An aerial photograph of a mountain resort, likely Big Sky, Montana, during a sunset or sunrise. The mountain peaks are covered in snow, and the slopes are dotted with evergreen trees. A small town or village is visible at the base of the mountain, with buildings and parking areas. The sky is a mix of orange, pink, and purple hues, with some clouds catching the low light.

MONTANA LAWYER

DECEMBER/JANUARY 2023/2024
VOL. 48 | ISS. 6

BACK TO BIG SKY!

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**Also Inside: Helena lawyer Ron Waterman details
moving story of life after retirement from practice**

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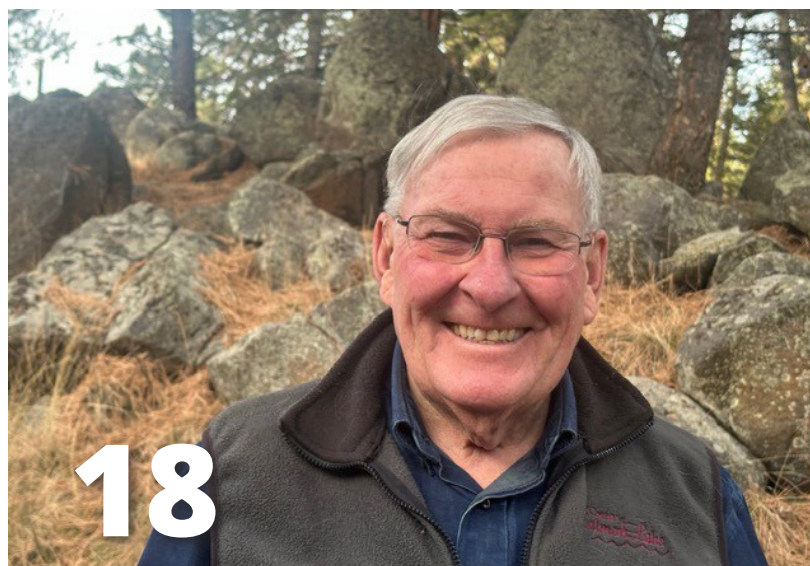
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FEATURE ARTICLES



LIFE AFTER LAW

Helena's Ron Waterman details how he found new meaning personally and professionally after experiencing tragic events shortly after his retirement from practice.



'RIPPLE OF HOPE'

Trio of *cy pres* contributions make a big splash for Montana Justice Foundation in 2023.

JUVENILE JUSTICE

Law school partnership with judicial council enhances learning opportunities for students on cases involving children and families.

Page 24

ALSO IN THIS ISSUE

- 4** PRESIDENT'S MESSAGE
- 5** MEMBER NEWS
- 11** LAW SCHOOL NEWS
- 13** ACCESS TO JUSTICE
- 23** CLE
- 24** COURT NEWS
- 26** PRACTICING WELL
- 27** RISK MANAGEMENT
- 29** IN MEMORIAM
- 30** JOBS/CLASSIFIEDS

CORRECTION

Incorrect identification

A photo on page 17 of the October/November issue of the Montana Lawyer contained an incorrect identification. It was the Honorable Carolyn Ostby, U.S. Magistrate judge (*retired*). We regret the error.

Getting started with pro bono can seem daunting, but it doesn't have to be

Last issue I discussed some of the themes I hope to work on during this year. These included supporting the rule of law, addressing the ramifications of artificial intelligence on our practice, and increasing access to justice for all Montanans. The first two issues are vast and it is hard to know where to begin on the individual level. While access to justice can also appear intransigent, there is a simple, and direct, means for an individual lawyer to make a difference: pro bono service.

Lawyers, of course, have a professional responsibility to provide at least 50 hours of services per year for the public good without fee. See M. R. Prof. Cond. 6.1. However, finding the time and inclination to meet this obligation — among billable hours, familial obligations, hobbies, etc. — is sometimes easier said than done. I thought I'd share my experience with pro bono service in the hope it provides some ideas for getting started (or continuing).

My practice began at the Montana Attorney General's Office. There I was aware of my obligation to perform pro bono service, but wasn't quite clear how I was to do so. The two most obvious barriers were (1) I had no experience practicing family law, the most common (but not only) area of need for pro bono services, and (2) I had to be careful not to take cases involving criminal matters (allegations of domestic violence for example) to avoid conflict with the work of the AG's Office. What ended up working best for me was limited-scope representation. See M. R. Prof. Cond. 1.2(c) (providing for limited-scope representation with client consent).

Usually, this consisted of either reviewing form documents filled out by

the client (e.g. a parenting plan), or volunteering for the First Judicial District pro bono clinic, held at the Montana Legal Service Association (MLSA) Offices. For document review, a MLSA staffer would email me documents and basic information about the case. Once I had reviewed and suggested edits, my representation ended. At the clinic I would assist two clients, each for about 45 minutes. My representation usually consisted of some combination of reviewing documents and providing advice concerning the client's particular legal needs and circumstances. Limited-scope representation is a great entry into fulfilling pro bono work. Most clients I assisted were both gracious and grateful, despite the limited nature of my representation.

Once you have your feet under you, I suggest taking on full-scope representation. Some cases just call for full representation, such as where the adverse is represented by a lawyer. Taking on a full case, especially for new attorneys, also provides great experience that can be hard to come by as an associate. As an added bonus, every district court judge I have spoken with looks very fondly on lawyers who represent low-income clients pro bono; the bench notices. Luckily, you are not alone in these endeavors. MLSA is a great resource and can get you set up with the level of representation you feel comfortable with, including phone or remote advice, and can also pair you with a mentor for full-scope cases.

Thanks in advance for your pro bono efforts; they move the needle on providing access to justice. I look forward to hearing your pro bono stories and ideas for how we can expand access to justice in Montana.



STUART SEGREST

Stuart Segrest is a senior attorney at Christensen & Prezeau, PLLP where he handles a wide range of litigation and appellate matters. Before joining the firm, he worked for the Montana Attorney General's Office, where his career spanned the terms of four different Attorneys General. He served as Chief of the Civil Services Bureau, which represents the State of Montana in complex constitutional litigation and other cases of statewide importance in both state and federal court. He is currently serving as the President of the State Bar of Montana.

GET INVOLVED

Montana Legal Services Association's Housing Program helps Montanans facing eviction. Also, a new regular column highlighting pro bono opportunities in Montana, will honor the legacy of retiring statewide Pro Bono Coordinator Patty Fain. Read about both on pages 13 and 14.

CAREER MOVES

Reavis joins as associate at Netzer, Krautter & Brown P.C.

The law firm of Netzer, Krautter & Brown, P.C. is pleased to announce that James Reavis has joined the firm's Billings office as an associate attorney.

James Reavis received a degree in History and Global Politics from Washington State University, a Juris Doctor from The University of Montana, and a Master's in Public Administration from the Monterey Institute of International Studies. Reavis worked with the Office of the Public Defender for 11 years, representing

**Reavis**

many clients in the trial courts and resolving over 130 appeals before the Montana Supreme Court. Reavis has also provided pro bono family law advice with Montana Legal Services Association for many years. He enjoys spending time with his girlfriend, running outside, playing games, and going to a crossfit gym. Reavis has published a memoir and is working on his first fictional novel.

Reavis' practice will be focused on criminal law, family law, social security disability, and appellate litigation.

Dolphay, McClafferty, Sullivan elected to partnership with Holland & Hart in Billings

Holland & Hart LLP is pleased to announce the election of 23 partners effective Jan. 1, 2024, including three in Billings: Matthew Dolphay, Brianne McClafferty, and John Sullivan.

**Dolphay**

"These new partners embody a passionate commitment to excellence in legal service and client care which are the foundation of the firm's value-based approach to delivering legal services," said Chris

**McClafferty****Sullivan**

Balch, firm chair. "They each demonstrate leadership in client relationships, collaboration within and across teams, and a dedication to maintain and strengthen our unique firm culture."

Dolphay serves clients in environmental litigation; McClafferty serves clients in commercial litigation; and Sullivan serves clients in government investigations and white collar defense.

Ipsen, Reavis, Chambers join MLSA as attorneys in 2023

Ellen Ipsen, Amy Reavis and William "Bill" Chambers joined Montana Legal Services Association in 2023.

Ipsen joined MLSA as a Skadden Fellow. Ipsen received her J.D. from the University of Oregon School of Law (graduated Order of the Coif) and a B.A. in history and economics, University of Montana Davidson Honors College. During law school, she was a fellow in the Public Law and Policy program and the Native Environmental Sovereignty program. She externed for the Honorable U.S. Magistrate Judge Jolie Russo and served as a law clerk at the Federal Public Defender of Oregon.

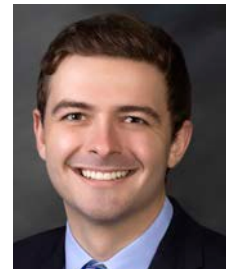
**Ipsen****Reavis**

After law school and prior to joining MLSA, Ipsen worked at a private firm in Eugene, Oregon. In her free time, she likes to read, cook and try new types of food, trail run, and watch outrageous reality TV.

Reavis also joined as a Skadden Fellow. Her two year fellowship project

(2023-2025) aims to represent criminalized survivors of domestic violence with the civil fallout of their criminal records. A large part of her practice will be implementing Montana's 2019 misdemeanor expungement act through direct representation and advice calls, and eventually conducting attorney training and developing pro se and informational materials on expungement. She can also address and advise on denials of housing, benefits, and employment due to a criminal record and answer questions about getting removed from Montana's Offender Registry.

Chambers joined MLSA in October 2023 as the agricultural worker and housing attorney. Chambers received a B.A. in art and speech from Wabash College in Indiana and his J.D. from Willamette University in Oregon. He has spent the last 12 years in private practice focused on complex litigation and is excited to dive into helping underserved populations with MLSA's ag worker population.

**Dardis****Cranston****Dardis, Cranston join Brown Law Firm in Missoula, Billings**

Brown Law Firm, P.C., with offices in Billings and Missoula, is pleased to announce that Emily Dardis and Matthew Cranston have recently joined the firm as associate attorneys.

Dardis grew up in Kalispell and graduated with highest honors from Montana State University before attending the University of Montana School of Law. She interned with the Brown Law Firm for two years and capped off law school by working in the Office of the Governor. She is admitted to practice law in Montana's state and federal courts. Her practice is primarily in civil defense litigation. She is a member of the State Bar of Montana, Western Montana Bar Association, and Montana

MORE NEWS, PAGE 7

CROWLEY | FLECK ATTORNEYS

Is pleased to announce the following Associates in the firm:



Cole L. Catlin

Cole practices in the firm's Billings office. His practice focuses on commercial transactions, business organization and estate planning. Cole received his J.D. from the University of Montana in 2023.



Henry D. Charpentier

Henry practices in the firm's Billings office. His practice focuses on commercial transactions, tax, and immigration law. Henry received his J.D. from the University of Montana.



Ben M. D'Alton

Ben practices in the firm's Billings office. His practice focuses on transactional tax planning and estate planning. He received his J.D. and LL.M. in Taxation from the University of San Diego School of Law.



Sheldon R. Eilers

Sheldon practices in the firm's Billings office. His practice focuses on commercial transactions and tax, trusts, and estates. Sheldon received his J.D. from the University of Idaho.



Kelsey Killion

Kelsey practices in the firm's Bozeman office, where her practice focuses on regulatory matters. Prior to joining Crowley Fleck, Kelsey practiced in Chicago where she focused on federal white collar & complex litigation, criminal defense, government agency and regulatory investigation defense, and securities litigation. Prior to practicing law, Kelsey was a PhD Candidate (ABD) at the University of Chicago. Kelsey received her J.D. from the University of Illinois Chicago School of Law.



Anne Lewis

Anne practices in the firm's Helena office. Her practice focuses on tort and commercial litigation with an emphasis in medical malpractice. Anne received her J.D. from the University of Montana and clerked for the Honorable Laurie McKinnon on the Montana Supreme Court.



Kelsie L. Nolan

Kelsie practices in the firm's Missoula office. Her practice focuses on commercial litigation, property issues, and worker's compensation. Kelsie received her J.D. from Gonzaga University School of Law.



Edi Planincic

Edi practices in the firm's Billings office. His practice focuses on tort, commercial, natural resources, and environmental litigation. Edi received his J.D. from the University of North Dakota.



Jade Solvason

Jade practices in the firm's Billings office. Her practice focuses on tort and commercial litigation. Jade received her J.D. from the University of North Dakota.



Taylor M. Thompson

Taylor practices in the firm's Billings office. Her practice focuses on tort litigation and employment law. She received her J.D. from Washburn University School of Law in Topeka, Kansas.

The Firm also welcomes:

Krista L. Christopherson (Bismarck, ND) and Jen Godonis (Cheyenne, WY)

www.crowleyfleck.com

Defense Trial Lawyers Association. She is located in the firm's Missoula office.

Cranston grew up in Billings. He graduated magna cum laude from Gonzaga University in 2020 with a Bachelor of Business Administration with concentrations in finance and law and public policy. During his time at Gonzaga, he was president of the Gonzaga Kennel Club, attending every basketball game during his time there. After Gonzaga, Cranston moved back to Montana and attended the University of Montana School of Law. He interned for the firm's Missoula office for one year during law school and graduated in 2023 with honors. Cranston is admitted to practice in Montana's state and federal courts. His primary areas of practice include civil litigation, insurance defense, and pre-litigation claim investigations. Cranston is a member of the State Bar of Montana, the Montana Defense Trial Lawyers Association, and Yellowstone Area Bar Association. He is in the firm's Billings office.

Drake Law Firm welcomes Guldseth, Warne to firm

Drake Law Firm, P.C. is expanding its estate planning, family law, and litigation practices in Helena with the addition of attorneys Caroline Warne and Kale Guldseth.

Warne is a family law attorney with nearly 20 years' experience. Her practice includes guardian ad litem work across western and central Montana and dissolution and parenting plan cases in the Helena area.

Born and raised in Butte, Guldseth joins

GUIDELINES FOR SUBMITTING MEMBER NEWS

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.

the firm's litigation, business, and estate planning teams, and he comes to the



Guldseth



Warne

Drake Law Firm following clerkships with U.S. District Judge Brian Morris and U.S. Bankruptcy Judge Benjamin Hursh. He is a graduate of Montana Tech and Seattle University Law School.

Warne and Guldseth join the Drake Law Firm's collaborative, thoughtful, and experienced slate of attorneys. Learn more about our Helena team at drakemt.com.

Quintana takes position with D.C. Board of Elections

Jorge Quintana accepted an Attorney Advisor position with the District of Columbia Board of Elections.

The Board of Elections is an independent agency responsible for the administration of elections, ballot access, and voter registration. Quintana had previously worked for the Montana Secretary of State and the Montana Department of Public Health and Human Services.

He lives in Silver Spring, Maryland, with his wife, Colette Bliss. They have a daughter, Celia who is studying Biomedical Engineering at Johns Hopkins University.



Quintana

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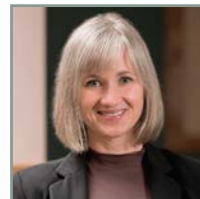


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2024 COMPLIANCE REPORTING SEASON DUES/CLE/IOLTA/PRO BONO

IMPORTANT DATES FOR 2024

MARCH 31, 2024

2023-2024 MCLE reporting year ends. (Note: To avoid being assessed a late filing fee, all CLE credits necessary to come into compliance must be reported by May 15, 2024.)

APRIL 1, 2024

Payment due for member license, fees assessments. Please pay by April 1 to avoid late fee.

IOLTA Reporting due. All Active Attorney members must certify their IOLTA compliance every year.

Pro Bono Reporting due.

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- Upcoming Hybrid** (You may be interested in the upcoming Ski & CLE)
- Upcoming Hybrid** (You may be interested in the upcoming Real Estate CLE)
- Upcoming Hybrid** (You may be interested in the upcoming St. Patty's Day CLE)
- Your Pro Bono Report is due** (Please review and complete your annual Pro Bono Report)
- Your IOLTA Report is due** (Please review and complete your annual IOLTA Report)
- Your Annual MCLE Credit Reporting is Due** (Due Date: 2024-03-31)

John Doe
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A FEW WORDS ABOUT CLE REPORTING

ACTIVE ATTORNEY MEMBERS: Thank you to all who have logged into your Member Dashboard and reported CLE credits earned thus far. Please continue to report your CLE credits through your dashboard as you earn them. We are working as quickly as possible to process the backlog of submitted 2023-24 credits. You can check the status of your credit submission by clicking on the Courses Taken button on your dashboard.

Reminder: 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.

The deadline for the 2023-2024 reporting year is **March 31, 2024**. To avoid being assessed the late filing fee, all CLE credits necessary to come into compliance must be reported by **May 15, 2024**.

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Joint degree programs let law students tailor education to specific career goals

By Lily Soper
UM News Service

MISSOULA – Breanna Belgarde first applied for law school in 2017 but ultimately deferred a few years for an even better opportunity.

“I wanted to focus on being a mom,” said Belgarde, who learned she was pregnant between the application process and her acceptance to the University of Montana’s Alexander Blewett III School of Law.

While Belgarde already knew she wanted to become a lawyer, it was during this interim period when she discovered her passion for social work as well.

“Having my daughter inspired me to learn about child development, which led me to learn about adverse childhood experiences and the cycle of family violence,” Belgarde said. “I got really interested in what preventative measures could be implemented in prenatal education.

“When I was pregnant, they tested to ensure I didn’t have any serious medical issues every time I went to the doctor,” she said, “but nobody told me how my baby was going to develop after it’s born, or what support systems were available or just how hard it’s going to be to be a parent. It was a real firsthand experience for me to see how little support there is for new expecting parents.”

Using her bachelor’s degree in English literature from UM Western, Belgarde began work for a small domestic violence shelter writing and managing grants

between having her daughter and reapplying for law school.

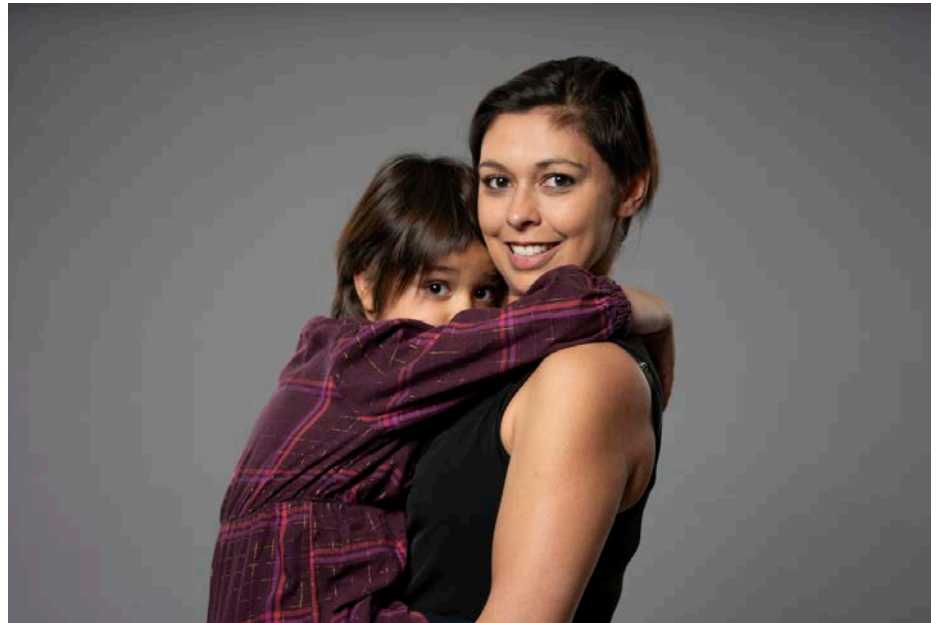
“I got to do some hands-on advocacy work there, which taught me even more about how our system operates and where we can improve preventative care for new families,” said Belgarde. “Once I saw how social work and the legal system interact with each other, the joint-degree program was a no-brainer for me.”

The University’s joint-degree program allows law students to pursue a law degree in tandem with a Master of Social Work, expediting their education and

tailoring it to their specific career goals. The law school offers four different joint degree programs. Each allows students to obtain the two degrees in a shorter time frame. The time-saving aspect can be crucial for students like Belgarde, with a clear-cut plan for post-graduation.

As an enrolled member of the Little Shell Tribe, Belgarde foresees bringing her education to Little Shell’s management base in Great Falls to aid in building their family court system. The tribe

MORE DEGREE, PAGE 28



Breanna Belgarde is pursuing a joint Juris Doctor and Master of Social Work degree at the University of Montana Blewett School of Law.



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Beyond housing affordability: Attorneys can help break cycle of poverty and eviction

By Emma O'Neil and Michelle Potts

Montana is in the midst of a housing crisis, with both rent and housing costs skyrocketing.¹ For families who are already struggling to get by, the lack of affordable housing in Montana puts them at greater risk for eviction, which in turn results in increased rates of poverty and homelessness. As Princeton sociologist Matthew Desmond wrote, “Eviction is not just a condition of poverty; it is a cause of it.”

Attorneys are in a unique position to address or even prevent many of these negative outcomes, but tenants are often unable to afford to hire a private attorney. If a civil legal aid or pro bono attorney isn't available, many must struggle to navigate their eviction cases on their own, affecting both their future housing options and long-term financial stability.

Montana Legal Services Association (MLSA), in conjunction with sciGaia data analysts, recently released a report that confirms the often catastrophic consequences an eviction can have on a household. Based on surveys of 65 households who faced eviction in both rural and urban Montana, the “Montana Eviction Impact Report: Beyond Housing Affordability” found that these families are already at the tipping point before an eviction, with 82% of surveyed families spending more than 30% of their income on rent; 49% spent more than 50%.²

With so little wiggle room in their budgets to account for emergencies and unexpected expenses, all it took to push these



families to the point of eviction was a string of bad luck, loss of income, or additional monthly costs. In the months and weeks leading up to the eviction, 100% of the survey respondents reported experiencing increased expenses, including medical emergencies, added childcare expenses, domestic violence/divorce, or added elderly dependents. When asked what factors led to the eviction, one respondent noted that “my son lives with me, and he has terminal cancer,” while another replied that the “landlord doubled the rent with 10 days’ notice from \$1,200 to \$2,400.”

The Montana families facing eviction tried their best for their families, but the lack of affordable housing options often made it difficult to secure new housing. 31% of respondents reported that they were living in unstable and at-risk housing after the eviction process, including 26% of households with children. 18% were homeless as a result of the eviction. Over half of the respondents spent more than 10% of their annual income on the cost of the eviction itself – a huge burden for families already struggling to meet basic expenses.

The ripple effect of eviction on these households was significant. More than 63% of respondents reported that the

eviction had long term impacts on their financial stability, while 44% reported permanent damage to their health and wellness. Many reported serious stress, anxiety, and depression as a result of their eviction, including one respondent who wrote, “I attempted suicide 6 months after I moved.”

For the 48% of surveyed households who had children, the stakes often felt particularly high. As one parent of a newborn shared, “The only reason we had a child was because we thought our rental situation was going to be long-term, and now, the only “home” my child has known is a hotel room.” Another wrote of the larger consequences the eviction had on her child: “One of my children dropped out of school afterwards and did not finish high school.”

Respondents also reported other up-stream social breakdowns: in addition to the eviction, 17% had a death in the family; 18% had violence or abuse in the household; 12% had alcohol abuse in the household; 14% had a divorce or separation; and 69% had mental illness in their household. When these events occur in childhood, they are considered Adverse

MORE HOUSING, NEXT PAGE

1 Eggert, A. (2022, May 3) Poll finds three-quarters of Montanans worried about housing affordability. Montana Free Press. <https://montanafreepress.org/2022/05/03/poll-growth-affordable-housing-problem-for-montana/>

2 Caldwell, A., Campbell, J., and O'Neil, E. (2023) Montana Eviction Impact Report: Beyond Housing Affordability and The Ripple Effect: A Sample of Personal Narratives (at <https://www.mtlsa.org/wp-content/uploads/2023/09/MLSA-Eviction-Impact-Report-FINAL.pdf> and <https://www.mtlsa.org/wp-content/uploads/2023/09/MLSA-Eviction-Impact-Personal-Narrative-Report-FINAL.pdf>).

A stalwart advocate for pro bono, Fain retiring from court at end of 2023

The name Patty Fain is synonymous with pro bono within Montana's legal community. Having taken on the role of statewide pro bono coordinator for the Montana Supreme Court in 2008, Fain has been instrumental in statewide efforts to establish programs to provide legal services to the indigent.

Fain is a seasoned and creative legal project developer, a director, and volunteer coordinator possessing excellent communication, organizational, technical, and problem-solving skills. Luckily for Montanans, she was also the person tasked to resolve the question: "What is the difference between simple access to the courts and access to justice?"

Fain's wisdom that the entire community is positively impacted when you help people get back on their feet reverberates through every initiative she touches. To her, fulfilling a pro bono need is not a box to check, but a client to serve. There are few pro bono projects in the state for which Patty has not been the nuts and bolts, identifying the problems and lining up the stakeholders and mediators. Family law projects, treatment courts, mediation

clinics—they have all consulted with Patty.

Before joining the Court, Fain worked as a volunteer to start Yellowstone County's Pro Bono Family Law Project and served on the State Bar of Montana's Access to Justice Committee. Later, she was instrumental in creating the Supreme Court's Access to Justice Commission. In coordination with the Justice Initiatives Committee, she wrote the state's first Pro Bono Policy Toolkit, a guide for lawyers to develop, adopt and distribute pro bono policies. She coordinated on behalf of the Court to set up self-help stations throughout the state. She was a driving force behind the launch of the state's first Early Resolution and Mediation Project in the 11th Judicial District, a court-connected mediation program for resolving pro se family law cases through a cost-free mediation process. That pilot program led to what is now the Supreme Court's Simplified Family Law Project, which in conjunction with Montana Legal Services Association has developed a statewide mediation program for separating families. Fain's early research and collaborative efforts to develop best practices helped pave the way for this project, which could transform how the justice system responds to self-represented family matters. Recently, she initiated yet another initiative, the Pro Bono Action Committee to reinvigorate past initiatives and loop in newcomers.

With few resources at her disposal and

plenty of big ideas to pursue, Patty's grit and tenacity are her greatest strengths. Patty taught herself to code for the sole purpose of information gathering and reporting, pulled together great minds, and kept everyone on task—acting as the subconscious on the shoulder, reminding everyone about the "why" of the work. It is hard to imagine anyone else being able to do so much with so little. All the while, raising a family, volunteering in her community, and being a friend and mentor.

After many years, Fain is retiring as the Montana Supreme Court's Access to Justice Liaison at the close of 2023 — though we know she will continue to share her expertise. In looking for a way to honor Fain's work, we think about people. There is no doubt that she has always done this work because she believes in people, and she believes that pro bono representation empowers people. And so be on the lookout in future editions of the Montana Lawyer for a new regular section titled, "The Pro Bono Chronicles"—where we will share pro bono opportunities and stories of some of the pro bono clients that attorneys from our state bar are able to serve. As we all continue to grow pro bono opportunities within the state, we will continue to work towards Fain's goal of putting people first for the advancement of the entire community.

HOUSING FROM PREVIOUS PAGE

Childhood Experiences, which are linked to chronic health problems and mental illness in adolescence and adulthood, with at least 5 of the top 10 leading causes of death associated with ACEs as well as 44% of adult depression.³

However, there are steps that can be taken to reduce the likelihood that a family experiences an eviction resulting in significant, long-term consequences. Legal assistance, like the kind provided by MLSA, can help people avoid eviction by giving them the tools and knowledge they need to successfully navigate the eviction process, including by negotiating with

their landlord to come up with a plan to pay back the missing rent or securing an agreement to move out without going through the formal eviction process, which can make it easier for a family to find new housing in the future. Attorneys can also help families access essential income support benefits, which can help extend a household's limited income so that they can make ends meet each month.

The reality is that the justice system isn't set up for people to navigate on their own. Without the help of an attorney, many people struggle to engage with the legal process at all, and as a result are more likely to experience negative outcomes. Civil legal aid is essential to prevent or mitigate the impact of many of these adverse experiences, but we can't do it alone. We need your help to ensure that

more Montanans are able to access legal assistance when they face an eviction.

If you are interested in helping with general housing services to clients, sign up to volunteer at mtlsa.org. For more information, contact Ellie Webster at ewebster@mtlsa.org. If you are interested in providing representation to MLSA clients facing eviction, the Montana Eviction Intervention Project pays attorneys at a modest set rate to provide advice, limited scope and direct representation for individuals and families who are in the midst of an eviction. Contact Brenna Gradus at bgradus@mtlsa.org to apply to be a part of MEIP.

To learn more about MLSA's housing program or to read the "Montana Eviction Impact Report," visit www.mtlsa.org.

3 Centers for Disease Control, Adverse Childhood Experiences (August 2021) (available at <https://www.cdc.gov/vitalsigns/aces/index.html>).

Ripple of Hope: Cy Pres funds make great impact on Access to Justice

By: Alissa Chambers
Executive Director, Montana Justice Foundation

Everything we do creates a ripple. This article celebrates the ripple of hope that flows from the choices of three Montana law firms whose contributions to access to justice initiatives will be felt for generations to come. In the midst of a volatile economic landscape and the impending global recession, attorneys John Heenan (Heenan & Cook, PLLC, Billings) and David Paoli (Paoli Law Firm, Missoula) orchestrated a groundbreaking \$1.5 million *cy pres* contribution to MJF in 2023. John Morrison (Morrison Sherwood Wilson & Deola, Helena) directed two residual fund settlements totaling over \$130,000 to the Montana Justice Foundation and \$100,000 in additional funds to Montana Legal Services Association (MLSA) and Montana CASA/GAL in the past year. These *cy pres* funds, coupled with the unwavering support of the Montana legal community, have empowered nonprofit organizations across the state to ensure access to justice for those who might otherwise have been left voiceless and vulnerable.

Civil Legal Issues' Impact on Low-Income Montanans

With poverty rates soaring in 2022, backlog of Montana court dockets resulting in significant delays to resolution of matters impacting families, and housing costs at an all time high, the need for sustainable, adequate funding for civil legal aid is of critical importance. Low-income Montanans face daily barriers to necessities such as food, shelter or safety. When a civil legal crisis arises, those barriers multiply. Studies show that a substantial majority of low-income Americans face one or more civil legal issues in a year. Individuals dealing with domestic violence or eviction are likely to have five or more civil legal issues



occurring simultaneously. Civil legal issues like eviction, denial of public benefits or employment disputes can have a direct impact on an individual's ability to meet basic needs like housing, food and healthcare. Moreover, legal crises typically intersect with non-legal issues such as mental illness, substance abuse, disabilities, economic barriers, transportation and child care. For too many Montanans, lack of access to the civil legal justice system can create or perpetuate cycles of poverty and disadvantage.

Civil Legal Aid Funding in Montana

Although the majority of states provide direct state funding for general civil legal aid, Montana does not. By and large, federal financial support for access for civil justice is accomplished through the Legal Services Corporation (LSC).¹ MLSA, Montana's only statewide nonprofit law firm for low-income people, is funded primarily through LSC funding. LSC funding is determined through the federal budgetary process, making it subject to the political and fiscal priorities of the government, which can change from year to year based on various factors and political priorities. Given the challenges

WANT TO LEARN MORE?

If you or your law firm are interested in learning more about **cy pres** contributions and resources available for lawyers directing residual funds to access to justice organizations, please contact Alissa Chambers at achambers@mtjustice.org.

with LSC funding, supplementary funding sources became necessary. In the 1980s, Interest on Lawyer Trust Account (IOLTA) programs were established to generate funds for civil legal aid by pooling interest earned on lawyers' trust accounts, which typically hold client funds temporarily or in nominal amounts. IOLTA accounts generate interest on these pooled funds, providing a continuous revenue stream for civil legal aid that is tax free to the clients and the lawyers. The interest on IOLTA accounts, individually, are nominal, but when pooled together can make a meaningful difference for civil legal aid funding.

IOLTA and LSC funding work in tandem to support civil legal aid. IOLTA acts as a supplemental, state-level funding source, while LSC provides federal funding. MJF, as Montana's IOLTA administrator, contributes 100% of the interest earned on IOLTA accounts back to MLSA and other access to justice nonprofit organizations in the form of grants. In addition to supporting and maintaining MLSA direct legal services with MJF grants, MLSA leverages MJF funds to maximize the effectiveness of its services, using them to provide a critical match to encourage other funders to step in and to engage in certain activities for which LSC and other grant funds are restricted. For example, MJF funding helps match AmeriCorps State funding for the Justice for Montanans program, which is an essential part of MLSA's ability to provide direct services to clients, and support other access to justice efforts around the state like the Court Self-Help Centers. In 2022, MLSA leveraged MJF funding to handle 4,949 cases, assisting 12,137 clients and their families with public benefits, housing, and domestic violence matters.

Unfortunately, fluctuating interest rates and economic conditions make IOLTA funding a less predictable and consistent source of funding for civil legal aid. 2009 exemplifies the challenges of both LSC and IOLTA funding for civil legal aid: In December of 2008, the Federal Reserve slashed federal benchmark rates to an historical low of .25-0.0% range, resulting in a near leveling of IOLTA interest rates. In 2009, IOLTA revenue was reduced by more than 60% over the previous fiscal year and IOLTA grants reflected the reduction. Record low IOLTA funding and cuts to LSC funding from 2009-2012 forced MLSA to restructure its service delivery model, reduce staff and drastically reduce legal representation in dissolutions and parenting plans. New pathways for sustainable funding for civil legal aid was vital.

Residual Fund Awards

Enter *cy pres*, or residual fund awards, as the hero of the hour. The *cy pres* doctrine in the context of class action litigation has been an effective

way to enhance revenue for funding civil legal aid. At the conclusion of a class action, after class members' claims are paid, there is often an amount remaining because members of the class could not be located, not all members of the class collect their portion of the award, or it is not possible to determine each plaintiff's actual damages or share of the settlement fund. Under the doctrine of *cy pres*, Montana law and Montana Rules of Civil Procedure, at least 50% of residual funds remaining in class action matters are allocated to an access to justice organization, such as MJF and nonprofits funded by MJF.²³

In Montana, 2012 heralded the age of a game-changing *cy pres* award of over \$1.2 million contributed to MJF as a result of inspired action by attorney and MJF board member, John Heenan, in partnership with the Montana Commissioner of Securities and Insurance office. The 2012 award, received during Montana's recovery from an economic recession, not only facilitated MJF's sustained support for its diverse programs, but also seeded the MJF reserve fund. Demonstrating foresight, MJF board members allocated a significant portion of this money into a reserve fund that was established for the purpose of sustaining and stabilizing grant funding for civil legal aid program grantees in the event of a decline in future IOLTA or other revenues. The seed money planted back in 2012 has flourished over the past decade, resulting in substantial growth through astute investment strategies and sound financial management practices.

In 2023, attorneys John Heenan (Heenan & Cook, PLLC) and David Paoli (Paoli Law Firm) brought word of another residual fund award that made our jaws drop- in the amount of \$1.5 million. These residual funds stem from a class action lawsuit against a Montana healthcare company, citing a data breach impacting hundreds of thousands of Montana patients. Notably, the plaintiff class in this case exceeded 200,000 individuals. "This class action lawsuit provided an essential avenue for patients to seek justice, hold the healthcare institution accountable, and drive systemic improvements in data security,

ultimately ensuring that patients' trust and privacy remain paramount in the healthcare system," said David Paoli. David told me he went to law school to help people and class actions such as this one allow him to do just that. Paoli also expressed that he has learned over the course of his career that every action we take as lawyers has a ripple effect, for good or bad.

Helena attorney John Morrison recently directed \$100,000 in residual funds to MJF, along with additional contributions to MLSA and Montana CASA/GAL. These funds stem from a successful legal case chaired by Morrison, benefiting over 2,600 Montana businesses. This marks Morrison's second residual fund donation to MJF in the past year. MJF's ability to weather uncertain times ahead and sustain its mission has a brighter forecast thanks to the actions and choices of these lawyers.

The contributions by Heenan, Paoli and Morrison enabled MJF to fund a dedicated consumer protection attorney at MLSA for the next three years. It is fitting that John Heenan played a large part in funding this position. When asked what drives his work, John Heenan explained that his passion for the law stems from a genuine concern for people and a desire to advocate on their behalf, recognizing the law as a potent means to champion his values. MLSA's consumer protection attorney is committed to standing up for individuals against formidable adversaries, symbolized here by a few prominent regional debt buying companies initiating the majority of debt collection actions in Montana courts. These *cy pres* funds also enabled MJF to double its grant awards from the prior year. In the summer of 2023, MJF awarded over \$600,000 in grants to over 18 organizations such as CASA programs, domestic violence shelter legal programs, the Senior Defense Fund conducting will clinics and other services to the elderly, mediation programs, MLSA and other organizations. The ripple effect from the 2023 *cy pres* award will be felt for generations to

MORE CY PRES, PAGE 28

MONTANA JUSTICE FOUNDATION

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With contributions from these lawyers, law firms, and donors, the Montana Justice Foundation was able to award more than \$600,000 in grants last year to organizations fighting for justice and loan repayment assistance for Montana's next generation of attorneys.

LIFE AFTER LAW



HELENA LAWYER HAS FOUND NEW
MEANING IN SURPRISING WAYS
SINCE TRAGEDY STRUCK SHORTLY
AFTER HIS RETIREMENT IN 2016

BY RON WATERMAN



The gorilla, lemur and lion pictured here are among the many animals Ron Waterman has encountered in recent years on his travels to Africa.

The poet Mary Oliver said: “Save some room in your heart for the unimaginable.” This piece of advice is one I have been living with now for a number of years.

In 2015, I started the process of retiring from the practice of law, announcing to the law firm I had practiced with for more than 45 years that I would soon be fully retired. I was one of four of the partners,

all of whom had over a series of months, left of the firm or moved into retirement. The firm reorganized and then dissolved. In the spring of 2016, I entered into an office sharing agreement with Jim Hunt, who invited me to assist him in reviewing cases, in exchange for office space. This provided a transition to full retirement and was enabled by Jim’s gracious and generous offer.

“ (Mignon and I) had made lots of plans for our older, golden years. None included moving forward alone. If you want God to laugh, make plans for the future. ”

The summer of 2016, our younger son married and we were able to enjoy the festivities with him and his spouse. That fall my spouse of more than 50 years Mignon and I took a long trip to Italy. During the trip, Mignon experienced some intestinal problems which increased in severity when we returned to the U.S. in late October. Just before Thanksgiving, Mignon was told to get a CT scan immediately. There was something wrong which looked bad on the MRI she had taken.

By December 2016 we received the diagnosis: stage four inoperable pancreatic cancer. Treatment options were outlined: Chemo, with debilitating side effects, buying perhaps 6 months; or going into hospice with perhaps four months to live but with fewer side effects and a chance for a dignified ending to life. After a chemo treatment to get a glimpse of what the side effects would bring, we opted to proceed into hospice. Mignon died on April 6, 2017. She was 72 years old. I was 73.

Now what? We had made lots of plans for our older, golden years. None included moving forward alone. If you want God to laugh, make plans for the future.

I did lots to try to make sense of my life, this new aspect of life which I had never thought I would have to deal with. First, I needed to find acceptance of what had just occurred. Hospice offered grief counseling and never one to think of counseling as an option I found a counselor and she came to the house on a weekly then a bi-weekly basis. I discovered journaling and tried to fill my time with working on cases with Jim Hunt and also devoting time to a variety of civil organizations. Together

with Montana Supreme Court Justice Beth Baker and others, we developed a presentation about civility; the time was ripe to talk about how we needed a reset on our public dialogue with others.

I decided to try to fill a space on Hill Park, where a Confederate fountain, gifted to the City of Helena had stood until, spurred by the demonstrations in Charlottesville, N.C., in 2017 the Helena City Commission authorized its removal. So a project, a new fountain for Helena, was developed. Actually the project was to fill a space in my heart which I needed to fill. My routine became: Get up, get dressed and get involved on a daily basis.

Mignon and I had always had dogs but we put our old dog down in the summer of 2016. When we travelled in Italy, we had picked out a name for our next dog, probably an adult rescue animal. So, I had a name, Shelby, but no dog to give it to. My search, with the help of my son, led me to a rescue dog outside of Big Timber and in early August 2016, Shelby at 4 ½ years, joined my household.

One of Mignon's many friends was a quilter and fabric designer, Ann Lauer. Her husband had died in the fall of 2015 and even before I had a dog, she had invited me to hike with her any afternoon. As she said, she and her sister hiked each afternoon and ate dinner together. I was free to come along and do both or either as I wanted. Shelby and I became frequent hiking companions, often staying for dinner and discussing what I was learning about grief and how to fill the void left by the death of a long-time partner, an experience we both had encountered.

Anyone who understands how

attractions start can understand how this story ends. In 2018, I moved in with Ann; late in 2018 I sold the house in town. We did not need two houses and Ann's house was set up for her business and needs. Besides, she lived adjacent to the forest so hiking with the dogs was just as easy as stepping off the back deck.

In March 2019 we decided to venture forth into the world beyond the U.S., going to Sicily, Italy, which I had fallen in love with on a previous trip. While there, we were married. In June, 2019, I changed my bar registration from active to retired and never looked back. I had practiced a full 50 years, almost all with one firm.

Life has been a series of "Now Whats" and this was what I encountered. I had not expected to be a newlywed when I was 75, but I was. Learning to live with another, regardless of how easy it was, still took and takes adjustment, on both parts. But we both are much older and mature, so we know what is important to disagree about and what is not; there are not any disagreements. Also we had both known each other's spouse. We did things as couples in the past and had respect for each other's spouse. Mignon was one of Ann's closest friends. As a consequence we could talk openly about our former spouse without any jealousy over the mention of a prior loved one. Ann did not have children but fortunately my children and their families all loved and respected Ann. So in addition to getting me as a spouse, suddenly she also had two other families, a couple of kids, spouses and two wonderful grandchildren.

You fill your life with activities. When I was a practicing lawyer, clients

“ My routine became: Get up, get dressed and get involved on a daily basis. ”

In retirement, Ron continued to serve on various nonprofit boards he was involved with during his practice. To keep his hand in legal matters, he joined the Montana Innocence Project Board.

and the courts kept my calendar fairly full, often more than full. Since retirement, the burden shifts. You have to invent your own activities; you can't just wait for things to happen.

Fortunately there are any of a number of things which a former lawyer can do. As I mentioned, even before remarriage, I had started on a project to build what became the Equity Fountain Project. This involved a bit of a learning curve. While I thought it would just entail going to one of the many arts organizations and announcing that I wanted to construct a new fountain for Hill Park and for the City of Helena, I soon learned that it took much more. First I needed to form a committee. Then since this was a public park, I needed to meet with and gain the approval of the City of Helena. There was a committee which had already been charged with devising a new fountain to replace the former one so I needed to convince them that my project could successfully achieve all of their goals. I was able to do that.

I learned that one does not just come up with a design. My committee helped me place announcements in national bulletin boards seeking qualifications from artists who might be interested in submitting a design. Four months later the committee chose four artists from the 37 artists from around the world who had submitted qualifications. Next, the four were asked to submit a prototype of their design. Finally the public was offered the opportunity to vote on the winning design and once that vote was received then the committee had to vote on which design had the best artistic integrity for the project. Fortunately, both the public and the committee were unanimous in selecting the same design. Finally the City had to approve the design and allow us to proceed to developing a contract, a payment schedule and to work on final fundraising. The result was a new Equity and Equality Fountain which was installed on Hill Park in 2021.

What's next? For me, it was continuing to serve on various non-profit

boards. While practicing law I had served for 45 years on the United Way Board and had the privilege of serving both on the national as well as local Florence Crittenton Home and Services Boards. I continued with that service on the Crittenton Boards, having left the United Way Board just before retiring. To keep my hand in legal matters, I joined the Montana Innocence Project Board, and I continue with that service.

One of the things which Ann and I enjoyed was travel. Having married in Sicily, we have fond memories of the delights which foreign travel can offer. In the summer of 2021 we undertook a trip to Africa which what was a trip of a lifetime. First Uganda to trek for gorillas and then on to Kenya to look at black and white rhinoceroses and then to the Masai Mara in Kenya and Tanzania to see the great migration of the wildebeests across the Serengeti. Absolutely incredible.

However just before our first gorilla trek, our guide from our tour company,



Waterman has photographed numerous wild animals during his travels in Africa with wife Ann Lauer, including the lion and elephant shown here.

Natural Habitat Adventures, took us to an organization in Bwindi, close to the Gorilla Refuge Center, to see the work Ride 4 A Woman (R4W) was doing. R4W supported abused and abandoned women in the area, about 300 from 12 villages in the area. Ann, looking at some of the simple quilts the women were making, said to the R4W director that she designed quilt fabric and patterns as a profession. The director, Evelyn, said “We need to talk” and after talking a bit about colors and values, asked if Ann could come back the next day after our gorilla trek. We went back and also the following day with Ann working to show the women some basic quilt techniques.

As we continued on our African trip, we heard from Evelyn, showing us examples of the quilts the women were making following Ann’s lead. This resulted in a friendship and the support we have been providing to R4W ever since.

This year, 2023, we returned to Uganda after other travels to Madagascar and Botswana to both trek and also to work at the R4W Center. Ann worked there all five days we were in Bwindi teaching new and more challenging quilting techniques. We will continue to support these women and this organization. For more information, go to Ann’s website through this link: [https://grizzlygulchgallery.com/Africanquilters?.](https://grizzlygulchgallery.com/Africanquilters?) There you see photos and learn ways you can help by donating to a GoFundMe account we established for this project.

So, what is life after the law? It really depends on what you make it. As a lawyer, you have had opportunities to give back to others in a remarkable



Ann Lauer stands with Evelyn from the Ride 4 A Woman Center in Bwindi, Uganda.

number of ways. As a retired lawyer you continue to have many of the skills which you acquired and your service as a Board member on any of a number of civic organizations is a welcome addition to most organizations. If you are interested, you can volunteer at your local library; I am into my second five year term on the Lewis and Clark County Library Board.

The other thing you can do is donate. Two examples. The first, the Montana Innocence Project. Helping to fund an organization which works to evaluate and then pursue justice for those wrongfully incarcerated for crimes they did not commit. Money always helps. Likewise, as we did, you can look internationally. We have been helping fund Ride 4 a Woman in Uganda. It is incredible how much good can be done in an area where the average yearly income is \$880.

Either of these two organizations,

one in Montana, one in Uganda would welcome any amount of funding you can provide. I like to think of just one example. Were 1,000 lawyers, retired or not, able to contribute \$1,000 each, that would raise \$1 million and either or both organizations would be able to do amazing work with donations from generous individuals.

Is there life after law? Why yes there is! Just like a life within the law, just like life anytime, it is what you make of it. Leave room in your heart for the unimaginable.

Ron Waterman worked at Gough, Shanahan, Johnson & Waterman in Helena, first as an associate then as a partner, from 1970 until the firm dissolved in 2015. He has been on the Montana Innocence Project Board of Directors since 2016, serving as chair from 2018 to 2020.

“ Is there life after law? Why yes there is! Just like a life within the law, just like life anytime, it is what you make of it. ”

CONTINUING LEGAL EDUCATION

Find updated details and registration information for all of the State Bar of Montana's upcoming CLE programming online at www.montanabar.org/CLE-Events/Upcoming-CLE-Events. There is a surcharge for paying by credit card. However, you can avoid the surcharge by using the ACH (electronic check) payment option.



SKI & CLE — Big Sky Resort, Jan. 12-14. Pending approval for 10 CLE credits: After a year off, the State Bar of Montana is returning to Big Sky Resort for the popular Ski & CLE event in 2024. Participants will begin the day early with CLE before the lifts open and resume their training after the lifts close. Topics include Montana Supreme Court Update; Can You Trust AI Beyond a Reasonable Doubt?; Corporate Transparency Act; Bad Faith Law Update; Legislative Update; and more. Discounted lift tickets available. Register at: www.montanabar.org/CLE-Events/Event-Info/sessionaltcd/24CLESKI



CELTIC CLE — May 27-31 University College Cork, Ireland: Offered in connection with the Alexander Blewett School of Law's summer program and the Baucus Institute at the University of Montana, the Celtic CLE affords State Bar of Montana members the opportunity to learn alongside law students in a week-long program. Watch for more details as they become available. Register at www.montanabar.org/CLE-Events/Event-Info/sessionaltcd/24Celtic

More upcoming CLE

Real Estate CLE — February 16, 2024, Anaconda Hot Springs: Join us for the annual Real Estate CLE. Bring the family for a weekend of fun at the hot springs and Discovery Ski area. Schedule coming soon! Registration open now at www.montanabar.org/CLE-Events/

[Event-Info/sessionaltcd/24RECLE](http://www.montanabar.org/CLE-Events/Event-Info/sessionaltcd/24RECLE)

St. Patrick's Day CLE in Butte, America — Save the date: Friday, March 15. Registration open now at www.montanabar.org/CLE-Events/Event-Info/sessionaltcd/24Patricks

Bench Bar CLE — Save the date, Friday, April 12, AC Hotel in

Downtown Bozeman. Registration open now at www.montanabar.org/CLE-Events/Event-Info/sessionaltcd/24BenchBar

Bucking Horse CLE — Save the date: Friday, May 17, Miles City Town & Country Club. Registration open now at www.montanabar.org/CLE-Events/Event-Info/sessionaltcd/24Buck

New partnership enhances learning opportunities for law students on cases involving children and families

By The Honorable John W. Parker

Troubling circumstances bring children and families into court every week. Tough divorces can require court intervention to resolve parenting disputes. Juveniles charged with breaking the law become part of the youth court system. Children who have suffered alleged physical and emotional abuse might be removed from the home with cases pending on the youth in need of care docket. All of these cases can be frightening and traumatic for the people whose lives are affected. Not every lawyer has the training and expertise needed to handle these matters.

A new lawyer fresh out of law school might be called into action in one of these cases when he or she least expects it. An ongoing business client might want their longtime law firm to handle a family law matter. A civil litigation firm might ask a young associate to depose a child crime victim. A judge might call and ask a new lawyer to take on a pro bono case to help a family in need. The point is these painful life circumstances require many lawyers to be ready to step up, no matter what kinds of cases they handle.

I'm pleased to announce that a new partnership between our law school and a nationwide judicial organization will expand opportunities for law students to acquire these critical skills. The Alexander Blewett III School of Law and the National Council of Juvenile and Family Court Judges (NCJFCJ) launched this partnership in October of this year with a series of kickoff events in Missoula. Over 70 students had the chance to ask judges questions and engage in conversations in a panel discussion, in three different class sessions, and in individual conversations in the hall outside the classroom.

The NCJFCJ, the nation's oldest and largest judicial membership and education organization, is dedicated to improving the lives of families and children within the justice system through judicial education, research, and training. With a history dating back to 1937, the organization has been a driving force in advancing the field of juvenile and family law. This partnership is only the second of its kind



The Honorable John W. Parker speaks to law students in this October photo. A partnership between the University of Montana Blewett School of Law and the National Council of Juvenile and Family Court Judges trains law students in handling juvenile justice cases.

in the United States. The first NCJFCJ law school partnership was formed with Georgetown University Law School.

This partnership supports and fortifies top-notch course content at the school in juvenile justice, family law, criminal law, and more, together with cutting-edge clinical programs where students serve clients under the supervision of experienced practicing attorneys. Through this partnership, judges from Montana and other states can serve as guest lecturers and speakers on subjects concerning children and families. Another key benefit of this collaboration is the access it provides to the NCJFCJ's vast educational resources. Students and faculty at the Alexander Blewett III School of Law will now be able to tap into a wealth of research, publications, and training materials. By the same token, the talented faculty from the law school will have opportunities to share their expertise by presenting at NCJFCJ annual conferences on juvenile justice, family law, domestic violence prevention and more.

I had the chance to speak with many of the students who signed up to join the

NCJFCJ during the kickoff. The number of students who seek careers handling these cases as counsel for parents, counsel for children, family law attorneys, prosecutors, and defense attorneys was truly inspiring.

As I mentioned earlier, these cases are critically important for the children and families whose legal rights are on the line. The training I have received through the NCJFCJ has helped me make better decisions to improve outcomes on tough cases that affect the quality of people's daily lives.

I am hopeful that the benefits of this partnership will pay off immediately for these people when some of the law students I met in October graduate next year and start work in the fall as licensed attorneys. Beyond that, I hope this partnership will endure for many years to come.

Judge John W. Parker of Great Falls serves in the Eighth Judicial District. Judge Parker is a Board Director for NCJFCJ and is Vice President of the Montana Judges Association.



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How to identify and avoid self-destructive behavior

I recently made the switch from practicing family law to handling admissions at Montana's law school. Along with this change of pace came quite a bit of traveling to visit with undergraduate students across the country, spreading the good news about learning the law in beautiful Montana. Hopping from event to event, I've been to more towns and airports in the last two months than I'd been in the last 10 years! This new routine has challenged me to eat healthy and continue to exercise while on the road, so I made it my goal to eat fresh food for every dinner and work out at least once in every hotel gym (even the tiny weird ones). I am happy to report that I did crush this goal... for the most part.

In early fall, I had the distinct pleasure of visiting Los Angeles. Apologies in advance to any L.A. lovers out there but truth be told, I hated it. At 11 p.m. when I arrived, and even at 3 a.m. two days later when I left, there were bumper to bumper cars, horns blaring, people yelling, garbage piles everywhere, and fender benders at almost every highway exit. A breath of fresh air was completely out of the question. I've never felt lonelier despite being surrounded by so many people. My hotel room smelled so weird I immediately wanted to go home.

So how did I cope with my hatred of the City of Angels? I said a big "forget you, L.A." and to show L.A. a piece of my mind I decided I would NOT exercise in the hotel gym (even though I selected the hotel for the nicest looking gym). I'd have a nice plate of fries and a burger for dinner, and I'd eat some candy in bed. Haha, THAT'LL show you, L.A.

I'm pretty sure L.A. got the message. I have no doubt she's feeling pretty bad about being such a concrete jungle. Traffic is clearing up, I hear.

It was only days later when my rage and overwhelm wore off that reality sunk in. I let all of that unchangeable city life get to me and to fix it I only hurt myself, ruining the workout streak I was proud of. It sounds totally silly now, but in the moment I felt I was genuinely sending the city a piece of my mind and that I

deserved the fries-burger-bed-candy treatment.

So with that whoopsie in mind, here are some tips on identifying and remedying self-destructive behaviors. First, what do I mean by a self-destructive behavior? Anything you do that you realize only punishes yourself, that you didn't mean or want to do in hindsight, and that doesn't do anything to solve the problem. So, while eating a brownie in general is not a self-destructive behavior, eating a brownie because you received a negative email when you meant to eat healthy and go to the gym is a self-destructive behavior. Other examples include isolating from relationships and engagement, escaping through TV, phone, food, or alcohol, indulging in impulsive behavior, engaging in poor self-care, and negative ruminating self-talk.

■ Identify common triggers.

Look for predictable patterns where you know you usually get frustrated, and you usually destruct. Was I likely to get frustrated with congestion in L.A.? Yes- I probably could have seen that coming. Do you always get overwhelmed in traffic? After meetings? On Thursdays? When the dog doesn't get walked? Identify the trigger so you can plan a better response.

■ **Evaluate the trigger for a solution.** Minimize the impact of the trigger by doing your best to fix or avoid it. Is this trigger something that is unavoidable and unchangeable like L.A. traffic? Or, is the trigger something you can do something about? If the trigger is fixable, then make a plan to fix it in some way. Perhaps if meetings are stressful, come up with a way to use icebreakers at the beginning to set a cordial tone. Maybe the trigger is totally avoidable. It will be easy to avoid L.A. 51 weeks out of the year! But if the trigger is unavoidable, your solution should have more to do with taking care of yourself after it passes,

MORE PRACTICING, PAGE 28



MERI ALTHAUSER

After over a decade of practicing family law and mediation in Missoula, Meri Althaus stepped into the role of Admissions Director with the Alexander Blewett III School of Law in June 2023. Her approach to law focuses on collaboration and solution-finding for her clients and their families, and now for mentoring students. She also offers consulting services in workplace wellness, with a certification as a Workplace Wellness Specialist through the National Wellness Institute and as a Resilience and Thriving Facilitator through Organizational Wellness and Learning Systems.

Documenting what you *aren't* retained to do can be important too

In my experience, too many lawyers appear to be quite comfortable running with an assumption that their client's understanding of what the scope of representation is aligns with theirs. This is one of the reasons why I suspect trying to convince lawyers to document scope of representation on all new matters is a never-ending task. Getting buy-in on documenting what one has been retained to do is hard enough. Now, I'm going to add to this advice a recommendation that lawyers should also be thinking about documenting what one has not been retained to do. It's an uphill battle, I know; but it's a battle worth fighting. Here's an example of why.

A nonprofit regularly reaches out to a plaintiff personal injury lawyer on behalf of clients of the nonprofit. After a family member was shot and killed by police, this nonprofit retained the lawyer for the purpose of gathering as much information about the shooting as she could, to include obtaining video footage of the shooting from the police department. The purpose was to provide the nonprofit's client with information that would help the client understand what led to the shooting. While the lawyer worked with the nonprofit's client, the nonprofit paid her fee. Documentation of the lawyer's role was minimal, consisting primarily of a few emails with both the nonprofit and its client, none of which properly addressed the issue other than to say she would take care of gathering information.

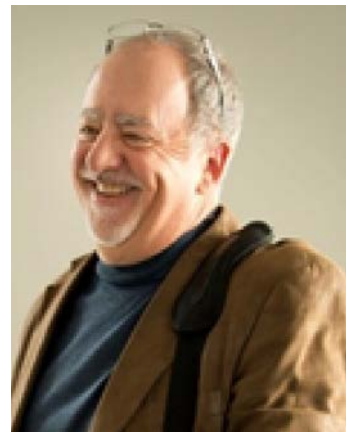
What the lawyer found out was pretty much what she expected. The fatal shooting appeared to be justified. Of course, this process wasn't something she could take care of in a few short weeks. So, while a significant amount of information had been obtained and shared with the nonprofit's client, more than a year into this effort she was still

trying to obtain some additional video footage. This is when things went off the rails. While reaching out to ask about the additional video footage, the nonprofit's client also wanted to know what the recent running of the statute of limitations meant for her case. Of course, in the lawyer's mind she never agreed to pursue this claim. She viewed her role to be limited to information gathering. Unfortunately, the nonprofit's client appeared to see it differently.

After that call, the lawyer's immediate concern was how her reputation might be damaged when the nonprofit's client complains to the nonprofit. Her fear was future referrals from the nonprofit might dry up. In my mind, I was concerned about the possibility of a grievance and/or a malpractice claim being filed.

This situation didn't need to play out the way it did. The amount of time it would have taken to document and make sure both the nonprofit and its client had a clear understanding that the scope of representation was limited to the gathering of information and explicitly didn't include taking on the responsibility of filing a claim would have been minimal.

I do understand the hassle factor here; and I will readily admit that many times running with assumptions about the scope of representation work out just fine. All I can say is this. Are you prepared to deal with the consequences when running with such an assumption proves to be the wrong call? This story isn't a one off. The failure to properly document scope misstep is one malpractice insurers regularly must address. With every new matter, take the time to clarify and document that you and your client have a mutual understanding of what your scope of representation is, and when called for, what it isn't. Five minutes really can prevent a serious headache down the road.



MARK BASSINGTHWAITE

Since 1998, Mark Bassingthwaite, Esq. has been a Risk Manager with ALPS, an attorney's professional liability insurance carrier. In his tenure with the company, Mr. Bassingthwaite 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



CY PRES: FROM PAGE 16

come. This is a legacy to be proud of.

MJF is committed to being responsible stewards of the trust you placed in our organization and will continue to work tirelessly to ensure that every dollar from these transformative contributions is used efficiently and effectively, maximizing its impact on those who need it most. If you or your law firm are interested in learning more about *cy pres* contributions and resources available for lawyers directing residual funds to access to justice organizations, please contact Alissa Chambers at achambers@mtjustice.org.

Endnotes

1 Congress created the LSC in 1974, as a response to the growing need to provide equal access to civil proceedings. The LSC is funded almost entirely by an annual appropriation by Congress. The appropriation is then distributed to eligible nonprofits providing direct civil legal aid services.

2 Recognizing that sustainable, adequate funding for civil legal aid was (and remains) the most pressing need, the Montana Access to Justice Commission petitioned the Supreme Court for an amendment to Rule 23 of the Montana Rules of Civil Procedure regarding the disposition of residual funds in class action cases. Effective January 1, 2015, the Supreme Court adopted the amendment to MRCP 23, which provides that when residual funds remain in a class action, not less than 50% of the residual funds shall be

disbursed to an "Access to Justice Organization," meaning a Montana non-profit entity whose purpose is to support activities and programs that promote access to the Montana civil justice system.

3 MJF's mission of improving access to justice for all Montanans, regardless of income, makes it an ideal match for class action *cy pres* awards, as one underlying premise for all class actions is to make access to justice a reality for people who otherwise would not be able to obtain the protections of the court system. MJF has a statewide reach and is a leader in access to justice initiatives by being Montana's largest private funder of civil legal aid. MJF does not file lawsuits or represent parties in court and is free of any potential conflict that otherwise might arise for the court in a case.

PRACTICING: FROM PAGE 26

such as being sure to schedule time for a walk, listen to a revenge playlist, or treat yourself to a non-destructive date with friends. Even better, use a mindfulness meditation routine to experience less stress when confronted with unavoidable stressful events.

- **Find an outlet for the frustration.** Now that you know what the trigger is, you can find an outlet for the emotion it causes without engaging in the negative behavior. The rage I felt in L.A. was real, so do you think that dutifully eating a salad would have made me feel any better? No, the rage would still be there and I would just be stuffing it down with my kale and goat cheese. It's important to identify the emotion and find a way to let it breathe ... appropriately. My new go-to rage outlet is to gleefully

dishevel the extra bed in the hotel room... so satisfying. You could watch a revenge movie, listen to a rage playlist, chop some wood, clean (rage clean, anyone?) or journal. It's OK to be frustrated or angry, so let it out!

- **Identify your go-to destructors.** When you're feeling your crummiest do you tend to crack a beer open too early? Skip the gym? Eat? Scroll? Yell? Knowing what feels the most tempting will help you with the next step, identifying the best replacement.

- **Replace the self-destructive behavior.** If you're engaging in a self-destructive behavior, it obviously feels good and necessary to DO something after the negative trigger. So, find a better thing to do! Maybe the thing you do is also the outlet for the negative emotion (like ripping off the tidy sheets or listening to a rage playlist

on a run), or maybe the replacement behavior is unrelated, like going for a walk, writing a thank-you note to someone else, or doing a craft. The point is to find a new less-destructive pairing. It might help if the new behavior is incompatible with the behavior you're trying to avoid or helps redirect you from the behavior. I can't yell at my kids if I've left the house to go to the gym. I probably won't want to drink a beer if I'm hiking with the dog or drinking a nice big cup of milky tea instead (that's too much liquid!).

- **Plan.** Last, make a plan! If you know something is coming up that will lead you down a path you don't want to take, put these together ahead of time so you can stick to your better angels.

DEGREE: FROM PAGE 11

received federal recognition in 2019 and is currently building its governmental administration.

"Little Shell children already fell under Indian Child Welfare Act protection but they have more sovereignty and power as a federally recognized tribe," Belgarde

said. "This provides a lot of opportunity for progress if there is a legal body there to facilitate it. I'm hoping to help them build their own court system."

While the process of building a governmental administration takes years, Belgarde looks forward to finishing both degrees so she is available to be on the ground floor of this growth.

"I knew coming in that I wanted both a J.D. and a Master of Social Work whether or not I got into the programs at the same time," she said. "It just so happens that I could do both faster at UM."

Lily Soper is events and marketing coordinator at the Blewett School of Law

Hon. Thomas McKittrick

The Honorable Thomas McKittrick passed away on Nov. 18, 2023, in Great Falls, with his devoted family by his side. He succumbed to glioblastoma, a type of brain cancer, diagnosed on July 4, 2021. He accepted this devastating illness with an abundance of faith and courage.

Thomas Michael McKittrick was born to Daniel Thomas and Catherine (Murphy) McKittrick on Jan. 7, 1944, in Anaconda. At age 11, life drastically changed for Tom when his adored father, who was the mayor of Anaconda at



McKittrick

that time, suddenly died at age 44, leaving behind his wife and four children ages 8 months to 13 years. Tom carried this sorrow with him for the rest of his life.

After his father died, Tom immediately sought jobs, such as selling seeds to the neighbor ladies, delivering newspapers, and setting pins in the local bowling alley. From age 11, Tom was never without some kind of full or part-time job, sometimes two or three at a time.

He graduated from Anaconda Central High School in 1962, where he played football, basketball, and baseball. Tom loved playing baseball and was widely recognized as an outstanding catcher.

He worked his way through Carroll College in Helena. He continued to excel at baseball on Carroll's team, was prefect of discipline, and president of his senior class of 1966. He then attended Gonzaga University School of Law in

Spokane, Washington. Tom worked as a copyright examiner for the Library of Congress in Washington, D.C. On Dec. 20, 1969, Tom married Lisa Taylor, a native Virginian. They welcomed a son, Matthew in November 1970 and a daughter, Marissa in December 1972. While raising a young family, Tom took law classes at Catholic University and interned with two local judges. He passed the Virginia Bar in 1972, and then practiced law in Arlington, working as an Assistant Commonwealth Attorney and in private practice.

In 1978, Tom and Lisa moved to Great Falls to be back in beautiful Montana and close to his large family. He worked as a Deputy County Attorney and then Chief Trial Counsel. In 1983, he was appointed to the position of District Court Judge by Governor Ted Schwinden. Tom was known as a hard-working individual, with an extensive knowledge of the law and a deep sense of fairness and integrity. He thoroughly enjoyed his position and was very grateful to be able to serve the people of Cascade County for over 30 years. Throughout his career, Tom received many judicial and civic awards. He was always very humbled by and appreciative of every one of them. Tom was the first judge to receive the Edward C. Alexander Award. He served on numerous boards and committees and was past president of the Montana Judges Association.

There was nothing more important to Tom than his family. He deeply loved Matt and Marissa and was always very proud of them. He willingly rearranged his busy work schedule, so he could attend their sporting events and school activities. He was always there to provide sound and calm advice

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.

whenever needed. Grandpa Tom absolutely adored and spoiled his 3 grandchildren and enjoyed every moment he was with them. We will all miss his humorous stories from his childhood, when he earned the much deserved nickname of Holy Terror. Above all, Tom was a devoted and loving husband, father, grandfather, and brother. He never forgot a family member's birthday, his wedding anniversary, or any other special occasion. Tom had a strong work ethic, and a deep respect for the law, his country, and his Catholic faith. While his death has caused our hearts to break, there are many people who are immeasurably and forever grateful for the guidance and help he provided them. Tom's death is a profound loss to our family, and he will be remembered and cherished forever.

Tom was preceded in death by his parents; brother, Kevin; and brother-in-law, Jack Sletten. He is survived by Lisa, his beloved wife of almost 54 years; son, Matthew (Stacy) McKittrick of Great Falls; daughter, Marissa (Luke) Ostby of Clancy; grandchildren, London and Sloane Ostby and Devin McKittrick; brothers, Pat (Sharon) McKittrick and Tim (Carole) McKittrick; sister, Eileen Sletten; and many nieces and nephews.



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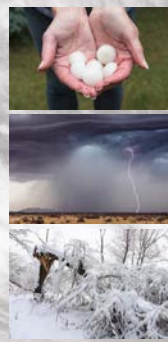
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