

MONTANA LAWYER

State Bar
— of —
Montana

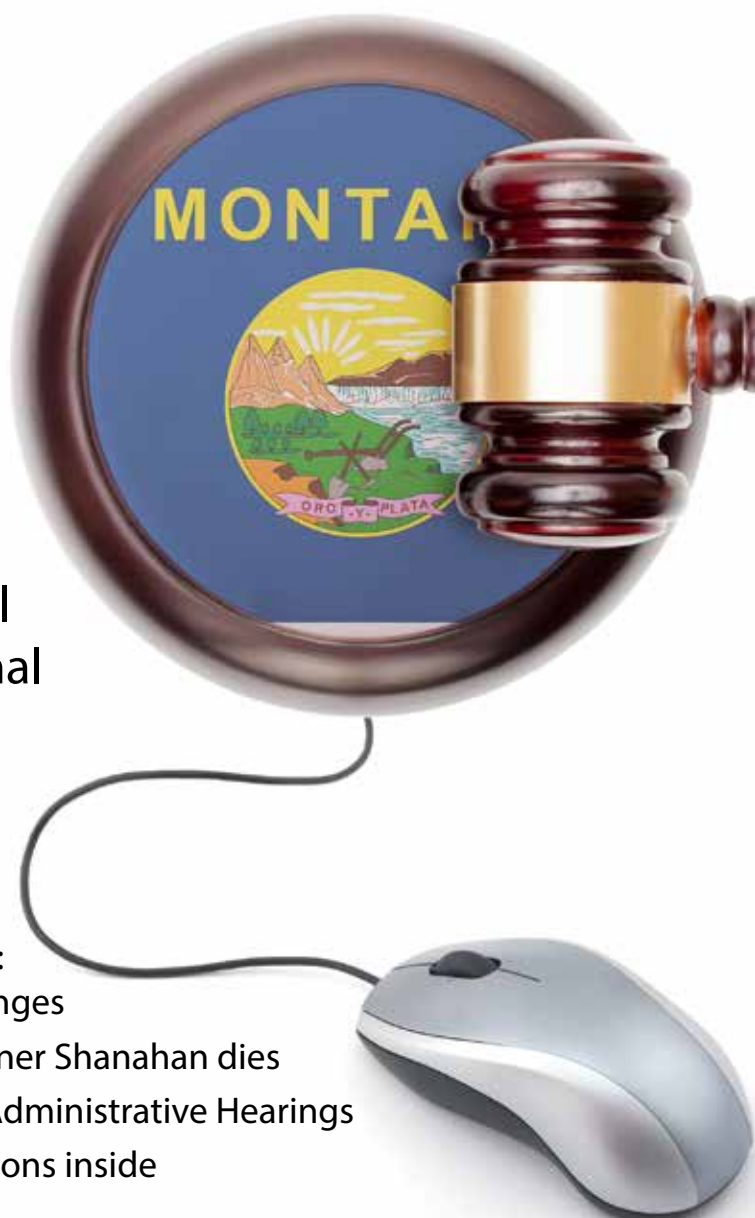
February 2017
Vol. 42, No. 4

Court e-filing

Clerk of the Supreme Court now can accept electronic documents in all cases, both civil and criminal

Also in this issue

- > Affordable Care Act under the knife: Health Care Law Section tracks changes
- > Former bar president, Jameson winner Shanahan dies
- > Tips on practicing before Office of Administrative Hearings
- > State Bar election nomination petitions inside



The official magazine of the State Bar of Montana published every month except January and July by the State Bar of Montana, 7 W. Sixth Ave., Suite 2B, P.O. Box 577, Helena MT 59624. 406-442-7660; Fax 406-442-7763.
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Subscriptions are a benefit of State Bar membership.

Advertising rates are available upon request. Statements and expressions of opinion appearing herein are those of the advertisers or authors and do not necessarily reflect the views of the State Bar of Montana.

Postmaster: Send address changes to Montana Lawyer, P.O. Box 577, Helena MT 59624.

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New partnership gives you extra incentive to unlock ABA's many benefits

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.

Check your dues statement for offer

Be sure to check your dues invoice in March for a chance to join the ABA at this special price. Just add the ABA dues to your Montana total and enjoy the enhancement to your profession.

Achieving partnership in the legal world is an exciting accomplishment so, in that vein, I'd like to announce a new partnership forged by the State Bar of Montana to bring added value to our members. (No I have not forgotten other partners in added value like Fastcase, MyCase, Clio, we just did not want them feeling lonely).

Beginning with your March dues statement, the State Bar of Montana will partner with the American Bar Association to offer a discounted ABA dues rate for members of the Montana bar.

Lawyers practicing for 10 years or more will pay only \$200 for their ABA membership – a savings of \$257! Savings are tiered for those newer to the practice, and with each year the discount gets richer.

Some might wonder why Montana bar leaders would advocate membership in the national bar association. Here's what I think about that.

I receive both professional and personal benefits from my membership in the State Bar of Montana and the ABA. In fact, I saved several years' worth of ABA dues when purchasing the computer on which I am writing this article using ABA discounts.

The ABA will complement my State Bar membership with resources available only from a national organization.

As a solo practitioner, I'm planning to explore ABA Blueprint, a new resource for legal services and technology available at discounted

pricing. I already use some of these products so I'm looking for savings as well as new systems to help me run my practice.

I also plan to do a little price shopping at ABA Insurance, which offers a number of products including dental, vision, life, home and auto insurance.

And, I'll likely dip into the Free CLE Series to supplement the outstanding offerings by the State Bar of Montana. I look forward to hearing the perspective of lawyers who practice in other areas of the country.

Additional benefits include free legal technology training, ethics research, a job board and a monthly webinar with career advice from legal experts.

I also appreciate ABA's advocacy for the profession. The ABA with state and local bars successfully blocked or modified numerous key 2016 legislative and regulatory proposals that would have interfered with lawyer-client confidentiality or imposed excessive federal regulations on the practice of law. Most may not know, but the ABA played a key role in a D.C. Circuit decision exempting lawyers from that annoying Gramm-Leach-Bliley Act notice we get from banks and don't read. For that alone the ABA has my allegiance.

Be sure to check your dues invoice in March for a chance to join the ABA at this special price. Add the ABA dues to your Montana total and enjoy the enhancement to your profession.

Rice joins P. Mars Scott Law Offices in Missoula

P. Mars Scott, P.C. Law offices, located in Missoula, welcomes Dianne I. Rice as an associate attorney.

Rice's practice emphasizes complex marital dissolution and family law.

Rice is a 2016 graduate of the University of Montana School of Law,



Rice

receiving her Juris Doctorate degree with honors. In 2010, Rice graduated from the University of Montana with high honors and received a Bachelor of Arts in Political Science. After graduating, she continued to participate in the

Missoula community by volunteering with the Meals on Wheels program and working at the Watson Children's Shelter. While attending law school, Rice was a member of the Women's Law Caucus student group and volunteered for the Crime Victim Advocates. Rice interned for P. Mars Scott Law Offices, and she performed her clinical hours at the Office of the State Public Defender, appellate division. Rice also became a court appointed special advocate with the Missoula CASA program.

You can contact her at P. Mars Scott, P.C. Law Offices, 2920 S. Garfield St., Missoula, MT 59801; 406-327-0600; or dianne.rice@pmarsscott.com

Erickson partners with Rhoades and Siefert in Missoula

Robert Erickson has partnered with Quentin M. Rhoades and Nicole L. Siefert to form the Missoula law firm Rhoades, Siefert & Erickson PLLC.



Erickson

The firm's practice focuses on commercial and civil litigation, including personal injury, business, construction, real estate, insurance, and probate disputes. Erickson's practice

also continues to involve business and real estate transactions, mediations, and civil appeals. For more details regarding Rhoades, Siefert & Erickson, PLLC and its attorneys, visit montanalawyer.com.

Contact Erickson at erickson@montanalawyer.com; 430 Ryman, Second Floor, Missoula, Montana, 59802; and (406) 721-9700.

Handelman, Hepburn join Garlington, Lohn & Robinson

Garlington, Lohn & Robinson, PLLP has announced the addition of two attorneys.

Leah T. Handelman joins the firm as an associate working on civil litigation matters. Handelman was born and



Handelman



Hepburn

raised in Whitefish. She attended Boston College and graduated magna cum laude in 2009 with a bachelor's degree in political science with a minor in Hispanic studies. While in law school at the University of Montana, she worked at Garlington, Lohn & Robinson as a legal intern, as a teacher's assistant and tutor for fellow law students, and at the University of Montana's Office of Legal Counsel. She also served as counsel for the law school's trial team.

After graduating law school with high honors, Handelman clerked for Justice Beth Baker at the Montana Supreme Court. She joined GLR in 2016 and practices a wide variety of civil litigation. She is admitted to practice in Montana state courts and the U.S. District Court for the District of Montana.

Katelyn J. Hepburn joins the firm as an associate working on civil litigation matters. Hepburn grew up in a small town outside of Portland, Oregon. She earned a bachelor's degree with high honors from Southern Oregon University and obtained her J.D. with honors from

University of Montana School of Law.

While in law school, Hepburn served as Publication Editor of the Public Land and Resources Law Review, and was a two-year team member of the Environmental Law Moot Court Team.

Following law school, she clerked for the Honorable Sam E. Haddon, Federal District Court Judge for the District of Montana, for a one-year term. She entered private practice with Garlington, Lohn & Robinson in the fall of 2016. She is admitted to practice in all Montana state courts and the United States District Court for the District of Montana.

Groenke opens family law, civil litigation office in Kalispell

Kai Groenke is excited to announce that beginning Jan. 1, 2017, she will be opening the Law Office of Kai Groenke, P.C. in Kalispell.



Groenke

Groenke graduated from the University of Montana School of Law in 2006, after obtaining a bachelor's degree in business from Montana State University in Bozeman. She specializes in family law and

civil litigation.

Updated contact information is as follows: P.O. Box 3098 (physical: 239 2nd St. West), Kalispell, MT, 59903-3098. Phone: 406-890-2999. Email: kai@familylawflathead.com. Website: www.familylawflathead.com.

Sterup joins as of counsel at Brown Law Firm

The Brown Law Firm, P.C., with offices in Billings and Missoula, announces that Robert L. Sterup has joined the firm of counsel.

Sterup graduated from the University of Minnesota Law School, was selected by his peers to be included in the Best Lawyers In America, Mountain States Super Lawyers, the American Lawyer/Corporate Counsel Top Lawyers, and has practiced in Montana state and federal courts in a variety of commercial

litigation, including electrical and wind power generation, oil and gas litigation, and state and federal tax disputes. He is a member of the Yellowstone Area Bar Association as well as the American and Federal Bar Associations.

Barbee joins Orr Law Offices

Thomas C. Orr Law Offices, of Missoula has announced that Jennifer Barbee has joined the firm as an associate. Barbee grew up in Helena before moving to Missoula. She graduated from the University of Montana with a Bachelor's of Arts in political science and economics, followed by law school at the University of Montana where she graduated in December 2010. After law school, she worked for the State of Montana as a public defender and special assistant attorney general with the State Auditor's Office. She has had a broad range of criminal and civil litigation experience in many different courts.



Barbee

Barbee specializes in family law and real estate matters. As a family law practitioner, she strives to assist her clients through some of life's most challenging experiences by balancing compassion and efficiency. Attorney availability and personal attention are of the utmost importance with any attorney-client relationship. Barbee helps her clients feel comfortable with the legal system and confident that they are making the right decisions in even the toughest circumstances.

Crepeau named Department of Revenue hearing examiner

The Montana Department of Revenue has announced that Michele Crepeau is a new hearing examiner in the department's Office of Dispute Resolution. She fully assumed the hearing examiner position on Jan. 3.

ODR is an independent adjudicatory office established by the department to render fair, objective and unbiased

decisions about tax disputes. Crepeau has worked for the Department of Revenue for 17 years as an attorney with a primary focus on property assessment and litigation. Contact her at 406-444-3341 or MCrepeau@mt.gov.



Crepeau

MLSA announces 5 recent attorney hires

Louis C. Villemez, supervising attorney, victim rights. Villemez graduated from Georgetown University Law Center in 1993 and spent the next 12 years as a legal aid attorney, first with Rappahannock Legal Services in Fredericksburg, Virginia, and then with Montana Legal Services in Browning and Cut Bank. From 2005 through 2016 Lou worked for Montana's Area Agencies on Aging, through the Department of Public

Health and Human Services Legal Service Developer where he specialized in elder law. He also contracted a diverse caseload with the Office of the Public Defender.

Aubrey Bertram, Indian law:

Bertram received her J.D. with a focus in International Law and an LL.M in Environment and Natural Resource Law and Policy from the University of Denver Sturm College of Law in 2016. During law school, she participated on the National Native American Law Students Association Moot Court Team and served as President of the Native American Law Students Association. She interned with the pro bono program of the Denver Bar Association, helping Denver area residents access free and low-cost legal help. While serving as a student attorney in DU's Environmental Law clinic, she worked with community groups from the Navajo and Hopi reservations to address environmental and cultural resource issues in their communities. Bertram's interest in Indian Law was further fostered by her involvement in Tribal

The law firm of

CROWLEY | FLECK PLLP
ATTORNEYS

Is pleased to announce the following new Partner in the firm:



Joshua B. Cook

Joshua B. Cook— Josh is a member in the firm's Billings office and primarily practices in Mining Law, Indian Law, and Oil & Gas Law. He handles complex mining matters, including patented and unpatented claim disputes, large-scale due diligence of both mining and oil and gas properties, property acquisitions and dispositions, title examinations, as well as permitting and environmental issues. He also assists clients with mineral development projects on Indian lands and challenges to tribal jurisdiction.

The firm also welcomes the following additional new Partners:

Paul J. Forster (Bismarck) and Alicia D. Kisling (Sheridan)

Billings, MT 406-252-3441 • Bozeman, MT 406-556-1430 • Butte, MT 406-221-2428 • Helena, MT 406-449-4165
KalisPELL, MT 406-752-6644 • Missoula, MT 406-523-3600 • Bismarck, ND 701-223-6585
Williston, ND 701-572-2200 • Casper, WY 307-265-2279 • Cheyenne, WY 307-426-4100 • Sheridan, WY 307-673-3000

www.crowleyfleck.com

Wills Projects on the Ute Mountain and Southern Ute reservations in 2014 and on the Crow Reservation in 2016.

Kathryn Seaton, domestic violence law: Kathryn Seaton received her J.D. from the University of Iowa College of Law in 2016. During law school Ms.



Seaton

Seaton interned at Iowa Legal Aid where she worked directly with clients who had experienced domestic violence. Most recently, she was a legal intern at the Montana Supreme Court where she worked for Justice

Beth Baker on Access to Justice Commission projects, including the Public Forum Series on access to justice issues as well as drafting a Forum Report summarizing the findings of that series to use in future advocacy efforts.

Lindsey Simon, public benefits law: Simon received her J.D. from the University of Idaho in 2008 and her LL.M. from the University of Washington in 2010. In law school, she interned in public defenders offices at both the county and state level, and after graduating she spent one year as a research and writing attorney with the Federal Defenders of Idaho. Mostly recently, she was in private practice in Coeur d'Alene, Idaho, for six years, primarily focusing on real estate and commercial law litigation and transactions.

Bree Williamson, domestic violence law. Williamson graduated from the



Williamson

University of Montana School of Law in 2007. She has worked in Montana since graduation in criminal law, family law, and as a guardian ad litem. She is an eighth-generation Montanan and grew up primarily in the Bitterroot Valley.

Her favorite thing is spending time with her amazing family and friends. She also loves running, reading, and spending time outdoors under the Big Sky.

Attorneys appointed to MT government positions

Hansen, Butler join State Auditor's staff

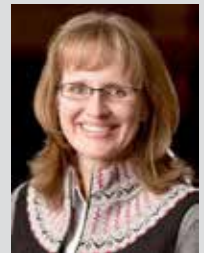
Kristen Hansen and Nancy Butler have joined the Montana Auditor Matt Rosendale's staff.

Hansen, from Havre, is chief legal counsel for the office. She had been serving as a state senator and resigned her seat to take the post.

In addition to her Senate seat, she has had a private practice in Havre. She previously was Chief Deputy County Attorney for the Hill County Attorney's Office; was a partner at Moore, O'Connell & Refling in Bozeman; clerked for Montana Supreme Court Justice John Warner. She was deployed to Iraq in 2007 as a judge advocate with the Montana Army National Guard. She is a 2002 graduate of the John Marshall Law School in Chicago.

Rosendale said Hansen's "legal experience will play a major role in our efforts to protect the public against violations of insurance and securities statutes."

Butler, who most recently was general counsel for the Montana State Fund, will be deputy state auditor. She worked at the State Fund for 32 years before retiring in January. She has lived in Helena for 33 years and has a bachelor's degree from Fort Hays State University in Kansas and a law degree from the University of Tulsa.



Hansen

Williams named director of Montana FWP

Martha Williams was appointed director of Montana Fish, Wildlife and Parks, Gov. Steve Bullock announced Jan. 6.

Williams had been an assistant professor at the University of Montana's Alexander Blewett III School of Law and co-director of the school's Land Use and Natural Resources Clinic.

Before that, she served as the deputy solicitor for Parks and Wildlife at the U.S. Department of Interior. She was legal counsel for the Montana Department of Fish Wildlife and Parks from 1998-2011.

Williams was to take over at FWP effective Feb. 1.

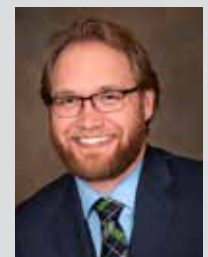


Williams

Moen named chief legal counsel for OPI

Kyle Moen has been named the chief legal counsel for the Montana Office of Public Instruction.

Moen previously worked as an associate attorney at the Raffiani Law Firm in Billings, specializing in family law and criminal defense. He graduated from the University of Colorado law school in 2015.



Moen

Damrow joins Moulton Bellingham in Billings

Peter Damrow has joined the law firm of Moulton, Bellingham, P.C. in Billings as an associate attorney.

Damrow is a 2016 graduate of the University of Washington School of Law, where he served as a managing editor of the Washington Law Review. Upon graduating, he was inducted into the Order of Barristers, a national honor society committed to encouraging and developing successful trial advocates.



Damrow

He practices primarily in general civil litigation, medical professional regulatory defense, and medical malpractice defense. Damrow is a 2007 graduate of Helena's Capital High School. He clerked for the Honorable Mike Menahan with the First Judicial District

Court in Helena, and also with the Lewis and Clark County Attorney's Office.

Kimmet becomes partner at Karell Dure Haney

Karell Dyre Haney PLLP, located in Billings, announces that Candace L. Kimmet has become a partner in the law firm.

Kimmet received her Bachelor of Science degree with a concentration in finance from the Wharton School of the University of Pennsylvania in 2007 and her law degree from the University of Pennsylvania Law School in 2010.



Kimmet

During law school, she interned with the Honorable Richard J. Sullivan in the Southern District of New York and at a private law firm in New York City.

Submitting member news

Member and Montana News and photos are free to submit. Call or email jmenden@montanabar.org or 406-447-2200 to submit news or with questions about submissions.

After graduating from law school, Kimmet worked as an attorney at Paul, Weiss, Rifkind, Wharton & Garrison LLP in New York City, where she was involved in a wide variety of commercial transactions.

Prior to joining Karell Dyre Haney, she clerked for the Honorable Russell C. Fagg, Montana Thirteenth Judicial District. Her practice areas include real estate transactions, business formations, sales and purchases, and secured financing transactions as well as general commercial matters. She is admitted to practice in Montana and New York.

Kimmet can be reached at 406-294-8489, or ckimmet@kdhlawfirm.com.

We help solve problems.

"When the negotiations bogged down, Brad dug in and never gave up. Just when it appeared that resolution was not possible, a deal was reached. In all, I was very impressed. I have worked with many mediators over 31 years of practice. Brad fits comfortably into the very top tier of those with whom I have had the privilege to work. I look forward to Brad's help on future cases."

Mikel L. Moore, Moore, Cockrell, Goicoechea & Johnson, P.C., Kalispell, MT



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CSKT Tribal Defenders named a semifinalist in government innovations national contest

The Confederated Salish and Kootenai Tribal Defenders Office (TDO) has been recognized as a semifinalist in Harvard University's Innovations in Government Awards competition.

The competition is held by Harvard's Ash Center for Democratic Governance and Innovation at the John F. Kennedy School of Government. The Tribal Defenders will compete to be a finalist in the competition and have the chance to be awarded the \$100,000 grand prize in Cambridge this spring.

TDO is among 100 semifinalists selected from a pool of more than 500 applications as examples of novel and effective action whose work has had significant impact, and who they believe can be replicated across the country and the world.

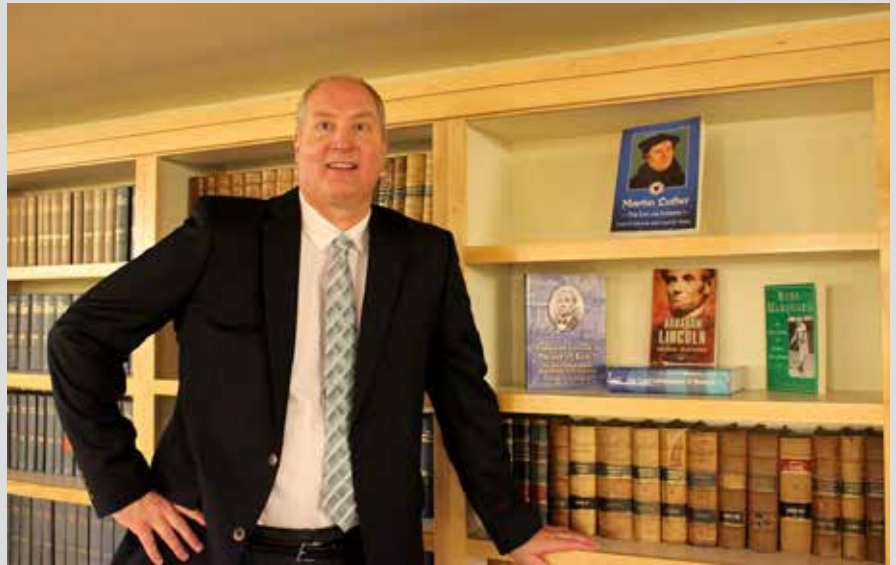
In 2009, with the help of a federal grant and technical assistance from the Bronx Defenders in New York, TDO implemented a public defense model called "holistic defense" that views the client as a whole person and addresses all aspects of the case, including underlying issues and collateral consequences. CSKT's program offers psychology and case management services to individuals most at risk of recidivism. The program uses court diversions, driver's license restoration, cultural mentoring, civil assistance for collateral consequences to criminal charges, community service, community education and, in 2015 a re-entry program.

The 2017 Montana Legislature is considering a bill to institute a pilot program based on the holistic defense model in the Montana Office of the Public Defender.

UM law student Sherwood earns Ms. JD Fellowship

For the second consecutive year a student from the University of Montana's Alexander Blewett III School of Law has received the Ms. JD Fellowship. Anne Sherwood '17 is one of 15 law students nationwide to receive the award.

According to Ms. JD, students are



A new book by Larry D. Mansch commemorates the 500th anniversary of Martin Luther's Protestant Reformation

Mansch co-authors book on Martin Luther

Larry D. Mansch, legal director for the Montana Innocence Project, has written his fifth book.

"Martin Luther: The Life and Lessons," co-authored with Dr. Curtis Peters, has been published by McFarland & Company. Five years in the making, the book commemorates the 500th anniversary of the Protestant Reformation. "We wanted to tell the Luther story in a new way," Mansch said. "I wrote the biography portion, relying on dozens of sources, old and new. Dr. Peters, a Lutheran pastor and professor of religious philosophy, wrote the accompanying theological essays. We didn't shy away from any of the controversial aspects of Luther's life,

times and teachings."

Mansch has been busy this winter, appearing at book fairs and events in Montana, Minnesota and Wisconsin. He was also a featured author at the recent Montana Book Festival in Missoula.

Reviews have been positive.

"I read this book with fascination, learning something new and striking on every page," wrote Jeremy N. Smith, author of "Epic Measures." "Martin Luther challenged the highest authorities imaginable. And he won."

"Martin Luther: The Life and Lessons" is available at Fact & Fiction bookstore in Missoula, and at Amazon.com.

selected based on their academic performance, leadership, and dedication to advancing the status of women in the legal profession. The winners reflect a range of diverse interests and backgrounds, with women pursuing opportunities in public interest, academia, and private sector in every region of the country.

The Ms. JD Fellowship was created in 2010 in partnership with the ABA Commission on Women in the Profession in order to promote mentoring and professional development for

future female attorneys.

"It is my hope that this fellowship will help me address the challenges facing women in the profession and share that experience with my classmates and colleagues," Sherwood said.

For receiving the fellowship, Sherwood will have the opportunity to attend the annual Ms. JD Conference in spring 2017 in Chicago. For more information on the Ms. JD Fellowship and to read Sherwood's bio, visit <http://ms-jd.org/programs/fellowship>.

Bills we are following in 2017 Montana Legislature

This is the list of bills that the State Bar of Montana is currently following closely during the 2017 Montana Legislature. The bills would affect the practice of law and the operation of Montana's courts. Only bills that the Bar actively monitors (M), opposes (O) or supports (S) are listed here.

Bills marked with * are *probably* dead. List is updated daily at www.montanabar.org.

- **HB 2:** General Appropriations Act. (S—Judicial Budget)
- **HB 44:** Generally revise laws related to district court judge numbers. (S)
- **HB 46:** Generally revising funding for civil legal aid. (S)
- **HB 57:** DPHHS to determine eligibility for state public defender services. (M)*
- **HB 58:** Require public defender workload assessment study. (M)*
- **HB 59:** Revise appointment of public defender for putative father in neglect cases. (M)
- **HB 62:** Dept. of Revenue to collect fees for public defender services. (M)
- **HB 65:** Revise budget consultation between public defender offices. (S)
- **HB 77:** Revise public defender system and provide for a director hired by governor. (M)

- **HB 87:** Transfer jury list duties from secretary of state to court administrator. (M)
- **HB 89:** Establish holistic defense pilot project within state public defender system. (M)
- **HB 109:** Require every applicant for public notary to pass an exam. (O)*
- **HB 129:** Revising laws related to privacy in communications. (M)
- **HB 147:** Requiring search warrant for gov access to electronic devices. (M)
- **HB 148:** Generally revise privacy laws. (M)
- **HB 277:** Revise speedy trial laws for felony offenses. (M)
- **HB 314:** Increase number of district court judges. (M)
- **SB 20:** Revise court administrator laws to eliminate IT reporting requirement. (M)
- **SB 97:** Prohibit the application of foreign law in state courts. (M)
- **SB 118:** Provide for uniform act regarding fiduciary access to digital assets. (M)
- **SB 137:** Increase taxpayer appeal options and create informal procedures. (M)
- **SR 19:** Confirm Governor appointees to the Judiciary. (S)

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State Bar of Montana moving to new office space in February

The State Bar of Montana offices will be moving to a new location this month.

The bar will be closed for up to two days during the move; staff will have no access to email or telephone during those days. At this time, we are projecting a move date in late February. Look for email updates when the move dates are finalized.

The bar's new address will be 33 S. Last Chance Gulch, Suite 1B, in Helena, about two blocks south of the current location in the Power Block at Sixth Avenue and Last Chance Gulch.

The building is the former location of the Gough, Shanahan, Johnson and Waterman law firm. The bar will be sharing the building with the Montana Community Foundation, Hattersley Walter law firm and the Montana Human Rights Commission.

Vacant trustee position

One of the three trustee positions for Area F (Lewis & Clark, Broadwater

Counties) is vacant with the recent resignation of Luke Berger, who stepped down to become 5th Judicial District judge. Interested candidates must send a letter of interest by Feb. 17, 2017.

The State Bar of Trustees will select the new trustee to serve out the term until September 2017. Selection will be made at a special meeting in March. Interested candidates must be available for a telephone interview.

For any questions about the position, contact Chris Manos, Executive Director, State Bar of Montana, 447-2203, or manos@montanabar.org.

Dues statements will be mailed to attorneys March 1

The State Bar of Montana will mail annual fees and assessment statements to attorneys on March 1. Payments for all fees are due April 1 and can be made by check or online with a credit card. Members who pay their State Bar of Montana fees and assessments by credit card will be charged a processing fee. Members can avoid this fee by paying in the form of a check, cashier's check

or money order.

Member survey opens March 1

The State Bar of Montana is conducting a survey to gather input on the services and benefits that you receive as a member of the bar. We also are interested in hearing about the challenges you face and the ways in which we can better serve you as we chart a course for the State Bar of Montana.

Participate, and you could win \$100, \$75, or \$50 gift cards! The survey link will be live March 1 to March 22 and available at www.montanabar.org.

State Bar members now eligible for discount on Clio, MyCase

State Bar of Montana members now get a 10 percent discount on Clio and MyCase practice management software. To take advantage of the discount, www.montanabar.org/?page=Benefits and click on the Clio or MyCase logo.

The discounts are good for new and existing customers.

Current Reporting Year Ends March 31

Been to any CLE lately?



Attorneys should report attendance information throughout the year as they attend CLE programming*

Please send attendance certificates or other documentation of CLE attendance to:

Montana Commission of CLE
P.O. Box 577
Helena, MT 59624

Or you may email documentation
or any reporting questions
to CLE@montanabar.org

* Not necessary for State Bar-sponsored CLE

For more information about upcoming State Bar CLEs, contact Meagan Caprara at mcaprara@montanabar.org. You can also find more info and register at www.montanabar.org. Just click in the Calendar on the upper left of the home page to find links to registration for CLE events.

Fairmont Hot Springs is setting for upcoming CLE seminars

A pair of upcoming CLE seminars set against the backdrop of Fairmont Hot Springs in February promise to deliver a much needed break from the rigors of the practice of law.

The State Bar of Montana's Annual Real Estate CLE seminar will be held Friday, Feb. 17, at Fairmont.

This year's Real Estate CLE combines several essential topic-areas for use in every real estate practitioner's toolkit. Water law, covenants, owners associations, and the tax consequences of like-kind exchanges will all be discussed in depth.

The seminar is approved for 5.0 Montana live CLE credits.

The State Bar's annual St. Patty's Day Litigation & Technology CLE will be held at Fairmont on Friday, March 10. It is approved for 6.25 Montana live CLE credits.

This seminar brings together experts and practitioners alike to provide an overview of the e-discovery process from start through analysis. The morning session will lay the foundation for this process, highlighting litigation holds, forensics, and data management/analysis. The afternoon session will provide participants with an overview of e-discovery software and an opportunity to work together with other participants through two case studies.

Other upcoming Live CLE Seminars

- Thursday, March 30, Helena: Environmental Law CLE
- Friday, April 7, Missoula: New Lawyers Section CLE
- Wednesday, April 19, Missoula:



Indian Wills CLE

- Friday, April 28, Bozeman: Bench Bar CLE

- Friday, Aug. 10-11, Helena: Annual Bankruptcy CLE

Wednesday Webinars

- Wednesday, Feb. 8, noon to 1 p.m. – 1 Live CLE credit – Domestic Violence Webinar Series Part 2, Risk Assessments: Identifying, Assessing, and Managing Risk for Victims. Presented by Brandi Ries, Ries Law Group, P.C., Missoula. Brandi's practice focuses primarily on family law, specifically cases involving domestic violence, sexual assault, and stalking.

- Wednesday, March 15, noon to 1 p.m. – 1 Live CLE credit – Domestic Violence Webinar Series Part 3, The Impact of Domestic Violence on Children. Adverse Childhood Experiences (ACES) have been

scientifically proven to affect lifelong mental and physical well-being. As a part of the Family Violence Intervention and Education Sessions ACES have provoked immediate and powerful responses in session participants. Presenters: Diana Garrett, Supervising Attorney for Montana Legal Services Association's Domestic Violence Practice Group. Loraine Bond, program director at the Parenting Place.

- Wednesday, March 15, noon to 1 p.m. – 1 Live CLE credit – Medicare/Medicaid Update.

- Wednesday, April 12, noon to 1 p.m. – 1 Live CLE credit – Domestic Violence Webinar Series Part 4, DV in Indian Country: General Principles for Handling Civil Cases in Tribal Court.

Other CLE of note

- 9th Annual Red Mass Ethics CLE March 23, 1 p.m. Great Falls

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Chief justice calls for five new state judge positions in State of the Judiciary report

Additional Montana judges are desperately needed to handle a dramatic statewide spike in Montana judicial workload in recent years.

That is the principal message in Montana Supreme Court Chief Justice Mike McGrath's State of the Judiciary Address, issued earlier in January.

The address notes that Montana's most recent judicial workload study showed the need for 22 additional judges.

"Obviously we can't ask the Legislature for all 22," McGrath wrote in the report. "We are, however, requesting five more judges — two in Yellowstone, and one each in Missoula, Flathead and Cascade Counties."



McGrath

McGrath cited stark numbers from the workload study to illustrate the need for new judges. He noted that the state has seen a dramatic rise in caseloads statewide in the last eight years. Felony criminal filings are up from 7,755 in 2009 to 11,774 in 2016. Child abuse and neglect filings are up from 1,006 in 2009 to 2,433 in 2016.

Yellowstone County has by far the biggest judicial need, according to the workload study. The study called for six new judges in Yellowstone County alone, which has 20 percent of the statewide caseload, but just six of the state's 46 district court judges.

Abuse and neglect cases are up a staggering 437 percent in Yellowstone County, from 143 in 2010 to 626 in 2016.

The 4th Judicial District, which consists of Missoula and Mineral Counties, also had a spike in cases, with felony filings up from 963 in 2009 to 1,200 in 2016 and child abuse cases up from 60 to 218, 350 percent, in that span.

Rep. Jeff Essman, R-Billings, who is also an attorney, is sponsoring House Bill 44, the bill that would create the five new judges. The bill calls for two new judges to be appointed in 2017 through the Judicial Nomination Commission process — one each in the 4th Judicial District (Missoula and Mineral Counties) and the 13th Judicial District (Yellowstone County). The remaining three judges would be elected in the 2018 elections.

A fiscal analysis of the bill found that the five new judges and necessary staff would cost roughly \$2.25 million per year beginning in fiscal year 2020, the first full year all five judges would be in place.

Traditionally, the chief justice delivers the State of the Judiciary in an address to the Montana Legislature each session. McGrath canceled this year's address after the Senate president announced that the lawmakers were too busy this year to attend. The text of the address, however, is posted on the court website and on the State Bar of Montana website.

Read the full address online

The 2017 State of the Judiciary address is posted online at courts.mt.gov/ and at www.montanabar.org.

Positive news highlighted in address

McGrath also highlighted a number of pieces of good news about the Judicial Branch. Among those are steps the court have taken to be more transparent and more efficient.

He said a series of performance measures have been implemented at the Supreme Court, and the court's case load continues to be current.

"We have no cases over six months old and our average time to resolve a case is less than 100 days."

Other successes McGrath highlighted in his report include:

Youth court: McGrath stated that legislative appropriations for juvenile placements are down from \$16.3 million in 2001 to \$9.4 million in 2017, accompanied by what he called a 43 percent improvement in outcomes. "The success in Youth Court demonstrates that when all three branches work together on a problem, there is a greater likelihood of a creative solution," he said.

Drug courts and treatment courts: McGrath cited a 2015 report that shows repeat offender rates are lower for Drug Court graduates and that unemployment among Drug Court participants fell by 90 percent. "Drug courts can and do save taxpayer dollars. Fortunately, during the last three sessions, Legislators had the foresight to fund a small portion of these courts," he said.

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New judges appointed in 5th, 8th Judicial Districts

Gov. Steve Bullock recently appointed two new Montana district court judges.

Bozeman attorney Rienne McElyea was sworn in as 18th Judicial District judge on Jan. 3. Helena attorney Luke Berger was appointed on Jan. 18 as the new 5th Judicial District judge. An early February swearing-in ceremony is planned.

Bullock in December appointed McElyea to the seat formerly held by the Honorable Mike Salvagni, who retired at the end of 2016.

The 18th Judicial District covers Gallatin County.

McElyea has been an attorney since 1989 and was associated with the Berg, Lilly and Tollefsen firm in Bozeman from 1991 until her appointment as district judge.

"I'm really excited," McElyea said in

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Photo courtesy of the Bozeman Daily Chronicle/Lewis Kendall
Rienne McElyea is sworn in as 8th Judicial District judge on Jan. 3 by her husband Chief Water Judge Russ McElyea.

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E-filing in civil cases at Montana Supreme Court off to a strong start

In late December, Ed Smith, clerk of the Montana Supreme Court, announced his office is now able to accept electronically filed documents from attorneys in all cases, both criminal and civil, before the Montana Supreme Court.

"We're very excited about electronic filing for all cases at the Montana Supreme Court," Smith said. "Montana is a large state and by opening up the civil caseload, the advantages of e-filing will now reach to attorneys throughout Montana. This system will provide a tremendous benefit and cost savings to appellate attorneys and I am so pleased, after years of planning, design and effort, to announce this service."

"Rex Renk, my deputy clerk, has spearheaded this multi-year effort at the Supreme Court and is currently working hard to train and educate users new to the system," Smith said. For over a month now, attorneys across the state have been registering in the statewide system and have been e-filing on both new and existing supreme court cases. "Since going live with the civil caseload, we have received over 1,000 e-filings and more than 350 attorneys and 260 support staff are now registered in the system. I have been fielding calls from law firms across the state and I am happy to say that the initial feedback from the bar has been very positive," Renk reports.

Perhaps aiding in this successful transition to Supreme Court e-filing is the fact that many attorneys are already familiar with e-filing in the federal courts, but Renk cautions that there are some significant differences between e-filing in the federal system and the state e-filing system. For example, the state system requires support staff, as well as the attorney, to register individually, each with their own username and password instead of having support staff sign-in as the attorney. "And that's just one difference," Renk suggests, "but regardless of the specific questions or issues, I am always happy to help anyone with an appellate e-filing and my hope is to work with the State Bar and any other interested group to set up CLE and training opportunities in the near future in order to aid this transition to electronic filing," Renk said.

Presently, the Montana Courts E-Filing system is only available to attorneys and is not yet accessible for self-represented litigants. Attorneys interested in learning more about e-filing at the Montana Supreme Court or wishing to set up an appellate e-filing CLE or training should contact the Clerk of the Supreme Court at 406-444-3858 or visit the e-filing page on the Judicial Branch website at <http://courts.mt.gov/efile>.

Hursh appointed Montana's US bankruptcy judge

Benjamin Phillip Hursh of Missoula has been appointed U.S. bankruptcy judge for the District of Montana.

Hursh, who will keep his chambers in Butte, will serve a 14-year term which was to begin on Feb. 1. A formal investiture ceremony was to be held on Feb. 3, at the Mike Mansfield Federal Building and U.S. Courthouse in Butte.

Chief Judge Sidney R. Thomas of the United States Court of Appeals for the Ninth Circuit announced the appointment on Jan. 18. Chief Judge Thomas will preside at the investiture.

"We are very pleased to welcome Mr.

Hursh to the bench. He is a superb and well-regarded attorney, and he and his family have deep roots in Montana," Judge Thomas said.

Hursh, 42, has been a partner in the Missoula office of Crowley Fleck PLLP since 2011, and was previously an associate at Cederberg Law Offices, P.C. from 2003 to 2008. He will fill a vacancy resulting from the retirement of Chief Bankruptcy

Judge Ralph B. Kirscher, who had served on the court since 1999. He also assumes the role of chief judge of the Montana bankruptcy court, which has a single judgeship.

Hursh has been the chair of the Bankruptcy Local Rules Committee in the District of Montana since 2014. He has been a member of the Annual Bankruptcy Section CLE Organization Committee since 2013. He served as the chair of the State Bar of Montana's Bankruptcy Section from 2011 to 2012.

Born in Columbus, Ohio, Hursh received his undergraduate degree in history from Montana State University, Bozeman, in 1999 and his juris doctor from the University of Montana School of Law in 2003. He was awarded the Dean Robert E. Sullivan Scholarship in law school.

Bankruptcy judges serve a 14-year renewable term and handle all bankruptcy-related matters under the U.S. Bankruptcy Code. Judges of the U.S. Court of Appeals for the Ninth Circuit have statutory responsibility for selecting and appointing bankruptcy judges in the nine Western states that comprise the Ninth Circuit. The court uses a comprehensive merit selection process for the initial appointment.



Hursh

Court approves IOLTA rules effective immediately

The Montana Supreme Court in December adopted a revision to the Montana Rules of Professional Conduct regarding noncompliance with IOLTA/Trust Account reporting requirements.

The revision gives the State Bar of Montana authority to suspend Montana attorneys from the practice of law if they fail to file annual IOLTA/trust account certification. A non-complying lawyer would receive written notice allowing the lawyer 30 days from the date of the notice to comply before the lawyer's license would be suspended.

The rules are similar to rules regarding failure to pay state bar dues and other assessments, the order notes.

The 2016 IOLTA reporting period ended on Jan. 9, but the reporting page remains active. Those who have not yet reported may do so by clicking the link on the home page at www.montanabar.org.

The court adopted the revision after a 90-day comment period.

The court received comment from two attorneys opposing the rule revision, including an attorney, who wrote the original petition to adopt mandatory IOLTA in Montana.

The comment indicated that the language in the original rule was intended to allow discretion to be exercised in determining whether to discipline for noncompliance. The comment further stated that the great majority of attorneys are already reporting and that the revision would be unlikely to add significantly to the Montana Justice Foundation's income.

In a public meeting to discuss the proposed revisions on Dec. 14, some members of the court said they were sensitive to these concerns, but that IOLTA/trust account reporting is a duty and the written notice and 30-day grace period before suspension adequately addressed concerns about overly burdensome rules.

Another comment called the IOLTA program unconstitutional and called on the Montana Legislature to take action against it. Justice Beth Baker noted that the U.S. Supreme Court has already

ruled that state IOLTA programs are constitutional.

The revision took effect immediately. The text of the Montana Rules of Professional Conduct reflecting the revision is appended to the order.

Court OKs changes to Montana Rules of Civil Procedure

The Montana Supreme Court in December approved a number of changes to the Montana Rules of Civil Procedure.

The first three changes are to M. R. Civ. P. 4. Of these, the first is for a non-substantive change to M. R. Civ. P. 4(c)(2)(C)(i) and (ii), to correct parentheticals that were inadvertently reversed.

The second change is the result of the recommendation of the Montana Secretary of State, who reports that the fees set forth in M. R. Civ. P. 4(j)(3)(B) and 4(p)(2)(C) for service on her office are insufficient to cover actual costs. The proposal would raise the fees from \$10 to \$20.

The third change clarifies M. R. Civ. P. 4(o)(1)(C), concerning service by publication. The Court revised M. R. Civ. P. 52(a)(3) to require that a summary judgment order must include articulation of the basis for the order. Finally, the Court revised the timelines for deemed denial of motions for new trial or relief from a judgment or order under M. R. Civ. P. 59(f) and 60(c)(1). The court approved changes after a 90-day comment period.

To see the court's order, including the full text of the new rules and the original order with the proposed changes shown, go to <https://supremecourtdocket.mt.gov/activecase.jsp> and search case number AF 07-0157.

Standing committee created to address bar exam, education

The Montana Supreme Court in December ordered the creation of a standing committee to address issues relating to legal education, testing and bar eligibility in Montana.

The formation of the standing

committee was originally proposed in April of 2016 in a report from an ad hoc committee formed to study adjusting the passing score in Montana for the bar exam. The National Conference of Bar Examiners' recommends the establishment of such committees in each jurisdiction.

Justice Jim Rice has agreed to chair the seven-member committee. Other committee members will be the president of the State Bar of Montana; the bar's admissions administrator; the chair of the Board of Bar Examiners; the chair of the commission on Character and Fitness; the chair of the Commission of Continuing Legal Education; and the dean of the Alexander Blewett III School of Law at the University of Montana.

The committee will meet annually.

DISCIPLINE

Freedman given public censure

The Montana Supreme Court publicly censured Livingston attorney David S. Freedman on Jan. 10.

Freedman was censured for his actions in three cases.

In one case, Freedman acknowledged that he violated Rule 1.1, Rule 1.3, Rule 1.4, Rule 3.4(d), and Rule 8.4(d) of the Montana Rules of Professional Conduct. In a second case, he acknowledged violating Rule 1.1, Rule 1.3, Rule 1.4, and Rule 1.16(d) of MRPC. In a third case, he acknowledged violating Rule 1.4 and Rule 1.16(d) of MRPC.

In addition to the public censure, Freedman was ordered to pay the Office of Disciplinary Counsel's costs.

APPOINTMENTS

The Montana Supreme Court has appointed the **Honorable Carolyn Ostby** to the court's Commission on Character and Fitness.

Judge Ostby, who was Montana's first female federal judge, retired on Dec. 1 as a U.S. magistrate judge. Appointed in 2002, she was also the state's longest

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an interview after her appointment. "It's a huge responsibility. I have tempered excitement because I know what an important responsibility this is."

She is not the only judge in her family – she is married to the Honorable Russ McElyea, Montana's chief water judge, who assisted with Rienne's Jan. 3 swearing-in ceremony.

A 1989 graduate of the University of Colorado law school, McElyea started her career at her father's firm in Colorado, doing mostly personal injury law, before she moved to Montana in 1991. In recent years she has specialized in family law but has also practiced personal injury, criminal defense, real estate, business, employment, defense and contract law.

She also has volunteered at the Gallatin Legal Assistance Clinic.

McElyea said when she was starting her law career she expected her focus to be on criminal defense, and when she moved to Montana, she did quite a bit of appointed public defense work. She is excited that as a district judge she will be able to work on criminal cases again.

McElyea was one of three people the Judicial Nomination Commission submitted to Gov. Bullock for the appointment. The others were Gallatin County Attorney Marty Lambert and James McKenna, a civil attorney in Bozeman.

Berger takes over for Tucker in 5th Judicial District

Berger, a deputy county attorney in Lewis and Clark County prosecuting felony crimes and representing the State in mental health cases, will take over for the Honorable Loren Tucker, who retired effective Jan. 27.

The appointment will be a homecoming for Berger, 35, a 2000 graduate of Beaverhead County High School in Dillon and for his wife Alexis Sandru, a 2003 graduate of Twin Bridges High School. The 5th Judicial District encompasses Beaverhead,

Madison and Jefferson counties.

Thirteen attorneys applied for the judge position. After the Judicial Nomination Commission interviewed seven of the applicants, the commission forwarded the names of Berger, Beaverhead County Attorney Jed Fitch and Whitehall attorney Lori Harshbarger to Gov. Bullock.

Prior to joining the Lewis and Clark County Attorney's Office in 2012, Berger was a Helena deputy city attorney. A 2008 graduate of the University of Montana School of Law, he also clerked for the Montana Supreme Court for Justices Brian Morris, John Warner and Patricia Cotter.

Berger was elected to the State Bar of Montana Board of Trustees in 2011. He has served as chair of the board since September 2016. He is resigning his position on the board, however, because he is leaving the 1st Judicial District, which he represents.

Berger also serves on the board of The Friendship Center in Helena and is a member of Helena's Local Advisory Committee on Mental Health.

Both Berger and McElyea are subject to Senate confirmation during the 2017 legislative session. If confirmed, each must run in the 2018 general election.

5 apply for Cascade County district judge

Five attorneys recently applied for 8th Judicial District judge to replace the Honorable Dirk Sandefur, who stepped down after winning election to the Montana Supreme Court in November.

They are: Patrick Flaherty, Tonja Schaff Kostecky, Allen P. Lanning, John Parker and Joseph M. Sullivan.

The Judicial Nomination Commission took public comment on the applicants until Jan. 23. The Commission next will interview candidates, if necessary, and recommend three to five of the applicants to Gov. Bullock.

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serving magistrate judge at the time she retired.

She takes over for the Honorable Michael C. Prezeau, who resigned his seat on the commission.

The Court reappointed **the Honorable Brenda Gilbert** of Livingston to a term on the court's Sentence Review Division. Her new term will run through Dec. 31, 2019.

Tammy Hinderman has replaced Professor Andrew King-Ries as chair of the Criminal Jury Instructions Commission. The change is at Professor King-Ries' request. He will remain on the commission.

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Brian M. Joos has become a partner of the firm and
Caleb E. Simpson has joined the firm as a partner.

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Step 2: Strengthen Your Passwords

Using a trusted password manager helps you securely store and keep track of all your sign-in information

Your network, PC, email, and many applications have one critical element in common: They are only as secure as the passwords you created for them. Security researchers have consistently found (and data dumps from breaches have documented) that a majority of people re-use the same password for many, if not most, applications. A single insecure website that exposes your password in a data breach could be all an attacker needs to gain access to many accounts critical to your practice and/or your personal life.

How can you protect yourself? Start with a trusted password manager application, such as 1Password or Keychain on Mac OS. A password manager provides a secure way to store and find all your passwords and only requires you to remember a master passphrase to gain access. Basic password managers work with a single computer, encrypting passwords on your hard drive; more sophisticated versions allow you to securely share your passwords between multiple computers and devices, including mobile phones and tablets.

When you first set up your password manager, you will need to choose a strong but memorable passphrase. A passphrase is basically a stronger, more complicated password. Strong

passphrases have the following characteristics:

- Contain both upper and lowercase letters
- Have digits and punctuation symbols as well as letters
- Contain at least 12 or more letters, numbers, or symbols (the longer the better)
- Are not a word in any language, slang, dialect, or jargon
- Are not based on any personal information such as names of family or pets, or important dates

As you create new accounts for sites you visit or applications you use, add a new entry in your password manager. Name the entry after the site, include your username, and use the password manager to generate a password. Most will let you choose the length and complexity of the password to meet any rules imposed by the site, such as allowed special characters. Some accounts may require you to provide answers to security questions to reset a forgotten password. Unfortunately, most sites ask the exact same questions and may not adequately protect the answers. If the account requires you to answer security questions, use the password manager to generate your responses, as well. Remember to include the security question in the password entry (for example “First pet’s name: 3TFhJzbNdnYN1SMXW7q4”).

Another step you can take to protect your critical systems is to enable multi-factor authentication (also known as MFA or two-factor authentication). MFA is available on many sites and protects you by requiring both your password and a code to access your account. The access code is typically texted to you or provided by an app on your phone, such as Google

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ACA: Under the knife

Trump administration, Congress signal early on that big changes are in store for federal health care law

By Kristy Buckley

The new Trump administration and majority Republicans in Congress have promised that the Affordable Care Act will undergo significant reforms this year and into the future. To date, there have been five notable pieces of activity that impact the Affordable Care Act. Those are: (1) an executive order President Donald Trump signed the day he took office; (2) a federal injunction delaying a portion of the ACA nondiscrimination rule; (3) delayed ACA reporting; (4) passage of the 21st Century Cures Act; (5) an early legislative session budget vote. What follows is a brief overview of each activity.

Executive order sets the stage

On the day he took office, Friday, Jan. 20, immediately following his inauguration, President Donald Trump issued an executive order to set the stage for Affordable Care Act reform.

The order includes a statement of policy that the current administration intends to repeal the ACA. Then, the order directs Health and Human Services (and presumably the IRS and Department of Labor) to exercise all discretionary authority to delay fiscal burdens of the ACA until repeal happens. The order further sets the stage to encourage states to be flexible and cooperative regarding interstate health care commerce. Finally, the order acknowledges that reform and repeal will require following congressional and agency protocol for rulemaking.

Although the executive order does not create an official ACA non-enforcement regime for any particular agency (HHS, IRS, or DOL), the strong delayed enforcement policy statement sends a clear message that early rulemaking will likely focus on ACA self-reporting, IRS forms, and enforcement.

Federal district court judge delays implementation of Affordable Care Act nondiscrimination rule

Background

Section 1557 of the Affordable Care Act (ACA) prohibits discrimination based on race, color, national origin, sex, age, or disability in health activities and programs that receive federal assistance or funding. On May 18, 2016, the Department of Health and Human Services promulgated a final rule implementing the ACA nondiscrimination provision (the “Final Rule”, 81 Fed. Reg. 31376). The Final Rule clarified which entities are subject to the ACA nondiscrimination provision,



Editor’s note: This article is part of the continual effort by the State Bar of Montana Health Care Law Section to keep lawyers informed of current events with respect to the health care industry. The Health Care Law Section intends to provide the Montana Lawyer with continual updates through 2017 regarding Affordable Care Act status and any new potential federal legislation as part of a series on reforming health care reform.

and what those “covered entities” may or may not do. The Final Rule was particularly notable for the protections it provided for transgender individuals, including prohibiting discrimination on the basis of sex stereotyping and gender identity and prohibiting categorical denials of health services related to gender transition and related services. The Final Rule did not require coverage for all health services related to gender transition. However, health plans were required to provide a neutral, nondiscriminatory reason for denying particular services, to ensure that the denial or limitation is not a pretext for discrimination.

The injunction

On the last day of 2016, Judge Reed O’Connor, U.S. District Court for the Northern District of Texas, issued a nationwide injunction temporarily preventing the implementation of specific challenged provisions in the Affordable Care Act’s Nondiscrimination Rule. The enjoined provisions were to take effect Jan. 1, 2017, and would have prevented discrimination on the basis of “gender identity” and “termination of pregnancy.” In issuing the injunction, Judge O’Connor found that federal rule-makers exceeded their authority by

defining discrimination on the basis of sex under Title IX of the Education Amendments of 1972 to include discrimination on the basis of “gender identity” and “termination of pregnancy,” and by failing to incorporate a religious exemption into the rule’s mandate. The injunction was granted at the request of plaintiffs, which included several states and several religiously affiliated nonprofit medical groups, including the Franciscan Alliance, Inc.

The injunction delays, among other things, the nondiscrimination requirements regarding (1) coverage of sex-specific necessary medical procedures regardless of an individual’s sex at birth, and (2) blanket prohibitions on covering gender transition services. The injunction also delays the nondiscrimination requirements preventing discrimination based on the “termination of pregnancy,” which the plaintiffs argued may have required coverage for abortion services. The provisions of the nondiscrimination rule that relate to accessibility to health care and communications are not affected by this injunction.

General Comments on the Injunction

While the grounds for the injunction focused on the failure to include a religious exemption, the injunction applies nationwide to all entities covered by the rule. As a result, insurers and other covered entities have the opportunity to decide whether to delay their own compliance with the nondiscrimination rule, or whether to move forward with implementing the rule’s mandate. The injunction was issued on Dec. 31, 2016, and effectively blocks the nondiscrimination rule compliance date of Jan. 1, 2017 until further guidance is issued.

Delayed ACA Reporting

The IRS released Notice 2016-70 during the week of Nov. 23, 2016, extending the due date for employers, insurers, and other providers of minimum essential coverage to furnish covered individuals with Forms 1095-B and 1095-C from **Jan. 31, 2017, to March 2, 2017**. Form 1095-C is the information return that applicable large employers (with 50 or more full-time employees) must provide to covered employees for purposes of reporting minimum essential coverage offered to employees. Form 1095-B is a similar information return that small employers (fewer than 50 full-time employees) with self-funded group health plans provide to covered employees. The deadline for filing the statements with the IRS (along with Forms 1094-C and 1094-B transmittal forms) remains March 31, 2017, for electronic filings and Feb. 28, 2017, for paper filings. The IRS Notice also extended some transition relief from penalties for incorrect or incomplete information for reporting entities that

make good-faith efforts to comply with information-reporting requirements.

Similarly to the delayed reporting that occurred last year, some taxpayers may not receive a Form 1095 before filing their 2016 personal federal income tax returns. Those taxpayers should retain a copy of the 1095 that is eventually received in their records.

21st Century Cures Act and QSEHRA

On Dec. 13, 2016, the 21st Century Cures Act was signed into law. A portion of that Act supersedes some tri-agency (IRS, DOL, and HHS) guidance that was originally issued in 2013 for compliance with the ACA rules regarding employer paid health insurance premiums using a Health Reimbursement Arrangement (HRA) or other medical expense reimbursement programs. Eligible small employers are now allowed to offer a Qualified Small Employer Health Reimbursement Arrangement (QSEHRA) without being subject to ACA penalties. Small employers must have fewer than 50 full-time and full-time-equivalent employees in the prior calendar year and the employers must not offer a group health plan to employees. The benefits offered by the eligible small employer must be generally available to all employees (with some exceptions for seasonal, union, and new hires). There are notice requirements associated with offering a valid QSEHRA, to be provided at least 90 days before each plan year and upon hire date for new hires. Beginning in 2017, small employers offering a QSEHRA will be required to report the benefits on an employee Form W-2.

Budget Vote

The 2017 session of Congress opened on Jan. 3, and a budget resolution was quickly docketed. On Jan. 12 the Senate voted 51-48 in favor of the resolution. The House voted 227-198 in favor of the resolution on Jan. 13. The resolution, with a target date of Jan. 27, instructs committees to commence drafting legislation to repeal the Affordable Care Act. As of this article’s submission, no further activity has happened.

Kristy Buckley is a partner in the Bozeman office of Crowley Fleck PLLP, practicing in employee benefits law. The Health Care Reform compliance team at Crowley is continually monitoring legislative activity. If you have questions about Affordable Care Act compliance or potential new federal legislation, you can contact Kristy at 406-522-4522 or kbuckley@crowleyfleck.com. Special thanks to Crowley Fleck associate attorney Adrienne Maxwell for the content regarding the injunction for the nondiscrimination rule and delayed ACA reporting.

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OAH hears range of employment cases

Montana Office of Administrative Hearings

Nestled within the Montana Department of Labor & Industry, across from the Montana State Capitol, resides a small but vital legal unit. Going by the unassuming name of The Office of Administrative Hearings or OAH, the dedicated staff of this unit work to ensure that the parties to an employment dispute, regardless of whether they are a multistate corporation or a bartender in Ekalaka, receive a fair hearing from an impartial administrative law judge.

The Office of Administrative Hearings is responsible for holding fair and impartial hearings to provide dispute resolution for a broad spectrum of issues, including:

- Unemployment insurance cases;
- Human rights complaints;
- Wage and hour claims;
- Public employee collective bargaining and unfair labor practices cases;
- Professional and occupational licensing appeals;
- State employee classification appeals and grievances;
- Uninsured employer regulatory matters and;
- Workers' compensation issues

With almost 1,400 cases heard every year, every day brings a new and intriguing legal issue according to Chief Administrative Law Judge David Scrimm.

"The work we're doing at the Office of Administrative Hearings is always interesting and diverse," says Scrimm. "Every day we see a new wrinkle or new type of case. Our role is to provide fair and impartial hearings for Montanans with an incredibly knowledgeable and dedicated staff."

Although the bureau hears cases involving a wide range of employment issues, almost 1,200 of these hearings, about 85 percent, are about unemployment insurance issues.

"Unemployment insurance impacts private and public sector employees and businesses across the state," says Scrimm. "Most of these cases are resolved through telephone hearings lasting an hour or less. This saves staff, businesses and workers significant travel and time costs leading to an accelerated resolution timeline for both parties."

The work of the OAH staff has been recognized on a national level with the recent awarding of the U.S. Department of Labor Unemployment Insurance State Performance Excellence in Appeals Decision Award for fiscal year 2016.

"Among small states, the Office of Administrative Hearings staff has proven time and time again that we provide timely and high-quality decisions for Unemployment Insurance appeals," said Montana Department of Labor & Industry Commissioner Pam Bucy. "Being ranked first among small states and second nationwide has been accomplished through the hard work, experience and knowledge of the OAH staff."

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Top practice tips from the Office of Administrative Hearings

■ Many parties who appear before the Office of Administrative Hearings are self-represented. If they come to your office seeking help and they can't afford it or you have another reason why you can't fully represent them, consider doing some form of limited representation. OAH can't provide legal advice, but an hour's worth of your time could be very helpful to a party who has a decent case but doesn't know how to present it.

■ If you take a case, be prepared to move quickly — as an administrative forum we try to dispose of cases in an efficient manner.

■ Most of our prior decisions can be found online at <http://dli.mt.gov/hearings>

■ If you are appearing in an unemployment insurance case — review the video of how our telephone hearings are conducted. <http://dli.mt.gov/hearings>

■ The Montana Rules of Evidence only apply in some of our cases, but are used as guidance in others.

■ There is no need to file discovery requests or notices of discovery with OAH unless connected to a motion to compel.

■ If you are having difficulty with discovery, contact our office before filing a motion to compel to see if we can resolve the dispute through a conference with the ALJ.

■ If you need a postponement, check with opposing counsel before filing your motion. Postponements in unemployment cases are only granted in extraordinary cases.

■ Our ALJs are trained mediators so if you would like to try mediation, contact the legal secretary assigned to the case to see if one of our ALJs is available to help you.

■ Hearings are digitally recorded unless a party or the parties provide a court reporter.

■ Our hearings are not reviews of a department decision they are de novo or first hearing proceedings.

■ Call the administrative law judge by "Ms. A," or "Mr. B." You needn't use "your honor."

■ Please cite to authority in your briefs. As your law professor likely told you "make it easy for the judge to rule in your favor."



Minimize risks of being a wire fraud victim

Mark Bassingthwaighte, Esq.
mbass@alpsnet.com

If you aren't already aware, attorneys are increasingly being targeted by scammers hoping to get away with wire fraud. Here's just one example of how it can play. An attorney represents a seller in a real estate transaction. Unbeknownst to anyone involved, someone has hacked into and been monitoring the seller's email for a period of time. Once aware that a transaction is about to take place, the hacker uses a spoofed email address of the seller to send new wiring instructions to the attorney in order to have the funds sent to an account the hacker has access to. Attorney fails to catch the altered email address and ends up wiring the proceeds to the wrong bank. So not good.

As an aside, some may wonder what a spoofed email might look like. Although there are a number of ways to spoof email, it can be as simple as this. If an actual email address is Lawfirm@aol.com, a spoofed address might be Lawfirm@aoi.com. If the actual email happens to be Mark.Bassingthwaighte@RECompany.net a spoofed address might read Mark.Bassingthwaite@RECompany.net. Given the busy days we all have; would you catch a subtle change in an email address like the two examples above? Many would not.

If this isn't enough to worry about, there's more. In a recent situation in Virginia a plaintiff attorney's email account was similarly hacked. The hacker sent a spoofed email to this attorney's client. Fortunately, the client questioned the legitimacy of the email, contacted the lawyer who confirmed the email was a fake and the email was deleted. Unfortunately, the plaintiff attorney failed to notify defense counsel that his email account had been hacked. The hacker switched tactics and used a spoofed email to persuade the defense lawyers to wire settlement proceeds to an overseas account. Long story short, a U.S. District Judge basically held the plaintiff's lawyer responsible for the loss due to the lawyer's failure to warn.

Worse yet, the FBI reported that in first three months of 2016 in the U.S. alone over \$209 million had been stolen in attacks of this type and the frequency of these attacks continues to rise. Now that I have your attention, the real issue is what in the world can you do to avoid becoming a victim of such attacks? As the title of this post suggests, short of never being responsible for transferring funds of any kind, I'm not aware of any steps you can take to make you safe 100 percent of the time. However, the good news is you can get close.

First, and I know you've heard this before, security basics always play a role. You must avoid the use of free web-based email. If you don't already have a firm website domain, get one and use it to establish your own firm email accounts. Always delete unsolicited email from unknown parties. Never open this spam nor any attachments they may contain. Keep your firewall, operating system and security software current; avoid using unsecured Wi-Fi; and use unique strong passwords (a combination of letters, numbers and symbols) on all accounts and devices. Limit

what you post on firm websites and other social media accounts such as information about staff roles and responsibilities and out of office information. Hackers can use this kind of information to determine who to target and when. Most importantly, use multifactor authentication on all email and financial accounts wherever able.

Second, establish a policy on wire transfers and couple that with appropriate training of anyone at your firm who may at some point be involved in a wire transfer, to include all attorneys. Initially, the policy should mandate the gathering and verification of contact information from all parties involved at the outset of representation and prohibit the use of any other non-verified contact information during the course of representation. With that in hand, the most important provision of any such policy would be the implementation of a process whereby all wiring instructions are confirmed by use of this previously verified contact information. For example, if wiring instructions initially come via email, use a previously verified number to place a call to the relevant party to confirm the accuracy of the information received. An additional relevant provision might be that all last-minute changes requesting that funds be transferred by a different method or to a different account should be treated as suspect. The request should never be followed until verified by contacting the person purportedly making the request through the use of previously verified contact information. If email security is a concern, another provision might be to require using faxes for the exchange of wiring instructions or, better yet, the use of encrypted email or a secure client portal. The absolute best option might be a provision that requires wiring instructions be delivered in person, for example, by the seller at a closing.

Finally, everyone in the firm should be trained to be suspicious and learn how to spot these kinds of scams. Underscore the necessity of remaining vigilant at all times. Training examples that address how these attacks look today might include the following. Look for inconsistencies with email such as various email addresses in use and different spellings of a name. Always carefully check the address of relevant email coming in to make sure it exactly matches the previously verified address in your file. Always question requests for money to be sent to an account that is not in the name of the seller or not in the jurisdiction where the seller is. Be suspicious of requests to wire money when key personnel, such as the attorney in a solo practice, is out of the office or requests that are urgent in nature. And last but not least, remind everyone that just because the grammar and spelling looks great, that doesn't mean the email is legit. Scammers have spell check too and many of these scammers draft very well written email.

ALPS Risk Manager Mark Bassingthwaighte, Esq. has conducted over 1,000 law firm risk management assessment visits, presented numerous continuing legal education seminars throughout the United States, and written extensively on risk management and technology.



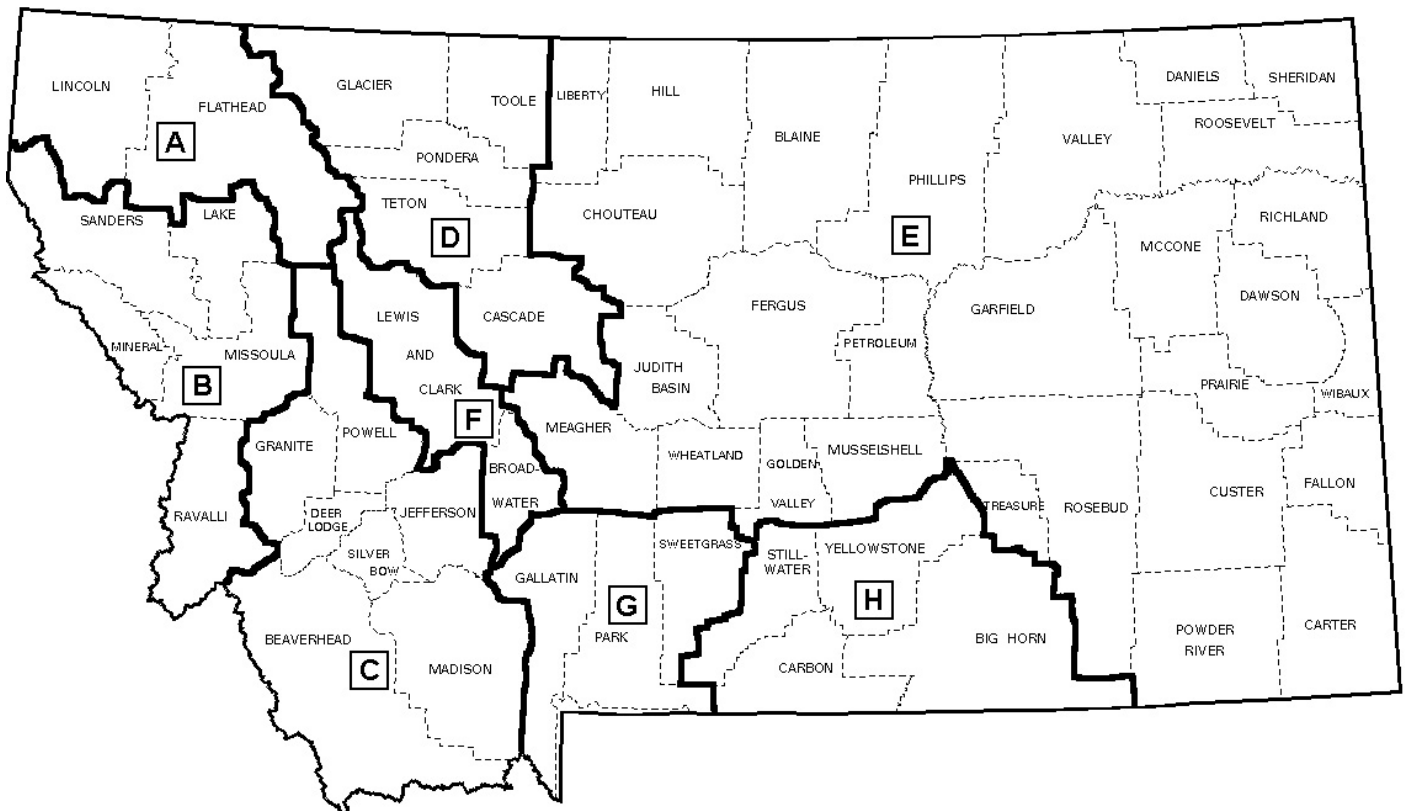
State Bar of Montana elections begin

Election season is under way for State Bar positions. Letters have been sent to those whose terms are expiring. A copy of the nominating petition is on the facing page, and at www.montanabar.org. See schedule below for details. The following positions are up for election: One trustee position for Area E and three trustee positions each for Areas F and H; secretary-treasurer, president-elect.

2017 election calendar

- March 3 Letters to Areas E, F and H trustees, and Secretary/Treasurer whose terms are expiring, enclosing nominating petition and deadline for returning to bar
- April 3 Filing deadline for original nominating petitions (Postmarked or hand-delivered 60 days before election)
- April 17 Ballots to printer
- May 1 Ballots mailed no later than 30 days before election (contested races only)
- May 22 Ballots postmarked or hand-delivered no less than 10 days before the date of the election
- June 2 Ballots counted, affidavit signed by canvassors; Candidates notified of results by executive director

State Bar Trustee Areas



2017 Nomination Petition

State Bar Officer and Trustee Election

I, _____, residing at _____, am a candidate for the office of () President-Elect; () Secretary/Treasurer; () Area E Trustee; () Area F Trustee; () Area H Trustee at the election to be held on June 2, 2017. I am a resident of Montana and an active member of the State Bar of Montana. I request my name be placed on the ballot. The term of office of the President-Elect is one year. The term of office of the Secretary/Treasurer and of the Trustee is two years.

Signature _____

The following are signatures of active members of the State Bar of Montana supporting my candidacy. Trustee candidates include the area of residence. No fewer than 10 signatures must be provided for a Trustee; and no fewer than 25 signatures for President-Elect or Secretary/Treasurer candidates.

NAME

ADDRESS

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Return this petition to State Bar of Montana, P.O. Box 577, Helena MT 59624, postmarked no later than April 3, 2017.
Ballots will be mailed to Bar members on May 1, 2017, and must be returned to the Bar by May 22, 2017.

Supreme Court proposes eliminating review of cases from some courts of limited jurisdiction

The Montana Supreme Court is taking written comment on a proposal to eliminate its appellate review of cases from courts of limited jurisdiction that are courts of record.

In its Jan. 30 order, the court reasoned that such cases already may be appealed to the district courts, and that allowing a subsequent appeal in such a case redundant, unnecessary to assure the rights of litigants, and an improvident use of legal resources.

The court proposes to add the following language to

Montana Rules of Appellate Procedure Rule 6(5), orders and judgments that are not appealable:

(g) Judgments from courts of limited jurisdiction that are courts of record, which are subject to appellate review by district courts. Such cases may be brought before the supreme court for review via petition for writ of certiorari or other writ.

The 60-day comment period will end on Thursday, March 30. All comments must be filed with the Clerk of the Supreme Court.

HEARINGS, from page 22

Because the Office of Administrative Hearings offers a cost-effective method of litigation, Montanans don't face the same procedural hurdles they might encounter working through district court. There has also been an uptick in cases brought to OAH from other agencies in need of a qualified administrative law judge.

"At the end of the day, people want to have their day in court," says Scrimm. "Because of the more informal nature of OAH hearings, parties are able to avoid the type of 'gotcha' techniques you may see in a traditional court case. By having the rules applied equally and fairly to all litigants, the integrity of these cases is secured."

Beyond unemployment cases, the unit also hears 75-80 cases per year focused on human rights issues initiated through the Montana Human Rights Bureau. Because these claims must be heard in the same county where they occurred, ALJs travel to all parts of the state. These hearings take place without a jury and generally last no longer than a week.

"Every human rights case provides an opportunity for Montanans to tell their story," says Scrimm. "Even if the opposing party is a government agency or private sector employer, everyone receives a fair and impartial hearing. The decisions issued by this office have helped to define and clarify boundaries of the state's Human Rights Act."

OAH conducts disciplinary hearings involving a range of professions and occupations, from doctors to plumbers and architects to barbers. The only disciplinary hearings OAH does not

conduct are those involving lawyers. The OAH also holds hearings involving wage and hour claims and collective bargaining issues. According to Scrimm, the unit hears cases that can vary by trends and averages each year, depending on the industry.

So, what advice does Scrimm give to attorneys seeking to work for the Office of Administrative Hearings or a similar oversight unit?

"We have found that experienced litigators make very good judges." "If that experience is related to the types of cases we hear, all the better." "While we don't get many openings, if you're considering a career change, OAH might be a good fit. You'll have to remember the focus remains the people in front of you. You are no longer an advocate for a specific party. The people we serve come from all walks of life and deserve to be treated with dignity and respect."

"It doesn't matter whether you're working for a big firm in Denver or you've hung out your own shingle in Big Timber — if you want to make a difference in the lives of Montanans, I would strongly encourage you to consider a career with the Montana Office of Administrative Hearings," says Scrimm.

"The people here are all always interested in learning more about the law, and sharing their interest and passion with their colleagues and those involved in the cases we hear," he said. "We aren't interested in just pushing paper, but in actually having a positive effect on our state and our citizens."

For more information about the Office of Administrative Hearings, please visit dli.mt.gov/hearings or call 406-444-4662.

Every human rights case provides an opportunity for Montanans to tell their story. Even if the opposing party is a government agency or private sector employer, everyone receives a fair and impartial hearing.

Shanahan, former bar president, winner of 1998 Jameson Award, dies at age 85

Helena attorney Ward Shanahan, a prominent Helena attorney for more than a half century and a leader of the Montana bar, has died at age 85.

Shanahan was born in Libby, Montana, on November 24, 1931. The son of Ward P. Shanahan, a bank surveyor, and Antonia Kessels Shanahan, a nurse and homemaker, Ward and his sister Mary Shanahan Haskins grew up in Miles City. He joined the U.S. Navy after high school and graduated from the University of Montana in 1953.

Shanahan was a partner in the venerable Helena firm Gough, Shanahan, Johnson and Waterman, which was the state's oldest firm until it closed in 2015. He also was a leader in the State Bar of Montana for years, serving as president in 1982-83.

He received the William J. Jameson



Ward Shanahan

Award, the highest honor bestowed by the state bar, in 1998.

Shanahan, a Miles City native, met Gayle Gibbons of Billings while studying at the University of Montana. They married in 1956 and had two

children, Catherine Monks (Paul) and Philip Shanahan (Mary Schulz).

Shanahan graduated from the University of Montana School of Law in 1958. He was admitted to the state bar that year and joined the firm then known as Weir, Gough, and Booth, where he remained for his entire legal

career.

In addition to his law practice, Shanahan was a civic and philanthropic leader in Helena and was active in Montana politics. He lobbied for the Montana Railroad Association and was an active member of the Montana Republican Party. He was the Judge Advocate for the Navy League. He served on the boards of many organizations, including the Montana Law Foundation, the Montana Mining Association, the Montana Historical Society, the Montana History Foundation, the Mountain States Legal Foundation, Kiwanis, and Montana Legal Services Association.

A funeral Mass will be at the Cathedral of Saint Helena at noon on Thursday, Jan. 26.

Gallagher, attorney and veterans advocate, dies at 69

Daniel O'Neil Gallagher, 69, a Missoula attorney and an influential advocate for Montana veterans, died Monday, Dec. 26, 2016, of heart failure.

He was born on Aug. 16, 1947 in St. Ignatius to Frank and Mabel Gallagher. The last of 13 children, he was raised on a farm in Charlo.



Gallagher

Having grown up in a family that believed in serving their country in time of need, he enlisted in the Army shortly after finishing high school to serve in Vietnam. He was in the Army from Jan. 12, 1966, through Jan. 10, 1969. He achieved the rank of Staff Sergeant in Vietnam's Central Highland (November 1966 through December 1967).

After his tour of duty and honorable discharge from the military, he returned to Montana and married Marcia Phillips of Missoula on Jan. 31, 1970. Together they raised five children. They later divorced.

He was diagnosed with PTSD after Vietnam, which inspired him to become an advocate for veterans' rights and well-being.

This is a cause to which he devoted the rest of his life.

According to an article in the Missoulian, Gallagher started Missoula's Old Post 101 in the late 1970s with a couple of other local veterans in the Joseph Dixon house downtown after realizing he wasn't the only veteran who struggled with post-traumatic stress disorder, then known as delayed stress.

"It was visceral to him that the public treated Vietnam veterans with so much disdain," fellow attorney and veteran Mike Halligan, director of government and corporate relations for the Washington Corp., told the Missoulian. "He matured over the years as he saw the public's attitude change toward veterans, because they were separated from the politics of the war."

Gallagher was a longtime commentator on veterans issues for Montana Public Radio. According to former MTPR news director Sally Mauk, Gallagher was one of the first commentators on MTPR, and the longest running, from the early 1980s until the station stopped airing commentators a few years ago.

He attended the University of Montana and received bachelor's degrees in history, political science, education and journalism. He went on to receive a law degree from the University of Montana School of Law.

William A. Squires

William A. Squires died on Friday, Nov. 18, 2016, from complications of progressive muscular atrophy. He was 54.

Bill was born in Butte on July 14, 1962, and lived in several cities around western Montana as he pursued his professional goals and career.



Squires

Only death could separate Bill and the love of his life, his wife Sherry. From their early days in Butte as junior high school sweethearts, through undergraduate degrees at Montana Tech and 32 years of marriage, Bill and Sherry were, and are, inseparable in spirit. That spirit gave birth to their son Tucker and daughter Ashton. With their family traditions, cabin bonfire chats, gentle (and not so gentle) humor, family vacations and Sunday night dinners, the four were a unit of fun and love. Family above all. Tucker and Ashton have grown with that ever-present support to be fine adults, with their own adventures yet to come, and a large "family" at their side.

Bill most recently served as the chief executive officer of

Blackfoot Telephone Cooperative, Inc. and its related companies, leading the companies through years of growth and expanded opportunities for the company employees, its members and the communities it serves. After 14 years in private legal practice, Bill joined Blackfoot Telephone as legal counsel and held executive positions before beginning his too short tenure as CEO in 2012. Bill also recently served as a director of CoBank, Syringa Networks, Alaska Power & Telephone, the Missoula Economic Partnership and Vision Net, Inc., and as co-chair of Gov. Steve Bullock's Broadband Key Industry Network committee. Bill was a graduate of Montana Tech with a B.S. in chemistry (1984) and of the University of Montana School of Law (J.D., 1987). He remained engaged with both alma maters and was a prominent leader in the telecommunications industry, serving in a variety of leadership roles in state and national industry associations.

Bill is survived by Sherry, Tucker and Ashton; his sister Deb (Keith) Koprivica; his extended family, a wide circle of friends in Montana and around the country and by his colleagues at the Blackfoot Companies.

Bill is also survived by his corneas, his last gift to others. May the recipients see the world with Bill's humor and joy.

John Roman Nowakowski

The year 1980 brought the world a tremendous grouch, a sardonic old soul, a great wit, a baker, a musician, a hacky sack (sorry, "footbag") enthusiast, a journalist, an attorney, and one of the finest human beings this cheating, unjust rock has ever produced.



Nowakowski

John Roman Nowakowski sauntered from his comfy prenatal home on Oct. 21, 1980. His lifelong best friend, partner in mischief, and identical twin Joseph Roman appeared first. Ten minutes later, Joe's cries convinced John to venture forth. Although, likely, only because he wanted to quiet the noise and continue his nap.

His infant years were rough. John's heart was a pain in the ass, and it never fully cooperated. He would turn blue, frightening everyone around him. Oxygen-poor blood, which leaked past his lungs, was the culprit. His bargain-bin pumper did its best to push the misrouted blood through his body (and maybe his heart was why he so liked thrift stores and cheap bargains).

Doctors did their best then, and throughout his life, to keep

him going. But after 36 years, his heart played its final beat.

John fancied himself an "80-year-old man in 30-something's body," not for health reasons, but rather for his grumpy demeanor. Unlike most other facets of his life, he was no good at his self-described age displacement. His outer crust was thin, and gave way quickly and easily to his true tender nature. He was a softy through and through and failed miserably at being a grouch.

At everything else he pursued, if he decided it was worthy, he excelled.

John earned a journalism degree from the University of Montana. He worked briefly as a journalist before he finally listened to his older brother, who had begged him to get out of the news business ASAP.

From there, John sought a more respectable profession. He joined his childhood friend Erik in Oklahoma, where they both earned law degrees from the University of Tulsa - College of Law. Both returned to Montana, passed the bar exam, and quickly started their legal careers.

As a child, John saw countless adventures, especially with Joe. There are too many stories to cover here. But his (mis)adventures with Joe are legendary among his friends and family. Thinking back, he's lucky he made it as long as he did.

Security, from page 18

Authenticator, and changes with each use. Without access to both your phone and your password, an attacker is prevented from gaining access to your account.

In short, it's very important to remember that your accounts are only as strong as the passwords you created for them. A

trusted password manager is a great way to organize, secure, and diversify your passwords. Lastly, in cases where even stronger security is required for your systems, enabling multi-factor authentication may just be your saving grace.

LawPay is proud to be the preferred payment partner of more than 35,000 law firms, providing attorneys with a simple,

secure, and online way to accept credit cards in their practice. The LawPay platform was designed specifically to correctly separate earned and unearned payments, giving attorneys peace of mind that their credit card transactions are always handled correctly.

Members of the State Bar of Montana typically save 20-25% off standard credit card fees. To learn more, call 866-376-0950 or visit <https://lawpay.com/montanabar/>.

Job Postings and Classified Advertisements

CLASSIFIEDS | List an opening or see additional job listings at jobs.montanabar.org. Basic 30-day listing is \$99 (includes Montana Lawyer classified ad for State Bar of Montana members). For ads for legal services, office space, mediation, or consultants and experts, email jmenden@montanabar.org or call 406-447-2200.

ATTORNEYS

ADMINISTRATIVE LAW JUDGE: Do you have extensive trial experience? Do you have experience in conducting hearings of cases of considerable complexity in the areas of discrimination, labor relations, professional and occupational licensing, wage and hour and workers' compensation? Then it is time for you to join the Montana Department of Labor and Industry team as our next Administrative Law Judge. See a full listing and apply online at <https://mtstatejobs.taleo.net/careersection/200/jobdetail.ftl?job=17140237>.

SENIOR TAX COUNSEL: The State of Montana Department of Revenue is recruiting for a Senior Tax Counsel in Helena, Montana. The Senior Tax Counsel handles the most complex, legally and financially significant, and diverse cases in the department. Senior lawyers must be able to handle the most difficult and important cases without assistance. The cases typically require extensive investigation, research, and preparation. The incumbent will either act as sole representative or may serve as lead counsel. The majority of cases are before Bankruptcy Court, Montana District Courts, the Montana Supreme Court, and the Montana State Tax Appeal Board. See the full listing at jobs.montanabar.org.

ASSOCIATE ATTORNEY: Missoula law firm, practicing in professional negligence defense, construction and design defense, business law and employment law, seeks full time Associate Attorney with at least 3 years' experience. Must be licensed in Montana. Current and former judicial law clerks also encouraged to apply. Successful applicant will have strong research and writing skills, verbal communication skills and some experience in one of our areas of practice. Self-motivated work ethic and pursuit of excellence required. We offer a competitive starting base salary (D.O.E), benefits package and incentive package. Please submit resume, cover letter, and writing sample to kbeal@beal-lawfirm.com with "Attorney Position" in the subject line. All applications kept confidential.

ASSOCIATE ATTORNEY: Billings firm known for its work in real estate, business formation, estate planning and probates seeks full time Associate Attorney with civil litigation and probate and estate experience. All applicants must be licensed to practice in Montana. Current and former judicial law clerks with experience are also encouraged to apply. Successful applicant should have solid research and writing capabilities, and preferably experience with depositions and motion practice. This firm offers a competitive starting base salary, D.O.E., plus incentive package. Excellent academic credentials, writing skills and self-motivated work ethic required. Please submit resume, cover letter, and writing sample to Dietrich & Associates, P.C., 404 N. 31st St., Suite 213, Billings, MT 59103 or by email to ccooper@dietrichlaw.com. All applications are confidential.

ASSOCIATE ATTORNEY: Johnson, Berg & Saxby, PLLP in Kalispell is seeking an associate attorney with a strong work ethic for immediate placement. Please send your cover letter, resume, references and writing sample to kserna@jbsattorneys.com.

ASSOCIATE ATTORNEY: Matovich, Keller & Murphy, P.C., is seeking an additional associate attorney with 0 – 3 years' experience. Experience and/or an interest in litigation is preferred. Send cover letter, resume, references, and writing sample to Matovich, Keller & Murphy, P.C., Attn:

Geoffrey Keller, P.O. Box 1098, Billings, Montana 59103-1098, or via email to mkmfirm@mkmfirm.com. All applications will be kept confidential.

PART TIME ASSOCIATE ATTORNEY: Snyder Law Office of Bigfork, Montana is seeking a part-time associate for long term employment. This is not a temporary position. Practice is real estate, estate planning, probate, business & corporate, and quiet title. Applicants should have a minimum of two years in private practice, licensed in Montana or able to become Montana licensed. Please send detailed application letter describing personal and professional background to PO Box 717 Bigfork, MT 59911 or to avalonlea442@gmail.com

ASSOCIATE ATTORNEY: Rocky Mountain Law Partners, P.C., a small, established business, real estate and commercial litigation firm, located in Montana's beautiful Flathead Valley near Glacier National Park, has an immediate opening for an experienced and self-motivated associate with 2-4 years of general practice experience to work in the firm's Kalispell office. All applicants must be licensed in Montana, and must have strong research, writing and communication skills. Please send a cover letter, resume and writing sample to Managing Partner, Rocky Mountain Law Partners, P.C., P.O. Box 1758, Kalispell, MT 59903-1758, or email to bruce@rmtlawp.com. To find out more about the firm, please visit us at www.rockymountainlawpartners.com. Competitive salary D.O.E.

ATTORNEY: Collection Bureau Services, Inc. is a family owned and operated Montana company established in 1976. We pride our company in being honest and compliance driven. We are seeking an attorney for our Missoula office. You will negotiate with consumers and their counsel, process lawsuits, prepare briefs, conduct pre-trials and trials. Some infrequent in-state travel which may entail overnight stays or late returns to Missoula. Salary position. Knowledge of debt collection, corporate affairs, and personnel issues helpful. Please respond with your resume and notice of interest to jennk@collectionbureau.biz and we will be in touch.

ATTORNEY: Schwasinger & Fallaw, P.C. seeks an attorney for a Bozeman transactional practice focused primarily on real estate, business, estate planning, contracts, and probate. Seeking applicant with strong work ethic together with excellent writing and interpersonal skills. Will consider both recent graduates and candidates with experience. Apply by email to tim@sflawmt.com.

ATTORNEY: Attorney for Bozeman general litigation and transaction practice. 3-10 years experience preferred. Requirements: Excellent legal research and writing skills. Litigation experience and desire. Send resume and cover letter to classifieds@montanabar.org with the subject line 1701.

ATTORNEY: Seeking attorney for a Bozeman transactional practice focused primarily on real estate, business, estate planning, contracts, and probate. Seeking applicant with strong work ethic together with excellent writing and interpersonal skills. Will consider both recent graduates and candidates with experience. Email applications to tim@sflawmt.com.

More **JOBS** next page

JOBS, from previous page

COMMERCIAL (WITH TAX) ATTORNEY: Morrison & Frampton, PLLP (Whitefish, Montana) is seeking a commercial attorney with knowledge and experience in tax-related matters, estate and succession planning, trust creation and administration, real estate transactions, and business entity formation and succession. Please apply online or submit resume to wanda@morrisonframpton.com.

LITIGATION & TRANSACTIONS: Well established law firm in the heart of downtown Billings seeks attorney, preferably with experience in litigation and transactions. Please send letter of application, references, resume, transcript, and writing sample to classifieds@montanabar.org, with a subject line of 1612.

LITIGATION ATTORNEY: Williams Law Firm, P.C. is seeking a litigation attorney with some experience, for its Missoula or Bozeman offices. We offer a very competitive salary, good benefits, and the chance to work on a wide variety of civil cases. Please send your cover letter, resume, and a writing sample to brittney@wmslaw.com.

PARALEGALS/LEGAL ASSISTANTS

LEGAL ASSISTANT: Position opening for law office bookkeeper/legal assistant in well-established three-lawyer firm in Columbia Falls. Position open due to retirement in March of this year. Must be a self-starter as well as a team player. Working knowledge of Microsoft Word, Excel, Quickbooks and Quicken a must. Prior or current law firm experience desired but will train the right person. Requires exceptional communication skills and word processing speed of 75 wpm. Successful applicant will work directly with attorneys and 2-4 administrative staff members. Must coordinate information exchange with government agencies and private accounting firm. Benefits include company-paid health insurance, 401(k) plan, paid vacation, bonus eligibility and competitive wages. Send resume with cover letter to: ks_thomas@hotmail.com.

LEGAL ASSISTANT: Hall & Evans, a leading regional law firm which focuses on tort and commercial litigation, is hiring for a new full-time Legal Secretary/Assistant at our expanding Billings office. This position also shares the responsibility for various other tasks and duties such as receptionist and general office services administrative support. Ideally, the successful candidate would have experience with a defense firm and exposure to transportation litigation. However, candidates with strong administrative secretarial experience and minimal law office exposure will be seriously considered if you are outgoing, energetic with excellent secretary, software and general office administration experience. This is a wonderful opportunity to join a great team of talented people with an awesome Firm! Apply online at <http://hallandevansllc.appone.com/>

LEGAL ASSISTANT: Immediate opening for full-time legal assistant in fast-paced Bozeman trial firm. While experience working in a law firm is helpful, we will train the right person if motivated and willing to learn. Word processing skills, confidentiality, and strong interpersonal communication skills required. Salary and benefits based on experience and competitive for the market. Please reply with letter of interest and resume. No phone calls please. brenda@doddlawfirm.com

PARALEGAL: Berg, Lilly & Tollefsen is hiring a full-time paralegal to provide litigation support to attorneys in our downtown Bozeman office. Work will entail research, drafting, document management

and production, and witness preparation. Strong technical, organizational, and communication skills essential. Pay DOE; benefits include health insurance, disability insurance, and 401(k). Apply by sending cover letter and resume to info@berglawfirm.com.

ATTORNEY SUPPORT/RESEARCH/WRITING

MONTANA BANKRUPTCY REPORTER: A searchable database of Montana Bankruptcy cases from 2005 through the present. Email alerts as opinions are entered. Weekly legislative update throughout the Montana Legislative session. Subscriptions \$200 per year. www.Montanabankruptcyreporter.com; Box 1795; Great Falls, MT 59403.

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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; e-mail robin@meguirelaw.com; or call 406-442-8317.

ON DEMAND LITIGATION SUPPORT: When things get busy, increase your productivity without increasing overhead. Outsource legal research, writing, and other litigation tasks to David Sulzbacher, a Montana and North Dakota licensed attorney with clerkship, civil litigation, and criminal experience in Montana courts. \$75/hr for speedy and high quality briefs, pleadings, memoranda, doc review, etc. Call 406-407-7079 or email david@thefreelanceassociate.com.

OFFICE SPACE/SHARE

BILLINGS: Looking for attorney(s) to share fully furnished office and legal assistant in Billings, Montana. Reasonable terms. For more information email: bruce@bharperlaw.com or call 406-255- 7474.

GREAT FALLS: 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; 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@mkmfirm.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.

CONSULTANTS & EXPERTS

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. Web site at www.documentexaminer.info.

BOARD CERTIFIED VOCATIONAL EXPERT: 42 years' experience providing vocational expert services to Montana, Washington and Idaho attorneys. Professional member of the American Board of Vocational Experts, National Association of Forensic Economics, International Association of Rehabilitation Professionals, and the American Rehabilitation Economics Association. I have provided testimony in FELA, personal injury, marital dissolution, medical malpractice, workers' compensation, and wrongful death cases. Norman W. Johnson, M.S., CRC, ABVE/F, www.normjohnsoncrc.com, nwjrcr@charter.net 406-

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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.

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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 easy to join: Membership of 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, fill out the Membership Application at www.montanabar.org -> Need Legal Help-> Lawyer Referral and forward to the State Bar office. **If you have questions or would like more information, call 406-442-2208 or email edavis@montanabar.org.**

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