



MONTANA LAWYER

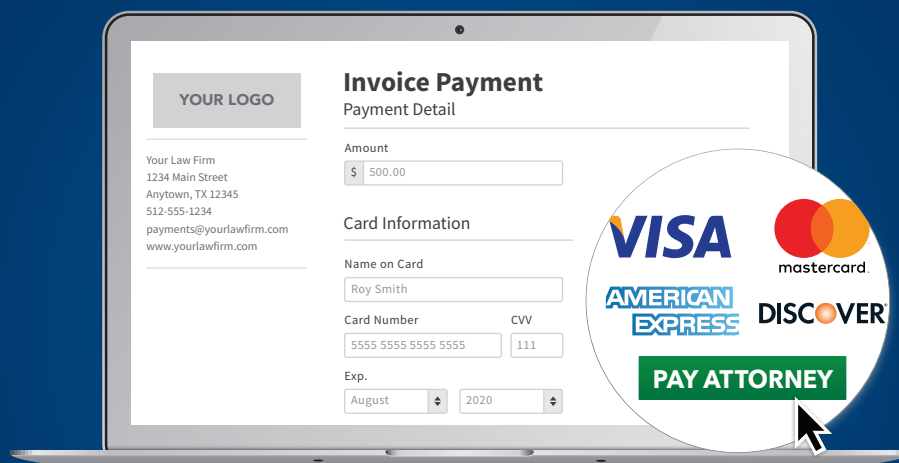
JANUARY 2019

J RURAL ACCESS TO JUSTICE

APPLICANTS SOUGHT FOR INNOVATIVE NEW
RURAL INCUBATOR PROJECT FOR LAWYERS

ALSO INSIDE

BAR LAUNCHES STREAMLINED
IOLTA, PRO BONO, DUES PROCESS



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Montana's wide-open spaces hold a lot of beauty

– but they also present hard challenges for delivering legal services. A new program aims to take on those challenges.

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Project offers fellows training, startup capital, office space and mentoring as they launch rural Montana practices



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Streamlined compliance processes unveiled for 2019

Happy New Year from all of us here at the State Bar of Montana!

In 2019 your state bar will continue to make improvements in the delivery of services to members, with an expanded dues season and a streamlined compliance process.

In the past, the Bar has mailed dues statements approximately 30 days prior to the April 1 payment deadline. This year we have decided to provide those notices earlier, near the end of January, so that members have more time to make their dues payments and more time to plan for that process.

Working with our strategic partners, we also have aligned the compliance deadlines for pro bono reporting to the Montana Supreme Court and your IOLTA compliance with the Montana Justice Foundation. A web portal through the State Bar of Montana website has been developed for you to make this as seamless as possible. You will be receiving more information by electronic mail and with your dues statement. We hope that this change will make the

compliance process easier for members.

Finally, later this spring, we will move to an electronic voting platform for our officer and trustee elections that will allow secure, anonymous voting integrated with your existing State Bar of Montana log-in information. Paper ballots will still be available for those members who request a traditional ballot by mail. This move comes in response to strong member interest in electronic voting as expressed in the 2017 Member Survey and in an on-line survey conducted during last year's elections.

Each new year brings with it the opportunity to improve and these are just a few of the changes we will be making for our members in 2019. We hope they will make a positive impact in your interactions with the State Bar of Montana, make compliance and dues season a little easier and encourage broader member participation in the governance of the bar by making voting more accessible.

Please let us know how we are doing and, again, we wish you and your colleagues a happy, impactful and prosperous 2019.



JOHN MUDD

Working with our strategic partners, we have aligned the compliance deadlines for pro bono reporting to the Montana Supreme Court and your IOLTA compliance with the Montana Justice Foundation.

MONTANA LAWYER

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Board of Trustees endorses proposed ethics rules updates

The State Bar of Montana Board of Trustees has endorsed Ethics Committee recommendations for changes to the Montana Rules of Professional Conduct.

Starting in April 2017, the committee reviewed 29 Montana rules that are not identical to the American Bar Association's Model Rules of Professional Conduct. Of those, the committee recommended that 11 be amended to correspond with the Model Rules, 10 remain as currently written, and one ABA rule be rejected entirely. It also called for seven unique Montana rules to be amended to absorb ABA language.

This is the first comprehensive review of the MRPC since 2002-2003.

The board approved the recommendations at its Dec. 7 meeting. The board and the Ethics Committee now will jointly petition the Montana Supreme Court to adopt the proposals.

The rules addressed in the review are listed below. An article explaining the recommended changes will be in an upcoming issue of the Montana Lawyer.

Recommend Adopting Model Rule

Rule 1.2 Scope and Allocation of Authority

Rule 1.6, Confidentiality, with two additional commas;

Rule 1.13, Organization as a Client

Rule 1.20, Duties to Prospective Clients

Rule 4.2 Communication with Person Represented by Counsel

Rule 4.3 Dealing with Unrepresented Person

Rule 3.8, Special Responsibilities of a Prosecutor

Rule 5.5, Unauthorized Practice of Law; Multi-jurisdictional Practice of Law

Rule 5.7, Responsibilities Regarding Law-Related Services

Rule 7.2, Advertising, with slight modification

Rule 7.4, Communication of Fields of Practice and Specialization --eliminated, per ABA

Retain MT Rule, With Amendment

Rule 1.0, Terminology

Rule 1.5, Fees

Rule 1.8, Conflicts: Specific Rules

Rule 1.10, Imputation of Conflicts

Rule 1.15, Safekeeping Property

Rule 1.18 Montana's Interest on Lawyer Trust Accounts Program

Rule 8.5, Jurisdiction and Certification

Retain MT Rule, No Amendment

Rule 1.16, Declining or Terminating Representation

Rule 1.17, Government Employment

Rule 1.19, Sale of Practice (the ABA's Rule is 1.17)

Rule 3.1, Meritorious Claims and Contentions

Rule 3.5, Impartiality and Decorum of Tribunal

Rule 5.1 Responsibilities of Partners, Managers

Rule 6.1, Voluntary Pro Bono

Rule 7.1, Communications

Concerning a Lawyer's Services

Rule 7.3, Direct Contact with Prospective Clients

Financial audit available

Copies of the latest audit of the State Bar of Montana's financial records are available to interested members. The audit, conducted by Anderson Zurmuehlen, is for the year ended March 31, 2018.

To receive a copy of the audit, email jdiveley@montanabar.org.

Upcoming board meetings

The State Bar of Montana Board of Trustees has approved a new meeting schedule for 2019.

The board will have one meeting by conference call and three in-person meetings:

- Feb. 8: conference call
- May 29-30: Fairmont Hot Springs
- Sept. 11: Billings (Annual Meeting)
- Dec. 6: Helena

Rule 7.5, Firm Names and Letterheads

Reject ABA Rule

Rule 7.6, Political Contributions to Obtain Legal Engagements or Appointments by Judges

Unique Montana Proposal

Preamble, paragraph 6 in lieu of requested amendment to Rule 1.2(d), addressing cannabis

Be there in
BILLINGS
 2019 ANNUAL MEETING
 SEPTEMBER 11-14, 2019



Brown tapped as associate judge of the Montana Water Court

Missoula attorney Steve Brown has been appointed associate judge of the Montana Water Court.

Chief Justice Mike McGrath appointed Brown, who replaces the Honorable Douglas Ritter, on Tuesday. The appointment is effective Feb. 6.

Brown, the managing partner of Garlington, Lohn and Robinson in Missoula, was among three candidates the Judicial Nomination Commission recommended to the chief justice.



Brown

"I'm very flattered to be appointed," Brown said. "I'm looking forward to the opportunity to work with (Chief) Judge (Russ) McElyea at the Water Court. I appreciate the years at Garlington, but I'm glad for the opportunity."

"After interviewing the candidates, it was clear Steve was the person most qualified to join the Water Court," Chief Justice McGrath said. "We are very lucky to have an attorney of his caliber willing to move to public

service. He will be an excellent addition to the Water Court."

McGrath noted that Brown has taught natural resource law courses at University of Montana School of Law for many years in addition to appearing before the Water Court many times.

Brown has practiced water and natural resources and energy law in Montana since 1994. He has received multiple professional awards including recognition as a Rocky Mountain Super Lawyer and is AV Preeminent rated by Martindale-Hubbell. He is a graduate of the Lewis and Clark Law School and has a bachelor's degree in geology from Whitworth College.

The Water Court was created by the 1979 Montana Legislature. It has jurisdiction over the adjudication of all water rights claims in Montana. More than 200,000 water rights claims will eventually be adjudicated through the Water Court.

Brown will serve the rest of Judge Ritter's term, which ends in June 2020, at which time he may apply for another term through the Judicial Nomination Commission. He will earn \$132,558 per year.

Bankruptcy Court accepting comment on proposals for new rules and forms

The U.S. Bankruptcy Court for the District of Montana has published new proposed local rules and forms and is now accepting public comment on the proposals.

The proposed rules and forms, along with "compare" versions showing the changes, are available on the court website.

Comments must be made by March 2 by emailing to LocalRules@mtb.uscourts.gov. Comments will be reviewed along with the proposed amendments. Amendments adopted and approved by the Court will go into effect on a date after comment period has ended, likely in mid-March 2019. You will receive another announcement in advance of the effective date.

Chief Bankruptcy Judge Benjamin Hursh also extended by a year the terms of six members of the Local Bankruptcy Rules Advisory Committee in order to maintain continuity: Chuck Hingle, Billings; Richard J. Samson, Missoula; Kelli Harrington, Butte; Terry Healow, Butte; Robert G. Drummond, Great Falls; and Harold V. Dye, Missoula.

Newly appointed committee members are Dan Morgan, Missoula; J. Andrew Patten, Billings; Laura Myers, Billings; Maggie Stein, Billings; and Shannon Sanderson-Moyle, deputy clerk, U.S. Bankruptcy Court, Butte. The representative of the U.S. Trustee's Office is yet to be determined.

Members whose terms have expired are: Gary Deschenes, John Grant, Eli Patten, Tamara Melia Woodward, James Cossitt, and Patti Mahoney.

Snipes Ruiz appointed 12th Judicial District judge

Havre lawyer Kaydee Snipes Ruiz has been appointed as district judge for the 12th Judicial District.



Snipes Ruiz

Snipes Ruiz will take over for the Honorable Daniel Boucher, who retired in November after eight years on the bench.

Gov. Steve Bullock appointed Snipes Ruiz, who was one of four attorneys who ap-

plied for the position with the Judicial Nomination Commission, on Jan. 7. The 12th Judicial District covers Hill, Liberty

and Chouteau Counties.

Snipes Ruiz has served since June 2014 as regional deputy public defender for the Office of the State Public Defender's Havre office. Before joining OPD, she was an associate attorney at Lorang Law in Havre.

She won the state of Montana Governor's Award for Excellence in 2016 for her work with the public defender's office.

The Great Falls native is a 2011 graduate of the Gonzaga University School of Law and a 2008 graduate of Montana State University.

Judge Boucher was appointed by Gov. Brian Schweitzer in 2010 and won reelection in 2012 and 2018.

6 District Court judges appointed to handle Asbestos Claims Court cases

The Montana Supreme Court on Dec. 11 appointed six additional Asbestos Claim Court judges to handle thousands of claims before the court pending against dozens of defendants.

The Asbestos Claims Court was created in November 2017, with the Honorable Amy Eddy, 11th Judicial District in Kalispell, appointed as the judge for pretrial proceedings only.

According to the order, there are currently 2,229 claimants alleging exposure to asbestos in Libby, with 200 additional cases per year anticipated to be filed for the foreseeable future. Of those, 1,394 have been moved onto a deferred docket for people who have an asbestos-related disease but do not currently have functional symptoms. Once they meet established medical criteria, they will be moved to the active docket for their claims to be resolved. There are

currently 835 claimants on the active docket.

The Supreme Court's order said that the additional judges were appointed to to more equitably and efficiently meet the demands of the litigation. They are:

- Judge Matthew Cuffe, 19th Judicial District, Libby;
- Judge Michael McMahon, 1st Judicial District, Helena;
- Judge Jon Oldenburg, 10th Judicial District, Lewistown;
- Judge John Parker, 8th Judicial District, Great Falls;
- Judge Gregory Pinski, 8th Judicial District, Great Falls; and
- Judge Dan Wilson, 11th Judicial District, Kalispell.

These pending cases will be divided between the judges, who will preside over the matters through settlement or trial.

Montana Supreme Court to hear oral argument on double jeopardy claim

Helena v. O'Connell: Wednesday, January 23, 2019, at 9:30 a.m., Courtroom of the Montana Supreme Court, Helena.

A Helena woman appeals her 2016 driving under the influence conviction on the grounds that it violated double jeopardy protections.

In June 2016, Kristi O'Connell caused a multiple-vehicle accident and was charged with careless driving. O'Connell agreed to provide a blood sample. Later that month, she pleaded guilty to the careless driving charge.

The toxicology report revealed the presence of medications in O'Connell's blood, and she was cited for driving under the influence.

O'Connell filed a motion to dismiss the DUI charge, arguing that the new charge violated a Montana statute prohibiting subsequent prosecution following a conviction. Additionally, she asserted the charge violated double jeopardy protections guaranteed by the Montana Constitution. The Municipal Court denied O'Connell's motion to dismiss and the District Court affirmed the Municipal Court's decision.

On appeal, O'Connell argues that double jeopardy applies because the DUI charge was based upon exactly the same conduct as her careless driving conviction, she performed one act with one criminal objective: driving carelessly by driving under the influence of medication.

The city argues that O'Connell's careless driving conviction, like her DUI charge, was an absolute liability offense that does not require proof of mental state. Accordingly, the city contends that since O'Connell's careless driving conviction and subsequent DUI prosecution were not concerned with criminal objective, the offenses did not arise out of the same transaction and her double jeopardy rights were not violated.

Supreme Court commission appointments

The Montana Supreme Court has made the following board and commission appointments:

Sentence Review Division: The Honorable Luke Berger, 5th Judicial District, appointed to a three-year term expiring Dec. 31, 2021, replacing the Honorable Kathy Seeley, 1st Judicial District; the Justice John Warner, retired, reappointed to a three-year term expiring Dec. 31, 2021.

Commission on Technology: Peg Allison, Audrey Barger, Larry Carver, Rep. Kenneth Holmlund, P. Mars Scott, and the Honorable Randal Spaulding, 14th Judicial District, reappointed to three-year terms expiring Oct 31, 2021; John Mudd reappointed to a three-year term expiring April 1, 2022; Bowen Greenwood, clerk of the Supreme Court, or his designee appointed to a

fill the remainder of former clerk Ed Smith's term expiring March 21, 2020.

Uniform District Court Rules

Commission: Elizabeth Halverson is reappointed as a civil trial attorney representing the plaintiff member of the commission; Professor Larry Howell is appointed to replace retired Professor Greg Munro as a law school professor member of the commission. Their four-year terms end Dec. 2, 2022.

Commission of Continuing

Legal Education: Darcy Crum, Steven Howard, and Mary Moe are reappointed to three-year terms expiring Sept. 30, 2021.

Commission on Courts of Limited Jurisdiction: the Honorable Heidi Ulbricht reappointed as the district court judge member for a four-year term to expire Dec. 31, 2022.

CAREER MOVES



Sullivan



Andersson

Holland & Hart adds 2 associate attorneys in Billings office

Holland & Hart has announced the addition of two attorneys in the firm's Billings office, John Sullivan and Frans Andersson.

Sullivan joins the firm's Commercial Litigation team and Andersson joins the firm's Real Estate Development and Finance team. Both attorneys broaden bring diverse life and legal experiences to the firm and its clients.

Sullivan draws on his experience prosecuting cases and overseeing government investigations when counseling clients on complex civil litigation matters. Before joining Holland & Hart, he served in the U.S. Department of Justice as an Assistant U.S. Attorney – District of Montana in the Criminal Division, where he gained valuable trial experience and worked closely with the Federal Bureau of Investigation, Drug Enforcement Administration, and various state and local law enforcement agencies. He has also briefed and argued cases before the United States Court of Appeals for the Ninth Circuit. After graduating from law school, he served as a clerk for the Honorable Sam E. Haddon of the United States District Court for the District of Montana. He received his J.D. from the University of Montana School of Law and his B.A. from Carroll College.

Andersson represents clients in a wide variety of industries, including real estate development, renewable energy and natural resources, utilities, and financial institutions. His areas of expertise include probate matters; entity formation; secured lending; tax-exempt

HAVE NEWS TO SHARE?

The Montana Lawyer welcomes news about Montana legal professionals including new jobs, honors, publications, and other accomplishments.

Please send member news and photo submissions to editor@montanabar.org. Email or call 406-447-2200 with questions.

organization; and business entity taxation. He earned an LL.M. in Taxation from the University of Florida Levin College of Law and received his J.D. from the University of Montana School of Law. He received his B.A. from the University of New Hampshire.

Lenmark joins as Of Counsel at Jackson, Murdo & Grant

Jacqueline T. Lenmark has joined the law firm of Jackson, Murdo & Grant, P.C. as of counsel, focusing on insurance regulation, real property and commercial transactions, estate planning and probate, and general civil litigation.



Lenmark

Lenmark also frequently serves as a mediator, primarily in domestic relations disputes, and advises on government relations matters. She serves on the Montana Board of Bar Examiners and the Commission for Uniform State Laws. Jacqueline graduated with honors from the University of Montana School of Law in 1985. She earned a B.A. in History from La Sierra University and a M.A. in English Literature from Andrews University.

Stockton joins as associate at Boone Karlberg Missoula

Boone Karlberg P.C. is proud to introduce its newest associate attorney, Tyler M. Stockton.

Stockton's practice consists primarily

of civil litigation, personal injury, insurance defense, and state and federal appeals.

Stockton graduated from the University of Montana School of Law in 2016 with high honors. During law school, he was an editor for the



Stockton

Montana Law Review, a member of the Moot Court Team, and a teaching assistant. After law school, he clerked with the Honorable Jim Rice, Montana Supreme Court, and the Honorable

N. Randy Smith, United States Court of Appeals for the Ninth Circuit.

Before joining Boone Karlberg, Stockton served in the United States Marine Corps Infantry and worked in information technology. He spends his free time with his wife, Tia, and their children.

Berg Lilly welcomes Faller as associate attorney

Mimi Faller joined Berg Lilly, PC, as an associate attorney on Oct. 1 after leaving Farve & Brown Law, PLLC.

A native of Idaho, Faller graduated from University of Colorado at Boulder in 2010 and received her law degree from the University of Denver in 2014. Following graduation, she returned to Idaho to serve as a law clerk to the Honorable Terry L. Myers, United States Bankruptcy Court, District of Idaho. After completing her clerkship, Faller relocated to Jackson Hole, and practiced with the firm of Wylie Baker, LP, for two years. In the summer of 2017, she moved to Bozeman to continue her practice.

Faller is licensed in Idaho, Wyoming, and Montana. She will be serving clients in the areas of real estate, land use, commercial transactions, entity formation, and contract law. She has extensive experience in real estate transactions, land use law, assisting small businesses, and asset purchases and sales. She looks forward to continuing to build her practice in Bozeman and around the state.

Ewan, Peterman form legal, creative consulting firm in Missoula

Jenn Ewan and Erika Peterman have announced the opening of Sova | Sova Partners in Missoula.

The attorneys at Sova are committed to knowing their clients, understanding their personal and business needs and finding creative strategies that meet their goals. However, many of Sova's clients face challenges and opportunities beyond the legal realm and Sova's attorneys have the expertise to help. Sova Partners, an extension of its legal arm, offers strategic and creative consulting to meet non-legal business needs.

When not providing legal counsel to clients throughout Montana, Peterman can be found taking photos of people, places and events across the globe. She co-founded Sova as a means to merge her creative, legal and business expertise under one roof and offer comprehensive consulting services.



Ewan

Her practice has focused on civil litigation, and she has represented organizations and individuals matters including business, contract and property disputes. She also has extensive experience representing financial institutions in state and federal court.



Peterman

As a documentary photographer, she loves to capture the faces and places that tell a story. Her photos have been used by businesses and nonprofits to humanize their missions in artistic, meaningful ways. Erika has also been the photographer for various political and business campaigns, photographing luminaries such as Justice Sandra Day O'Connor, Vice President Joe Biden and Facebook executive Sheryl Sandberg. She enjoys any opportunity to take photos of beautiful landscapes and wildlife, from

whale sharks in Baja to Arctic foxes in Iceland. Her photos have appeared on the covers of Big Sky Journal, the Missoula Independent, and Paddle World Magazine, among others. In 2018 her work was featured in an article in The Guardian about the impact of the Keystone XL pipeline on Montana's Fort Peck Indian Reservation.

Peterman received her J.D. from the University of Montana and her undergraduate from St. Olaf College in Minnesota, with studies in Galway, Ireland.

As counsel, Ewan provides guidance and support to startup and growth-phase companies, as well as advice and legal expertise on employment and corporate matters. In 2017, she completed Level I and II Title IX investigator training through Atixa and is now certified to fully investigate Title IX complaints in the United States. Prior to co-founding Sova, she was senior counsel in Michael Best & Friedrich's Corporate, Transactional, and Real Estate practices. She previously served as vice president of the Missoula Economic Partnership, responsible for proactively identifying and courting related

investment opportunities and maintaining strong investor relationships; scoped, implemented, and lead MEP special projects on initiatives such as air service and workforce development; lead MEP's economic development team in business retention & expansion, attraction, and business development opportunities and projects; maintained liaisons with various local, State, and Federal agencies, as well as other strategic partners. She also served as in-house counsel for two software companies and worked for nearly six years for former Ambassador to China and former U.S. Sen. Max Baucus.

Ewan volunteers for the Western Montana Bar Association's Family Law Clinic and as an external review panel member for the Missoula and University of Montana police departments, reviewing felony sexual assault cases for each.

She received her undergraduate degree in psychology and her J.D. from the University of Montana, with studies in Beijing, China. She is a member of the Montana State Bar and is licensed to practice in United States District Court for the State of Montana.

FairClaim in Great Falls welcomes Miller

FairClaim/Linnell, Newhall, Martin & Schulke, P.C., in Great Falls is pleased to announce that Megan Miller has joined the law firm.

Miller is a Jefferson County native, graduating from Whitehall High School. She earned her A.A.S., with honors,



Miller

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Dominic (Dee) Carestia Attorney/Mediator/Arbitrator



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from Montana State University-Great Falls and her B.A., cum laude, from Arizona State University. Miller graduated from the University of Montana's Alexander Blewett III School of Law in 2018. During law school she interned at Linnell, Newhall, Martin & Schulke in Great Falls and Ries Law Group in Missoula.

Miller and her husband, Derrick, have been married for 17 years and are the proud parents of three beautiful children. The Millers are involved in Taekwondo and enjoy hiking, road trips, and spending time with family and friends.

Miller was admitted to the State Bar of Montana and began her association with FairClaim in October 2018. She is admitted to practice in Montana state and federal courts. Her practice will focus primarily on workers' compensation and personal injury. Contact her at mmiller@fairclaimlaw.com.

Sean Morrison returns to Helena, joins father's firm

Sean T. Morrison has returned to Helena to join Morrison Law Firm as an attorney focused on federal and state tax issues. Morrison joins his father,



Sean Morrison

Thomas Morrison. The firm specializes in federal and state tax disputes, tax-related transactions, commercial law, business entities and estate planning.

Sean Morrison previously worked for the Washington, D.C.-based law firm Miller & Chevalier, where he represented clients in matters before Congress, the U.S. Tax Court, the U.S. District Court for the District of Columbia, the Internal Revenue Service, the D.C. Office

of Tax and Revenue, the D.C. Superior Court, and the D.C. City Council.

Loresch joins Kasting, Kauffmann & Mersen

Kasting, Kauffman & Mersen in Bozeman is pleased to announce that Scott J. Loresch has joined the firm as an associate attorney.



Loresch

York University School of Law. He is admitted to practice law in New York and California. He joins the firm with experience in representing businesses and individuals in taxation, mergers and acquisitions, and estate planning matters. He will be assisting the firm in all aspects of its general practice of law.

HONORS AND ACHIEVEMENTS

Cox receives Professional Education Award



Cox

Randy J. Cox, shareholder with Boone Karlberg P.C., received the ABOTA Foundation's Professional Education Award for his work on Masters in Trial programs in Montana and around the country.

This prestigious award is presented

to ABOTA members who exemplify the Foundation's vision and goals of elevating the standards of continuing legal education and professionalism.

Eddy invited to join American Law Institute

District Judge Amy Poehling Eddy was invited into, and has accepted membership with, the American Law Institute.

The ALI is the leading independent organization in the United States producing scholarly work to clarify, modernize, and otherwise improve the law. It is made up



Eddy

of judges, lawyers, and law professors of the highest qualifications, and drafts, discusses, revises, and publishes Restatements of the Law, model statutes, and principles of law that are influential in the courts and legislatures, as well

as in legal scholarship and education. The ALI has long been influential internationally and, in recent years, more of its work has become international in scope.

Election into the ALI is limited to 3,000 members (not including life, honorary, and ex-officio members).

Invitees are screened for professional excellence; experience, interest, and involvement in activities that fall within the mission of the organization; anticipated desire and commitment to participate in, as well as to make potential contributions to, the Institute's work and law reform activities; achievement – or promise of future achievement – in the candidate's chosen endeavor in the law; and professional recognition or standing among her peers. Judge Eddy joins 19 other Montana ALI members.

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STARTING MID-JANUARY, 2019
DEADLINE APRIL 1, 2019

STATE BAR OF MONTANA

MEMBER PORTAL

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ONE DEADLINE

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- ☐ IOLTA CERTIFICATION*
- ☐ PRO BONO SURVEY

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RURAL JUSTICE DIVIDE

Rural Incubator Project for Lawyers prepares to support new practitioners dedicated to serving Modest Means and rural communities

The Rural Incubator Project for Lawyers prepares to support new practitioners dedicated to serving Modest Means and rural communities.

"[S]imply increasing the number of legal professionals working in a given place will not ensure access to justice there." Lisa R. Pruitt & Bradley E. Showman¹

By Hannah S. Cail

Montana Legal Services Association has been working diligently since May 2018 on our latest innovative program — the Rural Incubator Project for Lawyers. With the financial support of the Montana Justice Foundation's Bank of America Grant, MLSA is bringing together enthusiastic partners, including the State Bar of Montana, the Supreme Court Access to Justice Commission, the Blewett School of Law, and knowledgeable rural and modest-means focused practitioners, to prepare the next generation of Montana's solo practitioners to meet the legal needs of low- and moderate-income individuals and the rural communities in which they live.

According to a recent Access to Justice Commission report, roughly 144,000 Montanans currently live at or below the poverty line. Almost half of these low-income individuals reported having at least one civil legal need that they lack the financial resources to address. MLSA only has the resources

to assist one in three of these low-income individuals. That equates to one attorney for every 11,077 low-income individuals; compared to an average of one private attorney for every 277 individuals that can afford legal services. Additionally, many of Montana's rural counties simply lack enough attorneys, and many individuals leave their legal services unmet regardless of their ability to pay. To address gaps like these in access to justice, many law schools, bar associations, and legal aid organizations have created legal incubators that train newer, socially conscious attorneys to start modest-means focused practices in underserved communities.

Adapted from business and tech incubators that offer business training, office space, and startup capital, legal incubators train and mentor new attorneys in practice management and client services as they launch their solo law firms. The City University of New York established the first legal incubator in 2007, and the American Bar Association now lists over 66 legal incubators.² Like existing legal incubators, RIPL will provide business training, substantive-law training, mentorship, and networking opportunities to a competitively selected group of participants, known as RIPL Fellows, as they build their business and gain practical skills and experience. MJF also offers Fellows loan repayment.

¹ Law Stretched Thin: Access to Justice in Rural America, 59 S.D. L. Rev. 466, 478 (2014).

² https://www.americanbar.org/groups/delivery_legal_services/initiatives_awards/program_main/program_directory/



Over 82% of Montana's attorneys work in the state's six biggest urban areas – which make up a fraction of 1 percent of the state's total area – leaving residents of large swaths of the state with very limited access to an attorney.

3,182

Active, resident attorneys in Montana

2,619

Attorneys in Montana's 5 largest cities

153

Combined square miles of 5 largest cities

MISSOULA

672 ATTORNEYS

HELENA

563 ATTORNEYS

BILLINGS

542 ATTORNEYS

BOZEMAN

363 ATTORNEYS

KALISPELL/WHITEFISH

259 ATTORNEYS

GREAT FALLS

224 ATTORNEYS

563

Attorneys in the rest of Montana

147,000

Square miles in Montana

MONTANA LAWYER

SOURCES:
State Bar of Montana
US Census Bureau

MLSA's Helena office will support fellows in the first six months of the robust 24-month program, where they attend a one-week Business Bootcamp, establish their law practice, and complete their MLSA pro bono residency. During the Pro Bono Residency, Fellows commit to between six and 20 pro bono hours per week and provide a range of direct legal services from limited-scope phone advice to full representation on a variety of legal issues. MLSA's Pro Bono Residency also provides Fellows mentorship from experienced MLSA attorneys, office space, and other benefits such as program management software and malpractice coverage on all pro bono and modest-means referrals. Fellows will also attend CLEs ranging from substantive law to lawyer wellbeing. Regular roundtable discussions with their cohort, MLSA attorneys, and other experienced practitioners provide Fellows additional mentorship opportunities and support.

Understanding the need for more

accessible legal services, RIPL will train Fellows to offer flexible and unbundled legal services, to set predictable and transparent prices for those services rather than rely on the traditional billable hour, and to leverage technology to create a more efficient practice. Fellows commit to maintain a ratio of 50% modest-means clients. Fellows also commit to provide legal services to an underserved community or rural judicial district, either through remote services and frequent travel or by moving to that community.

Only two of the 66 incubator programs listed by the ABA serve clients in rural areas,³ and most incubator models simply do not address the distinct challenges of delivering services to Montana's rural communities. For example, the Chicago Bar Foundation's Justice Entrepreneurs Project (JEP)

³ The University of Arkansas's Rural Practice Incubator established in September 2018 and the Vermont Bar Association and Vermont Law School's Vermont Lawyer Incubator Project established in May 2014.

EXPERIENCED MENTORS NEEDED FOR PROJECT

The Rural Incubator Project for Lawyers has a need for experienced practitioners to help them better prepare and mentor RIPL participants. For more information on how you can help, contact hripl@mtlsa.org.

serves low- and middle-income clients in Chicago, a city of 2.7 million people within roughly 234 square miles with public transportation. Unlike the clients and the law practices supported by urban legal incubators that are in the same geographic location as clients, the barriers for connecting clients-in-need with attorneys do not include the challenges of geographic isolation and rurality. In Montana, where just over 1

Rural, page 28

THE RURAL INCUBATOR PROJECT FOR LAWYERS

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to support new solo practitioners launch successful practices that
increase access to justice in rural and underserved communities**

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- loan repayment assistance (LRAP) from MJF; and more.

Visit <https://www.mtlsa.org/rural-incubator-project-for-lawyers/> to learn more.



Cybersecurity improves with awareness – talk about it!

No matter your practice, you owe it to your clients – quite literally – to help them consider vulnerabilities

By Mike Talia

“Residents can’t pay their water bill or their parking tickets. Police and other employees are having to write out their reports by hand. And court proceedings for people who are not in police custody are canceled until computer systems are functioning properly again.”¹ That’s how CNN opened a story about the ransomware attack against the city of Atlanta in March 2018. Yes, this can happen to you and to your clients too. Let’s talk cyber for a bit.

Cybersecurity is as ubiquitous and important an obligation as wearing a seatbelt. It is also as neglected. The intent of this article is not to encourage you to use good cyber hygiene in your law practice. Your professional responsibility risk level is not my concern. But how are you helping your clients with cybersecurity?

This article is for those of you who

provide legal advice to the owners and operators of “critical infrastructure,” and that is more of you than you probably think. If you have never read Presidential Policy Directive 21, go ahead and type that into the Google machine and give it a look.² It isn’t very long. We’ll wait.

Critical infrastructure is more than just power generation and water systems. It is finance, emergency services, health care, transportation, and production agriculture. Safe to say that most lawyers in Montana have a client involved in critical infrastructure. Think of services that are relied on by many, are often taken for granted, and can cause civil unrest in the case of a prolonged loss. City or county attorney? Check. Advise a health care facility or bank? Check. For those who do not advise a client involved in critical infrastructure, read on, as there is a fair chance you are

a customer at the local courthouse. You may have a difficult time litigating for your clients if the court cannot run its computers. It takes a concerted effort from many people to keep these things working. You should be one of the people helping.

While the probability of a catastrophic cyber incident in Montana is minimal, the downside risk is too significant to ignore. In consideration of this risk, National Guard cybersecurity professionals around the country have been working with operators of critical infrastructure to strengthen facilities against potential malicious cyber activities, whether from a state actor or a talented kid operating out of the proverbial parents’ basement. Montana’s National Guard has trained and consulted with operators of critical infrastructure in military exercises and through the Montana Information Security Advisory





Council.³ In the same way that the National Guard comes to communities to help fight fires and floods, it now has the capability and, in the proper circumstances, the legal authority to shore up cybersecurity defenses among providers of critical infrastructure.

The military overmatch the United States currently enjoys against potential foes has led those foes to take actions against the United States that they hope will fall short of war, while still advancing their interests over ours. That, unfortunately, moves the front lines of potential conflict from faraway lands to any place with an internet connection. In other words, cybersecurity failings may implicate more than just your malpractice policy.

Enough about the falling sky. What can you do about it? You can learn how to spot the issues. Technological competence for lawyers is more than just email

encryption and metadata in discovery requests. You need to be thinking about your clients' systems as well as your own.

Unfortunately, many executives are just as clueless on cybersecurity as lawyers. This is your time to shine. You might be able to give your clients a nudge in the right direction. Go ahead and ask your clients what they are doing for cybersecurity. They might have an employment policy handbook, but do they have an acceptable use policy? Do you know what that is? Ask about client policies, procedures, and training for employees. Ask about their incident response plan. Ask how they train their employees to avoid phishing.⁴ Be sure they have technical advisers to help them make the right decisions.

Be sure your clients understand what is at stake when you have these conversations. What do they possibly have to

lose? It could be trade secrets, personal information that creates for tort or statutory claims, research, or internal records. If your clients rely on computer systems to do business, do they have redundancies in place to continue operations in the event of a cyber incident or loss of connectivity?

If you are advising a client about operational risk, include cybersecurity in the discussion. To do that, you need to know at least a little about cybersecurity. Do you know about Montana's data breach notification statute (MCA 30-14-1704)? What about sector specific data breach requirements like those in HIPAA, the Gramm Leach Bliley Act, and Montana's insurance code? And speaking of insurance, does your client have insurance coverage against cybersecurity risks; if so, is your client compliant with any prerequisites for coverage? These are just a few examples

“Be sure your clients understand **what is at stake** when you have these conversations. What do they possibly have to lose?”

of issues you should be able to spot. While you do not need to become a cyber nerd, cybersecurity is a basic competence today. Read up. Phone a friend. You can even Google it.

Reliance on computer technology will increase. No matter your practice, cybersecurity is an issue that you need to help your clients consider. Never mind your personal or law office cybersecurity vulnerabilities,⁵ think about your clients. You, quite literally, owe it to them. If your clients operate critical infrastructure, you owe it to the general public too. Those of us who use electricity, water, food, banks, and other areas of critical infrastructure thank you.

Mike Talia has the privilege of practicing law in the cyber domain as a JAG lawyer with the Montana National Guard in Helena. The opinions in this article are his own and not attributable to the Department of Defense, the state of Montana, or the Montana National Guard.

Endnotes

- 1 <https://www.cnn.com/2018/03/27/us/atlanta-ransomware-computers/index.html>
- 2 You can also click or copy this link, <http://lmgty.com/?q=Presidential+Policy+Directive+21>
- 3 <https://sitsd.mt.gov/Governance/Boards-Councils/MT-ISAC>
- 4 If you do not know what phishing is, read here (Please! For your own sake!), <https://www.consumer.ftc.gov/articles/0003-phishing>
- 5 Twice I have alluded to lawyers' ethical obligations to practice cyber security for their clients' protection. That is fodder for a whole different article, but the short version is that gone forever are the days of the lawyer who "can't even turn on their computer." Major jurisdictions like California and Arizona, along with the ABA, have begun setting ever-higher thresholds for minimum ethical compliance in cyber hygiene. Study up on this. The Professionalism and Technology Committees are here to help you. Your license may depend on it.



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How secure is Office 365? What lawyers may not know about it could hurt them

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

Can Office 365 “Go Down?”

Oh yes, it can. And it most certainly did on April 6, 2018. The outage was experienced in Europe, notably the U.K. as well as in Japan and other regions of the world. As one British newspaper noted in typical fashion, “Microsoft’s Office 365 service is suffering widespread borkage across Europe, again.” We do love ‘Brit-speak.’ Another newspaper said “It would appear that (Microsoft) has opted to secure user data by, er, removing access to it entirely. Clever.”

An unhappy customer wrote “Get this sorted – not been able to access account at all and working from home. Losing business here!”

Pete Banham, cyber resilience expert at Mimecast, commented: “Microsoft Office 365 was hit with major downtime ..., with customers around the world unable to access their services or admin

portals. An operational dependency on the Microsoft environment creates business risks that need be addressed.” He went on to say that entities need to consider a cyber resilience strategy to allow them to recover from such an outage.

To Microsoft’s credit, it announced later the same day that it had fixed the authentication problem. Certainly, it didn’t solve the PR problem of all the users who couldn’t login.

That certainly made us wonder how long an American law firm would be able to tolerate an Office 365 outage. This is an unsettling thought to many law firms that never thought about Office 365 being unavailable to them.

Creating a cyber resilience strategy

We could write an entire article on creating a resilience strategy, otherwise known as a business continuity plan. If Office 365 has a problem, how does a firm remain functional with email, preparing documents, etc.? This is the point

at which you plan to fail. Our recommendation is to use other services that integrate with Office 365. While there are many alternatives, we’ll give a few suggestions to keep you running during an Office 365 outage.

Email is now a required service for any law firm. Microsoft has a lot of redundancy for Office 365, but we’ve already seen some major failures. Consider routing your email flow through a service like Mimecast or Proofpoint. Should Office 365 (or hosted Exchange) go down, you can still receive and send email just like you normally would. Once Microsoft comes back up, the “offline” activity is synchronized with Office 365. You’ll need to work with your IT folks to get the configuration right, but it is possible to still operate during an Office 365 failure.

File access is another concern for continuity. You can control which OneDrive files are available offline. Access to the Office software (Word,



Excel, etc.) isn't an issue since part of the Office 365 subscription is to have local installs of the software.

It may be more difficult to engineer offline access other Office 365 services such as SharePoint. Most firms will be just fine with email and file access. The good news is the extended failures of Office 365 are very rare.

Are you responsible for securely implementing Office 365? Yes!

Lawyers look at us blankly when we ask, "How secure is your implementation of Office 365?" But it is a question posed by Microsoft itself. Let us offer a small tidbit from Microsoft's "Introducing the Office 365 Secure Score" web page:

"Ever wonder how secure your Office 365 organization really is? Time to stop wondering – the Office 365 Secure Score is here to help. Secure Score analyzes your Office 365 organization's security based on your regular activities and security settings and assigns a score. Think of it as a credit score for security."

Office 365 isn't magically secure out of the gate. It needs some help from your end. Secure Score looks at the Office 365 services you use and then looks at your settings and activities before assigning you a score that represents the quality of your security practices.

When we get a new client that is using Office 365, it is standard practice now to run "Secure Score." And the results are usually dreadful. You don't have to reach the pinnacle here - as we always say, the object is to "get to good."

While we don't know the exact percentage of law firms using Office 365, we do know that lawyers are flocking to it in ever-increasing numbers, at least in our experience. Our best guess is that 35 percent to 50 percent of law firms are now using Office 365, with many more planning a migration to Office 365. So making sure Office 365 is secure is a very big problem in the legal sector.

Attacks against Office 365

Microsoft is very much the victim of its own success. As soon as a large portion of the marketplace turned to Office 365, the bad guys went on

the attack. There was the infamous "KnockKnock11 botnet attack that was designed to target Office 365 system accounts, which tend to have elevated privileges.

Criminals employing ransomware attacks began to target Office 365 as well – and the attackers were both lone wolves and organized criminal gangs. Cerber ransomware targeted Office 365 and flooded users' mailboxes with an Office document that released malware via macros.

Collaboration tools can be a source of danger. Using Office 365 with SharePoint Online or OneDrive for Business, ransomware can spread across multiple users, systems and shared documents. One point of entry can cause a domino effect, giving attackers quick access to data, email and networks.

Microsoft has noted the threats and, in April, unveiled an Attack Simulator for Office 365 Threat Intelligence. This phishing attack simulator builds on the work of Office 365 Threat Intelligence, released in 2017, which allows IT pros to analyze threats in near real-time and to set up custom alerts. Just Google "Office 365 Threat Intelligence" and see what's possible. The dark side of reading about it is realizing the full extent to which Office 365 is under attack.

More about Secure Score

Responding to the torrent of attacks, Microsoft has provided, through Secure Score, recommendations for its customers to improve the security posture of access to its service, reducing risk at the same time. There is no silver bullet nor does Secure Score give you an absolute measure of how likely you are to have a data breach. But it does help assess the extent to which you have adopted security controls which can help prevent data breaches.

Rather than reacting or responding to security alerts, Secure Score lets you track and plan incremental improvements over a longer period.

While some of the changes to Office 365 for improving security occur behind the scenes, like auditing or reviewing reports weekly, others are more time consuming and noticeable to users when implemented, like enabling multi-factor

authentication or implementing a mobile device manager.

Microsoft takes the guess work out of achieving these security-minded goals by providing a checklist of tasks and instructions on how to complete those tasks. Once implemented, the secure score will go up. The default score after just implementing Office 365 is 27 and the highest score you can achieve is 450. Our recommendation is to shoot for a score of 250 or better, which will help to increase the security of your data stored within Office 365 and reduce the potential risk of a data breach occurring.

Microsoft charges \$1.40 per user, per month, for Multi-Factor Authentication; \$6 per user, per month, for the Mobile Device Manager called Intune; and \$2 per user, per month, for Advanced Threat Protection.

These are not major costs for most law firms and initial costs for configuring these security measures is not extreme, perhaps in the 10-to-15-hour time frame for a small firm.

General Data Protection Regulation

The EU's General Data Protection Regulation became effective on May 25, to the consternation of many entities, including law firms, which were not prepared for its very strict requirements. And be aware that GDPR violations carry hefty fines.

If you have European Union clients, or store or process data of EU residents, it is past time to roll up your sleeves and make sure you are GDPR compliant. New features in Office 365 can help you meet GDPR privacy requirements. While this is a complex subject, Microsoft walks you through the key changes under GDPR and the implications for Office 365 users at <https://www.microsoft.com/en-us/TrustCenter/Privacy/gdpr/default.aspx>.

On the plus side, Office 365 meets requirements specified by ISO 27001, HIPAA BAA and FISMA, users own and retain all rights to the hosted data, users can view a map of where the data resides, and there is limited access by Microsoft database administrators. Microsoft has done a good job with

Take your audience into consideration when corresponding with your clients



Abbie
Nordhagen
Cziok

When writing any kind of communication to clients, be thoughtful, kind, and consider the client's needs.

Late one night, writing a holiday card, I absent-mindedly closed with “Respectfully.” The card was going to my grandpa. I felt like an internet meme, a caricature of a lawyer. In spending so many hours writing memos for my bosses and drafting motions for court, I had not kept in mind who my audience was for these cards: college friends, my neighbor with the cute dog, and my 93-year-old grandpa. And because it was late, my mind started to wander, wondering if I only used one style of legal writing for everything I write, regardless of whether a document was addressed to a learned judge or a less legally sophisticated client. I confirmed that that was indeed what I had been doing, which was particularly problematic because I had recently drafted several client letters.

So I turned back to my favorite legal writing book “Thinking Like a Writer,” by Stephen V. Armstrong and Timothy P. Terrell. Their general principle for writing any kind of communication to clients is simple, and one we could all stand to remember this time of year. Their advice is essentially to be thoughtful, kind, and consider the client’s needs. This principle can be applied in three ways.

First, avoid excess jargon, particularly with less legally sophisticated clients, and write in a way the client will actually understand. We can only talk so much about the “reasonable man” before a client will want to put some coal in our stockings. I am also convinced that cutting contractions from all client letters like many of us do in legal documents is why people think we sound like robots—I mean, “I’m also convinced” is just fine.

Second, it’s important to think from the client’s perspective of what they know about the case and to be honest about the

time a client is willing to spend to absorb that information. Yes, we are submerged in cases all the time, but the client may need to be reminded of when the last time you talked to them was, why you had drafted this letter (that they will have to pay for), and remind them up front how *actually reading* the letter is to their benefit. Also, I don’t want to read a 20-page memo, so why would a client?

Third, we must be in tune with clients enough to recognize their implicit concerns as well as their explicit ones. A family law client may ask about the terms of the parenting agreement, but maybe what they really need is reassurance. A letter that spells out the details, and also promises a follow-up phone call, might be what is needed.

I know I could benefit from treating my clients with a little more attention, thinking of what kind of support they need, rather than just thinking of myself as an information dispenser. I also will plan to treat my grandpa with a bit more warmth, even if I do also respect him (he knows, I can skip that salutation).

Warmly,
Abbie

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.



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Maintaining your confidences, electronically



Mark
Bassingthwaight

"As attorneys we are to maintain client confidences. And in today's world, professional competency means having an understanding about what computers and applications like word processing programs do and don't do. This isn't optional."



I have been writing and lecturing about metadata for years. (And in case you have forgotten, metadata is the "hidden" information about the electronic documents we create that we're all supposed to be worried about.) I guess for some of late, I've run on with the topic long enough because a few have started to say "enough already." Then this happened.

Last year I was on the road visiting a dozen or so law firms over the course of two weeks and learned that several attorneys at two different firms were routinely emailing documents to other attorneys without first removing the associated metadata. Making matters worse, in many instances the attorneys who received these documents didn't have to do anything to view the metadata. In other words, there was no metadata mining going on, no digging for it. All they had to do was open the document and they would find interesting and useful information staring them in the face. Think tracked changes as an example. Now here's the kicker, no one was saying anything to anyone in order to keep the information coming. After all, this is a gift that keeps on giving. "Enough already." I don't think so.

Let's talk ethics for a minute. There are basically two issues in play when it comes to metadata. The first is an attorney's obligation to maintain client confidences, some of which can be metadata based. There is no exception in the confidentiality rule that says an attorney needn't worry about maintaining client confidences if an electronic document is in use. This is why firms routinely require that all electronic documents be either scrubbed clean of metadata or converted to a pdf format prior to sending. Our professional conduct rules mandate this outcome. In fact, I can assure you that the two firms where the above mentioned problem attorneys practice have such a rule in place.

The second, and in my mind more interesting issue, concerns the viewing of metadata. At its most basic, if an

attorney receives electronic documents with associated metadata intact, may the attorney view it? Suffice it to say that the issued ethics opinions on the subject run the gamut. Some opinions state it's fine to take your advantages where you find them. At the other extreme you will find ones that say nope, can't do it. But here's where it gets interesting. If you read the opinions that come down on the side of saying an attorney should not view metadata you often find an analysis that mirrors the analysis used with opinions issued over misdirected faxes back in the day. You find terms including the likes of inadvertent disclosure driving the analysis which takes me back to my story.

I can imagine that some of you reading this might be troubled by the story above. The fact that no attorney was willing to do the right thing and speak up seems so unfair. After all, the attorneys who sent the documents were simply unaware. Apparently they didn't understand what metadata was all about, let alone what to do about it. Well I beg to differ. The attorneys receiving the useful information didn't speak up because they understood there was nothing inadvertent about the actions of the attorneys who were sending out the documents.

Again, the Rules of Professional Conduct are in play. As attorneys we are to maintain client confidences. And in today's world, professional competency means having an understanding about what computers and applications like word processing programs do and don't do. This isn't optional. You see, I understand why the attorneys receiving the documents kept their mouths shut. I actually think they made the correct decision because the ongoing disclosures were not inadvertent. A number of years ago, I might have called the disclosures innocent or naive, but not today. Today, I would label the attorneys who continue to routinely send out

Confidences, page 28

Child Abuse Court Diversion Project has been a success

By Rep. Kimberly Dudik

Nearly 2,200 Montana children enter the foster care system every year due to abuse or neglect by a parent according to the Montana Department of Public Health and Human Services. Montana currently has approximately 4,000 children in foster care. One of the largest factors leading to these children being in foster care is substance abuse, along with



Dudik

other issues like domestic violence and mental health challenges. Too many times the parents of these children never learned appropriate parenting skills in their families growing up so they have no healthy baseline

for how to raise their own children.

Protecting Montana's children is something the Montana Legislature prioritized over the past legislative sessions. It created the Montana Child Abuse Court Diversion Project in the 2015 session, modified in the 2017 session, by nearly unanimous agreement. This project provides child protection specialists, commonly called social workers, up to 180 days to work to strengthen family protective abilities so the families can successfully care for their children. The family can work for up to

180 days while the child is in or out of the home *without* DPHHS having to resort to a court action. The idea is that if the child could be safely maintained in the home and the parent's parenting skills improved so the child is safe, it is a better outcome for the child than if the child was removed from the home and placed in foster care. This completely voluntary program uses a trained facilitator to assist the parent to navigate the child protection system. A case-by-case determination is made regarding whether a case is eligible for the project or if it is inappropriate (such as in a sexual abuse case).

The project has shown promising results in keeping Montana's children safe and decreasing the number of children who have to go into foster care. Programs currently exist in Anaconda, Helena, Great Falls and Kalispell. Tracking of involvement of families and outcomes for children is done to determine if this model is successful for improving family safety abilities. Of the 132 children involved in the program since July of 2017 through Oct. 26, 2018, 56.1 percent (74 children) remained in their homes with at least one parent and 43.9 percent (58 children) had been removed from the home or voluntarily placed by a parent outside the home when their participation in the Diversion Project began. By the end of the 180 days in the program, approximately two-thirds of the cases (involving 88 children) resolved without

having to go to court. This is 88 less Montana children removed from their homes and placed in foster care.

These successful results show that with longer time and more resources for DPHHS to work with families facing challenges, parents can learn appropriate parenting skills and safely care for their children without their children having to enter the foster care system. Ideally, this will lead to less associated costs for social programs and criminal justice involvement – and create happier and healthier future Montanans.

This upcoming legislative session I plan to carry a bill that will expand this program to more areas of the state so that even more families are positively impacted. In the long run, this type of success will lead to less children entering foster care and Montana's children growing up in safer environments with stronger families. This creates a brighter future for all Montanans.

Fourth-term Rep. Kimberly Dudik sponsored House Bill 64 in the 2017 Legislative session and House Bill 612 in the 2015 Legislative Session that created and fine-tuned the Child Abuse and Neglect Court Diversion Project with the bipartisan collaboration of her colleagues on the Joint Appropriations Subcommittee on the Judicial Branch, Law Enforcement, and Justice.

2019 Legislative Bill Watch

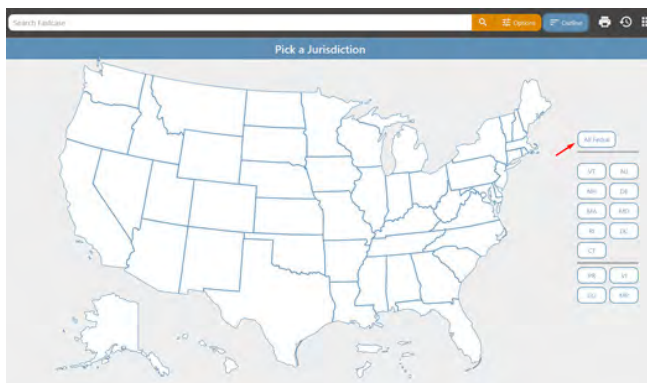
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Fastcase is offering a new webinar in its lineup this year, Data Analytics: Fastcase and Docket Alarm.

The one-hour live webinars are offered on most Thursdays, beginning at 11 a.m. Mountain time. This year's webinar lineup is listed below. Go to www.fastcase.com/webinars/ to see the full webinar schedule for 2019. While you are there, you can register for the webinars and find electronic handouts for all the programs.

Introduction to Legal Research on Fastcase 7

Webinar dates: First Thursday of every month, through Nov. 7

Data Analytics: Fastcase and Docket Alarm

Webinar Date: Second Thursday of every month, through Nov. 14

Introduction to Boolean (Keyword) Searches

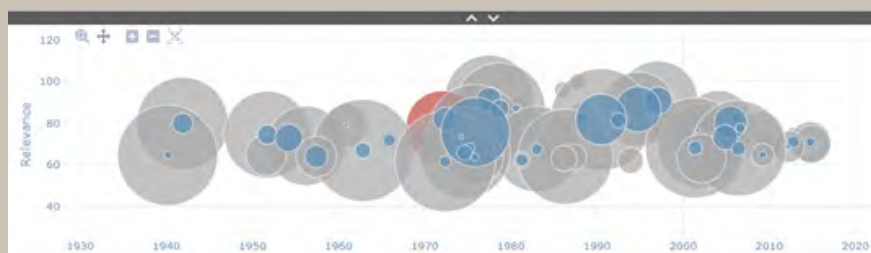
Webinar Date: Third Thursday of every month, through Nov. 21

Ethics and Legal Research

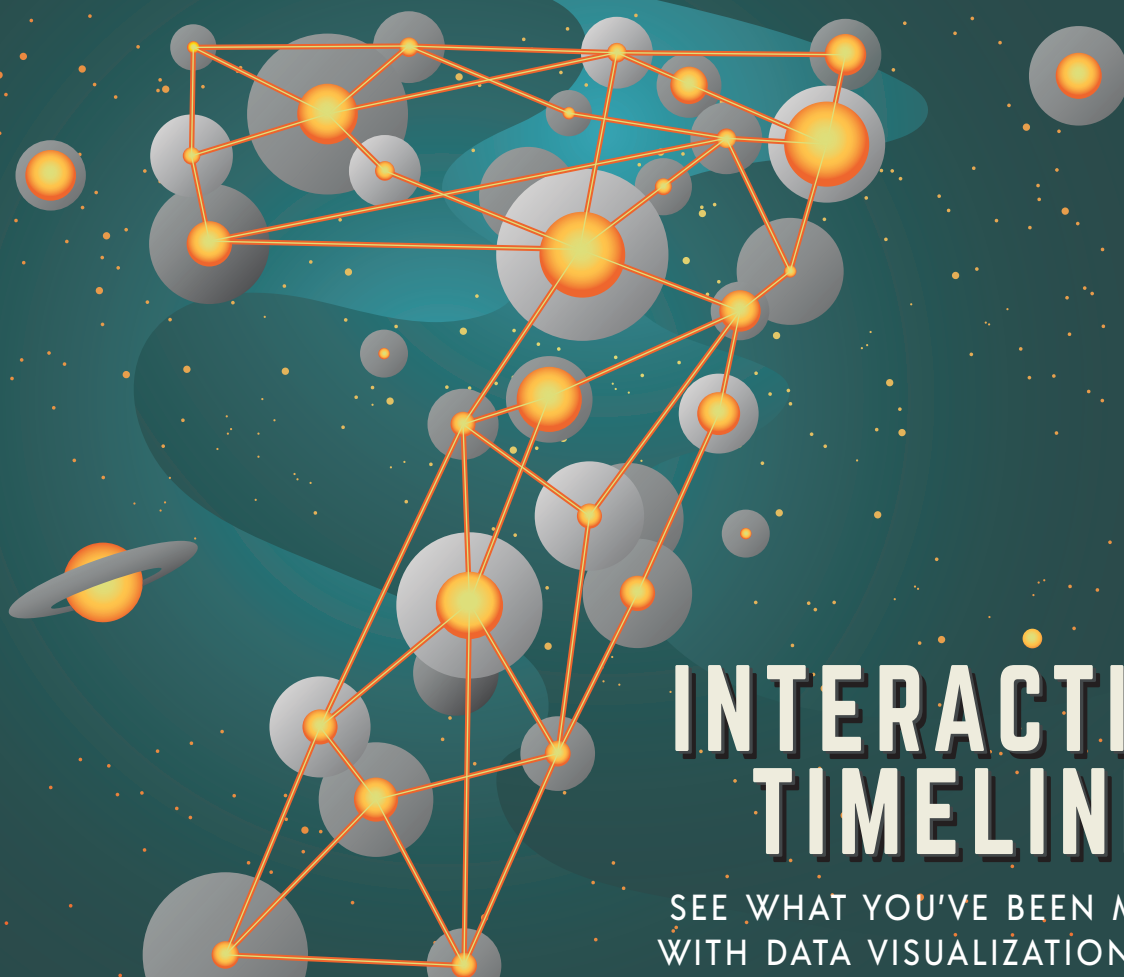
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Montana attorneys give back: MLSA begins new monthly General Civil Advice Clinic



WANT TO GET INVOLVED?

Montana Legal Services Association offers General Civil Advice Clinics monthly. Attorneys or firms interested in volunteering through this type of model can reach out to MLSA Pro Bono Coordinator Angie Wagenhals at 442-9830 ext. 148 or by emailing awagenha@mtlsa.org. Interested clients can schedule an appointment by calling MLSA's HelpLine at 1-800-666-6899.

By Angie Wagenhals

At 4 p.m. on a chilly evening late last fall, just as things were winding down in most offices in Montana, the Helena office of Montana Legal Services Association was bustling with activity. It was the first in-house General Civil Advice Clinic put on by MLSA and staffed entirely by MLSA attorneys contributing their time pro bono. Because MLSA attorneys wanted to offer more pro bono service, MLSA now offers monthly in-house General Civil Advice Clinics in both their Missoula and Helena offices.

So far, the clinics have served a handful of clients and have been warmly received by MLSA clients and attorneys alike.

MLSA regularly partners with local bar associations to support free family law clinics throughout the state, staffed by volunteer attorneys in the private bar. The new clinics at MLSA, however, offer advice on many civil legal issues other than family law. Attorneys get the chance to advise clients on issues that MLSA does not usually assist with directly, such as employment or wills and estates issues. The new clinics, affectionately referred to as "Kitchen Sink Clinics" by MLSA staff, serve a public need while further enhancing attorney skills and expertise.

"I love volunteering in a clinic setting because it gives me a chance to meet my pro bono obligation while learning new areas of the law," said staff attorney Lindsey Simon. "As the public benefits attorney for MLSA, I don't often get to provide advice on other legal issues like housing or consumer law. Doing so at the clinic gives me a chance to learn a new area of the law and makes me a better lawyer."

Staff attorneys meet with clients in

teams of two, working together with attorneys they may not otherwise work with on a day-to-day basis. This teamwork approach draws on the strengths of multiple attorneys to tackle complex legal issues that may be unfamiliar to both. For example, the latest clinic paired Simon with MLSA Executive Director Alison Paul to advise on a collections issue and a housing issue. Neither attorney practices in those areas of law, and they were able to work together to conduct research and advise the clients.

MLSA attorneys appreciate the opportunity to engage in pro bono service in addition to their day-to-day work. "MLSA is invested in offering pro bono opportunities for its staff attorneys because we recognize that as attorneys, we have an ethical obligation to provide pro bono services to clients in addition to our day-to-day jobs," Paul said. "Doing so in the clinic setting allows our staff to work together across practice areas to meet this obligation. As the executive director of MLSA, I don't often get to provide direct legal assistance to our clients. Volunteering at the clinics allows me to do that and is a fantastic reminder of the immense difference one hour of advice can make in someone's life."

MLSA will continue to offer General Civil Advice Clinics monthly. Interested clients can schedule an appointment by calling MLSA's HelpLine at 1-800-666-6899. Attorneys or firms interested in volunteering through this type of model can reach out to MLSA Pro Bono Coordinator Angie Wagenhals at 442-9830 ext. 148 or by emailing awagenha@mtlsa.org.

Angie Wagenhals is the pro bono coordinator at Montana Legal Services Association.

Power, former MDTL president, dies at age 62

Sarah M. Power died unexpectedly at her home on Dec. 21, 2018. She was 62 and a lifelong Helena resident.

Sarah was born March 10, 1956, to Ann McCabe and Thomas Charles Power II, and graduated from Helena High School in 1974.

Sarah attended Gonzaga University for two years then transferred to Merrimack College in Andover, Mass., where she graduated summa cum laude in 1978. She went on to graduate from



Power

University of Santa Clara Law School in 1981. Sarah started practicing law at the Montana Attorney General's Office where she argued before the Montana Supreme Court under the student practice rule before even

passing the State Bar. In 1983 she began working at Gough, Shanahan, Johnson & Waterman where she practiced law until her retirement. Sarah was a defense specialist who served as president of the Montana Defense Trial Lawyers Association. She knew her way around a courtroom and, for a time, had the distinction of having won the largest plaintiff verdict in Lewis & Clark County. She was also a member of the First Judicial District and American Bar Associations and the State Bar of Montana.

In addition to her legal practice, she was involved in Big Brothers and Sisters of Montana as a participant and board member. She served two terms as a member of the Carroll College Board of Trustees. She was a lifelong member of St. Helena Cathedral.

Sarah was an athlete from an early age, playing softball, downhill skiing and in high school played four years on the basketball team and also excelling in the field events of shotput and discus. She went on to play basketball in college, first at Gonzaga and then at Merrimack. After college she took up golf and continued to play recreational softball

for many years with her softball team of lifelong friends winning the state championship in 1995.

Memorials in Sarah's name may be made to the Thomas C. Power and Ann McCabe Power Endowed Scholarship Fund at Carroll College, the Sarah E. Power Scholarship Fund at Carroll College, or The River and Plains Society in Fort Benton (P. O. Box 262, Fort Benton, MT 59442).

Please visit retzfuneralhome.com to offer a condolence to the family or to share a memory of Sarah.

Russell Culver, 92

LILYDALE, Minn. — Russell Culver, the longtime Baker city attorney, has died at age 92.

Born May 4, 1926, in Cooperstown, N.D., Russ's family moved to Montana as a child, and he graduated from Richey High School in 1944. After serving two years in the U.S. Air Corps, he attended the University of Montana law school, graduating in 1950.



Culver

After law school, Russ moved to Baker where he worked with Al Hanson Law Firm. On June 5, 1955, he married Virginia Rae Brayton, his wife of 63 years, who survives. Russ purchased the Fallon County Abstract Company and operated the two businesses of abstract plant and law practice until July 1998. He served as city attorney from 1950 to 2011, a period of 61 years. He served on the Fallon County Planning Board where he and others were instrumental in establishing KFLN Radio Station in Baker. Russ also served on the school board, was an active member of the American Lutheran Church in Baker, a member of the American Bar Association and the State Bar of Montana.

Laurence Ginnings, 65

Laurence Ginnings, a longtime attorney with the Confederated Salish and Kootenai Tribes, died Dec. 3 after a brief

but hard-fought battle with cancer. He was 65.

Larry worked for CSKT for nearly 20 years, starting as a defense attorney and eventually becoming chief prosecutor. He said CSKT was the most gratifying work of his career.

He was born in 1953 in Texarkana, Ark., spent much of his childhood in Texas, and moved to Chicago in 1964, where he began playing guitar. His family moved to Missoula when he was a teen, where he graduated from high school before earning a degree from the University of Montana, where he met his wife, Debbie.

After college, he was a full-time musician for several years, touring all over the country with The Juice Band. At age 29, after the birth of his first child, he entered the University of Montana School of Law.

After law school, he entered private practice in Missoula before starting work with the CSKT.

He continued to play guitar throughout his life, even managing a few songs in his weakest days before his death.

Friends and family had the opportunity to listen to his music and celebrate his life at a gathering in Missoula Dec. 16.

Montana Lawyer memorial submissions

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

Please email submissions to jmenden@montanabar.org using the subject line "In Memoriam." Memorial submissions are subject to editing.

You can also find a form to submit a memorial online at www.montanabar.org/?page=In_Memoriam. A list of Montana attorneys who have recently died is also online, with links to online obituaries where possible.

Rural, from page 13

million people are spread across 147,040 square miles, the distances and costs of travel to access courts and legal services are substantial barriers for many clients in need. RIPL understands the obstacles encountered in connecting clients in need with legal services, and the program equips our attorneys with practical skills and models to provide rural clients services. In addition to gaining experience providing phone advice, Fellows conduct circuit rides across Montana and offer in-person advice clinics. These circuit rides provide Fellows the opportunity to find a rural community in which they may choose to call home.

In addition to expanding existing and much needed pro bono and modest-means services, RIPL will provide a forum for attorneys to experiment and perfect sustainable rural practice models that successfully cover a wide geographic area and meet the civil legal needs of low- or moderate-income Montanans. As a rural legal services laboratory, RIPL hopes to innovate for the future of rural legal services delivery.

Application for the inaugural RIPL Fellows are being accepted now, and the Business Bootcamp will start Monday, March 4, 2019. Even though participation in the program is generally limited to attorneys within the first five years of active practice, many of the CLEs, which include information on leveraging technology and practice management, will be open to members of the Bar for a modest fee. For more information on becoming a RIPL Fellow or for attending CLE sessions, contact hcaill@mtlsa.org.

We are always seeking the help of experienced practitioners to help us better prepare and mentor RIPL participants. For more information on how you can help, contact hripl@mtlsa.org.

Hannah Cail is a staff attorney and RIPL coordinator at Montana Legal Services Association

Confidences, from page 22

documents with the associated metadata intact incompetent. Yes, that may seem harsh, but it is true nonetheless.

If you aren't already responsibly addressing the issues surrounding metadata on a daily basis, all I can say is now is the time and here's why. There are firms that are using software tools that literally mine for metadata and sometimes they hit real pay dirt. Should opposing counsel ever do that to you, do you really want to try to argue that your routine delivery of the metadata was an unintentional act? I suspect that any impacted client would be less than impressed with

that approach. In fact, I think they would call it what it is, just as I did, incompetent.

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. Many of his recent seminars are available at montana.inreachce.com. Contact him at: mbass@alpsnet.com.

Office, from page 19

compliance – much harder is fending off the bad guys who want your data.

Final thoughts

Once again, we caution that there is a difference between IT and cybersecurity. A lot of perfectly good IT consultants can get you up and running on Office 365. But can they get you up and running securely? Most law firm managing partners seem unaware of the possible security dangers that come with Office 365. They want to “set it and forget it.” This clearly worries Microsoft, which has really begun an extensive campaign to wake organizations up to the security risks (and increasing threats) that may come with Office 365.

One wonderful resource provided by Microsoft is an “Office 365 security roadmap: Top Priorities for the first 30 days, 90 days, and beyond.” Again,

just Google it. This is one of the best resources we've found – and a roadmap is exactly what law firms need.


Now that Office 365 has such a big bull's-eye painted on its figurative back, we applaud Microsoft for taking a hard look at security concerns and trying to address them. But this is a dance that requires a dancing partner and those who use Office 365, especially lawyers, have a duty to make sure they are aware of potential security problems and doing their best to beef up their security posture.

Given the dangers that this article has identified, the time for investigation and action is now.

The authors are the president and vice president of Sensei Enterprises, Inc., a legal technology, cybersecurity and digital forensics firm based in Fairfax, VA. Reach them at 703-359-0700 or www.senseient.com

STATE BAR OF MONTANA

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ATTORNEYS

ASSOCIATE ATTORNEY:

Bloomquist Law Firm, P.C. seeks an associate attorney for its Helena office. Candidate must have strong research and writing skills, interest in natural resource litigation and water law. Send cover letter, resume and writing sample to Bloomquist Law Firm, P.C., 3355 Colton Drive, Suite A, Helena, MT 59602.

ASSOCIATE ATTORNEY: The Rabb Law Firm, PLLC, located in downtown Bozeman, is accepting applications for an associate attorney position. The candidate must be admitted to practice in Montana and have between 2 and 3 years of practice experience. The firm has a transactional and litigation practice in real estate and personal injury law. The candidate will be required to draft real estate transactional documents for the transfer, securitization and leasing, etc. of real property. Benefits offered. Salary D.O.E. Please submit a resume, references, and recent writing sample to paralegal@therabblawfirm.com

ELDER ABUSE ATTORNEY:

Montana Legal Services Association is seeking a full-time Staff Attorney in our Helena office to represent victims of elder abuse in partnership with the Legal Services Developer office at the State of Montana Aging Services Bureau. Please click on the link below to download a detailed job description, including salary and benefit information. Applications must include a cover letter, resume, writing sample and three professional references. Email application materials to hring@mtlsa.org. The position will remain open until filled. See full listing at <https://www.mtlsa.org/employment-opportunities/>.

LITIGATION ATTORNEY:

Hansberry & Jourdonnais, PLLC seeks an associate attorney to join its Missoula litigation practice. Hansberry & Jourdonnais is a commercial litigation firm focusing on banking and finance, construction and employment litigation. Candidates must have 1-3 years of litigation experience and the ability to work in a fast-paced and collaborative atmosphere. Less than full time may be acceptable. Must be licensed in Montana. Salary DOE. Send cover letter, resume, writing sample and references to Hansberry & Jourdonnais, PLLC, 3819 Stephens Ave, Suite 200, Missoula, MT 59801.

LITIGATION ATTORNEY:

Davis, Hatley, Haffeman & Tighe, P.C. is accepting applications for an experienced litigation attorney. The individual must be self-initiating, team oriented, and capable of handling a heavy case load. Qualified individuals please send a cover letter, resume, writing sample, and references to Joseph M. Sullivan at Joe.Sullivan@DHHT-law.com.

LITIGATION AND BUSINESS:

Well-established, busy Missoula law firm, Garlington, Lohn & Robinson, PLLP, seeks litigation and business attorneys. Professional, fast-paced, collaborative, hard-working 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

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Anaconda-Deer Lodge County seeks a Deputy County Attorney to perform a variety of professional duties involved in providing a full range of legal services related to county government operations such as misdemeanor and felony criminal prosecution, child abuse/neglect and delinquent youth cases, mental health commitments, guardianships and various civil proceedings, and legal research relative to County legal issues. A complete job description and application are available at <https://adlc.us/departments/ceo/careers/>

DEPUTY COUNTY ATTORNEY:

Sanders County seeks a Deputy County Attorney to perform legal duties for the County Attorney of a criminal nature and civil nature. Apply by email to rwallace@co.sanders.mt.us. See the full job listing at jobs.montanabar.org.

DIRECTORS OF ADVOCACY:

Montana Legal Services Association seeks two Directors of Advocacy to lead and support our advocacy staff in our work to represent individual low-income people and improve their lives. The Directors of Advocacy will be part of MLSA's Leadership Team; they will support and empower MLSA's advocates to achieve the best results possible for our clients; and they will help MLSA develop and maintain its broad advocacy strategies on behalf of low-income clients.

PARALEGALS

LITIGATION AND BUSINESS:

Brown Law Firm, P.C., a civil litigation firm with offices in Billings and Missoula, seeks an experienced Legal Assistant for its Billings office. Must have strong communication and organizational skills, be detail-oriented and

able to multi-task. Prior legal experience in a law firm of 3 to 5 years is required. Technical skills with computer software including MS Office programs (Word, Excel and Outlook) as well as Adobe are required. Excellent benefits and competitive salary. Please send a letter of interest and resume to Teresa Delvo, Brown Law Firm, P.C., 315 N. 24th St., Billings, MT 59101. Applications will remain confidential upon request.

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

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