

# MONTANA LAWYER

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## CIRCUIT CHANGES

JOHNSTONE SUCCEEDS THOMAS AS 9TH CIRCUIT COURT OF APPEALS JUDGE

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SOFTWARE SYSTEM TRANSITION

FORMER MT ATTORNEY TEACHING  
UKRAINIAN LAW STUDENTS

COULD THE END OF PASSWORDS  
BE ON THE HORIZON?



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### JUDGE THOMAS SWEARS IN SUCCESSOR ON 9TH CIRCUIT

Chief judge emeritus hailed for his legendary work ethic, embracing technology to improve efficiency, public access to court.



### TEACHING LAW IN UKRAINE DURING WARTIME

Former Missoula lawyer finds enrichment and inspiration in new post.

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# When lawyers take the lead modeling civility, our increasingly uncivil society will follow suit

I am just back from the Jackrabbit Bar Conference in Laramie, Wyoming. Many of you may not know that Montana is one of the founding member states of the Jackrabbit Bar Conference, along with North Dakota. The Jackrabbit states include Montana, North and South Dakota, Wyoming, Nevada, Utah, Idaho and New Mexico. These states all share many of the same attributes and issues facing small bars and western state environments. One issue that representatives from every Jackrabbit state mentioned is civility. More specifically, we all discussed not whether civility in our profession is on the decline (perhaps), or whether civility among the general public is on the decline (most certainly). Instead, we focused on how attorneys can *model* civility within the public space in an effort to foster a more civil discourse among an increasingly diverse and divergent society.

Montana attorneys take civility seriously; it is one of the great traditions that has been passed down from generation to generation. But maintaining civility takes effort. I believe Montana attorneys are known for their civility because they are also known for their collegiality. Collegiality begets civility; it's hard to be uncivil to someone with whom you break bread. Hey!...wait a minute!... Don't most local bar organizations hold monthly luncheons?!??

Your participation in your local bar organization offers an invaluable opportunity to cultivate collegiality. Your local bar serves as a forum for interaction, dialogue, and relationship building among those with whom you probably work most often. Local bars provide members with a sense of community and collegiality that can mitigate the

often-adversarial nature of our profession. They offer a platform for mentoring, peer-learning, and networking, allowing members to build relationships based on mutual respect and cooperation. Shared experiences and insights encourage empathy and understanding, bridging the gap between divergent viewpoints. All of these attributes are benefits in their own right. They can help foster civility in our profession. And those efforts can also be projected into our communities.

Our behavior in public reflects not only on us as individuals but also on the entire profession. The way we conduct ourselves in front of clients matters. Whether on the phone, in person, or in the courtroom, or while serving on boards or in the community, members of the public generally respect us — often *solely* by virtue of our profession. It's true — we are the butt of a thousand jokes and the oft-maligned victims of mockery. But I'm sure you've heard people say "lawyers are [insert pejorative adjective here], but *my* lawyer, she's great." The fact is, we help solve people's most difficult problems, maintain their confidences, and help them navigate what are often their most serious, sometimes life-altering problems. And here's the thing — everyone knows it! For all the trash-talk, we are members of a very respected profession, one of the four "learned professions" going back millennia.

We can use that power to influence people for good. We can *demonstrate* how to be civil when we are at odds with our colleagues. We can demonstrate how to disagree without being disagreeable. We can show members of the public how to take a more measured approach to expressing a deeply held belief



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.***

or position. We each have numerous opportunities to *model* these behaviors every day because of the work we do.

At the end of the day, and whether in a transactional environment or in litigation, our job is to *communicate* — *civily*. How we speak to people about the opposing party or attorney, or the court, or the donor who refused to write a check, can influence what people think about our profession, and about our society. People will emulate us. In our increasingly uncivil society, we need only make a conscious commitment to take the lead. Lawyers help with all sorts of problems. We can be helpful here too.

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## CAREER MOVES

**Brown Law Firm welcomes Thorsgard to 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 graduating, Thorsgard moved from Missoula to Billings with his wife and son. Thorsgard 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, Thorsgard can be found mountain biking, hunting, and spending time with his family.

**Hoyt & Blewett in Great Falls welcomes Murphy to firm**

Hoyt & Blewett PLLC is pleased to announce Connor Murphy has joined the firm in Great Falls.

Murphy joins the firm with over a decade of experience in State and Federal Courts. He was previously a partner with the law firm of Taleff & Murphy, P.C. representing Montana individuals and businesses in complex commercial litigation, insurance issues, finance and banking, real property and

estate disputes.

Murphy was born and raised in Great Falls, earned his bachelor's degree, with honors, from Montana State University-Bozeman and his juris doctorate from the University of Montana – Alexander Blewett III School of Law. At Hoyt & Blewett PLLC, Murphy's practice now focuses entirely on representing injured individuals and families.

**Murphy****Smith launches firm focusing on property, natural resources**

Earlier this year, Helena attorney Mac Smith founded a new law firm, Vista Law, PLLC.

Smith holds a Bachelor of Arts degree in English from Wake Forest University, a law degree from the University of Montana, and a Master of Law degree in Environmental Law from Lewis & Clark University.

Smith's law practice focuses on property/real estate law, environmental/natural resources law, and small water

**Smith****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](mailto:editor@montanabar.org). Please direct any questions to the same address.

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

utility law. The firm provides legal assistance with a variety of real estate transactions; environmental compliance and remediation issues; contract preparation and negotiation; and small water utility rate-making and regulatory compliance. To learn more about Smith or Vista Law, please visit the website at [www.vistamt.law](http://www.vistamt.law).

**Miller joins as shareholder at FairClaim in Great Falls**

FairClaim/Linnell, Newhall, Martin & Schulke, P.C., in Great Falls, is pleased to announce Megan Miller joined as a shareholder on January 1, 2023. Miller worked for seven years as a paralegal at FairClaim before leaving to attend law school, and then returned as an attorney in September 2018.

Miller is a Jefferson County native, graduating from Whitehall High School. She earned her A.A.S., with honors, from Montana State University-Great Falls and her B.A., cum laude, from Arizona State University. Miller graduated from the

**Miller**

University of Montana's Alexander Blewett III School of Law in 2018. She and her husband Derrick have three children.

Miller serves on the board of



directors for Kairos Youth Services and as the secretary for the Cascade County Bar Association. She received the Judge Robert P. Goff Pro Bono Award in February 2021.

Representing hundreds of injured workers state-wide, Miller's practice focuses on workers' compensation and personal injury. [mmiller@fairclaimlaw.com](mailto:mmiller@fairclaimlaw.com).



**Shaw**



**Person**

## Western Justice Associates opens Missoula office and announces 2 new attorneys

Western Justice Associates, PLLC, based in Bozeman, has opened a Missoula office and welcomes two new attorneys.

Adam Shaw, a graduate of the University of Montana School of Law in 2010 joins as a partner. Before joining Western Justice Associates, Shaw was a shareholder with the Brown Law Firm. For the past nine years Shaw handled the defense of insureds in cases involving catastrophic personal injury and wrongful death, insurance coverage, bad faith, products liability, property claims, and agricultural loss claims. He is looking forward to using his knowledge of the insurance industry and experience with the defense of claims to help plaintiffs in Montana navigate the legal and insurance process.

Shaw has the highest possible rating of both legal ability and ethical standards of AV Preeminent by Martindale Hubbell. He has also been listed in Mountain States Super Lawyers as a Rising Star since 2016. He has successfully tried and litigated cases in Montana state district courts as well as Montana federal courts. He has handled appeals to the Montana Supreme Court and the Ninth Circuit Court of Appeals.

Andrew Person, a graduate of the University of Montana's Blewett School of Law in 2015, joins as an associate attorney. Person specializes in litigation, including representing plaintiffs in class action and insurance coverage cases. Person was born and raised in Helena, previously served as an Army paratrooper in combat and represented House District 96 in the Montana State Legislature.

With the opening of its office in Missoula, Western Justice Associates brings its full-service, personal approach to assisting plaintiffs across western Montana.

## Felt Martin PC welcomes Greer as new attorney

Felt Martin PC welcomes Nyles G. Greer as an associate attorney.

Greer was raised in Hardin,



**Greer**

Montana, and went on to receive his undergraduate degree in environmental studies from Montana State University. In 2020, Greer graduated from the University of Montana School of Law and was admitted to practice in Montana. During law school, Greer

was a staff member of the Public Lands and Resources Law Review and had the privilege of being a summer law clerk for the Honorable Mary Jane Knisely.

Greer has a general civil practice and will focus primarily on education law, labor and employment law, and civil litigation.

A lifelong Montanan, Greer enjoys being able to practice near his hometown and partake in its fishing, hunting, and camping. He resides in Billings with his fiancé, Abbie, and their dog, Wayne.

# LIST IT IN THE MONTANA LAWYER CLASSIFIEDS

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# MONTANA

CONTINUING LEGAL EDUCATION

## Important Updates on MCLE Reporting System Transition

### Active Attorney Members: Be Ready to Report 2022-23 CLE Credits When Reporting Pause Ends

The reporting pause on MCLE credits will soon be ending. Following is information that Active Attorney members should be aware of to make sure they are ready to report when the new reporting deadline for 2022-23 is announced later this summer.

**EARN THOSE CREDITS:** If you haven't already done so, **you should have all your credits earned by August 1** and be ready to report when the new system goes online.

**YOU WILL HAVE 60 DAYS TO REPORT CREDITS:** Once the new software system is up and running, attorneys will have 60 days to report all 2022-2023 CLE credits. You may earn and report credits during this time, but there will be no further extensions for the 2022-2023 reporting year since there has been ample time to earn all required CLE credits during the reporting pause.

**ACCESS CLE INFORMATION THROUGH YOUR MEMBER DASHBOARD:** Good news — when the new system is in place, your MCLE information will no longer be on a separate website from the State Bar of Montana. It will be fully integrated with your Member Dashboard at [www.montanabar.org](http://www.montanabar.org), meaning you will have a single sign on for all of your yearly compliance requirements — MCLE reporting, dues payments, and IOLTA and pro bono reporting.

**ONLINE REPORTING:** When the new system is in place, we will move to online reporting only. Email and paper submissions will no longer be accepted.

**DOWNLOAD YOUR TRANSCRIPTS NOW:** Effective June 30, 2023, information on the current MCLE website, [www.mtcle.org](http://www.mtcle.org), will no longer be accessible, and **neither you nor the CLE Administrator will be able to access your transcripts**. If you need to have a copy of your transcripts for your records, please go to [www.mtcle.org](http://www.mtcle.org) and download them **BEFORE JUNE 30**. Keep in mind that because we have been in a reporting pause since January 1, 2023, credits you have earned in this calendar year may not appear on your transcript.

**2023-24 DEADLINES UNCHANGED:** Don't forget going forward that the MCLE reporting deadlines will be the same as in past years. The deadline for the 2023-24 reporting year will be March 31, 2024.



# Panarella named UMass Dartmouth School of Law dean

Professor Sam Panarella will become the next dean of the University of Massachusetts Dartmouth School of Law on July 18, the school has announced.

Panarella, who has been a tenured professor of law at the University of Montana's Blewett School of Law since 2011, teaches contracts, business transactions, law practice, and renewable energy and climate change law and has research interests in clean energy, endangered and threatened species, and environmental law. At Montana, he also served as Associate Dean of Academic Affairs and as Director of International Programs before becoming the Executive Director of the Max Baucus Institute, a nonpartisan public policy center focused on creating opportunities for students from rural, tribal, underserved, and under-resourced communities to engage in public service domestically and internationally.

"Sam is a proud first-generation college student and a passionate advocate

for first-generation and low-income students in the study of the law," UMass Dartmouth Provost Hanchen Huang said in a news release. "He joins the Law School at an exciting point in its history and will have the privilege of working



**Panarella**

with its outstanding faculty, staff and students to develop and execute a strategic plan that will continue UMass Law's strong upward trajectory."

During his tenure at the Blewett School of Law, Panarella was an active fundraiser and community builder, helping to secure more than \$5 million from foundations, corporations, and individuals to support the Institute's programs. These include international comparative law summer study abroad programs in

China and Ireland, internship programs for over 50 students each year with U.S. senators, leading domestic and international organizations focused on energy and climate change issues, and city- and state-level entities in Montana.

Throughout his career, Panarella has prioritized increasing the diversity and inclusivity of his workplaces. As a partner at Stoel Rives, he was heavily involved in mentoring young attorneys from underrepresented communities. At the University of Montana School of Law and as executive director of the Max Baucus Institute, he has worked closely with the Native American Law Student Association, served as the faculty advisor for the first-generation law student group, chaired the department's admissions committee, focused on increasing the diversity of the student body, and raised nearly \$2 million to create pipelines for students from underrepresented and under-resourced communities.

## BAR MEMBERS, LAW STUDENTS LEARN TOGETHER IN IRELAND



Members of the State Bar of Montana joined students from the University of Montana's Blewett School of Law on their study abroad program in Cork, Ireland, May 29 to June 2. The second annual Celtic CLE, this year focusing on business law, was held at University College Cork School of Law.

# Former Missoula lawyer finds inspiration, enrichment teaching Ukrainian law students

By Alan F. Blakley

I thought my law school teaching days were over. Having taught at the University of Montana Law School in the 1990s, Western Michigan Law School in the 2000s, and the University of Denver Law School in the 2010s, and practicing in Montana, Texas and Colorado, I was ready to relax. Then I got an email from a friend who teaches at Georgetown Law School. Ukrainian law schools were looking for United States' law professors willing to teach classes in Ukraine.

Since the start of the Russian war of aggression, I had wanted to do something for Ukraine. But, not knowing where it would go or how it would be used, I did not want to send money. What could I do from here? Moreover, I knew only two things about Ukraine – that it was a former Soviet colony and that Russia had invaded it. I volunteered, provided I could teach in English. Having taught many non-native English speakers at the University of Denver I had some experience explaining U.S. legal terms to non-native speakers.

Several weeks later – I had almost forgotten about sending my information – I was contacted by someone at The National University of Kyiv-Mohyla Academy law school. I, of course, knew nothing about this university, founded in 1652, and whose alumnae include the Ukrainian ambassador to the United States. He told me about the university and the law school. The university is about the same size as the University of Montana, and each class in the law school is about the same size as each law school class at UM. Ukrainian legal education is similar to that of other countries. Law school is an undergraduate degree. But, in Ukraine, to be authorized to practice, someone must also have a masters of law degree.



**Alan Blakley, right, meets with Volodymyr Venher, dean of the National University of Kyiv-Mohyla Academy law school, when the dean visited the U.S. in April. Blakley, a former longtime Missoula lawyer and a Senior Attorney member of the State Bar of Montana, has been teaching Ukrainian law students at the school. (Photo provided)**

I also learned that Kyiv-Mohyla is a bilingual school – Ukrainian and English. Applicants are required to pass an English exam as part of the admission exam. Bachelor's students take English classes; master's students take legal English classes. After discussions,

I agreed to teach a course remotely this past spring to bachelor's students – An Introduction to United States Civil Litigation. I also agreed to teach a workshop (what we'd call a seminar) at the same time to master's students – Comparative Ukraine and United States



Civil Court Systems. Fortunately, significant Ukrainian resources are available in English.

I knew the German court system and since Ukraine is also a civil law country (though its law is somewhat different from German law), I could find out about the court system and procedure by looking at the constitution, statutes and rules and not worrying about case law. I also talked to practitioners there to fill in the gaps. So I began, and I have learned so much more than I could ever have imagined – about Ukrainian law, about Ukraine’s history, about the people. I watched a post-invasion lecture series of Dr. Timothy Snyder of Yale on the history of Ukraine. Having known nothing of eastern Europe, I was amazed. Watch the videos – there is not enough space here to scratch the surface.

However, two events in Ukraine’s recent history are important to the development of law. First, in 2004, the Orange Revolution focused on post-Soviet corruption. Second, the 2014 Revolution of Dignity caused major reforms in the law and the judiciary. At that time, Ukraine created the National Anti-Corruption Bureau. Moreover, recently Ukraine created the Supreme Anti-Corruption Court to deal with lingering issues of corruption. I also find it particularly interesting that most of the current leaders of Ukraine, including at the Kyiv-Mohyla, are in their 30s and 40s – a very energetic and committed group.

The students and faculty are amazing. They do not speak of the problems associated with being under attack.



**Blakley stands with Oksana Markarova, Ukrainian ambassador to the United States and a Kyiv-Mohyla alumna, at an event of the Ukrainian American Bar Association.**

Occasionally, though not often because I do not initiate any discussion since I am not sure how to address the situation, the students volunteer some information. They mention family members remaining in occupied territory and of their concern for them. They mention bombed-out areas they had to leave. Some are studying remotely while living in other European countries. The students do not mention these things because they want our sympathy, they want our support. Despite everything,

the university holds in-person classes as well as remote classes. Many of the faculty teach in person as well as remotely. Some of the families of the faculty are living in other countries for their safety; but many family members remain in Ukraine. Graduation ceremonies proceed.

Imagine being in law school and not knowing whether your classroom will be bombed or whether your house will be destroyed or whether you will get a good night’s sleep prior to an exam because you are spending the night in a bomb shelter. But no one complains – neither students nor faculty. Interacting with them remotely, no one would know they are anything other than normal law students or law faculty anywhere in the world. They do not speak of when the invasion will be over, but they talk about when they achieve victory. And, as every other colony fighting an imperialist seeking to occupy them has done, I strongly believe this heroic, strong people will prevail. They are all my heroes.

The dean and I have not decided what courses I will be teaching in the fall. But I look forward to continuing to work with these wonderful students and the outstanding faculty of Kyiv-Mohyla, and, after Ukraine’s victory, visiting my new school.

***Alan Blakley is a Senior Attorney member of the State Bar of Montana. He was the managing partner and a trial attorney at the Missoula firm Blakley and Velk until 2011. He currently lives in Rockville, Maryland.***

“ They do not speak of when the invasion will be over, but they talk about when they achieve victory. And, as every other colony fighting an imperialist seeking to occupy them has done, I strongly believe this heroic, strong people will prevail. They are all my heroes. ”



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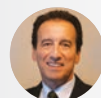
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- Real estate disputes
- Soil and structural engineering
- Union contracts
- Water disputes

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



– **Michael A. Viscomi, Esq.**

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



– **Dennis E. Lind, Esq.**

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3. Contact us at (406) 273-4304



# Good news for lawyers who hate passwords: They could go obsolete sooner than you think

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

Lawyers have hated passwords since passwords first made their appearance. They resisted having them until their employer (or cyberinsurance company) compelled them. Then they constructed simple, too short passwords — 123456 and the like — easy to guess or crack. They used the names of their pets, their children, their favorite sports teams, etc. They set themselves up for failure at every point.

They left post-it notes on their monitors, under keyboards and in their desk drawers. They reused their passwords all over the internet. They shared their passwords with colleagues at their law firms. Even those who agreed, after much gnashing of teeth, to use a password manager, hated them — and they still reused and shared passwords.

The misery of data breaches is also a compelling argument to get rid of passwords. According to Verizon's 2022 Data Breach Investigations Report, 61% of all breaches were traced to compromised credentials. Combine that statistic with IBM's estimate that the average cost of a successful phishing attack was about \$4.9 million in 2022 and bad news for your firm is just over the horizon.

## AI Helps Hackers Crack Passwords

At this point, AI can crack the majority of passwords in under a minute. Seven letter passwords can be cracked in under six minutes despite having numbers, upper and lowercase letters, and symbols. If you are still using passwords in your law firm, you should have passwords with at least 15 characters and make mandatory the use of lower and upper-case letters, numbers and symbols.

Security fatigue is real — and, in the era of mandated two-factor authentication, worsening. But wait — there is a growing movement to ditch passwords



forever.

## Going Passwordless

We aren't going passwordless overnight, but it is on the horizon and lawyers should be embracing it. Quite a stir occurred in May 2023 when Google began allowing you to log into Google websites using passkeys.

It has been a long time coming, but Apple, Microsoft, Google and others have been working toward going passwordless using passkeys instead of passwords. Passkeys typically use biometrics — fingerprints or facial recognition being the most common.

There was already passkey support by Google for its Android phone and Chrome browser, but Google websites have been added. Not convinced? No problem. In a very smart move, Google made its passkeys work but retained your ability to use other login methods so you can take a test drive and reassure yourself that this new technology is great — which it is.

Ultimately, you will see passwords disappear as more systems support passkeys. Not all at once, but when enough folks have seen how easy it is to use passkeys, and understand the monumental increase in security, the days of passwords will be numbered.

## Law Firms Warming to Passkeys

Law firms have begun to feel comfortable with the cryptographic standards that underlie passkeys. Law firms are bedeviled by data breaches, notably those pesky phishing emails/texts that try to get you to share your credentials or other confidential information.

Firms are especially delighted that some password managers (like Dashlane) can store passkeys. Dashlane even allows you to log in with a passkey instead of a password — Huzzah! Other password managers are following suit.

Another boon is that passkeys are pretty easy to understand. Your phone or your laptop creates a private and unique cryptographic key which is tied to the device. In the case of Google, your account will issue a “digital challenge” that the passkey can sign, unlocking access. Then you only need a fingerprint scan or screen-lock PIN to make sure it is you that's logging in. A point to note is that the passkey stays on the device and is not transmitted as part of the authentication process. In other words, it is not sent to Google.

Let's try another way of thinking about passkeys. You sign into your

**MORE PASSWORDS, PAGE 22**

# Protege succeeds mentor

Johnstone sworn in as circuit judge; Thomas takes senior status

When the Honorable Anthony D. Johnstone took the oath of office on May 5 for a seat on the Ninth Circuit Court of Appeals, it marked a momentous occasion for him — and also for the man swearing him in.

The day marked Judge Johnstone's return to the Ninth Circuit, where he had been a law clerk in his first job after law school. Meanwhile, when Chief Judge Emeritus Sidney R. Thomas administered the oath to his one-time clerk, he transitioned to senior status, culminating his remarkable tenure as an active judge on the court.

It was fitting that the ceremony took place in the Pope Room at the University of Montana's Blewett School of Law — the school where Judge Thomas earned his J.D. in 1978 and where Judge Johnstone was a professor for the past decade. The Pope Room is named for the Honorable Walter L. Pope, a former UM School of Law professor and the first Montanan to serve as chief judge of the Ninth Circuit (1959).

"I am grateful for the warm welcome of my new colleagues on the court and throughout the circuit, and in particular the continued mentorship of Chief Judge Emeritus Thomas," Judge Johnstone said. "As I begin the work of the court, Judge Thomas' kindness and model





of service to the circuit inspires me. Although I will miss being a full-time member of the community at the School of Law, it is a special honor to follow in the footsteps of its graduates, Judge Thomas and Judge Browning, and the first University of Montana law professor to serve on the court, Judge Pope.”

Judge Thomas noted that it was his second time swearing in a former clerk as a federal judge. The first was Magistrate Judge Steve Kim of the U.S. District Court for the Central District of California, who coincidentally clerked alongside Judge Johnstone in 1999-2000.

While he would have preferred if he could have been there in person for the investiture rather than conducting it virtually, it was gratifying to have his former clerk succeed him.

For years, Montana has enjoyed prominence in the Ninth Circuit despite being dwarfed in population by many of the circuit’s other states. The circuit’s courthouse in San Francisco is named after the Honorable James Browning of Montana, who served on the circuit

for from 1961 until his death in 2012, including 12 years as chief judge. Judge Thomas strengthened that prominence, becoming the first judge on the circuit to have his chambers in Montana. He said he is delighted that Judge Johnstone, whose chambers are in Missoula, is following his lead.

### Judge Thomas leaves lasting legacy

To say Judge Johnstone is stepping into big shoes by filling Judge Thomas’ seat would be an understatement. Colleagues say Judge Thomas is universally respected not just in the Ninth Circuit but across the federal bench and that his career on the bench has been marked by a dedication to technological progress, congeniality, a passion for public outreach and a legendary work ethic.

Ninth Circuit Chief Judge Mary H. Murguia, who succeeded Judge Thomas in that position in 2021, said that he has been a great resource for her in acclimating to the role.

“He is a mentor and an inspiration to

me, and I believe his resolve and dedication inspire all the judges within our circuit, and all those around him,” Chief Judge Murguia said. “He consistently displays the highest ideals of our profession – integrity, temperance, collegiality and an unwavering commitment to justice.”

In a tribute to Judge Thomas presented during the Ninth Circuit’s 2022 Conference in Big Sky, Circuit Judge Morgan Christen of Anchorage, Alaska, said that Judge Thomas had earned an outsized reputation long before he became chief judge of the circuit in 2014. Shortly after his confirmation, he volunteered to take on then Chief Judge Procter Ralph Hug’s biggest problem – a backlog created by 10 judicial vacancies that had opened in the circuit over the previous two years, which forced the postponement of over 600 cases and created a huge case backlog. Chief Judge Hug enlisted him for two committees to devise a strategy, Judge Christen said, and he ran with it, using data analytics to identify bottlenecks and dramatically



**Left: Chief Judge Emeritus Sidney R. Thomas of the U.S. Court of Appeals for the Ninth Circuit administers the oath of office to Judge Anthony D. Johnstone from his chambers in Billings.**

**Facing page: Judge Johnstone takes the oath of office as the newest circuit judge on the Ninth Circuit in the Pope Room at the University of Montana's Blewett School of Law.**

improving court efficiency.

Four years later Judge Thomas became the court's en banc coordinator, and he became capital case coordinator soon after that. He has served in both capacities, both of which are critical to the operation of the court, for more than 20 years.

Judge Thomas also spearheaded using technology to increase public access to the courts, including digitally recording oral arguments beginning in 2003 and livestreaming oral arguments by 2013. Because of these efforts, Judge Christen said, the circuit hardly missed a beat when COVID hit.

"This man has improvised, innovated, and done an amazing job of harnessing technology to improve public access to our proceedings and to improve the efficiency of our court," Judge Christen said. "He is passionate about the court's mission and rarely misses an opportunity to engage in public outreach. Today anyone with a computer, tablet or smartphone can watch or listen to arguments free of charge and without leaving home. That is largely due to his persistent efforts."

For his part Judge Thomas said many of the accomplishments during his tenure have been a collective effort across the circuit, but he is gratified to have played a role in increasing the court's efficiency, which continues with a new case management system being jointly launched by the Ninth Circuit and Second Circuit. He also said he was proud to have been active in trying to achieve a better workplace environment for all the courts in the circuit, which includes over 400 judges across nine states, Guam and the Northern Mariana Islands.

### Johnstone earns accolades

Judge Johnstone received scores of letters in support of his nomination — including from former colleagues, past students, and a group of former Montana Supreme Court justices — and his confirmation was cheered by many.

Sen. Jon Tester, D-Mont., praised Judge Johnstone, a graduate of Yale College and the University of Chicago

**MORE NINTH CIRCUIT, PAGE 22**



**Senior U.S. District Judge Charles Lovell talks about his career on the bench in an image from a biographical film produced by the court in 2017.**

## Judge Lovell, 93, dies after 36 years' service on federal bench

Senior U.S. District Court Judge Charles C. Lovell died on June 14 in Helena, the United States District Court for the District of Montana has announced. He was 93.

Judge Lovell had been on inactive senior status after 36 years of service on the federal bench in the District of Montana.

Judge Lovell was nominated by President Ronald Reagan on March 27, 1985, to a newly established third Article III judgeship in the District of Montana. He was confirmed by the Senate on April 3, 1985, and received his commission on April 4, 1985. Judge Lovell assumed senior status on June 14, 2000. He maintained a regular case load following his transition to senior status, resulting in 36 years of service as a federal judge. In 2017 the Court produced a biographical film depicting Judge Lovell's career. The film can be viewed at [www.mtd.uscourts.gov/district-montana-history](http://www.mtd.uscourts.gov/district-montana-history).

Following his graduation from the University of Montana in 1952, Judge Lovell entered active duty for the U.S. Air Force as a weapons controller. He transferred to active

reserve in 1954 and reached the rank of captain before he was released to honorary retired reserve in 1967.

Judge Lovell began his legal career in Great Falls following his graduation from the University of Montana School of Law in 1959. He was in private practice from 1959-1985. During that time, he served as the Chief Counsel for the Office of the Montana Attorney General in Helena from 1969-1972.


"Judge Lovell lived a remarkable American life. He was a child of the Great Depression, an airman in the Air Force, a successful practicing lawyer, and a fair and wise federal judge," said U.S. District Judge Dana Christensen in a statement. "He exemplified the very best traits of a trial judge — preparation, restraint, intelligence, curiosity, patience, and kindness to all who came before him. I'm grateful to have practiced before him and I'll miss him as a colleague."

The judges and staff of the District of Montana expressed their deep appreciation of Judge Lovell's contribution to the administration of justice in Montana.



STATE BAR OF MONTANA

# LAWYER ASSISTANCE PROGRAM

A silhouette of two people on a mountain peak. One person is standing and leaning forward, while the other is sitting or crouching, and they are holding hands. The background shows a vast mountain range under a blue sky with some clouds.

Stress? Anxiety? Depression?  
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# Bar's lobbying efforts in '23 legislative session

The 2023 Montana Legislature considered a number of bills affecting the administration of justice in Montana, and the State Bar of Montana was forced into an active role, providing testimony on a number of measures.

Pursuant to Board Policy 3-102, as well as the State Bar Bylaws, the bar may take positions on various legislative matters including: "A. Issues relating to the regulation and discipline of attorneys; B. Issues relating to the functioning of the court, and to judicial efficiency and efficacy; C. Issues relating to the availability of legal services; D. Issues relating to attorney trust accounts; E. Issues relating to the education, ethics, integrity and regulation of the legal profession; F. Issues relating to law reform, adoption of uniform laws and statutory improvement."

On matters relating to the functioning of Montana's courts, specifically matters involving funding, the State Bar monitored **HB 2 (passed and signed by Speaker)**, which included the general judicial system budget and supported **SB 44 (tabled in committee)**, which would have provided a new civil justice improvement grant program.

The State Bar supported the Governor's nominees to the Judicial Standards Commission (**SR 6**), as well as the confirmation of district court judges (**SR 7 and SR 8**) nominated by the Governor. The State Bar also was a proponent of **SJ3 (filed with Secretary of State)**, a joint resolution on the Justice Counts Initiative that was a product of the last Law and Justice Interim Committee.

The State Bar also supported **SB 509 (missed deadline for transmittal)**, which would have removed the Montana attorney license tax and supported **HB 709 (Chapter number assigned)** which creates a public facing district judge performance indicator display.

The bar opposed several bills that took aim at the administration and functioning of the courts. Those included **SB 311 (missed deadline for transmittal)**, which would have reduced the size of the Montana Supreme Court, and **SB 230 (missed deadline for transmittal)**, which would have moved the Office of the Court Administrator under the Clerk of the Montana Supreme Court, a partisan, elected position.

the bar also opposed a measure to place term limits on judges **SB562 (missed deadline for transmittal)**, and **HB 326**, which removed the attorney and judicial members of the Judicial Standards Commission appointed by the supreme Court, replacing them with those nominated by the legislative and executive branch.

Other measures sought to legislatively rewrite judicial recusal standards based upon campaign contributions. The bar has opposed those in past sessions and did so again as an unconstitutional intrusion into the province of the judiciary which writes judicial recusal rules, as well as because of the effect several of the bills had on attorney participation in judicial elections. **HB 436 (died in process)**, **HB 772 (missed deadline for transmittal)**, **SB 355 (died in standing committee)**, **SB 201 (chapter number**

## LOBBYING EXPENSES & REFUND PROVISIONS

Please see the facing page for an explanation of the bar's expenses during the legislative session and information on requesting a pro rata dues refund if you object to the spending.

**assigned**), the latter of which became law. **SB 201** established an aggregate limit for judicial campaign contributions in the past six years by lawyers or their firms and allows for disqualification if it is exceeded. It was effective on passage and approval but applies to contributions made on or after the effective date of the act.

As in past sessions, a number of bills sought either to elect judges on a partisan basis or allow judges to announce partisan endorsements. The organized bar in Montana has long opposed partisan judicial elections and their potential impact on the administration of justice. In fact, the Montana Bar Association was instrumental in the enactment of the Nonpartisan Judicial Act in 1935. The current Montana Code of Judicial Conduct forbids judges from announcing partisan endorsements. The bills this session included **HB 464 (missed deadline for transmittal)**, **HB 595 (missed deadline for transmittal)**, **SB 200 (missed deadline for transmittal)**, **SB**

**MORE LOBBYING, NEXT PAGE**

## Annual Meeting resolution proposals due by July 31

State Bar of Montana members who would like to propose resolutions for adoption by the membership at the 2023 Annual Meeting must be received by the bar by July 31, 2023.

The bar's Past Presidents Committee will review proposed resolutions for scurrilous or defamatory material and ensure that any proposed resolution is

consistent with the bar's Constitution and Bylaws (unless the resolution's purpose is to amend the constitution or bylaws) and orders of the Montana Supreme Court.

After reviewing a resolution, the committee will make a recommendation that the resolution pass, not pass, be modified, or that it be transmitted

without recommendation.

Please send proposed resolutions to State Bar of Montana Past Presidents Committee, c/o John Mudd, P.O. Box 577, Helena, MT 59624; or as an attachment to an email to [membership@montanabar.org](mailto:membership@montanabar.org) with the subject line "Member Resolutions."



## LOBBYING

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**302 (missed deadline for transmittal)**, and **SB 395 (missed deadline for transmittal)**. None were passed into law.

Other bills sought to change the constitutional method of selection of judges in Montana. **SB 372 (missed deadline for referendum proposal transmittal)** was a proposed constitutional amendment that would have had the Montana House of Representatives select Montana Supreme Court Justices, as well as state district court judges, subject to confirmation by the Montana Senate. That proposal died in standing committee.

The bar opposed a second proposed constitutional amendment, **HB 915 (died in process)**, to eliminate Montana Supreme Court elections and have justices selected by the governor subject to senate confirmation, in particular because of the absence of a judicial nominating commission and/or judicial retention elections in the proposal, such as in the so-called “Missouri Plan” selection method. Only one state selects judges in the manner proposed, which gave the State Bar pause.

The bar opposed several other bills, such as resolutions that took aim at *Marbury v. Madison* and called Montana Supreme Court opinions “advisory only,” **SJ 11 (missed deadline for transmittal)** and **SJ 15 (died in process)**; **HB**

**933 (missed deadline for appropriation bill transmittal)** which sought to “adopt the original 13<sup>th</sup> amendment,” and among other things prohibited the use of the term “esquire”; and **HB 589 (missed deadline for transmittal)**, which would have allowed citizens to petition for a grand jury that was mandatory if a certain percentage of electors signed the petition, thereby bypassing any judicial discretion.

Certain other bills relating to court reporters, **HB 654 (died in process)**, and one changing evidentiary presumptions, **HB 815 (missed deadline for transmittal)**, also drew opposition. The bar also opposed **HB 410 (Chapter number assigned)** which established a new statutory time limit for all service of process, two years, creating a potential conflict with the existing three-year time limit in Rule 4 of the Montana Rules of Civil Procedure promulgated by the Montana Supreme Court.

Finally, several other bills were aimed directly at the Montana Rules of Professional Conduct, and in certain cases, the State Bar itself and the Montana Supreme Court’s authority to regulate the practice and profession of law.

The bar sought modification of **HB 317 (chapter number assigned)**, which created a Montana Indian Child Welfare Act, due to certain provisions of the bill as drafted that created constitutional concerns regarding who may practice in

the courts of Montana. Those provisions were removed, and the bar took no other position on the measure.

**HB 965 (missed deadline for referendum proposal transmittal)** was a proposed constitutional amendment that would have removed the Montana Supreme Court’s constitutional authority to regulate admission to the bar and the conduct of attorneys under Article VII, Section 2 of the Montana Constitution. The State Bar opposed the bill.

**SB 440 (missed deadline for transmittal)** sought to legislatively rewrite Rule 1.18 of the Montana Rules of Professional Conduct to require that attorneys pay interest to clients on all funds in their IOLTA accounts. The legislature does not write the Montana Rules of Professional Conduct and the State Bar opposed the bill.

**SB 438 (missed deadline for transmittal)** sought to place the State Bar of Montana under the audit authority of the legislative branch of government and the legislative auditor. The State Bar opposed the bill.

**SJ 31 (filed with the secretary of state)** is a bill to study the State Bar of Montana, which will take place during the interim through the Law and Justice Interim Committee. The State Bar did not support or oppose the study resolution.

The State Bar’s running “preference list” is available on the State Bar’s website [www.montanabar.org](http://www.montanabar.org).

## Expenses and refund provisions for 2023 legislative session lobbying

The State Bar of Montana typically supports and opposes certain legislation during Montana Legislative session germane to the bar’s established purposes including to “aid the courts in maintaining and improving the administration of justice,” and “to insure that the responsibilities of the legal profession to the public are more effectively discharged.” Article III, Constitution of the State Bar of Montana.

In addition to the bar’s constitution and various orders from the Montana Supreme Court establishing the purposes of the bar, Article I, section 4(b) of the Bylaws of the State Bar of Montana and Policy 3-102 also guide Executive Committee in making legislative

decisions, including establishing that the State Bar “may take a position on issues that arise from the following areas:

A. Issues relating to the regulation and discipline of attorneys;

B. Issues relating to the functioning of the courts, and to judicial efficiency and efficacy;

C. Issues relating to the availability of legal services;

D. Issues relating to attorney trust accounts;

E. Issues relating to the education, ethics, integrity and regulation of the legal profession;

F. Issues relating to law reform, adoption of uniform laws and statutory improvement.”

Policy 3-102 states that if the issues falls outside of those enumerated above, the State Bar may take a position on a matter if: “(i) The issue is of great public interest; (ii) Lawyers are especially suited to evaluate and explain the issue to the public; and (iii) The subject matter affects the rights of those likely to come into contact with the legal system.”

In *Reynolds v. State Bar of Montana*, the Montana Supreme Court ordered: “[T]he State Bar of Montana may not use funds derived from compulsory dues for lobbying purposes unless the State Bar makes provision to refund members dissenting to such lobbying an aliquot portion of

**MORE REFUND, PAGE 26**

# Who owns the law? In Montana, at least, we have clarity that the people do

When you are contemplating the amazing aspects of Montana, I doubt that many of you consider how our state publishes its code. I may be leaning too hard into nerdy librarian stereotypes when I write this, but I have been thrilled to work in a jurisdiction that has retained control over how its statutes and annotations are published. This is — yet another — situation in which Montana’s independent spirit has paid off.

When meeting with school groups touring the Law Library, we begin in our Montana section thinking about what constitutes primary law, who makes it, and what that process looks like. It only takes a few examples to indicate that while legislatures strive for clarity, it is frequently the judicial branch’s role to settle disputes and ambiguities. Lawyers fight about what words mean, and some of the best ammunition in fighting about words are annotations.

In 2020, the United States Supreme Court took up the issue of whether code annotations can be protected under the Copyright Act in *Georgia v. Public.Resource.Org, Inc.*, 140 S.Ct. 1498 (2020). The Official Code of Georgia Annotated is assembled by that state’s Code Revision Commission, but the printing and annotations are completed by Matthew Bender & Co., Inc., which is a division of LexisNexis Group. Id. at 1504-1505. Georgia argued that the annotations were covered by copyright

and thus were not required to be made freely available to the public. Id. The Court looked to the “authorship” component of copyright and invoked the government edicts doctrine to find that judges and legislators “cannot be ‘authors’ because of their authority to make and interpret the law[.]” Id. at 1507. When government officials — who make the law — generate work that provides “authentic exposition and interpretation of the law” that work must be freely available to the citizenry. Id. Notably, this holding is limited to situations in which the government retains control over the publication. In many jurisdictions, legislatures indicate that Thomson Reuters (f/k/a West Publishing) and/or LexisNexis are the “official” code versions.

Montana’s citizens can thank the Legislative Services Division for compiling and maintaining the Montana Code Annotated and the Annotations to the Montana Code Annotated, as opposed to outsourcing that task to private entities. Year after year, that office’s energy and effort has resulted in our state’s code and interpretive annotations. In the past year, the Montana State Library and the Montana State Law Library have digitized the state’s code (and annotations) from territorial times to present and made them freely available online. We have clarity in this jurisdiction: The people own the law.



FRANKLIN RUNGE

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

“Montana’s citizens can thank the Legislative Services Division for compiling and maintaining the Montana Code Annotated and the Annotations to the Montana Code Annotated, as opposed to outsourcing that task to private entities.”



# Juries these days! Understanding millennials will help you know how best to persuade them

Crack the door to almost any civil courtroom and you'll find a trial lawyer with a fear of today's "crazy" jurors, none more than those wrapped in the stripes of a different generation. Litigants worry about disconnects between Boomer attorneys and Gen X jurors, or Gen X witnesses and millennial jurors. We read the cautions about pretending to "understand people" based on the year they were born, and similar cautions about the "research" on generational differences. Yet, we must make decisions about which precious few jurors to strike and how to win over the jurors we must persuade. We also must reconcile our own experiences with how we think jurors will react in trial.

No generation gets more blame — for just about everything — than millennials. We blame Americans currently aged 26 to 40 years old for a poor economy, job hopping, nuclear jury verdicts, selfie-culture, and more. Americans born from 1980 to 1996 are America's largest generation and in many ways, the generation with the most power, the most intrigue, and the most misleading headlines. Most important, they are an unavoidable presence in your jury pool, in some venues, making up more than a third of all the people who show up for jury duty.

There are many interesting views of the millennial generation, ranging from the classic "kids these days" view to laments over the long-term impact of giving every kid a trophy. How's your grip on the nuance of millennial reality? In this column, we explore recent writing and some data and provide a guide — but not in the way you might expect.

You know the broad strokes: Millennials are supposed to be tech-savvy, independent, distrustful of corporations and other institutions, and are socially egalitarian. According



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

to Pew Research Center, just 30% of millennials live with a spouse and child compared to 40% of Gen X and 46% of Boomers at the same age. Millennials are diverse. They are less likely to be married, but if married are more likely than any previous generation to be married to someone of a different racial or ethnic background. They are more likely to have favorable views of foreign countries and are less likely to believe America is exceptional. On juries, they are more likely to go nuclear in their verdicts with headline-grabbing damage awards. The list goes on.

Millennials are also burned out. A recent article, *How Millennials Became the Burnout Generation*, by Anne Helen Peterson, turned our heads not because it unveils some new studies of the generation of Americans least likely to say they identify with their generation, but a finely sliced perspective by a self-identified millennial about what it feels like to be an adult. And be sure, millennials are adults. We found a few things worthwhile as you think and talk about millennial jurors going forward.

## Making Millennials

Millennials were not born entitled brats. They had parents and childhoods and social factors galore. As Peterson writes, they were raised by a mix of

young boomers and old Gen Xers, and grew up during periods of relative economic stability or outright expansion. They experienced privilege and abundance and the promise of more to come. They also had structure from parents who hovered and were more involved than prior parents, and raised their kids to be optimal workers who would contribute to the ongoing capital machine, filling their schedule with more planned activities such as sports and other clubs, than any prior generation. Expectations were high. The pressure was higher.

## Respecting Millennials

What many millennials encountered instead of a future was a fall. Job opportunities were limited and competitive. The 2008 financial crisis was crushing. They accrued substantial debt from college and graduate school or from the simple cost of living, all with the promise of a bright future that would make it all worth it, yet their earning power has never matched the promise of the cost of their education. The pressure to balance social values and economic growth is also crushing. With lagging wages and stagflation, they could not afford the basic things they had growing up. Financially, millennials stand far behind their parents at the same age. They have student debt, less stability, and far less equity in homes and property — all things we often blame them for creating rather than suffering. To attack these forces, millennials have worked to achieve what they can, often taking second jobs or gigging to stay afloat but never feeling they have met with the life and success they were built to have — that they deserved based on their highly structured childhood, higher education, resume-building, and hard work.

More importantly for millennials as *jurors*, their experiences are

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## JURY

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characterized by the discouragement, disenfranchisement, and fatigue that lasts in the wake of their burnout. Their trust in what they are told is understandably low. Their tolerance for “free riders” can also be quite low. And while independent and “different” from older generations in important ways, millennial jurors may also need compassion and guidance in similar or greater ways than those of other generations.

### Millennial Jury Economics

How might this view into millennial experience help you look at millennials on your jury in a different way than before?

(1) *Be a guide.* They don’t need to be judged or be told they are respected for being different. They need to *be* respected. Give them the guidance to reach the right decision while avoiding the temptation to pander to their tech-savvy, egalitarianism, or social consciousness. They may be wary of your

promises and characterizations. Give them the trust and power to decide by making appeals with a range of conclusions, alternatives, and clear options. In jury economics terms, this means identifying the egocentric forces that often drive millennials: autonomy, fairness, and a sense of balance in opposing ideals – or in this case, opposing parties. In practical terms, it is the difference between telling them what the answer is and providing the evidence with a few possible conclusions, allowing them to reach it on their own while still providing a clear path to the outcome that favors your client.

(2) *Do not underestimate.* We too often hear that attorneys do not want millennial jurors simply because they are millennials. A more thorough consideration of the people in your jury pool should include the expected reality that millennial jurors’ perspectives may shift as they move further into “adulthood.” The forces that affected our nation as they grew up – the financial crisis, economic stagnation, flattening

opportunity despite higher and higher education, and of course, COVID – will manifest in ways that matter to your case. Do not assume millennials are “good” or “bad.” Assume they will bring their filters just like their older and younger counterparts. Don’t rely on the symbolism of something like a birth year to tell you what need to know about a person.

### Conclusion

The job of assessing how people respond to lawsuits and both sides’ perspective is an ongoing lesson. People are not stagnant and the forces that create and influence us are not either. When we apply the tenets of jury economics to looking at generational influences, we continue to see the value in examining every potential juror’s egocentric motives so we can best understand and persuade with economic and symbolic communication.

**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.**

## PASSWORDS

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device just as you always did, using a PIN or biometrics (facial or fingerprint recognition). You set your accounts to trust your computer or phone. This is what makes it so safe. A cybercriminal would have to physically possess your device AND have a way to sign into it.

What if you lose your phone? Good question. Your passkey can be stored securely in the cloud with your phone’s

other data, which (no doubt you’ve guessed it) can be restored to a new phone.

Bad guys are outwitted and the good guys have a simpler means of secure access. Now that’s a win-win for the lawyer and law firm.

### Final Words

There’s a reason why you can go to Amazon and buy a T-shirt that says “I f\*\*\*ing hate passwords.”

**Sharon D. Nelson is a practicing**

**attorney and the president of Sensei Enterprises, Inc. She is a past president of the Virginia State Bar, the Fairfax Bar Association and the Fairfax Law Foundation.**

**John W. Simek is vice president of Sensei Enterprises, Inc. He is a Certified Information Systems Security Professional (CISSP), Certified Ethical Hacker (CEH) and a nationally known expert in the area of digital forensics.**

**Michael C. Maschke is the CEO/ Director of Cybersecurity and Digital Forensics of Sensei Enterprises, Inc.**

## NINTH CIRCUIT

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School of Law, in announcing his confirmation by the U.S. Senate on May 1.

“Montanans expect their judges to apply the law without bias, in a commonsense way – and that’s exactly what Anthony Johnstone has done throughout his entire legal career,” Tester said. “I’m confident that Anthony will continue standing up for our constitution, and I’m proud to have helped push this

Montanan’s confirmation through the United States Senate.”

Elaine Gagliardi, dean of the Blewett School of Law, in a statement after Johnstone’s confirmation, noted the school’s many professors and graduates who have gone on to sit on the court.

“It has been an exceptional privilege to work with Professor Johnstone for the past 16 years. As a professor at the University of Montana’s Blewett School of Law, he has trained a generation of Montana lawyers. I am proud to

say that Judge Johnstone is the fourth professor or alumnus of Montana’s Law school to sit on the 9th Circuit Court of Appeals. He follows Chief Judges Walter Pope, Jim Browning and Sidney Thomas. Sixteen alumni from our small, yet outstanding, law school have become Article III judges and many more have become federal and state judges. It is an honor to have worked with Professor Johnstone.”



# The secret to a long and happy life? Just follow Grandpa George's simple advice

It's spring in Montana (I hope, by now) and following your winter ski story it is now tradition that you get the story of a legend lost and the lessons they bring.

If you're familiar with downtown Billings you might have visited the historic Moss Mansion. About two blocks away, at 105 Clark, there is a delightful historic pink grandma house belonging to the stuff of legends, my grandpa George Wallis and of course the loveliest Grandma Jean. I hope you'll google Grandpa George's name for the numerous stories the Billings Gazette loved to run about him, covering every topic from his prediction on the Griz-Cat game to the bomb runs he made over Germany as a fighter pilot in World War II. Just after Christmas, Grandpa George passed at the age of 102 years young. Grandpa taught me to ski at Big Sky on Mr. K. at the age of 5 and built a winter home for our family with his own two hands (well, that's how I tell it anyways) on the first existing block of the Big Sky Meadow Village. Up until his parting minus about one month Grandpa lived by himself, drove, prepared his own meals, had accurate football predictions, and endless political commentary for us all.

When he turned 95 years young our whole family turned out for his birthday party. Throughout the weekend he told us many stories of how he met Jean Wallis at a "beer picnic" at MSU, his college days, and his experience on

the 1941 Bobcat football team. (By the way, Jean Wallis is the stuff of legends herself. She grew up in Whitefish and hiked Whitefish Mountain to ski down on wooden skis before a resort was even there — can you imagine!? It is surely she who wrote the genetic code for our family's love of skiing.) After several days' worth of doting on Grandpa and a big dinner with presents we were winding down over cake and coffee. Grandpa slowly cut his cake and sipped his coffee. Just before leaving the table to head up for bed, he said calmly and quietly as if he had just realized it, "you know, of all the experiences I've had in my life, traveling the world and raising my kids and grandkids, the only thought that ever hits my mind as I hit the pillow are of those bombing runs over Germany, the flak exploding in my periphery." ... and off to bed while silence befell the room. How's that for some gratitude-inducing perspective?

In one of my more recent visits with Grandpa George I asked him the secret to a long happy life. He had mentioned having lots of friends and social activities in conversations passed, but I wondered if he'd have the same answer for me. He quickly had a new response, one that has gotten me through a million new sticky situations. I guess he had time to think about it in his time alone in that historic house at age 100! Grandpa's advice, of course, started with

**MORE HAPPY, PAGE 25**



MERI ALTHAUSER

***Meri Althaus is an attorney of over 10 years practicing family law and mediation in Missoula. Her practice focuses on collaboration and solution-finding for her clients and their families. 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.***

“Grandpa's concept of momentary goodness — just do your best today — has brought me such relief in the face of overwhelm since we spoke.”

# Moving on from a dysfunctional client relationship is challenging, but sometimes needs to be done

Sometimes when a lawyer calls in, there is a despondency in the voice that comes across loud and clear. The lawyer isn't always aware of it; but usually by the time the call ends, that has changed. During such calls, lawyers have shared that they feel abused, taken advantage of, threatened, or obliged to stay the course. Others have actually shared that they feel victimized and almost powerless. I have come to refer to this type of call as a "life is too short call" because the call always ends up being about dealing with the reality that an attorney-client relationship has completely broken down. As I see it, since that's what was driving the despondency, life is too short to stay in the game. When on such a call, all I try to do is help the lawyer realize that perhaps the time has come to time fire the client and move on. After all, continuing to work in a state of despondency serves no one. This is when the conversation can get interesting.

I say this because exiting a dysfunctional relationship comes with its own challenges. It isn't always easy, and the excuses must be addressed. Let's start with a lawyer's obligations. Some fear they can't withdraw because doing so may or will adversely affect the legal interests of the client. Not true! ABA Model Rule 1.16 Declining or Terminating Representation enumerates several factors permitting withdrawal even if doing so might have a "material adverse effect on the interests of the client."

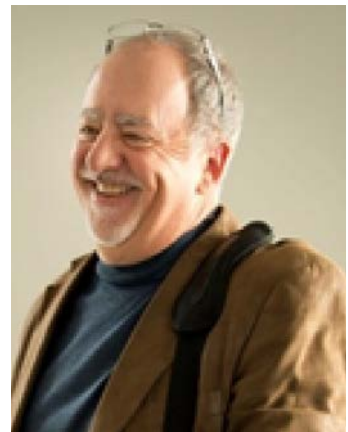
Of import here is 1.16(b)(6), which states that a lawyer may withdraw if **"the representation will result in an unreasonable financial burden on the lawyer or has been rendered**

**unreasonably difficult by the client."** (Emphasis supplied.) When a client's actions and behaviors are such that there is a complete breakdown of the attorney-client relationship, I'm pretty confident in stating this Rule is now in play. So yes, it's okay to say goodbye to the client with ever-changing objectives, who is substantially in arrears, has become very difficult to reach, is beyond unreasonable, and who is going to have an extremely difficult time finding another lawyer willing to take over.

That said, don't overlook, Rule 1.16(d), which states: "Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred." While Model Rule 1.16 recognizes that a permissive withdrawal might have a material adverse effect on the interests of a client, this in no way should be interpreted as giving you permission to maximize any adverse effects. You do need to take whatever reasonably practical steps you can to try and minimize those adverse effects. Yes, I know this can be hard and at times doesn't seem fair or perhaps right; but this responsibility does come with the territory. Be the professional you are.

Next up is the dysfunctional relationship itself. One concern that consistently comes up is a fear of being sued or having this client file a disciplinary complaint if the lawyer tries to withdraw. I'm often asked what can be done to

**MORE RISK, NEXT PAGE**



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*





## HAPPY

FROM PAGE 23

a vivid retelling of his career after the war as an engineer and project manager with Exxon in Billings. He even reminded me, as if I had forgotten, of the formula for determining the volume of the liquid in the conical-shaped holding tanks at the refinery. He worked his way up to project manager in the Billings refinery after taking the lead with the cleanup after a large explosion there. He was asked to help start projects abroad including in Saudi Arabia and Holland, where Grandma Jean got to tag along and experience the world. Despite these

achievements, Grandpa insisted he never had lofty career goals. It was never the goal to become the next executive, to take over a branch or to make X amount of money, to retire at 55, build a second home, or travel the world for fun. The only thing on his mind was doing the best he could in any given moment.

That's it. It's the only goal you need, he said.

Grandpa's concept of momentary goodness has brought me such relief in the face of overwhelm since we spoke. Do you need a 10-year plan? No, just do your best today. Will I be working this problem forever? Nope! Just do your best with it right now. How could I

possibly make a difference in this insurmountable situation?? Do the best with what you have in this moment. I'm torn in a million different directions, how will I make this work? Just do one good thing now.

Some of you who are more versed in philosophy or psychology can probably tell me that this concept is tied to some particular pre-grandpa theory, but I will be pretty happy remembering it as the great Grandpa George Wallis's key to a happy life.

Oh, and the other piece of advice was to always wash the oatmeal bowl right away. Otherwise, it will stick.

## RISK

FROM PREVIOUS PAGE

prevent that from happening. Here's the honest answer. This problem client is going to do whatever he or she decides to do. There's nothing you or anyone else can do to prevent them from filing a complaint or making an allegation of malpractice.

All I can say is staying in a dysfunctional relationship isn't the answer and just because a claim is alleged, or a complaint is filed doesn't mean either have any merit. If this does happen, those waters can be successfully navigated. The best advice I can share is again, life is too short. Withdraw, and once that's completed, commit to remaining completely disengaged from the relationship. You actually don't need to respond to any email, text or voicemail that might follow. Remember that it takes two to have a dysfunctional attorney-client relationship. Once you end this relationship, you're out. Stay out! Never allow yourself to get pulled back in.

Now, about the exit itself. If this is a litigated matter and you are attorney of record, you will need to seek permission to withdraw. Admittedly, this can be problematic for some, because judges don't always make the decisions we'd

like them to make. Here's the rub. That reality is no excuse for stating in your motion to dismiss that "this client is a complete jerk, has no money, is cheating on his wife, and has made your life a living hell" all shared with the hope that this will help the judge see things your way. You simply cannot disparage your client or share client confidences in a motion to withdraw. Follow the advice set forth in Comment [3] to ABA Model Rule 1.16, which states: "The lawyer's statement that professional considerations require termination of the representation ordinarily should be accepted as sufficient."

Another rule that comes into play when exiting is ABA Model Rule 1.4 Communications. You have an obligation to keep your clients informed about the status of their matters and enable them to make informed decisions. This obligation doesn't end once you decide to fire a client. When withdrawing from representation, particularly under these circumstances, I strongly encourage you to think about this rule and document your way out. There are risk management reasons for doing so as well.

First, don't make this personal, don't apologize, and don't try to justify your decision by setting forth a laundry list of reasons why. Again, be the professional

that you are. Simply state your decision to withdraw and detail the status of the matter at the time of your withdrawal. For example, if there are deadlines approaching, let the client know what they are and what the legal ramifications would be if an issue isn't addressed prior to any deadline. The goal is to make certain that this client is fully informed as to the status of the matter, thus enabling them to make informed decisions going forward now that you are out.

Finally, once the dust settles and you've had a little time to recover, don't forget to look for the learning. Ask yourself, and anyone else at your firm who was involved with this client, questions like the following. Were there any warning signs, particularly during client intake? If not, as the relationship started to sour, were there warning signs you should have paid attention to? Is there anything you could have done differently that might have prevented the attorney-client relationship from deteriorating so significantly? My concern is that if you fail to ask and answer these kinds of questions, you run a higher risk of finding yourself in the same or similar situation down the road. So, I'll say it one last time. Life's too short. It's worth taking a little time to look for the learning. Trust me. It's there.

# 9th Circuit civics contest winners announced

Winners were announced in May for the 2023 Ninth Circuit Civics Contest, with each of the circuit's 15 districts selecting its top essays and videos to advance to the circuit level.

The contest was open to students in grades 9-12 in public, private, parochial, charter schools and home-schooled students of equivalent grade status within the circuit's nine states and two territories. The theme of the contest, "The 28th Amendment to the United States Constitution: What Should Our Next Amendment Be?" asked students to focus on three questions: 1. What amendment would you propose for our Constitution? 2. Why? and 3. How would you get your amendment ratified?

Winners for the District of Montana were:

**Essay Winners:** First place (\$2,000) – McCants Meinders, Gallatin High School, Bozeman; Second place (\$1,000) – Riley Munson, also from Gallatin High School; and Third place (\$500) – Olivia Buoy, Corvallis High School, Corvallis.



**Video Winners:** First place (\$2,250) – Kimber Koteskey, Foothills Community Christian School, Great

Falls; and Second place (\$1,250) – Anna Bauer, also from Foothills Community Christian School. The \$500 prize for a third-place winner was equally distributed to the first- and second-place winners since the district did not have a third-place winner.

First place winners at the circuit level will be invited to attend the 2023 Ninth Circuit Judicial Conference, and a total of \$11,400 in cash prizes will be awarded to the top three essay and video winners.

In all, the Ninth Circuit received 966 essays and 86 videos this year.

Winners at the circuit level were to be announced on the civics contest website [www.ca9.uscourts.gov/civicscontest/](http://www.ca9.uscourts.gov/civicscontest/) in June.

## REFUND

FROM PAGE 19

compulsory dues paid by said members, said refund to be based upon the proportion of the lobbying expenses incurred by the State Bar to the number of dues paying members ...” 660 P.2d 581 (1983).

Bar Expenses for the 2023 session are filed with the Montana Commissioner of Political Practices and detailed in the table at right.

The compulsory dues refund required by *Reynolds*, is set forth in Policy 3-104. Members objecting to the use of dues for the legislative positions taken by the State Bar of Montana during the 2023 Legislative Session may make a pro rata refund request within 45 days of the publication of this notice. The State Bar Board of Trustees will thereafter decide within the time specified by policy whether to approve the request.

To request a refund, send a written objection and request for a refund, including the required information from Policy 3-104, to the executive director of the State Bar of Montana, P.O. Box 577, Helena, MT 59624. Please sign the letter and include the challenger's name, address, telephone number and Bar number.

The Bylaws and Policies of the State Bar of Montana are available on the State Bar website.

## State Bar expenses for 2023 legislative session

Item	Cost
Payments to contract lobbyists Bruce Spencer and Sean Slanger	\$18,000
Effective hourly salary allocation for Executive Director John Mudd	\$7,034.58
Law School for Legislators Reception	\$2,919.63
Reception (above) event contract staff	\$610
Printing of pocket constitutions for legislators	\$1,374.58
Session entertainment and meals (includes dinners for Senate and House Judiciary Committees):	\$966.22
Other office expense (allocated office overhead calculation)	\$901.14
Contribution from Blewett School of Law at UM for Law School for Legislators Reception food	-\$800.00
Total legislative expenses	\$31,006.15
Total active members who pay compulsory dues as of June 20, 2023	4,076
Compulsory legislative dues refund available to active members	\$7.61





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## Thomas Francis Dowling

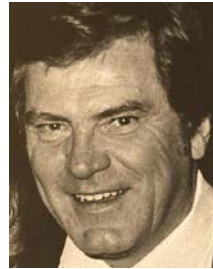
Thomas Francis Dowling died May 8, 2023, in Sun City West, Arizona. He was 86.

Tom was born Oct. 16, 1936, in Queens, New York. After Tom's mother died when he was 14, the bishop of the Diocese of Helena at the time, who was a relative, offered to bring him and his brothers to Montana and give them jobs so they could attend college. Tom attended Carroll College in Helena where he played baseball and studied chemistry.

In 1958, he moved to Missoula to attend the University of Montana School of Law with his wife, Diana, two young kids and another one on the way. Tom was admitted to the Montana Bar after earning his Juris Doctorate in 1961 and spent three years working for the Securities and Exchange Commission

in Seattle. He returned to Helena in 1964 to work for the Montana Highway Department.

He joined the Lewis & Clark County Attorney's office as a deputy and was appointed county attorney in 1969. He earned a second term and served until 1977.



**Dowling**

After Tom retired from political life, he worked in private practice in Helena, practicing into his 70s. He was a real estate developer, investor, small business owner and was one of the founders of Valley Bank of Helena.

Tom was a devoted husband, father, grandfather and friend and worked all his life to connect the people important

to him. Tom is survived by his wife of 64 years, Diana, also a lawyer; brother Paul of Boston, five children, nine grandchildren, four great-grandchildren and legions of friends.

Tom will be celebrated in an Irish wake on Oct. 7, 2023, in Helena.

### Memorial submissions

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

Please email submissions to [jmenden@montanabar.org](mailto:jmenden@montanabar.org) using the subject line "Memorial." Memorial submissions are subject to editing.

## BETTR SECTION MENTORSHIP PROGRAM



### NEW TO TRANSACTIONAL PRACTICE? DON'T KNOW WHERE TO FIND ANSWERS?

Providing limited-scope input within the mentor's discretion, a mentor from the Business, Estates, Trusts, Tax and Real Property Section may be able to help. To learn more, or to find a mentor, email Brand Boyar, Mentor Program Chair of the BETTR Section, at [bboyar@wordenthane.com](mailto:bboyar@wordenthane.com).



## George Tyack Bennett

Lifelong Helena resident George Tyack Bennett, 94, died on May 6, 2023, at his home in Helena.

George was born in Helena on Feb. 1, 1929.

He graduated from the University of Michigan with BBA, MBA, and Juris Doctor degrees. He also spent a year at NYU pursuing a master's degree in taxation. He practiced law in Helena for 50 years, receiving his pin from the State Bar in 2007.

George returned to Montana to practice law because it was his home and his love. He never regretted this decision because of his wonderful friends, the challenge and success of his law practice, skiing, fly fishing, backpacking, working his horse and mountain climbing

— including a summit of Granite Peak, countless hikes in Glacier Park and especially the Pintler range, where the family has a summer home on Moose Lake, George's most treasured place.



**Bennett**

George was elected the Lewis and Clark County chairman of the Republican Party and served as a Montana Representative and State Senator. He was elected to the

Montana Senate from a three-county district and campaigning in those counties involved meeting and talking to a diverse number of great Montanans, reinforcing his decision to return to the state after

his studies. He served in the 1974-1975 legislative session, which considered the issues raised by *Roe v. Wade*, the Equal Rights Amendment and implementing the changes in law under the newly formed Montana constitution.

George was also president of the Helena YMCA board, President of the Helena Navy League, First District Bar Association, and the Helena Kiwanis Club. He also served on the Montana Supreme Court Board of Bar Examiners drafting bar exam questions.

He is survived by his wife of 58 years, May Kay; sons Harry (Bethany) Bennett, John (Shawnee) Bennett and grandchildren Nicholas, Corinne, and Ava.

There will be a celebration of life later this summer at the family cabin at Moose Lake.

## Brian Bulger

Brian Bulger died on May 16, 2023, after an 18-month battle with prostate cancer. He was 70.

Brian was born in Great Falls Nov. 14, 1952. After high school, he graduated from the University of Montana and the UM Law School. While an undergraduate, he met his wife-to-be, Anne Hauptman.

Upon graduation from law school in 1979, Anne and Brian were married in her hometown of Billings. They moved to Helena, where he was legal counsel for Gov. Tom Judge. In 1980, he was invited to join the law firm of James,

Gray and McCafferty in Great Falls and was made partner a year later. After many years of private practice, he was appointed as the first Standing Master for Cascade County and later worked for the Department of Justice until just before his death.



**Bulger**

His role with the DOJ as legal counsel for children in need of care brought him particular satisfaction.

Throughout his career, Brian took great pride in his work and believed being a lawyer was a respectable profession, continually helping clients free-of-charge. He believed in the core values of justice, integrity, and loyalty in all aspects of his life.

He was a Trustee for the State Bar of Montana for 12 years.

Brian possessed an uncanny and generous talent for seeking out those uncomfortable or shy in social situations and engaging them. He loved fly fishing, driving the backroads of Montana, and the Boston Red Sox. He was a superb cook and avid reader, always carrying a library book under his arm.

## Blewett School of Law constitutional law writing award winners named

The first two winners of an award honoring Montana law students for best published paper on the Montana Constitution have been announced.

The University of Montana's Blewett School of Law established the For This and Future Generations Award in 2022 in honor of Bob Campbell, a lawyer and delegate to Montana's 1972 Constitutional Convention. The award goes to a graduating law student at the school who published an important paper advancing the bench and bar's understanding of Montana constitutional law.

The winner for 2023 is Ben McKee for "How Strong Is Armstrong? What To Make Of Montana's Ambiguous Autonomy Rights In A Post-Roe World," 83 Mont. L. Rev. 326 (2022).

The winner of the article for 2022 was JT Stepleton for "Reconsidering *Brown v. Gianforte* and The Elimination of The Montana Judicial Nominating Commission," 83 Mont. L. Rev. 384 (2022).

Gifts to establish an endowment for the award can be made payable to The University of Montana Foundation and

noted for a gift to establish the "For This and Future Generations Award" to provide an award to a graduating law student for outstanding writing on Montana Constitutional Law. If enough funding is received, the award may be endowed. Checks should be mailed to The UM Foundation, PO Box 7159, Missoula, MT 59807, or may be given online at [www.SupportUM.org](http://www.SupportUM.org) and note in the comments field that the gift is in memory of Bob Campbell and to be designated to the "For This and Future Generations Award".

**CLASSIFIEDS Contact** | To post a job on our online Career Center, visit [jobs.montanabar.org](http://jobs.montanabar.org) (Montana Lawyer classified included in price). For all other classified inquiries, email [editor@montanabar.org](mailto:editor@montanabar.org) or call 406-447-2200.

## ATTORNEY POSITIONS

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

**ASSOCIATE ATTORNEY:** Doney Crowley P.C. with offices in Helena and Red Lodge seeks an associate attorney to join our team. Established by Ted Doney in 1987, the firm focuses on environmental/natural resource law, water law, and civil litigation, as well as administrative law before a variety of agencies. In addition, attorneys in the firm also provide client representation in the areas of real estate, insurance coverage, and business law. The firm maintains a family-friendly environment, and provides excellent opportunities for the right candidate to gain experience and mentorship in practice areas of particular interest to the candidate. Salary estimate \$80,000+ DOE, with generous benefit package including health insurance, 401K, paid parking, and more. Interested individuals should send a cover letter, resume, writing sample, and references to [scarpenter@doneylaw.com](mailto:scarpenter@doneylaw.com).

**ASSOCIATE ATTORNEY:** Fast paced family oriented 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. Casual office attire with formal attention to serving clients and community. Competitive salary and benefits with opportunity for profit sharing and partnership to those who desire it. Apply by email to [stefan@mlfpllc.com](mailto:stefan@mlfpllc.com)

**ASSOCIATE ATTORNEY:** Kaufman Vidal Hileman Ellingson PC is seeking an associate attorney to join their general practice firm in Kalispell, Montana. The ideal candidate will handle both general litigation cases and general practice files. The candidate will be required to resolve legal disputes on behalf of clients by managing litigation cases, negotiating settlements, and advocating for clients in court. Interested candidates may submit a resume, cover letter, writing sample, and three references to [emily@kvhlaw.com](mailto:emily@kvhlaw.com).

**ASSOCIATE ATTORNEY:** Bitterroot Law, a general practice law firm with an emphasis on

criminal defense, civil litigation, and aviation law, is currently seeking an associate attorney to join our team. Candidates will represent clients in complex civil litigation and personal injury matters. Experience in criminal law is preferred but not required. Bitterroot Law is an emerging law firm located in downtown Hamilton in the heart of the Bitterroot Valley. An attorney joining the firm would have full practice and office support as well as compensation commensurate with fee generation. Apply to [tom@bitterrootlaw.com](mailto:tom@bitterrootlaw.com)

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

**ASSOCIATE ATTORNEY:** The Missoula office of Hall Booth Smith, P.C. (HBS) seeks an experienced Attorney to join its growing general litigation team. This is an opportunity to learn from experienced litigators, participate in case strategy and development, and both interact with and develop firm clients. The ideal candidate for this position will have at least 5 years of civil litigation experience. Prior experience in insurance defense is preferred. Candidates must be active members in good standing of the Montana Bar. Salary Range: \$120-150k depending on experience (plus benefits). [dalphet@hallboothsmith.com](mailto:dalphet@hallboothsmith.com)

**ATTORNEY:** Datsopoulos, MacDonald & Lind, P.C. of Missoula, Montana seeks an experienced lawyer with two to five years of experience in private practice to work as an associate on Civil Litigation and General Trial Practice. DM&L has been designated as a preeminent law firm by Martindale-Hubbell. Our firm offers a strong collegial and productive work environment and excellent compensation. The ideal candidate would be a lawyer with a positive attitude and a diligent work ethic. Some basic requirements include being a current member of the Montana Bar, superior writing skills and familiarity with a myriad of practice areas. We look forward to hearing from you. Apply by email to [sjacobson@dmllaw.com](mailto:sjacobson@dmllaw.com)

**STAFF ATTORNEY:** ASUM Legal Services invites applications for an Attorney I (Staff Attorney). The Staff Attorney will work under the supervision and direction of the Director of ASUM Legal Services to provide legal assistance to the UM student body, to ASUM Agencies, and to UM student groups. Responsibilities include providing legal advice, limited scope legal assistance, and full representation in a wide range of legal issues. Common practice areas include landlord/tenant, consumer protection, family law, and criminal defense. Responsibilities include meeting with clients, researching legal issues, drafting persuasive and informative legal documents, appearing in court and litigating on behalf of clients, and otherwise advocating

for clients formally and informally. Please apply via University of Montana jobs at <http://bit.ly/3955umjobs>

**CRIMINAL DEPUTY CITY ATTORNEY:** The City of Billings seeks a Criminal Deputy City Attorney. Under general direction, performs a variety of professional duties involved in providing a full range of legal services related to municipal government operations; represents the City in criminal proceedings as assigned before courts, administrative agencies and boards, arbitrators, and other administrative agencies; investigates, prepares, and prosecutes misdemeanor criminal cases in courts; and advises City departments, staff, boards, and commissions in criminal legal issues. Apply online at <https://www.governmentjobs.com/careers/billingsmt?>

**COMMERCIAL ATTORNEY:** Crowley Fleck PLLP seeks a Commercial Attorney with 3-10 years of experience to join one of our Montana office locations. Ideal candidates will have 3-10 years of experience with any one or more of the following areas: mergers and acquisitions, securities, real estate, tax, governance, and/or business transactions. Must be licensed and in good standing in Montana or eligible for admission by examination or waiver. Please send resume, cover letter, law school transcripts, and writing sample to Tiffani Mowry at [tmowry@crowleyfleck.com](mailto:tmowry@crowleyfleck.com)

**COMMERCIAL & TORT LITIGATION:** Crowley Fleck PLLP seeks an associate to join our Commercial and Tort Litigation practice groups in our Kalispell office. Successful applicants must have a J.D., a strong academic record, with an interest in all types of litigation. We are seeking applicants who are strong writers, skilled oral advocates, and enjoy strategic problem solving. Experience of 0-2 years preferred. Clerkship experience is a plus, but not required. Applicants must have a good standing reputation in the legal community and be licensed or willing to be licensed in Montana is required. Please send resume, cover letter, law school transcripts, and writing sample to Tiffani Mowry at [tmowry@crowleyfleck.com](mailto:tmowry@crowleyfleck.com)

**DEPUTY OR SENIOR DEPUTY COUNTY ATTORNEY:** Full-time position which performs a wide variety of routine to complex criminal prosecution in the State and Federal court systems including misdemeanor and felony criminal violations and youth court matters; does related duties as required. Eligible for telework upon supervisor approval after 6 months of continued employment. Applications will be accepted until positions are filled

**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 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

**EXECUTIVE DIRECTOR:** Disability Rights Montana is hiring an Executive Director in its Helena office to oversee the organization's overall operation and strategic plan. The ED is the spokesperson for Disability Rights Montana and builds relationships with consumers, the public, media, government, DRM's national association, and other stakeholders. To apply please email your cover letter and resume directly to elena@westaffmt.com. The position is opened until filled.

**LITIGATION ASSOCIATE:** Crowley Fleck PLLP seeks a full-time litigation associate with at least one year of experience to join our Helena, MT office. Successful applicants must have a J.D., a strong academic record, interest in all types of litigation and license or willingness to license in Montana. We are seeking applicants who are strong writers, skilled oral advocates, and enjoy strategic problem solving. Deposition and/or court experience preferred. We have an excellent benefits package and competitive salary for our region. Please send resume, cover letter, law school transcripts, and writing sample to Tiffani Mowry at tmowry@crowleyfleck.com

**LITIGATION ATTORNEYS:** The Missoula-based law firm of Worden Thane P.C., is seeking applications for attorney positions. Worden Thane P.C. is a general practice law firm with cutting edge attorneys specializing in litigation and transactional matters in the areas of real estate, natural resources, business and commercial, labor and employment, intellectual property, product liability, banking and finance, trusts and estates, and tax. The ideal applicant should have an established litigation practice, and an interest and experience in real estate or trust and estate litigation. Salary DOE, with full benefits package including health, vision, dental, life and 401k. Submit cover letter, resume, and references to Worden Thane P.C., Attn. Dawn Donham, 321 W. Broadway Ste. 300, Missoula, MT 59802, or by ddonham@wordenthane.com.

**NATURAL RESOURCES ATTORNEY:** The Montana Department of Natural Resources and Conservation seeks two staff attorneys interested in public service and natural resource related legal issues to join its team. Position will provide legal representation and advice in furtherance of the DNRC's mission to ensure Montana's land and water resources provide benefits for present and future generations. DNRC attorneys advise program staff on natural resource management legal issues throughout Montana. One position will be in Missoula or Helena and will focus on forestry and land management legal issues. One position will be in Helena and focus on water resource management and central services legal issues. For more information go to bit.ly/MTDNRC or contact Becky Quick at Rebecca.Quick@mt.gov or 406-444-6673.

## NON-ATTORNEY POSITIONS

**LEGAL ASSISTANT:** The Montana Association of Counties (MACo) County Litigation Group is seeking a Legal Assistant. The primary focus of this position is to provide support services to the attorneys. Preferred applicants should have a combination of education and experience

equivalent to a high school diploma or equivalent and experience within a law office with litigation experience. Alternative combinations of education and experience may be considered. The starting pay range is \$21.59/hour to \$25.70/hour depending on experience. MACo offers a generous benefit package including health insurance (including dental and vision), 401k retirement contribution, vacation, sick leave, and holiday pay. Please access the full description via our website: <https://www.mtcounties.org/news/association-news/maco-employment/maco-county-litigation-group-is-seeking-a-legal-assistant/>. To apply, submit a resume and cover letter to: [mmccarthy@mtcounties.org](mailto:mmccarthy@mtcounties.org). Position will remain open until filled by a qualified applicant. First review of candidates will occur on Wednesday, July 5, 2023.

## 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](mailto:grogers@brownfirm.com) (Legal Assistant Sylvia Basnett / [sbasnett@brownfirm.com](mailto:sbasnett@brownfirm.com)). Phone: 406-248-2611.

## 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@rankinlaw.com](mailto:sam@rankinlaw.com).

**MISSOULA:** Spacious office for rent in historic building in downtown Missoula, within easy walking distance to city, state, and federal courthouses. Will accommodate one attorney, with additional room available for support staff. Access to conference room. Very reasonable month-to-month rental terms. Please contact KarlJEnglund@aol.com

**EUREKA:** Office space available for rent in Eureka in newly remodeled office building. Two offices with separate entrance will

support one attorney and one support staff with shared access to large conference room. Shared access is with only law firm in Eureka and North Lincoln County that is solely focused on real estate, probate and estate planning. Excellent opportunity, therefore, for litigation and/or family law work for solo attorney or law firm that wants to expand into Eureka. For more information please contact Tiffin Hall at [jtiffinhall@interbel.net](mailto:jtiffinhall@interbel.net).

## CONSULTANTS & EXPERTS

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

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

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

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

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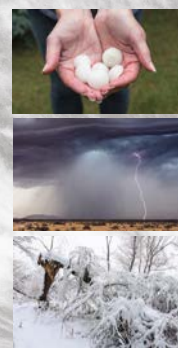
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