

# MONTANA LAWYER

State Bar  
— of —  
Montana

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**ALPS founder Robert Minto wins Jameson Award**

**Judge Townsend wins Karla Gray Equal Justice Award**

**Missoula lawyers win Haight Pro Bono Award**



## ALSO IN THIS EDITION

- > Justice Wheat announces retirement from Montana Supreme Court
- > Former U.S. Attorney Cotter hired as new ODC chief disciplinary counsel
- > Could Veterans Treatment Court be right for your client?

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# Year ahead holds challenges, opportunities

I recently received an invitation to attend a presentation by Lillian Alvernaz, a Montana law student who received the Margery Hunter Brown Assistantship, a grant created in honor of Professor Brown to encourage students to explore areas of the law--Indian law, natural resources, and public lands, in which she specialized. Lillian, as the 24th recipient, will present on "Effective Advocacy for Addressing Domestic Violence Throughout Indian Country in Montana," a topic she advanced in her application. As I viewed the invitation, I was struck by the photos of both Professor Brown and Lillian and the differences that each image conveyed. Professor Brown, consistent with how I knew her, looks calm and determined, filled with wisdom, a quiet force who left a lasting impact on Native American Tribes, colleagues and the students she taught and mentored. Lillian's, with her bright eyes and enthusiastic smile, conveys a youthful energy and determination, eager to venture into a legal career focused on improving lives.

I was excited to learn about Lillian's study and recommendations, and know that Professor Brown would be pleased that another student may have found a path to a meaningful legal career. While this event has very little to do with my current work, it energizes me and reminds me of the importance of the opportunities to honor distinguished leaders like Professor Brown, to create pathways for student development and leadership, and ultimately provide opportunities to advance the law and improve our communities. Lillian's story also reminds me of the value of relationships that we share, the value of the core group of attorneys that shepherds this assistantship, and how efforts towards building relationships can improve the quality of our work and our lives. Now as the State Bar's president-elect, I hope to encourage other members of our bar to become involved in activities, sections, groups or projects that may provide similar opportunities to advance the law and to improve our communities.

As president-elect, I intend on keeping members informed and to celebrate our achievements. Recently, the Board of Trustees participated in our annual strategic planning session. Under the cover of pines at the Double Arrow Lodge in Seeley Lake

and with facilitation (gratis) by ALPS Executive Vice-President Chris Newbold, the trustees gathered with other important stakeholders, Dean Paul Kirgis of the Blewett School of Law at the University of Montana; Alison Paul of Montana Legal Services; New Lawyers Section Chair Meri Althaus; and Montana Justice Foundation Executive Director Niki Zupanic, to discuss challenges to the profession, issues within the organization, and advances that will change the practice or delivery of legal services.

We arrived at two primary goals for the upcoming year. First, with the retirement of Executive Director Chris Manos, the board is focused on securing a qualified executive director. Presently the hiring committee has reviewed more than 20 applications and is conducting initial interviews, vetting applicants according to skills and traits identified as essential by the Trustees. In August, the full board will meet to interview the top applicants, with a goal of having a new executive director selected by the Annual Meeting in September. Second, the trustees, after thorough review of the organization's budgetary projections over the next three to five years, voted to petition the Montana Supreme Court for a modest dues increase to adequately fund the bar's operating costs. The details of these projections are more thoroughly addressed in the bar's recently filed report to the Supreme Court. The petition will seek to increase the dues for active bar members by an amount ranging from \$85 to \$100, with proportionally lesser increases in the other membership classes, \$65 for inactive and \$25 for senior members.

As president-elect, I am honored to serve the unified bar and to have an opportunity to work with the diverse, intelligent, creative and committed trustees who you have elected, as well as the many organizations and groups involved in the legal community. Together, we will work to advance the rule of law and address the ever-changing legal landscape, while recognizing the unique aspects of the practice of law in Montana. During my tenure, I look forward to creating an atmosphere that fosters opportunities to deepen our relationships, with the ultimate goal of advancing the legal profession.



The Honorable Leslie Halligan of Missoula is a 4th Judicial District judge. Before her appointment as district judge, she served as a standing master in the 4th Judicial District and as a deputy county attorney in Missoula County.

### Clark and Henkel join Terrazas in Missoula

Elizabeth Clark and Dana Henkel have joined Robert Terrazas to form Terrazas Clark Henkel, PC in Missoula. The firm continues the practice of Terrazas Law Offices in litigation of personal injury, employment, complex divorce and child



Henkel

custody, real estate, probate, and criminal defense as well as estate planning, business formations, and contracts.

Henkel is a 2012 graduate of Southern Methodist University School of Law and practiced civil litigation and criminal defense in Great Falls before joining Terrazas Law Offices in 2015. She will continue to practice complex litigation and expands the firm's criminal defense practice.



Clark

Clark joined Terrazas Law Offices as a legal assistant in 2006, and has practiced with the firm since her admission to the bar in 2012. In 2016, she received her Masters of Law in Taxation from the University of Washington School of Law. Her practice expands the firm's estate planning, probate, business formation, business succession planning, and real estate transactions with a focus on tax planning and advising.

Terrazas Clark Henkel PC can be reached at 1923 S. Higgins Ave. Missoula, MT, 59801; 406-541-2550; or [attorneys@terrazaslaw.com](mailto:attorneys@terrazaslaw.com).

### Wallace to head new Helena branch office of Odegaard Braukmann Law

Odegaard Braukmann Law, PLLC, in Billings has announced that Lucas Wallace has joined the firm. Wallace will head the firm's opening of a branch office in Helena, located in the Power Building, 7 West Sixth Ave., Suite 517. Wallace will focus primarily on representing injured workers in workers' compensation claims.



Wallace

Wallace is a 2003 graduate of the University of Wyoming and a 2014 graduate of the University of Wyoming College of Law. He is licensed in the state and federal courts for Montana, Wyoming, and North Dakota. Prior to joining Odegaard

Braukmann Law, PLLC, Wallace was an associate attorney with Crowley Fleck, PLLP, where he practiced in the areas of workers' compensation defense and insurance defense. Wallace can be reached at [lucas@oblawmt.com](mailto:lucas@oblawmt.com) or 406-457-5537.

### Block joins Bozeman firm Guza, Nesbitt & Putzier

Guza, Nesbitt & Putzier, PLLC, a full service litigation, family law and transactional law firm is pleased to announce the

addition of Nathaniel T. Block as an associate attorney.

Block was born and raised in Oakland, California, where he cultivated a love for all things outdoors. He attended San Jose State University and graduated with a bachelor's degree in political science. While an undergraduate, he worked at the California Legislature and gained keen insight into the legislative process. His passion for the outdoors and the law led him to the University of Montana School of Law where he graduated in 2014.

During law school Block interned at the Montana



Block

Department of Natural Resources and Conservation, where he worked on forestry, land management, and wildfire suppression issues. He is interested in and has written about federal land management issues. During the course of his time with the DNRC, he worked closely with state and federal agencies to reach positive outcomes for all concerned.

After graduation, Nathan was hired by Oracle America and moved to Bozeman.

With a background in computer systems, he worked with Oracle's Legal Department in the negotiation of Cloud Service Agreements and Oracle Master Agreements. Oracle provided Nathan with valuable experience both negotiating and preparing commercial contracts.

Block left Oracle to join Guza, Nesbitt, & Putzier, PLLC in May 2017. He will be applying the skills he has learned in life, school and work to his position, focusing on transactions, litigation defense and municipalities.

You can contact him at: Guza, Nesbitt & Putzier, PLLC, 25 Apex Drive, Suite A, Bozeman, MT, 59718; phone, 406-586-2228; fax, 406-585-0893; or email, [nblock@gnplaw.com](mailto:nblock@gnplaw.com).

### Winderl joins Markette & Chouinard in Hamilton

The law firm of Markette & Chouinard P.C. has announced that Megan S. Winderl has joined the firm as an associate attorney. Winderl originally hails from the Bitterroot Valley, where she grew up on a registered cattle ranch.

In 2003, Winderl graduated from Montana State University with a Bachelor of Science degree in animal science. In December 2016, she earned her Juris Doctor degree from the University Of Montana School Of Law. In law school, she participated on the Jessup International Moot Court Team, in addition to serving as co-president of the Rural Advocacy League, and class representative on the Environmental Law Group. She also served as a law clerk for Markette & Chouinard, P.C., and clinical intern for Mark Phares of the Department of Natural Resources and Conservation.

She is admitted to practice in all Montana courts, and her practice will emphasize water law, agriculture law, real estate, administrative law, and business transactions. Markette & Chouinard P.C. is a Hamilton-based law firm and represents clients throughout the region.



### Klanke hired as staff attorney for MCADSV's Sexual Assault Legal Services project

The Montana Coalition Against Domestic and Sexual Violence (MCADSV) has hired Patricia Klanke as the staff attorney of its Sexual Assault Legal Services project.



Klanke

This statewide program staffs two attorneys and provides civil legal services to survivors of sexual assault throughout the state of Montana. Matters handled by this project include orders of protection, housing, educational advocacy, crime victim rights, and a variety of other legal issues faced by survivors of sexual violence.

Klanke attended the George Washington University Law School in Washington, D.C., where she worked with Legal Services of Northern Virginia to provide civil legal representation to domestic violence survivors. After graduation, she clerked for Chief Justice Mike McGrath and Justice Laurie McKinnon of the Montana Supreme Court. Most recently, she worked as a civil defense litigator at the Drake Law Firm, P.C. in Helena. She is also an active member of the 1st Judicial District Pro Bono Committee and has served as the coordinator of the monthly Limited Scope Advice Clinic in conjunction with Montana Legal Services Association

The Montana Coalition Against Domestic and Sexual Violence is comprised of over 50 member programs across Montana that provide direct services to victims and survivors of domestic and sexual violence and their children. In addition, MCADSV membership includes other nonprofit and government organizations and individuals (professionals and members of the general public) who are interested in preventing and appropriately responding to domestic and sexual violence in our communities, and in supporting survivor dignity and autonomy. For more information, visit MCADSV's website: [www.mcadsv.com](http://www.mcadsv.com).

### Bilyeu joins as shareholder at Jackson, Murdo & Grant law firm in Helena

Nathan Bilyeu has joined the law firm of Jackson, Murdo & Grant, P.C.



Bilyeu

Bilyeu joins the firm as a shareholder focused on business and employment law, general civil litigation, and municipal finance.

Bilyeu graduated with honors from The George Washington University Law School in 2013. Prior to attending law school, he earned bachelor's and master's degrees in political science from the University of Montana.

## Mark your calendars!

The Alexander Blewett School of Law at the University of Montana invites you to participate in:

### On-Campus Interviews Fall 2017

Interview 2L, 3L, and recent graduates for intern, law clerk, and associate positions during our semi-annual on-campus interview program.

To advertise a position and set up an interview schedule on our new career services management program, Networkx, please visit:

<https://law-umt.12twenty.com/hire>

If you prefer to have us manage your job posting, please complete the OCI posting form found here and return it to our office:

[www.umt.edu/law/careerservices/employers/](http://www.umt.edu/law/careerservices/employers/)

Or contact Lori Freeman at

[LawCareerServices@mso.umt.edu](mailto:LawCareerServices@mso.umt.edu) | 406.243.2698

### October 5 - 6 & October 12 - 13

Alexander Blewett III  
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### Boland Aarab law firm opens in Great Falls

Caitlin Boland Aarab and Samir Faerevik Aarab announce the Aug. 1, 2017, opening of their firm, Boland Aarab PLLP, in Great Falls. The firm emphasizes consumer protection, personal injury, and appellate work. Additionally, Caitlin and Sam are both CJA



Boland Aarab

panel attorneys, contract attorneys with the State Office of the Public Defender, and members of the 9th Circuit's Pro Bono program.

Caitlin is a Great Falls native. She graduated from Georgetown University, and completed her master's degree at the University of St Andrews in Scotland. She received her JD from the University of Montana. After law school, she completed judicial clerkships with the Honorable Patricia O. Cotter of the Montana Supreme Court and Chief Judge Sidney R. Thomas of the 9th Circuit Court of Appeals.



Aarab

Sam was raised in Norway and Morocco. He graduated from the University of St Andrews with an undergraduate and a master's degree. He earned his JD from the University of Montana. Following law school, Sam clerked for Chief Justice Mike McGrath of the Montana Supreme Court and Yellowstone County District Judge Gregory Todd.

Boland Aarab PLLP is located at 501 Central Ave., Suite 207, Great Falls, MT 59401. You can reach them at 406-315-3737, Caitlin at cbaarab@bolandaarab.com, and Sam at sfaarab@bolandaarab.com. For more information, please visit [www.bolandaarab.com](http://www.bolandaarab.com).

### Fox opens law office in Kalispell



Fox

Andrea Fox announces the opening of her new firm, Fox Law Firm in Kalispell.

A native of Helena, Fox earned her undergraduate and law degrees from the University of Montana. Her areas of practice are family law, collaborative law, mediation, personal injury law, contract legal services and simple wills. She is a founding member of Montana Collaborative Professionals.

Fox still practices part time with her father,

Andy Utick, at the Utick Law Firm in Helena. The Kalispell firm is now her primary practice.

You can reach her at Fox Law Firm, P.O. Box 9621, Kalispell, MT 59904; [afox@mtfoxlaw.com](mailto:afox@mtfoxlaw.com); or [www.mtfoxlaw.com](http://www.mtfoxlaw.com).

### Coleman takes position with Google



Coleman

Ryan Coleman has accepted a position with Google, where he will be negotiating commercial cloud transactions for Google's Platform as a Service (PaaS) business.

Coleman will be based in Google's newly opened Chicago office. He is a 2007 graduate of the University of Montana School of Journalism, and a 2010 graduate of the University of Montana School of Law's joint JD/MBA program.

### Montana Lawyer accepting article proposals

The Montana Lawyer is always accepting proposals for substantive, practice-oriented articles on any topic.

If you have an article you would like to propose, or you would like to request a manuscript guideline, please contact editor Joe Menden at 406-447-2200 or [editor@montanabar.org](mailto:editor@montanabar.org).

### Have Member News to Submit?

Do you have news you would like to share with the Montana legal community? The Montana Lawyer welcomes submissions from Montana attorneys about new jobs, honors, publications, and other accomplishments, which are free to submit.

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

# 406-683-6525

## Montana's Lawyers Assistance Program Hotline

Call if you or a judge or attorney you know needs help with stress and depression issues or drug or alcohol addiction .

## Joscelyn releases series of legal thrillers

Helena lawyer Alan Joscelyn has released three books in a series of legal thriller novels.

The stories follow Miles Patrick, a lawyer who hates smartphones, likes jazz and stray cats, and gets his legal strategy from a group of retired lawyers who meet for coffee, cards and gossip in the backroom of a bar he owns downstairs from his law offices.

It's immediately easy to see some similarities between Miles – a Montana lawyer whose offices are on Helena's Last Chance Gulch – and Joscelyn, who until four years ago was a partner at Gough, Shanahan, Johnson & Waterman, located on the Gulch.

Joscelyn said the books, which he wrote over the past few years, arise out of experiences from his practice, with characters also drawn from his experiences – some of whom you might recognize.

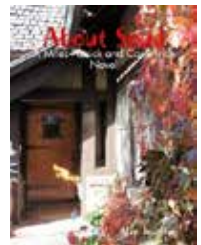
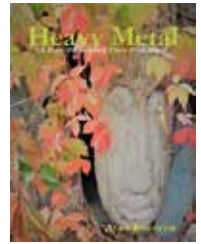
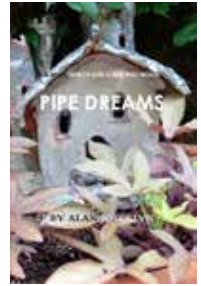
In the first book, "About Spud" (September 2016), Miles receives a mysterious letter from a former client who died many years ago – along

with some stock certificates the client had signed over to him. The package launches Miles on a cross-country race against time and into the crosshairs of someone who doesn't want him to find the answers he is looking for.

In "Heavy Metal" (February 2017), Miles' pre-honeymoon expedition with his fiancée, Casie, gets derailed when Miles is pulled into intrigue involving the long-ago history of his Venetian palazzo, putting their lives and future in jeopardy.

In "Pipe Dreams" (July 2017), Miles is persuaded to travel to an Irish village where he has become the owner of an old manor house. But his arrival there draws him into a deadly intrigue involving an artifact whose origins are lost in antiquity, and confronts him with the compromising history of his own Irish ancestors.

All three books are currently available in paperback – the first two also in ePub format – at lulu.com. All three books soon will be available in Kindle and paperback formats at amazon.com.



Alexander Blewett III

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- Pippa Browde
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- Elaine Gagliardi
- Jonathan Blattmachr





# Former US Attorney Cotter takes over as Office of Disciplinary Counsel chief

Former U.S. Attorney for Montana Mike Cotter is the new chief disciplinary counsel for Montana.

Cotter, who started in the position on July 3, will oversee the Office of Disciplinary Counsel, which handles disciplinary matters for all attorneys licensed in Montana. He takes over for Shaun Thompson, who served as chief disciplinary counsel for 12 years before retiring June 30.

Cotter, 67, has practiced in Montana for 40 years. He said the law has been very good to him and his wife, retired Montana Supreme Court Justice Patricia Cotter, and he views this as an opportunity to give back to the legal community.

"I'm looking forward to innovative ways that we can provide assistance to attorneys faced with disciplinary matters," Cotter said.

Montana Supreme Court Chief Justice Mike McGrath, announced the appointment on June 9. He said Cotter's extensive experience in civil and criminal practice was an ideal fit, and he is confident Cotter will continue Thompson's good work.

"We are very lucky he was interested in the position," McGrath said.

ODC is part of a comprehensive lawyer regulation system established by the Montana Supreme Court in 2002. It performs central intake functions and processes, investigates and prosecutes complaints against lawyers before the Commission on Practice. It is funded by assessments paid by attorneys licensed in Montana.

Prior to being appointed at ODC, Cotter was the U.S. Attorney for Montana from 2009-2017.



Cotter

## Riley, Halligan selected as officers on Missoula Aging Services Governing Board

Two State Bar of Montana members are officers on the Missoula Aging Services Governing Board for 2018.

Larry E. Riley (retired partner from Garlington, Lohn & Robinson, is vice chair of the 12-member board; 4<sup>th</sup> Judicial District Judge Leslie Halligan, who is also president-elect of the State Bar, is treasurer.

## Information on requesting a refund for portion of dues that paid for bar's legislative lobbying

The U.S. Supreme Court has ruled that unified bars in which membership and dues are mandatory must refund a portion of those dues when the association lobbies on a legislative bill in a stance with which a member doesn't agree.

If you would like to request a refund, list the bill on which you disagreed with the State Bar's position and send the list to: Lobbying Refund, State Bar of Montana, P.O. Box 577, Helena, MT 59624.

The following are bills that the State Bar of Montana took a

position on in the 2017 Montana Legislative Session. Bills the bar supported are indicated by (S), and opposed by (O)

- HB 2 -- General Appropriations Act. (S, Judicial Branch)
- HB 44 -- Generally revise laws related to district court judge numbers. (S)
- HB 46 -- Generally revising funding for civil legal aid. (S)
- HB 65 -- Revise budget consultation between public defender offices. (S)
- HB 109 -- Require every applicant for public notary to pass an exam. Sponsor: Rep. Jean Price, D-HD 24 Died in standing committee\* (O)
- HB 521 -- Revise laws related to representation of LLC. (O)
- SB 195 -- Generally revise laws related to unincorporated nonprofit associations. (O, with amendments)
- SR19 -- Confirm Governor appointees to the Judiciary. (S)
- SR 22 -- Confirm Governor's appointee to 5th Judicial District. (S)
- SR 54 -- Confirm Governor's appointee to 8th Judicial District Court. (S)



# Court taking comment on breastfeeding accommodations during bar exam

The Montana Supreme Court on Thursday adopted an interim rule allowing accommodations for breastfeeding mothers taking the bar exam.

The rules took effect immediately to allow the accommodations for those who took the July 2017 exam. The court will take public comment before implementing the rule permanently.

In the interim rules, the types of accommodations that may be granted include, but are not limited to:

- Permission to bring necessary medical equipment and supplies, including a breast pump, storage supplies and a cooler;
- A private or semi-private location with an electrical outlet, if requested, to breastfeed or express breast milk; and
- Stop-the-clock breaks up to 15 minutes per each three-hour

testing period to be used solely for the purpose of breastfeeding the infant or breast pumping.

On Feb. 9, the court denied a petition for accommodations from a February 2017 exam applicant, ruling that it received the request too close to the exam date. At that time, the court asked the Board of Bar Examiners to submit a report with recommendations for any policy or rule changes that the accommodations would require.

The board submitted a petition on June 26 calling for a rule change that includes the accommodations listed above.

The court will take public comment through Sept. 5 on whether to make the rule permanent. All comments must be made in writing and filed with the Clerk of the Supreme Court.

## DISCIPLINE

Bozeman attorney Lucas J. Foust was indefinitely suspended from practicing law in Montana for mishandling funds in an IOLTA account.

The Supreme Court accepted the Commission on Practice's recommendation that Foust be suspended for an indefinite period of not less than seven months.

According to the commission's findings of fact, between February 2011 and October 2014, Foust a solo practitioner, disbursed all or part of his attorney fees and out-of-pocket expenses in anticipation of settlement proceeds for cases associated with those fees.

In the same period, Foust distributed some clients' shares of anticipated settlement proceeds from his IOLTA account before he received the settlement proceeds in their cases, using trust funds that belonged to other clients and his own earned fees from settled cases to cover improperly withdrawn funds. Between April 2012 and February 2015 Foust did not give a number of clients all the money owed to them.

The Office of Disciplinary Counsel conducted a forensic analysis of Foust's accounts after Foust self-reported an overdraft on his IOLTA trust account, determining that he transferred \$180,000 not belonging to him from his IOLTA account to his operating account.

The commission found that, although the case did not involve deliberate "stealing" from a trust account, it was "an egregious example of an attorney who took virtually no steps to maintain even the semblance of an accounting of his clients' funds."

In addition to the suspension, Foust was ordered to pay the costs of the proceedings, including ODC's costs in reconstructing his record.

## Morris receives public censure

Helena attorney Jack Morris received a public censure from the Montana Supreme Court in April for multiple violations of

the Montana Rules of Professional Conduct in his handling of a quiet title action.

Morris admitted to violating: Rule 1.4 by failing to keep his client informed of the status of litigation; Rule 1.2 by effectively declining a settlement offer without his client's consent, knowledge or authority; Rules 1.1 and 1.3 by failing to competently represent his client's interests; Rule 1.16 by failing to withdraw as counsel when warranted by his compromised medical condition; and Rule 8.1 by failing to timely respond to demands for information from the ODC.

Morris said he suffered a traumatic brain injury in a motor vehicle accident during this time frame that caused loss of short-term memory, confusion and inability to focus and concentrate.

## Court sets aside Braukmann suspension

The Supreme Court on June 6 set aside Billings attorney Michelle Braukmann's interim suspension over convictions on two criminal charges involving driving under the influence.

The court determined that Braukmann's compliance with the terms of her probation are sufficient to ensure her sobriety.

## APPOINTMENTS

### McLean appointed to Access to Justice Commission

Daniel McLean of Helena was appointed on July 5 as the State Bar's representative to the Supreme Court's Access to Justice Commission.

McLean takes the position of Randy Snyder, who resigned during his second term on the commission effective June 9. The term ends on Sept. 30, 2019.

See **ORDERS**, page 37

# Court rejects petitions on failing bar grades

The Montana Supreme Court in July rejected a petition from a February 2017 bar exam taker who said a disturbance during the testing led to his failing the exam.

The exam taker said he was distracted during the exam by the continued coughing and moving about of an IT administrator, had asked the court to award him the 4.3 extra points he would have needed to achieve a passing score of 266.

In response, the state Board of Bar Examiners acknowledged that the IT administrator presented a distraction but said that other examinees who sat in close proximity to the petitioner received passing scores. The board argued that it would be difficult and arbitrary to determine an appropriate test credit due to the distraction.

There were no other formal complaints about the disturbance, although there were additional complaints during the exam.

The petitioner cited a 1983 North Dakota case, *Petition of Thompson*, 342 N.W. 2d 393, in which the North Dakota Supreme Court granted admission to a petitioner who failed

the bar exam and cited disturbances during the testing.

The court noted significant differences in the cases, including North Dakota legislation that authorized its Supreme Court to grant admission to applicants who the court “considers entitled thereto.” Also, the court determined that the disturbance at the February exam did not rise to the level of the North Dakota case, where multiple irregularities occurred.

### Exam grading complaint denied

The court in June denied another exam taker’s request to have the essay portion of the February exam reviewed and regraded.

The petitioner, who failed by one point, claimed unfair and inconsistent grading.

The court ruled that it was not persuaded that the petition demonstrated the need to override the Rules of Admission prohibiting “additional substantive review” of examination grading, and if the court allowed such a review, regrading would become commonplace, complicating the exam process.

# Absolutely. Positively. Neutral.



BRADLEY D. BONNER

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# Wheat announces he will retire as Supreme Court justice at end of year

By Joe Menden

Montana Supreme Court Justice Mike Wheat has announced his plans to retire at the end of this year.

Justice Wheat, 69, said that it's time for him to start a new chapter in his life, but he isn't going anywhere – he will stay in Montana, and he plans on keeping his bar membership active.

"It's been my privilege and honor to represent the state of Montana, and more specifically the professional bar in Montana," Justice Wheat said. "I've been a member of the bar since 1978. I've got many friends in the bar, and they'll continue to be my friends."

He submitted a letter on July 25 informing Chief Justice Mike McGrath of his plans.

Justice Wheat said his retirement is in no way health-related. In fact, it's just the opposite – he is in great health, and he wants to spend some time with his wife, Debby, also retired, while they both still enjoy a good quality of life.

"I'm turning 70 (in December)," he said. "It's time for us to spend a little time together."

Wheat was appointed by Gov. Brian Schweitzer in 2010 to replace retired Justice John Warner.

He was re-elected in 2014, beating Lawrence VanDyke in the most expensive judicial race in state history. Estimates put the total spending at \$1.6 million in that race.

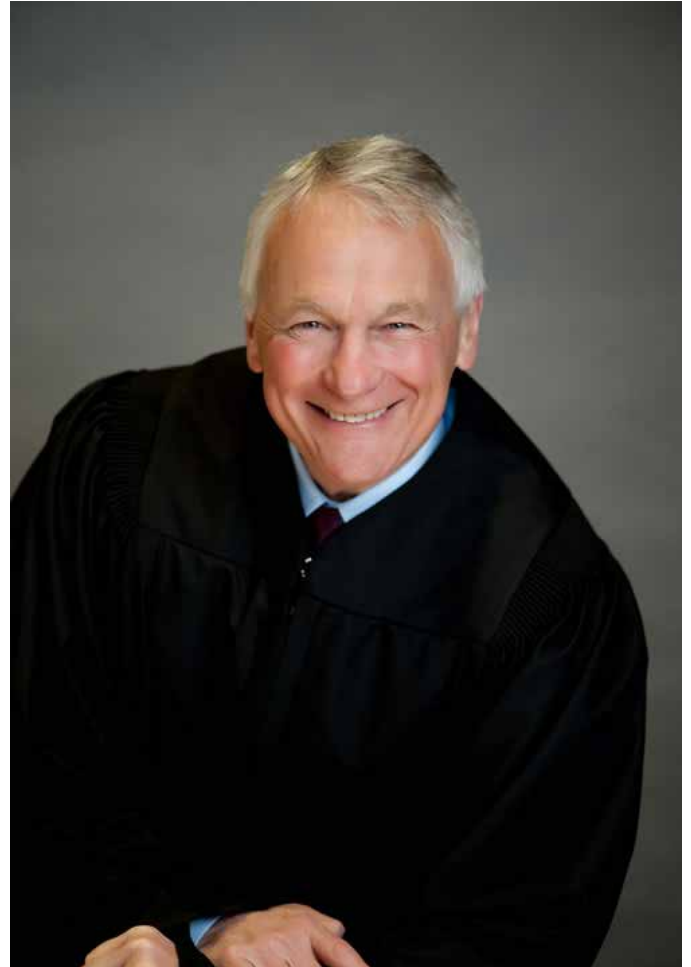
He has five years remaining in his eight-year term. He serves on the court's Uniform Law Commission.

Wheat was elected to the Montana Senate in 2002, serving in the 2003 and 2005 sessions. He was chair of the Senate Judiciary Committee.

Wheat is a U.S. Marine Corps veteran. He served in Vietnam from 1968-1969 and was awarded a Purple Heart.

Wheat graduated from the University of Montana with a political science degree in 1975, and earned his law degree from the University of Montana in 1978.

After graduation, he worked as a Deputy County Attorney in Butte until 1981. He moved to Bozeman, where he established a private law practice, where he worked for nearly 30 years until joining the court in 2010. His practice focused on civil trial and appellate advocacy.



Justice Mike Wheat

His replacement will be filled through the judicial nomination process. Gov. Steve Bullock will appoint a replacement from a group of candidates to be nominated by the Montana Judicial Nomination Commission. The application process had not opened as of July 31.

“

*It's been my privilege and honor to represent the state of Montana, and more specifically the professional bar in Montana,*

”

# Fagg retiring as Yellowstone District Court judge

The Honorable Russell C. Fagg, Yellowstone County District Court judge, is retiring effective Oct. 13, Chief Justice Mike McGrath has announced.

The Judicial Nomination Commission is now accepting applications from any lawyer in good standing who has the qualifications set forth by law for holding the position of district court judge.



Fagg

The application form is available electronically at [http://courts.mt.gov/supreme/boards/jud\\_nomination](http://courts.mt.gov/supreme/boards/jud_nomination). Applications must be submitted electronically as well as in hard copy. The deadline for submitting applications is 5 p.m., Thursday, Aug. 10. The commission will announce the names of the applicants thereafter.

The public is encouraged to contact commission members regarding the applicants during the public comment period, which will begin Friday, Aug. 11, and close Sunday, Sept. 10.

The commission will forward the names of three to five nominees to the governor for appointment after reviewing the applications, receiving public comment, and interviewing the applicants if necessary. The position is subject to election in 2018. The successful candidate will serve a six-year term. The annual

salary for the position is \$132,567.

## Commission makes nominations for open 7th Judicial District, work comp court seats

The Judicial Nomination Commission on July 11 submitted three names to Gov. Steve Bullock for a 7th Judicial District judge opening.

They are Matthew Robertson of Great Falls, Olivia Rieger of Glendive and Cynthia Thornton of Glendive. The governor must choose one of the three within 30 days of receiving the names.

The commission on July 6 nominated David Michael Sandler to Gov. Bullock for consideration for reappointment as workers' compensation judge. The governor must make the appointment within 30 days. If reappointed, Judge Sandler will serve a six-year term subject to Senate confirmation at the next regular or special legislative session.

## McElyea reappointed as chief water judge

Chief Justice Mike McGrath on July 6 reappointed Russ McElyea to his second term as chief water judge for a four year term ending July 31, 2021. His appointment is subject to confirmation by the Senate.

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## **WINNERS**

### **WILLIAM J. JAMESON AWARD**

ROBERT MINTO, FOUNDER OF ALPS

### **GEORGE L. BOUSLIMAN PROFESSIONALISM AWARD**

ALAN JOSCELYN, CHIEF DEPUTY AG, RETIRED

JONATHAN MOTL, FORMER COMMISSIONER OF POLITICAL PRACTICES

### **FRANK I. HASWELL AWARD**

(OUTSTANDING MONTANA LAWYER ARTICLE)

MICHAEL MANNING, BILLINGS

TRENT HOOPER, FOLSOM, CALIF.

### **KARLA M. GRAY EQUAL JUSTICE AWARD**

THE HONORABLE KAREN TOWNSEND, MISSOULA

### **NEIL HAIGHT PRO BONO AWARD**

HELIA JAZAYERI AND TRAVIS DYE

KALKSTEIN, JOHNSON AND DYE, MISSOULA

### **Awards to be presented at State Bar's 2017 Annual Meeting in September**

The State Bar annual award winners will receive their honors at the 43rd Annual Meeting, held Sept. 20-22 at Fairmont Hot Springs.

Look for profiles of the Haswell and Bousliman awards in the September issue of Montana Lawyer.

## WILLIAM J. JAMESON AWARD



Photo courtesy of ALPS

**Robert Minto, founder of ALPS lawyer malpractice insurance, is the winner of the 2017 William J. Jameson Award, the highest award bestowed by the bar.**

# Minto and ALPS 'stabilized an industry'

**By Joe Menden**

When Robert Minto learned he is the State Bar of Montana's 2017 William J. Jameson Award, he said, two thoughts entered his mind: First, they've made a horrible mistake. Second, there must've been nobody else up for the award.

The founder and former longtime CEO of ALPS lawyer malpractice insurance was being very modest.

Minto's innovative approach brought stability to attorneys in Montana and other states that had been thrown into chaos during a malpractice during an insurance crisis in the mid-1980s. Today ALPS insures nearly 17,000 attorneys and

is endorsed by 17 state bars, including Montana – more than any other malpractice carrier.

The Jameson Award is the highest honor bestowed by the State Bar of Montana. The bar has given the Jameson Award annually since 1989 to an attorney who exemplifies ethical conduct and professionalism, is devoted to the public good, promotes competence of lawyers and judges, and participates in educating the public about the legal system.

Minto was nominated by Chris Newbold, executive vice president of ALPS.

"Mr. Minto embarked on a concept as a Montana lawyer with an entrepreneurial spirit which today has materialized into one of the most respected companies serving the

legal profession,” Newbold wrote in his nomination letter. “Few appreciate the hard work and dedication it took to launch ALPS, and the extent to which Mr. Minto traveled the country to build support for the ALPS concept. Early adopters were swayed by Mr. Minto and the company’s philosophy to make surplus contributions (in addition to their policy premiums) to a concept some thought never stood a chance. Mr. Minto, in conjunction with a dedicated group of other committed bar volunteers, proved them wrong and quickly stabilized an industry.”

The Past Presidents Committee, which chooses the Jameson winner, agreed, selecting Minto out of a field of five nominees.

Members of the committee were as moved by the impact of his philanthropic, educational and volunteer contributions as they were by his company’s stabilizing effect on the insurance market.

Through Minto’s leadership over the years, ALPS supported the Lawyers Assistance Program, helped make the State Bar’s Roadshow a free event, launched a mentoring initiative, contributed to the Rookie Camp/New Lawyers Workshop, and paid for complimentary registrations to the Annual Meeting for new lawyers.

Minto has served on the Lawyers Fund for Client Protection for nearly 25 years, including seven years as its chair, and has served on the Montana Justice Foundation board of directors for nearly 20 years. He and his wife, Bonnie, are in MJF’s William J. Jameson Circle as among the nonprofit’s biggest lifetime contributors. ALPS is also in the Jameson Circle. He twice has received the State Bar’s Distinguished Service Award.

He also has always found time for pro bono work and is a past winner of the bar’s Pro Bono Award.

But ALPS remains his biggest legacy.

As Minto tells it, the malpractice insurance crisis of the 1980s was sparked when St. Paul Insurance Company stopped issuing malpractice policies on an occurrence basis, offering only claims-made policies. Every insurer pulled out of Wyoming, and nearly all of them pulled out of Montana. Premiums rose from \$500 to \$3,000 almost

overnight, in some cases for a fraction of the coverage.

“It was a frightening time,” Minto said.

At the time Minto was on the bar’s insurance committee, and he was asked to look into the feasibility creating a “captive” company for Montana.

“I didn’t know how to spell captive let alone do it at the time,” Minto said.

When he investigated, he quickly found out that Montana, with only 1,600 attorneys at the time, could never support a captive company. It took states with 25,000 lawyers to have a big enough premium pool to cover the risk.

Attorney Dan Callahan of West Virginia came up with the idea to create a captive for multiple bar associations.

Minto didn’t have any expertise in the area, he said. But he was determined to make it work. In 1985, he became president and CEO of the newly formed American Liability Protection Society. The company started issuing policies in 1988. By September of that year, 400 attorneys were covered by ALPS.

By 1990, ALPS was successful enough that he was able to leave as Of Counsel attorney for Missoula’s Worden, Thane & Haines law firm. The rest was history.

Minto said when he looks back at the others who have won the award and what they have meant to the profession – giants such as Jack Dietrich and Jeremy Thane – he’s never looked at what he did at ALPS as being on a par.

He added that it’s the people who don’t get published about who really make a difference: attorneys from Montana Legal Services Association, the public defenders, the county attorneys.

“I would hope that if in the final analysis I did anything for the bar, it would be to motivate younger members of the bar to be involved and to be passionate about being a lawyer for the sake of being a lawyer, not for the sake of make a living,” Minto said.

“Lawyers do make a difference. I want lawyers to remember why they exist. That’s to serve the public, to serve people. “

Jackie Robinson once said that ‘a life is not important except in the **impact** it has on other lives.’ By that standard, (Robert) Minto has enjoyed an extraordinarily rich life. His impact on others has been **profound**, his achievements **well-documented** and his commitment to the ideals underlying the Jameson Award have been steadfast.

Chris Newbold, executive vice president of ALPS  
from his letter nominating Minto for the 2017 Jameson Award

# A passion for pro bono

By Joe Menden

For Helia Jazayeri, doing pro bono work isn't just about getting enough hours to meet a yearly goal; it's the best part of her job.

Jazayeri loves working on her landlord-tenant cases so much that she often canvasses the offices at Kalkstein, Johnson & Dye – where she is the only associate in a firm with three partners – to ask the other attorneys if she can use their pro bono hours to take on more of them.

Jazayeri and Travis Dye, one of the firm's partners, were recently selected as the winners of the State Bar of Montana's 2017 Neil Haight Pro Bono Award. Between them, Dye and Jazayeri have reported hundreds of hours of pro bono the past two years – and Jazayeri alone already has put in over 100 pro bono hours for this year.

Still, she said, they both were “absolutely floored” to find out they were chosen for the award.

“Because of who Neil Haight was and the history of the award, it's special,” she said. “This one means a lot to us, because we have decided that this work is important. It's a huge, huge honor.”

Jazayeri said she feels lucky that Dye and the firm's other two partners, C.J. Johnson and Gary Kalkstein, all do pro bono work themselves and value and support her pro bono work. She especially appreciates Dye, whom she calls her mentor.

“Travis is the brains behind the operation,” she said. “He opened the door to starting it all.”

“She's giving me too much credit,” Dye said. “She does tell me that, (but) she is the one with the great amount of passion, especially for landlord-tenant work, really diving in and making sure the wrongs are righted. She's really the driving force, and she's had some great results.”



Photo provided

**Travis Dye and Helia Jazayeri, whose landlord-tenant pro bono work numbers in the hundreds of hours, are the 2017 Neil Haight Pro Bono Award winners.**

Jazayeri has a simple answer for why she devotes so much of her time to doing work with no expectation of pay. The firm's civil litigation in construction defect, property damage and personal injury cases are important to the clients and pay the firm's bills, the battle usually

boils down to how big the settlement is going to be. That's not what keeps her up at night.

When a person faces being thrown out on the street because of a landlord's

**HAIGHT**, page 36



# Missoula District judge leading by example in bridging justice gap

By Joe Menden

The Honorable Karen Townsend learned firsthand about Montana's justice gap when she started taking pro bono family law cases after retiring as Missoula's chief deputy county attorney in 2006.

Having never practiced family law before, she said, she was learning on the fly. One of the biggest lessons, she said, was how appreciative her clients were just to have someone to listen to them and their needs. Those needs, she said, are often so basic, they would never occur to her before.

"Just being acquainted with folks who don't have any backup, it really is a stark reminder," she said.

She learned more about just how great the need is when she became a district judge in 2011. In up to 70 percent of family law cases, she said, there is no lawyer on at least one side, and usually no lawyer on either side.

That is why Judge Townsend has made working on access to justice issues a priority since joining the bench. Since 2015 she has served as the coordinator and on the board of advisers of the Missoula County Self-Help Center and worked closely with the Western Montana Bar Association and Montana Legal Services Association on their pro bono programs.

"We as judges see an awful lot of people who do not have counsel," she said. "They have significant needs. Having folks who are willing to donate is critically important."

Judge Townsend was recently selected as the 2017 winner of the Karla M. Gray Equal Justice Award for her efforts. She will receive the award at the State Bar of Montana's Annual Meeting at Fairmont Hot Springs Sept. 20-22.

She was nominated for the award, which honors a judge from any court who has demonstrated dedication to improving access to Montana courts, by her colleague in the 4th Judicial District, the Honorable Leslie Halligan, with five others writing letters in support.

One of those was Debra Steigerwalt, senior law clerk to the Honorable James Haynes in the 21st Judicial District and the district's liaison to the WMBA and the self-help law center.

Steigerwalt cited numerous examples of Judge Townsend's qualifications for the award, among them her response to two critical issues that recently threatened to interfere with the self-help center's work demonstrate her commitment to access to justice. She led by example when the center last year learned of errors and accessibility issues in its family law form packets, developing a plan to update the packets and make them accessible on the center's website. Within a week, she revised two of the packets consisting of 19 forms, which were used as



Photo provided

**The Honorable Karen Townsend is the winner of the 2017 Karla M. Gray Equal Justice Award.**

the model to revise the rest of the packets. Later last year, when concerns were raised that the center was improperly giving legal advice by performing child support calculations, she developed a separate referral mechanism for parents for whom a judge had already approved an affidavit of inability to pay.

## Poignant timing for honor

Judge Townsend said receiving the Equal Justice Award this year is especially poignant because it comes just months after Chief Justice Karla Gray, the award's namesake, died in February at age 69.

GRAY, page 36

# Join us at fabulous Fairmont for 43rd Annual Meeting

Dear Fellow State Bar of Montana Members:

I invite you to join us at the 2017 State Bar of Montana Annual Meeting at Fairmont Hot Springs Resort in Anaconda, Montana, September 20-22, 2017.

We have a dynamic Annual Meeting program planned as we celebrate Chris Manos' last Annual Meeting as Executive Director of the State Bar. Chris is retiring at the end of 2017 after many years of tremendous service to the Bar. We are also celebrating the beginning of former State Bar of Montana President Bob Carlson's term as President-Elect of the American Bar Association. This is a truly momentous accomplishment for Bob and for the Montana legal community, as it is only the second time a Montanan has held the position – and the first since William J. Jameson was ABA President more than 60 years ago. We are excited to welcome Bob to present the Opening Plenary for this year's Annual Meeting CLE programming.

We are offering CLE tracks in four different practice areas – presented by the Natural Resources and Environmental Law



Section, the Health Care Law Section, the Non-Profit Law Section and the Intellectual Property Law and BETTR Law Sections. Programming includes updates on Montana legislation, Supreme Court Case Law, Criminal Law, Unfamiliar Family Law Issues, and a rockin' presentation on Copyright Law. The Montana Supreme Court will hear

what promises to be a fascinating live oral argument, *ALPS v. McLean*.

Whatever your practice areas, there will surely be a program that will be helpful, or of interest, to you.

We are fortunate to have a dynamic Annual Meeting Committee this year that has put together a program designed for all of us, whether you are celebrating your 50th anniversary of admission to our Bar, a member of our New Lawyers Section, or someone in between.

As you review our schedule of programs and events, plan to learn a little more about a practice area, socialize, make new friends and network with your fellow Bar members. And please visit our sponsors, whose generosity helps to underwrite some of the Annual Meeting costs.

My heartfelt thanks are extended to each member of the Annual Meeting Committee. Let me also take this opportunity to thank my fellow Bar members, my colleagues, the Board of Trustees and the staff at the Bar, including Executive Director Chris Manos, for a wonderful year. The Annual Meeting concludes my term as your President.

On behalf of the State Bar of Montana, Welcome to the 2017 State Bar Annual Meeting. We hope to see you there!

Bruce Spencer  
State Bar of Montana president



State Bar of Montana President Bruce Spencer is a solo practitioner based in Helena. His practice areas emphasize, governmental relations, creditors' rights, commercial law, automotive law, insurance law, and health care law.



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**2017 Annual Meeting**  
September 20-22



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## REGISTRATION INFORMATION

### To register online

Register at [www.montanabar.org](http://www.montanabar.org). You'll need to log in to your State Bar account. Call 406-442-7660 if you have problems.

### To register by mail

Registration must be postmarked or hand-delivered by September 7. If you use this form to register, include payment.

### Refund/Substitution policy

Refunds are 75% if cancellation is 7 days or more before the seminar. Refunds are 50% if cancellation is less than 7 days. No refunds for cancellations on or after the date of the seminar. Cancellations or substitutions may be made by calling 406-447-2206.

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#### MEAL TICKETS

All attendees and guests to Thursday night banquet must purchase a ticket. **One ticket to Thursday Awards Luncheon is included** with registration.

Event	Price	# of tickets
Awards luncheon/ business meeting (free to all registrants)	\$30 for guests	_____
Awards banquet	\$45	_____
		\$ _____
Total amount enclosed		\$ _____



# CLE SCHEDULE

## Thursday, September 21

### Opening Plenary: Robert Carlson, Butte

American Bar Association President-Elect,  
2016 State Bar of Montana  
Jameson Award winner  
1993-94 State Bar President



### BREAKOUT TRACKS 2:00 to 5:00 p.m.

#### TRACK I: Start Me Up! Don't Make Your Clients Cry: Intellectual Property Law And BETTR Law Sections Come to Your Emotional Rescue on Business Startups

- **Vignette #1: Rowdy Beaver Restaurant & Tavern**  
*Robert Griffin, Jennifer Webber, Kristen Juras*
- **Vignette #2: Collapsible Beverage Container**  
*Brand Boyar, Antoinette Tease, Sarah J. Rhoades, Nate Good*

#### TRACK II: Natural Resources/ Environmental Law Section

- **Eye on the Target:** Counsel's role, practice tips for when a client is the subject of an environmental/white collar criminal probe  
*Kris McLean*
- **Overview of Wind Energy Leasing and Siting in Montana**  
*Samuel Panarella*
- **Insurance Coverage for Environmental Issues** *Jacqueline Papez*
- **Paradigm Shift or Pendulum Swing? Updates on Federal Endangered Species Act and Mitigation Policies**  
*Carolyn Sime*

#### TRACK III: What's Happening in Health Care Law and Beyond

- **Update on the ACA 'Repeal and Replace' Effort** – What to Expect on the National Level – 1 hour
- **Health Care News Here at Home – 2017 Montana Legislature Outcomes in Health Care** (Overview of 2017 session and new laws, panel review of specific bills, question and answer) – 2 hrs

#### TRACK IV: Nonprofit Section

- **Top 10 Ways Nonprofits Get Investigated by the Attorney General's Office** – *Kelley Hubbard, Montana AG's Office*
- **Ethical and Fiduciary Duties of Attorneys Serving on Nonprofit Boards** – *Joel Kaleva, Crowley Fleck PLLP*
- *Third speaker TBD*

## Friday, September 22

### 8:00 a.m. to noon

#### Legislative Update

*Bruce Spencer, Ellie Hill Smith and Randy Brodehl (45 minutes)*

#### Supreme Court Update

*Beth Brennan (45 minutes)*

#### Criminal Law

*Brian Carl Smith (45 minutes)*

#### Employment Law Update

*Eric Nord (45 minutes)*

#### Unfamiliar Family Law Issues (Common Law Marriage Between Same-Sex Couples; Surrogacy and Others)

*Susan Ridgeway, Alanah Griffith (45 minutes)*

#### Copyright Rock

*Robert Griffin - Electric Guitar (45 minutes)*

### 12:30 to 2:00 p.m.

#### AWARDS LUNCHEON/BUSINESS MEETING 1 TICKET INCLUDED FREE WITH REGISTRATION

### 2:30 to 4:10 p.m.

#### Supreme Court Oral Argument

##### ALPS v. McLean

Case introduction starts at 2:30 p.m.; oral argument follows at 3:00 p.m.

Attorney David McLean was disbarred in 2015 and is serving a 44-month federal sentence for stealing over \$450,000 from clients of the former McLean & McLean law firm.

After the thefts were disclosed, another client sued McLean for malpractice. Malpractice insurer ALPS denied the claim, arguing that the policy was void because David McLean lied in his insurance application.

The District Court granted summary judgment to ALPS. McLean & McLean, and the client who sued for malpractice, appeal.



## FASTCASE, CLIO, MYCASE WORKSHOPS

Get the most out of your free State Bar of Montana Fastcase legal research and discounted Clio and MyCase practice management software by attending a training workshop\* during the Annual Meeting. Trainers will be on hand to answer any questions you have on all three products.

The State Bar of Montana is proud to provide the cutting-edge Fastcase research tool free to all Active Attorney and Paralegal Section members. Bar members are also eligible for 10% lifetime discounts on Clio and MyCase, which both are endorsed by the Bar.

\*No CLE credit available for workshops.

# To Thine Title be True: Mistitling of US magistrate judge remains a problem

## 25 years after Congress officially changed title, confusion still exists

By Ruth Dapper

The United States magistrate judge position has roots reaching into the 18th century and was formally created through congressional legislation nearly 50 years ago. In 1990, as the magistrate judge role was modified and expanded, Congress passed legislation modifying the position's title from United States magistrate to United States magistrate judge. Despite the passage of more than a quarter century since the title change, the judicial position continues to be incompletely referred to as "magistrate." This article explores the prevalence of the titling error in an effort to promote the accurate reference to magistrate judges.

### Creation of the magistrate judge

The magistrate judge is the result of congressional action under Article I of the U.S. Constitution, rather than authority provided in Article III. Even so, magistrate judges are not a separate court, and instead serve in the United States District Court, along with district judges. Magistrate judges are appointed by each district's district judges for eight-year terms and require reappointment, unlike some other federal judges who enjoy lifetime tenure.

Although forms of the magistrate judge have existed for many years, it was the Federal Magistrates Act of 1968 that created "a new class of federal judicial officers" to relieve the caseloads of United States District Courts. Magistrate judge duties depend on each district's needs, with magistrate judges handling duties ranging from criminal initial appearances, detention hearings, and arraignments, to civil settlement conferences, discovery motions, and consent jury trials. Dispositive matters may also be "referred" by a district judge for the preparation of a "report and recommendation" by a magistrate judge. The number of full-time magistrate judge positions has increased greatly over the years, and there are now 536 full-time and 34 part-time magistrate judge positions. The Supreme Court recently remarked: "[I]t is no exaggeration to say that without the distinguished service of [magistrate judges], the work of the

Note: This article is modified from an article published in the Federal Courts Law Review, which contains citations to the publications discussed here. See Ruth Dapper, *A Judge by Any Other Name? Mistitling of the United States Magistrate Judge*, 9 FED. CTS. L. REV. 1 (2015), available at [http://www.fclr.org/fclr/articles/pdf/Dapper\\_Final\\_Publication2\\_Vol9\\_Issue2.pdf](http://www.fclr.org/fclr/articles/pdf/Dapper_Final_Publication2_Vol9_Issue2.pdf)

federal court system would grind nearly to a halt."

Initially, magistrate judges were referred to as "magistrates." In 1990, after years of discussion, the title of the office changed through the Judicial Improvements Act of 1990, which provides:

### CHANGE OF NAME OF UNITED STATES MAGISTRATES.

After the enactment of this Act, each United States magistrate appointed under section 631 of title 28, United States Code, shall be known as a United States magistrate judge, and any reference to any United States magistrate or magistrate that is contained in title 28, United States Code, in any other Federal statute, or in any regulation of any department or agency of the United States in the executive branch that was issued before the enactment of this Act, shall be deemed to refer to a United States magistrate judge appointed under section 631 of title 28, United States Code.

Following the title change, the United States Code was modified to reflect the "magistrate judge" title throughout. Federal rules comport with the statutes, with "a magistrate judge" being included in the definition of "Federal judge" in the Federal Rules of Criminal Procedure. The remainder of the criminal Rules, as well as the Federal Rules of Civil Procedure, Federal Rules of Appellate Procedure, and Federal Rules of Evidence all include the full magistrate judge title throughout, with numerous Rules including notes to address the 1990 title change.

Now more than 25 years since the 1990 legislation, the term "magistrate judge" has been the title longer than "magistrate" was. The Federal Magistrate Judges Association

continues to advocate for use of the proper title, as well as address the misconception that magistrate judges and district judges sit in separate courts.

### **Mistitling of the magistrate judge**

With the unanimity of the statutes and rules, one might assume courts would be equally consistent in their use of the modified magistrate judge title. However, opinions of the Supreme Court of the United States have misstated the title of the magistrate judge several times. An opinion from 2006, for example, described the underlying federal district court proceedings by noting the court “assigned the case to a Magistrate who conducted discovery.” The opinion continued by discussing what “the Magistrate recommended” and that the district judge “accepted the Magistrate’s recommendation.” Some mentions of “magistrate” may be understandable because they do not identify a United States magistrate judge but instead refer to a neutral magistrate, state proceeding, or foreign tribunal. Even removing these instances from consideration, numerous judicial opinions issued well after the passage of the 1990 Act reference “the Magistrate.” At times use of the truncated title is not a mistake, but instead is by design. At least two recent Supreme Court opinions provide, “A Federal Magistrate Judge (Magistrate),” thereby defining the title as “Magistrate” and referring to the magistrate judge accordingly for the balance of the text. The Supreme Court is not alone, with recent federal court of appeals opinions from every federal circuit court including instances of similar magistrate judge mistitling.

The widespread use of “magistrate” alone is not limited to judicial opinions, and is prevalent in secondary sources as well. Instances of mistaken mistitling abound, as do more purposeful instances such as: “For the purposes of this Note, the term ‘judge’ refers to a district judge, appeals court judge, or Supreme Court Justice .... The term ‘magistrate’ refers to a United States magistrate judge ....” Top-ranked law reviews are not immune to mistitling, with recent publications by the flagship journals of some of the nation’s top law schools printing statements such as, “Like U.S. Magistrates, they are appointed by the judiciary itself, but lack the full protections of ... the Article III judiciary.” One published note on objections to magistrate judge rulings identified the Judicial Improvements Act of 1990 as changing the magistrate judge title, but continued to reference “magistrates.” Perhaps unsurprisingly considering the other cited sources, Westlaw includes a “key number” entry entitled “United States Magistrates.”

Instances of the mistitling are plentiful in practice as well. Recognizing the importance of referring to a judge by his or her proper title, some courts have taken it upon themselves to educate parties. One order by a district judge provided:

Unaccountably, the rest of defendant’s brief incompletely and incorrectly refers to “Magistrate

Margolis” or “the Magistrate.” One is constrained to wonder whether the United States Attorney’s office is either unaware of, or chose in this case to disregard out of pique, [the Judicial Improvements Act of 1990]. Twenty-two years should be sufficient time for the denizens of a United States Attorney’s office to learn the legally correct way to refer to a Magistrate Judge, a judicial officer sensible attorneys routinely address as “Judge.” Throughout this Ruling I will respectfully refer to “Judge Margolis.”

In another instance, a magistrate judge who left the state bench to join the federal bench recalls an attorney asking her why she “gave up being a judge” (presumably referencing her state court service) in order to be a “magistrate.” Another magistrate judge reports a litigant asked him if he was training to be a real judge. There have even been instances when litigants have referred to a magistrate judge by last name only. In one instance, attorneys from “three prestigious firms,” attempting to skirt local word count rules, responded to an objection to a report and recommendation prepared by a magistrate judge but referred to the magistrate judge by her last name alone. The district judge evaluating the objection noted, “[T]his Court cannot recall reading a motion, brief, or other paper—even from the most hapless of pro se litigants — that referred to a federal magistrate judge by her last name only. No one does this because it is disrespectful to the magistrate judge.” Although not as extreme as removing the title altogether, referring to a magistrate judge by the wrong title is no less inaccurate or disrespectful to the position.

### **Why This Matters**

This article is not an indictment of any court, publication, or person. Instead, it is intended as a wake-up call. When magistrate judges, empowered through an act of Congress and serving a court created by Article III, are repeatedly addressed incorrectly by their colleagues, the inaccuracy reflects poorly on the judiciary. When practitioners and scholars make the same omission, it reflects poorly on the profession. Admittedly, in light of the weighty issues presented to the courts each day, the title of any judicial officer is not paramount. But the legal profession is built on the premise *words matter*. The value of words carries with it the value of titles. Using “magistrate” to refer to a magistrate judge artificially removes these judicial officers from their post in the judiciary.

The change of the magistrate judge title was made to educate litigants about the magistrate judges’ status as judicial officers. Decades have passed since the title change, and it is time for a more uniform change in the language of those trained in the law.

***Ruth Dapper is a litigation attorney in the San Diego office of Littler Mendelson P.C. She previously served as a federal judicial clerk.***



# Facing battlefield at home: Is Veterans Treatment Court right for your client?

*"To care for him who shall have borne the battle. . ."*  
-Abraham Lincoln, Second Inaugural Address

By Qasim Abdul-baki, Luke Laughlin, & Spencer Bradford

## I. INTRODUCTION

Approximately 99,000 veterans live in Montana.<sup>2</sup> While that number ranks 43rd in the nation for total veterans per state, it puts Montana at second in the country for veterans per capita.<sup>3</sup> Due to the exceptionally high ratio of veterans in our communities, it is important that Montana criminal defense attorneys acquaint themselves with the option of diverting their veteran clients out of criminal court and into a Veterans Treatment

### Editor's Note:

Students in Professor Hillary Wandler's four-day veterans law course at the University of Montana's Blewett School of Law produced articles on various aspects of veterans law as a course project. This is the first of several of those articles that will be published in the Montana Lawyer over the next several months.

Court (VTC).

This article is meant to serve as a practical guide for Montana criminal defense attorneys who represent veterans. It will help defense attorneys make informed decisions about diverting clients to VTC. It begins with a description of VTC, including its underlying philosophy and goals, who qualifies for it, and what makes it different than regular court. This is followed by a discussion of the pros and cons of VTCs, and a recommendation for when it may be a better option for your client.

1 Ken McKinnon, U.S. Department of Veterans Affairs, "To care for him who shall have borne the battle" Anniversary of President Lincoln's Second Inaugural Address, Vantage Point (Mar. 4, 2015, 8:30 AM), <http://www.blogs.va.gov/VAntage/17573/care-shall-borne-battle/>.

2 U.S. Department of Veterans Affairs, State Summaries Montana, [https://www.va.gov/vetdata/docs/SpecialReports/State\\_Summaries\\_Montana.pdf](https://www.va.gov/vetdata/docs/SpecialReports/State_Summaries_Montana.pdf), (accessed Jan. 21, 2017).

3 U.S. Census Bureau, Percent Veterans By State, <https://www.census.gov/library/visualizations/2015/comm/percent-veterans.html>, (accessed Apr. 26, 2017).



## A. Background

There are approximately 300 VTCs throughout the country<sup>4</sup>, three of which are in Montana.<sup>5</sup> Montana's VTCs are located in Missoula, Cascade, and Yellowstone counties.<sup>6</sup> VTCs are an offshoot of drug treatment courts, which began in the 1980s to address drug addiction among criminal defendants.<sup>7</sup> The goal of VTCs is to offer an alternative to regular criminal court specifically for veterans suffering from service-related drug addiction and mental health issues. By creating individualized treatment plans that employ a blend of therapeutic and punitive responses,<sup>8</sup> VTC proponents hope to keep veterans out of prison and give them the help they need to remain valued members of society, while also promoting public safety.<sup>9</sup> VTCs also may serve as a form of intervention for veterans who may remain undiagnosed and thus, untreated.

The philosophy of VTCs mirrors those of other alternative treatment courts. The aberrant behavior of veterans which leads to criminalization is viewed as a symptom of underlying mental health and drug addiction disorders.<sup>10</sup> The main distinction between VTCs and other alternative treatment courts is the origin of the drug and/or mental health issues.<sup>11</sup> VTCs deal specifically with issues arising from a veteran's time in the military. Some issues commonly attributed to a veteran's service include: post-traumatic stress disorder (PTSD), traumatic brain injury (TBI), depression, and substance abuse.<sup>12</sup>

We will use Missoula VTC to highlight some commonalities among VTCs. To qualify for acceptance into Missoula VTC, a criminal defendant must be a veteran and have a co-occurring substance disorder and mental illness.<sup>13</sup> The crime(s) charged need not be drug related, but many courts restrict admittance based on the severity of the offense.<sup>14</sup> Missoula VTC accepts veterans charged with any crime(s) except those that require registration as a violent or sexual offender.<sup>15</sup> Missoula VTC requires that the court have jurisdiction for at least one year; referrals can be made by anyone at any stage of a proceeding; and may come from municipal, justice, or district courts.<sup>16</sup> The majority of Missoula VTC cases involve veterans charged with driving under the influence) or partner/family member assault, and who are suffering from depression and anxiety.<sup>17</sup> According to the Veterans Administration, a "veteran" is anyone who has served active or full-time duty "under conditions other than

dishonorable."<sup>18</sup> VTCs may each have their own specific admission requirements, definitions of what qualifies for veteran status, and conditions for continued eligibility.

The following discussion begins with an analysis of the beneficial aspects of VTC. These include the proven positive outcomes like high program completion rates and reduced recidivism rates; the lack of a criminal conviction upon completion of the program; individualized, team-based care using a holistic approach; and a highly effective mentorship program, in addition to many secondary benefits. It then analyzes the unfavorable aspects of VTC, including difficulty establishing eligibility; logistical considerations due to prevalent homelessness among veterans; the stigma of mental health and substance abuse diagnoses; length of time under supervision; and longer-term commitments from defense attorneys. In sum, depending on your client's specific needs and desires, VTC may be a useful alternative to regular court.

## II. DISCUSSION

### A. Reasons to recommend VTC

Whether a veteran goes to VTC should be based on what is best for the veteran and take into account more than short-term outcomes. While the traditional court system lends itself to frequent recurrences of criminal activity in individuals with mental illness and substance abuse, root causes often remain unaddressed. Although VTCs generally take longer periods of time to reach completion than traditional court proceedings, these longer treatment times correlate with more favorable outcomes.<sup>19</sup> VTCs are also an appropriate forum for veterans who have undiagnosed mental illnesses.<sup>20</sup> The following demonstrate specific benefits of VTC.

#### 1. Proven positive outcomes

One compelling reason to participate in VTC is the highly positive outcomes of participants. Most re-offenses by participants in VTCs are misdemeanors rather than felonies and compare very favorably with drug re-offenders.<sup>21</sup> Most participants successfully complete the program and have low recidivism rates for at least two years. Early statistics show a recidivism rate of less than 2 percent.<sup>22</sup> This is evidence of a focus on healing the behavioral problems of the veteran, rather than only focusing on reducing a client's time in the system. Also, the rates of completion are impressive. In Missoula, more than 90 percent of veterans who enter the program finish it to completion, and rates like this are not uncommon in other jurisdictions.<sup>23</sup>

#### 2. No criminal conviction

Another reason veterans would benefit from participating in a VTC is the effect on their criminal records. Completion of VTC means that veterans could potentially have their new criminal charges wiped clean.<sup>24</sup>

4 Justice Program Office, American Univ., Veterans Treatment Courts: 2015 Survey Results 1 (2016).

5 This figure is as of the end of 2014. Veterans Treatment Court Locations, Justice for Vets, <http://www.justiceforvets.org/veterans-treatment-court-locations> (last visited Jan. 22, 2017).

6 *Id.*

7 Standing Master Brenda Desmond, Speaker, Montana Veterans Treatment Court presentation at the University of Montana (Jan. 18, 2017).

8 *Id.*

9 Justice Program Office, *supra* note 4, at 35.

10 Presentation by Brenda Desmond, *supra* note 7.

11 Honorable Robert T. Russell, Veterans Treatment Courts, 31 TAURO L. REV. 385 (2015).

12 *Id.*

13 Presentation by Brenda Desmond, *supra* note 7.

14 *Id.*

15 *Id.*

16 *Id.*

17 *Id.*

18 Bob Kampfer, Speaker, Representation Before the VA at the Veterans Advocacy CLE at the University of Montana (Jan. 17, 2017).

19 Justice Program Office, *supra* note 4, at 14.

20 Presentation by Brenda Desmond, *supra* note 7.

21 *Id.*

22 Alana Frederick, Veterans Treatment Courts: Analysis and Recommendations, 38 LAW & PSYCHOL. REV. 211, 225 (2014).

23 Presentation by Brenda Desmond, *supra* note 7.

24 Russell, *supra* note 11, at 394.

### 3. Individualized, team-based care

VTCs employ a support group which takes into account veterans' specific needs. VTCs have adopted a team approach using multiple types of legal and non-legal professionals that support change in the veteran's behavior to avoid re-offense<sup>25</sup>. Intervention is tailored to the learning style, motivation, culture, demographics, and abilities of the particular veteran.<sup>26</sup> Additionally, these professionals bring expertise from their experience working in other drug and mental health treatment courts.

Difficulties other than criminal charges are also addressed in VTC. This represents a holistic approach to treatment that is not prevalent in the criminal justice system. These differences focus on the root of the problem rather than merely treating its symptoms. Some examples of a holistic approach appear in the Missoula VTC. The Missoula VTC accommodates spousal participation in the program.<sup>27</sup> It uses proven evidence-based and research-based methods,<sup>28</sup> and truly random drug testing is done at least twice a week. In Missoula, a relapse alone will not disqualify participants because of the court's recognition that change takes time and strict sobriety is not required.<sup>29</sup>

### 4. Highly effective mentorship program

Each VTC has volunteer mentorship program that provide tremendous support to veterans. The program in Missoula has at least one veteran mentor, and sometimes two veteran mentors to support each individual. This provides the veteran with a trusted friend with shared military experience to guide them through the program.<sup>30</sup> Veterans respond better when they work with other veterans.<sup>31</sup>

### 5. Additional benefits

Veterans who participate in the program avoid disruptions and unexpected changes in their medication regimen. Medications treating mental illnesses are highly technical which may lead to counter-intuitive and adverse reactions by deviating from regular drug usage by substitution of generic brands that are available at the jail. Clients with mental illness are better off if medications that are working are not changed even if those changes seem insignificant. Doctors and Patients will not have to re-work many trial and error periods that are common in patients with mental illnesses.

Veterans are automatically connected with all existing programs for which they qualify. Upon matriculation, a significant effort is made to help veterans connect with Veteran's Affairs and other services.<sup>32</sup>

## B. Reasons not to recommend VTC

While there are many benefits to recommend a client elect to participate in VTC, there are factors that should be considered that may outweigh those benefits. A veteran's discharge status may preclude them from being eligible for VTC and may require having their DD-214 papers amended. This can be a very time consuming process, and only 60 percent of VTCs allow veterans with dishonorable discharges to participate.<sup>33</sup> Homelessness can lead to difficulty contacting your client for both yourself and the VTC,<sup>34</sup> an issue that is compounded by many veterans' independence and ability to live off grid for long periods of time.<sup>35</sup> Additionally, you should consider the likelihood of your client to abscond from the program, whether because of relapse, frustration, or the stigma that many veterans feel about being labeled mentally ill or an addict.<sup>36</sup> The final criteria you must evaluate before recommending your client to VTC are the exposure your client will face and you and your client's ability to take on such a long-term commitment.<sup>37</sup>

#### 1. Difficulty establishing eligibility

The first issue that may come up when evaluating whether to recommend a client participate in VTC is eligibility, as 40 percent of VTCs do not allow veterans with dishonorable discharges to participate in the program.<sup>38</sup> Dishonorable discharges can be amended if they resulted from the veteran having PTSD or a TBI.<sup>39</sup> However, you may find yourself and your client going through a very long process in order to change their discharge status to one that would allow them to participate in the program. Unless both you and your client have the desire to do so and the time to spare, it may be preferable to avoid the process altogether and move through the court in a traditional manner.

#### 2. Logistical considerations due to homelessness

When considering whether to recommend your client to VTC, you must also evaluate their housing situation. In 2011, approximately 14 percent of all homeless people in the United States, or about 67,495 people, were veterans.<sup>40</sup> That figure is significant because many homeless veterans often do not have access to transportation, resources, or a consistent method of being contacted.<sup>41</sup> If your client is homeless you will need to find ways to contact them, in order to inform them of any developments with treatment, drug screening, or court appearances.<sup>42</sup> You will also need to ensure that, if required, they have the financial ability to pay for the screening and the ability to travel to the screening. Finally, if a homeless veteran absconds,

33 Justice Program Office, *supra* note 4, at 14.

34 Interview with Kristina Lucero, Deputy Pub. Def., Mont. Office of the State Pub. Def., Region 2, in Missoula, Mont. (Jan. 20, 2017).

35 *Id.*

36 *Id.*

37 *Id.*

38 Justice Program Office, *supra* note 4, at 14.

39 James Park Taylor, Speaker, Discharge Upgrade at the Veterans Advocacy CLE at the University of Montana (Jan. 17, 2017).

40 Margaret A. Costello, Homeless or Helpless?, 13 J.L. SOC'Y 417, 418 (2011-2012).

41 Interview with Kristina Lucero, *supra* note 34.

42 *Id.*

25 Jillian M. Cavanaugh, *Helping Those Who Serve*, 45 NEW ENG. L. REV. 463, 481 (2011).

26 Presentation by Brenda Desmond, *supra* note 7.

27 *Id.*

28 Russell, *supra* note 11, at 390.

29 Presentation by Brenda Desmond, *supra* note 7.

30 *Id.*

31 Tiffany Cartwright, "to Care for Him Who Shall Have Borne the Battle", 22 STAN. L. & POL'Y REV. 295, 304 (2011).

32 Presentation by Brenda Desmond, *supra* note 7.

they can be more difficult to locate.<sup>43</sup> A homeless veteran may be better served by accepting a suspended sentence in regular court. This could prevent the risk of being in constant violation of the VTC policies and thus subjected to a prolonged commitment period.

### 3. Stigma of mental health and substance abuse diagnoses

Stigma associated with mental health and substance abuse diagnoses may be a difficult matter to resolve when you are representing a veteran.<sup>44</sup> Their military experience may have instilled in them a “warrior mentality” which may prevent them from easily accepting a diagnosis which they may view as a sign of weakness.<sup>45</sup> Many veterans have been trained to be resilient, self-sufficient, and to work through problems on their own if necessary.<sup>46</sup> You will need to discuss the reality that your veteran will likely receive a diagnosis that may be hard for them to accept, and will have to be treated for it while participating in the program.<sup>47</sup> If they seem apprehensive about this, this may be an impediment to their participate in VTC.

### 4. Length of time under supervision and time commitment from attorney

The final criteria one must evaluate are the exposure your client will face and both you and your client’s ability to take on such a long-term commitment. For example, Missoula VTC requires that your client face at least one year of incarceration, but veterans may end-up in VTC for over 18 months.<sup>48</sup> This is potentially a 50 percent increase in exposure for the veteran. Defense attorneys must be able to commit for this longer period

of time. While many clients are no longer actively represented once sentencing has occurred, and a third of VTCs do not afford their participants legal representation,<sup>49</sup> the attorney may need to appear in VTC for the duration of their client’s participation. This additional time may be complicated by the recent practice of prosecutors arguing for probation monitoring in addition to VTC monitoring in sentencing hearings.<sup>50</sup> Not only would this be an added burden on the client, but it may lead to incarceration.<sup>51</sup> For each case, the duration of representation, the prolonged exposure for the client, and potential to be placed on concurrent probation must be considered before recommending VTC for a client.

## III. Conclusion

Whether VTCs are a good alternative to regular court for your client depend on the specific needs and desires of your client. With high completion rates and low recidivism rates, VTCs offer highly effective holistic, individualized care which may keep your client’s record clean, and your client out of prison. However, establishing eligibility may be difficult, and there may be logistical considerations, such as homelessness, which may present a challenge to your client’s progress in the program. Additionally, your client may be wary of the stigma of mental health or substance addiction diagnoses. Finally, be cautious of the longer period of time that your client may be subject to supervision under VTC, and the time commitment you are prepared to devote to the case. For many veterans, VTCs may provide a beneficial alternative to regular court.

<sup>49</sup> Justice Program Office, supra note 4, at 14.

<sup>50</sup> Interview with Kristina Lucero, supra note 34.

<sup>51</sup> Id.

<sup>43</sup> Id.

<sup>44</sup> Id.

<sup>45</sup> Id.

<sup>46</sup> Id.

<sup>47</sup> Presentation by Brenda Desmond, supra note 7.

<sup>48</sup> Id.

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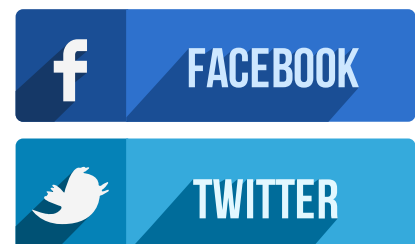
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# Section tracked over 50 bills in 2017 session

By Aimee Grmoljez

The 2017 Montana Legislature adjourned after 2,644 bill draft requests, 1,199 bills/resolutions introduced and 553 bills/resolutions passed by the Legislature in 2017. In the end, 553 bills passed the legislature and of these, 46 were vetoed. More than 50 bills were followed by the Health Care Law Section of the State Bar of Montana.

While the legislature only meets every odd-numbered year, the interim committee process produces many bills that are the product of a robust analysis and comprehensive presentations. The following is a list of bills that were worked on in the 2015-2016 interim that became law:

- HB 17, increasing HCBS waiver slots and assisted living reimbursement rates;
- HB 95, increasing access to behavioral health care;
- HB 237, creating a grant program for behavioral health crisis response by law enforcement;
- HB 284, revising anti-bullying laws;
- HB 70, strengthening guardianship services and creating a group ;
- HB 328, revising county crisis intervention and jail diversion grant procedures; and
- SB 45, revising drug and mental health treatment court laws.

The Montana Legislature considered and passed bills in the area of air ambulance regulation with the following bills: SJ 13 Joint resolution urging Congress to address air ambulance and SB 44 Providing ability to hold patients harmless for balance billing and HB 73 regulating air ambulance memberships and SB 292 revising credit reporting laws for air ambulance debt from balance billing. Providers of air ambulance were involved in the process with insurers, hospitals and other interested parties in the work group during the Interim and then through many hearings and work during the Legislative Session.

Bills passed were in the following areas:

- abuse/neglect/foster care/child support (HB 64, HB 173, HB 201, HB 303, HB 351, HB 517, SB 113, SB 172);
- developmental disabilities (HB 387, HB 458, HB 638);
- health care (HB 175, HB 233, HB 476, SB 92, SB 120, SB 216, SB 203, SB 333);
- health insurance (HB 192, HB 469, SB 129, SB 362);
- Medicaid/Healthy Montana Kids Plan (HB 639, SB 82, SB 199, SB 62, SB 160);
- public health (HB 285, HB 333, HB 487, SB 205, SB 254); and
- senior citizens (HB 24, HB 618, SB 272).

Montana adopted the enhanced nurse licensure compact with SB 166 and also adopted the multistate license compact for physical therapists with HB 105.

HB 386 expanded telemedicine for physical therapy. HB 323 addressed treatment of opioids in schools. HB 163 created the

## Annual Meeting CLE to highlight changes

The Health Care Law Section CLE breakout track during the State Bar's Annual Meeting at Fairmont Hot Springs will include a presentation on health care law changes out of the 2017 Montana Legislative Session. See pages 20 and 21 for the Annual Meeting CLE schedule.

Montana Caregiver Act. HB 639, among other things, established a temporary community benefit assessment for the state's largest hospitals.

Bills that failed addressed the following topics:

- transparency and right to shop (SB 96, HB 123, HB 400 and SB 362);
- primary seatbelt (SB 9);
- prohibiting use of tanning beds for under 19 (SB 133); and
- prohibiting texting while driving (HB 380). Medicaid expansion was discussed as it passed in 2015; however, no legislation passed addressing the expanded population.

Finally, of concern is the state budget. SB 261 was passed in the last days of the session as a companion bill to HB2, the state budget bill, that sets up triggers to potentially cut funding to all state agencies and specific bills (HB 17) as well. This determination will be made in August 2017 and then in August 2018 based on revenues collected by the state of Montana.

There is always work done in the interim that we will address as committees work on health care topics. Two committees to watch are Economic Affairs Interim Committee (EAIC) and Children, Families, Health and Human Services (Children) Interim Committee. Each committee will adopt a work plan at its first meeting. The EAIC has indicated it will consider the following: SJR 27 (a study of workers compensation), SJR 32 (study of emergency medical services and scope of practice-incorporating SB104 and HB 612); HJR 20 (study of health care transparency). Under the workers compensation discussion SB 312 (prescription drug formulary for workers comp), HB 358 (regarding authorization to share medical information) and HB 229 (related to treating physician concerns) are to be considered. The Children Interim Committee will address HJR 20 Health Care Price Transparency with a work group; HJR 24 DD Services for Adults; and HJR 17 Prescription Drug Pricing. Both committees will consider health insurance changes under the ACA and "insurance competition." Thank you to all of the legislators, legislative staff and Executive Branch for working with all of us in the Health Care Law Section of the State Bar of Montana during the 2017 Montana Legislative Session. See you all on the Hill!

***Aimee Grmoljez is an attorney with Crowley Fleck's Helena office and a member of the State Bar of Montana's Health Care Law Section.***





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State Rep. Ellie Hill Smith, D-Missoula, is shown last year with girls from the Lewis and Clark Elementary School in Missoula.

# Teaching girls to be leaders

By Ellie Hill Smith

There are some similarities between speaking in front of the Montana State Legislature and speaking in front of a room full of 6-year-olds. You must come armed with knowledge and a clear message. It takes confidence and a bit of showmanship to keep everyone's attention.

Last year, when I stood in front of a class of 10 girls at Lewis and Clark Elementary School in Missoula, I brought a book called *Grace for President*. It tells the story of a little girl who learns that there has never been a female president and decides to become the first. I don't mind saying, it's an inspiring story for all ages.

Each year, the Center for American Women and Politics at Rutgers University sends a children's book about inclusive leadership to every female legislator, member of Congress

## Editor's note

This article by Missoula attorney-legislator Ellie Hill Smith originally appeared in the USA Today April 24.

and governor in the United States. They ask that we visit a local elementary school, read the book, talk about our experiences as elected officials, and donate the book to the school library. The goal of TAG, the Teach a Girl to Lead program, is simple: by being present and visible in the classroom, even for a day, women elected officials like me can encourage young girls to follow in our footsteps.

I spent that afternoon with the students of Lewis and Clark Elementary talking about what leadership means and — more importantly — what it looks like. I came back the

next week with three of my fellow women leaders in our local government. We all talked about what running for and holding elected office is like. We discussed how government and the Electoral College work, and the importance of voting.

A few weeks later, I received a crayoned picture and a note from an 8-year-old girl that read, “You made me feel special. I am going to run for office too, just like you!”

In their earliest years, when their ideas about the world are first formed, children study the Founding Fathers and discover the stories behind major milestones of American history — Christopher Columbus, Abraham Lincoln, Martin Luther King Jr. Boys grow up seeing powerful public leaders who look like them. Rarely are young girls given the same example. Women figure poorly into our country’s historical narrative, often reduced to wives or daughters. No national holiday honors the accomplishments of a woman.

Women have achieved success as leaders in almost every sector of our society, but we remain underrepresented in elected office. Even though we make up more than half of the population, women hold less than a quarter of our nation’s public leadership positions. We volunteer and vote at higher rates than men, but don’t seek elected office at the same rate.

As Marion Wright Edelman said, kids can’t be what they can’t see. Research shows that simply hanging a picture of a woman leader in a classroom improves the performance of girls, changing the way they think about their place in the world. Imagine the impact of deploying real women leaders in the classroom.

When I was a young girl growing up in Idaho, I met the state’s First Lady, Bethine Church, who was visiting our school. Later, in a children’s book filled with color

pictures, I learned about Sandra Day O’Connor, our first woman on the United States Supreme Court, and Dorothy Day, who was a fearless social activist for poor people without a voice. These memories profoundly influenced me to become an attorney and run for office.

I’m lucky to have been able to look up to the women who came before me. And I’m grateful that they encouraged me, on more than one occasion, to run for office. Today, I am a girl who leads.

This year, TAG’s book selection is called *If I Were President*. The story introduces readers to the presidency by showing a diverse group of children taking turns carrying out presidential duties. I returned to Lewis and Clark Elementary this year very excited to share this story. We talked and drew pictures of our “sheroes” — our female heroes. They included everyone from Hillary Clinton to Taylor Swift to their mothers, grandmothers and aunts. We talked about the qualities of a hero, among them strength and compassion.

Part of me imagined that this year I would be talking to the students about the first female president. Whether Carly Fiorina or Hillary Clinton, 2016 was the first time I ever truly considered the possibility that a woman would one day lead our country. Seeing all the women’s marches that followed the election, I can’t help but feel that now, the imperative to break that glass ceiling is greater than ever.

All young people need to be encouraged to take an active role in our democracy. I’m looking forward to serving in Helena one day with some of the girls I meet at Lewis and Clark Elementary School.

***Ellie Hill Smith is an attorney and a mom serving her fourth term in the Montana House of Representatives.***

“

*I’m lucky to have been able to look up to the women who came before me. And I’m grateful that they encouraged me, on more than one occasion, to run for office. Today, I am a girl who leads.*

”

# Negotiations team finishes in third place at international competition in Norway

Blewett School of Law students Frans Andersson and Kirsy Luther recently took third place at the International Negotiation Competition held in Oslo, Norway.

The competition, which was hosted by the University of Oslo, invited 32 teams from 28 countries worldwide to negotiate simulated oil drilling agreements between various entities. The third round included a unique four-way multilateral scenario.

Competition week in Oslo began with a master class taught by renowned educators from around the world, and the final award ceremony was held in the historic Nobel Peace Center. The third-place finish by Luther and Andersson completed a North American sweep of the top teams, with the other U.S. team finishing first and a Canadian team placing second.

The UM negotiation team's season began in September with the regional negotiation competition in Chicago, followed by more than 10 weeks of practice sessions. Last November the UM team competed against law schools from the Midwest and earned a first-place finish at regionals. The first-place finish earned the Andersson-Luther team an invitation to the American Bar Association's national negotiation competition in Chicago once again in February.

The UM law school negotiation team is coached by Klaus Sitte, an adjunct faculty member who teaches negotiations and alternative dispute resolution. Sitte has coached the law school's negotiation team since 1990, with seven teams competing at nationals and now two at international competitions.

## Chandler places third in essay contest sponsored by ABA

Morgan Chandler, a 2017 graduate of the Blewett School of Law, has placed third in the 2017 Howard C. Schwab Memorial Essay Contest. The contest, which was established in 1969,



**From left, coach Klaus Sitte, is shown with the negotiation team of Kirsy Luther and Frans Andersson after their third place finish at the International Negotiation Competition in Oslo, Norway.**

is sponsored by the American Bar Association Section of Family Law and is intended to promote interest and scholarship in the field of family law.

Morgan's essay titled, "The 'De-Chattelization' of Companion Animals Through Family Law Legislation: How Alaska's H.R. 147 Has Dismantled the Traditional Property Law View of Pets," was judged by a panel of five judges, including two law professors, on the basis of originality, quality of analysis, quality of research, style and organization, and practicality and timeliness of subject matter.



Chandler

In addition to recognition in the contest, Morgan's essay will be submitted to the ABA Section of Family Law's Family Law Quarterly scholarly journal and the ABA Section of Family Law website for consideration for publication.

## Update of Pope room begins

The Blewett School of Law has begun updating the Walter J. Pope Memorial Library with the help of the District of Montana federal courts.

The Pope room was constructed in 1979, primarily through a federal grant, intended as a meeting room and gathering space benefitting both the School of Law and the judiciary.

An upgrade of the Pope Room will meet those needs, while deepening the engagement between the School of Law and the federal judges of the District of Montana.

A \$30,000 gift from the District of Montana's Attorney Admission Fund will provide for the purchase of new conference room furniture and classroom technology to create a technologically advanced, modern space with conference-style seating to accommodate meetings, seminars, and other events.

Chief Bankruptcy Judge Benjamin Hursh presented the check to School of Law Dean Paul F. Kirgis in June.



### MLSA makes updates to improve services to Montanans

Montana Legal Services Association has made several updates in an effort to improve its services and give Montanans easier access to free legal help.

Here are some of the recent changes:

MLSA has a new mobile-friendly online application. Montanans can now apply for free legal help while on the bus, in a waiting room, or at their dinner table.

MontanaLawHelp.org is now mobile friendly and will fit any device, whether a desktop, tablet, or smartphone. Grab your smartphone and check out the mobile-friendly MontanaLawHelp.org!

People can now subscribe to get SMS alerts for new resources on MontanaLawHelp.org. Look for the "Subscribe via SMS" button on Montana Law Help.

MLSA developed new interactive family law forms, including petitions for parenting plan and/or divorce and a notice of intent to move. The interactive forms break down the information into smaller bits so it's easier to complete a legal document, and provide a little more help than a write-in-the-blank form. You can find the new interactive forms in the Families & Kids section on MontanaLawHelp.org.

MLSA developed a Legal Self Help Landing page that you can download as a desktop shortcut so that caseworkers, patrons, and customers can easily find legal help for their problem. Find the Legal Self Help Landing Page at [www.montanalawhelp.org//self-help](http://www.montanalawhelp.org//self-help).

If you have any questions or comments about our technology initiatives, please contact the Community Outreach Assistant, Alex Clark, at [aclark@mtlsa.org](mailto:aclark@mtlsa.org).

### US judges' views on marijuana legalization look like public's — with significant exception

A new survey shows that a majority of U.S. judges are not morally opposed to legalizing recreational use of marijuana. But the opposition is vocal and includes judges who have the most experience in handling drug cases.

The National Judicial College asked its alumni in an online survey if they are morally opposed to the legalization of recreational marijuana. The survey was part of the NJC's newsletter Question of the Month poll. More than 830 judges voted with 62 percent indicating they had no moral objection.

The result closely tracks U.S. public opinion as a whole. A Gallup poll taken last October found that 60 percent of the public favors legalization.

However, the overwhelming majority of the 260 judges who left comments in the NJC poll said they oppose legalization. And many of those—including more than 30 judges who self-identified as drug-court judges—said marijuana is a gateway to harder drugs.

Orange County (California) Superior Court Judge David L. Belz wrote that several years ago he presided over domestic violence cases, and he remembers that a history of marijuana use was often reported. He also cited a warning this year from a pediatricians group that marijuana use interferes with normal brain development, especially in teens.

Others cited concern for drugged driving and the relative difficulty in testing for marijuana use versus alcohol.

Among judges who were neutral or in favor of legalization, their reasons included: the failed war on drugs; the futility of combating marijuana use with taxpayer money; the double standard in alcohol being legal; and the belief that addiction is a public health issue rather than a criminal matter.

# WE NEED YOU

## Free clinic on civil legal issues

Sponsored by Montana Legal Services Association and the State Bar's Veterans Law Section

**Helena — Wednesday, September 20**

The clinic will focus on serving referrals from the VA for vets who need assistance with a wide variety of civil legal issues, including landlord tenant matters, family law, consumer issues, and others. We need your help to serve those who have served our country!

Contact: Angie Wagenhals  
[awagenha@mtlsa.org](mailto:awagenha@mtlsa.org) or  
442-9830 ext. 148.





## Would you like to boost your income while serving low- and moderate-income Montanans?

**We invite you to participate in the Modest Means program** {which the State Bar sponsors}.

If you aren't familiar with Modest Means, it's a reduced-fee civil representation program. When Montana Legal Services is unable to serve a client due to a conflict of interest, a lack of available assistance, or if client income is slightly above Montana Legal Services Association guidelines, they refer that person to the State Bar. We will then refer them to attorneys like you.

## What are the benefits of joining Modest Means?

**While you are not required to accept a particular case, there are certainly benefits!**

You are covered by the Montana Legal Services malpractice insurance, when you spend 50 hours on Modest Means and / or Pro Bono work (you'll need to track your time and let us know), you will receive a free CLE certificate to attend any State Bar sponsored CLE. State Bar Bookstore Law Manuals are available to you at a discount and attorney mentors can be provided. If you're unfamiliar with a particular type of case, Modest Means can provide you with an experienced attorney mentor to help you expand your knowledge.

## Questions?

**Please email:** [ModestMeans@montanabar.org](mailto:ModestMeans@montanabar.org)

You can also call us at 442-7660.



## Are You Interested in Joining The Modest Means Program?

To get started, please fill in your contact info and mail to: *Modest Means, State Bar of Montana, PO Box 577, Helena, MT 59624.*

You can also email your contact info to [ModestMeans@montanabar.org](mailto:ModestMeans@montanabar.org)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State: \_\_\_\_\_

Email: \_\_\_\_\_

### Stephen Frankino

Stephen (Steve) Michael Frankino, 58, passed away unexpectedly on June 29. He was taken far too soon, but lived more life in his short years than most do in their lifetime. We know that he is fishing, golfing, floating, skiing, and mountain biking on streets of gold now up in Heaven. He loved the Lord and is now enjoying His company.



Frankino

Steve was born in to a loving Irish/Italian clan in Missoula on Jan. 13, 1959. He was the third of five children born to John and Agnes Connors Frankino. He was an all-around athlete excelling in football, basketball, and golf. He played football for Carroll College and was an avid Carroll fan. He enjoyed volunteering for Big Brothers Big Sisters and other local events and thoroughly enjoyed being under the Friday night lights as part of the chain crew, cheering on the Helena football teams.

Steve graduated from Capital High School class of 1977, Carroll College and the University of Montana School of Law. During his career he was a partner in the Hughes, Kellner, Sullivan and Alke Law Firm. He also loved working with

District Judge Jeffrey Sherlock as a senior law clerk, and was looking forward to retiring in September after serving as a State of Montana Administrative Law Judge.

An avid outdoorsman, Steve treasured spending time floating any river, fishing, golfing, skiing, mountain biking and spending time with his family and his many friends. It was rare to find him without a mountain bike, golf clubs, or a fully stocked tackle box and a raft in his backseat. He loved teaching people how to fish, float, golf, ski or bike. He especially loved teaching his grandson, Peyton, all the sports and outdoor hobbies he loved. He lived life to the fullest, every single day, as an adventure. He knew how to work hard, and play even harder.

Steve was extremely proud of his two daughters, Anna (Jason) Richards and Jenna Frankino. His father, John Frankino, and infant brother John Gabriel Frankino preceded him in death. He is survived by his daughters, and his mother, Aggie; his former wife Denise Troupe Frankino, and girlfriend Julie Jenkinson; siblings, Janice (Stuart) Doggett, Dan (Mindy Swan) Frankino, Kathi Frankino, and David Frankino; grandson, Peyton Richards, aunts Roberta Clowes and Rosemarie Frankino and has many fun-loving nieces, nephews and cousins.

Please send memorials to Class of '77 Scholarship Fund c/o Bruce Campbell or a charity of your choice.

### Dale McGarvey

Dale McGarvey of Kalispell passed away July 22, 2017, at the age of 90.

Dale was born in Great Falls to Arthur and Vercie McGarvey. His early years were spent in Sunburst, Conrad, Plains and Kalispell. He attended school in Denver and Tucson, Arizona, but graduated from Flathead County High School in 1945. He was especially fond of spending summers camping on the shores of Lake McDonald with his mother and grandmother to escape his hay fever while his father ran the family gas station and vulcanizing business in Conrad, and eventually the gas station and "McGarvey Shamrock Motel" in Evergreen. Dale attended the elementary school in Apgar and went to the 1933 opening of Logan Pass. For the rest of his life, Sprague Creek would remain his favorite park destination.



McGarvey

He received his law degree from the University of Montana, graduating at the top in his class. While attending UM, he met his first wife, Elsie Taylor, in a student boarding house. They were married on Aug. 30, 1951. Dale went on to Harvard Law School where he earned a Master of Laws degree. The couple moved back to Montana and settled in Kalispell where they raised four children, enjoying summers at the Whitefish Lake cabin and many adventures in Glacier National Park.

Dale founded his law practice in Kalispell in 1955 and he became known as a fierce advocate, securing justice for his "common-man" clients in historic battles with big companies, government and insurers. After the 1964 flood in Evergreen, he prevailed in protecting the 100-year flood zone designation for property owners who pay less in flood insurance to this day. He won compensation for clients whose land was taken for highway construction and for the farmers of the Kootenai Valley whose land was condemned for the Koocanusa Dam. He protected the air quality of the Flathead from the fluoride emissions of the Anaconda Aluminum Co., forcing the installation of pollution scrubbers, setting a national precedent for individual rights to clean air, and returning the mountain to the green we see today. Dale took his advocacy into politics as a lifelong Democrat and served as a Montana state legislator for the 31st district in 1957 and 1959.

He married his second wife, Genevieve Purdy, July 11, 1998. They enjoyed ballroom dancing and taking trips to Hawaii together. Genevieve preceded Dale in death, on Nov. 8, 2010.

As his law practice began to wind down (he never retired), Dale launched a new adventure as a movie producer, and recently completed the full length feature film "The Forlorned," which is scheduled for release this fall. Dale will be well remembered by all as a man who never flagged in his exuberance for the next adventure and the next case to right a wrong.

The family requests that donations be made to the Glacier National Park Conservancy.

**Gray, from page 17**

Gray and Townsend joined the Montana bar in the same year, 1976. Female attorneys at that time were members of a pretty small club, so the two got to know each other. They worked together from time to time before Gray joined the bench, and Judge Townsend said she was always pleasant and good to work with. She followed Gray's career as she rose to become the second female ever on the court and, eventually, the first female chief justice.

Judge Townsend recalls that she was judging a trial competition in Missoula when she learned of Chief Justice Gray's passing. Justice Beth Baker was also at the competition. At the end of one of the rounds, Justice Baker, who considered Gray a mentor and remained close with her after her retirement, received word of her death.

The fact that Justice Baker followed Gray's footsteps onto the court and now serves as chair of the Access to Justice Commission, which Chief Justice Gray played a major role in creating, is a reminder of her legacy and her impact on equal justice issues.

"It was a sad loss," Judge Townsend said.

**Recognition from her peers**

While she said the attention is a little bit embarrassing, Judge Townsend said receiving the honor gives her a feeling of pride. Making the award even more satisfying was that Judge

Halligan and others in her judicial district were behind it.

In her nomination letter, Judge Halligan cited Judge Townsend's work for the Self-Help Center and her consistent support of Western Montana Bar Association and Montana Legal Services Association programs, she also noted that Judge Townsend has worked to ensure that other judges receive training to improve access to justice, and mentored law students and young.

"Judge Townsend devotes significant attention to the many self-represented litigants that appear in court," Judge Halligan said. "In addition to her work in the courtroom, Judge Townsend finds time to mentor attorneys, encourage their commitment to equal justice issues, and support the development of emerging trial attorneys. She is eager to educate law students and instill in them the need to ensure equal justice and access to the legal system. Her energy and enthusiasm to streamline procedures and support innovative programs has benefitted both the underserved and the general legal community.

Also writing letters supporting Judge Townsend's nomination were Amy S. Rubin, 4th Judicial District standing master; Martha E. McClain, 4th Judicial District senior law clerk; Helena attorney Amy Lord and Missoula attorney Cynthia Thiel.

"There are things more than money that make you feel good," Judge Townsend said. "It really reinforces some of the best things about our profession to be able to contribute (to pro bono). The folks who do get it get a lot out of it."

**Haight, from page 17**

bad actions, it does.

She adds that some of the pro bono cases have earned sizeable rewards, earning some money for the firm and making her feel more comfortable turning around and taking more.

Angie Wagenhals, Montana Legal Services Association's pro bono coordinator, nominated Dye and Jazayeri for the award. She said that in fair housing disputes, the deck is often stacked against tenants. Landlords typically have money to hire an attorney, a luxury most tenants never have.

Dye and Jazayeri's work is changing that dynamic in Missoula, she said.

Equally as impressive as the volume of cases they take, Wagenhals said, is the fact that they have taken cases on short notice at critical stages. In one such case, Dye and Jazayeri stepped in as pro bono counsel on a case and went to mediation with the client the next day — and likely prevented an eviction.

To explain why pro bono is important to him, Dye told a story about a client who was unable to pay her rent on time because her Social Security check arrived each month a few days past her due date. Even when she explained her situation to the landlord and promptly paid the rent when her check arrived, the landlord wouldn't bend the due date and continued

to assess late fees. She was at a loss what to do.

Dye advised the client that it might be a good idea to drive down and talk to the landlord in person, and her response brought home her plight: "That's eight miles each way," she said. "I can't afford it. It's hard enough to afford the stamps."

Dye said that lawyers have an inherent level of power. A landlord might get a note from a tenant in crisis and not give it another thought. Receive a letter on an attorney's letterhead,

"We have the power to do good," he said. "Meeting with someone, listening, telling them 'these are your rights, this is what you should do.' To me, that's important, not just to represent the people who can pay on an hourly basis. There aren't many people who can pay \$200 through trial on a case. Nobody really takes these cases. Often it's a relatively small issue, but it's a big deal to the people in the situation."

While honored to receive the award, Jazayeri said it also makes her a little sad to know that her work is unusual enough to be noteworthy. The need for people to take on landlord tenant is great, not just in Missoula — Kalispell has a huge need, she said, as does Bozeman, a college town like Missoula — but very few others are willing to take these cases.

"If I can't take a case I have a really hard time referring it, she said. "I wish I had the capacity to take these cases statewide, but anything outside of Missoula is tough to say yes to."



### Oldenburg, Brown appointed to District Court Council

The Honorable Holly Brown and the Honorable John Oldenburg were elected to the District Court Council in an election held by the state's district court judges.

Montana Supreme Court Justice Mike McGrath certified the election on June 16.

Judge Brown is from the 18<sup>th</sup> Judicial District (Gallatin County) and Judge Oldenburg is from the 10<sup>th</sup> Judicial District (Fergus, Judith Basin and

Petroleum Counties).

### Gerdrum appointed to Judicial Standards Commission

Missoula attorney Jill Gerdrum has been appointed to a four-year term on the Judicial Standards Commission.

The Montana Supreme Court appointed Gerdrum to the term, which runs through June 30, 2021.

The commission and these rules is to protect the public from improper conduct or behavior of judges; preserve the

integrity of the judicial process; maintain public confidence in the judiciary; create a greater awareness of proper judicial conduct on the part of the judiciary and the public; and provide for the expeditious and fair disposition of complaints of judicial misconduct.

In addition to one attorney, the commission consists of two district court judges elected by the state's district court judges, and two citizens appointed by the governor. First Judicial District Judge Mike Menahan and 14th Judicial District Judge Richard Spaulding were elected in June to four-year terms.

# Lawyer Referral & Information Service

When your clients are looking for **you** ... They call **us**

**How does the LRIS work?** Calls coming into the LRIS represent every segment of society with every type of legal issue imaginable. Many of the calls we receive are from out of State or even out of the country, looking for a Montana attorney. When a call comes into the LRIS line, the caller is asked about the nature of the problem or issue. Many callers "just have a question" or "don't have any money to pay an attorney". As often as possible, we try to help people find the answers to their questions or direct them to another resource for assistance. If an attorney is needed, they are provided with the name and phone number of an attorney based on location and area of practice. It is then up to the caller to contact the attorney referred to schedule an initial consultation.

**It's inexpensive:** The yearly cost to join the LRIS is minimal: free to attorneys their first year in practice, \$125 for attorneys in practice for less than five years, and \$200 for those in practice longer than five years. Best of all, unlike most referral programs, Montana LRIS doesn't require that you share a percentage of your fees generated from the referrals!

**You don't have to take the case:** If you are unable, or not interested in taking a case, just let the prospective client know. The LRIS can refer the client to another attorney.

**You pick your areas of law:** The LRIS will only refer prospective clients in the areas of law that you register for. No cold calls from prospective clients seeking help in areas that you do not handle.

**It's easy to join:** Membership in the LRIS is open to any active member of the State Bar of Montana in good standing who maintains a lawyers' professional liability insurance policy. To join the service simply fill out the Membership Application at [www.montanabar.org](http://www.montanabar.org) -> Need Legal Help-> Lawyer Referral and forward to the State Bar office. You pay the registration fee and the LRIS will handle the rest. **If you have questions or would like more information, call 406-442-7660 or email [edavis@montanabar.org](mailto:edavis@montanabar.org).**

## Job Postings and Classified Advertisements

**CLASSIFIEDS Contact** | To see more jobs, or to advertise a job on the State Bar of Montana's online Career Center, visit [jobs.montanabar.org](http://jobs.montanabar.org). For all other Montana Lawyer classified inquiries, email [editor@montanabar.org](mailto:editor@montanabar.org) or call 406-447-2200.

### ATTORNEYS

**ASSOCIATE ATTORNEY:** Silverman Law Office, PLLC ([www.mttax-law.com](http://www.mttax-law.com)) has an associate attorney position available for the Helena and/or Bozeman Office. We believe that customer service and best business practices are a key to a successful legal practice. Applicants must have strong communication, teamwork and people skills and an ability to provide customer service to a wide array of clients. Our practice focuses on business/tax/transactional/estate planning in a rapidly expanding business environment, with an unbelievable support team that provides a positive work and life atmosphere. Applicants must be admitted to practice or in the process of obtaining admission to practice in Montana, and an LLM in Taxation is preferred. We offer a highly competitive compensation and benefits package. Please send your cover letter, resume, references and writing sample to [Julie@mttaxlaw.com](mailto:Julie@mttaxlaw.com).

**ASSOCIATE ATTORNEY:** Williams Law Firm, P.C. seeks an associate attorney with 2+ years of experience to join our Bozeman office. Our state-wide practice is focused on civil litigation, primarily on the defense side. The firm offers a very competitive compensation package, with full benefits, including 401K. Applicants are expected to possess excellent writing skills and strong academic credentials. Further information is available on our website: [www.wmslaw.com](http://www.wmslaw.com). Application must include a cover letter, resume, references, law school transcript, and writing sample directed by e-mail to: [sarah@wmslaw.com](mailto:sarah@wmslaw.com). All applications will be held in confidence.

**DEPUTY CHIEF COUNTY ATTORNEY:** The Yellowstone County Attorney's Office seeks a Deputy Chief County Attorney of Child Abuse and Neglect and Youth Court Divisions. Focus is on the management and coordination of staff and attorneys in the Youth Court and Child Abuse and Neglect Divisions. Go to [www.co.yellowstone.mt.gov/human\\_resources/](http://www.co.yellowstone.mt.gov/human_resources/) for a full description or to apply,

**DEPUTY COUNTY ATTORNEY:** The Roosevelt County Attorney's Office is seeking a fulltime deputy county attorney. Applicants must be licensed to practice law in the State of Montana. Advising the Board of County Commissioners will be a primary concern. The position will also require knowledge of criminal law. Salary is set at 85% of County Attorney's salary with applicable County benefits provided. Submit a letter of interest, curriculum vitae and two (2) recent letters of recommendation to: Donna K. Reum, Legal Assistant, Roosevelt County Attorney's Office, 400 Second Ave. South, Suite A, Wolf Point, Montana 59201 or by email to [dreum@rooseveltcountry.org](mailto:dreum@rooseveltcountry.org) and [rpatch@rooseveltcountry.org](mailto:rpatch@rooseveltcountry.org). Closing date: Open until filled.

**ASSOCIATE/OF COUNSEL ATTORNEY:** Firm seeks Of Counsel attorney to supervise Montana caseload: handling litigation, eviction, and collection files; attending hearings/trials; preparing pleadings; and identifying/resolving title issues in foreclosure proceedings. Experience with foreclosure, title, eviction, REO, and bankruptcy highly preferred. MT license required. Additional UT, ID, &/or WY license preferred, but not required. Position is part-time with intent to grow into a full-time position. Full description at [jobs.montanabar.org](http://jobs.montanabar.org). To apply, email [managingattorney@lundbergfirm.com](mailto:managingattorney@lundbergfirm.com).

**STAFF ATTORNEY:** The Montana School Boards Association is seeking a Staff Attorney. Competitive salary and benefits package. For further information, go to: <http://www.mtsba.org/employment-opportunities>. In order to be considered among the first round of interviews, applications must be received by 5:00 p.m., on August 18, 2017, with an anticipated start date of mid-September, 2017. Position will remain open until filled.

**STAFF ATTORNEY:** Dawson County Domestic Violence Program is seeking a full-time staff attorney. The position requires the attorney to provide holistic civil legal representation to victims of domestic violence, dating violence, sexual assault, and/or stalking with a focus on family law. The attorney will also work with project partners to prepare and conduct trainings for court related or appointed staff as well as assist with pro se clinics. Apply by email to [aprils@midrivers.com](mailto:aprils@midrivers.com). See full listing at [jobs.montanabar.org](http://jobs.montanabar.org).

### PRACTICE FOR SALE

**MISSOULA LAW PRACTICE FOR SALE.** Well established firm specializing in Family Law, Probate and Estate Planning. Owner retiring after 35 years! Wonderful fully staffed and furnished office included. Sale to include active client cases and past client list. Terms are negotiable. Perfect opportunity for recent graduates and Attorneys looking for a solo career. Please contact owner at: [MSLALAWFIRM4SALE@gmail.com](mailto:MSLALAWFIRM4SALE@gmail.com).

### PARALEGAL/LEGAL ASSISTANTS

**ADMINISTRATIVE ASSISTANT:** Exciting career opportunity is available for a dedicated professional interested in contributing to the continued growth and expansion of one of the region's largest and oldest law firms. position is responsible to provide administrative support to attorneys including word processing using Microsoft Word for Windows, digital transcription; maintaining client files; calendaring deadlines; and other general office duties as assigned. Please send cover letter, resume and proof of typing speed to Nannette Nolan, Human Resources Assistant, P.O. Box 2529, Billings, MT 59103-2529. No phone calls please.

**LEGAL ASSISTANT/LEGAL SECRETARY:** Patten, Peterman, Bekkedahl & Greenis is currently recruiting for an experienced legal assistant/legal secretary. Must be proficient with Word, Outlook and Adobe (experience with WordPerfect and Time Matters, a plus). Must have strong clerical, organizational and communication skills. Must be reliable and detail oriented with the ability to multi-task. Apply by email to [fsmith@ppbglaw.com](mailto:fsmith@ppbglaw.com).

**PARALEGAL/LEGAL ASSISTANT:** Dynamic, busy, growing Helena law firm seeks part-time paralegal/legal assistant (hours negotiable). Applicant must have excellent communication, clerical, organizational and personal skills and prior legal experience. Litigation experience and paralegal certification preferred, but not required. Detail-oriented team player a must! Competitive salary and benefits. Send cover letter and resume to Doney Crowley P.C., P.O. Box 1185, Helena, MT 59624 or email to [Melissa.Hanson@mhansondoneylaw.com](mailto:Melissa.Hanson@mhansondoneylaw.com).

**LEGAL ASSISTANT:** FairClaim Law Firm is now hiring a full-time legal assistant. Primary duties include assisting Attorneys with day to day management of work comp claims; written & telephone communications with clients, medical providers, and insurance companies; review & organization of medical records and insurance claim files; document drafting; and benefit & wage auditing. Benefits include health insurance, retirement and 401k. Salary is commensurate with qualifications and experience. Apply by email to tturner@lnms.net

## ATTORNEY SUPPORT/RESEARCH/WRITING

**ENHANCE YOUR PRACTICE** with help from an AV-rated attorney with 33 years of broad-based experience. I can research, write and/or edit your trial or appellate briefs, analyze legal issues or otherwise assist with litigation. Please visit my website at [www.denevilegal.com](http://www.denevilegal.com) to learn more. [mdenevi@bresnan.net](mailto:mdenevi@bresnan.net), 406-210-1133.

**COMPLICATED CASE?** I can help you sort through issues, design a strategy, and write excellent briefs, at either the trial or appellate level. 17+ years' experience in state and federal courts, including 5 years teaching at UM Law School and 1 year clerking for Hon. D.W. Molloy. Let me help you help your clients. Beth Brennan, Brennan Law & Mediation, 406-240-0145, [babrennan@gmail.com](mailto:babrennan@gmail.com).

**BUSY PRACTICE?** I can help. Former MSC law clerk and UM Law honors graduate available for all types of contract work, including legal/factual research, brief writing, court/depo appearances, pre/post trial jury investigations, and document review. For more information, visit [www.meguirelaw.com](http://www.meguirelaw.com); e-mail [robin@meguirelaw.com](mailto:robin@meguirelaw.com); or call 406-442-8317.

## OFFICE SPACE/SHARE

**LOOKING FOR ATTORNEY** to share a fully furnished office, receptionist and the option of legal secretary in downtown Helena office. This thirty year established law firm is moving downtown into a larger office on 6th Avenue (street level). The office is within walking distance of the Federal and County Court Houses. Contact: [jane@hullmtlaw.com](mailto:jane@hullmtlaw.com)

**KALISPELL:** Existing 6-member general practice law firm in Kalispell seeking attorney(s) to share office space and staff or possible lateral merger. Contact [dwh@kvhlaw.com](mailto:dwh@kvhlaw.com).

**OFFICE SHARING OPPORTUNITY:** Looking for attorney to share fully furnished office and legal assistant in Great Falls, MT. Reasonable terms. Great view. For more information e-mail: [ageiger@strainbld.com](mailto:ageiger@strainbld.com); 406-727-4041.

## MEDIATION

**MEDIATION AND ARBITRATION SERVICES:** Please contact Carey E. Matovich, Matovich, Keller & Murphy, P.C., Billings, MT, 406-252-5500, or email at [cmatovich@mkmfir.com](mailto:cmatovich@mkmfir.com).

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

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

**ARCHITECTURAL EXPERT, FORENSIC INVESTIGATION & ANALYSIS:** 43 years architectural experience. Specializing in Contract Administration; Specifications; and Architect / Owner / Contractor relationships. Extensive knowledge of building systems, materials, construction methods; Accessibility Regulations and Standard of Care; and forensic architectural investigation. Provides consulting and expert witnessing services. Attorney references upon request. Frank John di Stefano, PO Box 1478, Marion, MT, 59925, Phone: 1-406-212-7943.

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

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