Montanan, and a family man. He has no agenda or axes to grind — his only promise is to provide good, reliable service to the bench, the bar and the public.

Rex has been endorsed by a retired clerk of the U.S. Supreme Court, by all retired Montana Supreme Court justices, and by numerous attorneys and community leaders from both political parties and from all over the State. We urge you to join them by voting for Rex Renk for Montana Supreme Court Clerk.

**Patricia Cotter, William Leaphart, James Nelson, Terry Trieweleier, John Warner, James Regnier, Mike Wheat, Montana Supreme Court justices (Retired)**

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3. Add more accomplishments to show your strengths



# Congratulations



BOB CARLSON

2018-2019 AMERICAN BAR ASSOCIATION PRESIDENT

Partner at Corette Black Carlson & Mickelson in Butte  
Past president of the State Bar of Montana (1993-1994)

Congratulations to Bob on his installation  
as president of the American Bar Association.

Bob is the second Montanan to serve as ABA president  
and the first since William J. Jameson in 1953-1954



**The Past Presidents Committee thanks  
all those who have donated to host events  
associated with Bob's term as ABA president**

## **Event Hosts**



Alexander Blewett III  
**SCHOOL OF LAW**  
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## **Contributors**

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Edward Bartlett, Helena  
Berg, Lilly & Tollefsen,  
Bozeman  
Gregory Black, Butte  
Joseph Bluemel, Kemmerer, Wyo.  
Browning Kaleczyc Berry & Hoven  
Cascade County Bar Association  
Christensen & Prezeau, Helena  
Cohne Kinghorn Law Firm, Utah  
Brent Cromley, Billings  
Faure Holden Attorneys at Law,  
Great Falls  
Fifth Judicial District Bar Association  
Damon Gannett, Billings  
Leslie Halligan, Missoula  
Max Hansen, Dillon  
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Donald MacIntyre, Helena  
Christopher Manos, Helena  
Keith Maristuen, Havre  
Russell McDonough, Glendive  
Marshall and Kim Mickelson, Butte

Montana Trial Lawyers Association  
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Johnson, Kalispell  
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Robert Phillips, Missoula,  
Juli Pierce, Billings  
Peggy Probasco, Butte  
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Molly Shepherd, Missoula  
Bruce Spencer, Helena  
South Dakota Bar Association  
Andy Suenram, Dillon  
Robert Sullivan, Missoula  
Joseph Sullivan, Great Falls  
Matthew Thiel, Missoula  
Twentieth Judicial District  
Bar Association  
Utah Bar Association  
Shane Vannatta, Missoula  
Western Montana Bar Association  
Williams Law Firm, Billings  
Worden Thane, Missoula  
Yellowstone Area Bar Association



# 'A LAWYER FROM BUTTE' TAKES THE ABA's HELM

**W**hen American Bar Association President Bob Carlson speaks on behalf of the ABA he often marvels that a small-firm lawyer from Butte followed the co-president of a 2,000-attorney firm from Miami as the organization's leader.

Carlson's point is to highlight the inclusivity of the 400,000-member ABA — that it represents and works on behalf of all American lawyers. But it also illustrates the pride Carlson takes in his home state and his home town, and his eagerness to talk about his state and its lawyers.

Carlson also spreads his love for the ABA across Montana, encouraging the state's lawyers to join and be active in the organization.

The following pages contain tributes from some of the people who know him best from the ABA and Montana — a fitting way to recognize a small-firm lawyer from Butte on becoming ABA president.





# "I didn't do this by myself. It takes a village to make an ABA President. Thank you for being that village."

Bob Carlson, speaking to State Bar of Montana Board of Trustees in September



Shane Vannatta, stands with fellow members of Montana's delegation in the ABA Erica Grinde, Bob Carlson and Eli Patten at the ABA Annual Meeting.

## Shane Vannatta, Missoula

*State Bar Delegate to ABA, State Bar President 2011-2012*

We have a tradition in the ABA House of Delegates. As new officers are invited to the podium to give remarks, supporters line-up to walk the new officer down the aisle to the well of the House. Lining up for Bob Carlson was an amazing array of former and current officers, old friends in the Board of Governors, past presidents (now delegates) from various state bar associations, and many, many new friends. This is one small example of the many important relationships Bob has cultivated on his way to becoming the President of the American Bar Association.

In Montana, especially in the legal community, we understand the importance of relationships. We understand

that Montana is really one long main street, and that Montanans are related by 1 or 2 degrees of separation. Our Montana practice reflects these important realities; out of necessity (as well as professionalism) we practice with civility, honor, and trust.

With Bob's ascension to the highest level of leadership in our profession brings these honorable qualities. Indeed, Bob's first speech exemplified these traits, and further expressed Bob's selfless commitment our profession and the rule of law. Through Bob, we are all now 1 or 2 degrees separated from some of the greats of our profession.

Finally, I'm particularly proud of this moment because this humble Butte attorney has shown us all that hard work, service, and relationship-building matter. I'm so proud to serve in the ABA House of Delegates for the State Bar of Montana while Bob Carlson is at the helm; we are all in good hands.

## Peggy Probasco, Butte

*State Bar of Montana*

*President 2006-2007*

I met Bob Carlson when I first became active in the State Bar in the 1990's. I have always been struck at his approachable manner and how everyone seemed to know and like him regardless of the meeting or bar occasion.

My favorite anecdote was when Bob and I sat on either side of my now 96 year old mother at a Jackrabbit conference listening to Justice Antonin Scalia talk about constitutional originalism. My mother was hanging on every word while Bob and I each shared our views in each of Mom's ears. Bob and Cindy have always been very kind to me and to my mother.

Since those early meetings, I have gotten to know Bob and Cindy as fellow Buttians and dog lovers and Bob as a true champion of the ABA. Bob has worked diligently for years to promote lawyers and the Rule of Law. I am proud to know only the second lawyer from Montana to ascend to the presidency of the ABA. I am doubly proud that both people were from Butte. I am very honored to be a colleague and look forward to helping Bob's presidency any way I can.



## Hilarie Bass

**ABA Immediate Past President**

When Bob gave me the opportunity to chair his (ABA) Rules and Calendar Committee, I came to know of someone who has incredible leadership skills, who has a real ability to bring consensus, no matter how complicated the problem

and who has a quiet way of showing us all what leadership looks like.

Bob is smart, he is kind, and he is one of the most considerate people you will ever meet.

As I have worked so closely with him over the last few years, I have always looked to him for wise counsel, and he has never disappointed me. He truly has become one of my best friends.



## Don Murray, Kalispell

*State Bar of Montana President, 2001-2002*

I have known Bobby Carlson (he's still "Bobby" to me) for a long time – since we started law school together in the fall of 1976; a fast friendship between a kid from Butte and a kid from Detroit, two hardscrabble towns with their glory days long in the rearview mirror. I think Bobby recognized surprisingly early in his career the significance of serving the legal profession, and on a broader scale, striving to improve our system of justice through involvement in the organized bar. And he had the good fortune of having senior partners in his firm that shared those values and supported Bobby in his service to the bar.

I have had the good fortune to serve in the State Bar with Bobby for quite a few years, and so I have gotten to see him in action from close range. Many of his leadership skills are obvious even to the casual observer, but Bobby also has some more subtle talents as well. Among those talents is his penchant for getting others involved in serving the bar. Bobby operated subtly but effectively – it might have

been as simple as introducing another lawyer to bar service through appointing her or him to a committee. That's how he drew me in. I think Bobby understood that not only was it gratifying to work with committed, smart lawyers to improve the system of justice and our profession, but it also made him a better lawyer and a more fulfilled lawyer. Bobby knew how to get everybody on the bus and he also knew how to get them all in the right seats.

For me, a couple of anecdotal experiences stand out. I eventually became a member of the State Bar's Board of Trustees and during two of those years, Bobby was the chair of our board – our leader who presided over our meetings. I consistently marveled at what a masterful job my old friend did in that role. He was gracious, insightful, dedicated, prepared; a strong but humble and democratic leader who respected and valued the opinions of all. I never got to witness Bobby leading the ABA House of Delegates – a huge job and a tremendous responsibility – but I know he did it with the same skill, humility and integrity.

Later, when I became a bar leader myself and attended national ABA meetings, I found that I was the beneficiary of

extra warm welcomes from pretty much everyone I met, and it was through no acts of mine. The reason for this special treatment I got soon became clear – I was embraced because of my association with Bobby Carlson and Montana. And what was especially touching for me (and a testament to what a special person Bobby is), is that those warm welcomes came not only from lawyers and other bar leaders, but from everyone I met; event coordinators, young staff attorneys and support personnel – everyone liked Bobby, and that was because Bobby treated everyone with the same kindness, dignity and respect. He is a genuinely humble guy, completely without pretense.

I don't think it comes naturally for Bobby to get too passionate about the "big" issues that are so important in what we do, but when he does passionately laud the importance of the rule of law and an independent judiciary as the foundational institutions of our democracy, I get excited and it makes me proud to be his friend and proud to be a lawyer. All of us in the legal profession in Montana stand a little taller because of a kid from Butte named Bobby Carlson.

## Damon Gannett

*Montana Delegate to ABA, State Bar President, 1990-91*

It's safe to say that Bob Carlson and Damon Gannett go back a long way and know each other pretty well.

Gannett was on the State Bar of Montana Board of Trustees when Carlson first joined the board in 1987. Gannett became bar president in 1990. Carlson followed him a few years later.

Carlson first joined the ABA House of Delegates in 1999. This time, it was Gannett who followed, elected for the first

time in 2001.

"When Bob Carlson came to me and said, 'I'm going to be president of the ABA,' I said, 'You're out of your mind,'" Gannett told the State Bar Board of Trustees at its September meeting.

It was fitting that the two friends followed each other as winners of the State Bar's Jameson Award — Gannett in 1995 and Carlson in 1996.

"We've laughed together. We've cried together. We've fought together. We've celebrated together. He's an amazing guy and an amazing friend."



Damon Gannett, left, and Bob Carlson are pictured together at the ABA Annual Meeting in Chicago.



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## Bill Bay, St., Louis *Chair, ABA House of Delegates*

Two things stand out to me about Bob Carlson becoming the president of the American Bar Association. First is what he represents. There is a great deal of focus in the media on cases that capture the public's attention or on large firms in major cities that are sometimes referred to as "big law." But the fact is that the vast majority of lawyers work every day handling matters in solo or small firm settings and often in smaller towns and cities. They represent clients in the daily matters that confront and sometimes confound all of us. They are active in their communities and states where they practice. They live or work on Main Street. Bob is that kind of lawyer – working at a small firm in Butte, Montana. He is the quintessential American lawyer. Who better to represent the American Bar Association?

The second thing about Bob is who he is. He has integrity, dedication and is committed — words that describe what is the best about lawyers. He listens to others. He does not dictate nor does he pretend to know every answer. Most importantly, he listens to others and prepares and then acts in a thoughtful way. He does not demand respect. He earns it by the way he lives.

He understands the challenges that face our profession in advancing the rule of law, ensuring the independence of the

judiciary, improving access to justice, supporting legal services, working to eliminate bias and enhancing diversity in our profession and justice system, and supporting innovation in the delivery of legal services and legal education. He regularly speaks out and leads in all those areas to ensure the ABA makes a difference.

But he also knows the challenges that face the practicing lawyer who needs resources to serve his or her clients effectively and efficiently. That is an area where the ABA also makes a difference with countless opportunities to participate in work that has a broad impact in our world as well as thousands of items of content each year that help make every lawyer better. He never fails to articulate what an impact the ABA and the entire organized bar has had on his life and career. For all of these reasons, Bob is the best choice to lead our Association this year.

## Gene Vance, Lexington, Ky. *Chair, ABA Section of Litigation*

I have known Bob Carlson for over 15 years and consider him a very good friend. He is a gifted and collaborative leader with an unassuming and gracious personal style. These qualities enable Bob to lead others to consensus and to move a group forward. I first worked closely with Bob when we both served as members of the ABA House of Delegates

Committee on Rules & Calendar from 2004 to 2006. Service on that committee requires both great attention to detail and significant diplomatic skills. Bob demonstrated both characteristics in great measure. His skills were further displayed 6 years later when he became Chair of the ABA House of Delegates and presided over that 600 member legislative body with a deft touch that respected the members of the House while still completely often lengthy agendas with great efficiency. I have had the privilege of serving with Bob on other committees over the years and deeply admire his leadership style. Bob truly embodies the principle that there is no limit to what can be accomplished if you do not care who gets the credit.

I also think it is important to note the great significance of having a lawyer from Bob's background serve as President of the American Bar Association. Having a president from a small firm in a town of 35,000 people is an uncommon experience in the ABA and it demonstrates the depth and breadth of membership in the Association. As a lawyer from a smaller state, it is meaningful to me that we have a president who is truly a 'main street lawyer' who has the same experiences as most of the lawyers in the country who practice on their own or in small firms. We are extremely fortunate to have Bob Carlson representing the lawyers of America.

“Most importantly, he listens to others and prepares and then acts in a thoughtful way. He does not demand respect. He earns it by the way he lives.”

Bill Bay, Chair of the ABA House of Delegates



The Western Montana Bar Association salutes

# BOB CARLSON

on becoming the 2018-2019 American Bar Association President



**Mark Parker, Billings**  
*State Bar of Montana President,*  
*2014-2015*

Save for our friend Cindy Carlson, no one really knows the sacrifice Bob and Cindy have made in order for Bob to become and successfully serve as the President of the ABA. They have dedicated their lives to the task for a decade or two. Bob and Cindy are doing their fair share, and to a large degree, much of our fair share, towards the end of maintaining three branches of government and the rule of law. The ABA takes on a great many tasks, but the most important is to fight for the one branch of government without the power of the purse--the judiciary.

On August 4, 1908, E. C. Day, Esq., presented a thoughtful paper to the Montana Bar Association entitled "Criticism of Courts and Judges." He mentioned the developments from the ABA, specifically its report from a committee on the adoption of a Code of Ethics. Among the provisions were two proposed rules – both on the "same subject," Day observed. Rule 2, "Criticisms of Judicial Conduct" and Rule 4 "Defending the Courts Against Popular Clamor." Day opined, "No person occupying a public position, however exalted, has a right to say that his actions or utterances shall not be subject to public review." Day also said, seemingly in contrast to his other contention, "It is the duty of the attorney, of course, to defend the courts from unjust criticism, universal condemnation, or popular clamor..."

The Supreme Court has told us that mandatory bar associations have limited ability to speak on matters of public or political interest. The recent Janus decision may foreshadow even a more severe erosion of the power of mandatory bars.

Thus, the hard, extraordinarily hard, task of defending the courts, and criticizing the courts, falls to voluntary associations – like the ABA. I've toasted, dined, laughed, fished and kibitzed with Bob and Cindy the last few years, so I have some point of reference. Bob is just the right person, at just the right time, to be the custodian of the ABA's twin and seemingly opposite prerogatives. The

ABA must from time to time criticize judges and protect others that have done so. It also must come to the defense of the court when popular clamor threatens to erode confidence in the court. None of this is easy. Much is counterintuitive. Shepherding the debate on the issue is difficult, as it involves a fight over core principles among competing views. The proponents of these views, as Shakespeare would say, are "both alike in dignity." (Or at least both alike in "indignation.")

**Joe Sullivan, Great Falls**  
*State Bar of Montana President,*  
*2010-2011*

I am grateful to Bob for his example, his advice, his mentorship, and most of all his friendship. He has shown me that in addition to conducting a quality legal practice, we can reach out and do so much more for our profession and those in the communities we serve. Without hesitation, he has helped me become involved in areas such as the National Conference of Bar Presidents, which for me has been a worthwhile and rewarding experience. Most of all, I have enjoyed watching Bob introduce the world to the ways and sayings of Montana and of Butte. As he cajoles, coaxes, and persuades, he explains as only one with a knowledge of mining can how to "tap 'er light." We could not have a better person representing us on a national level, "I'm jus' sayin'."

Why is Bob Carlson's Presidency of the ABA, the world's largest voluntary professional organization with more than 400,000 members, important to Montana? In a time when national political leadership is based on self-serving, egocentric, narcissistic decision making; an example of a selfless leader focused on the betterment of the judicial system and making that system accessible to all is inspiring. To have that leader be a homegrown Montanan who serves others with honor and dignity is uplifting to all within the borders of this great state and is an example we can all attempt to emulate.

**Molly Shepherd, Missoula**  
*State Bar of Montana*  
*President, 2001-2002*

**Bob Carlson and I were classmates at the University of Montana School of Law in the late 1970s. We were friends then, as we are now.**

**Bob continues to demonstrate many of the qualities that were evident 40 years ago. He values consistency, integrity and principle. He is tenacious, effective and capable of sustained work. He listens intently to others and learns from them.**

**At the same time, Bob's wry sense of humor and genial manner put people at ease, helping to bring them together. He was, and is, good company. He plants and tends seeds that later bear fruit. In the early '90's, for example, Bob suggested that I become active in the Bar. With his encouragement, I did.**

**Although I wouldn't have predicted in 1979 that Bob would become President of the ABA, I'm not surprised by his accomplishment. Then as now, he has what it takes to be a leader of the legal profession, both in our state and in our nation.**

**Katy Goshtasbi San Diego**  
*Chair, ABA Law Practice  
Division*

Over the years, I have thoroughly enjoyed getting to know and working with Bob Carlson. Not only is he a very good lawyer, Bob brings to the role of ABA President natural strengths and traits that are paramount and yet not often cultivated enough in lawyers. Bob is creative, insightful and amazingly open to change and new ways of seeing and doing things. This latter trait has allowed us to collaborate on a new initiative for the ABA. A year and a half ago, I went to Bob and told him about an idea to put on the first ever ABA Annual Retreat. This event would be new and different and would offer a different growing experience for ABA members. Not only was Bob willing to listen, he was supportive and has served as a steering committee member for the past year. No one expected Bob to have time to participate on our calls, yet he does and does so fully engaged.

Above all, Bob is thoughtful and responsive. Any time I have expressed a concern or needed his wisdom, I have found he responds in a timelier fashion than people half as busy as he

is. Bob makes time and does so by being fully present. Not only does he take time to listen, but he takes time to fully think through his responses, which I appreciate. This is a sign of a great leader in my opinion- someone who isn't reactive yet acts deliberately for the good of the whole. The ABA is very fortunate to have Bob represent us lawyers nationally.

Two things stand out to me about Bob Carlson becoming the president of the American Bar Association. First is what he represents. There is a great deal of focus in the media on cases that capture the public's attention or on large firms in major cities that are sometimes referred to as "big law." But the fact is that the vast majority of lawyers work every day handling matters in solo or small firm settings and often in smaller towns and cities. They represent clients in the daily matters that confront and sometimes confound all of us. They are active in their communities and states where they practice. They live or work on Main Street. Bob is that kind of lawyer – working at a small firm in Butte, Montana. He is the quintessential American lawyer. Who better to represent the American Bar Association?

**Tommy Preston, Jr.,  
Charleston, S.C.**  
*Chair, ABA Young Lawyers  
Division*

I have worked with Bob since I was a law student leader in the ABA. What I admire most about him is he genuinely cares about our nation's lawyers. Whether it's ensuring that young lawyers have resources needed to be successful in our practices or his ability to talk passionately about the need for mental health programs to help struggling lawyers, we know he's always representing our best interests.

As a small town lawyer with a big heart, I cannot think of a better person to speak to the challenges we lawyers are facing in the today's profession and why the ABA's presence in the lives of lawyers is more critical than ever.

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District Judge Amy Eddy of Kalispell, left, moderates a panel discussion on the intersection of politics, the press and the law at the 2018 Annual Meeting. Seated from left are crisis communication experts Matt McKenna and Neil Livingstone, veteran Washington, D.C., lawyer Bob Bennett, former White House Counsel Bob Bauer, and former Montana Gov. Marc Racicot.

## Great discussions. Great cause. Great event.

Attendees at the State Bar of Montana's 2018 Annual Meeting in Kalispell were treated to lively discussions on a range of hot-button issues for lawyers.

Attendees also attended receptions to honor the bar's 2018 award winners and raised thousands of dollars for access to justice issues (see article on page 6).

A panel discussion on the intersection of politics, the press and the law kicked off the meeting, featuring Washington, D.C., super lawyers Bob Bauer and Bob Bennett, former Montana Gov. Marc Racicot and crisis communication experts Matt McKenna and Neil Livingstone.

In response to a question from moderator the Honorable Amy Eddy, Bennett said that while it's always best it is always best to keep your clients out of the press, that just isn't the real world when dealing with a high-profile client.

"When President Clinton was under the gun, I was getting hundreds of calls every day. It was not serving



ABA Immediate Past Hilarie Bass makes a point during a panel discussion at the Annual Meeting. ALPS Executive Vice President Chris Newbold, left, moderated the panel joined by ABA President Bob Carlson and State Bar Immediate Past President Leslie Halligan.

his interests to say, 'No comment,'" Bennett said. "I think if anything it's gotten worse (since then)."

"It's a very careful case by case

determination that has to be made with an overall clear-eyed vision of what your client's wants and strategic interests are," added Bauer.





The Art for Justice silent auction raised over \$4,000 for the Montana Justice Foundation. Most of the proceeds were from art donated by Montana artist-attorneys. See page 6 for details. The event was held during the President's Reception and Awards Banquet.





# 2018 ANNUAL MEETING



**Jameson Connection:** At left, Greg Murphy of Billings, left, the 2018 William J. Jameson Award winner, chats with 2016 Jameson Winner Bob Carlson, right, and 2015 winner Damon Gannett.

Below, a packed ballroom at the Red Lion Hotel Kalispell listens to the Annual Meeting's opening plenary discussion.







Leslie Halligan, immediate past president of the State Bar of Montana, pins a corsage onto 50-year member Dickie Lewis before the President's Reception. For the past three years, Judge Halligan has personally made corsages for 50-year members and other special guests in attendance at the Annual Meeting.



Attorneys with 50 years of service to the legal profession in Montana were honored in a during the President's Reception at the Annual Meeting. Pictured above are, from left: Dickie Lewis, J.C. Weingartner, Don White, Larry Daly, Judge Douglas Harkin, Gregory Warner, Jim Walsh, Earl Hanson, Warren Wenz, State Bar of Montana Immediate Past President the Honorable Leslie Halligan, and State Bar President Eric Nord.



# 2018 ANNUAL MEETING



**Clockwise from top: The Honorable Holly Brown of Bozeman accepts the Karla M. Gray Equal Justice Award; John Oitzinger, winner of the Neil Haigh Pro Bono Award, stands with Amy Hall of Montana Legal Services Association, who nominated him for the award; Randy Snyder accepts the George L. Bousliman Professionalism Award.**



# What non-consumer-law attorneys should know about protecting their clients' financial legal rights

By Jessie Lundberg

Consumers are entitled to a broad array of financial legal rights under state and federal law, protecting them in transactions with most businesses. However, consumers' financial problems rarely arise in a vacuum as an isolated issue. Rather, these problems are frequently intertwined with divorce, personal injury, disability claims, contract disputes, bankruptcy, and more. In order to fully protect individual clients' rights and represent their best interests, even the non-consumer protection attorney should possess a basic awareness of potential consumer protection claims and defenses.

Put simply, consumer law is a specialized area of law that focuses on helping consumers deal with problems related largely to debt, credit, and unfair business acts and practices. For example, common debt problems include debt collector harassment, debt settlement scams, wage garnishments, or even just dealing with crushing debt. Credit problems can consist of issues with existing credit, such as credit cards, auto loans, mortgages, reposessions, and foreclosures, or credit report problems, such as identity theft, impermissible credit report "pulls," and unresolved disputes with credit reporting agencies or creditors furnishing

incorrect information to the credit reporting agencies. "Unfair or deceptive business acts or practices" is a broad catch-all that encompasses numerous transactions a consumer may have with a business or even another consumer.

Finally, all of the foregoing can quickly cross over into the realm of bankruptcy law, when the financially struggling consumer needs to consider his or her options for ever getting back on their feet. A comprehensive bankruptcy analysis then circles right back around to considerations of the consumer's type of debt, whether they are subject to collection efforts, and – a consideration often overlooked – whether the consumer actually has claims or counterclaims against a creditor, debt collector, credit reporting agency, or other business.

## Sorting out the issues

Even those who have a good recollection of "issue-spotting" from law school will find that when it comes to consumer law issues, a particular client's situation can be tricky to unravel. For example, let's take the situation of a hypothetical client, Cathy Consumer. Cathy consults with a family law attorney about obtaining a divorce. In the course of discussing her situation, she informs the attorney she is very concerned that "my husband's debts

don't end up in my name." She states that debt collectors have been calling her for debts that are only in his name. Furthermore, one has been calling her place of work non-stop. Finally, she mentions that she thinks she could have to end up filing bankruptcy anyway, because of her own debts.

Where is that legal pad? By the end of the consultation, it should have the following questions on it:

- Are the "husband's debts" truly only his debts? Even if they appear on paper to be only in his name, is she still responsible for them on other grounds? For example, are they debts incurred for medical treatment for him or their children?
- Is the debt collector violating any laws by calling her "repeatedly" at work?
- Have she and/or her husband actually been sued by any of the debt collectors? Had a judgment entered against them? Worse, a default judgment of which they are not even aware? If so, are they at risk of having wages garnished or their bank accounts levied?
- Very importantly – how should the timing of the divorce be coordinated with the timing of the bankruptcy? Multiple choice test:  
(A) Should she file jointly with



her husband first to save on fees and wipe everything clean before filing for divorce, thereby greatly simplifying division of marital debt?

(B) Should she wait and file individually after the divorce is final, avoiding a non-cooperative spouse and discharging her own debts either way?

(C) Should she file for divorce, get to the point of finalizing a marital property settlement agreement, only to then find out her husband just filed bankruptcy and thereby brought the settlement proceedings to a screeching halt?

Answer: Generally not (C). But if she proceeds with the dissolution first when there is a risk of (C) happening, she may find herself in that situation. The much better choices are likely (A) or (B), with an educated decision between them only possible after consultation with an experienced bankruptcy attorney.

This is just one example of how consumer finance is ever-present in an area of law other than consumer finance. An experienced family law attorney would likely recognize most, if not all, of these areas of concern. However, the newer or “dabbling” family law attorney may not.

By way of further examples:

- A client with a personal injury case who finds himself dealing with creditors and debt collectors for medical bills and other debt that is racking up while he is awaiting settlement or trial in his case.

- A client with a landlord-tenant case who is experiencing harassment by the property management company's debt collection company, while having the debt reported incorrectly to her credit report.

- A client fighting a DUI who is having his wages illegally garnished, taking all the disposable income he had planned on using to pay you to defend his DUI case.

- A client with a wrongful termination claim who had her truck repossessed because she could not afford the payments after she lost her job, and now the company is coming

after her for an illegal deficiency balance remaining after they sold her car.

- An elderly couple needing estate planning services who mention to you that they are in an agreement with an out-of-state “debt settlement company” to whom they are paying over \$1000 a month, but are worried that creditors are still calling them and threatening to sue.

- A client who is convinced he wants to file bankruptcy, but has no valuable assets, does not own his own home, and whose sole source of income is a relatively small check each month for a permanent disability – i.e., he is essentially “collection-proof,” diminishing the overall benefit of filing bankruptcy.

“Wait a minute,” you may be thinking, “didn’t you say that consumer bankruptcy is an area of consumer law? Well, yes, but one that is deserving of brief further discussion. Here we go.

## A side note on bankruptcy

While consumer bankruptcy is arguably a sector of consumer law, attorneys who focus solely on bankruptcy law especially may be overlooking important consumer law issues and claims. The likelihood that the potential bankruptcy client has experienced some sort of illegal action by a debt collector, creditor, or credit reporting agency is going to be higher than that of the general population, simply because of the financial situation he or she is in.

Bankruptcy attorneys by nature already speak a very finance-focused language, dealing regularly with unsecured vs. secured debt, proofs of claim from creditors and debt collectors, and personal finance in general. These components of bankruptcy commonly overlap with consumer finance issues. Yet my sense is that a routine review for consumer finance-related claims is not widespread among consumer bankruptcy attorneys. This raises questions worthy of further consideration.

First, without reviewing for consumer claims prior to filing bankruptcy, is the bankruptcy attorney truly meeting his or her ethical obligations

to fully and accurately advise the client? These claims can be lucrative for both the client and the attorney. If litigated correctly, the recovery could well result in the consumer not needing to file bankruptcy. Alternatively, it could at least result in cancellation of the debt and a small recovery to the client, of which the client would enjoy the benefit of spending on living expenses prior to filing the bankruptcy. That result is much more beneficial to the client than, as has happened to many a bankruptcy attorney, having the potential claim come out at the client’s creditors’ meeting, at which time the bankruptcy trustee gets to step in to litigate it and give the proceeds to the client’s creditors, instead.

Second, the bankruptcy client has a legal obligation to disclose all of his or her assets in the bankruptcy schedules. This includes any existing or even potential claims he or she may have against another individual or entity, such as personal injury, workers compensation, and – you guessed it – consumer law claims. Can the bankruptcy attorney ethically sign the client’s bankruptcy filings, stating that the information contained therein is complete and accurate to the best of the attorney’s knowledge, if the attorney did not at least ask the client about potential consumer law claims and review the client’s information for red flags such as debt collector harassment, debts past the statute of limitations, or incorrect information on the credit report?

Further, an even more controversial question concerns the common practice among bankruptcy attorneys to provide free consultations. In that scenario, the attorney only earns any fees if a bankruptcy is actually filed. In such cases, is there the potential for a subconscious incentive to steer the client toward filing the bankruptcy, even if that is not in his or her best interests? Certainly not for the ethical attorney – and certainly there is nothing inherently wrong with offering the free consultation that is common in many areas of law.

However, I would argue that, in the realm of bankruptcy consultations, there nonetheless exists the potential for tunnel vision if the attorney looks

only at the option of bankruptcy. The competent and ethical bankruptcy attorney offering free consultations must therefore eliminate that risk with (1) a consciously unbiased review of the client's situation and (2) a willingness to direct the client elsewhere for a second opinion (e.g., debt counseling and/or a consumer law consultation) if it appears bankruptcy may not be in his best interests – even if this means the bankruptcy attorney unfortunately does not end up receiving any fees at all.

Our firm has generally charged a fee for the initial consultation. In my opinion, this ensures that we provide an unbiased, comprehensive review of the client's entire situation and advise her on all her options, whether that be bankruptcy, debt settlement negotiation, debt counseling, or pursuing consumer law claims. If the client does not pursue filing bankruptcy and we never see her again, we know we have done our job while being fairly compensated for our time.

Perhaps the risk of "tunnel vision" is a small one, especially within our particular state bar. However, it is not merely hypothetical. I have seen it upon taking over representation of debtors in cases that never should have been filed due to the existence of significant consumer law claims, or simply other reasons the client should have been advised not to file bankruptcy. I have also seen it while representing bankruptcy trustees in litigating consumer protection claims that were brought into the bankruptcy estate because they were not identified and/or litigated prior to the consumer filing bankruptcy. In both scenarios, the client loses.

Posing questions is easier than coming up with answers, and I certainly do not pretend to have the answers to the questions and concerns above. They are simply deserving of further consideration by any attorney offering bankruptcy services, according to his or her own experience and conscience.

## Consumer protection Issues

When it comes to identifying consumer protection issues, a good place to start is by applying the preschool

## Basic Consumer Claim Checklist:

### Debt Collections

- ☐ Debt collector harassment
- ☐ Notices from debt collector that don't contain "this is an attempt to collect a debt" disclosure – frequently missing from "pre-collect" memos
- ☐ Old debt that has changed hands through several debt buyers – likely lacks paper trail
- ☐ Exorbitant fees

### Wage Garnishment / Levies

- ☐ Client has been garnished more than 25 percent of their paycheck after taxes
- ☐ Client earns less than \$870 per month, and has been garnished at all
- ☐ Client has had non-employment income taken from bank account
- ☐ Client has had a vehicle or other personal property taken
- ☐ Client did not receive notice within 5 days of the garnishment / levy

### Credit Reports

- ☐ Accounts client does not recognize
- ☐ Accounts incorrectly reported as late, collections, charge-offs, etc.
- ☐ Someone else's name, address, Social Security number
- ☐ Inquiries client does not recognize

### Other "Consumer Law" or Related Claims:

- ☐ Any patently unfair or deceptive act or practice
- ☐ Negligence
- ☐ Negligent misrepresentation
- ☐ Fraud/deceit/intentional misrepresentation
- ☐ Breach of contract

mentality: does what happened to the client seem fair? If not, it may be worth a sniff test, including obtaining a bit more information from the client beyond that necessary for the problem for which the client originally contacted you. If the situation does not smell right, it may at the very least constitute an "unfair or deceptive act or practice" under the Montana Consumer Protection Act. The broad language of the MCPA casts a wide net. However, the situation may also trigger other, more specific state and/or federal statutes, not to mention tort or contract claims.

While it is not remotely possible within the space of a few pages to address any substantive area of consumer law in any detail, the checklist at the top of this page may prove helpful to the non-consumer-law attorney in at least determining whether there might be a claim to pursue.

## Final considerations

Consumer law issues can arise in the personal life of any client who is

an individual. As the practice of law becomes ever more specialized, it is not practical for non-consumer attorneys to add an expertise in consumer law to their arsenal. However, simply identifying the potential consumer issues is quite feasible for most any attorney who undertakes to look. In order to provide the most comprehensive advice to clients, the non-consumer attorney should keep the above considerations in mind and keep an eye out for potential consumer law claims and defenses that may greatly benefit their clients.

***Jessie Lundberg is a consumer law attorney based in Missoula. She began working in the area of consumer protection and finance in 2003 and established the Montana Consumer Law Center in 2012. She has helped hundreds of clients with credit report problems, debt collections, foreclosures, bankruptcy, financial scams, and numerous other consumer finance issues. She can be contacted at [jessie@lundberglawyer.com](mailto:jessie@lundberglawyer.com).***



# Poll of 9th Circuit judges identifies how lawyers can better serve the court

*Concise briefs, maintaining civility among the highlights of poll results*

by **Daniel Donovan and John Rhodes**

Earlier this year, the Ninth Circuit Clerk's Office conducted an informal survey by email of Ninth Circuit Court of Appeals judges. The judges were requested to identify various ways in which lawyers can better serve the Court. The results of the survey were published in July at the annual Ninth Circuit Judicial Conference held in Anaheim, California. We summarize the results here.

To no surprise, the judges recommended that all briefs be shorter. The Court expects that briefs be concise and focused. Thoughtful organization is paramount. Lawyers should omit irrelevant or less important facts and issues from their briefs. Brevity, clarity, and honesty favorably impress judges.

In addition to limiting issues, the judges suggested that lawyers concede issues, where appropriate, or attempt to resolve them, if possible. Lawyers are reminded that they should not ignore weak points but instead must acknowledge and address even the weakest points. When citing the record and caselaw, lawyers should ensure accuracy and truth. Erroneous, or omitted, citations damage credibility.

As to the structure of briefs, the primary goal should be a well-organized brief. Lawyers should provide context to the brief up front. The appropriate

standard(s) of review should be applied throughout the brief. Prior to filing, briefs should be carefully edited and reviewed by others. Scrupulous proof-reading is the final task before filing.

## Oral argument do's, don'ts

In response to this survey, the judges provided several do's and don'ts for oral argument. First and foremost, address, rather than avoid, your weaknesses. Second, lawyers must anticipate hard questions from the panel. Third, lawyers should directly answer the judges' questions. Do not delay answering questions and do not reframe questions. Finally, lawyers need to realize that there is no need to use all your time unless you have something useful to say.

## Civility matters

As to demeanor, behavior and attitude, the Ninth Circuit judges expect and demand that lawyers conduct themselves with civility. The following rules of civility should be followed in all courts:

1. Do not make personal attacks on counsel, parties, or the District Court.
2. Be courteous to and about everyone involved.
3. Do not be snarky.
4. Avoid excess litigiousness.
5. Request sanctions only in the rare situation where they are truly warranted by the conduct of the opposing party or counsel (emphasis by the Court).
6. Do not take issue with trivial errors.

Our objective, as lawyers, is to prevail for our clients. While the above suggestions concern how we can better serve the Court, honoring them will make us better advocates.

***Daniel Donovan is a criminal defense lawyer in Great Falls and currently serves as a Ninth Circuit Appellate Lawyer Representative. John Rhodes serves as an Assistant Federal Defender for the District of Montana in Missoula.***



# Try not to be a patsy. Seriously.



**Mark  
Bassingthwaight**

*Letting  
your guard  
down in your  
professional  
life, opens  
the door  
to letting  
yourself  
be taken  
advantage of.*

I'm not sure why, but I've always had a fondness for the word patsy. While the word doesn't seem to be in wide use anymore, I personally believe the time for its resurgence has arrived, given its meaning. Think about it. A patsy is a person who is easily taken advantage of, especially by being cheated or blamed for something. So, for example, when I look at how successful social engineering as a cybercrime tool is these days, it certainly seems like there are a lot of patsies out there. Here are a few stories that further explain why I feel the way I do.

In two separate claims here at ALPS, the attorneys being sued basically allowed their clients to independently negotiate a deal with their respective opposing parties. Apparently both attorneys ran with an assumption that all parties were sophisticated enough to do so. Making matters worse, throughout both negotiations these two attorneys also allowed themselves to be the conduit for the exchange of email and documents between the parties, all of which were never reviewed or commented upon. In fact, in one of these matters the client actually signed a document admitting to fraud done with the hope of being able to extend loan payments! Of course, both of these situations ended badly for the clients and both clients blamed their respective attorneys for the fallout. To me, this is another one of those "How in the world???" situations. I just don't get it. All I can say is the word patsy fits.

Want more? A lawyer is handling a real estate transaction and is well aware of the parties, the banks involved, etc. This lawyer confirmed the wiring instructions with her client a day or so prior to the actual closing. Unfortunately and unbeknownst to anyone, the email account of this lawyer's client had been hacked. Someone had been monitoring the email exchange for who knows how long. On the day of the closing, this lawyer received an email purportedly from her client with new wiring instructions. The lawyer never noticed that the email address was off by one letter and she

never questioned the change. The "updated" wiring instructions were simply passed along to this lawyer's paralegal. Shortly thereafter, roughly \$800,000 ended up in the hands of the wrong person and those funds were never recovered. Again, I can understand how some might miss the spoofed email; but to never question the last minute change in wiring instructions? Situations like this baffle me. Another patsy? You bet.

My final story involves a lawyer who was retained to prepare a deed for a real estate transaction, which again, was negotiated and finalized by his client. In short, several hundred acres in farmland were being transferred with the client retaining 50 percent of the wind lease/royalty rights should an electric generating wind tower ever be erected on the property. To the attorney this appeared to be a simple matter and a fast 50 bucks. Unfortunately this lawyer never bothered to review the deal and determine if it was possible to reserve or retain wind rights in that particular jurisdiction. It wasn't. So what we have here is a "Hey, I'll give you a quick \$50 and all you have to do is draft a deed!" situation. Easy money? I don't think so. Easy for the lawyer to be taken advantage of and blamed for any fallout? Of course. Patsy.

Please don't misunderstand me. I am not trying to be derogatory by referring to the above-mentioned attorneys as patsies. As I see it, however, the decisions they made during the course of representation placed each of them in a position where each could be easily taken advantage of, especially by being cheated or blamed for something. Patsy is an appropriate descriptor.

I will never know what these attorneys were actually thinking at the time or why they did what they did; but I can certainly make a few guesses. Perhaps it was a busy day or their overall workloads were too demanding to allow them to do more than they did. Perhaps they were just tired and didn't see the need. After all, all the other times they made similar decisions

things worked out just fine. Perhaps these clients were good folk, people the attorneys knew well and trusted and the attorneys just never saw it coming.

That said, as attorneys we often burn the candle at both ends. Trying to keep up in our personal and professional lives can be a real challenge at times. Unfortunately however, when one is tired, stressed, overworked or even bored, it can become too easy to let your guard down and be trusting of everyone and everything, particularly if it saves a little of that precious commodity, time. Let that happen and now you become an easy target. That's when you risk becoming a patsy.

Clearly it takes extra time and energy to try to avoid becoming a patsy, particularly in your professional life;

but that's where the time and effort is most called for because as the spoofed email story above underscores, sometimes other people can be seriously harmed when you let your guard down. Remember, as an attorney you are in someone else's employ. Your clients expect you to look out for them, to protect their interests, to advise them as to the legal ramifications of all that's going on just as you would if the roles were reversed.

Look, I'll be the first to admit that I've been taken advantage of and even scammed before. Yes, I've been a patsy. We all are at times. I've been taken off guard and at other times I simply let my guard down. Whenever that happened, however, I took those lessons to heart and became the better

for it. Honestly, my hope for the attorneys referenced above is that they responded similarly. Hopefully you can learn something from their stories too because being a patsy rarely turns out well.

***ALPS Risk Manager Mark Bassingthwaite, 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. His recent seminars are available 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).***

Sometimes *other people* can be seriously harmed when you let your guard down.





# 90% of users satisfied with Montana Supreme Court Bench and Bar Survey finds

A new survey shows that 90 percent of Montana Supreme Court users have a positive perception of the court.

The sixth biennial Bench and Bar Survey asked appellate lawyers, district court judges and University of Montana School of Law faculty to rate their satisfaction with the court in ten areas.

This year's results were a 2 percent improvement over the 88 percent overall satisfaction in 2016, and an 18 percent improvement from the survey's first administration in 2008. It was the first time that the survey showed an overall positive perception of 90 percent.

"I'm extremely pleased that in an increasingly polarized political environment, the court is doing extraordinarily well," McGrath said. "We are well thought of by court users, and we issue timely decisions."

The survey is one of several performance measures in place since 2008. The court also conducts quarterly and yearly case-processing reports. The emphasis on performance measures has resulted in changes to significantly reduce case processing time and provide more information to the public about the Court.

The court's timeliness in issuing opinions is by far the biggest area of improvement since 2008. This year, 94 percent said the court issues opinions in adversarial cases in a timely manner – up from 31 percent in 2008 while 92 percent of those responding saying the court completes its overall workload in a timely manner, up from 38 percent in 2008.

This year's survey was sent to 1,027



The justices of the Montana Supreme Court are, from left, Justice Beth Baker, Justice Dirk Sandefur, Justice Jim Rice, Chief Justice Mike McGrath, Justice Laurie McKinnon, Justice James Jeremiah Shea, and Justice Ingrid Gustafson.

individuals, with 393 responding, or 38 percent.

The survey and other performance measures are based on the National Center for State Courts' CourTools project, which is a set of effective performance measurements for courts. Montana is one of only a handful of states conducting a user survey as part of its project.

The survey is available at <https://courts.mt.gov/courts/statistics>.



## By the Numbers

**90%**

Average overall percentage of court users with positive perception

**94%**

Percentage who say the court issues opinions in adversarial cases in a timely manner, up 63 points since

2008.

**98%**

Highest rating by question, for treating judges with courtesy and respect.

**80%**

Lowest rating, for explaining deviations from principle of stare decisis.

“

I'm extremely pleased that in an increasingly polarized political environment, the court is doing extraordinarily well.

”

**For more information** about upcoming State Bar CLEs, contact Meagan Gallagher at [mgallagher@montanabar.org](mailto:mgallagher@montanabar.org). You can also find more information 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.

## Seminar to cover hot topics in Indian Law

The State Bar of Montana's Family Law Section and Indian Law Section each have CLE seminars planned for November.

The Indian Law Section seminar, meanwhile, will explore hot topics in Indian Country including implementation of Violence Against Women Act special jurisdiction authority in tribal courts and the legacy of the Dakota Access Pipeline. Attendees will also get updates on state and federal Indian law issues, including water and tax, and special ethical concerns when representing an organization.

The CLE organizers say Indian Law is a dynamic area of practice, and experts, beginners, and all others in

between are welcome.

The seminar is approved for 5.75 CLE credits.

### UPCOMING CLE

#### October

■ Friday, Oct. 26 – Construction Law CLE, 5.25 CLE credits. Spring Hill Suites, Bozeman.

#### November

■ Nov. 9 – Health Care Law Section Webinar, Details TBA

■ Nov 16 2018 Indian Law Section CLE, 5.75 CLE credits. Holiday Inn Missoula Downtown.

### 2019

■ Jan 18 to 20 – CLE & Ski, Big Sky Resort. Details TBA.

■ Feb. 11 to 15 – CLE by the Sea 2019, Honolulu, Hawaii. Register online at [AlaskaBar.org/2019CLEByTheSea](http://AlaskaBar.org/2019CLEByTheSea)

■ Feb. 15 – Annual Real Estate CLE

■ Feb. 22 – 2019 Environmental Law Update CLE (Pending)

■ March 15 – St. Patty's Day CLE

## STATE BAR OF MONTANA 2018 INDIAN LAW SECTION CLE



5.75 MONTANA CLE CREDITS

FRIDAY, NOVEMBER 16 | HOLIDAY INN MISSOULA DOWNTOWN



# MLSA gets funding for new Pro Bono Emeritus program

By Emma O'Neil

Montana Legal Services Association

In August, the Legal Services Corporation announced that the Montana Legal Services Association would receive \$236,797 in grant funding as part of the Pro Bono Innovation Fund grant program, to be used to develop a formal statewide network of retired attorneys willing to provide pro bono services to low income Montanans.

This new Pro Bono Emeritus Program will expand the pro bono services already available in Montana and increase access to civil legal aid for hundreds of low-income Montanans. These attorneys will have the opportunity to put the skills and expertise they developed through years of experience to work for the public good. MLSA is working with its project partners to develop a full array of opportunities, including the provision of legal advice and limited scope legal services to clients through MLSA's Montana Pro Bono Connect Phone Advice Program, which connects low income clients living throughout the state to volunteer attorneys. Attorneys will also be able to share their legal knowledge and expertise with less experienced attorneys through MLSA's Mentorship Program or by working as a "Senior Partner" within one of MLSA's own practice groups.

This network of attorneys will help bridge the gap between the number of low-income Montanans who face civil legal problems each year, and the amount of free or low cost civil legal aid available to help them. Over 19 percent of Montanans, or 192,975 people, qualify for civil legal aid, meaning that they live at or below 125 percent of the federal poverty line. As many as 96,000 have a civil legal problem each year that they struggle to address. Unfortunately, this need far outstrips the limited resources available at MLSA. MLSA is the state's only statewide civil legal aid organization and has the funding for just 16 staff attorneys — meaning that MLSA has one attorney available for every 12,061 people living in poverty in Montana. In comparison, there is one private attorney for every 274 Montanans living above the poverty line.

This gap in available civil legal aid means that every year, thousands of low-income Montanans must either attempt to navigate the legal system on their own or try to ignore their civil legal problems, which can have real, long lasting consequences for individuals and their families. People can lose their homes, their jobs, and their children because they don't understand their legal rights or how to present their case in a court of law. You've probably also experienced firsthand the impact self-represented litigants have on our court systems when they are forced to try to navigate the court system themselves — judges must spend more time explaining judicial rules; defendants make more unnecessary filings; cases take longer.

As part of the Pro Bono Emeritus Program, attorneys will be able to help people like "Mary," who called MLSA looking for legal help after her husband passed away without a will. Mary knew she needed to go through probate to settle his

affairs, but the paperwork and information required to start the probate process overwhelmed her. MLSA quickly set up an advice appointment for Mary with a pro bono volunteer, who spoke with her over the phone. The attorney listened as Mary told her story and then explained how probate worked. She answered Mary's questions about the paperwork she would need to file. After the call, Mary was able to successfully file her probate paperwork, later telling MLSA that the "relief of talking to someone who cares" was what she needed to regain her peace of mind.

The legal advice Mary received might seem minor. It took no more than a few hours of the attorney's time, and her case never required the attorney to represent her in court. But it made a big difference in Mary's life. Every day, MLSA receives calls from people like Mary — scared, confused, and overwhelmed by the civil legal issue they are facing. MLSA's Pro Bono Emeritus Program gives retired attorneys the opportunity to make a difference in many of these people's lives by allowing them to share their extensive legal knowledge and experience with those who too often struggle to obtain even the most basic access to our justice system. Together, we can work to build a justice system that is truly fair and equal for all Montanans.

*Emma O'Neil is Development Associate at Montana Legal Services Association.*

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# Bear Don't Walk, founder of Crow Tribal Court, dies

Urban Joseph Bear Don't Walk, one of the first members of the Crow Tribe to attend law school, died on July 1 due to long-term complications of Parkinson's disease.

Urban was born to Emma (Crissler) Bear Don't Walk and Ray Bear Don't Walk in Crow Agency. He was a member of the Apsaalooke tribe and his



**Bear Don't Walk**

Apsaalooke name was 'Looks Over His Tobacco'.

Urban grew up in Lodge Grass and went to Montana State University. At MSU he met the love of his life, Marjorie Rose Mitchell, a lovely girl from the Confederated Salish and Kootenai Tribes. They married in Bozeman in 1966.

Urban became the second member of the Crow Tribe to attend law school, and he graduated in 1975 from the University of Montana School of Law. In his 40-year law career, Urban founded the Crow Tribal Court, worked many of the most pioneering Indian law cases and had his own private practice. Urban's daughter, Eldena Bear Don't Walk, followed him into a career in law, serving as the first chief justice of the Crow Tribe from 2007 to 2011. A

humble warrior, Urban was a trailblazer for Native Americans everywhere and did much for Indian Country.

Survivors include his wife of 52 years, Marjorie, and his three children.

## Stanley Michael 'Mick' Finn

Stanley Michael "Mick" Finn died on Sunday, Aug. 19, at St. Patrick's Hospital in Missoula. He was 70.

Finn was a 1978 graduate of the University of Montana School of Law. After clerking for Montana Supreme Court Chief Justice Frank Haswell, he joined the Missoula firm Datsopoulos, MacDonald, and Lind, where he was encouraged to pursue a specialization in tax law.

In 1979, Finn moved to Boston to earn a master's in tax law from Boston University School of Law, after which he lived and worked in Boston for 26 years, becoming senior tax attorney, and later assistant vice president, of TJX Companies.

Finn returned to Montana with his wife, Anne-Marie, upon his retirement in 2008. Anne-Marie survives



**Finn**

Memorial donations in Mick's name may be made to Smile Train (SmileTrain.org) or JDRF (JDRF.org).

## Eileen Ann Larkin

Eileen Ann Larkin died on Saturday, Aug. 11, 2018, at St. Patrick Hospital. She was 62.

After leaving a successful career as a chiropractor and business owner,



**Larkin**

Larkin returned to school to complete her undergraduate degree in 2001. She graduated from the University of Montana School of Law in 2003. She clerked in the Hamilton courts

before becoming a Montana State Appellate Defender, spending most of her time as a lawyer practicing before the Montana State Supreme Court.

In lieu of flowers, Eileen's family is establishing a scholarship for single mothers at the University of Montana Law School. Gifts can be made online at supportum.org/give, by calling Erin Lunde Keenan at 406-243-4319, or by mailing a check to the UM Foundation, PO Box 7159, Missoula, MT 59807 and designating the gift as In Memory of Eileen Larkin.

## Memorial submissions

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."

## Online 'In Memoriam' page

The State Bar of Montana's online "In Memoriam" page — [www.montanabar.org/?page=In\\_Memoriam](http://www.montanabar.org/?page=In_Memoriam) — 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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**ATTORNEY/PARTNER:** Angel Coil & Bartlett, PLLP, in Bozeman, Montana desires to expand its practice areas in general and commercial litigation, trial and appellate work, real estate, and specialized areas including bankruptcy, water law, and intellectual property. Angel Coil & Bartlett is seeking attorneys for partnership opportunities in these areas. Attorneys of all levels and experience will be considered. Please send a cover letter, resume, and references by email to: [timothy@angelcoilbartlett.com](mailto:timothy@angelcoilbartlett.com). All applications will be kept confidential.

**ASSOCIATE ATTORNEY:** Luxan & Murfitt, PLLP, in Helena seeks attorney applicants to join our practice. Come help serve long-standing clients while further developing your own practice in a collaborative work environment. Three or more years' experience in private practice preferred. Compensation is candidate-specific. Inquiries will be kept confidential.

**ASSOCIATE ATTORNEY:** Patten, Peterman, Bekkedahl & Green, PLLC in Billings, Montana is seeking a full-time associate attorney to join their bankruptcy practice group. Qualified candidates must be currently licensed to practice in Montana. Debtor/Creditor experience preferred. We offer a competitive salary DOE and benefit package including medical benefits and a 401(k). Please send a cover letter, resume, references by email to [ktshelen@ppbglaw.com](mailto:ktshelen@ppbglaw.com), or by mail to Patten, Peterman, Bekkedahl & Green, Attn: Kelsey Thelen, PO Box 1239, Billings, MT 59103. All applications will be kept confidential.

**ASSOCIATE – BOZEMAN:** Small general practice Bozeman law firm seeking Associate for growing case load. Compensation DOE. Send resume and writing sample by email by to [classifieds@montanabar.org](mailto:classifieds@montanabar.org).

**ASSOCIATE ATTORNEY:** Knight Nicaastro, LLC is a regional litigation firm with current openings for attorneys in its new Missoula office. The firm opened this office in October to service the growing needs of its existing clients and expand business into the western part of Montana, Idaho and Washington State. The firm has other offices in Billings, Colorado and Missouri. The preferred candidates would have 2-4 years of litigation experience. Must be licensed to practice in Montana, have excellent communication skills, attention to detail and a strong work ethic. Please send resume,

cover letter and references to Jan McMinn at [mcminn@knightnicastro.com](mailto:mcminn@knightnicastro.com).

**DEPUTY COUNTY ATTORNEY:** Sanders County. Requires Juris Doctor degree, 2 years of progressively responsible experience in the practice of law, particularly criminal law. Experience with local governments is preferable. Represents in legal matters/proceedings which the County is a party of interest. Prosecutes criminal offenders. Reviews reports from law enforcement officers; determines what charges to file and who to charge or whether to decline prosecution. Files charging documents. Keeps victims advised of case status. Qualified individuals send cover letter and resume to Rich Wallace at [rwallace@co.sanders.mt.us](mailto:rwallace@co.sanders.mt.us)

**LITIGATION ATTORNEY:** Davis, Hatley, Hafeman & Tighe, P.C., a business and litigation firm in Great Falls, Montana, is accepting applications for an experienced litigation attorney. The individual must be self-initiating, team oriented, and capable of handling a heavy case load. Qualified individuals please send a cover letter, resume, writing sample, and references to Joseph M. Sullivan at [Joe.Sullivan@DHHTlaw.com](mailto:Joe.Sullivan@DHHTlaw.com).

**MID-LEVEL EMPLOYEE BENEFITS ATTORNEY:** Holland & Hart is seeking a mid-level associate for its Employee Benefits group. Candidates at the upper end of the mid-level experience may be based in any of the firm's 15 offices. Candidates at the lower end of the mid-level experience will be based in either the Boise or the Denver office. Successful candidates will have an energetic personality, interpersonal skills, and the ability to work in a team environment. Excellent legal research and writing skills are required. Preferred candidates will possess a strong academic background and 3+ years of experience in employee benefits (tax and ERISA).

**TOWN ATTORNEY:** The Town of Darby is seeking proposals from qualified firms or individuals to provide legal services for the Town. Applicants must be currently licensed to practice law in the State of Montana, before the Montana Supreme Court, and Federal Courts. Applicants are required to have a minimum of three years of experience in county or municipal law. A complete scope of work to be provided under the contract may be obtained by contacting the Town Hall, P.O. Box 37, 101 East Tanner Ave, Darby, MT, 59829, (406) 821-3753, or by email at [epauldarby101@gmail.com](mailto:epauldarby101@gmail.com). Pro-

posals must be received no later than 12:00 PM, Friday, November 16, 2018.

**LITIGATION ATTORNEY:** Church, Harris, Johnson & Williams, P.C, a full-service law firm with offices in Great Falls, Helena and White Sulphur Springs, MT is seeking an attorney with litigation experience to join our team. Two or more years of litigation experience preferred. Competitive salary with excellent benefits package. Must be licensed in Montana.

## PARALEGALS

**PARALEGAL:** Billings law firm seeking an experienced full-time legal assistant/paralegal to support attorneys in busy litigation practice. Strong organizational skills, attention to detail, computer and document management skills a plus. Competitive salary and benefits. Please submit resume/references to office manager: [creichenbach@cristlaw.com](mailto:creichenbach@cristlaw.com)

**PARALEGAL:** Seeking experienced Paralegal/Legal Assistant for two-attorney Missoula law firm specializing in real estate transactions. Training for right candidate. Must communicate effectively and learn quickly in fast-paced environment. Attention to detail, command of grammar, spelling, MSWord required. Full-time with benefits or reduced hours to be negotiated. Submit cover letter, resume, and references to [maclaylawfirm@montana.com](mailto:maclaylawfirm@montana.com), or P.O. Box 9197, Missoula, MT 59807-9197.

**PARALEGALS:** Knight Nicaastro, LLC is a regional litigation firm with current openings for paralegals in its new Missoula office. Paralegal candidates must be proficient in filing, docketing, file organization, document management and production, preparing disclosure and discovery documents, preparing basic motions, preparing for depositions and trials, and trial assistance. Please send resume, cover letter and references to Jan McMinn at [mcminn@knightnicastro.com](mailto:mcminn@knightnicastro.com).

**LEGAL ASSISTANT:** Primary duties include creating, formatting, proof-reading & finalizing documents; scheduling/docketing; file opening; digital transcription; and client contacts. We are looking for applicants who are organized, able to multi-task, and possess excellent customer service skills. Proficient use of Microsoft Word, Excel & Outlook, and Adobe Acrobat preferred. Previous law office experience, insurance claims processing, or medical claims processing is preferred but not required. FairClaim provides on-the-job training. Please submit resume and references to [tturner@LNMS.net](mailto:tturner@LNMS.net).

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## MEDIATION

**AVAILABLE FOR MEDIATION AND ARBITRATION:** Brent Cromley, Of Counsel to Moulton Bellingham P.C., Billings, 406-248-7731, or email at [brent.cromley@moulton-bellingham.com](mailto:brent.cromley@moulton-bellingham.com).

**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@bigsk-yattorneys.com](mailto:randi@bigsk-yattorneys.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

**MISSOULA OFFICE SHARE:** Two attorneys are looking for a third to share an office in the Higgins Building, downtown Missoula. Legal secretary also shared. Call 406-721-7210.

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**OFFICE SHARE-BOZEMAN:** One office available at Bozeman law office. Professional furniture, equipment and improvements. Some staff assistance also available. Call 585-5598

for more information.

## ITEMS FOR SALE

Montana Reports for sale, years 1961-2018, volumes 139-389, \$2,500.00. Call 406-721-7210 in Missoula.

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