

# MONTANA LAWYER

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## PLANNING FOR RETIREMENT

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CAREER? NOW'S THE TIME TO START

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## FEATURE ARTICLES



### START PLANNING FOR RETIREMENT NOW!

Starting to plan and save for your retirement now, regardless of your age, will help clarify and achieve your goals and help provide a path to enjoying other opportunities.



### MOCK TRIAL CHAMPIONS

Helena High team wins Montana High School Mock Trial title, earns trip to national finals in Little Rock, Arkansas.

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# The Impact of AI on the Legal Profession: AI's Recent Bar Exam Success and Implications for Attorneys

The recent announcement that an Artificial Intelligence (AI) system passed the bar exam has sent shockwaves through the legal profession. For many, this event marks a pivotal point in the incorporation of AI in law, stimulating conversations about its implications and potential utilities.

The rapid advancements in AI over the past decade, specifically in natural language processing, are largely attributable to machine learning techniques like Deep Learning. These techniques have enabled AI to interpret, understand, and generate human language with increasing sophistication. In the legal field, AI systems like ROSS and LexMachina have been employed for years to expedite legal research, contract analysis, and prediction of case outcomes. However, the AI's success in passing the bar exam is a testament to its ability to grasp complex legal principles and apply them to fact patterns, signaling a potential new era in legal practice.

The impact of AI's recent achievement on the legal profession can be seen from two perspectives: as a threat and as an opportunity. There is a growing concern that AI might replace human lawyers, especially in tasks that require repetitive information processing, like document review and legal research. According to a 2019 McKinsey report, nearly 23% of legal work could be automated, and with AI's recent bar exam success, this figure could conceivably increase.

However, an optimistic perspective sees AI as an opportunity rather than a threat. By automating routine tasks, AI can free up attorneys' time for more strategic, creative, and client-centric

work. The augmentation approach, where AI assists rather than replaces lawyers, could lead to higher efficiency and improved decision-making. For example, AI systems could be utilized to analyze vast amounts of case law to provide data-driven insights, or to process legal documents swiftly, reducing the time spent on mundane tasks and allowing lawyers to focus more on strategic advice and advocacy.

Moreover, AI can democratize access to legal services by making them more affordable and accessible. AI-driven legal chatbots can provide initial legal advice to those who cannot afford a lawyer, thereby increasing access to justice.

It is important to note, however, that AI is not without its challenges. AI systems learn from past data, which can sometimes perpetuate biases present in the data. Furthermore, the transparency of AI decisions, and whether or how they can be explained, remain a significant challenge, particularly in a field like law, where explanation and justification of decisions are vital.

The legal profession should thus not see AI as a replacement, but as a powerful tool that can be harnessed to augment their work. To fully realize this potential, it is crucial to focus on upskilling and reskilling lawyers to work alongside AI effectively. Courses in legal technology and AI should become a part of legal education, and continuous professional development should incorporate training in understanding and utilizing AI tools.

AI's recent passing of the bar exam signifies a new milestone in the legal profession. It presents both opportunities and challenges, but its optimal



DAVID STEELE

***Dave Steele is a sole practitioner at Geiszler Steele, PC. Dave assists both plaintiffs and defendants in a wide variety of legal matters. His practice includes advising clients about the cannabis industry, business and commercial transactions, real estate and real property transactions, contract issues, and other civil matters. Dave also serves as a Mediator, Arbitrator and Settlement Master.***

use lies in augmentation rather than replacement. By harnessing the power of AI, the legal profession can indeed become more efficient, innovative, and accessible.

PS: This President's Message was drafted by AI in approximately 20 seconds, using a relatively simple prompt, and with only one minor edit required. Just sayin...

For more information on generative AI and other disruptive forces in technology that can affect your practice, please see the articles on pages 13 and 16.

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## CAREER MOVES

**Jackson, Murdo & Grant announces 3 new attorneys, Great Falls office**

Jackson, Murdo & Grant, P.C., based in Helena, welcomes three new attorneys and announces the opening of a new office in Great Falls.

**Keyes**

Marin Keyes, a graduate of the University of Montana's Blewett School of Law in 2017, joins as an associate. Born in Washington and raised in Billings, Keyes specializes in estate planning and administration, taxation, and real property and business transactions.

**Talia**

Mike Talia joins as a partner. A graduate of the University of Montana School of Law in 2007 and a former Army judge advocate general, Talia specializes in litigation. He is an avid outdoor recreationalist and is involved in charitable organizations that support military

personnel and conservation issues.

Hanna Warhank also joins as a partner. Warhank grew up in the Hi-Line town of Rudyard, Montana,

**Warhank**

and graduated from the University of Montana School of Law in 2009. Her practice focuses on business and estate planning, taxation, estate and trust administration, and real property.

With the opening of its office in Great Falls, Jackson, Murdo & Grant brings its full-service, personal approach to the central Montana and Hi-Line communities.

**Griffin joins Hathaway Law Group as associate attorney**

Hathaway Law Group has announced that Kali Griffin has joined the firm as an associate attorney.

Griffin was raised in Fairbanks, Alaska, but relocated to Montana during the latter part of her childhood. She received her undergraduate degrees in Psychology and Sociology from the University of Montana in 2018 and graduated from the University of Montana School of Law in 2022. Later

**Griffin**

that year, she was admitted to practice law in Montana.

While in law school, Griffin focused on pro-bono work which earned her honors upon graduation. That work included assisting attorneys to exonerate wrongfully convicted prisoners at the Montana Innocence Project and participating as a CASA, a job which provides support and a voice in court for children in abusive and neglectful homes. Kali also has experience in mediation for both familial and civil matters.

Prior to joining Hathaway Law Group, Griffin represented indigent clients in criminal and child welfare matters as a public defender in Hamilton. She is passionate about advocating for clients of all backgrounds and providing compassionate counsel to clients who may be experiencing a difficult season of life. Kali has a specific interest in both family and estate law matters. Outside of work, Kali enjoys exercise, reading, cooking, and travel. She resides in Missoula with her boyfriend and their two dogs, Kona and Griz.

**Heenan & Cook opens Bozeman office, welcomes new attorney**

Heenan & Cook has added a new Bozeman office location and a new attorney, Jesse Medearis.

Before moving to Gallatin County, Medearis grew up on a ranch near Ismay, Montana. After graduating from Baker High School, Jesse attended the University of Montana – Western in Dillon, where he received degrees in business administration and global politics.

**Medearis**

While there, he spent a year on the basketball team but soon learned his true passion was rodeo. Jesse finished out his college career on the rodeo team. During that time, he won the Big Sky Region and qualified for the College National Finals Rodeo. Before deciding to attend law school, Jesse worked in the roustabout, pipe-lining,

**SUBMITTING MEMBER NEWS ANNOUNCEMENTS TO THE MONTANA LAWYER**

The Montana Lawyer welcomes news from members including announcements of new positions, advancements, honors, appointments and publications. There is no charge for Member

News submissions. If you have news you would like to submit to the Member News section, you can email it to [editor@montanabar.org](mailto:editor@montanabar.org). Please direct any questions to the same

address. We will include firm name, location, the change that is being announced, attorney's name, law school, practice areas, and a high-resolution photo.

and environmental sides of the oilfields industry in eastern Montana and western North Dakota.

In 2018, Medearis received his J.D. from the University of Montana's Blewett School of Law. During law school, he was an editor of the Montana Law Review, an intern for the United States Attorney's Office, and a law clerk for an insurance defense law firm. Since graduation, he has spent his years representing various individuals and companies in numerous personal injury, construction, business, and insurance lawsuits — where he has tried multiple cases to verdict. Because of his diverse experiences in different industries and lifestyles, he can personally connect with each client and uniquely help each achieve maximum results both in and out of the courtroom.

In his free time, you can find Medearis in the rodeo arena during the summer, skiing in the winter, and spending time with his wife, Kessly, their daughter, Langston, and his three horses throughout Montana and its neighboring states.

### **Soueidi joins Felt Martin as firm's newest shareholder**

Felt Martin PC welcomes Joseph A.



**Soueidi**

Wyoming, and North Dakota. His practice includes commercial and bankruptcy litigation, probate administration and litigation, along with an array of transactional matters including business formations and transactions, real estate, natural resources, estate planning, and trust administration. Soueidi was born and raised in Montana and is proud to call it his home. He is active in the community and sits on the Board of Directors of the Billings Symphony Foundation and the Billings Public Library Foundation.

### **State Law Library welcomes Franklin Runge as its new law librarian**

State Law Library in January welcomed Franklin Runge as the new state law librarian for Montana.

Soueidi as its newest shareholder.

Soueidi joined Felt Martin PC upon its merger with Guthals Hunnes & Reuss, PC in April of 2020. He is licensed to practice in Montana,



**Runge**

Northeastern University School of Law in Boston, Massachusetts.

After graduating from law school, he clerked for the Massachusetts state courts and then joined a small civil litigation firm. After practicing for four years, he returned to school to get a Master's in Library Science from Indiana University. He then served as a law librarian at the University of Kentucky College of Law (2011-2018) and Washington and Lee University School of Law (2018-2022), where he taught 1L Legal Research and focused on providing reference to faculty, students, and the public.

Runge is excited to be here in Montana for its wonderful people and awesome opportunities to explore the natural world. He can be reached via email at [franklin.runge@mt.gov](mailto:franklin.runge@mt.gov).

Runge is new to this part of the country and is looking forward to meeting the bench and bar.

Born and raised in Louisville, Kentucky, Runge received his law degree from

## **Pabst publishes book on managing secondary trauma**

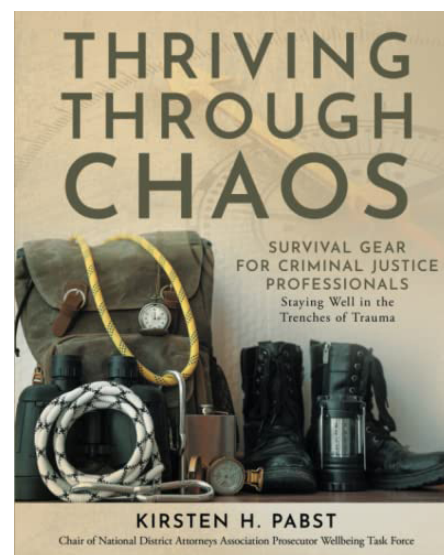
Missoula County Attorney Kirsten Pabst has released a new book, "Thriving Through Chaos: Survival Gear for Criminal Justice Professionals – Staying Well in the Trenches of Trauma."

This workbook aims to help professionals working in the criminal justice arena protect their own wellbeing, while carrying out the difficult aspects of their jobs. Written to accompany the author Kirsten Pabst's presentation Thriving Through Chaos, or as a standalone resource, this book includes exercises designed to help manage stress, recognize and cope with secondary trauma and build personal resilience.

Pabst is in her third term as county attorney for Missoula County. She is the chair of the National District Attorneys

Association Wellbeing Task Force and has been named Criminal Justice Professional of the Year. She has more than 28 years of experience in trying complex cases and has taught trial practice at local, state and national levels. She recently received national honors for her work in the evolving field of secondary trauma prevention

"Thriving Through Chaos" recognizes the impact working with traumatic material and difficult cases can have on justice professionals and their mental well-being. Pabst's expertise in the areas of well-being, secondary trauma and organizational resilience means this workbook is full of practical instruction, useful exercises and insightful essays, which offer a lifeline to those working in criminal justice.





# State Law Library a valuable resource for attorneys

To answer reference questions from the bench, bar, and citizenry, I frequently jet out of my office, walk about 60 feet, and make myself comfortable in the State Law Library's Montana section.

While standing in front of the Montana Reports, all 409 volumes at the time this article was submitted, I am struck by how these books tell the state's history through the lens of conflict. Conflict between citizens in civil lawsuits. Conflict between the state and its citizens in both criminal and civil cases. What has been the State Law Library's role in this conflict? We are the neutral entity that — when called upon — has provided relevant legal information, current resources, and professional service to all sides of the disputes.

In a profession filled with zealous advocacy, the State Law Library has the great privilege of separating ourselves from angry emails and bitter depositions. The information requests that we receive are as varied as our patrons. It does not matter your income, education, or background; we provide professional service to all Montana citizens. When our services are engaged, we become stronger. Our staff is just as comfortable navigating

securities law as we are disputes between landlords and tenants. The diversity of requests pushes us to become generalists, a designation that is becoming harder to find in a legal environment that is trending towards specialization.

In 1895, the State Law Library's Board of Trustees ordered that "[n]o books shall be taken from the Library" unless you were a member of the bar, a judge, or a legislator. If a book was checked out, it "[m]ust be returned the same day[.]" and the "Librarian is instructed to rigidly enforce this rule." Much has changed, and I am happy to say that we are working on ways for individuals across the state to comfortably access Law Library resources in the comfort of their own offices. Since 2016, the Law Library has made available its Digital Library, which can be accessed from our website. If you have a Law Library card, you can sign in to the Digital Library with your barcode number. A patron is then offered access to over 100 treatises on topics including torts, employment law, mining, agricultural law, worker's compensation, Social Security, and much more.

**MORE LIBRARY, PAGE 28**



FRANKLIN RUNGE

***Franklin Runge was named the State Law Librarian in January 2023. He is a graduate of the Northeastern University School of Law and has a Master's in Library Science from the University of Indiana. This is his debut column for the Montana Lawyer.***



**The Montana State Law Library has many resources to help Montana lawyers, both at its physical location in Helena and through its Digital Library.**





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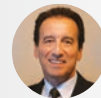
## RELEVANT EXPERIENCE

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- Land use
- Nuisances
- Partner/Shareholder/Member disputes
- Personal injury
- Probate and will disputes
- Professional negligence (architects, engineers, attorneys, etc.)
- Real estate disputes
- Soil and structural engineering
- Union contracts
- Water disputes

## OUR REFERENCES

“I strongly recommend that Cory Gangle be considered as your mediator. Over the last few years, I served as a mediator for Cory in a series of complex litigated matters. I found Cory to always be extremely prepared. By working with Cory, I found that he has many of the attributes and skills necessary to be an effective mediator. These include his knowledge, experience, intelligence, patience, neutrality, optimism, respectfulness and professionalism. I know Cory will do great work”.



– Michael A. Viscomi, Esq.

“Over the past several years, I have had the opportunity to mediate many cases in which Cory Gangle was involved. Cory has evolved into an outstanding litigant in both his approach to resolution and demeanor. I believe Cory would be a very good mediator, studious, and balancing arguments to effect an acceptable resolution. I recommend Cory as a choice for your mediation”.



– Dennis E. Lind, Esq.

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2. Schedule Online at [ganglelaw.net/mediation](http://ganglelaw.net/mediation)
3. Contact us at (406) 273-4304

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## Helena High team wins Montana High School Mock Trial title

The Helena High School team of (from left) Ethan Taylor, Layla Riggs, Melaina Kloberdanz, Robert Stimpson, Wyatt Gant, Grace Kantorowicz, Riley Walsh, Jadyn Ruttenbur was the champion of the 2023 Montana High School Mock Trial Championship. The team edged out fellow HHS team in the finals of what was the closest competition in the event's history, and advanced to the National Mock Trial Competition May 17-20 in Little Rock, Arkansas. A team from Lone Peak High School in Big Sky finished a close third.

## 23 applicants pass February 2023 administration of Montana bar exam

The Board of Bar Examiners has announced that 23 applicants for admission to the State Bar of Montana passed the February 2023 administration of the bar examination.

They were among 39 applicants who took the exam in February. They are:

Gabrielle Renee Broere, Dallas Lacey Burris, Gloria Maria Cabada-Leman,

Alexander Ralph Chillelli, Nathalia Giordana Collins, David Wayne Diacon, Jacob Daniel Edwards, Mc Kenna Rae Ford, Kierra Shay Huettl, Thomas Carl Irvine, Everett Alexander Johns, Katrina Diana Karras, Anne Michelle Lewis, James Henry Pollard, Jennifer Louise Robichaud, Angela Marian Rolando, Jade Taylor Solvason, Kai Bjorn

Thorsgard, Stephen James Wood, Lisa Marie Woodward.

On April 25, the Montana Supreme Court conducted a swearing-in ceremony for applicants who passed the bar exam while meeting all other admission requirements.



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# Electronic filing system being implemented in L&C County

The Montana First Judicial District Court will implement an electronic filing system for all case types capable of being electronically filed for Lewis and Clark County proceedings.

Cases that are generally capable of being e-filed include, but are not necessarily limited to, DC, DN, DJ, DD, DR, DV and DI cases.

All lawyers admitted to practice in Montana are required to become registered users of the electronic filing system and begin using the electronic filing system. Upon application to the First Judicial District Court Chief Judge, waivers for use of the system may be granted based upon compelling and extenuating circumstances.

On Nov. 18, 2014, the Montana Supreme Court adopted Temporary Electronic Filing Rules (TEFR) which

govern access to and use of the electronic filing system. See In Re Temporary Electronic Filing, AF 14-0745 (amended Feb. 22, 2022).

All lawyers admitted to practice in Montana shall be mandatory in all Lewis and Clark County DC, DD, DN, DJ, DR, DV and DI cases, subject to TEFR 6(a).

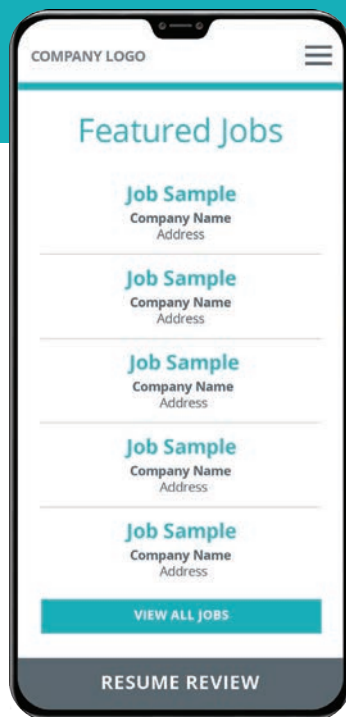
Instructions on becoming a registered user and accessing the electronic filing system are available at [https://](https://courts/mt.gov/courts/efile)

[courts/mt.gov/courts/efile](https://courts/mt.gov/courts/efile). An attorney shall not e-file documents for pro se litigants in contested matters.

Effective May 1, 2023, Rule I (Email Filings) of the First Judicial District Court Rules will be discontinued and abolished for all Lewis and Clark County litigants in DC, DD, DN, DJ, DR, DV and DI cases. Rule I will remain applicable for all Broadwater County litigants.


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Parsons Behle & Latimer is pleased to welcome John E. Bloomquist and Betsy Story to its Helena office and its Water Rights, Quality & Infrastructure practice team. With the addition of these talented attorneys, Parsons now offers clients one of the foremost legal water teams in the Intermountain West. Our team provides clients unparalleled legal experience and specialization in water-related litigation, all aspects of infrastructure projects, regulatory issues, and managing and developing water rights.



**John E. Bloomquist** | of counsel

Mr. Bloomquist draws from his former experience as a Water Master with the Montana Water Court to continue close and productive relationships with administrative and regulatory bodies. His practice involves transactional aspects of natural resource matters as well as litigation before courts and various state and federal administrative agencies. [jbloomquist@parsonsbehle.com](mailto:jbloomquist@parsonsbehle.com) | (406) 410.5020



**Betsy Story** | associate

Ms. Story has experience serving clients across the state of Montana in Water Court, State District Court and Federal Court. Ms. Story received her Juris Doctorate degree from the University of Montana School of Law in 2019. [bstory@parsonsbehle.com](mailto:bstory@parsonsbehle.com) | (406) 410.5021

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The duty of technological competence extends to emerging disruptive technologies that might sneak into our cases. These include blockchain, smart cities and health information technology.

# Duty of techonological competence extends to understanding impact of disruptive forces

*We tend to overestimate the effect of a technology in the short run and underestimate the effect in the long run.*

-Roy Amara, futurist

By Abby Moscatel

The State Bar of Montana adopted Comment 8 to the American Bar Association's Model Rule of Professional Conduct 1.1 (Duty of Competence). "To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in its law and its practice, including the benefits and risks associated with relevant technology, engage in continuing study and education and comply with all continuing education requirements to which the lawyer is subject."<sup>1</sup>

By now, you are probably familiar with using social media evidence in

trials. As an insurance defense lawyer in Southern California, most of my defense verdicts or good outcomes were directly linked to impeachment evidence found on social media platforms. As a plaintiff attorney in Montana and California, I carefully monitor all parties' social media presence.

However, our duty to be competent with technology clearly spans beyond social media searches. Disruptive technology and its impact on our practice are changing daily. Here are a few types of technology we need to know about, along with examples of how they can sneak into our cases:

## 1. Blockchain

Blockchain is a decentralized, distributed, public digital ledger that records transactions across many computers, so they cannot be altered

## MORE TECH NEWS

Generative AI like ChatGPT is quickly being adopted by lawyers, a survey has found. Those who are should consider the ethical implications carefully.

retroactively.<sup>1</sup>

Most people associate blockchain with cryptocurrency, and the buzz around distributed ledger technology continues to make news. Samuel Bankman-Fried of FTX Trading is being prosecuted for allegedly using this tool to defraud investors worldwide out

## MORE TECH, PAGE 15

<sup>1</sup> [www.synopsys.com/glossary/what-is-blockchain.html](http://www.synopsys.com/glossary/what-is-blockchain.html)



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## TECH

FROM PAGE 13

of billions of dollars.<sup>2</sup>

However, blockchain is becoming more relevant to our damage analysis. For example, I have a case involving lost opportunity costs, and my client invests in cryptocurrency. To get the correct information to the economist expert, I need to understand what it is and how my client invested in it before I know how to identify and craft record subpoenas. By knowing what it is and how my client uses it, I can more easily prove damages during trial.

### 2. Smart Cities

Smart Cities are technologically modern urban areas, often municipalities, that use several digital technologies, like sensors, to collect specific data.<sup>3</sup>

When I was researching smart cities in preparation for writing a book on disruptive technology, I interviewed the CIO for the City of Burbank about how he is using technology to make the city safer and more efficient.

Three takeaways: First, our cities are collecting mass amounts of data related to traffic accidents and crime. Second, nearly everything a municipality does can be acquired with a public records request. Most of the time, video coverage of a traffic accident is long gone when my client walks through the door. But, with the record retention schedules cities abide by, I can get the data I need about the crime statistics and traffic development proposals for the scene of an accident. And third, smart cities

are a growing trend because it allows municipalities to be more efficient.

I predict that cities will increasingly collect and utilize data, leading to a treasure trove of data ripe for our use.

### 3. Health Information Technology

Health Information Technology (HIT) is the application of information processing involving computer hardware and software that deals with storing, retrieving, sharing, and using healthcare information, data, and knowledge for communication and decision-making.<sup>4</sup>

Yes, we must understand how electronic medical records are generated and edited for medical malpractice or injury-related cases. However, we also need to understand Health Informatics because it impacts the standard of care.

When I spoke with the Credentialing and Peer Review Committee Chair at L.A. Care, she told me they are using data to analyze fraud. If we understand a little bit about how data is being collected and analyzed in this space, we can ask for the correct information in discovery.

For example, suppose I have a medical malpractice case against a physician involving opioid addiction, and that physician is working for a large hospital. In that case, I determine if the physician has been flagged for writing excessive or fraudulent prescriptions.

### 4. Other Emerging Tech

Other types of emerging technology are creeping into our practice, requiring us to think outside of our standard interrogatories. Here are a few:

- AgTech

- Artificial Intelligence (see article on page 17)
- Big Data & Internet of Things (IoT)
- Telematics
- eDiscovery
- Information Governance
- Digital Ethics and Privacy
- Cyber Security
- Digital Preservation
- Records Management and
- Library Science

The bottom line is that it is no longer enough to work a keyboard and back up our client files when it comes to technology and our law practice. Social media reports are not sufficient, either. We must take a close and hard look at our client's cases, determine what information we need to ascertain, and then be able to apply traditional discovery methods to get it during discovery and ultimately admitted in trial.

**Abby Moscatel is the author of the best-selling business book *Tomorrow's Jobs Today: Wisdom and Career Advice from Thought Leaders in A.I., Big Data, Blockchain, the Internet of Things, Privacy and More!* She is a Martindale-Hubbard AV Preeminent-rated trial lawyer practicing in California, Montana, and in some federal jurisdictions. She founded Blacktail Law Group, PLLC, in 2021 and can be reached by email at [amoscatel@blacktaillaw.com](mailto:amoscatel@blacktaillaw.com) or by phone at 406.318.7223. You can learn more about her firm at [www.blacktaillaw.com](http://www.blacktaillaw.com).**



<sup>2</sup> [Tomorrow's Jobs Today, Second Edition, by Abby and Rafael Moscatel \(2023\)](#)

<sup>3</sup> [Id](#)

<sup>4</sup> Thompson, T., and D. Brailer. "Health IT strategic framework." DHHS, Washington, DC (2004)

“The bottom line is that it is no longer enough to work a keyboard and back up our client files when it comes to technology and our law practice.”

# Using generative AI in your practice? You better be aware of ethical implications

By Sharon D. Nelson, Esq., John W. Simek, and Michael C. Maschke

According to a Lexis Nexis survey released in March 2023, 60% of lawyers have no plans to use generative AI at the present time. Considering that OpenAI's ChatGPT was only released in November of 2022, that's not particularly surprising. Lawyers are certainly not noted for rapidly adopting new technology.

What's astonishing to us is how many lawyers HAVE started working with generative AI, most often ChatGPT, which will largely be the focus of this article. Google's Bard and Microsoft's Bing Chat (based on ChatGPT) are still edged out by OpenAI's ChatGPT in studies – and our own unscientific observation is that far more lawyers are using ChatGPT compared to its rivals. ChatGPT is the fastest growing app ever released with over 100 million active users just two months after its release.

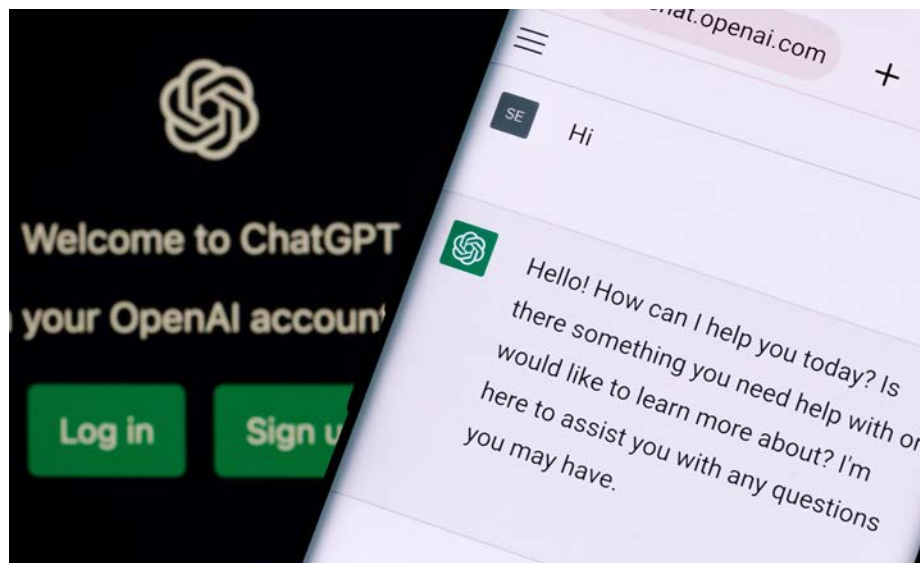
We have been bombarded with requests to present webinars on how lawyers can use ChatGPT in their law practice – in the seminars presented thus far, lawyers have peppered us with questions about how generative AI can be used by lawyers AND questions about its ethical and cybersecurity ramifications.

How is it being used? Our very incomplete list includes prediction of case outcomes, e-discovery, brief composition, contract review, legal research, brief analysis, writing briefs, predictive analytics, deposition questions, document review, billing and litigation support, due diligence, jury screening, online dispute resolution, and composition of emails.

## Validate, validate, validate

What ChatGPT writes is generally well written. But taking it at face value as the truth would be a mistake. And yes, the human tendency is to do just that.

This was noted by Allen & Overy, which is in the process of globally rolling out OpenAI-based chatbot Harvey. In a directive to its lawyers, it wrote, "You must validate everything coming out of the system. You have to check everything."



Author Nelson can confirm the wisdom of that advice. She asked for case law on two separate issues with hyperlinks to references about the cases. ChatGPT responded with incorrect or partly correct information. Some "facts" appeared to have been made up. And virtually all the hyperlinks didn't work. Some of that may have been "link rot" because the links were no longer available, but all of them? Never use an AI provided hyperlink without verifying it!

## What is with AI hallucinations?

Lawyers are simply not used to the word "hallucinations" being used with respect to AI, though it is critical to understand that AI systems do sometimes hallucinate – and yes, that is the word used by its creators.

Generative AI mixes and matches what it learns, not always accurately. In fact, it can come up with very plausible language that is flatly wrong. It doesn't "mean to" but it makes things up – and that is what AI researchers call a "hallucination" – which is certainly not something that a lawyer would wish to cite in a brief! Hallucinations can be so egregious that they are easy to identify because they are clearly not relevant or read like utter nonsense. They are harder to spot when they are simply incorrect!

Competence with Technology/Duty of Confidentiality/Communications with

## Clients/Supervision

First, remember that the last data dump to ChatGPT was in 2021. So if what you need depends on data after that, it cannot help you. Reportedly, the database will be updated later this year. This is when you need to turn to Bing Chat, as it is internet connected.

Next, AI is largely a "black box" – you cannot see inside the box to see how it works. This is why validation is so critical. It was never intended that AI would "be a lawyer" so lawyers must make sure that the assistance of AI does not substitute for a lawyer's legal judgment.

It is important to discuss and obtain the agreement of clients that AI will be used, and with appropriate safeguards – do you really want to enter identifiable data about a client matter into the AI? How can you ensure that any such data will not become public? What if the AI itself suffers a breach? Also, the output of the AI respecting a client matter should not be shared with unauthorized individuals.

Ah, and one more conversation with clients that you may ethically need. Soon, it may be that you must justify NOT using AI in legal matters, especially where the cost savings would be significant. The duty of candor may play more of a role in an AI world.

We mentioned the law firm Allen and Overy above. The firm talks about using silos to protect firm data, presumably

within a single office or perhaps a practice area. While we do not know the specifics (laudable caution on the firm's part) it sounds like they are taking a hardline and prudent approach to the protection of client data, even within the firm itself.

Data breaches of the AI itself may pose a significant threat. ChatGPT has indicated to the authors that AI systems are a prime target for hackers. It has recommended "implementing strong authentication protocols, regularly monitoring systems for vulnerabilities, and using encryption."

It is important to stay current on the latest threats and defenses. Make sure that any AI system you use is designed to ensure privacy and security. Also, make sure you have regular cybersecurity assessments (and the much more expensive penetration testing if you are large enough to warrant it).

It also warned against adversarial attacks, in which an attacker manipulates AI systems, producing inaccurate or misleading results. As it points out, this could

be especially damaging in a legal context where the stakes might be very high.

### Other ethical concerns

There may be bias in the training data. Historically, there have been a lot of court decisions reflecting bias. You don't want that bias reflected in your work.

What will happen if you receive output from AI which is conflicting? Do you get to cherry-pick the language which favors your client – transparency may become an increasingly important ethical concern.

Make sure the material the AI gives you is not plagiarized.

Cite the AI as the source.

Remember your duty of supervision! You must supervise both lawyers and non-lawyers, INCLUDING AI.

### Final words

Lawyers fear being replaced by AI, but we think the future of AI and the profession of law may be summed up as follows (hat tip to Erik Brynjolfsson, Director, Stanford Digital Economy Lab):

"Lawyers working with AI will replace

lawyers who don't work with AI"

**Sharon D. Nelson is a practicing attorney and the president of Sensei Enterprises, Inc. She is a past president of the Virginia State Bar, the Fairfax Bar Association and the Fairfax Law Foundation. She is a co-author of 18 books published by the ABA. [snelson@senseient.com](mailto:snelson@senseient.com)**

**John W. Simek is vice president of Sensei Enterprises, Inc. He is a certified information systems security professional, certified ethical hacker and a nationally known expert in digital forensics. He and Nelson provide legal technology, cybersecurity and digital forensics services from their Fairfax, Virginia, firm. [jsimek@senseient.com](mailto:jsimek@senseient.com).**

**Michael C. Maschke is the CEO/director of cybersecurity and digital forensics of Sensei Enterprises, Inc. He is an EnCase certified examiner, a certified computer examiner (CCE #744) a certified ethical hacker and an AccessData certified examiner. He is also a certified information systems security professional. [mmaschke@senseient.com](mailto:mmaschke@senseient.com).**



**STATE BAR OF  
MONTANA'S 2023  
ANNUAL MEETING**

**SAVE  
THE  
DATES  
SEPT. 13-16  
BILLINGS**

### Rural Incubator Project presenting CLE seminar on Starting A Small Firm

The Rural Incubator Project for Lawyers and the State Bar of Montana will present a CLE seminar on starting a small firm on Friday, March 26. It is planned for 4.0 CLE credits, including 1.0 Ethics.

To register or for more information, visit [www.montanabar.org](http://www.montanabar.org) and click "Upcoming CLE and Events under the "CLE & Events" tab. Topics are Shifting to a Business Owner Mindset, presented by David Steele of Geiszler Steele in Missoula; Trust Account Maintenance, presented by Sheena Broadwater of the Office of Disciplinary Counsel; and a panel discussion on Starting a Law Firm including attorneys past RIPL fellows Morgan Handy and Walter Clapp, facilitated by Calyn Hitchcock.





# Do you have a plan for retirement? Now is the time, no matter what age you are

By Paul G. Ulrich

We're not immortal. Everything has an end.<sup>1</sup> "Stein's law" in economics, "If something cannot go on forever, it will stop,"<sup>2</sup> also applies both to law practice and life generally. Why wait to die or become disabled to stop practicing law? Why not instead start enjoying purposeful, meaningful, satisfying retirement years? Life's too short.

This article discusses three basic issues. (1) If we inevitably must retire from a stressful, high-pressure law practice and redirect our efforts, what principles guide those decisions? (2) How do we redirect our knowledge and experience, and develop personal relationships, so our retirement years have purpose, meaning and satisfaction? (3)

How do we become financially able to retire when we're ready or need to do so, in good health and with sufficient resources to sustain a reasonable lifestyle?

## Progressing "From Strength to Strength"

Arthur C. Brooks, former president of the American Enterprise Institute and now a Harvard Business School professor, concluded in a July 2019 Atlantic article that professional decline is inevitable sooner or later, simply as the result of aging. That's particularly true for elite performers.<sup>3</sup> He proposed the Principle of Psychoprofessional Gravitation: The agony of defeat is directly related to the height of professional prestige previously achieved, and to one's emotional attachment to that

prestige.<sup>3</sup> Brooks' personal resolution of that problem was to retire from his high-level, high-pressure executive position and return to teaching.<sup>4</sup>

Brooks' article also discussed concepts of "fluid" and "crystallized" intelligence, based on work by British psychologist Raymond Cattell. Cattell defined fluid intelligence as the ability to reason, analyze and solve novel problems – raw intellectual horsepower. It's highest relatively early in adulthood and diminishes starting in one's 30s and 40s. Crystallized intelligence is the ability to use knowledge gained in the past. Because it relies on an accumulating stock of knowledge, it tends to increase through one's 40s and doesn't diminish until very late in life.<sup>5</sup>

Brooks' recently published book, *From Strength to Strength*, builds upon those ideas. He concludes that fellow strivers should jump from the first curve of what rewards fluid intelligence, get on the second curve that rewards crystallized intelligence, and learn to use their wisdom. Working harder simply to stay on the first curve doesn't work. Doing so becomes increasingly difficult, unsatisfying and frustrating.

Success addiction also chains strivers to their ever-declining fluid intelligence curve. That addiction can become dehumanizing, as they objectify themselves based on self-definitions revolving around work, achievement, rewards and fame. Brooks instead advises, "Devote the back half of your life to serving others with your wisdom. Get old sharing the things you believe are most important. Excellence is always its own reward, and this is how you can be most excellent as you age."<sup>6</sup>

## The Second Mountain

New York Times columnist David Brooks has written "The Second Mountain,"<sup>7</sup> also about living a meaningful life, in a similar vein. He argues that life has a "two-mountain" shape. Young people begin by climbing the first mountain, with goals of becoming a success, making their mark and experiencing personal happiness. But at the top of that mountain, they're unsatisfied.

There's instead another, bigger mountain on which life moves from self-centered to other-centered. People on that mountain want things that are truly worth wanting, not what others tell them to want. They surrender to a life of commitment. David explores four commitments that define a life of meaning and purpose: to a spouse and family, to a vocation, to a philosophy or faith, and to a community. He shows what can happen when people put commitment-making at the center of their lives.<sup>8</sup> His book is also well worth considering in establishing a values framework for our lives.

## Redirecting our knowledge and

## experience

Retiring from active law practice doesn't require withdrawing from life generally. But you'll need other interests and activities to make retirement most satisfying. The Pareto principle, stating that for many outcomes, roughly 80 percent of consequences come from 20 percent of causes, provides a useful approach.<sup>9</sup>

Applying that principle to your own experience, time spent on the 20 percent of your most satisfying activities should be substantially increased, and substantially decreased on the remaining 80 percent, to produce the greatest aggregate satisfaction. There's no reason to spend time on what you don't enjoy or to postpone retiring simply because you have no interests other than law practice. Instead, you can begin cultivating other interests now, then spend more time developing and enjoying them during your retirement years.<sup>10</sup>

Questions to consider include: What's the mission statement for the rest of my life? What interests, projects and activities do I find most satisfying? What more do I want to accomplish? Where do I want to live? Do I want to travel? Do I want to continue to work part-time, either in my present career or in another field? Begin exploring those possibilities now, so they can be pursued when time permits.

Setting specific goals, then creating and following step-by-step plans to achieve them within specific time periods, permits making those changes. Brian Tracy's 14-Step Goal Setting Guide, available free online, provides a good format for doing so.<sup>11</sup> If you're having difficulty achieving your goals, the problem may be "constraints" acting as bottlenecks blocking your path. Concentrating your energies and attention on removing them will speed up the goal-achieving process faster than anything else.<sup>12</sup>

## Developing a "portfolio of careers"

Work has been redefined and expanded to include all of our part-time activities or "careers," regardless of whether they're income-producing. They add more temporary pieces to

our lives. But they're also subject to the 80-20 rule.

We can decide to manage our "portfolio of careers," both at work and in retirement. That portfolio includes both income- and nonincome-producing activities, depending on our professional and personal interests and skills, and our financial needs. We also can adjust our portfolio at any time by adding, subtracting or changing any of its components.

Income-producing work and retirement therefore need not be all-or-nothing alternatives. But your next working career may not be the one you have now. Whether to pursue any particular career or other activity depends your personal interests, priorities and financial situation, and whether it increases your general satisfaction.<sup>13</sup>

## The "well-planned life" vs. the "summoned self"

David Brooks also wrote a New York Times column in 2010 comparing two ways of thinking about how to approach living one's life.<sup>14</sup> The first, "The Well-Planned Life," is based on a Harvard Business Review article by Clayton M. Christensen.<sup>15</sup> It consists of finding a clear purpose for one's life at an early age, then making decisions throughout life about allocating time, energy and talent to accomplish it. As the result, "life comes to appear as a well-designed project, carefully conceived in the beginning, reviewed and adjusted along the way, and brought to a well-rounded fruition."<sup>16</sup>

The second way is the "Summoned Life." This mode of thinking starts from an entirely different perspective—"Life isn't a project to be completed; it is an unknowable landscape to be explored." Important parts of that landscape are commitments that precede choice, defying the logic of cost and benefit, investment and return.<sup>17</sup>

When confronted with specific opportunities and options, a person living the "Summoned Life" asks, "What are these circumstances summoning me to do? What is needed in this place? What is the most useful role before me? Those questions are answered primarily



by sensitive observation and situation awareness, not by calculation and long-range planning.” Brooks concludes both ways are probably useful for one trying to live a well-considered life.<sup>18</sup>

Putting it another way, Stephen Covey wrote his famous “legacy quote” in *First Things First*: “There are certain things that are fundamental to human fulfillment. The essence of these needs is captured in the phrase: to live, to love, to learn, to leave a legacy.”<sup>19</sup> What is your legacy? How and where do you plan to leave it?

### Personal relationships

Between 1939 and 1942, Harvard

University recruited 268 of its healthiest and most promising undergraduates to participate in a long-term study of the human life cycle. The originators of program, later known as the Grant Study of Adult Development, believed medical research was too heavily weighted toward disease. They intended instead to chart how a group of promising individuals coped with their lives over an extended period of time.<sup>20</sup>

In 1977, George E. Vaillant, the study’s long-term director, published a detailed report summarizing his observations of its subjects over 35 years.<sup>21</sup> His major conclusions were that isolated traumatic events rarely mold

individual lives; most mental illness is adaptive reaction, not independent defect; there are 18 such adaptations; adults change over time; and mental health is tangible and exists as a continuum, not just as the absence of discrete psychiatric maladies, much like intelligence or musical ability. His final conclusion was that effective adaptation to stress permits us to live.<sup>22</sup>

Vaillant published his final report concerning the study in 2012, when its subjects were in their 90s. He concluded that adult development is a lifelong process, that the most important contributor to joy and success in adult life is love (or attachment), and that the second greatest contributor is mature, involuntary, adaptive “mechanisms of defense.” Such defenses remain the sine qua non of warm relationships.<sup>23</sup> Loving relationships should begin early and continue throughout adulthood, as important contributors to long-term well-being and successful life outcomes.

### Financial planning

Start planning, saving and investing as much as possible now, no matter what your age, to be financially able to retire when you’d like to do so. Review your circumstances, plan your desired retirement lifestyle and expected needs, set a retirement date and financial goals, then start working to achieve them. You can’t afford to wait.

Retirement financial goals have both income and expense sides. A sufficient asset/income “number” is required to maintain a reasonable, sustainable retirement lifestyle. Achieving that number requires savings and investment strategies beyond this article’s scope. But until you do so, financially satisfying retirement without at least part-time employment may not be possible.<sup>24</sup> On reaching it, whether to work becomes a trade-off between whatever satisfaction it provides and finally having time to pursue either previously neglected or new personal interests and activities.

### Doing the math

The underlying math illustrates what’s involved. According to the Society of Actuaries, there’s now a 45%

## 2023 State Bar of Montana Elections

Positions on the ballot for this year are:

- President-Elect
- Trustees: Area E, Area F, and Area H
- Secretary-Treasurer

Find candidate information and online voting links at <https://bit.ly/SBMTElections>

Voting open through May 22

## 2023 State Bar of Montana Awards

Nominate a peer for one of these awards:

- William J. Jameson Award (highest award bestowed by the State Bar of Montana)
- Neil Haight Pro Bono Award
- George L. Bousliman Professionalism Award

Nominations accepted through June 16.

Find forms at <https://bit.ly/SBMTAwards>

chance one spouse of a 65-year-old married couple will live until age 90 and a 20% chance one will live to age 95. However, only 60% of such households have a 401(k), IRA or similar tax-advantaged retirement plan. As of 2010, the typical balance in such accounts was only \$120,000. If that amount were converted to a standard joint-and-survivor annuity, it would yield only \$575 in guaranteed monthly life income.<sup>25</sup> In 2012, 38% of all adults surveyed said they weren't confident they had enough income and assets to last through their retirement years. The most concerned age group was those in their late 30s and early 40s.<sup>26</sup>

Even a \$1,000,000 investment portfolio may not be sufficient to meet retirement income needs. For example, assuming an average 4.24% annual return, 2.4% average annual inflation and withdrawals starting at \$50,000 per year, that portfolio would last for 24 years. If \$60,000 was withdrawn annually, it would last for only 19 years.<sup>27</sup> A recent Merrill Lynch report states that \$1,000,000 in investments at age 65 will provide only \$38,400 per year in income through age 91.<sup>28</sup>

Other items to be included in computing your required income "number" are a percentage of your real estate's equity value, depending on your life expectancy; Social Security, pension, real estate and any other income; and possible inheritances and insurance proceeds.<sup>29</sup> If any of that income is taxable, your net income would be less.

Whatever your approach, achieving any substantial gross retirement income "number" requires long-term, systematic savings and investments, starting now. For example, a study by T. Rowe Price for USA Today confirms that, assuming a 7 percent average return, \$82.28 in daily savings (or \$30,032 per year) for 30 years is required to yield a \$50,000 annual income, adjusted by 3 percent per year to handle future cost-of-living increases.<sup>30</sup> If you'll need more investment income or have fewer than 30 years to go before retirement, you'll have to save at an even greater rate.

## **"Dying broke"**

How much sustainable retirement

income is enough is necessarily a subjective decision, depending on your remaining life expectancy, your financial needs and desired lifestyle, and whether you want to leave inheritances or make charitable bequests on your death. Careful, realistic income-expense cash flow planning and budgeting, distinguishing between "needs" and "wants," is required to establish a monthly expense "burn rate" permitting a sustainable retirement income.

In estimating that "burn rate," you'll also need to consider whether you'll feel guilty about spending your children's inheritance while you and your spouse are alive. For example, you might decide to begin working today for your own long-term financial interests, instead of your employer's, to improve your personal bottom line; to pay cash for what you buy and adopt a more frugal, need-based lifestyle; to not retire from an income-producing career prematurely or absolutely; and eventually to die broke.<sup>31</sup>

Following that approach, your financial and lifestyle decisions would emphasize enjoying and improving your own current and long-term quality of life, rather than leaving behind as much as possible in your estate. You also might decide to make any desired gifts during your lifetime while you can enjoy the satisfaction of doing so and the gifts will do the most good. Doing so might be preferable to reducing your and your spouse's own retirement living standard to permit post-death gifts to those who might have an unjustified sense of entitlement and who might not then need them.<sup>32</sup>

Since the future can't be predicted, a literal "dying broke" approach has obvious uncertainties and limitations. We don't know how long we'll live or what our future needs might be. Unforeseen events, such as our own or family members' emergency financial needs, sudden serious illnesses or long-term care requirements, might significantly increase our estimated expenses. Great majorities of those surveyed have stated they would feel "very obligated" to provide needed financial assistance or caregiving to parents, grown children and other family members under those

circumstances.<sup>33</sup>

Whether any given retirement income "number" is sufficient also depends on your anticipated retirement living expenses. Reducing those expenses requires paying off all home, car, credit card and other loans. It also requires adopting a more conservative lifestyle and cutting unnecessary expenses in preparing for a retirement lifestyle, even during your later, presumably higher-income, working years, so your retirement savings can increase as much as possible. The more than tripling of student debt from \$260 billion to \$1,080 billion during the past ten years has significantly slowed first-time home ownership, and thus also has postponed eventual retirement.<sup>34</sup>

If you want to live independently during retirement for as long as possible, how do you plan to do so? Choices include whether to downsize your present home in favor of a smaller, more economical and easily managed residence; whether to reduce your present social, travel, entertainment and charitable expenses; and whether you want to live elsewhere, such as in the mountains or on the seashore, part-time or full-time.

## **Estate planning**

Formal estate planning and documents are required to provide an orderly transfer of your property to your spouse, your heirs, and any desired charitable or other recipients. Such planning helps minimize any estate taxes or probates. Particularly where second marriages and mixed families are involved, clear will and trust provisions also can help prevent future misunderstandings or disagreements. Living wills, healthcare powers of attorney, property lists and related documents also help you and your spouse accomplish your estate planning objectives.

## **Professional Planning**

### **Ownership valuations and buyouts.**

Does your firm have an agreement for buying out its owners' interests on their death, disability or retirement? Regardless of whether the firm will continue after your departure, there needs to be a clear, fair, agreed-upon formula



for computing each owner's interest in the firm, either upon any owner's death, divorce or departure, or upon the firm's dissolution. There also needs to be agreement on when any amounts due will be paid.

Such discussions also need to start as soon as possible, if no such agreements now exist. Agreements are easier to reach based on hypothetical future events, rather than a departed owner or ex-spouse is demanding the greatest possible amount for the owner's interest in the firm.

### **Succession planning**

Will your firm be able to continue when you're no longer there or will it instead have to dissolve? What is its succession plan? Who will take over your cases, client relationships and place in the firm generally? Who will become responsible for its long-term leadership, management and development? Your firm's owners also need to have a plan in place for resolving those issues, rather than being surprised when an owner leaves. Such plans also need to include backup case management assignments and clear leadership succession policies throughout the firm.

### **Winding down and dissolving a solo/small firm practice**

I retired from active law practice in May 2012, after 46 years as an Arizona appellate lawyer. I had conducted a home-based, solo civil appellate and trial court litigation practice for the prior nine years, employing part-time contract lawyers and staff, and co-counseling with trial firms as "appellate counsel in residence."<sup>35</sup>

In early 2010, my wife and I decided to retire in May 2011, when our firm's fiscal year ended. But I wasn't in a firm where I easily could transfer my unfinished cases and responsibilities to another partner or shareholder. I also didn't want to have to continue a part-time practice. I instead intended to take full direction of my change in course and achieve a purposeful redirection after practicing law.

Under those circumstances, I needed to complete those cases and dissolve my practice before retiring, without

abandoning clients or others with whom I was working. Doing so required both personal and professional planning. It also required a second year, since many of my cases were still active when the first year ended.

My firm's appellate/trial court litigation practice was based primarily on individual case referrals, and personal client or trial counsel referral relationships. Contract lawyers provided second-chair backups for those cases. However, although they could handle them if I died, became disabled or retired, I could not guarantee they would continue and develop those referral relationships in my absence. Accordingly, as practical matter, there was no general "good will" to sell.

I therefore decided to wind down and dissolve my practice as professionally as possible. The following is generalized checklist of the steps I followed in doing so:

Establish a fixed target retirement date at least two years in advance. Beginning immediately, stop accepting new long-term matters likely to run past that date. Instead, try to fill your time with shorter-term matters and consulting projects.

Schedule computerized research and other service contracts, and any office and equipment leases to expire on the target date. Repay any loans or advances, and cancel any outstanding lines of credit before the target date.

Notify your insurers of your plans, and schedule your firm's professional, fire and general liability insurance to expire, either on the target date or as soon thereafter as possible. Obtain "tail" professional liability insurance to cover possible such claims that might be made after you retire, based on any prior alleged incidents.

Confirm that other lawyers can provide backup on all your client matters and projects, and that they will be available to complete them if they're not concluded by the target date.

Stop all non-essential annual publication subscriptions as of one year before the target date. Stop all essential subscriptions on the target date.

Review your firm's current accounts receivable, then begin collecting all such

accounts. Try to have any future fee agreements include advance and renewing trust deposits, and avoid creating any new, large, unsecured accounts receivable.

Give as much notice as possible to your firm's owners, associate and contract lawyers, and staff concerning your retirement plans. Agree on how they can work with you in meeting your target date, and then either continuing or dissolving the firm's practice after your departure.

Tell your clients, and any referring or co-counsel in matters that might extend past your target date that you're going to retire. Introduce them to lawyers who can continue to handle their matters when you're not available, and provide them opportunities to choose successor counsel. Return or destroy accumulated files in closed matters, with appropriate client notifications and authorizations. Transfer client files in continuing matters to successor counsel if they're not resolved by the target date.

Notify your state bar(s) that you're no longer actively practicing law.

After your target date, sell, donate or dispose of any surplus office furnishings, equipment and library materials. Bill and collect any remaining accounts receivable until it's no longer worthwhile to attempt to do so, then write off any remaining amounts.

File any required final reports and tax returns; pay any remaining taxes, fees or assessments; obtain any necessary final tax clearances; pay any remaining accounts payable; then dissolve your firm, and close its bank accounts and credit cards.

### **Life on the other side**

Retirement from law practice provides opportunities for redirection, not simply withdrawal. Following Arthur Brooks' advice, you can decide whether and how you want to continue or explore new law-related activities, using the "crystallized intelligence" approach, based on accumulated knowledge, wisdom and life experience. They might include bar committees, publications or other projects, teaching, consulting,

### **MORE RETIREMENT, PAGE 27**



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# Recognize complexities in case, and plan to prevent randomness in the outcome

It was devastating for the defense team to watch. Jared, one of the few jurors willing to consistently speak up, took control of the deliberations to offer a convoluted and completely erroneous explanation of the technology at the heart of the case, creating a path to a plaintiff's verdict that the plaintiff's own trial team likely did not anticipate. What the defense team thought was an easy defense had now become \$45 million in exposure. Fortunately, this was only a mock trial, not the real thing. While the defense team thought its case was strong, it was smart enough to recognize the complexities involved in the case and conducted the jury research to discover problems exactly like the path Jared exposed in mock deliberations.

Complexity in cases introduces randomness in outcomes. When jurors are confused, they struggle to participate in deliberations either because they lack motivation born of their lack of confidence to rearticulate explanations of the issues, or because their confusion makes it impossible for them to defend in detail any position in the case they might feel inclined to support. This struggle leaves deliberations to the whim of whoever is willing to speak up and take control of the discussion regardless of their grasp of the facts. We call it the complexity randomness factor. Willingness to speak up in deliberations is not necessarily the result of a reasonable grasp of facts and evidence. In fact, in complex cases, there is often little resistance to erroneous assumptions or views of the case since other jurors are often too confused to challenge the erroneous views of the most vocal jurors. This means people like Jared, who are brave enough to assert themselves in deliberations of a complex case, can exert significant influence over the outcome even when they are wrong.

Too often, the answer to case complexity for many litigators is more educational efforts, with the presumption being that more information, more testimony, and/or more exhibits will provide more clarity. The solution is often that more is better. Instead, more is just more. It usually does the opposite, leaving jurors overwhelmed



By Thomas O'Toole, Ph.D.  
&  
Kevin Bouilly, Ph.D



and even more desperate for a shortcut through the mayhem. The key to successfully managing complexity randomness is to give jurors something familiar. When people are overwhelmed and confused, they seek out and quickly latch onto anything that is familiar to them. A familiar face at a party where we do not know anyone gives us immediate comfort. A familiar idea or narrative at trial can do the same.

This sounds simple enough, but we find it is much more challenging for litigators to truly embrace, often because they are more focused on proving their case than they are on persuading the jury, and these do not go hand in hand. One of our mentors used to preach, "don't let the facts become shackles." Hilarious as it may sound, it turns out to be sage advice. We know jurors will remember very little of what they heard over the course of trial by the time they reach deliberations. Complexity and confusion only further erode this erasure of facts and testimony. Jurors in turn, fill these memory gaps with their own personal experiences, beliefs, and narrative tropes. In short, jurors do not necessarily decide a case on the facts, so why should the trial team worry about proving its case rather than persuading the jury?

Familiarity does not require 100% accuracy. In fact, good persuasion is often about triggering familiarity to help move jurors closer to an accurate understanding

of facts or evidence that objectively differ from their actual memories, experiences, or beliefs. The familiar helps jurors slide toward the actual. Jurors will not abandon something familiar simply because there are a few wrinkles. Instead, they will cling to the familiar and find ways to smooth out the wrinkles by explaining away or simply ignoring facts to the contrary. This is to suggest attorneys should adopt familiar narratives or themes that are directly contradicted by good evidence. Familiarity is unlikely to get that far in promoting disregard of the facts. Instead, we are only suggesting attorneys abandon their neurotic views that a good, familiar theme or narrative comport with every fact in the case. This approach eliminates narrative possibilities that jurors want and need.

In a recent patent infringement mock trial involving a case with an incredible level of complexity due to the invention being related to cutting edge computer technology, narrative tropes helped drive defense verdicts even though it was clear that absolutely none of the mock jurors understood the technology. It was equally clear that this hurdle was unlikely to be overcome. The technology was in fact incredibly confusing and even if the defense could explain it in a way that jurors might understand, it was unlikely the jurors would be able to re-articulate those explanations back in the deliberation room, meaning there would still be little resistance to people like Jared. Instead, the defense adopted the narrative trope of "technology evolution" and argued the plaintiff made "a bad bet" on the invention it patented because a revolution in this technology followed only a year or so later, causing the entire industry to pivot away from plaintiff's invention. While none of the mock jurors understood the technology, they all readily embraced the suggestion that computer technology has rapidly changed over the years, often going in completely different directions than anyone anticipated. This made it easy for them to believe the plaintiff had made a bad bet by predicting the wrong future for

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# Do malpractice policies cover consulting work?

## Understanding ancillary services coverage

Market forces drive change and, at times, even bring about innovation. So, in response, when a lawyer or firm decides to adjust the business model in some fashion in order to stay relevant or drive growth, I see that as a good thing as long as all the ramifications of the change are thought through and responsibly addressed. Unfortunately, a misstep that we see is this. Lots of planning occurs and decisions are made prior to any kind of inquiry into the coverage piece. It happens more than you might guess. A lawyer will call in full of excitement as he or she fills us in on the new business model. Most of time the lawyer just wants confirmation that the change won't negatively impact coverage. The hard part with these calls is when the situation is such that we have to temper the lawyer's enthusiasm and say there's a problem you seem to have overlooked.

Perhaps a few examples are in order. Ancillary services are often the issue. It might be a lawyer is planning on offering both legal and non-legal services under the banner of his or her practice. Think regulatory compliance and consulting in the cybersecurity sector, employment law and consulting or investigation services in the employment law sector, or business formation and consulting in the business sector. It might be something like a lawyer and non-lawyer setting up several businesses and the plan is to offer legal services, investment advice, and insurance sales under the banner of a common trade name. It might be a lawyer planning to team up with a local CPA to offer legal and nonlegal services under one roof. Heck, the plan might be as simple as deciding to offer do it yourself legal forms from the law firm's website. Suffice it to say the length of this list is only going to be limited by the

creativity of lawyers and we can be a creative bunch.

### **What is it about ancillary services that creates a problem?**

Here's the rub. A lawyer's professional liability policy does not cover any and all liability that a lawyer may face. At the most basic level, a legal malpractice policy will only cover allegations of negligence in the performance of professional services that were provided to clients of the named insured, which is a law firm. The definition of the term "professional services" is typically a rather broad definition that not only covers the legal advice and services traditionally provided in an attorney-client relationship: but often also includes certain common ancillary services such as acting as a mediator, arbitrator, executor, conservator, guardian, trustee — the list can go on, again, with this caveat. Coverage will be in play only for professional services performed in an attorney-client relationship and that were performed for and on behalf of a client of the named insured. The important point here is to help you understand that ancillary services that are nonlegal in nature, such as consulting, are not going to be covered under a lawyer's professional liability policy nor will any work done on behalf of someone who is not in an attorney-client relationship with you.

### **If I want to move forward regardless, what are the options?**

While perhaps a bit frustrating, the best answer I can give is this. It depends. The specifics of your plan will dictate. Take a lawyer consultant whose plan is to practice in the cybersecurity space. Because these two legal and nonlegal services so closely overlap, a few insurers may be willing to offer a general errors



Mark  
Bassingthwaighte

***Since 1998, Mark Bassingthwaighte, Esq. has been a Risk Manager with ALPS, an attorney's professional liability insurance carrier. In his tenure with the company, Mr. Bassingthwaighte has conducted over 1,200 law firm risk management assessment visits, presented over 400 continuing legal education seminars throughout the United States, and written extensively on risk management, ethics, and technology. He is a member of the State Bar of Montana as well as the American Bar Association where he currently sits on the ABA Center for Professional Responsibility's Conference Planning Committee. He received his J.D. from Drake University Law School***



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## RETIREMENT

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mentoring, or providing pro bono advice and representation. For example, you might:

- Teach or speak to non-lawyer groups on legal subjects.<sup>36</sup>
- Write a book about the state in which you grew up.<sup>37</sup>
- Write articles about the biggest case in your career<sup>38</sup> or your bar activities.<sup>39</sup>
- Share what you learned during your law practice.<sup>40</sup>

More time also will now be available for personal activities and to explore new interests. The possibilities are endless. Become reacquainted with family and friends. Volunteer or serve on the board for a community organization or your homeowners' association. Catch up on your reading. Play the piano for an hour a day.<sup>41</sup> Walk your dog. Join a health club or a musical group. Go to a movie at 10:00 a.m. That additional time requires prioritizing and balancing to avoid overscheduling. Commitments to personal interests and activities can easily expand to more than fill the time available. Choices must be made.

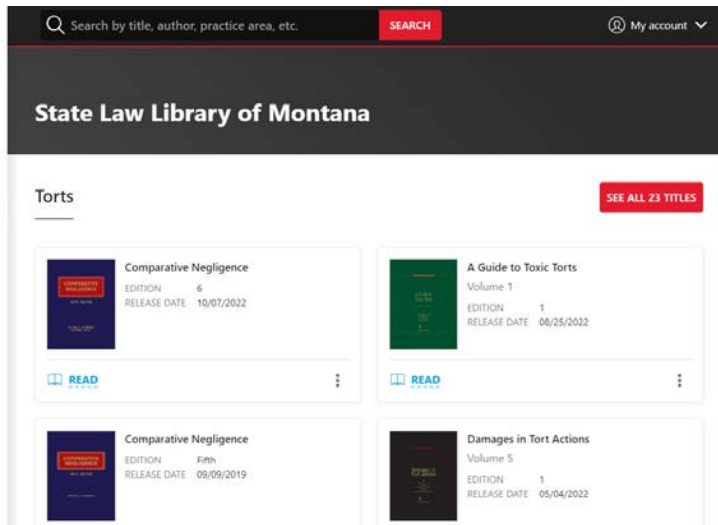
## Conclusion

Planning for retirement from law practice isn't something to be considered only in the distant future. Instead, given the personal, professional and financial considerations involved, and regardless of your age, start planning and saving for your retirement now. Doing so will help clarify and achieve your goals. It will also help provide a path to enjoying other opportunities when you no longer need to be concerned with clients and cases, and can experience a meaningfully redirected, satisfying life.

**Paul G. Ulrich was a shareholder of Paul G. Ulrich, P.C., a Phoenix appellate law firm, until he retired in 2012 after 46 years of Arizona practice. His practice emphasized Arizona and federal civil appeals, and related litigation. He received his B.A. degree with high honors from the University of Montana in 1961 and his J.D. degree from Stanford University in 1964**

## Endnotes

1. The quote is attributed to Canadian actor Nicholas Lea, among others.
2. *Herbert Stein*, en.wikipedia.org (viewed May 7, 2022).
3. Arthur C. Brooks, *Your Professional Decline Is Coming (Much) Sooner Than You Think*, The Atlantic (July 2019).
4. See generally Brooks, note 3, *supra*.
5. *Id.*
6. *Id.*
7. Arthur C. Brooks, *From Strength to Strength* 40, 44-45 (2022).
8. David Brooks, *The Second Mountain* (2019).
9. *Id.*, inside covers.
10. Management consultant Joseph M. Juran developed the Pareto Principle concept in the context of quality control and improvement, naming it after Italian economist Vilfredo Pareto, who showed that 80 percent of the land in Italy and other countries was owned by 20 percent of the population. Many natural phenomena have been shown to exhibit such a distribution. It also has been applied in many business and social contexts. See *Pareto Principle*, en.wikipedia.org/wiki/Pareto\_principle (viewed May 23, 2022).
11. See generally Richard Koch, *Living the 80/20 Way* (2004).
12. See Brian Tracy, *The 80/20 Rule Explained*, briantracy.com/blog/personal-success/how-to-use-the-80-20-rule-pareto-principle/ (viewed Nov. 13, 2021).
13. *Id.* See generally Eliyahu M. Goldratt, *The Goal* (3d rev. ed. 2004).
14. See generally Charles Handy, *Portfolios and Flexi-Lives*, in 21 *Ideas for Managers* 176-82 (2000).
15. David Brooks, *The Summoned Self*, N.Y. Times A23 (Aug. 3, 2010).
16. Clayton M. Christensen, *How Will You Measure Your Life*, Harv. Bus. Rev. (July-Aug. 2010). Christensen later expanded his ideas into a book. Clayton M. Christensen, et al., *How Will You Measure Your Life?* (2012). He died on January 23, 2020. Clayton Christensen, en.wikipedia.org/wiki/Clayton\_Christensen (viewed May 23, 2022).
17. David Brooks, note 15, *supra*.
18. *Id.*
19. *Id.*
20. Stephen R. Covey, *First Things First* (Free Press ed. 1996).
21. George E. Vaillant, *Triumphs of Experience* (inside front cover) (2012); George E. Vaillant, *Adaptation to Life* (inside front cover) (1977).
22. Vaillant, *Adaptation*, note 21, *supra*.
23. *Id.* at 368-74.
24. Vaillant, *Triumphs*, note 21, *supra*, at 370.
25. See generally Lee Eisenberg, *The Number* (2006).
26. See generally Paul Taylor, *The Next America* 59 (2014).
27. Taylor 67.
28. See Rodney Brooks, *Why \$1M may not be enough*, Ariz. Republic/USA Today 7B (Apr. 27, 2014).
29. *Am I saving enough for the retirement I want?*, Merrill Lynch report (viewed May 19, 2022).
30. See Eisenberg 250-52.
31. See Matt Krantz, *Thinking of retirement, day by saving day*, Ariz. Republic/USA Today 6B (Apr. 9, 2014).
32. See generally Stephen M. Pollan and Mark Levine, *Die Broke* (1997).
33. *Id.*
34. Taylor 122.
35. See Tim Logan, *Student debt holding back home buyers*, Ariz. Daily Sun C1 (Apr. 27, 2014).
36. See generally Paul G. Ulrich, *Handling Appeals Without a Net*, 15 *Certworthy* No. 1 (Mar. 12, 2013); Paul G. Ulrich, *Increase Your Clients' Litigation and Appellate Success*, For the Defense 24 (Nov. 2013); Paul G. Ulrich, *Settlements and Appellate Counsel*, Ariz. Att'y 28 (July/Aug. 2019); Paul G. Ulrich, *12 Things To Know About the Art of Managing Trial and Appellate Court Litigation*, Ariz. Att'y 24 (Apr. 2022).
37. I've spoken with Phoenix College, law school and high school classes, and with senior adults as part of Yavapai College, Arizona State University and University of Montana life-long learning programs about U.S. Supreme Court decisions, how the Arizona and federal court systems work, other legal subjects, and Montana history.
38. Paul G. Ulrich, *Montana Stories* (2021).
39. Paul G. Ulrich, *Miranda v. Arizona: History, Memories, and Perspectives*, 7 *Phoenix L. Rev.* 203 (2013).
40. Paul G. Ulrich, *Arizona Appellate Handbook History*, Az. Att'y 70 (April 2022).
41. *E.g.*, Paul G. Ulrich, *Increase Your Clients' Litigation and Appellate Success*, For the Defense 24 (Nov. 2013); Susan M. Freeman, Paul G. Ulrich and Kimberly A. Demarchi, *Civil Appeals*, in 1A *Arizona Appellate Handbook*, Ch. 3 (6th ed. 2015); Paul G. Ulrich, *Managing an Appellate Practice*, in 1B *Arizona Appellate Handbook*, Ch. 12 (6th ed. 2015); Paul G. Ulrich, *Twelve Things To Know About the Art of Managing Trial and Appellate Court Litigation*, Az. Att'y 24 (April 2022); Paul G. Ulrich, *How to Build and Manage an Appellate Practice*, in *Appellate Practice in Federal and State Courts*, ch. 15 (David M. Axelrad ed., 2018).
42. See Charles Cooke, *Playing the Piano for Pleasure* (1960).



## LIBRARY

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When starting a legal research project, my advice is to always start with a secondary source, and this is exactly what the Digital Library allows you to do. Using a secondary source places you on the shoulders of giants. You could spend an enormous amount of time searching for cases about the Fair Use Doctrine, or you could start by reading a few sections of “Nimmer on Copyright.” This treatise explains the subject and provide citations for the

## JURY

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computer technology.

In fact, the defense found that mock jurors enjoyed giving their own little anecdotes in deliberation about how much technology has changed in their own lifetime, which meant more time in which the discussion in deliberations was focused on issues that favored the defense. The end result was the defense prevailed in all three mock juries despite the fact that virtually no mock juror understood the technology in the case. Amidst all the complexity and confusion, the defense gave mock jurors a familiar story that they could relate to in their own lives, and the mock jurors ran with it. And while this narrative trope did not perfectly fit all the facts of the case, it was easier for the mock jurors to ignore or explain away contradictory facts rather than thrust themselves back into total confusion and uncertainty.

The success of this strategy lies in its ability to provide jurors an easy and

leading cases. I have a sense as to what would be the most efficient use of your time.

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understandable way of thinking about the case. When jurors are confused by complex issues in cases, they look for shortcuts. Here, the defense provided a very compelling shortcut whereas the plaintiff’s case strategy asked jurors to do a lot more work than was otherwise necessarily to resolve the case.

The complexity randomness factor is real and often explains what happens when mock trial outcomes vary so much from the actual trial outcome in complex cases. The outcomes may have been different, but the processes were the same: Jurors were lost until one of them made some random argument that made sense to everyone else, giving them an easy way to resolve the case. The only way to these negative outcomes is to provide jurors with your own familiar and compelling shortcut for thinking about the issues in the case.

**Thomas M. O’Toole, Ph.D. is President of Sound Jury Consulting in Seattle,. Kevin R. Bouilly, Ph.D. is a Senior Litigation Consultant at Perkins Coie in Denver.**

## RISK

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and omissions policy that would cover both professional roles. Understand however, most of the time if the plan is such that the nonlegal ancillary services are going to be closely tied to the legal services your firm offers, your legal malpractice insurance company may no longer be willing to insure your law practice unless changes are made.

Since you should have coverage for both your law practice and your ancillary business, anything you do to help underscore the presence of a separate and distinct delivery model for the legal and nonlegal services you wish to offer will make it easier to properly insure both risks by way of separate policies. This might mean the creation of two or more business entities would be called for, might require clear documentation that no legal advice will be included with any ancillary service, might necessitate the creation of two discrete websites, and in certain situations might even call for separate locations and staff. There really is no one size fits all answer here. Again, the specifics of your plan will matter; but if you focus on creating consumer clarity with the service delivery models such that all will know when they are and when they are not going to receive legal advice, the end result should be easier to appropriately insure.

“There really is no one size fits all answer here. The specifics of your plan will matter.”

## Dean Alan Stensland

Dean Alan Stensland, a longtime attorney at Boone Karlberg in Missoula died on Feb. 28, 2023, due to complications of surgery at the University of Utah Hospital in Salt Lake City. He was 66.

Dean was born on November 24, 1956, to Gail and Elinor Stensland in Great Falls, the oldest of four children. A 1990 graduate of the University of Montana School of Law, Dean was an attorney with Boone Karlberg from 1990 until his retirement at the end of 2020.

He was also president of Boone Karlberg for nearly a decade. Most importantly, Dean was an inspiration to everyone that he encountered during his career – professionally, personally, and emotionally. While Dean will be dearly missed by



**Stensland**

everyone, his integrity, advocacy, and enthusiasm for life will remain deep-rooted in all who worked with him.

The most rewarding decision and commitment he made in his life was to marry Kim Broadhurst in Chester in 1980, and he shared his life with her for the next 42 years.

Dean lived his life with a fierce passion for Montana and the outdoors, and was very well rounded in his pursuits – as long as he was outside, he was in his element. Whether he was hiking, fly-fishing, hunting, camping, or skiing, he was all in and made the most of every moment. His home away from home was Glacier National Park and he was proud to accomplish climbing all six peaks over 10,000 feet. He lived for the annual Lake McDonald summer vacation with family and friends.

Dean was a 1980 graduate of Montana State University. Anyone that knew him was aware of his endless love for MSU and the Bobcats. He looked forward to each and every Saturday in the fall and

## Memorial submissions

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treasured the opportunity to enjoy time with great friends. Being a Bobcat in Missoula allowed him the opportunity to strategically place Bobcat stickers around his office, on friends' vehicles, or on their backs.

In addition to his family, a principal focus of Dean's life was his involvement in the Missoula community. He was involved in Kiwanis, YMCA, Rangers, Rocky Mountaineers, and Glacier Mountaineering Society, to name a few.

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## ATTORNEY POSITIONS

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**Associate Attorney:** Buckwalter Galbraith & Webb of Kalispell, Montana seeks an associate attorney for busy, transactional practice. Firm handles all types of transactional, commercial, real estate, and business matters. A background in estate planning experience beneficial, but not required. Compensation flexible and will DOE. Submit resume, transcript, writing sample, and references to: [info@bgwfir.com](mailto:info@bgwfir.com).

**Associate or Of Counsel Attorney:** Doney Crowley P.C. seeks an attorney to join our team as an associate or of counsel attorney. The ideal candidate will be an energetic, hard-working self-starter, with at least 2 years of experience, and licensed to practiced law in Montana. Candidate should be interested in, and ideally have experience in, complex civil litigation. Position is in-person at either the Firm's Helena or Red Lodge office locations, with flexibility for partial remote work. Interested individuals should send a cover letter and resume to: ATTN Sara Carpenter, Firm Administrator, Doney Crowley P.C., PO Box 1185, Helena, MT 59624; [scarpenter@doneylaw.com](mailto:scarpenter@doneylaw.com)

**Attorney:** Williams Law Firm is seeking an experienced associate to join its litigation team in its Bozeman office. Williams Law Firm represents individuals, local businesses, and national companies throughout Montana in a wide variety of civil litigation matters. We have extensive courtroom experience and try a number of jury trials each year. Our diverse litigation practice includes personal injury plaintiff and defense work, medical malpractice defense, construction, transportation, products liability, and insurance claims handling and coverage issues. We have offices in Missoula and Bozeman. Please submit a cover letter and resume to [nick@wmslaw.com](mailto:nick@wmslaw.com). All applications will be kept strictly confidential.

**Deputy County Attorney:** Lincoln County is seeking a deputy county attorney to join our team. Responsibilities include prosecuting criminal offenses in justice court and district court, providing legal advice to various county departments, and appearing in civil matters including involuntary commitments and youth in need of care cases. We are a small but fast-paced office with professional and knowledgeable support staff, an excellent work

environment, competitive salary, and a great benefit package that includes health insurance provided by the county. Applicant must submit a current resume or CV, as well as a writing sample and two letters of reference. A complete job description may be obtained by emailing [mboris@libby.org](mailto:mboris@libby.org).

**Employment & Contracts Attorney:** This position provides legal advice, under the supervision of Deputy Chief Legal Counsel, for the Human Resources Bureau and Contract Bureau of the Department of Corrections. The advice and service provided by this position involves, but is not limited to, oral collaboration and advice; legal research and writing; participation in policy development; representation in and management of complex litigation matters, both in administrative and court proceedings. See full listing and apply at <https://bit.ly/MTDOC>

**Chief In-House Counsel/Legal Advisor:** The position covers a wide array of policy matters and will research and analyze many areas of law; craft ordinances and policies; negotiate contracts; advise on human resource issues to include grievances and human rights; and provide legal assistance for county departments and officials. Works closely with the Yellowstone County Attorney, Board of County Commissioners, Human Resources Director and Yellowstone County elected officials and department heads. See full listing and apply at <https://bit.ly/YstoneCA>

**Associate Attorney:** Kasting, Kauffman and Mersen PC, a well-established Bozeman law firm, is seeking an individual to join its practice full-time as an associate. The ideal candidate will have at least three years prior experience in litigation, transactional work, family law or estate planning and estate/trust administration. Applicant must be licensed to practice in the State of Montana within six months of employment. Kasting, Kauffman and Mersen is an equal opportunity employer and values a diverse team. Please provide a resume and cover letter to Lanna Parker at [lparker@kkmlaw.net](mailto:lparker@kkmlaw.net).

**Litigation Associate:** Parsons Behle & Latimer is seeking a litigation associate with 1-4 years of experience to join our Missoula office to assist clients in resolving a broad range of disputes while collaborating with our eight attorneys in Montana. Our litigation department works with clients of all sizes, from individuals to large entities, and handles a wide variety of cases for clients with unique litigation needs. Base salary starts at \$155,000, with performance bonuses and generous benefits. If interested, email cover letter and resume to Susie Headlee, [sheadlee@parsonsbehle.com](mailto:sheadlee@parsonsbehle.com).

**Deputy County Attorney:** The Beaverhead County Attorney's Office in Dillon, Montana, seeks a full-time Deputy County Attorney. Our two attorney office handles a robust and diverse case load. This position is primarily responsible

for prosecuting misdemeanor and felony criminal matters in Justice Court and District Court. Some civil work may also be assigned. Starting salary range of up to \$90,000 per year, DOE. Excellent benefits include retirement and generous health insurance. Requires a JD from an accredited law school and a license to practice law in Montana. Experienced attorneys and new graduates will be considered. Send resume and cover letter to: Beaverhead County Attorney's Office, 2 S. Pacific Street, Suite #2, Dillon, Montana 59725, or email to: [kpatrick@beaverheadcounty.org](mailto:kpatrick@beaverheadcounty.org). For questions or to request accommodations please call the Beaverhead County Attorney's Office at (406) 683-3730. Applications accepted until position is filled.

**Criminal Deputy City Attorney:** Under general direction, performs a variety of professional duties involved in providing a full range of legal services related to municipal government operations; represents the City in criminal proceedings as assigned before courts, administrative agencies and boards, arbitrators, and other administrative agencies; investigates, prepares, and prosecutes misdemeanor criminal cases in courts; and advises City departments, staff, boards, and commissions in criminal legal issues. Applications may be filed online at: <https://billingsmt.gov>

**Civil Deputy County Attorney:** Lewis and Clark County Attorney's Office is hiring for a Civil Deputy Attorney. Under the general direction of the County Attorney, the attorney will advise county officials on civil matters generally and represent county government and related entities in a variety of legal proceedings. Position is open until filled and applications will be reviewed weekly. Applications for this position are accepted online only at <https://www.lccountymt.gov/hr/jobs.html>.

**Criminal Deputy County Attorney:** Lewis and Clark County Attorney's Office is hiring for Criminal Deputy County Attorney positions. We are looking for Individuals who have a passion working for government and want to make a positive impact in the community. Position is open until filled and applications will be reviewed weekly. Applications for this position are accepted online only at <https://www.lccountymt.gov/hr/jobs.html>.

**Associate Attorney:** Milodragovich, Dale & Steinbrenner, P.C. ("MDS") of Missoula seeks a motivated associate attorney for a diverse civil litigation practice. MDS is a full-service law firm, offering transactional, civil, and criminal services. The right candidate will have the opportunity to grow and develop their own areas of interest. The ideal candidate will be a self-starter with strong research, writing, and analytic skills. Qualified candidates must be currently licensed in Montana, or eligible to become licensed with the next bar exam. Please submit a letter of interest, resume, references, and writing sample

to: Milodragovich, Dale & Steinbrenner, P.C., Kila Shields, PO Box 4947, Missoula, MT 59806-4947; kshields@bigskylawyers.com

**Associate Attorney:** Hammer, Quinn & Shaw of Kalispell, Montana seeks associate attorney for busy litigation practice. Firm handles all types of civil litigation matters, representing both plaintiffs and defendants, with emphasis on insurance defense and trial work. Excellent research, reading, and writing skills required. One to three years of experience and/or clerkship history preferred. Submit resume, transcript, and writing sample to marcelquinn@attorneysmontana.com.

**Litigation Associate Attorney:** AV-rated law firm in downtown Missoula seeks a litigation associate with 2-5 years' experience. The successful candidate must have impressive writing and speaking skills, an entrepreneurial mindset, and a passion for assisting clients in litigation, particularly where a jury trial is required. We work hard on a variety of interesting and sophisticated cases, but we also encourage outside interests, community involvement and balance. If you want to be a part of a team that achieves successful results for clients with difficult legal problems, please submit a cover letter, resume, writing sample and references to aimee@montanalawyer.com. We are an equal opportunity employer.

**Deputy County Attorney:** The Park County Attorney's Office seeks a Deputy County Attorney. Responsible for handling litigation including legal research, drafting pleadings, conducting discovery and investigation, presenting to a court or jury, participating in mediations and settlement conferences, and oral argument. The Attorney may be responsible for providing legal advice and guidance on county policy and legislation, including strategies that affect the operations and goals of the commission and county departments. See full listing and apply at [https://jobs.parkcounty.org/jobs/78/Deputy-County-Attorney-1#job\\_78](https://jobs.parkcounty.org/jobs/78/Deputy-County-Attorney-1#job_78)

**Associate Attorney:** Hendrickson Law Firm, P.C. seeks to hire an attorney with experience to do litigation and transactional work, including contract, property, construction, estate cases, and possibly family and criminal law, with the opportunity to be a major part of a small, well established, highly rated, general practice firm in Billings. Located in historic downtown Billings, Hendrickson Law Firm, P.C. offers a wide range of legal services to our clients throughout the state of Montana. This is an opportunity for future financial success, primarily based on productivity, while keeping a strong emphasis on professionalism. Five years' experience preferred. We offer a competitive salary and good benefits including 401K. The position provides for immediate client involvement with experienced mentoring at hand. Please send letter of application, references, resume, transcript, and writing sample to katie@hendricksonlawmt.com.

## NON-ATTORNEY POSITIONS

**Paralegal:** Disability Rights Montana is seeking a skilled, experienced, and passionate paralegal to support our advocates and legal team. The ideal

candidate for this position will use their work experience and organizational skills to reach our goals of efficiency and accuracy, while upholding the mission of our organization. Applicant must have a minimum of three years of qualifying experience, a diploma, degree, or certification in paralegal studies, or work equivalent. Send cover letter and resume to Katherine Murfitt at [katherine@disabilityrightsmt.org](mailto:katherine@disabilityrightsmt.org); by fax to (406) 449-2418; or by mail to 1022 Chestnut St., Helena, MT 59601.

**Administrative Assistant:** Crowley Fleck's Billings, Montana office is currently seeking an experienced Legal Administrative Assistant. The Legal Administrative Assistant works closely with attorneys and legal professionals providing general office support. This position will provide direct support to assigned attorneys and is responsible for performing a variety of administrative and clerical support tasks to ensure high-quality service and efficient day-to-day operations. To apply, email [arichey@crowleyfleck.com](mailto:arichey@crowleyfleck.com)

**LEGAL ASSISTANT:** Small, relaxed-paced law firm in the beautiful Flathead Valley seeking a part-time (approx. 30 hours per week) qualified legal assistant. Experience in probates, wills and estates; personal injury; misdemeanor criminal law; real estate; and/or family law preferred. Excellent writing and computer skills, ability to organize files, manage court and case calendars, and timely bill clients a necessity. Relocate to a better quality of life and work with us to help pay for it! Salary DOE. Send resume to [editor@montanabar.org](mailto:editor@montanabar.org) with the subject line "Legal Assistant."

## OFFICE SPACE

**MISSOULA:** Office space available within the heart of one of Missoula's most active commercial districts. Offering over 2,000sq ft this space has two equally sized internal office suites, two larger rooms that could be used as offices/conference rooms, a large reception area with its own entrance and window and building signage availability. There is also a file room, utility room and two small lavatories. Access to common areas located in adjacent, interior-connected suite – including Zoom-equipped conference room and ADA-compliant restrooms

– shared with well-established Missoula firm, and additional shared services/amenities may be available upon execution of an "office share agreement." Paved shared parking area as well as street parking available. Building has a new HVAC and AC unit. Offering a 3 year NNN lease with additional options periods available. Call (406) 549-5186.

## CONSULTANTS & EXPERTS

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

**CONDEMNATION EXPERT:** 21 years Condemnation litigation for state agency. 40+ years active litigation. Services include case analysis, evaluation of appraisals, negotiation assistance and strategy. Expert testimony on recoverable attorney fees and costs. Opportunity for lead and co-counsel on select cases. Email inquiries to [ed@mtjustcomp.com](mailto:ed@mtjustcomp.com).

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

## PSYCHOLOGICAL EXAMINATION & EXPERT TESTIMONY:

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

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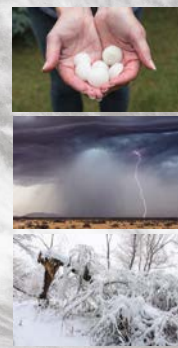
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