

MONTANA LAWYER

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ANNUAL AWARD WINNERS



ED ECK, LONGTIME PROFESSOR & DEAN AT UM LAW SCHOOL, WINS JAMESON

**JUDGE MOSES, MORGAN DAKE, DIRK WILLIAMS AND ROBERT W. WOOD
ALSO CHOSEN FOR 2023 HONORS FROM THE STATE BAR OF MONTANA**

MCLE REPORTING PAUSE SET TO END SEPT. 6

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FEATURE ARTICLES



2023 STATE BAR OF MONTANA ANNUAL AWARD WINNERS

Winners of the State Bar of Montana's 2023 Annual Awards are (clockwise from left) **E. Edwin Eck**, William J. Jameson Award; the **Honorable Michael G. Moses**, Karla M. Gray Equal Justice Award; **Morgan Dake**, Neil Haight Pro Bono Award; **Robert W. Wood**, Frank I. Haswell Award; and **Dirk A. Williams**, George L. Bousliman Professionalism Award.

LAWYERS ARE PEOPLE TOO: THE ART OF REPRESENTING A PEER

Mark Parker revisits his 1995 essay on lessons learned from representing a fellow attorney.

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Much has been accomplished over the past year, but much more remains to be done

The State Bar of Montana's 2023 Annual Meeting is rapidly approaching, and with it comes the bittersweet realization that my time as State Bar president is ending. I would like to take this opportunity to reflect on the good work the State Bar has accomplished over the last year, and to reiterate the important work that remains.

First, it has been my great honor and privilege to have served you as State Bar of Montana president these past 12 months. I am proud that as I step away from my role as president, I leave a bar that continues to be at the forefront of innovation and, if I may be so bold to say, the gold standard by which state bars across the country are (or should be) measured. The State Bar continues to be on very sound fiscal footing. I am proud of the steps we have taken to stand up for the rule of law in the face of the misguided few who would tear it down. I am proud to be a lawyer, and I am proud to stand with all of you.

When I began my term as president, I had hoped to focus on continuing to improve upon our long legacy of community, increasing diversity, making improvements to the State Bar member experience, and improving access to State Bar benefits. I am proud to say those goals were largely accomplished. But I am one who believes there is always room for improvement and growth, and continuing to improve upon these accomplishments is no different. I am very much looking forward to the State Bar leadership taking us to the next level.

When I began my term as president, the judicial branch, the separation of powers between the institutions that founded our great state, and seemingly even the rule of law itself were under unprecedented attack. While these attacks

appear to be coming from all sides of the political spectrum, I don't believe they reflect the views of the overwhelming majority of Montanans and Americans who value our independent judiciary and legal profession.

Despite all our hard work and successes this past year, that threat remains. It is hard to step away with so much work left to do.

The Annual Meeting is a time to celebrate – both the successes we have achieved in the past year and the promise of the future.

We have an exciting CLE program planned for this year's meeting, with 10.5 total CLE credits, including 2.0 Professional Fitness & Integrity (PFI) credits. The program includes cutting edge presentations on what attorneys need to know about the rapidly evolving and disruptive impact artificial intelligence will have on our profession; significant changes that came out of the 2023 Legislative Session; a fascinating Montana Supreme Court oral argument involving Whitefish tech billionaire Michael Goguen's defamation suit against the New York Post; and much, much more. As they say, "We'll sell ya' the whole seat, but you're only gonna' need the edge!" (Please see the agenda on page 13.)

We will also celebrate our distinguished Annual Award winners: E. Edwin Eck, Dean Emeritus of the University of Montana Alexander Blewett III School of Law, winner of the William J. Jameson Award; the Honorable Michael G. Moses, retired 13th Judicial District judge, winner of the Karla M. Gray Equal Justice Award; Dirk A. Williams, winner of the George L. Bousliman Professionalism Award; Morgan Dake, winner of the Neil Haight Pro Bono Award; and Robert W.



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.

Wood, winner of the Frank I. Haswell Writing Award. Please come congratulate and recognize these superlative Montana attorneys for their outstanding achievements.

At the Annual Business Meeting, on September 15, I will pass the president's gavel to the very capable Stuart Segrest. Together with the State Bar's executive team, board of directors, and with the State Bar's Executive Director John Mudd leading the phenomenal State Bar staff, Stu will lead us into our next chapter.

When I began my term as president, as we faced these unprecedented challenges of our day, I asked for your help. A great many of you responded in myriad ways. Although I now will be a "past president," I will continue to do everything I can to advance our fight for the rule of law, the judiciary, and the profession. As I depart the presidency, I would respectfully make one final request: Please help Stu and the State Bar, like you helped me. Our work is far from over.

I look forward to seeing you in Billings Sept. 13-16.

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CAREER MOVES



Buckley



Dixon



Maxwell



Dolezal

Buckley, Maxwell, Dixon, Dolezal open firm focusing on employee benefits

Kristy Buckley, Adrienne Maxwell, Sarah Dixon, and Shelby Ryann Dolezal have established a new boutique Employee Benefits firm with offices around the state.

BMDD Law is dedicated to advising employers with respect to vital health and retirement benefits for their workforce. Combined, the four attorneys have over 50 years' experience in the employee benefits practice area.

Buckley, a graduate of the University of Miami School of Law, grew up in Helena and attended Montana State University for two B.S. degrees and an MPAc degree. She earned an LL.M. in Taxation as well as her J.D. She is admitted to practice in Montana, Wyoming, Florida, U.S.D.C. and U.S. Tax Court. Buckley practices in Bozeman.

Maxwell grew up in Somers and earned her B.A. from Bates College. She received her J.D. from Columbia Law School in New York City. She is admitted to the bar in Montana and practices in Missoula.

Dixon was raised in Seattle. She attended the University of Washington for her B.A., and the University of

Montana School of Law for her J.D. She is admitted to practice in Montana and Washington. She practices in Helena.

Dolezal was raised in Billings and attended the University of Montana for her undergraduate degree. She earned her J.D. from the University of Notre Dame. She is admitted to the bar in Montana and New York and practices in Billings.

Winnie Arthurs is BMDD's law firm administrator working out of the Bozeman office. Arthurs was raised in Texas and graduated from Southern Methodist University. She has years of experience in a variety of practice fields.

The attorneys at BMDD Law are involved in various professional organizations, such as the TE/GE Joint Counsel, the ABA Section on Taxation, and the ABA Joint Committee on Employee Benefits, and regularly give presentations and publish articles on trending issues in employee benefits. They are nationally recognized and maintain relationships with the top employee benefits professionals and regulators within the DOL and IRS. As a result, they have cutting edge insight into developing laws and regulations and access to interpretations of new laws that are of concern to their clients.

Ben LaBeau joins Hendrickson Law Firm in Billings

Hendrickson Law Firm, P.C. is pleased to announce that Benjamin LaBeau has joined the firm as an associate attorney.



LaBeau

LaBeau obtained his J.D. from the University of Montana in 1994, and his B.S., with high honors, in Finance and Economics from the University of Montana in 1990.

Ben was admitted to the Montana bar in 1994 and was admitted to practice before the Ninth Circuit in 1998. After graduating from law school, Ben worked

with Bruce Harper at Harper Law Firm, and then Robert Stephens at the Southside Law Center. Ben then began a solo practice, creating LaBeau Law Firm which he ran for 23 years. His community service includes being a youth sports coach for many years in soccer, baseball, and basketball; as well as creating and running the Dwan Edwards Elite Football Camp, a free youth football camp attended by professional and high-level football players and coaches, for many years in Billings.

LaBeau's practice areas include Civil Litigation, Real Estate and Property Law, Accident and Personal Injury, Criminal Defense, Business, Family Law, Divorce, and Parenting Plans. Ben has tried and won cases in state and federal court.

Beaudry, Cook take over Snyder's practice in Bigfork

Randall A. Snyder sold his Bigfork law practice to Brant Beaudry and Toby Cook.

Snyder continues as part-time associate and adviser. They continue a general law practice, adding criminal defense to their field. Beaudry and Cook both graduated from the University of Montana School of Law in 2015. Beaudry clerked for two years for the Honorable Leslie Halligan of the 4th Judicial District and the Honorable Robert Allison, 11th Judicial District. Cook clerked one year for the Honorable Russ Fagg in the 13th Judicial District, then worked at the Montana Innocence Project and the Office of the Public Defender's Lake County office.

Snyder Beaudry & Cook is located at 8090 Highway 35 in Bigfork and online at www.bigforklaw.com.

Thorsgard joins Brown Law Office's Billings office

Brown Law Firm, P.C., with offices in Billings and Missoula, has announced that Kai B. Thorsgard has joined the firm in Billings. Prior to attending law

school, Thorsgard worked for the U.S. Forest Service as a wilderness ranger and firefighter. He left the agency in 2019 to attend the University of Montana – Alexander Blewett III School of Law.



Thorsgard

During law school, he spent significant time dedicating himself to internships, learning litigation practice and developing the legal skills he applies in the areas he emphasizes today. After law school, Thorsgard moved from Missoula to Billings with his wife and son. He is admitted to practice in both the state and federal courts of Montana and is also licensed to practice in North Dakota. His areas of practice include civil litigation, including construction and construction defects, property and casualty, products liability, and insurance defense. In his free time, he can be found mountain biking, hunting, and spending time with his family.



Lower



Hegel

Datsopolous, MacDonald & Lind welcomes Lower, Hegel as associate attorneys

Datsopoulos MacDonald & Lind is pleased to announce that William Lower and Quenton Hegel have recently joined the firm as associate attorneys.

Lower was raised in Missoula, graduating from the University of Montana with a B.A. in English Literature and received his J.D. from Western Michigan University-Cooley Law School.

Following an internship at Datsopoulos MacDonald & Lind, he

spent six years as a Deputy Ravalli County Attorney with an emphasis on prosecuting DUI cases. Next, he spent two years as a Conflict Defender for the State Office of Public Defender, representing indigent clients throughout the state. Lower has handled everything from traffic offenses to homicides, resolving over 2,500 criminal cases with 225 proceeding to trial. During this time, he was also a certified sports agent. He negotiated player contracts and injury settlements for professional athletes such as Alex Singleton (Seahawks, Patriots, Vikings, Eagles, Broncos).

Lower's practice areas include criminal defense, family law, property disputes, estates\probate and general civil litigation.

Hegel attended the Alexander Blewett III School of Law at the University of Montana. He is admitted to practice law in Montana and U.S. District Court, District of Montana.

Hegel is a member of the State Bar of Montana, the American Bar Association, and the Montana Trial Lawyers Association. Prior to law

MORE NEWS, PAGE 9

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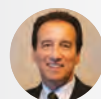
RELEVANT EXPERIENCE

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- Commercial transactions
- Construction law
- Contract disputes
- Contract negotiation
- Easements
- Employment law
- Encroachments
- Insurance coverage
- 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.**

TO SCHEDULE

There are three ways to schedule a mediation or arbitration:

1. Email info@ganglelaw.net
2. Schedule Online at ganglelaw.net/mediation
3. Contact us at (406) 273-4304

NEWS

FROM PAGE 7

school, he completed his undergraduate degree in economics at Towson University and his Master of Business Administration at Sam Houston State University. While attending law school, he worked as a legal intern at Datsopoulos MacDonald & Lind and served as a member of the Public Land and Resources Law Review. He performed his clinical internship for U.S. Bankruptcy Court Judge Benjamin Hursh.

His practice areas are Commercial and Business Transactions, Real Estate, Estate Planning and Probate.

HONORS

Tsolakidis earns ServeMontana Award for pro bono work

Dimitrios Tsolakidis has received the ServeMontana Award for his pro bono work with Montana Legal Services Association. This award recognizes individuals for their dedication to



Tsolakidis

volunteerism in Montana.

Tsolakidis served as a Justice for Montanans AmeriCorps member in 2016-2017, supporting pro bono services in MLSA's Missoula office. He currently works in private practice and is a volunteer with MLSA's Pro Bono program, helping low- and moderate-income Montanans get legal assistance through the phone advice program.

SUBMITTING MEMBER NEWS 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. 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.

A native of Athens, Greece, Tsolakidis has made Montana his home since 2007. After earning a B.A. in philosophy and classics from the University of Montana. In 2021, he graduated with Honors from the University of Montana's Blewett School of Law, where he served as co-Editor-in-Chief of the Montana Law Review and interned for a civil litigation firm.

Tsolakidis has also clerked for the Montana Supreme Court and is now an attorney at a private civil defense firm. He serves as a pro bono volunteer with Montana Legal Services Pro Bono Program, where individuals who cannot afford an attorney can receive free legal advice on various civil legal matters. He goes above and beyond to help low-moderate income Montanans locate legal resources, information, and access services with Montana Legal Services.

MLSA currently is in need of family law volunteers. Volunteers can work for one hour on a monthly, bi-weekly, or weekly basis. Volunteers make a phone call to MLSA applicants from a location of their choosing to provide low-income Montanans with free legal advice. MLSA facilitates the administrative work and provides a free library of training videos surrounding poverty law issues. If interested, contact Pro Bono Coordinator

Ellie Webster at ewebster@mtlsa.org or 406-442-9830 ext. 151.

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Steering a course from river guide to environmental lawyer

By Phil Stempin
UM News Service

University of Montana law student Meridian Wappett's connection to rapid waters goes all the way back to her pre-school days.

"I've been rafting since I was 5 years old," said Wappett, a native of Moscow, Idaho. "I started navigating Class IV rapids when I was 12. It's safe to say I grew up on the river."

Wappett's love for the river guided her toward the sciences early in her childhood. Her high school teachers encouraged her to volunteer with state environmental organizations, where Wappett got a taste for what's required to organize rallies, draft and pass climate change legislation, and spend days testifying at the state legislature.

When Wappett decided to attend college, she wanted to gain skill sets to help protect the rivers she grew up on. This led her to Utah State University, where Wappett pursued a degree in conservation and restoration ecology, working toward a career as a scientist.

After spending a few summers conducting undergraduate research, Wappett realized her scientific studies wouldn't be enough to protect the environment in the way she had planned.

Thanks to her continued work with environmental nonprofits, Wappett had an opportunity to work on a congressional



UM law student Meridian Wappett plans to use her degree to protect the rivers she loves.

campaign as the communications director and environmental policy drafter. It was there that she realized her true love was the blending of ecology and policy.

"I wanted to do more with my ecology degree," said Wappett. "Policy felt like the missing piece I was looking for." Wappett explored careers in environmental policy but found the impact she sought in environmental law.

Wappett spent her last year of undergrad serving as a college of natural resources senator, studying for the Law School Admission Test and applying to the West's best environmental law schools.

During it all, Wappett always kept a connection to water, working as a guide on

the Middle Fork of the Flathead River and the main and middle fork of the Salmon River.

"Ultimately, I chose to go to law school in Montana because of its fantastic environmental law program and reputation for being a hands-on learning environment," said Wappett. "That made going to Montana for law school a no-brainer."

Navigating law school hasn't been as natural as reading the river for Wappett. She said the learning curve is steep but worth the time and effort. Wappett has found her place at the law school, where she is on the Public Land and Resources Law Review and is the incoming co-chair of the Environmental Law Group.

Blewett School of Law leaps into US News & World Report's top 100

The latest U.S. News & World Report Best Law Schools rankings list the Alexander Blewett III School of Law at the University of Montana as a Top 100 law school. The school tied for 96, a jump of 38 places in the last two years.

In addition to achieving high standing in the overall law schools ranking, the law school also placed No. 37 on the most recent U.S. News' Best Environmental Law Programs list.

"Our law school consistently achieves excellent performance outcomes, with a 94.8% placement rate for 2022 graduates seeking employment," said Dean Elaine

Gagliardi. "We also have a consistently strong Montana bar passage rate above the national average."

Gagliardi, a graduate from Montana's law school herself, credits the continued upward trajectory of the school in national rankings to the longstanding tradition of hands-on learning and practical work experience its students receive.

"Our law school trains students for the people-oriented practice of law. Its dedicated faculty bring many years of practice experience to the classroom," said Gagliardi. "Our students learn from national experts in their respective fields,

whether it be environmental law, Indian law, veterans law, transactional and business law, tax and estate planning, bankruptcy law, international law, or litigation.

The school's Natural Resources and Environmental Law Program is nationally recognized for its place-based learning, rich curricular offerings and environmental clinical opportunities. Faculty have diverse experience in natural resources, environmental and Indian law, coming from careers in the public, private, nonprofit and tribal sectors, allowing them to help students apply legal principles and examine issues from a variety of perspectives.



MONTANA

CONTINUING LEGAL EDUCATION

MCLE Reporting Pause Wraps Up

Active Attorneys: Gather up your CLE records – starting Sept. 6 Active Attorneys have 60 days to report

SEPTEMBER
2023

AUGUST

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OCTOBER

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ACTIVE ATTORNEY MEMBERS: The new MCLE software system is expected to launch live on September 6, 2023. When it goes live, you will be able to access your MCLE transcripts through your Member Dashboard at www.montanabar.org. CLE credit reporting must be submitted through the Member Dashboard instead of email or mail.

To report your CLE credits **for a course that is already accredited**, you will need to attach your Certificate of Attendance.

To report your CLE credits **for a course that is NOT already accredited**, you will need to attach the following documents: Certificate of Attendance, course timed

agenda, and description of what was covered during the CLE course.

Search for accredited CLE courses with our Approved Course Listing search tool, found in the Mandatory Continuing Legal Education section of the SBMT website, under the Membership & Regulatory tab.

The deadline to submit CLE credits without being assessed a late fee for the 2022-2023 reporting year is **November 6, 2023**.

2023-2024 DEADLINES UNCHANGED:

Don't forget going forward that the MCLE reporting deadlines will be the same as in past years. The deadline for the 2023-2024 reporting year will be March 31, 2024.



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Missoula



Buzz Tarlow
Bozeman



Bill Wagner
Missoula



Gary Zadick
Great Falls

APRIL 2024						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2 AM	3	4	5 PM	6
7	8 PM	9	10	11	12	13
14	15	16	17 AM	18 AM	19 AM	20
21	22	23 AM	24 AM	25	26	27
28	29	30				

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2023 STATE BAR OF MONTANA ANNUAL MEETING | Northern Hotel, Billings

10.5 TOTAL CLE CREDITS, INCLUDING 2.0 PROFESSIONAL FITNESS & INTEGRITY (PFI) CREDITS

Thursday, September 14

Noon to 1 p.m.: Kick-off Luncheon & Plenary CLE Session (1.0) (Ballroom) - Speaker announcement forthcoming (Lunch included with Annual Meeting registration) **Sponsored by Pinion Technology Core**

1:15 to 2:15 p.m.: Plenary CLE Session (1.0) **Artificial Intelligence: What You Need to Know** (Ballroom) - Matthew Hemmert, former General Counsel and Privacy Officer, NetDocuments Software Inc., Lehi, UT

2:15 to 3:15 p.m.: Plenary CLE Session (1.0 PFI) **Ethics of Artificial Intelligence** (Ballroom) Matthew Hemmert, Lehi, UT; Pam Bucy, Chief Disciplinary Counsel, Helena, MT; Professor Anna Conley, UM Blewett School of Law, Missoula, MT; Antoinette M. Tease, Billings, MT (moderator)

3:15 to 3:30 p.m.: SPONSOR BREAK

3:30 to 4:30 p.m.: Plenary CLE Session (1.0) (Ballroom) **Tips from the trail and the path ahead: Alternative dispute resolution in Montana** (Ballroom) - Erin Erickson, Missoula (moderator); Hon. Carolyn Ostby (ret.), Billings, MT; Dennis Lind, Missoula; John O. "Jack" Mudd, Spokane, Wash; Patrick Quinn, Missoula, MT (introduction)

- END OF DAY'S CLE PROGRAMMING -

4:30 to 8:00 p.m.: Art for Justice Hybrid Silent Auction (Ballroom and Adjoining Space)

5:00 to 6:00 p.m.: President's Reception and 50-Year Member Ceremony (Ballroom) (Open to all Annual Meeting attendees)

6:00 to 8:00 p.m.: Annual Meeting Banquet & Awards Ceremony (Ballroom) (Separate dinner ticket required) **Sponsored by Stockman Bank**

Friday, September 15

7:30 to 8:30 a.m.: Breakfast and Annual Business

Meeting (Ballroom) (Breakfast included with Annual Meeting registration) **Sponsored by University of Montana Blewett School of Law**

8:00 a.m. to 4:15 p.m.: Paralegal Section CLE (Babcock Room) (Separate registration required)

8:45 to 9:00 a.m.: Law School Update (Ballroom) Elaine Gagliardi, Dean & Professor of Law, UM Blewett School of Law, Missoula, MT

9:00 to 10:45 a.m.: Plenary CLE Session: **Supreme Court Oral Argument with Introduction** (1.5) (Ballroom) - MICHAEL L. GOGUEN, Plaintiff, Appellee, and Cross-Appellant, v. NYP HOLDINGS, INC., ISABEL VINCENT, and DOES 1 through 100, Defendants and Appellants, and WILLIAM DIAL, Defendant and Cross-Appellee

10:45 to 11:30 a.m.: SPONSOR BREAK

11:30 a.m.: Lunch (Ballroom) (Lunch included with Annual Meeting registration) **Sponsored by ALPS**

11:45 a.m. to 12:45 p.m.: Plenary CLE and Keynote Panel (1.0) (Ballroom) **Judicial and Practice Perspectives on Pro Bono: The Thirteenth Judicial District Family Law Project** Hon. Ashley Harada, Billings, MT; Hon. Brett Linneweber, Billings, MT; Morgan E. Drake, Crowley Fleck, PLLP, Billings, MT

1:15 to 4:30 p.m.: Breakout CLE Programming **Breakout Track 1:** (South Ballroom)

1:15 to 2:15 p.m.: **Held v. State of Montana.** Confirmed panelists include Ross Keogh, Missoula, MT; Matthew Dolphay, Billings, MT; Heather McDowell, Columbus, MT

2:15 to 3:15 p.m.: **Significant Changes to Preliminary Injunctions, TROs and Punitive Damages in the 2023 Legislative Session** (1.0) - Prof. Anna Conley, UM Blewett School of Law,

Missoula, MT

3:15 to 3:30 p.m.: Transfer Break

3:30 to 4:30 p.m.: 2023 Legislative Wrap-up and Future Trends for Attorney Regulation (1.0) - Bruce Spencer, Helena, MT **Breakout Track 2:** (Hart Albin Room)

1:15 to 2:15 p.m.: **Mediating Family Law Cases in Montana** (1.0) - Dispute Resolution Section; Patrick Quinn, State of MT, Missoula, MT; John C. Julian, State of MT, Billings, MT

2:15 to 3:15 p.m.: **Hacking your practice with AI: The path to well-being?** - Meri Althaus, Director of Admissions & Katy Stack, Asst. Dean of Students, UM Blewett School of Law, Missoula, MT

3:15 to 3:30 p.m.: Transfer Break

3:30 to 4:30 p.m.: Program details forthcoming **Breakout Track 3:** (Babcock Room)

1:15 to 4:30 p.m.: Paralegal Section CLE Programming (See Paralegal CLE Schedule for more information)

- END OF DAY'S CLE PROGRAMMING -

Saturday, September 16

8:00 to 9:00 a.m.: Plenary CLE Session (1.0 PFI) (Ballroom) **Should I Stay or Should I Go: Revised ABA Model Rule 1.16 and Other Developments in Professional Responsibility** - Robert M. Carlson, Missoula, MT; John Mudd, Helena, MT

- END OF 2023 ANNUAL MEETING -

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'Accidental law school professor'

Eck named Jameson winner for career as dean at UM law, many other impactful contributions



In 1981, Ed Eck received a call from Jack Mudd, the dean of the University of Montana School of Law school at the time and Eck's former law school classmate, asking if Eck would fill in to teach tax classes for a professor who was leaving for a yearlong fellowship.

Teaching was the last thing Eck had ever envisioned himself doing. But the offer reminded him of the words of a professor he had at Georgetown University Law Center when he was working on his LLM. The professor told his class that if they ever got the chance to teach, they should do it. After some trepidation, he accepted Mudd's offer.

The decision proved to be a fateful one – for both Eck and the law school. Professor Martin Burke's one-year fellowship turned into two years, as did Eck's time filling in for him at the law school. When Burke returned, Eck stayed on as a full-time professor. He remained for over 30 years, retiring in 2013. That included a 14-year tenure as dean, during which he steered the school through what could have been a catastrophic time when it faced the possibility of losing its ABA accreditation over deficiencies in its facilities.

Eck is the winner of the State Bar of Montana's 2023 William J. Jameson Award. He said the award was the highlight of his career.

"I was humbled, and I still am," Eck said of his reaction upon being informed of winning the award.

As impactful as Eck's time at the law school was, lasting from 1981-2013, it would only be the first act in a remarkable legal career. So far, "retirement" has consisted of a series of positions that each would be considered among the career

highlights for many, including:

- Member of the Internal Revenue Service Oversight Board and Chair of its Operations Support Committee (2008-2013), an appointment from President George W. Bush requiring confirmation by the U.S. Senate;
- Montana Health Care Foundation Interim Trustee, appointed by Montana Attorney General Tim Fox to the newly created foundation;
- Chief of the Montana Department of Justice's Office of Consumer Protection (2014-2017);
- Montana Mental Health Trust's Trust Director;
- Commissioner on the Montana Uniform Trust Commission.

And over a decade after his "retirement," Eck continues to contribute in many ways to the good of profession, the legal system, and the public. He remains active in the Uniform Trust Commission, on which he has served since 1985 when Montana had no trust code – only a few statutes here and there that Eck said were incomplete and often inconsistent. And this fall, he is once again teaching at the law school something he has done several other times since retirement, teaching Tax Exempt Organizations. It's safe to say Eck has remained active in retirement.

"Retirement bored me," he said. "I did not enjoy it. I can sit around a little bit for a little while, but I have the opportunity to try to do more."

Eck was nominated for the Jameson Award by Missoula lawyer Dirk A. Williams, who incidentally was chosen as this year's George L. Bousliman Professionalism Award winner (see

related story). Williams said that Eck's highly public achievements standing alone would qualify any lawyer's career as distinguished, but his qualifications for the Jameson "rise to the level of overwhelming" when taking his lesser-known contributions into account. And on a personal level, Williams said Eck changed the trajectory of his career when he approached him about joining a State Bar of Montana committee.

"Ed saw something in me that I didn't think anybody else did," Williams said. "When I entered the practice of law, billable hour requirements, and feelings of inadequacy, to be asked and given the permission to get involved was a game changer. I discovered I was making connections broad and deep. Many of them have become valued colleagues. Even if they don't practice in the same area as you, you can learn a lot from people."

"I have worked with Ed a great deal throughout my career," Williams continued. "He is one of the most passionate people I know in the area of dedication to the improvement of the practice of law. He could have made millions in private practice. He chose to give his life and his career. He's still giving every day to the improvement of the practice of law."

Those who supported Eck's nomination include his colleagues at the law school and lawyers who have served with him on boards and committees over the years, many of whom also had him as a professor when they were in law school.

One of these was Billings lawyer Peter Habein, who saw firsthand how Eck jumped into action when the school was in trouble.

"Ed set about to rescue the school, engaging architects and engineers, poring over minute details of classroom design and architectural integration into the greater campus setting," Habein wrote in his letter of support. "He campaigned in the legislature, begged for contributions from the bar membership, navigated the byzantine paths of university decision-making,

and finally succeeded brilliantly both in opening a new, grand law school building and in preparing the small but over-achieving institution for its future."

In his letter supporting the nomination, Professor Burke noted that Eck had many other contributions as dean, including strengthening the curriculum emphasis on integration of practice skills and theory; creating a joint JD/MBA program and new certificate programs in environmental law and dispute resolution; and developing a continuing legal education program for attorneys in rural areas of Montana.

Others to write letters supporting Eck's nomination are: former Professor Margaret A. "Peggy" Tonon; Klaus Sitte, retired adjunct faculty at the law school; Jacqueline Lenmark, of Jackson, Murdo & Grant in Helena; Brand Boyar, former chair of the State Bar's Business, Estates, Trusts, Tax and Real Property Law Section; and Robert Carlson of Missoula, past president the American Bar Association and past president of the State Bar of Montana.

For his part, Eck is humble about his accomplishments as dean. He cites his predecessors, Robert Sullivan and Jack Mudd, for their vision in developing a practical curriculum, saying he views them as the real innovators.

Similarly, he says that credit for national recognition the law school has received in recent years is better directed to those who succeeded him — current Dean Elaine Gagliardi and her predecessor, Paul Kirgis — rather than to himself.

But even though he quips that his law school classmates probably would have voted him "least likely to be a law school dean," he is glad he listened to the advice of his professor at Georgetown.

"My professor was right. You do learn more when you teach."



Photo at left: Eck (far left) is shown at the groundbreaking for the new law school facility along with professors David J. Patterson, Elaine Gagliardi and Martin Burke. **Above photo:** Eck stands with (from left) former Dean Jack Mudd and Professor Martin Burke.

Williams named winner of Bousliman Professionalism Award

When Chief Disciplinary Counsel Pam Bucy asked Dirk Williams to assist in closing the practice of a recently deceased attorney as a Rule 33 Trustee, she had no idea what she was getting the longtime Missoula attorney into.

A Rule 33 Trustee appointment by rule only provides for the reimbursement of costs but is often a simple and straightforward task, Bucy explains. Unfortunately, that was not the case this time. Williams found a firm in complete disarray, with clients who had paid but whose legal work had not been completed. There was no money in the attorney's IOLTA account. Both the attorney's firm and his personal finances were insolvent as well.

In all, between tracking down clients, finding new representation for them, helping them recoup misappropriated funds through the Lawyers' Fund for Client Protection, and myriad other tasks, Williams worked over 110 hours on the project.

"He did all this work with humility and a gracious sense of humor," said Bucy, who nominated Williams for the 2023 George L. Bousliman Professionalism Award for his efforts. "His work made an incredible difference to the clients impacted by this tragic situation. Mr. Williams exemplifies the spirit of the Bousliman Award."

Williams will receive the award during the Awards Banquet at the State Bar of Montana's 2023 Annual Meeting in Billings Sept. 14.

Williams said he was shocked and humbled, but also thrilled, when he found out he had won the award. He admits that he was even more thrilled to learn that this year's William J. Jameson Award would be going to Ed Eck, whom he had nominated for the award. (See related story on page 14.)

"I owe a lot to mentors who encouraged me, not only to get active in state bar work but to be a far more civil lawyer than I was freshly out of law school," Williams said. He cited Eck and his first boss, Bob Phillips, among those mentors. "It is such an honor and such a privilege to be able to practice law and to be able to practice with people who care about making the world a better place, not just billable hours and winning."

When asked what professionalism as a lawyer means to him, Williams took a long pause before saying patience, a spirit of community, hard work and trustworthiness. He also notes the importance of not taking shortcuts in your work.

"It's a huge advantage in a lawyer for judges, opposing counsel and colleagues to trust what you write and say, even



Dirk Williams is the winner of the 2023 George L. Bousliman Professionalism Award.

though they might disagree," Williams said. "Montana is just a small town with really long streets. It is way more crucial that people think you're trustworthy than that you are right."

Williams adds that he has found he could be a far more effective lawyer by listening than shouting — but he jokes that some people might disagree with that assessment of him.

"There are so many people who deserve the award," he said. "It's an honor to be considered one of them."

Art for Justice auction returns with online option in 2023

The Montana Justice Foundation is excited to hold its eighth annual "Art for Justice" auction. This year's event will be on Thursday, Sept. 14, during the President's Reception at the Montana Bar Association Annual Meeting. This year's art will include original works by Montana lawyer-artists, donated art, and vacation rentals.

The Montana Justice Foundation is the largest private donor to civil legal aid in Montana and serves as the charitable arm of the State Bar. By supporting MJF and the "Art for Justice" auction, you will help people stay in housing, receive



medical care, escape abusive and violent environments, and rebuild their lives.

To learn more or see the incredible array of donated art, visit www.mtjustice.org. Online bidding begins on Sept. 7 at noon and will close on Sept. 14 at 8 pm. You do not need to be present to win.



"Red and Black," 30" x 30" abstract oil painting, original art by Matthew B. Thiel is among the artwork in this year's Art for Justice silent auction.

Judge Moses named Equal Justice Award winner

The Honorable Michael G. Moses will receive the Karla M. Gray Equal Justice Award for his decades of work in helping indigent Montanans receive legal representation and as a leader in improving access to justice.

He will receive the award at the Awards Banquet on Thursday, Sept. 14, during the State Bar of Montana's 2023 Annual Meeting in Billings.

Judge Moses, who retired in July after nine years as a 13th Judicial District Judge, was nominated for the award by the Yellowstone Area Bar Association Board of Directors. In its nomination letter, the board noted the judge's work in conjunction with the Family Law Project of Billings recruiting lawyers to provide pro bono services to take on pro bono family law cases – adding that he would contact each lawyer personally by phone with his requests.

One lawyer who received such a call

was Amanda G. Hunter of Hall & Evans in Billings, who admitted that as a newly admitted lawyer hoping to focus on corporate and employment law, she wasn't excited about taking on a family law



Moses

case. But with her supervising attorney's blessing, she agreed. "The nearly year-long battle that ensued has, without question, left a mark on me as an attorney and member of society, generally. Even with little practical experience, the resources I had at my disposal to navigate the system far outweighed what my client could manage alone, especially given the complexities of the case. Those resources can, among

other things, help protect a child and provide some semblance of stability and safety for families in our community.

"When the case ended, Judge Moses sent me a letter to express his gratitude," she continued. "I am the one who should be thanking him. Because of Judge Moses, I began to comprehend the privilege of my position and the reason I owe it to my profession and community to pay it forward. It is a lesson I am so grateful to have started learning early on, and one I hope to continue building on throughout my career."

YABA also noted how Judge Moses' support of CASA of Yellowstone County has improved access to justice for abused and neglected children in foster care, saying he consistently seeks input from CASA volunteers making it easier for them to advocate for children, and he has provided invaluable training for the program.

Morgan Dake named winner of 2023 Neil Haight Pro Bono Award

Morgan Dake will receive the 2023 Neil Haight Pro Bono Award for her dedication to promoting pro bono representation in Montana.

Dake, who is the senior pro bono counsel at Crowley Fleck in Billings, was nominated by Alison Paul, executive director of Montana Legal Services Association, and Ellie Webster, MLSA's pro bono coordinator.

"Morgan serves as one of MLSA's main points of contact for statewide pro bono referrals," Paul and Webster wrote in their

nomination letter. "With Crowley being a large firm in the state, Morgan has been able to encourage pro bono work not only for her firm, but also for other private attorneys. Often, Morgan places legal aid case referrals internally, but more often will accept the case herself to provide pro bono services. Morgan plays a huge role in ensuring that low-income Montanans receive access to Justice."

Dake also recently became chair of the State Bar of Montana's Justice Initiatives Committee, and Paul and Webster call her "a driving force" on behalf of pro bono representation throughout Montana.

"Morgan's dedication to providing access to justice has opened an opportunity for existing and future attorneys to engage in pro bono participation," Webster and Paul wrote in their nomination letter.



Dake

Wood honored with Haswell Award for Montana Lawyer contribution

Robert W. Wood has been selected as the winner of the Frank I. Haswell Award for outstanding contribution to the Montana Lawyer magazine.

Wood — who maintains his tax law practice, Wood LLP, in San Francisco but is a member of the State Bar of Montana —



Wood

will be honored at the Annual Meeting on Sept. 14.

Wood has been a frequent contributor to the Montana Lawyer over the years. He was singled out for his article on Employment Law Tax Traps in

the December-January of 2022-23 issue. He is also a prolific writer who has penned hundreds of articles for journals across the country over the past 40 years.

Wood said it is an honor to be recognized for any award, but it is especially gratifying to be honored for his writing.

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November 17, 2023 | 7 CLE credits requested (*including 1 ethics credit*)

Holiday Inn Missoula Downtown, Missoula, Montana

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For full schedule and additional information, visit www.mdtl.net.

Seminar Schedule

- 8:00 - 10:00 am Empowering Your Clients to Speak Their Whole Truth at Deposition and Trial
(1 ethics credit applied for)
Mark A Basurto, Esq., *Cogent Edge - Strategic Witness Preparation, Bend, OR*
- 10:15 - 12:15 am In the **Defense** of Cannabis: Cannabis Legalization and the Fast-Growing Trend of National and State-Wide Cannabis-Related Litigation
Sarah N. Turner, Esq., *Gordon & Rees Scully Mansukhani, Seattle, WA*
- 12:25 - 1:30 pm MDTL Annual Membership Meeting & Elections
Lunch on your own if not attending
- 1:30 - 2:30 pm Legislative Panel
Sean Slanger, Esq., *Jackson, Murdo & Grant PC, Helena, MT*
Bruce Spencer, Esq., *Bruce Spencer, PLLC, Helena, MT*
Senator Steve Fitzpatrick, *Montana Senate Majority Leader, Browning Kaleczyc Berry & Hoven, Great Falls, MT*
- 2:30 - 3:30 pm Litigation from the Other Side
A. Clifford Edwards, Esq., *Edwards & Culver, Billings, MT*
- 3:45—4:45 pm Litigation Skills (Avoiding Nuclear Verdicts, Build Defense Case on High Risk, etc.)
Marshal Mickelson, Esq., *Corette Black Carlson & Mickelson PC, Butte, MT*
Paul R. Haffeman, Esq., *Davis, Hatley, Haffeman & Tighe, PC, Great Falls, MT*

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Lawyers are people too — the art of representing a peer (version 2.0)

By Mark Parker

In 1995, I received a letter from the Association of Trial Lawyers of America. It was an elaborate invitation to speak at the National Convention, with blanks to fill in, detailed instructions for required written submissions, and a short explanation indicating that my invitation should be seen as a real honor. It was. In fact, I was dead sure it was a mistake. I called its author, exposing the error. He, a few days later called back and said I was on the official list, pack my bags, get ready for the Big Apple. I did. In the next few days, in collaboration with my wife and travel agent, we booked a trip for ourselves and our kids. Start spreadin' the news!

A few days after that, the letter's author called and said, "We have no idea who you are, you were NOT invited, we intended to invite "Mary" Parker, of Chicago. Somewhere a "y" looked more like a "k." "Sorry for the inconvenience."

By then, we were psychologically strutting the Great White Way. Which turned out just fine, because they called again in a few days and said, "We had a cancellation, you are invited once again."

I had three days to come up with a speech topic and generate a written submission. On my desk were four files. A dissolution, an easement dispute along the upper Yellowstone, a misdemeanor criminal matter (I think a D.U.I.), and an attorney disciplinary defense. Nothing in common among the pile — except in all four cases, my client was a fellow member of the bar.

Thus, my topic — "Lawyers Are People, Too — The Art of Representing a Peer." This effort was republished in the *Montana Lawyer* in 1996. Over a quarter century later, I revisit the topic at my own invitation.

From 1996 until today, I've represented scores of attorneys in criminal matters

from the pettiest of accusations to rape and criminal threats. Additionally, I've been counsel in many dissolutions, business dust-ups, and disciplinary matters.

From this, I can say nothing much has changed dramatically. Thieves are still thieves. Sloths are still sloths. The ancient sins have not changed. However, there's been a few subtle developments which are worth a gander. All inhabit the margin, where good lawyers with good intentions get tangled up. I speak to these developments — if my words could rid us of the thieves and the lazy, I could skip beatification and go straight to canonization.

In the decades since the misdirected letter to me, we've seen the birth of the Office of Disciplinary Counsel (ODC). This office was created to divide the prosecutorial function from the adjudication function in lawyer disciplinary matters. Prior to this division, the Commission on Practice served both functions, appointing *ad hoc* prosecutors from time to time. The process worked, but traditionally, the fusion of the prosecutor function with the adjudicator's function leaves a taint on the result, even a just result. All in all, the new system works fine. The Chief Justice has done a good job of picking competent prosecutors. Although I disagree with them from time to time, I think they get it right in a large majority of the cases. The change has some effects, none cataclysmic. There's more institutional knowledge so repeat offenders start amassing a "rap sheet." Communicating with a professional prosecutor is easier for defense counsel. In the old system, the prosecutor was working for free and often had only one case in their lifetime.

In the past decades, the Montana Supreme Court reminded us of our duty to turn in our fellow lawyers if we see a substantial violation of the rules of professional conduct:

With this said, it is critical to the case before us to emphasize that counsel for the party moving for disqualification is also bound by the rules adopted by this Court, including the rule that requires lawyers under certain circumstances to report professional misconduct. *See* Rule 8.3(a), M.R.Pro.C. (lawyer having knowledge that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, *shall* inform the appropriate professional authority) (emphasis added).

Schuff v. A.T. Klemens & Son, 2000 MT 357, ¶ 38, 303 Mont. 274, 289, 16 P.3d 1002, 1012.

From my experience and based on reports from the ODC, the *Schuff* case started a cascade of reports from opposing counsel which still is felt today. Not many of the reports from opposing counsel have ripened into discipline. From my observation, the attorney reporting the misdeeds usually does not press the issue too hard.

Another development since 1996 is the advent of the Lawyer Assistance Program. In Montana, we lawyers tax ourselves to fund the effort, all spearheaded by Mike Larson — our first and only LAP Coordinator. Success in this arena is troublesome to measure or even define. From what I see, it is working about as well as one could expect. Experts in this area will observe that lawyers and other professionals are very skilled at hiding substance abuse problems. By the time intervention is necessary, the hole has been dug fairly deep. It has been a good program, well worth the modest cost imposed on us all.

A recurring problem has been the tug-of-war between and among the bar and the bar regulators over the "non-refundable retainer" and/or "the flat

fee.” Remembering that a bank account, no matter how denominated, is a loan from the depositor to the bank, what is the difference between depositing a client’s money in an operating account as opposed to depositing it in an IOLTA account subject to a lawyer taking it out when the lawyer deems he has earned it? We call this a “trust account” but the trustee is also the one who gets to pocket the money without any real policing, on the attorney’s determination alone. So, what’s the difference? Well, according to the rules and the Montana Supreme Court, the difference is between having a law license on the wall or a stuffed fish. It’s a big one. In the past few decades, it’s been a source of much disciplinary hubbub. Thus, a lawyer has two choices — read, re-read, and follow the rules, or find a civil service job. It’s a hassle, but there’s no choice. Debating the wisdom of the rules in a disciplinary proceeding is a sucker’s game. The hostility to the “flat fee” or “nonrefundable retainer” is embedded so deep in Montana jurisprudence, that despite it technically not being outlawed outright, fighting the biases against it are not worth the struggle.

Since my 15 minutes of fame in the Big Apple, the big story in Montana is the big story everywhere — technology. A law library now is a liability. Accelerated by COVID-19, we now rely on Zoom to a great degree. How has this changed the practice of law? Largely, things are far more efficient, but at some price. We hear a great deal about eroding civility. This is partially true, but partially the product of euphoric recall — nostalgia. In the first half of the last century, the political weaponization of the legal system made the modern era look like a canasta game at the retirement center. Thus, I believe the modern means of communicating with fewer than all five human senses has resultantly bleached some components of humanity from the modern dialogue.

Ethics lectures and articles are a bit like going to church, hopefully you don’t hear anything new. As I wrote this, I set aside any concern for the antisocial types who are in our ranks, the thieves and the truly incompetent. They are blessedly few and are not given to reading articles like this or modifying their behavior as a result. I am concerned for the well-meaning honest attorney who steps into a mess and does not see it coming. For those attorneys, I have a few other observations from the last quarter century:

1. Re-read the Rules of Professional Conduct from beginning to end. You’ll find a few new things you may not have known about. You will perhaps see rules you disagree with; I know I do. But after an exhaustive study over several years, I have concluded that my animus towards the rule does not change the rule. There’s no footnote in the annotations reading — “Over the objection of Mark Parker.” Changes are largely the product of accretion, not avulsion, but over time they are significant.

2. If the letter comes from the ODC — respond and respond through counsel. A huge component of the ODC’s business is prosecuting the nonresponsive and leveraging admissions made in the early ongoing investigation against an uncounseled attorney improvidently reacting to a grievance. Your ALPS policy, and many others, have a provision for limited coverage of ODC claims. Notify your carrier for assignment of counsel.

3. Remember, it’s a business AND a profession. I saw a study once that said the single best predictor of disciplinary problems was a high and aging accounts receivable. All good businesses are run professionally, and all professions need to be run as a good business. The ancient bromide “we are a profession, not a business,” has no place in a clear-thinking cerebral cortex. We are, at all times, both.

4. I wrote Pam Bucy, our current Chief Prosecutor for the ODC and

said — “We could rid ourselves of most disciplinary claims by a single new Rule of Professional Conduct, “There shall be no solo practitioners.”” Having been a solo practitioner for a good deal of my career, I knew I was pointing the finger at myself. But it is true, solo practitioner-sare particularly vulnerable to being able to hide personal and financial problems until they manifest beyond easy repair. My speculation is that the modern trend of attorneys being able to type and file their own documents means that secretarial and administrative staff who once sounded the alarm are no longer a safeguard.

5. Robert Minto. Mr. Minto started ALPS and it has made a big difference in Montana and elsewhere. Minto has had a profound and positive gravitational effect on all aspects of the profession through his brainchild ALPS. It brings affordable insurance to those otherwise unable to afford it. For those who argue with me, I know there are other carriers with competitive rates. Considering the landscape before ALPS became a player, you can thank ALPS for its effect on the market place. Included in Minto’s contributions are his devotion to the Montana Justice Foundation and his bundling of ancillary services with an ALPS policy.



Mark Parker is founding partner at Parker, Heitz & Cosgrove in Billings. He was the State Bar of Montana president in 2014-2015. He was the State Bar of Montana’s Jameson Award winner in 2021.

“ The ancient bromide ‘we are a profession, not a business, has no place in a clear-thinking cerebral cortex. We are, at all times, both. ”

Innovative ways to address domestic violence issues identified at forum

In 2016, Erin Lambert of YWCA Billings and other stakeholders participating in the Billings 2015-2016 Public Forum discussion identified domestic violence survivors as particularly underserved with regard to civil legal needs and raised the issue that a new way of thinking about how to serve survivors of violence and their children is necessary to break the cycle of violence. Domestic violence, also known as intimate partner violence, is prevalent and pervasive. According to the National Coalition Against Domestic Violence, about 20 people are physically abused by an intimate partner in the United States every minute. IPV poses safety risks and health risks for survivors, their children and others witnessing or exposed to the violence. IPV also harms the economy, imposing an economic burden on individuals, households, private businesses and the public sector through the cost of healthcare services used to treat survivors, a loss of productivity and reduced income for survivors due to missed work. IPV does not discriminate across income levels or socio-economic status, but economics do matter.

The forum was hosted by the Montana Supreme Court's Access to Justice Commission.

IPV and poverty are social problems that are born out of cycles that are virtually impossible to break free from without reimagining support structures and reexamining our attitudes about this complex issue. Thankfully, Detective Katie Nash, Erin Lambert (YWCA Billings) and Ellie Stanton (AmeriCorps), along with a coalition of others, are doing just that as they collaborate with local and national partners to create Montana's first Family Justice Center.

FJCs are multi-agency service hubs that integrate government and community-based agencies and a

multi-disciplinary team of professionals who work together, under one roof, to provide wraparound services and care to victims, survivors and thrivers of domestic violence and elder abuse and their children. The model recognizes that interconnected victimization requires interdisciplinary service approaches. The FJC model was established in 2002 in San Diego through a partnership between the San Diego City Attorney, District Attorney, and Police Department. It stemmed from the close collaboration between community-based domestic violence agencies/shelters and criminal justice professionals. The success of the San Diego model led to its expansion, housing more than 25 public and private non-profit agencies under its roof. The FJC model is gaining momentum and is used in 130 cities throughout the U.S.

The growth of the Family Justice Center movement is fueled by the model's effectiveness. Documented and published outcomes of Family Justice Centers have included: reduced homicides; increased survivor safety; increased autonomy and empowerment for survivors; reduced fear and anxiety for survivors and their children; increased efficiency and coordination among service providers; and reduced recantation and minimization by survivors when wrapped in services and support.

Additionally, the FJC presents an opportunity for collaboration across multiple agencies to identify civil legal issues that a survivor may need assistance with. For survivors that are married or have children with their abuser, interaction with the civil legal justice system may be necessary to get a divorce, coordinate parenting plans (which may or may not include support provisions for the children) or to obtain a civil order of protection. National data

PLANNING WORKSHOPS

If you are moved to be of service in this important cause, Strategic Planning workshops will occur on September 18-20, 2023, at the YWCA in Billings. Attendees will include local stakeholders (i.e. attorneys, survivors, law enforcement) and elected officials.

emerging from the 2022 Justice Gap Measurement Survey showed that 98% of low-income households with recent domestic violence survivors had at least one civil legal problem in the past year and that 87% had 5+ problems in the past year (excluding domestic violence).¹ Common problem areas were consumer issues, family and safety issues and health care issues. The 2022 Justice Gap Report data reveals that despite the prevalence of civil legal problems, most survivors do not receive help or seek help for these legal issues.² Unresolved civil legal problems can have devastating consequences creating additional barriers to safe and stable housing, economic opportunity, education and employment. FJCs will no doubt play a significant role in increasing access to justice for civil legal issues for individuals and families impacted by domestic violence, sexual assault, child abuse, and other related crimes.

1 Legal Services Corporation. 2022. The Justice Gap: The Unmet Civil Legal Needs of Low-income Americans. Prepared by Mary C. Slosar, Slosar Research, LLC. Available at <https://justicegap.lsc.gov/>.

2 Legal Services Corporation. 2022. The Justice Gap: The Unmet Civil Legal Needs of Low-income Americans. Prepared by Mary C. Slosar, Slosar Research, LLC. Available at <https://justicegap.lsc.gov/>.

Snapshot of Key Findings for:

Recent Survivors of Domestic Violence



Today's Low-income America¹

The rate of intimate partner violence for women is nearly **3 times higher among those in the lowest income quartile** versus those in the highest.

The Prevalence of Civil Legal Problems²

98% had 1+ problems.[†]

87% had 5+ problems.[†]

62% had 10+ problems.[†]

(n=225 households)

Seeking and Receiving Legal Help²

Sought legal help for **29% of substantial problems.**

Did not receive any or enough legal help for **88% of substantial problems.**

(n=666 problems)

Comparing Income Groups²

At or below 125% of FPL (n=177 individuals*):

45% are confident that they could find and afford a lawyer.

Between 125% and 400% of FPL (n=112*):

48% are confident.

At or above 400% of FPL

(not enough data to produce estimate).

Reports from the Field³

In 2021, LSC-funded organizations closed more than **148,000** cases involving domestic violence.

¹ Bonomi, A. E., Trabert, B., Anderson, M. L., Kernic, M. A., & Holt, V. L. 2014. Intimate partner violence and neighborhood income: a longitudinal analysis. *Violence Against Women*, 20(1), 42–58.

² Data source: 2021 Justice Gap Measurement Survey.

³ Data source: Preliminary analysis of LSC's 2021 Grantee Activity Reports.

[†] These are in addition to problems involving domestic violence.

* Small base size.

Using artificial intelligence to understand the difference between fear and experience

Contradictory thoughts and emotions dominate my relationship with technology. Every time I visit my parents, I am immediately sucked into a slew of mind-numbing tech tasks (e.g., updating iPhones, teaching my father the basics of sending email, or explaining the buttons on one of the many remotes in their living room). During these tasks, I keep a smile on my face, but my thoughts are laced with some strong language. Alternatively, each time I use an online citator, my mind drifts back to the fall of 2000 when I was taught about citators via the print volumes of Shepard's. This is one area in which I will loudly sing praises for the internet's power. Whether I like it or not, my complicated relationship with technology entered a new stage on March 14, 2023, when OpenAI released Generative Pre-trained Transformer 4 (GPT-4) as the multimodal large language model powering its chatbot.

Each morning when I review various news sources, there is no shortage of conversation about the transformative power of artificial intelligence (AI) technologies. While I do not believe that the bar exam is a good test of an individual's lawyering skills, I am astonished that GPT-4 was able to score in the 90th percentile on the Uniform Bar Exam. Unfortunately, you will find careless professionals in almost every field, so I was not surprised to see two lawyers receive fines for submitting legal briefs generated by GPT-4 that were replete with fabricated legal research. The news stories seem to alternate between quirky hyper-specific stories of GPT-4's promises and larger think pieces about its perils. We currently stand on a precipice, and before us competing forces are at play: legal search engines are investing heavily in this technology with Thomson Reuters announcing its purchase of Casetext (an AI legal tech start up), some lawyers are already using this technology in their practice, while other lawyers want us to think and regulate before we

act. Will the speed of technology adoption outpace regulation? Will the ethical rules of legal practice force a different type of machine learning that is sensitive to client confidentiality?

Whenever I contemplate aspects of contemporary culture that unnerve me, I cannot help but think about the brief scene in Cormac McCarthy's 2005 novel "No Country for Old Men" in which Sheriff Bell visits his Uncle Ellis at the family homestead situated in an unforgiving Texas landscape. The two men discuss some family history, and then the conversation turns towards the sheriff's fear of modernity. When questioned about regrets in his life, Uncle Ellis states, "You sign on for the ride you probably think you got at least some notion of where the ride's goin. But you might not. Or you might have been lied to. Probably nobody would blame you then. If you quit. But if it's just that it turned out to be a little rougher'n what you had in mind. Well. That's something else." (p. 265) Every era has been filled with thorny issues, and there is a radical difference in societal outcomes when we make decisions based on actual experiences as opposed to anticipated fears. AI's impact on the legal community is on a collision course with this maxim.

I have many concerns about AI technologies that play on a loop in my brain. For decades, our popular culture has depicted robots replacing factory labor. Now that the rise of machines has begun in earnest, we see that office jobs will probably be the first to go. In the next decade, we could be looking at labor force changes on the scale of the Industrial Revolution. Electronic document review in major litigation will be done in minutes by a machine. What does this mean for lawyers? Paralegals? Support staff? While I might share in Sheriff Bell's fears, I fervently hope that Uncle Ellis' wisdom provides me the courage and experience to face the challenges ahead.



FRANKLIN RUNGE

Franklin Runge has been the State Law Librarian since 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. He writes a regular column for the Montana Lawyer.

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Unmotivated jurors and their motivated reasoning: Motivation is a somewhat predictable variable

It has been eight days since Regina asked, “But why? Why did the [Plaintiff Corporation] want a different deal? What did they want instead?” Regina was one of many mock jurors hearing evidence and arguments in a complex commercial lawsuit filled with nuance, documents, and a lengthy timeline of events. And she wanted to know, “Why?”

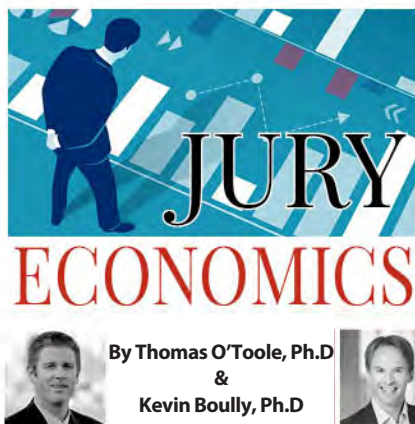
Attorneys are so often motivated to tell jurors what the evidence shows so jurors can make the right decision. In this particular focus group, mock jurors like Regina cared most about why the parties and people did what they did, not about the evidence that showed the results of that behavior. Motives frequently exist in between the evidence. They are rarely communicated in smoking gun emails or clear and credible testimony. Instead, they are often unstated, and almost always the most interesting thing in a lawsuit. Who doesn’t love a good legal drama with a touch of mystery? Are you more interested in what people say happened in a heated conversation with a rival, or more interested in why they had the conversation to begin with?

We continue to hear a lot about distrust in juries, fear of crazy verdicts, and an overwhelming sense of unpredictability. In this column, we build on one of our previous columns about complexity randomness and talk about a predictable part of jury behavior: the role of motivation in juror decision-making.

Are Jurors Motivated by Accuracy?

“When people are motivated to be accurate, studies show that they pay closer attention, think more carefully, and are less likely to rely on general heuristics in reaching a decision.”¹

The decision-making psychology known as the need for accuracy may be relevant to today’s jurors and what does and more importantly, what does *not* motivate



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

them. The need for accuracy in decision making is driven at least in part by external pressures, accountability, and trust in the institution governing the decision. Do those things motivate civil jurors in today’s climate?

In one study, more motivated jurors had more complex impressions of evidence, relied on a greater number of factors when evaluating evidence, and made more accurate predictions. Having to answer to someone and be held responsible for decisions increased the need for accuracy. For today’s jurors, however, there are few incentives for accuracy, understanding, or hard work. This is not to say jurors do not work hard. We consistently see hard-working and diligent jurors. But is there a declining need for accuracy in the context of hearing evidence and making the objectively “right” decision according to the law? Have incentives shifted so jurors today feel more social reward and satisfaction from reaching an independent and intuitive decision regardless of the law or evidence?

We could look at data on declining trust in institutions as one clue. Is there a motive for accuracy in service of civil justice? Gallup polls show that confidence in American institutions declined from 2021 to 2022 for 11 of 16 institutions, including the criminal justice system and

the U.S. Supreme Court. In 2022, just 14% said they have a great deal or quite a lot of confidence in the criminal justice system. Just 25% said the same about the Supreme Court, down a full 11% from the prior year. Is there accountability for jury verdicts? In a word, no. And this is not a bad thing, but it is a structural component that cuts against a need for accuracy. In our work with civil juries, mock juries, and research across the country we see a much stronger pull of jurors’ motivation to decide consistent with their values and beliefs. They are accountable to their identities above all else and decisions consistent with that identity often matter more than a subjective conception of accuracy.

So, is there a better explanation for why Regina wants to understand why a corporation did what it did?

Are Jurors Motivated by Closure?

Another decision-making tenet may be more helpful in looking at juror motivation. Jurors who exhibit a higher need for closure tend to function differently than jurors who have a lower need for closure. Researchers describe the need for closure as the need for answers. Closure or resolution becomes a goal in and of itself and can influence the desire and the ability to process information, countered by the more pressing goal of achieving resolution. It can be characterized by impatience, quicker judgment, failure to consider alternatives, and the need to reduce uncertainty. Sound like at least half if not most of the adults in your life today?

How does today’s America intersect with a need for closure? Research in 2022 showed a correlation between need for closure and pandemic stress, suggesting at least the possibility that an increasingly stressful social world pushes people toward greater need for closure. The uncertainty of the last few years and general increases in economic pressures, cost of living, and other stressors certainly add to the mix. It makes sense that as our cognitive and

¹ Sara Gordon, What Jurors Want to Know: Motivating Juror Cognition to Increase Legal Knowledge & Improve Decisionmaking, *Tennessee Law Review* (81), p. 751.

physical resources are stretched, we have less bandwidth for complex decision-making and many studies show this precise effect. Why not gravitate toward faster closure? Jurors may be doing exactly that, especially in complex cases without accessible hand-holds to guide them.

Interestingly, those with higher need for closure tend to behave more consistently with polarizing principles that can lead to distinct jury factions, greater resistance to opposing arguments, and ultimately more difficult deliberations conversion - where fewer jurors change their minds and more jury groups result in hung juries or split decisions.

In our experience, higher need for closure jurors tend to follow four steps in deliberations. (Please see table above.)

What Can Trial Lawyers Do?

Simply put, and to steal a phrase from Ezra Klein's "Why We're Polarized," you must hunt where the ducks are. This means approaching jury persuasion with the presumption you will have more success by meeting jurors where they are rather than trying to force them to move where you want them.

Do not assume jurors will be motivated by your evidence or by your telling. Assume they will be motivated by their

Step	Example
1. Hear and learn the facts and arguments.	Plaintiff corporation has sued defense corporation for breach of contract after trying to withdraw from a long-term deal and feeling unfairly stymied in the process.
2. Decide what they are against.	I am against a corporation blocking another from doing what it wants.
3. Make their individual decision.	I favor the Plaintiff corporation.
4. Argue with others about what they support.	I believe the contract allows the Plaintiff corporation to exit and requires reasonable negotiations to determine reasonable costs to do so.

decision-making psychology in ways that are at least somewhat predictable. If complexity introduces randomness and a need for closure to reduce uncertainty, give jurors familiar and accessible certainty through single-concept visuals, simple symbols of your winning positions, and messages that align with transcendent values of fairness, transparency, human nature, and more.

Do not be stubborn. If your approach is not getting the results you want from focus groups, mock trials, or conversations with trusted neutrals, change. Ask questions. Reassess what you think about your case and adapt. Just as most pet problems

are people problems, most juror problems are lawyer problems.

Do not be discouraged. None of our observations and experience give us reason to be disappointed in jurors or discouraged by their processes or their decisions. Our experience is overwhelmingly that jurors achieve reasonable and appropriate decisions most of the time. They just do not always do it for the reasons you may expect.

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

Resolutions proposed for vote by State Bar members at 2023 Annual Meeting

STATE BAR OF MONTANA RESOLUTION NO. 1

(Submitted for Consideration to the Past President's Committee by Montana Legal Services Association for a vote of the membership.)

WHEREAS, the State Bar of Montana has supported the operations of Montana Legal Services Association since 1966 when it was formed; and,

WHEREAS, nearly 20% of all Montanans are eligible for assistance by Montana Legal Services Association; and

WHEREAS, the State Bar works with Montana Legal Services Association, the Montana Supreme Court's Access to Justice Commission and a host of other access-to-justice stakeholders in Montana; and

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

WHEREAS, the private bar has been supportive and responsive to the need for legal representation of Montanan's living in poverty; and

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

essential legal services; and

NOW THEREFORE BE IT RESOLVED, that the State Bar of Montana, in its annual meeting, assembled at Billings, this 13th day of September 2023, does hereby

STRONGLY URGE Congress to maintain a firm national commitment to providing equal access to the system of justice for the nation's poor, as called for under the Legal Services Corporation Act of 1974; and

STRONGLY URGE the United States Congress to increase federal funding for the legal services programs nationwide, especially this year when the need is even greater; and

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

Adopted by the membership of the State Bar of Montana, September 15, 2023.

RESOLUTION NO. 2

(Submitted for Consideration to the Past President's Committee by the Board of Trustees of the State Bar of Montana for a vote of the

membership.)

WHEREAS, preparations for the 2023 Annual Meeting of the State Bar of Montana entailed countless hours of time and effort by the attorneys and judges in the Billings area, the members of the Yellowstone Area Bar Association, the Annual Meeting Planning Committee of the State Bar of Montana, including the Area H Trustees and officers of the State Bar, the meetings sponsors and others; and

WHEREAS, the 2023 Annual Meeting would not have been possible without the generous contributions of time and talent donated by those individuals and entities.

NOW, THEREFORE, BE IT RESOLVED that the State Bar of Montana does hereby express its deepest appreciation to the attorneys and judges of the Billings area, the members of the Yellowstone Area Bar Association, the Annual Meeting Planning Committee of the State Bar of Montana including the Area H Trustees and officers of the State Bar, the meeting sponsors, and other individuals whose help was instrumental in making the meeting a success.

Adopted by the membership of the State Bar of Montana, September 15, 2023.

Communication is key to avoiding the legal fee suit counterclaim

You finish a client matter. You feel good about the quality of your work, and you are pleased that you got such a good result for your client. Then, as sometimes happens, you are forced to come to grips with the reality that this client has stopped making payments on a rather significant outstanding balance. It should go without saying that you deserve to be paid, so what are your options? The temptation, in light of the quality of work and the outcome obtained, is to file suit. Of course, once that happens, the fact that your work was solid, and you got a good result will mean nothing to the client.

If you ever decide to sue for fees based upon the reasons set forth above, don't be surprised if or when a malpractice counterclaim is filed because the decision to file suit was based on the wrong reasons. With this in mind I offer the following thoughts, shared with the intent of helping you avoid ever having to consider suing for fees.

1. It begins at intake and the best advice I have to share is this. **Never take on a client who can't afford your services from the get-go.** This will always be a losing proposition and you're going to be the one who will make the decision to step into that mess. If you do so, don't blame the client when the bill goes unpaid.

You really must determine every prospective client's ability to pay for all proffered services before you take any matter on. This will always require a thorough discussion. For example, it's not enough to simply state that your hourly rate is \$225. That figure is meaningless absent a reasonable estimate of the number of hours involved. Fail to do this properly and you'll find yourself torn between doing all the work that is truly called for while also trying to minimize the financial hit you're about to take.

Never forget that while it's easy to get involved in a matter, it's often far more difficult to exit prior to its completion. You want to do all that you can to avoid the headache. Learn to identify and say no to prospective clients who simply don't have the financial wherewithal to move forward.

2. Have a written fee agreement with all new clients and on all new discrete matters for existing clients.

This doesn't mean the document used must always be your firm's standard multipage engagement contract. For repeat work, a simple "thanks for stopping by" email or letter that confirms your regular rates apply may suffice. Whatever its form, the document should clarify the scope of representation and set forth the fee structure. Where appropriate, be specific regarding the types of out-of-pocket expenses the client will be responsible for, such as filing fees, court costs, expert witness fees, photocopy charges, travel, etc. If possible, estimate what those expenses might be because first-time clients often are astonished by the amount of out-of-pocket expenses that can be incurred on their behalf.

3. Always bill monthly unless the client has specified otherwise. Regular billing can prevent a client from receiving a large, unexpected bill that can all too easily leave them with sticker shock and anger. It also encourages clients to make regular payments on their accounts, which will help prevent delinquencies from ever developing. Think about it this way. When clients receive bills on a haphazard basis, the message they receive is it is fine for them to pay whenever they decide to get around to it. After all, if regular billing isn't important to you, why should making a timely payment be important to them?

4. Never try to raise your rates on an active matter. If you undervalued your work at the outset, that is your



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



problem. Put yourself in your client's shoes and think about how you would feel if your lawyer tried to raise her rates midway through. In short, this can be an invitation for trouble. If your fee structure is changing, change it only with new clients and on new matters with current clients.

5. Provide detail in your billing statements using everyday language, not legal jargon. The billing statements should detail the daily work performed and state why the work was necessary, who did it, and how long it took. In addition, an entry such as "3.5 hours — research" is unacceptable. Rather, the entry should read something like, "3.5 hours to research state case law on piercing the corporate veil in order to create a preliminary strategy." Clients want to be able to see that their matter is progressing and to understand what they're paying for. Create bills with this in mind.

6. Review all your outgoing bills. Prior to mailing, review each bill in order to check for errors, identify any write downs that should be made. Also consider adding a brief personal note or update, which would be particularly important if the bill is going to be higher than the client is expecting. For those who are current with their bills this personal note could be as brief as "Thank you for keeping your account current. I appreciate your business!"

7. Copy the client on all correspondence and other materials relating to the client's matter. These blind copies not only show your client that you want to keep her informed, they also indirectly serve as informal status reports. Ask yourself which client is more likely to pay the monthly bill: the client who hasn't received a single sheet of paper from her lawyer in three months, or the one who regularly receives informational copies?

8. If you are one who continuously struggles with delinquent accounts, try collecting a retainer at the start of all new matters. If the request for a retainer causes a prospective client to take his business elsewhere, he probably wasn't a client worth having. Just remember that a retainer is almost always considered

an advance payment and thus is fully refundable (minus what may have been earned for work started or costs advanced) if the client later decides to take her business elsewhere.

9. Take prompt action on all accounts in arrears. This is the single biggest mistake lawyers make with respect to fee disputes. A client who can't pay your fee today isn't likely to have the financial wherewithal to pay it tomorrow, and the bill won't get smaller or easier to collect over time. Require timely payments and, if it becomes necessary, withdraw if you can as soon as the situation becomes clear.

One side note here. Beware of clients who promise to pay next month. That's often one of those "fool me once shame on you, fool me twice shame on me" situations and the money never materializes. If you can, it's better to withdraw cut your losses when the past due amount is \$2,500 as opposed to having to eventually write off \$25,000. Again, if they can't pay now, most won't be able to pay later.

10. If a delinquency is developing, you should personally speak to the client within the first 60 to 90 days.

You will have far more success with a personal phone call asking for payment than you will with letters from your bookkeeper or a collection call made by your receptionist. At the very least, you will have made a good faith effort to collect the fee and you might learn something that can help you decide how to proceed.

11. Establish a strong policy against suing for fees. If you can't work out a realistic payment plan with the client, consider other alternatives such as arbitration or mediation. If you are tempted to sue for fees, consider this: the counterclaim for legal malpractice usually seeks an amount far in excess of the legal fees in dispute. In the vast majority of these cases, the lawyer ends up dropping the fee suit just to get rid of the malpractice claim.

12. If you feel you have no alternative other than to sue for fees, and this is of particular importance, never sue a client who never had the ability to pay your bill in the first place. Accepting

them was your mistake, not theirs; and they will often counterclaim. What other option do they have?

Assuming the ability to pay isn't the underlying problem, and prior to deciding to sue for fees, have another lawyer first do a thorough objective review of the client file. This might be done by someone in your firm who has had no relationship with the file or a local member of the bar who does collections work. The purpose of the review is to see if there are any facets of the work that could be questioned and to make certain that the client's matter was handled with the utmost diligence. For many lawyers, once a client is in the hole for a significant sum, it's nearly impossible to be objective about the file and the work that was done for that client. More importantly, understand that if and when that client file is put under the lens that comes with a malpractice counter claim the client made in response to the collection action you started, that file is going to be critically reviewed in every detail. There is value in knowing where the weaknesses are to enable you to make an informed decision about whether to try and collect on the debt.

13. And last but not least, if you decide to pursue collection activity, never do this work yourself. One of the most important services provided by a lawyer is objectivity. Clients will view their lawyer as someone who is a knowledgeable third party and able to help protect their interests. Do something similar and send the matter to a specialist who can be objective and mediate any concerns that may arise.

These ideas are not meant to be the final word in effective collection practices. In addition, a decision to follow them doesn't mean you will never face a fee dispute. All I can say is this. If you ignore the above, you can unintentionally give a disgruntled or unscrupulous client the opportunity to take a shot at your malpractice insurance coverage (via a counterclaim) if you ever end up deciding you have no other option but to file a suit for fees. Personally, I don't like the idea of painting a target on my chest and I suspect you might feel similarly.

Robert W. Brown

Rob Brown died April 21, 2023, in Oregon at age 76.

Rob was born in Texas and moved throughout his youth due to his father's military service. He lived in Japan, Germany, California, Virginia, Oklahoma, Illinois, Hawaii and Florida.

He started his law practice in Montana in 1985 after serving in the U.S. Marine Corps and after a long career in law enforcement in California. His law career in Montana included having a private practice, serving as a Gallatin County Public Defender and later as a prosecutor with the County Attorney's Office. He also served as a deputy coroner, instructor at the Law Enforcement Academy and as the Belgrade City Judge.

He left Montana in 2002 to travel and then settled in Oregon where he continued to work as a private investigator.

He is survived by his wife, Carrie, in Oregon; two children; two grandchildren; and sisters Nona Faith, with whom he shared his law practice, and Tina Brennan.



Brown

David W. DePuy

David W. DePuy, age 94 of Livingston, Montana passed away on December 14, 2022. David was born and raised in the Livingston and Paradise Valley area and practiced law in Livingston for 50 years. He was a quiet man, an intelligent man, and a hard-working man.

After several years of law study at home, he passed the Montana Bar Exam in October of 1966. In 1966 thirty-two applicants took the bar exam and he was one of four that passed, the others being out of state graduates.

He opened his law office on February 9, 1967. His wife of sixty-eight years, Shirley Siriano DePuy, joined him in his law office as his legal secretary. David was a student of history and geography, an avid reader, and had the ability to retain most of what he read. The practice of law allowed him to share his wealth of knowledge about Park County, with his practice focusing on real estate and water law.

David was active in many civic



DePuy

Memorial submissions

The Montana Lawyer will publish memorials of State Bar of Montana members at no charge.

Please email submissions to jmenden@montanabar.org using the subject line "Memorial." Memorial submissions are subject to editing.

organization and boards throughout his career, serving on boards to support his community until the last several months. David was skilled at anything he tried, building his home in Livingston and mountain house in the Paradise Valley.

He is the author of four books, "Paradise and Beyond (Paradise Valley)," the "Homesteaders of the Shield's River Valley," "Why I Smelled Different" (his youth time being spent working on the family fur farm), and "Park County Banks Old and New." He was working on a new book about a renegade in Yellowstone National Park. It frustrated him that he could not find out what happened to the fellow.

He is survived by his wife Shirley, son Scott DePuy and children Addison DePuy and Wyatt DePuy, daughter Tara DePuy, also an attorney, and husband Michael Sprague, all of Livingston.

Mark Edward Noennig

Mark Edward Noennig was born on Nov. 19, 1947, in Minneapolis, to Herb and Edna Noennig. He graduated from Billings Senior High in 1966,



Noennig

where he was the president of his class. He received a BS in Aerospace/Mechanical Engineering from Montana State University in 1970. Upon graduation, he worked with Chevron Oil Company in San Francisco before deciding to go to law school. He received his JD from University of

Montana in 1978. Soon after, he began his law career at Hendrickson & Bishop (later Hendrickson Law Firm), where he practiced up until the time of his death. He dearly loved the law, his partners and his clients.

He met Sharon Grubbs in 1984, and they worked side by side at Hendrickson for 32 years. What began as a fun friendship blossomed into a 38-year relationship. They skied, golfed, traveled, entertained and built two homes together. The real loves of Mark's life were his grandchildren, who filled him with pride and gave him the special name "Bumpa." Sharon and Mark surprised everyone by finally marrying on Dec. 31, 2012.

Mark was a quiet man who loved

finding solutions to problems and talking politics with his friends. He jumped into politics in 2009 when he ran for the Legislature. He served two terms in the state House of Representatives, meeting lifelong friends and deepening his understanding of state government. Afterwards, he served as President of the Montana Board of Investments, Board President of the Family Tree, and Steering Committee member for Yellowstone County Family Drug Court.

Mark was good, kind and honest, living his life by the Golden Rule. He is preceded in death by his parents and his brother, Jim Noennig. He is survived by his wife, Sharon Grubbs; three stepchildren; and his six beloved grandchildren.

CLASSIFIEDS Contact | To post a job on our online Career Center, visit jobs.montanabar.org (Montana Lawyer classified included in price). Job postings start at \$129 for State Bar of Montana members by using the code SBMT100. For all other classified inquiries, email editor@montanabar.org or call 406-447-2200.

ASSOCIATE ATTORNEY: Fast paced family friendly litigation practice with offices in Helena and Anaconda is seeking an associate attorney for full time, on site, preferably long term employment. Applicants should be interested in living and practicing law in the Rocky Mountains. Wall, McLean & Gallagher, PLLC is a general practice civil law firm with a trial focus and emphasis on personal injury and complex litigation. However, the firm serves a broad range of clients and practice areas with room for growth in all of them. Applicants must be admitted to or eligible for admission to the Montana bar, have strong research and writing skills and an attention to detail. Causal office attire with formal attention to serving clients and community. Competitive salary and benefits (malpractice insurance, CLE programs, health, dental, vision, 401K and regular bonuses) with opportunity for profit sharing and partnership to those who desire it. stefan@mlfpllc.com

ASSOCIATE ATTORNEY: Anchorage immigration and civil litigation firm needs a dedicated, reliable person who feels comfortable being partly self-guided in their work is the perfect fit. Competence and comfort with Microsoft Word and Outlook needed. Experience with Excel, Adobe, and QuickBooks Online is a plus but not required. We will highly value any individual who is bilingual and offer a corresponding pay bump. We are willing to train most other skills for the right person. Apply by email to suparat@visamerica.com

ATTORNEY: Front Range Law is seeking an attorney with two to five years of experience to join our Great Falls, Montana team. Must have positive attitude, diligent work ethic and experience in business transactions, estate planning, real property, estate & trust administration, tax or agricultural law. Collaborative work environment and competitive compensation package with benefits and incentives. Must be licensed to practice in Montana. Please send resume, cover letter, and writing sample to srubino@frontrangemt.com.

SENIOR ATTORNEY: Tappan Law Firm is a small firm representing numerous

clients from individual landowners with single-issue property disputes to large businesses with complex permitting and land-use demands. Successful candidates will have extensive knowledge in water rights adjudication and disputes, property disputes, and contractual disputes. Salary is highly competitive and dependent on experience. Please send a cover letter, resume, writing sample, and two references to jpharmer@tappanlawfirm.com.

COMMERCIAL ASSOCIATE: Crowley Fleck PLLP seeks a full-time commercial associate to join our Bozeman, MT office. Successful applicants should have 0 – 3 years of business and real estate transactions experience. Applicants must have a good standing reputation in the legal community and be licensed or willing to be licensed in Montana. Competitive salary and benefits for region. All applications will be held in confidence. Please send cover letter, resume, law school transcripts, and writing sample to Tiffani Mowry at tmowry@crowleyfleck.com

DEPUTY COUNTY ATTORNEY: Lewis and Clark County Attorney's Office is hiring for Criminal Deputy County Attorney. We are looking for an individual who has 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 through our career portal <https://www.lccountymt.gov/hr/jobs.html>.

DEPUTY COUNTY ATTORNEY: The Gallatin County Attorney's Office seeks a prosecutor with at least 5 years of experience to join our team of attorneys and support staff. Duties include prosecuting special felony criminal matters in District Court and Youth Court and assisting newer criminal deputy county attorneys. The Gallatin County Attorney's office has new leadership with a modern vision. Join us as we build a gold standard for prosecution in our State. Salary for experienced prosecutors ranges from \$90,111 to \$112,057 based on experience. The County provides excellent benefits including

health, dental, vision, discounted gym memberships and ski passes to Bridger Bowl. Please apply online at bit.ly/47phjS1

DEPUTY COUNTY ATTORNEY: Missoula County seeks an Attorney II - Civil. The position provides legal counsel, policy guidance and representation for Missoula County departments, other governmental agencies and boards as primary legal advisor. Works in concert with the County Attorney and Chief Deputy County Attorneys in providing legal counsel to the Board of County Commissioners and other elected officials. After four years, at the discretion of the County Attorney, employee may be advanced to Attorney III status based on demonstrated competencies. Apply online at www.governmentjobs.com/careers/missoulacounty/jobs/4116173/attorney-ii-civil

DEPUTY COUNTY ATTORNEY: Flathead County seeks a Deputy County Attorney, primarily assigned to criminal prosecution duties and to providing legal services to County governmental agencies. Assignment to a particular area of service will, to some degree, be based upon the individual's training, experience and specialization. Familiarity and experience with prosecution of both felony and misdemeanor cases is desired. Familiarity and experience with cases involving juvenile crime and dependent neglect is desired. Individuals must also have some background and training for civil litigation with regard to governmental law. Apply by email to shouser@flathead.mt.gov.

ESTATE PLANNING ATTORNEY: Montana Elder Law, Inc., located in Missoula, is seeking an Estate Planning attorney to join our team. We are a private law firm that prides itself on protecting the assets, peace of mind, and dignity of aging for Montanans. The ideal candidate will have a sound knowledge of the drafting of Wills, Trusts, POAs, and Deeds, paired with a willingness to learn. We are looking for someone who has excellent communication and interpersonal skills, the ability to manage multiple projects and priorities, and a strong commitment to client

service. Submit resume, cover letter, and references to gen@mtelderlaw.com.

LLM TAX ATTORNEY Are you looking for an organization that aligns with your purpose? Leadership that supports your pursuit of mastery in your practice areas? Provides you autonomy in how you achieve success? Silverman Law Office is changing the way the law is practiced, and we're looking for the right attorneys to join our team. As our Bozeman office continues to grow, we're seeking attorneys with a passion to assist clients with business and personal matters. Our extraordinary team — from secretaries to paralegals to fellow attorneys — provides support and a positive atmosphere. You will get the opportunity to work with our fantastic team and connect with clients meaningfully — all while living in the fantastic community of Bozeman, Montana. Find out more about our firm at www.mttaxlaw.com. To apply, send your cover letter, resume, references, and writing sample to Shalee@mttaxlaw.com.

STAFF ATTORNEY: The Montana Department of Corrections seeks a staff attorney managing a general caseload that consists of civil litigation, administrative litigation and written and oral legal advice to department staff. Supervision and case assignments are made by the Chief and Deputy Chief Legal Counsel. The position will be responsible for the legal services for the Director's office, the Administrative Services Division, Probation and Parole Division, Programs and Facilities Bureau, Communication, and each of the Department's secure care facilities, as well as the Board of Pardons and Parole. Apply online at <https://mtstatejobs.taleo.net/careersection/200/jobdetail.ftl?job=23142132&tz=GMT-06%3A00&tzname=America%2FDenver>

NON-ATTORNEY POSITIONS

BILLINGS: Great Falls law firm looking for a full time Paralegal to join well established workers' compensation and personal injury practice. FairClaim Attorneys have an excellent reputation, with over 80 years of combined experience achieving outstanding results for our clients. Join our hard-working team and find a great work-life balance, excellent benefits, competitive salary, and bonus opportunities. Starting salary, with bonus opportunities, is commensurate

with qualifications, experience and results. Email resume & cover letter to tturner@fairclaimlaw.com

OFFICE SPACE

BILLINGS: Solo condominium office space, unique view, space for paralegal/ secretary and one associate, reception area, and parking. Separate office heat and lights, coffee bar, professional setting, 1645 Parkhill Dr. Perfect for retired semi-active attorney or beginning lawyer. Possible purchase rent-option, 3-5-year term, rent negotiable. Availability is flexible. Call Sam Rankin for details and with confidentiality. 406-855-3013. sam@srakinlaw.com.

MEDIATION

GUY ROGERS of the Brown Law Firm (Billings and Missoula) announces that he has wrapped up his 35-year litigation practice and now works solely as a mediator/ settlement master. Guy handles mediations throughout Montana and works in his Bigfork/Missoula office during the summer months. Guy is a member of the National Academy of Distinguished Neutrals (NADN), and mediations can be scheduled through its website. Guy can also be reached at grogers@brownfirm.com (Legal Assistant Sylvia Basnett: sbasnett@brownfirm.com). Phone: 406-248-2611.

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.

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.

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, Oregon; 888-485-0832. Website at 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. www.dcpcmt.com. 406-899-0522.

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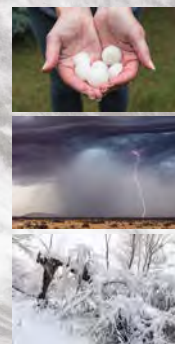
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