

# MONTANA LAWYER



APRIL 2019

## TECH COMPETENCE A PATH AHEAD

**YOUR ETHICAL DUTIES EXPLAINED  
— AND HOW YOU CAN MEET THEM**

**STATE BAR LAUNCHES NEW  
EMAIL ENCRYPTION BENEFIT**

**SURVEY GIVES SNAPSHOT OF TRENDS**

### **ALSO IN THIS ISSUE**

**NOMINATE A DESERVING LAWYER  
FOR A 2019 STATE BAR AWARD!**





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**JUNE 13-15, 2019**

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## **3 DAYS OF CLE PROGRAMMING** FEATURING NATIONAL & STATE LEADERS IN LEGAL TECHNOLOGY

### **THURSDAY, JUNE 13**

#### **THE BUSINESS OF TECHNOLOGY**

- Montana's Tech-Based Economy — Roundtable featuring Montana tech executives and economic development experts

### **FRIDAY, JUNE 14**

#### **E-DISCOVERY & PRACTICE MANAGEMENT**

- E-discovery process, introducing e-discovery into evidence and moot court
- Bitcoin and blockchain for lawyers
- Electronic communication best practices
- Courtroom presentation tools

### **SATURDAY, JUNE 15**

#### **ETHICS OF LEGAL TECH & NEW LEGISLATION**

- Safeguarding data in a breach-a-day world
- Tech-related legislation out of the 2019 Montana Legislature

#### **FACULTY**

David Ries, Esq., Clark Hill, Pittsburgh — National speaker, author on legal ethics, technology and technology law.  
Meggie Ghidella, Esq. Oakland, Calif. — In-house counsel for Ripple, a San Francisco-based blockchain company.

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## ON THE COVER



**A path forward:** This month we take a close look at legal tech — your responsibilities, how to meet them, easy steps you can take, and national trends. **Starting on page 10**

## FEATURE ARTICLES



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### SAFEGUARDING CLIENT DATA

National legal technology and cybersecurity authority David Ries explains your ethical duties — and how you can meet them.



### NOMINATE A DESERVING PEER FOR A BAR AWARD

Do you know a lawyer or judge who deserves recognition for professionalism, pro bono work or commitment to access to justice? Of course you do! Now's the time to nominate one.

Find forms on **Pages 25-28**

### PROGRAM HELPS PARENTS TAKE RESPONSIBILITY FOR PLAN

New Co-Parenting Into the Future online course hailed as revolutionary way to forge a path forward.

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# We're committed to helping members adapt to the modern practice of law

Several years ago, the Montana Supreme Court updated the Montana Rules of Professional Conduct to include preamble language noting the implied obligation of lawyers to keep abreast of changes in law practice, "including the benefits and risks of technology."

As I've traveled around the state meeting with fellow attorneys, I've been struck by the requests for help learning the ropes in this ever-changing area.

The focus of the April issue of the Montana Lawyer – the path forward toward tech competence – is one small part of the State Bar of Montana's efforts to help Montana lawyers meet their obligations under the rules.

In an effort to help lawyers answer the question of how to reconcile the confidentiality issues associated with email, we entered into a new affinity agreement with Identillect, a trusted leading provider of secure email solutions (see page 9). This partnership will bring with it new CLE programming opportunities as well as steep discounts for you.

We will also hold our first Law & Technology Summit on June 13-15. The purpose of the summit is to bring

legal experts and business leaders from around the state and nation to cover topics of ethics, e-discovery, and the many roles lawyers can play as the legal marketplace adapts to changes in technology.

It is our attempt to help you use technology appropriately to advance the interests of your clients and run a successful practice, in whatever shape that takes for you.

While, in many ways, Montana remains at the physical frontier of America, sometimes isolated and remote, our economy is powering toward the technological frontier of the "fourth industrial revolution."

As Montana's high-tech economic engine revs from Billings to Missoula and in smaller towns across the state, hits high gear in Bozeman and even revitalizes "mining" in Butte – this time of the bitcoin variety – the State Bar of Montana is committed to remaining your trusted partner for educational training, competence building and providing networking opportunities for attorneys to interface with these new and important industries.

We'll see you on the path ahead.



JOHN MUDD

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## MONTANA LAWYER

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# Support for legal aid means support for the Constitution

The poem, "First they came..." was written about the cowardice of certain groups in Germany to speak out against the oppression by the Nazi party. It ends with the chilling line, "Then they came for me—and there was no one left to speak for me." The poem provides a stark reminder that the rule of law must defend the most vulnerable in society whether that be an immigrant child, a person of an unpopular faith, the advocate of a contrary political viewpoint, or a person of low income.

John Adams stuck out his neck for a very unpopular set of clients—the British soldiers who killed five Americans during the Boston Massacre in 1770. By agreeing to represent this group of defendants, Adams was risking the safety of himself and his family, his reputation, his future income, and certainly his future political career. Despite all the valid personal reasons for not representing this group of unpopular clients, Adams did so. And he got six of the soldiers acquitted with two others given reduced sentences for manslaughter. Three months after the trial, Adams was elected to the Massachusetts House of Representatives. He later went on to become the second president of the United States.

For over 50 years, the Montana Legal Services Association has been speaking for those with a muted voice. As a non-profit law firm, it provides free legal assistance to clients primarily in the areas of consumer, domestic violence family law, and public benefits. Veterans, seniors, the disabled, victims of domestic violence, and the working poor all benefit from MLSA's services. With approximately 14% of Montanans living below

the poverty line, MLSA provides an exceptional service to those who would otherwise not have their legal needs met. Yet, it can only provide approximately one attorney for every 14,000 individuals living in poverty. To say that they are spread thin is an understatement.

While the need for legal services is strong, the government funding of these services continues to shrink as budgets tighten and more popular programs receive funding. Many politicians seem to think that funding of legal services is a waste of money. This is an unfortunate point of view because the return on investment for legal services can be very positive. For example, the prevention of a domestic violence situation can avoid \$3,201 in medical and mental health-care, lost productivity in the workplace, and property damage. In 2017 alone, MLSA is estimated to have saved \$2,736,270 in direct financial benefits. This is an overall economic benefit of three to one compared to MLSA's budget. Not a bad rate of return.

Funding legal services for the indigent will probably never capture the popular imagination like building a physical monument like a great wall. It is, however, something that those who support the Constitution and equal justice for all people can promote. Another thing we attorneys can do is provide pro bono services for individuals lacking the ability to pay for legal services. By supporting legal services for all, attorneys provide the benefits of the Constitution for all.

***Eric Nord is a partner at Crist, Krogh & Nord in Billings.***



ERIC NORD

***In 2017 alone, MLSA is estimated to have saved \$2,736,270 in direct financial benefits. This is an overall economic benefit of three to one compared to MLSA's budget. Not a bad rate of return.***

## CAREER MOVES

## McMurry Kecskes join Uda Law Firm

Uda Law Firm, PC is pleased to welcome Chris McMurry as a senior associate, and Anna Kecskes as an associate with the firm.

McMurry, a California native, attended the University of San Francisco where she received her Bachelor of Arts in sociology and philosophy. After college, she obtained her J.D. at the Marshall-Wythe School of Law at the College of William and Mary in Virginia. After graduation, she relocated to Helena to begin her legal career.



Kecskes

Since joining the Uda Law Firm, McMurry has been active in the firm's renewable energy practice. She has been involved in energy litigation in Montana and Minnesota as well as in cases before Federal Energy Regulatory Commission.



McMurry

A Montana native, Kecskes grew up in Helena, and graduated from Capital High School. She attended Gonzaga University in Spokane, Washington, graduating with degrees in history and French. She made the choice to become a "double Zag," attending Gonzaga University School of Law for her J.D. She graduated summa cum laude and received the Pro Bono Award for her service hours logged while a student.

After graduating and passing the bar in Montana, Kecskes clerked for Justice Jim Rice on the Montana Supreme Court, and then litigated for almost two years in criminal and civil defense as a public defender in Lewis and Clark County. She recently joined the Uda Law Firm as an associate attorney, and practices family and employment law.

## Jungblutt, Considine join Billings law firm

Wendy Jungblut and Molly Considine have joined Patten, Peterman, Bekkedahl & Green PLLC in Billings.

Jungblut's primary area of practice will be bankruptcy. She previously owned and operated her own firm, Matriarch Law, where she practiced family law. Prior to that, she worked as a staff attorney at Montana Legal Services Association. Jungblut graduated from Billings West High, Montana State University Billings with a bachelor's degree in history, and from University of Montana, School of Law where she received her juris doctor. She is admitted to practice in Montana. Jungblut may be reached by calling 406-252-8500 or by emailing [wjungblut@ppbglaw.com](mailto:wjungblut@ppbglaw.com)

Considine's primary areas of practice include tax controversy, guardianship and conservatorships, debtor's bankruptcy, estate and trust administration, and estate planning. She previously worked at Crowley Fleck PLLP. Considine

graduated from the University of Montana with a B.S. in Business Administration with a minor in Psychology with honors.

She then graduated from Hamline University in St. Paul, Minnesota with her juris doctor, magna cum laude.

She is admitted to practice in Montana and in North Dakota. She may be reached by calling 406-252-8500 or by emailing [mconsidine@ppbglaw.com](mailto:mconsidine@ppbglaw.com).



Considine



Jungblutt

## Martin joins Montana AG's Appellate Services Bureau

The Montana Attorney General's Office at the Montana Department of Justice welcomes Damon Martin as a new Assistant Attorney General in the Appellate Services Bureau.

Prior to starting at the Attorney General's Office, Martin was a reference librarian with the State Law Library in Helena. He is a 2011 graduate of the Appalachian School of Law and a 2006 graduate of the University of Montana, where he earned degrees in history and psychology.

## HONORS &amp; ACHIEVEMENTS

## Lund elected to Owners' Counsel of America

Owners' Counsel of America has elected Hertha Lund to serve on its board of directors for 2019.

Lund is the owner of Lund Law in Bozeman. She represents landowners in matters involving eminent domain,



Lund

**CROWLEY  
FLECK** PLLP  
ATTORNEYS

## Is pleased to welcome Morgan E. Dake to the firm's Pro Bono Practice Group



Morgan is an associate in the Billings office and is devoted to the performance of indigent services on behalf of the firm through its Pro Bono Program. Morgan previously served in the Yellowstone County Attorney's Office as a deputy county attorney in the criminal division where she gained valuable trial experience and worked closely with local law enforcement agencies and community-based programs. Her background prosecuting cases, overseeing investigations, and coordinating victim services gives her valuable insight on pro bono matters.

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property rights, water rights and wind energy development across the state of Montana. She has argued numerous cases before the Ninth Circuit and the Federal Circuit Court of Appeals, various federal circuit courts and the district courts in Montana. She also served as law clerk to Chief Judge Loren A. Smith at the U.S. Court of Federal Claims.

While in law school, Lund served as co-editor-in-chief of the Montana Law Review. She studied animal science, range management and pre-veterinary medicine at Montana State University.

Lund was one of three accomplished eminent domain attorneys chosen for the board. The others are Casey Pipes with Helmsing, Leach, Herlong, Newman & Rouse, PC in Mobile, Alabama; and Joseph Suntum with Miller, Miller & Canby in Rockville, Maryland.

## APPOINTMENTS

Gov. Steve Bullock has appointed the following attorneys to state commissions and boards.

- Helena attorney Ann Brodsky was appointed to the Montana Commission on Human Rights.
- Tim Tatarka of Billings was appointed chair of the Montana Commission on Human Rights.
- LeRoy Schramm of Helena was appointed to the State Board of Personnel Appeals. Schramm is retired after being chief legal counsel for the Montana University System, and he serves as a neutral arbitrator on labor related arbitrations.
- Karl Englund of Missoula was appointed chair of the Montana Board of Investments. Englund is in private practice at Karl J. Englund P.C.
- Melissa Hornbein of Helena was appointed as a public member of the Montana Board of Environmental Review. Hornbein is an assistant United States attorney, for the U.S. Department of Justice.
- Matt Thiel, of Missoula, was appointed to the Montana Facility Finance Authority. Thiel is in private practice and owner of Thiel Law Office, PLLC.



**Missoula County Attorney Kirsten Pabst**

## Missoula County Attorney's Office honored for award-winning secondary trauma program

Missoula County Attorney Kirsten Pabst recently showcased her office's award-winning program addressing secondary trauma for the National District Attorneys Association Board of Directors in Austin, Texas. The Women Prosecutors Section of the NDAA invited Pabst to present on the Secondary Trauma Group, a first-of-its-kind program designed to promote resilience and longevity for prosecutors and law enforcement who work directly with victims of violent crime.

"Addressing secondary trauma has been life-changing for our staff," Pabst said. "It's so encouraging to see other jurisdictions following our lead in this critical and evolving field and recognizing the importance of reducing turnover and making this profession sustainable."

Secondary trauma is the cumulative effect of daily exposure to graphic material, children and

adults in crisis, and human tragedies. For front-line workers, secondary trauma often results in shortened life expectancies, addiction, interpersonal conflict and turnover. The Secondary Trauma Group teaches prosecutors and staff data-proven ways to advocate for victims without compromising their own well-being.

The program also received a National Association of Counties Achievement Award and was named to NACo's Top 100 Brilliant Ideas in Government list.

Pabst is a proponent of criminal justice reforms. She started Montana's first formal criminal mediation program and will launch Calibrate, Montana's first prosecution-led pretrial diversion program later this year.

Pabst is serving her second term as Missoula County Attorney and, other than a short stint in private practice, has been working as a prosecutor since 1994.

Alexander Blewett III  
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**American Indian Property Law: The Story of Cobell** | June 24 - 28

**Criminal Justice in Indian Country** | July 8 - 12

**Indian Education Law** | July 15 - 19

**Cultural Rights of Indigenous People** | July 22 - 26

**Supreme Court Jurisprudence and Indian Country** | July 29 - August 2


All courses run from 9:00 a.m. - 12:00 p.m. Each course has been approved for 13.75 MT CLE credits. Registration fee is \$650 per course.

View descriptions and registration info online at [www.umt.edu/indianlaw](http://www.umt.edu/indianlaw)



STATE BAR OF MONTANA

# LAWYER ASSISTANCE PROGRAM

A silhouette of two people on a mountain peak. One person is standing and leaning forward, reaching out to help another person who is sitting or crouching on the edge of the peak. The background shows a vast mountain range under a blue sky with some clouds.

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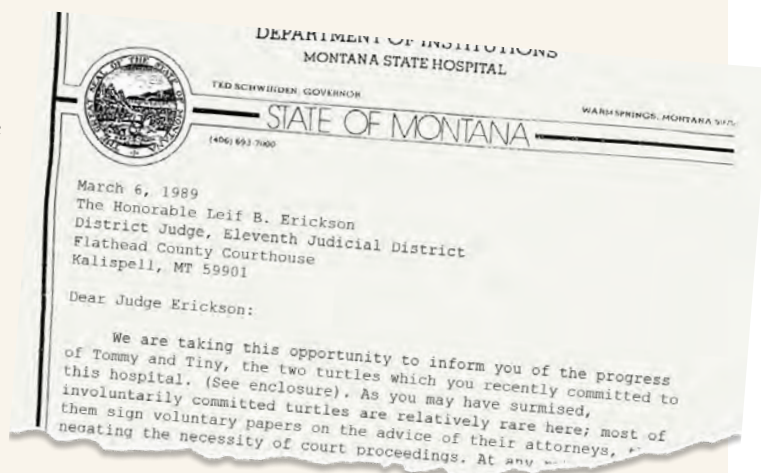
## Justice was served — on a halfshell

As a veteran of 20 years on the bench, retired U.S. Magistrate Judge Leif B. “Bart” Erickson spent a lot of time balancing the figurative scales of justice. Thirty years ago, the judge devoted some courtroom time to literal scales – those on a pair of turtles.

Judge Erickson recently reached out to the bar to share a story of a mental commitment case he presided over in March 1989 when he was an 11th Judicial District judge. The respondent’s counsel asked if the client could take her two turtles with her to the Montana State Hospital in Warm Springs; Judge Erickson added a line to his order of commitment asking hospital staff to allow it.

About a week later, the judge received a letter from a psychologist at the hospital’s intake unit, Ellen Lappin, reporting on “the progress of Tommy and Tiny.” The judge held on to that report over the years, which he called one of the funniest replies he ever saw.

In her letter, Lappin said that although staff assumed that the judge determined the turtles to be dangerous to themselves or others, they had seen no evidence of this since their arrival. She did note that at times they appeared depressed, “retreating into a shell (as it were).”



“In general, these little folks have not presented any management problems and have been compliant with our treatment routine,” Lappin wrote. “One minor problem we have is that our patient rights clearly state that all patients have the right to ‘appropriate interaction with the opposite sex’. “Thus far, we have been unable to ascertain what sex (if any) these reptiles are, whether they’re happy about it, or with whom they would like to interact.”



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## New member benefit offers email encryption solution

A new member benefit gives State Bar of Montana members a simple and secure way to protect sensitive email communications at a significant discount.

The bar has selected Identillect Technologies Corp.'s Delivery Trust email encryption service as the preferred solution for bar members to protect their sensitive communications. Identillect is a trusted leading provider of compliant email security. (See ad on page 10 for more details and a limited-time offer for State Bar members.)

State Bar of Montana President Eric Nord said the bar is committed to improving cyber-security protection for bar members and is enthusiastic about the Identillect partnership.



"This partnership provides a robust security platform for our members along

with advanced education to better understand and protect against cyber-threats and regulatory compliance for our members," Nord said. "We believe Delivery Trust will be a great asset."

Identillect CEO Todd Sexton said the company has recently partnered with numerous state bars and legal associations providing the legal community the simplest and most secure way to communicate with clients and associates.

"Identillect proudly accepts the responsibility to assist in the cyber-protection and education for the State Bar of Montana," Sexton said. "Identillect has taken a collective approach to serve the state bars across the country and looks forward to continually contributing to the cyber-protection of the of the legal profession and their clients."

As part of its mission, the Bar takes pride in providing security education and digital communication tools which bar members have direct access to utilize. This has created the desire for a partnership with the legal cyber-security leader Identillect Technologies.

Delivery Trust is an award -winning, multiplatform plug-in that gives users complete control of their emails, for one low price. One simple integration complies with all regulations and most importantly provides peace of mind.

For more information, or your free trial, please visit [www.identillect.com](http://www.identillect.com).

### Nominate a deserving attorney for a state bar annual award

Nominations are being accepted for 2019 State Bar of Montana Annual Awards: The William J. Jameson Award; the George L. Bousliman Professionalism Award; the Neil Haight Pro Bono Award; and the Karla Gray Equal Justice Award. See pages 27-30 of this issue for nomination forms.

## 2019 SBMT ELECTIONS



Beginning this year, the State Bar of Montana is conducting online elections for its Board of Trustees and bar leadership positions.

As we make the transition to online voting, members can request a paper ballot. If you would like a paper ballot, please email [elections@montanabar.org](mailto:elections@montanabar.org) no later than May 15. Paper ballots must be returned postmarked by May 27.

The following candidates are on the ballot:

**President-Elect:** Kate McGrath Ellis, Helena

**Secretary-Treasurer:** David J. Steele II, Missoula

**Area E Trustee:** Kent Sipe, Lewistown

**Area F Trustee:** Danna Jackson, Helena; J. Stuart Segrest, Helena; Aislinn Shaul-Jensen, Helena

**Area H Trustee:** Shane Coleman, Billings; Eli Patten, Billings; Ben Sather, Billings

More information, including candidate statements, is available at [www.montanabar.org/page/State\\_Bar\\_Elections](http://www.montanabar.org/page/State_Bar_Elections).

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# Understanding your legal and ethical duties

By David G. Ries

The headlines continue to be filled with reports of data breaches, sometimes appearing to report the breach of the day. For more than a decade, they have increasingly included reports in the popular and legal press and on security media of successful attacks on attorneys and law firms. Breaches have become so prevalent that there is a new mantra in cybersecurity today – it’s “when, not if” there will be a breach. This is true for attorneys and law firms as well as other businesses and enterprises.

Data breaches and security incidents are a particular concern to attorneys because of their duties of competence in technology and confidentiality. Attorneys have ethical and common law duties to take competent and reasonable measures to safeguard information relating to clients. They also often have contractual and regulatory duties to protect client information and other types of confidential information.

ABA Formal Opinion 477 (May 2017) (discussed below), describes the current threat environment:

At the same time, the term “cybersecurity” has come into existence to encompass the broad range of issues relating to preserving individual privacy from intrusion by nefarious actors throughout the Internet. Cybersecurity recognizes a ... world where

law enforcement discusses hacking and data loss in terms of “when,” and not “if.” Law firms are targets for two general reasons: (1) they obtain, store and use highly sensitive information about their clients while at times utilizing safeguards to shield that information that may be inferior to those deployed by the client, and (2) the information in their possession is more likely to be of interest to a hacker and likely less voluminous than that held by the client.

Security threats to lawyers and law firms continue to be substantial, real, and growing – security incidents and data breaches have occurred and are occurring. It is critical for attorneys and law firms to recognize these threats

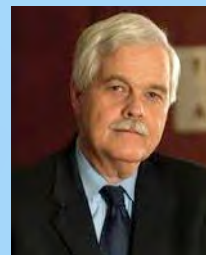
and address them through comprehensive information security programs. **The greatest security threats to attorneys and law firms today are most likely spearphishing, ransomware, business email compromise, and lost and stolen laptops and mobile devices.**





## ABOUT THIS ARTICLE

Adapted from David G. Ries, "Safeguarding Client Data: Legal Ethics in a Breach-a-Day World," Trusts &



Estates (February 2018), David G. Ries, "Cybersecurity for Attorneys: Understanding the Ethical Obligations," Law Practice Today (March 2012), and previous course materials.

**Ries will be among the speakers at the State Bar of Montana's Law & Technology Summit June 13-15 in Missoula.**





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## Duty to Safeguard

Attorneys have ethical and common law duties to take competent and reasonable measures to safeguard information relating to clients and often have contractual and regulatory duties to protect confidential information.

**Ethics Rules.** Several ethics rules<sup>1</sup> have particular application to protection of client information, including competence (Model Rule 1.1), communication (Model Rule 1.4), confidentiality of information (Model Rule 1.6), safeguarding property (Model Rule 1.15), and supervision (Model Rules 5.1, 5.2 and 5.3).

Model Rule 1.1: Competence covers the general duty of competence. It provides that “A lawyer shall provide competent representation to a client.” This “requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.” It includes competence in selecting and using technology, including cybersecurity. It requires attorneys who lack the necessary technical competence for security to learn it or to consult with qualified people who have the requisite expertise.

The ABA Commission on Ethics 20/20 conducted a review of the Model Rules and the U.S. system of lawyer regulation in the context of advances in technology and global legal practice developments. One of its core areas of focus was technology and confidentiality. Its recommendations in this area were adopted by the ABA at its Annual Meeting in August of 2012.

The 2012 amendments include addition of the following underlined language to the Comment to Model Rule 1.1:

[8] To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology...

As of March 2019, 36 states have adopted this addition to the comment to Model Rule 1.1, some with variations from the ABA language. Montana has included this language in the Preamble

to its Rules of Professional Conduct.

Model Rule 1.4: Communications also applies to attorneys’ use of technology. It requires appropriate communications with clients “about the means by which the client’s objectives are to be accomplished,” including the use of technology. It requires keeping the client informed and, depending on the circumstances, may require obtaining “informed consent.” It requires notice to a client of a compromise of confidential information relating to the client.

Model Rule 1.6: Confidentiality of Information generally defines the duty of confidentiality. It begins as follows:

A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b). . .

Rule 1.6 broadly requires protection of “information relating to the representation of a client;” it is not limited to confidential communications and privileged information. Disclosure of covered information generally requires express or implied client consent (in the absence of special circumstances like misconduct by the client).

The 2012 amendments added the following new subsection (underlined) to Model Rule 1.6:

(c) A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.

This requirement covers two areas – inadvertent disclosure and unauthorized access. Inadvertent disclosure includes threats like leaving a briefcase, laptop, or smartphone in a taxi or restaurant, sending a confidential email to the wrong recipient, producing privileged documents or data in litigation, or exposing confidential metadata. Unauthorized access includes threats like hackers, criminals, malware, and

insider threats.

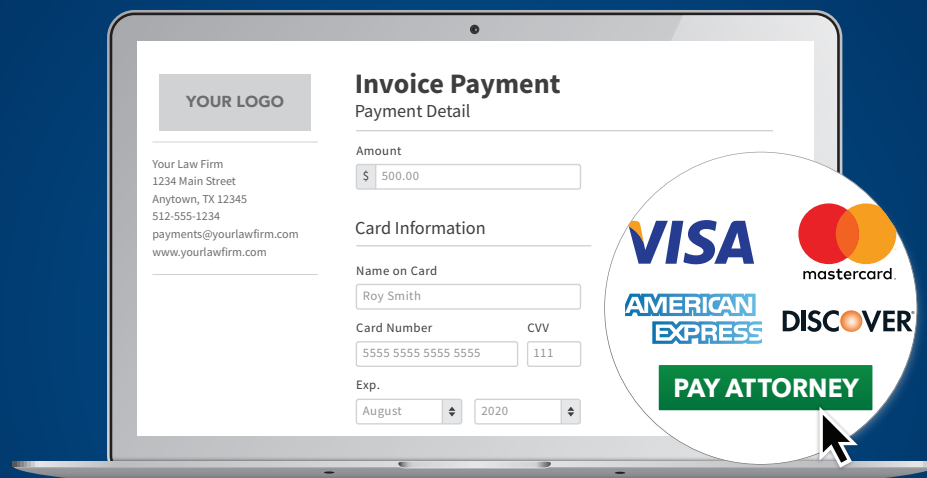
The 2012 amendments also include additions to Comment [18] to Rule 1.6, providing that “reasonable efforts” require a risk-based analysis, considering the sensitivity of the information, the likelihood of disclosure if additional safeguards are not employed and consideration of available safeguards. The analysis includes the cost of employing additional safeguards, the difficulty of implementing them, and the extent to which they would adversely affect the lawyer’s ability to use the technology. The amendment also provides that a client may require the lawyer to implement special security measures not required by the rule or may give informed consent to forgo security measures that would otherwise be required by the rule.

Montana has adopted the amendment to the rule, but not the amended comment.

Significantly, the Ethics 20/20 Commission noted that these revisions to Model Rules 1.1 and 1.6 make explicit what was already required rather than adding new requirements.

Model Rule 1.15: Safeguarding Property requires attorneys to segregate and protect money and property of clients and third parties that is held by attorneys. Some ethics opinions and articles have applied it to electronic data held by attorneys.

Model Rule 5.1: Responsibilities of Partners, Managers, and Supervisory Lawyers and Model Rule 5.2: Responsibilities of a Subordinate Lawyer include the duties of competence and confidentiality. Model Rule 5.3: Responsibilities Regarding Nonlawyer Assistants was amended in 2012 to expand its scope. “Assistants” was expanded to “Assistance,” extending its coverage to all levels of staff and outsourced services ranging from copying services to outsourced legal services. This requires attorneys to employ reasonable safeguards, like due diligence, contractual requirements, supervision, and monitoring, to ensure that nonlawyers, both inside and outside a law firm, provide services in compliance with an attorney’s ethical duties, including confidentiality.



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**Ethics Opinions.** A number of state ethics opinions, for over a decade, have addressed professional responsibility issues related to security in attorneys' use of various technologies. Consistent with the Ethics 20/20 amendments, they generally require competent and reasonable safeguards.

Most recently, the ABA issued Formal Opinion 483, "Lawyers' Obligations After an Electronic Data Breach or Cyberattack" (October 17, 2018). The opinion reviews lawyers' duties of competence, confidentiality and supervision in safeguarding confidential data and in responding to data breaches. It discusses the obligations to monitor for a data breach, stopping a breach and restoring systems, and determining what occurred. It finds that Model Rule 1.15: Safeguarding Property applies to electronic client files as well as paper client files and requires the care required of a professional fiduciary.

The opinion concludes:

Even lawyers who, (i) under Model Rule 1.6(c), make "reasonable efforts to prevent the unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client," (ii) under Model Rule 1.1, stay abreast of changes in technology, and (iii) under Model Rules 5.1 and 5.3, properly supervise other lawyers and third-party electronic-information storage vendors, may suffer a data breach. When they do, they have a duty to notify clients of the data breach under Model Rule 1.4 in sufficient detail to keep clients "reasonably informed" and with an explanation "to the extent necessary to permit the client to make informed decisions regarding the representation."

The key professional responsibility requirements from these various opinions on attorneys' use of technology are competent and reasonable measures to safeguard client data, including an understanding of limitations in attorneys' knowledge, obtaining appropriate

assistance, continuing security awareness, appropriate supervision, and ongoing review as technology, threats, and available safeguards evolve. They also require obtaining clients' informed consent, in some circumstances, and notifying clients of a breach or compromise. It is important for attorneys to consult the rules, comments, and ethics opinions in the relevant jurisdiction(s).

#### **Electronic Communications.**

Email and electronic communications have become everyday communication forms for attorneys and other professionals. They are fast, convenient, and inexpensive, but also present serious risks to confidentiality. It is important for attorneys to understand and address these risks.

The Ethics 2000 revisions to the Model Rules, over 15 years ago, added Comment [17] (now [19]) to Model Rule 1.6. For electronic communications, it requires "reasonable precautions to prevent the information from coming into the hands of unintended recipients." It provides:

...This duty, however, does not require that the lawyer use special security measures if the method of communication affords a reasonable expectation of privacy. Special circumstances, however, may warrant special precautions. Factors to be considered in determining the reasonableness of the lawyer's expectation of confidentiality include the sensitivity of the information and the extent to which the privacy of the communication is protected by law or by a confidentiality agreement...

Some attorneys overlooked the language "special circumstances" and concluded that they did not need to use "special precautions," like encryption.

On May 11, 2017, the ABA Standing Committee on Ethics and Professional Responsibility issued Formal Opinion 477, "Securing Communication of Protected Client Information." The Opinion revisits attorneys' duty to use encryption and other safeguards to protect email and electronic

communications in light of evolving threats, developing technology, and available safeguards. It expresses a stronger view that encryption is sometimes required and suggests a fact-based analysis. It concludes "the use of unencrypted routine email generally remains an acceptable method of lawyer-client communication," but "particularly strong protective measures, like encryption, are warranted in some circumstances."

The conclusion to Opinion 477 provides:

A lawyer generally may transmit information relating to the representation of a client over the Internet without violating the Model Rules of Professional Conduct where the lawyer has undertaken reasonable efforts to prevent inadvertent or unauthorized access. However, **a lawyer may be required to take special security precautions to protect against the inadvertent or unauthorized disclosure of client information when required by an agreement with the client or by law, or when the nature of the information requires a higher degree of security.**

(Emphasis added.)

The Opinion provides general guidance and leaves details of their application to attorneys and law firms, based on a fact-based analysis on a case-by-case basis.

In addition to complying with any applicable ethics and legal requirements, the most prudent approach to the ethical duty of protecting electronic communications is to have an express understanding with clients (preferably in an engagement letter or other writing) about the nature of communications that will be (and will not be) sent electronically and whether or not encryption and other security measures will be utilized. It has now reached the point where all attorneys should have encryption available for use in appropriate circumstances.

#### **Common Law and Contractual**

**Duties.** Along with the ethical duties, there are parallel common law duties defined by case law in the various states. The Restatement (3rd) of the Law Governing Lawyers (2000) summarizes this area of the law, including Section 16(2) on competence and diligence, Section 16(3) on complying with obligations concerning client's confidences, and Chapter 5, "Confidential Client Information." Breach of these duties can result in a malpractice action.

There are also increasing instances when lawyers have contractual duties to protect client data, particularly for clients in regulated industries, such as health care and financial services that have regulatory requirements to protect privacy and security.

For example, the Association of Corporate Counsel has adopted Model Information Protection and Security Controls for Outside Counsel Possessing Company Confidential Information that companies can use for security requirements for outside counsel.<sup>2</sup>

**Regulatory Duties.** Attorneys and law firms that have specified personal information about their employees, clients, clients' employees or customers, opposing parties and their employees, or even witnesses may also be covered by federal and state laws that variously require reasonable safeguards for covered information and notice in the event of a data breach.<sup>3</sup>

## Complying with the Duties

Understanding all the applicable duties is the first step, before moving to the challenges of compliance by designing, implementing and maintaining an appropriate risk-based information security program. It should address people, policies and procedures, and technology and be appropriately scaled to the size of the practice and the sensitivity of the information.

**Information Security Overview.** Information security is a process to protect the confidentiality, integrity, and availability of information. Comprehensive security must address people, policies and procedures, and technology. While technology is a critical component of effective security, the

other aspects must also be addressed. The best technical security is likely to fail without adequate attention to people and policies and procedures. Many attorneys incorrectly think that security is just for the Information Technology department or consultants. While IT has a critical role, everyone, including management, all attorneys, and all support personnel, must be involved for effective security.

An equally important concept is that security requires training and ongoing attention. It must go beyond a onetime "set it and forget it" approach. A critical component of a law firm security program is constant vigilance and security awareness by all users of technology.

Information security is best viewed as a part of the information governance process. Information governance manages documents and data from creation to final disposition – including security and privacy.<sup>4</sup>

At the ABA Annual Meeting in August 2014, the ABA adopted a resolution on cybersecurity that is consistent with this general approach:<sup>5</sup>

**RESOLVED,** That the American Bar Association encourages all private and public sector organizations to develop, implement, and maintain an appropriate cybersecurity program that complies with applicable ethical and legal obligations and is tailored to the nature and scope of the organization and the data and systems to be protected.

This resolution recommends an **appropriate cybersecurity program** for all private and public sector organizations, which includes law firms.

The first step for a security program is assigning responsibility for security. This includes defining who is in charge of security and defining everyone's role, including management, attorneys and support personnel.

Security starts with an inventory of information assets to determine what needs to be protected and then a risk assessment to identify anticipated threats to the information assets. The next step is development, implementation,

and maintenance of a comprehensive information security program to employ reasonable physical, administrative, and technical safeguards to protect against identified risks. This is generally the most difficult part of the process. It must address people, policies and procedures, and technology and include assignment of responsibility for security, policies and procedures, controls, training, ongoing security awareness, monitoring for compliance, and periodic review and updating.

An information security program should cover the core security functions: **identify, protect, detect, respond and recover.** While detection, response, and recovery have always been important parts of security, they have too often taken a back seat to protection. The requirement for lawyers is reasonable security, not absolute security. Recognizing this concept, the Ethics 20/20 amendments to the Comment to Model Rule 1.6 include "...[t]he unauthorized access to, or the inadvertent or unauthorized disclosure of, confidential information does not constitute a violation of paragraph (c) if the lawyer has made reasonable efforts to prevent the access or disclosure."

Security involves thorough analysis and often requires balancing and trade-offs to determine what risks and safeguards are reasonable under the circumstances. There is frequently a trade-off between security and usability. Strong security often makes technology very difficult to use, while easy-to-use technology is frequently insecure. The challenge is striking the correct balance among all of these often-competing factors.

The Ethics 20/20 amendments to Comment 18 to Rule 1.6 provide some high-level guidance. As discussed above, the following factors are applied for determining reasonable and competent safeguards:

Factors to be considered in determining the reasonableness of the lawyer's efforts include the sensitivity of the information, the likelihood of disclosure if additional safeguards are not employed, the cost of employing additional safeguards, the

difficulty of implementing the safeguards, and the extent to which the safeguards adversely affect the lawyer's ability to represent clients (e.g., by making a device or important piece of software excessively difficult to use).

This is a risk-based approach that is now standard in information security.

A comprehensive security program should be based on a standard or framework. Examples include the National Institute for Standards and Technology (NIST) Framework for Improving Critical Infrastructure Cybersecurity, Version 1.1, (April 2018),<sup>6</sup> other more comprehensive NIST standards, like NIST Special Publication 800-53, Revision 4, Security and Privacy Controls for Federal Information Systems and Organizations (April 2013) and standards referenced in it (a comprehensive catalog of controls and a process for selection and implementation of them through a risk management process) designed for government agencies and large organizations, and the International Organization for Standardization's (ISO), ISO/IEC 27000 family of standards<sup>7</sup> (consensus international standards for comprehensive Information Security Management Systems (ISMS) and elements of them).

These standards can be a challenge for small and mid-size firms. In October 2018, the Federal Trade Commission launched a new website, Cybersecurity for Small Business, which includes links to a number of security resources that are tailored to small businesses.<sup>8</sup> It is a joint project of the FTC, NIST, the U.S. Small Business Administration, and the U.S. Department of Homeland Security. NIST's Small Business Information Security: The Fundamentals, NIST SP 7621, Revision 1 (November 2016) provides NIST's recommendations for small businesses based on the Framework.<sup>9</sup> In March of 2019, NIST launched its Small Business Cybersecurity Corner website.<sup>10</sup>

See the checklist on this page for what should be included in a comprehensive information security program.

## INFORMATION SECURITY PROGRAM CHECKLIST

A comprehensive information security program should include the following:

- ☐ Assignment of responsibility for security
- ☐ An inventory of information assets and data
- ☐ A risk assessment
- ☐ Appropriate administrative, technical and physical safeguards to address identified risks
- ☐ Managing new hires, current employees and departing employees
- ☐ Training
- ☐ An incident response plan
- ☐ A backup and disaster recovery program
- ☐ Managing third-party security risks
- ☐ Periodic review and updating

Attorneys and law firms will often need assistance in developing, implementing, and maintaining information security programs because they do not have the requisite knowledge and experience. For those who need assistance, it is important to find an IT consultant with knowledge and experience in security or a qualified security consultant. Qualified consultants can provide valuable assistance in this process. An increasing number of law firms are using service providers for assistance with developing and implementing security programs, for third-party review of security, and for services like security scans and penetration testing to identify vulnerabilities. A growing trend is to outsource **part** of the security function by using a managed security service provider for functions such as remote administration of security devices like firewalls, remote updating of security software, and 24/7/365 remote monitoring of network security.

**Cyber Insurance.** Law firms are increasingly obtaining cyber insurance to transfer some of the risks to confidentiality, integrity, and availability of data in their computers and information systems. This emerging form of insurance can cover gaps in more traditional

forms of insurance, covering areas like restoration of data, incident response costs, and liability for data breaches. Because cyber insurance is an emerging area of coverage and policies differ, it is critical to understand what is and is not covered by policies and how they fit with other insurance. The ABA Center for Professional Responsibility has published *Protecting Against Cyber Threats: A Lawyer's Guide to Choosing a Cyber-Liability Insurance Policy* that provides guidance in this area.<sup>11</sup>

## Conclusion

Attorneys have ethical and common law duties to take competent and reasonable measures to safeguard information relating to clients and often have contractual and regulatory duties. These duties provide minimum standards with which attorneys are required to comply. Attorneys should aim for even stronger safeguards as a matter of sound professional practice and client service. The safeguards should be included in a risk-based, comprehensive security program. Attorneys and law firms should promptly implement plans, appropriately scaled to the size of the practice and sensitivity of the data, if they don't already have one. Those with



There is frequently a trade-off between security and usability. Strong security often makes technology very difficult to use, while easy-to-use technology is frequently insecure. The challenge is striking the correct balance among all of these often-competing factors.

plans should periodically review and update their plans.

## Additional Information

Note: The American Bar Association website is going through a major re-vamping. Some of the links below and in the endnotes may change.

American Bar Association, Cybersecurity Resources, [www.americanbar.org/groups/leadership/office\\_of\\_the\\_president-old/cybersecurity/resources.html](http://www.americanbar.org/groups/leadership/office_of_the_president-old/cybersecurity/resources.html), provides links to cybersecurity materials and publications by various ABA sections, divisions and committees

American Bar Association, Cybersecurity Legal Task Force [www.americanbar.org/groups/leadership/office\\_of\\_the\\_president/cybersecurity.html](http://www.americanbar.org/groups/leadership/office_of_the_president/cybersecurity.html)

American Bar Association, Law Practice Division, [www.lawpractice.org](http://www.lawpractice.org), including the Legal Technology Resource Center [www.americanbar.org/groups/](http://www.americanbar.org/groups/)

[departments\\_offices/legal\\_technology\\_resources.html](http://departments_offices/legal_technology_resources.html)

American Bar Association, Section of Litigation, Privacy and Data Security Committee,

ILTA (International Legal Technology Association) LegalSEC, provides the legal community with guidelines for risk-based information security programs, including publications, the LegalSEC security initiative, peer group discussions, webinars, an annual LegalSEC Summit conference and other live programs; some materials are publicly available while others are available only to members, <http://connect.iltanet.org/resources/legalsec?ssopc=1>

Sharon D. Nelson, David G. Ries and John W. Simek, “Encryption Made Simple for Lawyers” (American Bar Association 2015)

Sharon D. Nelson, David G. Ries and John W. Simek, “Locked Down: Practical Information Security for Lawyers, Second Edition” (American

Bar Association 2016)

Jill D. Rhodes and Robert S. Litt, “The ABA Cybersecurity Handbook: A Resource for Attorneys, Law Firms, and Business Professionals, Second Edition” (American Bar Association 2017)

*David G. Ries is of counsel in the Pittsburgh office of Clark Hill PLC, where he practices in the areas of environmental, technology, and data protection law and litigation. For over 20 years, he has increasingly focused on cybersecurity, privacy, and information governance. He has used computers in his practice since the early 1980s and since then has strongly encouraged attorneys to embrace technology – in appropriate and secure ways. He frequently speaks and writes nationally on legal ethics, technology, and technology law topics.*

## Endnotes

1. ABA Model Rules of Professional Conduct (2019) (Model Rules).
2. [www.acc.com/advocacy/upload/Model-Information-Protection-and-Security-Controls-for-Outside-Counsel-Jan2017.pdf](http://www.acc.com/advocacy/upload/Model-Information-Protection-and-Security-Controls-for-Outside-Counsel-Jan2017.pdf).
3. For example, Internal Revenue Code, 26 U.S.C Section 6713, Internal Revenue Procedure 2007-40, Gramm-Leach-Bliley Act, 15. U.S.C. Sections 6801-6809 and National Conference of State Legislatures -State Data Security Laws ([www.ncsl.org/research/telecommunications-and-information-technology/data-security-laws.aspx](http://www.ncsl.org/research/telecommunications-and-information-technology/data-security-laws.aspx)) and State Security Breach Notification Laws ([www.ncsl.org/research/telecommunications-and-information-technology/security-breach-notification-laws.aspx](http://www.ncsl.org/research/telecommunications-and-information-technology/security-breach-notification-laws.aspx)).
4. See the Information Governance Reference Model, published by EDM, an organization operated by Duke Law School that publishes resources for e-discovery and information governance. [www.edrm.net/frameworks-and-standards/information-governance-reference-model](http://www.edrm.net/frameworks-and-standards/information-governance-reference-model).
5. Available at [www.americanbar.org/content/dam/aba/images/abanews/2014am\\_hodres/109.pdf](http://www.americanbar.org/content/dam/aba/images/abanews/2014am_hodres/109.pdf).
6. [www.nist.gov/cyberframework](http://www.nist.gov/cyberframework).
7. [www.iso.org/isoiec-27001-information-security.html](http://www.iso.org/isoiec-27001-information-security.html).
8. [www.ftc.gov/tips-advice/business-center/small-businesses/cybersecurity](http://www.ftc.gov/tips-advice/business-center/small-businesses/cybersecurity).
9. <https://nvlpubs.nist.gov/nistpubs/ir/2016/NIST.IR.7621r1.pdf>.
10. [www.nist.gov/itl/smallbusinesscyber](http://www.nist.gov/itl/smallbusinesscyber).
11. Eileen R. Garczynski, “Protecting Against Cyber Threats: A Lawyer’s Guide to Choosing a Cyber-Liability Insurance Policy” (American Bar Association 2016) and Eileen R. Garczynski, “Protecting Firm Assets with Cyber Liability Insurance,” Business Law Today (September 2016), [www.americanbar.org/publications/blt/2016/09/05\\_garczynski.html](http://www.americanbar.org/publications/blt/2016/09/05_garczynski.html).

# 6 simple steps can help firms avoid being the next data breach headline

By Todd Sexton

As cybercrime grows throughout the United States lawyers continue to be targets due to the extensive amount of sensitive data they possess and communicate electronically. Cybercrime impacted 143 million American in 2017 — more than 50% of U.S. adults online — according to MIT Technology Review. Despite this widespread exposure and great need for client confidentiality, less than half of law firms implement top-weighted protocols, according to Logicforce's most recent Law Firm Cybersecurity Scorecard industry.

Attorneys have increased their understanding of the need to protect client information in recent years, studies show, but since the steps to protect electronic information are often unclear, many firms maintain the status quo and hope they are not the next headline for exposing client information. A 2017 survey by the cybersecurity defense strategy consultancy firm eWranglers showed that 75% of attorneys recognized email was one of the greatest risk areas. Despite that realization, the survey found that 67% do not secure email, 42% do not protect against spam, and 36% simply don't know how to protect this information.

Cybersecurity is an extensive and complex subject, with a labyrinth of information that can be difficult for attorneys to make sense of. The goal of these six highlighted areas of focus is to serve as an outline of processes to administer and improve the security of your firm. This will not cover every area of security or the most in-depth knowledge for an advanced user, however, it will guide an attorney on the basic steps

to secure client data. You will not need to understand every acronym, but it will instruct you to ask the correct questions when contacting a security provider and knowing what key components to ask for.

Here are six security processes lawyers should deploy to aid in meeting their fiduciary responsibility to their clients.

**1. Email encryption** – Standard email is highly vulnerable to interception. Using email for client communication without encryption exposes your clients to breach and vulnerability. The standard of secure communication I suggest is to locate a provider vetted by your Bar utilizing end-to-end encryption with AES-256 (Advanced Encryption Standard) protocol. A solution takes moments to implement and provides one of the greatest levels of security.

**2. Hard Disk Encryption** – Standard access passwords are insufficient if a mobile or laptop device is lost or stolen. Use device or hard drive encryption with a standard of AES-256 protocol. These solutions are simple to deploy and create significant protection for information at rest as well as a defense from ransomware.

**3. Firewall** – A firewall is a network security device or software that monitors incoming and outgoing network traffic. This will allow or block specific traffic based on a defined set of security rules. This technology will assist in the prevention of attacks from exterior intrusions of your computer or network such as malware.

**4. Anti-virus** – The primary purpose of these common programs is to protect computers from viruses and remove any viruses which are

discovered on your computer or mobile device. It is critical the software is updated daily so it may prevent the newest attacking viruses from penetrating your system.

**5. Wi-Fi Security** – Never use free or open Wi-Fi networks. Use a known secure network or use your mobile phone as an internet connection device. Open Wi-Fi networks are a simple access point for cybercriminals to steal your data or compromise your computer. Furthermore, when installing a Wi-Fi network ensure they are using either WPA2 or WPA3 (Wi-Fi protected access) standards for security as these are simple and the most advanced protocols.

**6. Education** – Understanding how cyberattacks occur is one of the best ways to combat these vulnerabilities. The state bar has recently taken measures to ensure that there are monthly and quarterly education programs focusing on cybersecurity, changing data-handling regulations, and ethics in the digital age to ensure the greatest understanding and ways to combat ongoing threats. Make sure you check with the State Bar of Montana for the upcoming lecture schedule and get informed.

These six strategic processes will greatly increase your firm's ability to meet your fiduciary responsibility, ensure your clients' protection and create less worry that you will be included in the next data breach statistic. Make sure you are not placing your clients in harm's way, begin changing the security of the legal community, start the change with your practice today.

**Todd Sexton, MBA, is a cybersecurity expert and the president and CEO of Identillect Technologies.**



# Password insecurity: Lessons from a personal story



Mark  
Bassingthwaighe

*Heaven help you if an identity theft occurs and it turns out to be the identity of one or more of your clients because someone got into your office network. So very bad.*



**ALPS Risk Manager Mark Bassingthwaighe, 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.**

Sometimes married couples see things differently and the only way to resolve the tension is by finally deciding to agree to disagree. That's how things played out in our home for many years on the issue of passwords. My wife viewed my focus on computer security and passwords as something approaching mild paranoia. I, on the other hand, viewed her insistence on using one easily remembered password for everything in her life the equivalent of tattooing the phrase "victim here" on her forehead. The only way for us to move forward was to reach an accord. We agreed to disagree, and things were good, at least for a while.

A few years later, after receiving an email from one of our sons, our accord began to crumble. I was informed that my wife's email account had been hacked and was actively being used to send out spam email. Of course, I did what one normally does to remedy that situation and hoped all would be good. Sadly, it wasn't to be. Our accord abruptly ended a few months later after we received written notice from a credit union on the opposite side of the country telling us that they were most displeased with my wife. Apparently, credit unions don't like it when someone gets a new credit card, immediately maxes it out, and then fails to make any payments. Unfortunately, given that my wife wasn't the one who applied for and received that credit card, we had a new problem.

While this tale took several interesting twists and turns over the next few years, in the interest of time I will simply share that as a result of the initial identity theft a federal and an out-of-state tax return were also fraudulently filed in my wife's name. I spent over three years working to get everything cleaned up; but the one thing I can't do, and honestly no one can, is ever get her identity back. That's been taken and we'll have to deal with the ramifications of that for the rest of our lives. Hopefully, it's over; but only time will tell.

Today things are different around

here. My focus on computer security is viewed in a much different light by my wife, and I no longer worry about any unsightly tattoos on her forehead. Our state of marital bliss has been restored because this time around we're both on the same page. Trust me, she gets it now. What's more important, however, is do you? Again, understand this entire saga started with someone managing to figure out a password, a password that, unfortunately for my wife and me, opened all kinds of doors that would have remained locked had she not used one password for everything.

I chose to share this story because I wanted to put a real-world spin on the problems that can arise when too little attention is given to the importance of passwords. Every one of us in our personal and professional lives needs to abide by some sort of password policy, formal or informal, in order to avoid becoming yet another victim of identity theft. And heaven help you if an identity theft occurs and it turns out to be the identity of one or more of your clients because someone got into your office network. So very bad.

With this tale of woe now told, it's time to talk about how to avoid becoming a victim. Here is a list of things one should NEVER do:

1. Use the same password on multiple devices, apps, and websites.
2. Write down passwords on easily found sticky notes.
3. Believe that passwords like "qwerty", "password", "1234567", or "letmein" are clever and acceptable. They aren't.
4. Allow computer browsers to remember passwords.
5. Choose passwords based upon easily remembered information such as birth dates, anniversary dates, Social Security numbers, phone numbers, names of family members, pet names, and street addresses. This kind of information just isn't as confidential as you think due to events like the Equifax breach and widespread participation in the social media space.

Knowing the common missteps, however, isn't enough. Such practices should be prohibited in a formal firm-wide password policy that everyone at the firm must abide by. There can be no exceptions, period. Of course, policy provisions must also detail what to do. The most important provision of a password policy would be to mandate the use of strong passwords defined as follows. A password is strong if it is long, a minimum of 15 characters, and it should include a few numbers, special characters, and upper and lower-case letters if the device or application you wish to secure with a password will accept it. Additional provisions worth including would be requiring that every application and device in use have its own unique password, requiring that passwords in use with mission critical devices and applications (e.g. banking login credentials, firm VPN login) be changed every 6 months, forbidding the reuse of old passwords, and prohibiting the sharing of user ids and passwords with anyone. Finally, make enabling two-factor authentication for any device

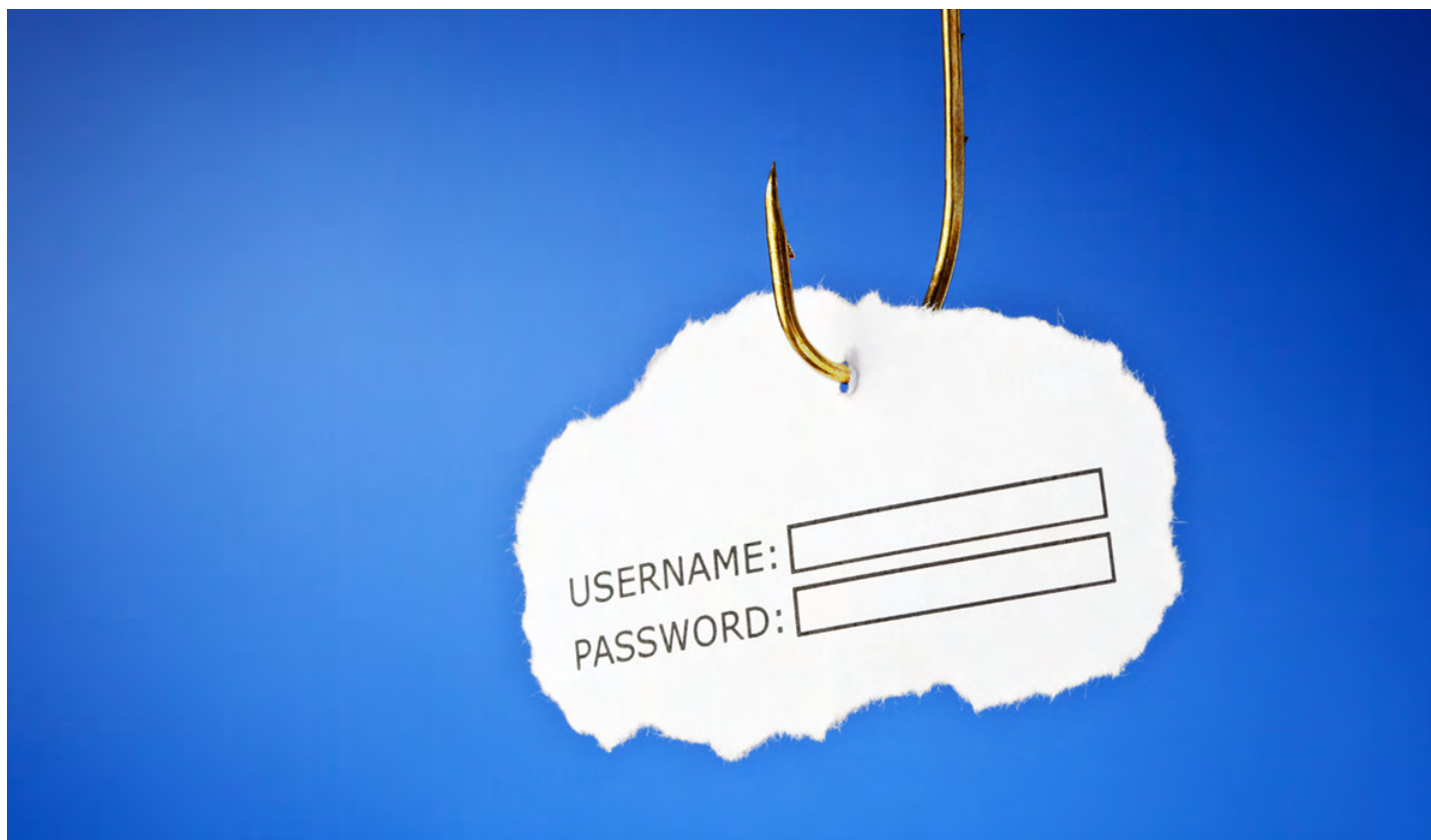
or application that allows it compulsory.

Of course, a password policy like this creates a new problem, which is trying to keep track of all the complex passwords now mandated. I can share that between us, my wife and I have over 250 different passwords we need to keep track of in our personal and professional lives. I don't know about you, but I sure can't remember all of that information.

Fortunately, this problem can be easily managed by using a password manager such as RoboForm, LastPass, or Dashlane. (My wife agreed to commit to using a password manager shortly after her kerfuffle with the credit union and it has made a world of difference!) Such tools are often cloud-based software applications that allow users to conveniently store and manage all of their passwords. The data is encrypted and can only be accessed once a master password has been entered. Yes, users will still need to remember a long and difficult to guess master password; but having to remember one is going to be far easier than trying to remember 250. And again, no one should ever write

down their master password. Everyone really must commit the master password to memory or find a way to store it in some other secure manner.

One side note here because lawyers are sometimes hesitant to place passwords in the cloud. Try to avoid allowing such a concern to become an excuse for not making any changes at all. As I see it, those of us who use password managers are far more secure than those who simply write everything down on a piece of paper or on sticky notes that are always close at hand. Further, given the robust encryption in use, these applications are also going to be more secure than keeping a list of passwords in an Excel or Word file. But here's the real value. The use of a password manager provides robust security when compared to relying on easily remembered weak passwords, using the same password on multiple devices or websites, allowing browsers to remember passwords, not changing passwords and re-using old passwords, all of which is what so many do by default.





# ABA's legal technology survey provides snapshot of trends in the profession

By Sharon D. Nelson, Esq.  
and John W. Simek

Every year the American Bar Association sends out a survey to tens of thousands of attorneys requesting information about several areas. The 2018 survey contained six questionnaires covering the following:

- Technology Basics & Security
- Law Office Technology
- Online Research
- Marketing & Communication Technology
- Litigation Technology & E-Discovery
- Mobile Lawyers

The complete survey is available for purchase from the ABA at [www.americanbar.org/groups/departments\\_of-fices/legal\\_technology\\_resources/TechSurvey0/](http://www.americanbar.org/groups/departments_of-fices/legal_technology_resources/TechSurvey0/). It's not cheap, but it's packed with useful information. We'll cover a few of the highlights here. Each volume is available separately, but you'll need the complete publication to appreciate all the technology that lawyers use and the trends for the legal profession.

## Cyber Liability Insurance

It seems like we hear about data breaches on a weekly basis. Certainly, protecting against security incidents is moving up on the priority list for many attorneys. As a result, lawyers obtaining cyber liability insurance is on the rise. The survey reports that 34% of respondents now have cyber liability insurance compared to 26% in 2017 and 17% in 2016.

## Technology Budget

The survey asked if the technology budget has increased this year over the prior year: 45.1% said the budget did increase and 32.5% stated that the technology budget stayed the same. Only 3.7% said the budget decreased. It is not surprising that the response varied based upon the size of firm. Among solo attorneys, 35.4% had a budget increase, while 38.6% of firms with 2-9 attorneys saw an increase and 47.5% of firms with 10-49 attorneys increased their technology

## Get onto my cloud


Cloud computing is on the rise among lawyers, the 2018 ABA Legal Technology Survey finds.

### Most used cloud services

Dropbox – 60%	Evernote – 14%
Google Docs – 36%	Box – 14%
iCloud – 22%	

### Why lawyers are using cloud services

Easy access from anywhere – 68%
24/7 availability – 59%
Low cost/predictable expense – 48%
Robust data backup and recovery – 46%



Source: ABA Legal Technology Survey Montana Lawyer graphic

budget. The largest group of attorneys to increase their technology spend occurred in 50-99 lawyer firms, where 60% increased the technology budget.

## Cloud Computing

We have seen a tremendous increase in lawyers using the cloud. Being faced with the decision of replacing a server or moving to the cloud, many firms are going with the cloud option. Our experience has shown that Office 365 is a big enticement in pushing law firms to the cloud. The Legal Technology Survey reports that over half (55%) of respondents are using cloud computing technology. Smaller firms appear to have a higher adoption rate than larger firms: 59% of solo responders reported using the cloud, followed by 58% of firms with 2-9 attorneys.

The survey identifies the top-used cloud services as Dropbox (60%), Google Docs (36%), iCloud (22%), Evernote (14%), and Box (14%). When asked about the most important benefits to using the cloud, respondents answered with the following:

- Easy browser access from anywhere – 68%
- 24/7 availability – 59%

- Low cost of entry and predictable monthly expense – 48%
- Robust data backup/recovery – 46%
- Quick to get up and running – 40%
- Eliminates IT & software management requirements – 34%
- Better security than I can provide in-office – 31%
- None – 8%

## Observations

Clearly the movement to cloud-based solutions is continuing to rise. More and more attorneys are comfortable with cloud solutions, which has the tendency to make them more mobile. Concern about cybersecurity and protecting client confidential data are also key concerns of today's practicing lawyers. You may not be able to afford the complete volumes of the 2018 Legal Technology Survey, but consider obtaining at least one of the volumes. It will help you see what other attorneys in similar sized firms are using, which can make you much more successful in your technology decisions.

*The authors are the president and vice president of Sensei Enterprises, Inc., a legal technology, cybersecurity and digital forensics firm based in Fairfax, VA. 703-359-0700 <https://senseient.com>*

# The craft of editing is a skill every one of us can hone



Abbie  
Nordhagen  
Cziok

***Typical advice on what makes a good editor — such as ‘good writers are good editors — are undoubtedly wise, but they can be frustrating to many of us. Instead, here are some tangible things you can put into use.***

My mom is an exceptional editor. She’s a court reporter, so she’s obviously good at grammar and proof reading. (Unlike me, she believes in two spaces after a period). My mom is also a phenomenal writer, so I was lucky to have her editing guidance for *every single written assignment* growing up. We’d read my papers line-by-line, discussing how sentence length creates interest and routinely cracking open a thesaurus to find new, interesting words. Her editorial help was priceless.

What makes a good editor? People often say “good writers are good editors.” But that’s disheartening when my writing skills feel stale. People also emphasize the importance of reading for fun outside the office. Again, this is undoubtedly sage advice, but it’s frustrating to many juggling responsibilities who at day’s end just want wine and an episode of the “Great British Baking Show.” Instead, I want to offer something more tangible that we can use tomorrow.

For answers, I again turned to my favorite legal writing book, “Thinking Like a Writer: A Lawyer’s Guide to Effective Writing and Editing,” by Stephen V. Armstrong and Timothy P. Terrell. Armstrong and Terrell are steadfast in their approach that briefs (or other documents) should be edited at various conceptual levels: full brief, section, paragraph, sentence, and word. At the brief level, quickly check for the presence of a road map and consistent use of roadmap buzzwords throughout the relevant sections’ introductions. The road map should also be accurate, though that probably goes without saying for anyone who’s lived in Montana longer than iPhones have been around. At the section level, check that transitions

between paragraphs are logical. Read the last sentence of one paragraph and the first of the next to ensure that you have given the reader a bridge, perhaps a common word, from one paragraph to the next. At the paragraph level, check that paragraphs aren’t merely boxes for information. Rather they ought to have a topic sentence, a middle that adds detail to the topic, and a conclusion. At the sentence level, check the distance between the subject and verb. Also check that the chosen subject conveys the sentence’s meaning. Finally, if time permits, get rid of legalese and other unnecessary words.

I also crowdsourced the question, and people have suggested various techniques. A law school classmate reminded me that our legal writing teacher suggested reading a brief back to front or the pages out of order. In reading the sentences out of context, the editor must think about the brief’s structure with more attention to concepts and sentence structure. A co-clerk always used the most interesting syntax and as a result wrote clear, engaging documents. She writes some sentences five ways, without judgment, just to exercise editorial flexibility. Another friend in public relations says she encourages editors to read the product out loud. Some sentences are fine on paper but sound bizarre when spoken.

Effective editing is not an amorphous skill granted at birth. Rather, with these techniques, and maybe the help of our parents, we can all improve our editing.

***Abbie Nordhagen Cziok is an associate with Browning, Kalczyk, Berry & Hoven in the Helena office. She likes rock climbing, skiing, and one space after a period.***



# Co-parenting class helps parents take responsibility for plans

By Cathy Tutty

A newly released, revolutionary, online co-parenting course offers the opportunity to embrace one's past, its effects on relationships and children, and to forge a new path for the benefit of the children. That course is [coparentingintothefuture.com](http://coparentingintothefuture.com).

Family law attorneys all know the drill. As the holidays approach, or just before big family events and vacations, your client is calling daily (or more often) to get your 'advice' on how to handle their former spouse. They want you to tell them it's OK to change times, force a drop-off location, or in some way alter the written agreement that took a full day of mediation to draft.

And every family law practitioner also knows that:

- You are not the parent;
- You do not have control over your own client, let alone their ex; and
- Nothing you can say will resolve this situation permanently.

It is the bane of our existence as family law attorneys when we are the arbiters of parenting time, the interpreters of parenting plans and the expected answer to how to really get parenting time to work.

After only a few cases, you have learned that the only way to really resolve issues in parenting is for the parents to be responsible for the situation, the children, their relationships and how it got to this place. Law school has left most of us ill-equipped to deal with these issues to reduce client calls during and after parenting plans have been created.

Co-Parenting Into the Future addresses the responsibility of the client for identifying, communicating and completely resolving every parenting issue with the intention of creating a powerful plan. Being responsible for their own parenting plans may be the one gift a client can give to their attorney in a family law case. This is a real probability

for those clients who complete the program.

Designed by two divorced parents, the course guides participants through the often difficult look at their relationship and how they can create a future for their children that defies the odds and the difficulties set out above which face so many of our children. The course provides the opportunity to make an ongoing, post-divorce relationship with the other parent. It is interactive in its approach, including homework, listening as others struggle with similar issues in designing their futures, resources to assist you in communication and examples of how to develop workable agreements with the other parent. There are regular blog articles on a range of subjects such as holidays, resources, helpful books, money, the benefits of grandparents, and encouraging respect for and in our children.

In one instance in a Montana court, a client had an average of three daily contacts to her attorney to address parenting issues. Her stance heading into the mediation: She fully intended to force the matter to Court in the absence of her child's father agreeing to her demands.

During the weekend before mediation, the attorney demanded that the client complete the program before the mediation began. While she resisted, the client completed the program and wrote for herself a full plan for caring for her child and parenting with her former partner. According to the client, "I took responsibility of my role in our relationship dissolving. I saw where I could change, and it left me being a mom first and foremost. I started to see what (her ex-husband) was seeing and how he wanted a relationship with our son. In fact, it shifted from MY son to OUR son. Once I saw that, drafting and following the parenting plan became simple."

The attorney for this client reports that the client contact reduced to fewer than three contacts per month after completion of the course. Issues with the



## CO-PARENTING INTO THE FUTURE

For more information and to learn about the program, see [www.coparentingintothefuture.com](http://www.coparentingintothefuture.com). You may also contact Martha Sasser at 832-643-5908.

parenting plan are not always easily resolved, and the parties resolve the issues between themselves. Parenting of the child is final for attorneys on both sides, even though only one of the parties has completed the program. The client also reported, "I love OUR son now and have more compassion for myself and for my ex. What matters most is what is important for our son, not for either one of us."

During decades of practice, we have all seen a wide range and array of resources. None of those resources is as transformational and effective as this program for many parents across six states.

For more information and to learn about the program, see [www.coparentingintothefuture.com](http://www.coparentingintothefuture.com). You may also contact Martha Sasser at 832-643-5908.

Cathy Tutty is a solo practitioner from Butte.

# William J. Jameson Award

This is the highest honor bestowed by the State Bar of Montana. The Past President's Committee will be guided in its selection by the extent to which, in its judgment, the candidate:

- 1 | *Shows ethical and personal conduct, commitment and activities that exemplify the essence of professionalism.*
- 2 | *Works in the profession without losing sight of the essential element of public service and the devotion to the public good.*
- 3 | *Possesses an unwavering regard for the Rules of Professional Conduct, the Creed of Professionalism, the State Bar's Guidelines for Relations Between and Among Lawyers, and the State Bar's Guidelines for Relations Between Lawyers and Clients.*
- 4 | *Assists other attorneys and judges in facing practical and ethical issues.*
- 5 | *Participates in programs designed to promote and ensure competence of lawyers and judges.*
- 6 | *Supports programs designed to improve the discipline process for judges and attorneys.*
- 7 | *Participates in programs that aid the courts in ensuring that the legal system works properly, and continually strives for improvements in the administration of justice.*
- 8 | *Is actively involved with public and governmental entities to promote and support activities in the public interest.*
- 9 | *Actively participates in pro bono activities and other programs to simplify and make less expensive the rendering of legal services.*
- 10 | *Actively participates in programs designed to educate the public about the legal system.*

On a separate sheet of paper, please describe activities you believe qualify your nominee for the Jameson Award. Please attach additional pages as needed, and other supporting documents. Also, attach the nominee's resume. Note: Awards will not be made posthumously and may be given to more than one person.

Nominee: \_\_\_\_\_

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

Your signature: \_\_\_\_\_ Print your name: \_\_\_\_\_

Your address: \_\_\_\_\_ Phone: \_\_\_\_\_

Nominations and supporting documents will not be returned. Send postmarked by June 17, 2019, to:

Jameson Award  
State Bar Past Presidents Committee  
P.O. Box 577  
Helena MT 59624  
or email [jmenden@montanabar.org](mailto:jmenden@montanabar.org)

# Karla M. Gray Equal Justice Award

**Email Nomination Form and materials no later than May 31<sup>st</sup>, 2018 to:**

Ann Goldes-Sheahan, Equal Justice Coordinator

State Bar of Montana

[agoldes@montanabar.org](mailto:agoldes@montanabar.org)

**Full Name of Nominee:** \_\_\_\_\_

**Nominee Address:** \_\_\_\_\_

**City/State/Zip:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_ **Email:** \_\_\_\_\_

In separate attachment(s), please provide specific descriptions of significant contributions of your nominee which can include letters of support, publications and specific examples of nominee's involvements, impacts and influences for any of the criteria outlined that might apply. See nomination requirements for details. You may include your nominees biography or resume. Do not provide any confidential information.

**Please mark all that apply and describe any attachments provided:**

☐ **Description of nominee's equal justice contributions.**

Number of description pages attached: \_\_\_\_\_

☐ **Letters in support of nomination.**

Number of letters of support attached: \_\_\_\_\_

☐ **Articles or publications concerning your nominee's contributions.**

Number articles or publications attached: \_\_\_\_\_

**Have you included your nominee's biography or resume?**

☐ **Yes**      ☐ **No**

**Names of person/organization submitting this nomination:**

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

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

**City/State/Zip:** \_\_\_\_\_

**Phone:** \_\_\_\_\_ **Email:** \_\_\_\_\_



# Neil Haight Pro Bono Award

**Email Nomination Form and Materials by June 17, 2019 to:**

**Ann Goldes-Sheehan, Equal Justice Coordinator**

**State Bar of Montana**

[agoldes@montanabar.org](mailto:agoldes@montanabar.org)

**Full Name of Nominee:** \_\_\_\_\_

**Nominee Address:** \_\_\_\_\_

**City/State/Zip:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_ **Email:** \_\_\_\_\_

In separate attachment(s), please provide specific descriptions of significant pro bono contributions of your nominee which can include letters of support, publications and specific examples of nominee's contributions for any of the criteria outlined that might apply. See nomination requirements for details. Also provide your nominee's resume or biography. Do not provide client names or confidential information.

**Please mark all that apply and describe any attachments provided:**

☐ **Description of nominee's pro bono activities and contributions.**

Number of description pages attached: \_\_\_\_\_

☐ **Letters in support of nomination.**

Number of letters of support attached: \_\_\_\_\_

☐ **Articles or publications concerning your nominee's contributions.**

Number articles or publications attached: \_\_\_\_\_

**Have you included your nominee's biography or resume?**

☐ **Yes**      ☐ **No**

**Names of person/organization submitting this nomination:**

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

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

**City/State/Zip:** \_\_\_\_\_

**Phone:** \_\_\_\_\_ **Email:** \_\_\_\_\_

# George L. Bousliman Professionalism Award

The award will recognize lawyers or law firms who have:

- 1 | Established a reputation for and a tradition of professionalism as defined by Dean Roscoe Pound: pursuit of a learned art as a common calling in the spirit of public service; and
- 2 | Within two years prior to the nomination, demonstrated extraordinary professionalism in at least one of the following ways:
  - Contributing time and resources to public service, public education, charitable or pro bono activities.
  - Encouraging respect for the law and our legal system, especially by making the legal system more accessible and responsive, resolving matters expeditiously and without unnecessary expense, and being courteous to the court, clients, opposing counsel, and other parties.
  - Maintaining and developing, and encouraging other lawyers to maintain and develop, their knowledge of the law and proficiency in their practice.
  - Subordinating business concerns to professional concerns.

Nominee/individual or firm \_\_\_\_\_

Address \_\_\_\_\_

**In a separate document**, please describe the nominee's activity that you believe brings great credit to the legal profession. Please attach the description and other supporting documents to this nomination form.

Your signature \_\_\_\_\_ Print your name \_\_\_\_\_

Your address \_\_\_\_\_ Phone \_\_\_\_\_

Nominations and supporting documents will not be returned. **Send them no later than June 17, 2019 to:**

Bousliman Professionalism Award State  
Bar Past Presidents Committee P.O. Box  
577  
Helena MT 59624  
or email to [jmenden@montanabar.org](mailto:jmenden@montanabar.org)

## Martin John Ellison

Martin John Ellison, age 62, died Wednesday, March 20, in a tragic accident due to complications of his diabetes. Martin grew up in and was a longtime resident of Missoula where he earned both his bachelor's and law degrees from the University of Montana. As an attorney he practiced primarily criminal defense and bankruptcy law, always doing his utmost to serve the downtrodden and less fortunate members of society.

Beyond his legal career, Martin spent many of his early years as a groom and horse trainer alongside his father and grandfather in the thoroughbred horse racing industry. He loved history and excelled at games that incorporated historical elements into fun, competitive endeavors. Always up for a good philosophical discussion or argument, his fun-loving, mischievous and irreverent approach to life

drew others to him and made him the family's favorite uncle. He had a quick and incisive wit that was spontaneously displayed in the form of creative nicknames or limericks describing the people in his life. In honor of his teasing rhyme, his daughter, Lily, made up a limerick of her own about Martin:

*My father's name was Marty*

*He relished his role as the life of the party*

*Sharing jokes and good cheer in his courtroom dress*

*He was a giver of love and a player of chess*

*His soul was revealed in his laugh full and hearty*

Marty is survived by a large and loving family.

If desired, contributions in Martin's name should be made to the Larry M. Ellison scholarship fund at the University of Montana law school or to the GoFundMe campaign for Brian Leischner, the truck driver injured in the accident.

A celebration will be held in Marty's honor on July 20, 2019.

## John 'Jack' McInnis

Longtime Missoula tax attorney John Robert "Jack" McInnis died on April 1. He was 83.

Jack was born Aug. 26, 1935, in Great Falls to Archie Leo and Mayme (Dunn) McInnis and raised on the family homestead north of Raynesford.

Jack was a 1959 graduate of Carroll College, where he played on the baseball team; he earned a master's in accounting from UCLA. He earned his law degree at Georgetown University in 1965 and completed his Master of Tax Law while working for the Federal Trade Commission.

By the spring of 1966 Jack and his wife, Sandra, had enough of "back East", the big city, and school and headed back to Montana, where Jack landed a job with

the up and coming law firm of Garlington, Lohn and Robinson in Missoula. He practiced corporate tax law for over 20 years before retiring from the firm.

Jack's drive to support Catholic education defined the remainder of his life. He did volunteer board work at Missoula Catholic Schools and served on the Carroll College Board of Trustees for over 40 years, serving as chairman for a successful capital campaign to fund construction of the Fortin Science Center. He received the Carroll College Alumni Hall of Fame Award in 1998.

Jack is survived by his wife of 56 years, Sandra; their children Tim (Char), Robin (Chris) Barnes, Doug (Philana), and Logan (Amanda) and their 12 grandchildren.

In lieu of flowers, donations can be made in Jack's name to Carroll College or Missoula Catholic Schools.

## JOBS & CLASSIFIEDS

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

### ATTORNEYS

#### ASSISTANT ATTORNEY

#### GENERAL/CIVIL ATTORNEY:

The Civil Services Bureau represents the State in litigation where the State has an interest, most typically in cases challenging the constitutionality of State laws. The bureau also advises agencies on constitutional issues and litigation strategy. It provides legal counsel to the divisions within the Department of Justice, drafts legal opinions

for the review and signature of the Attorney General, and reviews administrative rules before publication. Open until filled. Apply at <https://mtstatejobs.taleo.net/careersection/200/jobdetail.ftl?job=19140850&tz=GMT-06%3A00>.

#### ASSOCIATE ATTORNEY:

Towe, Ball, Mackey, Sommerfeld & Turner, in Billings, seeks an associate with preferably 5+ years of experience in civil litigation and transactional

work. Benefits include retirement plan, health insurance, and a good working environment & staff. Salary depends on experience. All inquiries kept confidential. Submit cover letter, resume, references, and grade transcript (if available) to [nellsworth@tbems.com](mailto:nellsworth@tbems.com).

#### ASSOCIATE ATTORNEY:

Busy Billings, Montana law firm, MurphyMyers PLLC, seeks an associate attorney. Professional, fast-paced,

collaborative, hardworking atmosphere. Wide, diverse defense litigation practice. Ideal candidate will have 2-4 years of civil litigation experience. Salary D.O.E. Position available immediately. Submit cover letter, transcripts, references, and resume via email ([info@murphymyers.com](mailto:info@murphymyers.com)). All inquiries will be kept confidential.

### CLASSIFIEDS CONTINUED ON NEXT PAGE





**ASSOCIATE ATTORNEY:** Associate sought to join four other attorneys in busy practice focusing on civil litigation, business law, transactions, estate planning, bankruptcy trustee representation, and dissolution. Candidate must be self-motivated and willing to work both collaboratively and independently. Will assist with existing case load in addition to securing new clients. Associate will be expected to work all aspects of cases, including research, investigation, discovery, briefing, document preparation, and active litigation. Competitive compensation. Experience of 3-5 years is preferred, but not required. Submit cover letter, transcripts, resume, and references to Cotner Law, PLLC, attn: Hannah Moreau: hmoreau@cotnerlaw.com

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

**ATTORNEY:** Datsopoulos MacDonald & Lind PC. Successful, established AV rated Missoula law firm with busy growing practice, seeks an experienced lawyer with 3 to 5 years of experience. Trial experience is preferred but not required. We offer a strong, collegial and productive work environment, excellent compensation and a comprehensive benefits package. We are looking for an attorney who wants to be part of our team environment and who will grow with us. The ideal candidate is a lawyer with a positive attitude and diligent work ethic. Qualified candidates should submit a cover letter, resume and references to sjacobson@dmllaw.com

**ATTORNEY:** Well-established, busy Missoula law firm,

Garlington, Lohn & Robinson, PLLP, seeks litigation and business attorneys. Professional, fast-paced, collaborative, hardworking atmosphere. Wide, diverse practice, including defense litigation and business transactions. Ideal candidate will have at least four years' experience practicing law. Salary D.O.E. Position available immediately. Submit cover letter, transcripts, references, and resume to Garlington, Lohn & Robinson, PLLC, Attn: Cyan Sportsman, PO Box 7909 Missoula, MT 59802 or crsportsman@garlington.com

**BUSINESS LITIGATION:** Davis, Hatley, Haffeman & Tighe, P.C., a business and litigation firm in Great Falls, Montana, is accepting applications for an experienced business litigation attorney. The individual must be self-initiating, team oriented, and capable of handling a wide range of transactional work; running the gamut of business formations, farm and ranch sales, commercial leasing, oil and gas, employment, as well as, business consulting, estate planning, and probate practice. Qualified individuals please send a cover letter, resume, writing sample, and references to Joseph M. Sullivan Aat joe.sullivan@dhhtlaw.com

**CHILD SUPPORT ENFORCEMENT ATTORNEY:** The Confederated Salish and Kootenai Tribes - Pablo, MT are seeking a Child Support Enforcement Attorney. Applicants must be an attorney admitted to practice Law in the State of Montana or must become admitted within six months of hire to maintain employment. Applicants are required to submit a Tribal application, copies of relevant transcripts and/or certificates, writing sample, resume and a cover letter to the Tribal Personnel Department, 406.675.2700 ext. 1259 or visit the csktribes.

org website for the application and full vacancy announcement. Closing date will be June 13, 2019 @ 5:30 p.m.

**CIVIL LITIGATION ATTORNEY.** A long established, central Montana Law Firm is looking for an attorney experienced in litigation, primarily in insurance defense work, with 8 or more years of practice. Must be licensed in Montana. We offer a competitive salary, benefit package including medical insurance, profit sharing and 401(K). Please send cover letter, resume and references to C. Steinmetz at csteinmetz@jardinellaw.com.

**DEPUTY COUNTY ATTORNEY:** The Lincoln County Attorney's Office has one full-time Deputy County Attorney position available. Independently initiate criminal and civil cases with an understanding of current state, federal, and constitutional law, and manage the cases through final disposition. Applicant must submit a resume, writing sample, and two letters of reference to mboris@libby.org. A criminal background check is required of the successful applicant.

**LEGAL SERVICES:** request for proposal for legal services for the period July 1, 2019, to June 30, 2021. Inquiries and proposals should be directed to: April I. Vantassel, finance officer, Town of Stevensville p.o. Box 30, Stevensville, MT 59870-0030 406.777.5271 ext. 3 406-777-4284, or april@townofstevensville.com

**LITIGATION ATTORNEY:** Moulton Bellingham PC seeks an experienced litigation attorney. Moulton Bellingham has a wide range of litigation work, including personal injury, products liability, municipal liability, and commercial litigation. The ideal candidate will have litigation experience and be team-oriented, pro-active, and self-motivated. Excellent

benefits, including potential for annual bonuses. Please send a cover letter, resume with references, and a writing sample to Moulton Bellingham PC, Attn: Gerry Fagan, PO Box 2559, Billings, MT 59103.

**LITIGATION ATTORNEY:** Christensen & Prezeau, PLLP, a civil defense litigation firm in Helena, Montana, is accepting applications for a litigation attorney with 5+ years of experience. The individual must be proactive, able to multi-task, and comfortable working as part of a team. Christensen & Prezeau offers a competitive salary with excellent benefits package. Qualified individuals please send a cover letter, resume, writing sample, and references to amy@cplawmt.com

**MANAGING ATTORNEY - GREAT FALLS:** Montana Elder Law, Inc. ([www.mtellderlaw.com](http://www.mtellderlaw.com)) is seeking an experienced attorney for Great Falls office. Responsibilities include representing clients in estate planning, probate, C&G, managing small staff, and community outreach. Compensation includes salary + profit sharing. Benefits included. All inquiries confidential. Apply online with cover letter and resume to Chelsea@mtelderlaw.com.

**PROSECUTING ATTORNEY:** The Confederated Salish and Kootenai Tribes - Pablo, MT are seeking a full-time Prosecuting Attorney to represent the Tribes in Tribal Court. Applicants must be an attorney admitted to practice Law in the State of Montana or must become admitted within six months of hire to maintain employment. All applicants required to submit a Tribal application, copies of relevant transcripts and/or certificates, writing sample, resume and a cover letter to the Tribal Personnel Department, 406-675-2700 ext. 1259 or visit csktribes.org for the

application and full vacancy announcement. Closing date will be June 13, 2019, 5:30 p.m.

## PARALEGALS

**PARALEGAL:** The Montana Association of Counties (MACo) Defense Services is seeking a Paralegal. The primary focus of this position is to provide paralegal and litigation support to the attorneys in Defense Services. This position has extensive contacts with MACo members, outside counsel, court officials, claims adjusters, medical providers, and legal vendors. Successful applicants should have five years of civil litigation experience. Apply by email to mmc-carthy@mtcounties.org

**PARALEGAL:** Full time, experienced paralegal sought for growing Billings firm to integrate into our existing team. The position is fast-paced, working with our litigation/tax law attorney. Applicants must be able to work in a deadline-drive environment with attention to detail and accuracy. Experience in drafting, researching, and communicating with clients is critical. This position requires the ability to prioritize and multi-task, be proficient in calendaring, filing documents with the court, and managing physical and electronic files. Competitive pay and benefits, including paid time off and employer-provided health insurance. Submit cover letter, resume, and references to: Kelsey Thelen, Patten, Peterman, Bekkedahl & Green, PO Box 1239 Billings, MT 59103 or via email to kthelen@ppbglaw.com

**PARALEGAL:** Datsopoulos MacDonald & Lind PC. This position entails assisting attorneys with all tasks related to Commercial and General Civil Litigation; Real Estate and Personal Injury, Estate Planning, Probate, Employment Law and Commercial and Business transactions. As a legal assistant, you are expected to provide superb case management and filing accurate legal

documents in a timely fashion as well as assisting attorney with day-to-day functions, including daily calendar review and scheduling. Must have strong computer skills, must be proficient with Microsoft Office. Candidate should be comfortable working independently and able to handle a wide variety of tasks. Qualified candidates should submit a cover letter, resume and references to sjacobson@dmllaw.com

**PARALEGAL:** Hendrickson Law Firm, PC, seeks full-time assistant for litigation support, case prep, scheduling, billing and administrative support for a busy full-service law firm. Our ideal candidate is a great communicator, organized, detail-oriented, capable of multi-tasking and a team player. Two years or more experience preferred but will provide training. Accounting experience a plus. We offer a competitive salary and good benefits including 401(k). Send cover letter and resume to Katie@hendricksonlawmt.com.

## PRACTICE FOR SALE

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## OFFICE SPACE/SHARE

**KALISPELL:** Office share office space for rent in 3 attorney building. Nice office with reception, copier, scanner, fax, high-speed internet and conference room available. Easy and ample parking. Likely overflow referrals for right attorney. Please contact the Law Office of Vincent G. Rieger, P.C. at [vrieger@lvgrpc.com](mailto:vrieger@lvgrpc.com) or 406-755-9552 for more information.

## CONSULTANTS & EXPERTS

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

**EXPERIENCED BANKING EXPERT/CONSULTANT** - 40+ years of banking experi-

ence 30 years of which were in executive management positions in banks ranging in size from community banks to multi-billion dollar, multi-state banking organizations. Executive responsibility for all phases of lending, lending disciplines and credit assessment. Special expertise in determining borrower creditworthiness and the appropriateness of lender behavior. Outstanding legal references upon request. Please contact Leon Royer by telephone at 406-932-4255 or by email at [backcastranch@gmail.com](mailto:backcastranch@gmail.com).

**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. [www.documentexaminer.info](http://www.documentexaminer.info).

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

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