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FEBRUARY
2020

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SECURE ACT

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SWEEPING NEW CHANGES
TO RETIREMENT PLAN RULES**


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COMPETITION JUDGES SOUGHT**

**NOMINATION PETITIONS FOR BAR
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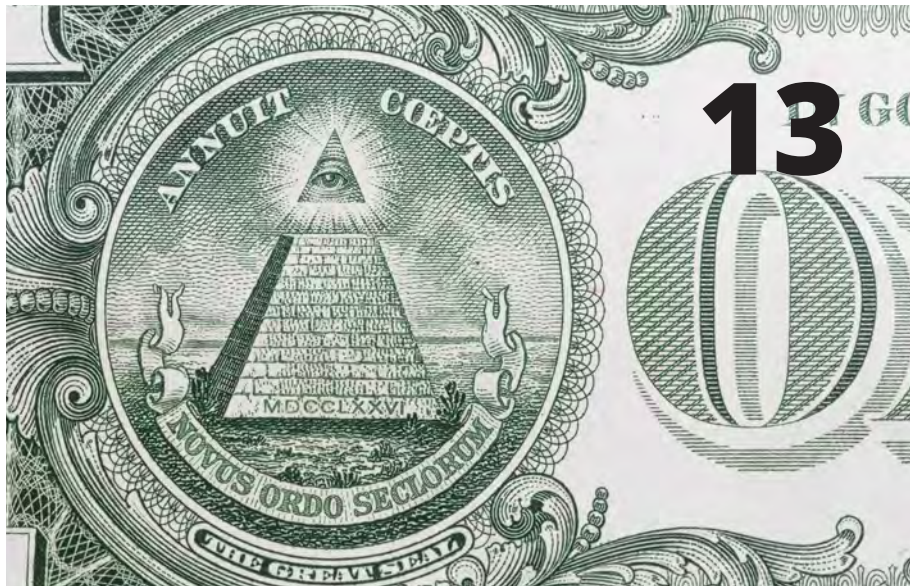
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ON THE COVER



With all the changes for retirement plans it contains, the newly signed **SECURE Act** might seem like a cyclone to employers. A primer on the Act's 30 sections will get you up to speed on representing them. **Page 13**

FEATURE ARTICLES



WHAT RETIREMENT PLAN CHANGES MEAN FOR CLIENTS

Sweeping new SECURE Act has 30 sections, each affecting one or more parts of ERISA or IRC



TRYING TO DO TOO MUCH? A PARALEGAL CAN HELP

You may be surprised to find out all the ways a skilled paralegal can help lighten your load.

Help us make the first high school mock trial competition a success!

I am excited to focus this month's message on the Montana High School Mock Trial Program, and I begin by sending out a special thank you to David and Kayleigh Morine, both attorneys in Helena. Without their persistence and hard work, the Montana mock trial program would likely still be in its infancy or worse yet, continue to be nonexistent. They have worked with Helena High students for the past six years to compete in the Idaho High School Mock Trial Program; they worked tirelessly to start the program here this year. They have taken the reins on this project, and with the help of an Idaho attorney who has significant experience with high school mock trials, are spearheading our first Montana competition. Thank you to David and Kayleigh for all your continued hard work.

I am pleased to announce we have at least 12 teams registered for the competition representing Billings, Missoula, Kalispell, Columbia Falls, and Helena! These teams will participate in the State competition in Helena on March 6-7, 2020. Please go to www.mocktrial.montanabar.org for more details.

On that note, I take this opportunity to encourage all of you to consider giving your time to be a volunteer judge at the competition in March. There are many dedicated teacher and attorney coaches



Want to be a volunteer judge March 6-7? Send an email to mocktrial@montanabar.org

already working throughout the state, and we appreciate their dedication and time. Being a volunteer judge would be a great way to satisfy your pro bono hours for the year and to lend your time and experience to high school students who are interested in the law. This year's case involves a civil matter related to voting rights. Hopefully this message has piqued your interest? If so, please email the State Bar at mocktrial@montanabar.org and we will get you signed up to help at the competition. We could always use financial assistance for the students to support their travel as well. Additionally, anyone is welcome to attend the competition and observe, even if you do not want to serve as a volunteer judge.

One of your State Bar Trustees' goals for our two-year plan is to strengthen the State Bar's role as a voice for lawyers and



JULI PIERCE

the profession by developing resources to aid the public in understanding the judicial system and the rule of law and by implementing law-related education initiatives. The High School Mock Trial Program is one of those initiatives, and I am thrilled to support it, as I hope many of you will.

One of my goals this year as President is to not only be more available and accessible to members like yourselves, but to connect with high school, college, and law students about the law and legal services. I want to continue to promote our profession as a helping profession that assists in maintaining the rule of law. As our State Bar bylaws state, one of the purposes of the Bar is "to ensure that the responsibilities of the legal profession to the public are more effectively discharged."

Thank you for promoting law-related education initiatives and programs as part of your service to our profession.

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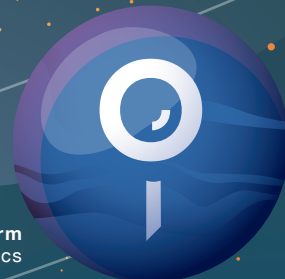
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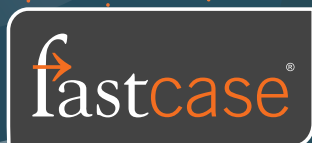


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CAREER MOVES

Arent Fox announces Flahaut's election as partner in firm

Arent Fox LLP is pleased to announce the election of **M. Douglas Flahaut** to partner effective Jan. 1, 2020.

Flahaut was admitted to the State Bar of Montana in 2008 and has been a member of Arent Fox's West Coast bankruptcy and financial restructuring practice since 2009. He focuses on business reorganizations, representation of Chapter 7 and Chapter 11 trustees, representation of creditors, preference litigation, and related business litigation matters. He has been certified by the American Board of Certification as a business bankruptcy specialist since 2016.

Prior to joining Arent Fox, Flahaut served as a judicial law clerk to Judges Peter H. Carroll and Robert N. Kwan of the United States Bankruptcy Court for the Central District of California and as a staff attorney for the Ninth Circuit Bankruptcy Appellate Panel.

Morine becomes partner at Hattersley Walter

Hattersley Walter PLLP is pleased to announce that **David Morine** has accepted an invitation to join the partnership.

Morine has been an associate with the law firm for the past four years. Prior to joining Hattersley Walter, he was a law clerk for the Montana Supreme Court and First Judicial District Court in Helena.

Morine earned his law degree from the University of Minnesota Law School and briefly practiced in Minnesota

before moving to Montana. His practice focuses on civil litigation, insurance defense, and labor and employment. He also coaches mock trial teams at Helena High School and is working with the State Bar of Montana to create a statewide high school mock trial competition.

**Small****Andersson****Small, Andersson join Billstein and Monson**

Billstein & Monson has announced that two attorneys **Steven T. Small** and **Frans A. Andersson** have joined the firm. The firm's new name is Billstein, Monson & Small.

The managing partner and member of the firm's business group, Small focuses on solving complex real estate transactions, including acquisitions and sales, financing, commercial leasing, and title-related issues. He also represents lenders and borrowers in secured and unsecured financing transactions, loan workouts, and restructurings. His experience includes representing clients in entity formation, asset and stock purchases, corporate and partnership reorganizations, mergers, and acquisitions. Additionally, applying his intimate knowledge of Indian Country, he helps clients identify winning strategies and find favorable outcomes in transactions involving American Indian tribes and project development on tribal and federal lands.

In addition to his law degree, Small has an extensive business background, holding both a B.S. degree in finance and an M.B.A. He is both the Chief Appellate Judge and Chief Constitutional Judge of the Northern Cheyenne Appellate and Constitutional Courts. Small has practiced on multiple

Indian reservations and is admitted to practice in Montana, Wyoming, and North Dakota.

Andersson is a transplant from New England. He attended the University of New Hampshire where he studied political science and philosophy. After moving west, he earned his law degree from the University of Montana School of Law in Missoula. He went on to spend a year at the University of Florida to earn a LL.M. in taxation.

Andersson represents individual, corporate, and institutional clients in all matters relating to tax law. He also assists with real estate transactions, corporate governance, and finance. In his spare time, he floats the various rivers of Montana with his wonderful wife, growing family, and bird dogs.

Marra, Evenson & Levine welcomes Henning to firm

Amber Henning has joined Marra, Evenson, & Levine P.C. in Great Falls, MT as an associate attorney.

Henning grew up in the farming community of Fairfield and is a graduate of the University of Montana with degrees in music and political science. She received her Juris Doctor degree from the University of Montana School of Law in 2013.

From 2013 to 2016, Henning served as a law clerk to the Honorable Kenneth R. Neill and the Honorable John A. Kutzman in the 8th Judicial District Court, Cascade County. She then served as a Deputy County Attorney for Missoula County, specializing in Dependent/Neglect cases from 2016 to 2019. Her current practice areas include insurance defense, agriculture, estate planning, and litigation. She can be reached at 406-268-1000 or ahenning@marralawfirm.com.

**Henning****Morine**

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Is pleased to announce the following Partners in the firm:



Partner - Jeffrey R. Kuchel -
Jeff practices in the firm's Missoula, Montana office. His practice focuses on commercial litigation, defending litigation involving financial institutions, and real property litigation. Jeff received his J.D. from the University of Montana School of Law and joined Crowley Fleck in 2013.



Partner - Adrienne D. Maxwell -
Adrienne practices in the firm's Missoula, MT office. Her practice focuses on employee benefits and ERISA, and she also advises in trusts and estates matters. Adrienne received her J.D. from Columbia Law School in 2010 and joined Crowley Fleck in 2015.



Partner - Kayleigh N. Morine -
Kayleigh practices in the firm's Helena, MT office. Her practice focuses on civil litigation, including medical professional liability and healthcare defense. Kayleigh received her J.D. in 2013 and joined the firm after clerking for the Montana Supreme Court and United States District Court for the District of Montana in 2014.



Partner - William (Mac) Morris -
Mac practices in the firm's Bozeman, MT office. His practice focuses on commercial and tort litigation. Mac received his J.D. from the University of Montana School of Law and clerked for two years for the Honorable Dana L. Christensen, Chief Judge for the United States District Court for the District of Montana. Mac joined the firm in 2015.



Partner - Charlie K. Smith -
Charlie practices in the firm's Butte, MT office. His practice focuses on worker's compensation as well as, employment, medical malpractice, and intellectual property law. Charlie received his J.D. in 2004 and joined Crowley Fleck in 2016 after working in private practice in Butte.



Partner - Mistee L. Elliott -
Mistee practices in the firm's Sheridan, WY office. Her practice focuses on all types of litigation, with an emphasis on commercial matters. Mistee received her J.D. from the University of Wyoming in 2001 and joined Crowley Fleck in 2018 after working in private practice in Wyoming. Mistee is licensed to practice in Wyoming and North Dakota.



Partner - Bradley C. Sweat -
Brad practices in the firm's Casper, WY office. His practice focuses on commercial litigation, creditors' rights, and bankruptcy. Brad received his J.D. from the University of Idaho College of Law and joined Crowley Fleck in 2012.

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Silverman Law Office welcomes Prescott to Bozeman office

Silverman Law Office, PLLC is pleased to announce the addition of **Barbara Prescott** to its Bozeman office. A quintessential Midwesterner born and raised in northern Illinois, Prescott can't imagine being happier living anywhere but the Mountain West. She received her undergraduate degree from the University of Wisconsin-Madison in Communications and Classics. After working as a cook at fly fishing resorts and remote science camps and even running her own small bakery in Alaska,



Prescott

she went back to school to achieve a master's degree in industrial and labor relations with a special focus on alternative dispute resolution from Cornell University in Ithaca, N.Y.

After graduate school, she joined

the Eaton Corporation where she was a business leader in human resources, domestic and international labor relations, acquisition integration and business ethics and compliance. While with Eaton, she completed a law degree at Cleveland State University.

Attracted to the small firm with big capabilities, Prescott was happy to join the Silverman Law Office team in Bozeman. She believes every problem has a solution and is passionate about helping others manage the challenges and complexities of business and life. She is an experienced attorney and business professional with experience in employment and labor law, business formation and management, guardianships and conservatorships, wills and trusts. She is also trained in mediation.

When not working, she enjoys spending time with her family and friends in Montana and exploring the natural beauty of Montana and Wyoming hiking, fishing and cycling. She also enjoys scuba diving and international travel.

Prescott is licensed to practice law in Montana, Wyoming and Ohio.



Musick



Tierney

Musick, Tierney open new law firm in Bozeman

Elizabeth T. Musick and Karolina G. Tierney are proud to announce their recent partnership in Musick & Tierney Law, PLLC, also known as MT Law Offices.

Tierney joins Musick following five years as a full-time attorney with the Office of State Public Defender – Bozeman. She studied history at Yale University, graduating with a Bachelor of Arts in 2009. She completed her law degree at Emory University School of Law in 2014. Her practice areas include criminal defense and family law. She can be reached at karolina@mtlawpllc.com or 406-600-7159.

Musick attended Clemson University for her undergraduate studies, achieving a Bachelor of Arts in English, and a minor in Education. She attended law school at the University of Montana. Her experience includes Oracle Corporation and Guza, Nesbitt, & Putzier, PLLC, prior to opening a solo practice, Musick Law Firm, PLLC. Her practice areas include criminal defense, family law, and discrete business transactional law issues. She can be reached at elizabeth@mtlawpllc.com or 406-579-9481.

Tierney is newest shareholder at Goetz, Baldwin & Geddes

Goetz, Baldwin & Geddes, P.C., is pleased to welcome Jeffrey J. Tierney as its newest shareholder.



Tierney

A native of Great Falls, Tierney attended Yale University (B.A. 2008) and University of Wisconsin Law School (J.D. 2013) before returning to

Montana to practice law. Since joining Goetz, Baldwin & Geddes as an associate in 2013, Tierney has represented plaintiffs and defendants at the trial and appellate levels in both state and federal court. He has litigated cases involving a wide variety of topics including breach-of-contract, fraud and false claims, insurance bad faith, corporate/shareholder disputes, tortious interference, land use and access issues, and personal injury and wrongful death. He has also investigated and prosecuted campaign finance violations as a deputized Special Attorney General on behalf of the Montana Commissioner of Political Practices and has acted as a post-conviction advocate to help wrongfully convicted people pursue claims of innocence, including in association with the Wisconsin Innocence Project during law school.

Tierney currently serves on the Board of the Gallatin County Bar Association. He is licensed to practice in Montana and Wisconsin.

Jason Armstrong joins Cromwell Law in Bozeman

Cromwell Law PLLC in Bozeman is pleased to welcome Jason Armstrong into the firm.

A Utah native, Armstrong earned his B.A. from University of Colorado Boulder and his J.D. from Golden Gate School of Law. In law school, he worked



Armstrong

as an associate editor of the Golden Gate Law Review, receiving the Outstanding Editor Award, as well as the Witkin Award for Academic Excellence in criminal litigation.

He participated in the Mock Trial Team and served as an associate law clerk for U.S. Magistrate Judge James Larson, the Federal Public Defender's Office, and Hersh & Hersh trial lawyers of San Francisco.

To begin his career, Armstrong worked as a law clerk for now-retired Judge Mike Salvagni of the 18th Judicial District. Since 2006, he has represented

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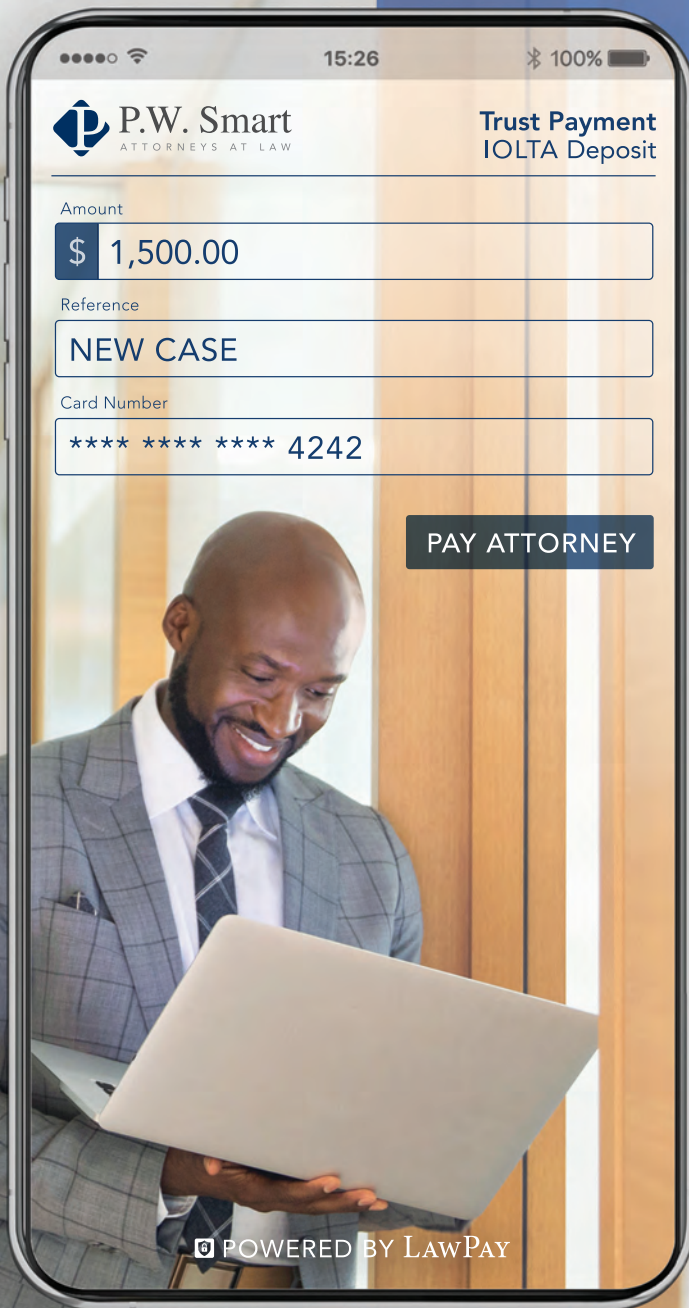
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hundreds of Montanans in both criminal and civil matters as a public defender and as a solo practitioner. These experiences include family law litigation, complex civil litigation, criminal defense, and appellate practice before the Montana Supreme Court. He's secured millions of dollars in stolen wages for employees, represented companies embroiled in high-dollar contract disputes, and advocated for heirs in probate litigation.

Armstrong's practice focuses on general civil litigation, construction law, employment litigation, family law, and representing students through Montana State University's Student Legal Services program. He can be contacted at 406-570-7652 or jason@cromwellpllc.com.

Boone Karlberg welcomes Franz as partner, shareholder

Boone Karlberg P.C. is proud to introduce its newest partner and shareholder, Zach Franz.

Franz studied journalism at the University of Montana, then covered the "cops and courts" beat for the Great Falls Tribune before returning to Missoula for law school. After law school, he served as a law clerk to the Hon. Keith Strong, federal magistrate judge.



Franz

Franz married his wife, Allison, during the clerkship. They have two spirited daughters, Lily and Nora. Zach was a legal intern at Boone Karlberg during law school and returned to the firm as an associate in 2014. His practice focuses on litigation defense.



Inabnit



Brown

Inabnit, Brown join Garlington, Lohn and Robinson

Elijah L. Inabnit and Jonah P. Brown have joined Garlington, Lohn and Robinson PLLP as associate attorneys.

Inabnit earned his Juris Doctor from the Alexander Blewett III School of Law at the University of Montana. He worked as a law clerk for the Honorable Judge Dana L. Christensen of the U.S. District Court for the District of Montana. His practice areas are civil litigation, insurance defense, construction law, constitutional law, employment law, medical malpractice defense and real estate law.

Brown earned his Juris Doctor from the Alexander Blewett III School of Law at the University of Montana. He worked as a law clerk for the Honorable Judge Brian M. Morris of the U.S. District Court for the District of Montana. His practice areas are civil litigation, insurance defense, water rights, land use and environmental law. Reach them at 406-523-2500.

HONORS

Tanner tapped as Ninth Circuit lawyer representative

Boone Karlberg is proud to announce that Randy J. Tanner has been appointed as an Appellate Lawyer Representative for the Ninth Circuit,

with his term ending Dec. 31, 2022.



Tanner

attorneys that regularly practice in the Ninth.

Tanner is the sole representative from Montana and one of 22 across the Ninth Circuit. In this role, appellate lawyers work closely with the Ninth Circuit judges to liaison various initiatives, etc., with

Nat'l Academy of Distinguished Neutrals inducts Tarlow

Buzz Tarlow has been inducted as a member of the National Academy of Distinguished Neutrals. NADN is an invitation-only professional association

whose membership consists of mediators and arbitrators distinguished by their hands-on experience in the field of civil and commercial dispute resolution.

Additionally, Tarlow has recently completed the training and examination to become a member of the Chartered Institute of Arbitrators. CIArb is a London-based global organization comprising more than 16,000 counsel and advocates, academics, experts and other professionals engaged in the practice, promotion, facilitation and development of all forms of private dispute resolution. He has, for many years, been appointed as a member of the National Construction Panel of Arbitrators for the American Arbitration Association.



Tarlow



Russ Fagg & Assoc.

- 22-year State Judge
- Certified Mediator

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Tarlow now devotes a majority of his legal practice to alternative dispute resolution matters. He can be reached at jtarrow@lawmt.com or 406-586-9714.

Rhoades accepted into Million Dollar Advocates Forum

Missoula attorney Quentin M. Rhoades has been certified as a member of the Million Dollar Advocates Forum.

Membership in the forum is limited to attorneys who have acted as principal counsel in at least one case in which their client has received a verdict, award or settlement of one million dollars or more.



Rhoades

The organization, which was founded in 1993, has approximately 5,000 members nationwide, less than 1% of U.S. lawyers. He is one of only seven Montana lawyers to achieve the certification.

The other Montana members are Alexander Blewett III of Great Falls, A. Clifford Edwards of Billings, Micheal F. Lamb of Helena, the Honorable Donald W. Molloy of Missoula, Terance P. Perry of Missoula and James M. Ragain of Billings.

Rhoades is a graduate of University of Montana School of Law. He lists his practice areas as commercial litigation, insurance litigation, personal injury, inverse condemnation, justifiable use of force, general litigation and appellate practice.

HAVE NEWS TO SHARE?

The Montana Lawyer welcomes news about Montana legal professionals including new jobs, honors, and publications. Send member submissions to editor@montanabar.org. Photos should be at least 200 ppi by two inches wide for head and shoulders shots. Email or call 406-447-2200 with questions.

WEBINAR CLE SERIES GUARDIANSHIP

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MARCH 3: Demystifying the Guardianship and Conservatorship Process – Kathryn Munro, Silverman Law Office, Helena —

Kathy will discuss reasons for filing for and types and impacts of guardianship and conservatorships, as well as procedures for obtaining one. Discussion will include presenting yourself in court, navigating the court system, and court etiquette. You will learn about the order the court issues, Letters of Guardian and Conservator, what they are and how to use them, and your duties after the hearing.



MARCH 17: Diminished Capacity: What Is It and How Do We Recognize Its Effects? – Susan Gobbs, Helena —

Learn about many aspects of diminished capacity, including how to assess it, what levels are needed for certain transactions, how to work with folks with limited capacity, how it factors into legal work, and many other pertinent topics. Susan will also dispel some myths, define commonly confused terms, and describe strategies to mitigate the effects of diminished capacity.



MARCH 24: Adult Guardianship: National Reform Trends – Dari Pogach, American Bar Association's Commission on Law and Aging, Washington, D.C. —

This presentation will provide an update of guardianship legislation across the country and a review of the new the Uniform Guardianship, Conservatorship and Other Protective Arrangements Act. Learn about promising developments, including Working Interdisciplinary Networks of Guardianship Stakeholders, which is now in at least 26 states, including Montana.



MARCH 31: Representation of Persons Facing and Under Guardianship in Nevada – Homa S. Woodrum, Deputy Nevada Attorney General, Carson City, Nev. —

The Nevada Legislature has caused a sea change in guardianship representation in that state with several recent reforms — including provision for free representation of persons facing guardianship. Learn about the difference counsel has made in Nevada and ethical considerations associated with representing individuals facing and under guardianship.



APRIL 7: Least Restrictive Approaches to Supporting Individuals as Decision Makers – Theresa Baldry, University of Montana Rural Institute for Inclusive Communities —

This presentation will take a look at incidental impacts a guardianship could have on an individual; review tools to help determine the decisions individuals need to make in directing their own lives, their current skills and their preferences for support without giving up rights.



APRIL 14: Preserving Individual Dignity and Self-Determination in Guardianship Work – Tal Goldin, Montana Legal Services Association, Helena —

Full guardianships impose sweeping limitations on the most basic rights of the individual, and they are no longer the legal state-of-the-art. Presentation examines guardianships from a civil and human rights perspective and explore strategies you can use to preserve individual rights through effective alternatives to guardianship and in last-resort guardianship proceedings.



APRIL 21: The Guardianship Challenge: Crafting Fiduciary Appointments Properly Limited in Scope – The Honorable Daniel Wilson, Flathead County District Court —

Judge Wilson will be discussing the use of mediation as a tool for limiting guardianships and conservatorships.



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Nominees sought for State Bar Officer and Trustee positions

Nomination petitions are now being accepted for State Bar of Montana Officer and Trustee Elections.

State Bar members this year will elect a President-Elect; a State Bar Delegate to the ABA; and Trustees from the following areas:

- One Trustee from Area A (Lincoln and Flathead Counties);
- Three Trustees from Area B (Missoula, Mineral and Ravalli Counties);
- One Trustee from Area C (Beaverhead, Deer Lodge, Granite, Jefferson, Madison, Powell, Silver Bow)
- Two Trustees from Area D (Cascade, Glacier, Pondera, Teton and Toole Counties); and
- Two Trustees from Area G (Gallatin, Park and Sweet Grass Counties). Candidates

Nomination petitions can be found on page 29 or at https://www.montanabar.org/page/State_Bar_Elections.

Petitions must be returned postmarked no later than April 6, 2020.

The term of office for President-Elect is one year, followed by a one-year term as president. Trustee and State Bar Delegate positions are two-year terms.

Montana public libraries seek volunteers for Law Day events

The Montana State Library is looking for lawyer volunteers to help public libraries across the state celebrate Law Day 2020 and recognize the important role of law in our society. As part of the Law Day programming, we are hoping to host a Lawyers in Libraries event where a volunteer attorney will give a talk at a public library discussing why the law and access to justice is important, and to provide assistance with connecting patrons to legal resources in their community.

More information about what a lawyer volunteer's role at this event would be, is online at libraries.msl.mt.gov/lawyersinlibraries2020. The State Library will provide a PowerPoint presentation that you can use to structure your talk. You are welcome to change or add to the

presentation if you and the library want to change the focus of the talk.

Public libraries that have expressed an interest in hosting a Lawyers in Libraries event in May are listed below. If you practice law in one of these areas and are interested in volunteering at this event, or if you have further questions, contact Amelea Kim, Lifelong Learning Librarian at the Montana State Library, at akim@mt.gov.

Darby Community Public Library
Phillips County Public Library (Malta)
North Jefferson County Library District (Clancy)
North Valley Public Library (Stevensville)
Lewistown Public Library
Philipsburg Public Library
North Lake County Public Library District (Polson)
Harlem Public Library
Hearst Free Library (Anaconda)
Drummond School and Community Library
Wedsworth Memorial Library (Cascade)
Dillon Public Library

MORE NEWS, PAGE 21

VOLUNTEERS NEEDED!

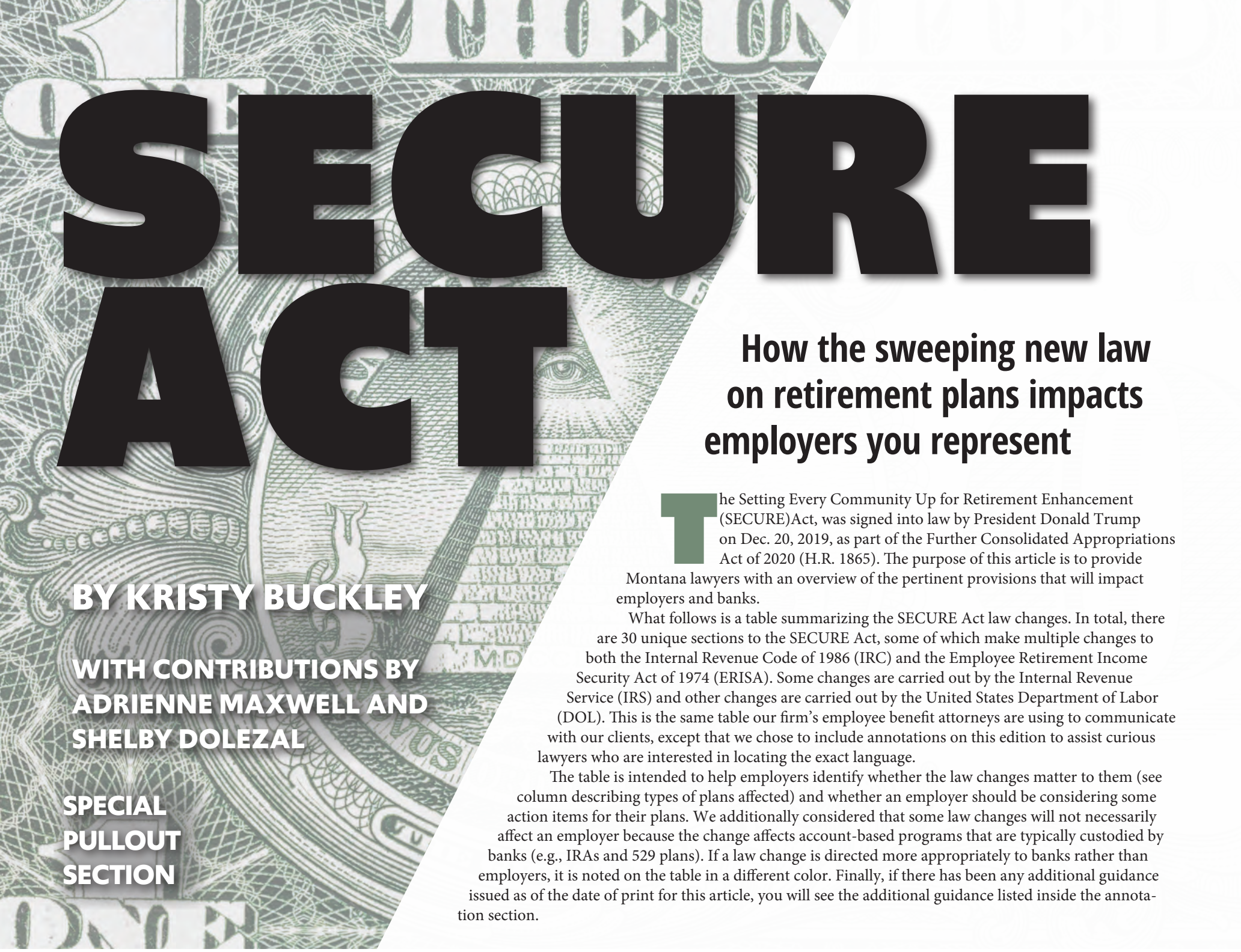
Seeking Volunteers for the Inaugural High School Mock Trial Competition

March 6-7, 2020 | State Capitol, Helena

The State Bar is looking for lawyers, judges, paralegals, and law students to help judge the inaugural Montana High School Mock Trial Competition. Volunteers will score competition rounds to help determine the winners. No experience necessary, training will be provided. Volunteer for one or both competition days.



**PLEASE VISIT US ONLINE FOR MORE INFORMATION
AND TO REGISTER AS A VOLUNTEER COMPETITION JUDGE:
WWW.MOCKTRIAL.MONTANABAR.ORG**



SECURE ACT

BY KRISTY BUCKLEY

**WITH CONTRIBUTIONS BY
ADRIENNE MAXWELL AND
SHELBY DOLEZAL**

**SPECIAL
PULLOUT
SECTION**

How the sweeping new law on retirement plans impacts employers you represent

The Setting Every Community Up for Retirement Enhancement (SECURE) Act, was signed into law by President Donald Trump on Dec. 20, 2019, as part of the Further Consolidated Appropriations Act of 2020 (H.R. 1865). The purpose of this article is to provide

Montana lawyers with an overview of the pertinent provisions that will impact employers and banks.

What follows is a table summarizing the SECURE Act law changes. In total, there are 30 unique sections to the SECURE Act, some of which make multiple changes to both the Internal Revenue Code of 1986 (IRC) and the Employee Retirement Income Security Act of 1974 (ERISA). Some changes are carried out by the Internal Revenue Service (IRS) and other changes are carried out by the United States Department of Labor (DOL). This is the same table our firm's employee benefit attorneys are using to communicate with our clients, except that we chose to include annotations on this edition to assist curious lawyers who are interested in locating the exact language.

The table is intended to help employers identify whether the law changes matter to them (see column describing types of plans affected) and whether an employer should be considering some action items for their plans. We additionally considered that some law changes will not necessarily affect an employer because the change affects account-based programs that are typically custodied by banks (e.g., IRAs and 529 plans). If a law change is directed more appropriately to banks rather than employers, it is noted on the table in a different color. Finally, if there has been any additional guidance issued as of the date of print for this article, you will see the additional guidance listed inside the annotation section.

SECURE ACT

New Law Changes	Description	Effective Date	Types of Plans Affected	Employer Action/Considerations
§ 101. Multiple employer plans; pooled employer plans.				
IRC §413(e) ERISA §3(2) ERISA §3(43) ERISA §3(44) ERISA §412(a) ERISA §103(a)(1)(B) ERISA §103(g)	Two or more unrelated employers may join together to form a Multiple Employer Plan (MEP) by having a "pooled plan provider". The pooled plan provider must be designated by the terms of the plan as a named fiduciary and must be registered with the IRS/DOL. The IRS/DOL have authority to issue guidance regulating pooled plan providers, including the ability to audit them. The rule contemplates that a "Model Plan" must be published by the IRS/DOL. Pooled plan providers are subject to ERISA's required fidelity bond rule. Employers inside the MEP are each responsible for the plan operations as separate plan sponsors. The MEP is entitled to file a single Form 5500 Annual Return as if it is a single ERISA plan, but must schedule out participating employers. Each employer is generally liable for their own compliance, but a plan can take action to prevent one or more noncompliant employers from causing disqualification of the entire plan (see e.g., "bad apple" rule in separate guidance).	Plan years beginning after Dec. 31, 2020.	This only applies to Multiple Employer Plans that intend to use a pooled plan provider (those types of plans can be profit sharing, 401(k), and individual retirement accounts).	Employers should be on the lookout for new vendors marketing MEPs. Employers should be cautious because selection of a pooled plan provider might implicate the employer's fiduciary duties for selection and monitoring of such providers. Banks should be on the lookout for new vendors marketing MEPs in the IRA context. ERISA cross-references in the IRC might suggest a bank should be selective with IRA types being considered.
§ 102. Increase in 10% cap for automatic enrollment safe harbor after 1st plan year.				
IRC §401(k)(13)	If a plan has automatic enrollment, then the automatically deducted salary deferral amount must not exceed 15% of compensation (old rule: not exceed 10%).	Plan years beginning after Dec. 31, 2019.	Only applies to 401(k) plans , and only applies to those with automatic enrollment feature.	Optional Plan Amendment Opportunity: Employers might want to consider raising the automatic deferral amount.
§ 103. Rules relating to election of safe harbor 401(k) status.				
IRC §401(k)(12) IRC §401(k)(13) IRC §401(k)(12)(F) IRC §401(k)(13)(F)	The initial safe harbor notice that was historically required for profit sharing plans and plans with qualified automatic contribution arrangements (QACAs) is no longer required (except for matching safe harbor plans). Annual safe harbor notices are still required to allow participants to change elections once per year. An employer may amend its plan for a safe harbor design using profit sharing or QACA (but not matching safe harbor) any time before the 30th day before the close of the plan year OR any time before the last day for distributing excess contributions as long as the profit sharing contribution is at least 4%.	Plan years beginning after Dec. 31, 2019.	Only applies to 401(k) plans .	Optional Plan Amendment Opportunity: Employers that have been considering possible safe harbor plan designs have more flexibility for plan amendments. Notice Relief: Employers with safe harbor designs, other than matching safe harbors, enjoy some relief from notice requirements.
§ 104. Increase in credit limitation for small employer pension plan startup costs.				
IRC §45E(b)	There is a tax credit for eligible employers starting a retirement plan, equal to 50% of the costs of starting a plan. The cap on claiming this credit has historically been \$500 for the first three years. This changes the cap to the greater of (a) \$500 or (b) the lesser of (i) \$250 for each non-highly compensated employee eligible to participate or (ii) \$5,000.	Taxable years beginning after Dec. 31, 2019.	New plans started by "eligible employers" that have no more than 100 employees who received more than \$5,000 of compensation in the preceding year.	Small employers who have been wary of starting a new retirement plan might be enticed with the larger tax credit to help defray the costs.

KEY:

- Main headings
- Cites. Citations to Sections of the SECURE Act
- For Nerds. Annotations for the nerds who want to know the specific laws that are affected
- For Banks. Comments specific to banks and how banks deliver services to their customers
- The Skim. Columns that are most important for those who only want to skim this article

SECURE ACT

New Law Changes	Description	Effective Date	Types of Plans Affected	Employer Action/Considerations
§ 105. Small employer automatic enrollment credit.				
IRC §45T	Creates a new \$500 credit per taxable year for the first three years in which an "eligible employer" includes an automatic enrollment arrangement in a qualified plan.	Taxable years beginning after Dec. 31, 2019.	Applies to 401(k) plans and SIMPLE IRA plans sponsored by an "eligible employer."	Optional Plan Amendment Opportunity: Small employers might consider adding an automatic enrollment feature to their plans if they are enticed by the tax credit. (Also available for new plans with auto feature, in addition to new plan startup cost credit).
IRC §38(b)				
§ 106. Certain taxable non-tuition fellowship and stipend payments treated as compensation for IRA purposes.				
IRC §219(f)	The definition of compensation for IRA purposes will now include any amount includible in gross income and paid to an individual in the pursuit of graduate or postdoctoral study.	Taxable years beginning after Dec. 31, 2019.	IRAs: Individual retirement accounts and individual retirement annuities.	Banks should consider updating their systems to ensure the definition of compensation for IRA contribution purposes takes into consideration fellowships and stipends.
§ 107. Repeal of maximum age for traditional IRA contributions.				
IRC §219(d)	Individuals can now take an itemized deduction for IRA contributions made after age 70 1/2 (historically disallowed).	Contributions made for taxable years beginning after Dec. 31, 2019.	IRAs: Individual retirement accounts and individual retirement annuities.	Banks should consider updating their systems to allow for IRA contributions after age 70 1/2 and should update any systems for tracking charitable deductions limits.
IRC §408(d)(8)(A)	Individuals making qualified charitable distributions from their IRAs will have their charitable deduction reduced by contributions made after age 70 1/2.	Distributions made for taxable years beginning after Dec. 31, 2019.		
§ 108. Qualified employer plans prohibited from making loans through credit cards and other similar arrangements.				
IRC §72(p)	If a plan allows for participant loans, this change provides that any loans offered through the use of a credit card or any similar arrangement will now be deemed distributions (and taxable, plus subject to excise tax for possible early withdrawal) from the plan.	Loans made after Dec. 20, 2019.	Only plans that offer participant loans using credit cards inside profit sharing plans, 401(k) plans, money purchase pension plans, 403(b) plans, 457(b) plans.	Employers that allow participant loans using credit cards should take immediate action (either amend a loan policy or possibly a plan amendment) to avoid adverse tax consequences to participants. Caution those employers who might have "any similar arrangement" (not yet defined).
§ 109. Portability of lifetime income options.				
IRC §401(a)(38)	Tax-qualified defined contribution plans, 401(k) plans, 403(b) plans, and 457(b) plans are allowed to (1) make direct trustee-to-trustee transfers of lifetime income investments or (2) distribute a lifetime income investment in the form of an annuity on or after the date that is 90 days prior to the date on which the lifetime income investment is no longer an authorized investment.	Plan years beginning after Dec. 31, 2019.	Only plans that offer a lifetime income investment type , but could be inside profit sharing, 401(k), money purchase pension, 403(b), and 457(b) plans; plus governmental 457(b) plans.	Optional Plan Amendment Opportunity: Some employers might consider adding a lifetime income investment option. Some employers might consider amendments to the plan's distributable rights in order to allow for these new distribution rights.
IRC §401(k)(2)(B)				
IRC §403(b)(11)				
IRC §403(b)(7)				
IRC §457(d)(1)				

SECURE ACT

New Law Changes	Description	Effective Date	Types of Plans Affected	Employer Action/Considerations
§ 110. Treatment of custodial accounts on termination of Section 403(b) plans.				
IRC §403(b)(7)	By June 20, 2020, the Secretary of Treasury must issue guidance to assist employers who terminate 403(b) plans subject to custodial agreements that severely limit an employer's ability to fully distribute accounts. The guidance must be retroactively effective for taxable years beginning after Dec. 31, 2008.	No effective date, but enacted on Dec. 20, 2019.	Terminated (or employers who plan to terminate) 403(b) Plans.	Employers who terminated 403(b) Plans since 2009 and experienced lingering liability exposure because a custodian would not distribute assets, please stay tuned for possible future relief.
§ 111. Clarification of retirement income account rules relating to church-controlled organizations				
IRC §403(b)(9)	Clarifies that 403(b) plans' definition of "employee" includes duly ordained, commissioned, or licensed ministers and employees of a tax-exempt organization that is controlled by a church or association of churches.	Oddly enough, this update applies in perpetuity (for tax years beginning before, on, or after the date of enactment).	Church sponsored 403(b) plans.	No action needed, but 403(b) church plans enjoy greater certainty for the definition of "employee."
§ 112. Qualified CODAs must allow long-term employees (more than 500 but less than 1,000 hours) to participate.				
IRC §401(k)(2)(D) IRC §401(k)(15)	Employers are required to allow long-term, part-time employees (those working 500-1000 hours for three consecutive 12-month periods who meet the age requirement of 21 years of age) to make elective deferrals to 401(k) plans. Plan entry is the earlier of (A) the first day of the first plan year following date the employee met those requirements or (B) the date six months after the date the employee met those requirements. Employers are not required to make employer contributions on behalf of these employees. However, for vesting purposes, a 12-month period for which the employee has at least 500 hours of service will be treated as a year of service. Employers may elect to exclude these employees from nondiscrimination testing and top-heavy rules. Employers with collectively bargained plans are not subject to this rule.	Taxable years beginning after Dec. 31, 2020; however, 12-month periods beginning before Jan. 1, 2021 will not be taken into account when determining which employees are long-term.	Any plans with a 401(k) feature	Plan Amendment Required: Employers with 401(k) plans should anticipate working through a 2020 plan amendment before the end of this year, that will take effect starting in 2021. Some employers might need to update internal tracking systems for counting hours.
§ 113. Penalty-free withdrawals from retirement plans for individuals in case of birth of child or adoption.				
IRC §72(t)(2)	Allows a limited waiver from the normal 10% excise tax penalty for a qualified birth or adoption distribution up to \$5,000 which may be taken during the one-year period following the birth of a child or finalization of legal adoption of eligible adoptee. An eligible adoptee is an individual, other than the child of the taxpayer's spouse, who is under age 18 or is physically or mentally incapable of self-support. Amounts distributed may be repaid subject to certain restrictions.	Distributions made after Dec. 31, 2019.	Any tax-qualified plan and IRAs (profit sharing plans, 401(k) plans, money purchase pension plans, 403(b) plans, defined benefit plans).	Optional Plan Amendment Opportunity: If an employer wants to take advantage of this new rule it will likely need to adopt a plan amendment. Optional document revisions: Banks likely need to revise IRA documents before customers could take advantage of this new rule.

SECURE ACT

New Law Changes	Description	Effective Date	Types of Plans Affected	Employer Action/Considerations
§ 114. Increase in age for required beginning date for mandatory distributions.				
IRC §401(a)(9)	Participants are required to take minimum distributions from tax qualified defined contribution plans and most IRAs after attaining a specific age. The historic age has been 70 1/2. This rule changes the required minimum distribution (RMD) starting age to 72.	For distributions made after Dec. 31, 2019, with respect to individuals who attain age 70 1/2 after such date.	Any tax-qualified plan and IRAs (profit sharing plans, 401(k) plans, money purchase pension plans, 403(b) plans, defined benefit plans) [except not Roth IRAs].	Employers should take immediate action to update RMD notice letters. Employers should plan on updating systems to track new age.
IRC §408(b)				
IRS Notice 2020-06				Near the end of Jan., the IRS issued some relief, to delay the notice letters that are normally due by Jan. 31st out to April 15, 2020.
§ 115. Special rules for minimum funding standards for community newspaper plans.				
IRC §430(m)	Offers relief to community newspaper plan sponsors by changing the interest rate assumption for funding obligations and stretching out a longer amortization period.	Plan years ending after Dec. 31, 2017.	Only defined benefit pension plans sponsored by a community newspaper.	Struggling community newspaper pension plans have relief for contributions.
ERISA §303(m)				
§ 116. Treating excluded difficulty of care payments as compensation for determining retirement contribution limitations.				
IRC §408(o)(5)	"Difficulty of care" payments are qualified foster care payments that are (1) excluded from taxable gross income; and (2) not counted for purposes of retirement contributions. This change allows individuals who receive difficulty of care payments to (1) still enjoy an exclusion from income; (2) but also count the funds as compensation AND make a contribution into a retirement plan.	Plan years beginning after Dec. 31, 2015.	Only applies to difficulty of care payments, but could affect any tax-qualified plan or IRA .	Employer plans likely need a plan amendment to update the definition of compensation.
IRC §415(c)(8)				Banks likely need a document revision for IRAs to update the definition of compensation.
§ 201. Plan adopted by filing due date for year may be treated as in effect as of close of year.				
IRC §401(b)	Employers that adopt certain plans after the close of a taxable year but before the company tax return deadline may elect to treat the plan as having been adopted as of the last day of the taxable year.	Plans adopted for taxable years beginning after Dec. 31, 2019.	Stock bonus, pension, profit sharing, or annuity plan.	Employers looking to adopt new plans near the end of 2020 (and future years) will have more flexibility.
§ 202. Combined annual report for group of plans.				
IRC §6058	Requires the IRS/DOL to create a new "consolidated" return for a Form 5500 Annual Return filing. Plans must be defined contribution plans with the same trustee, same fiduciary, same administrator, same plan year, and same investment options.	Implemented not later than Jan. 1, 2022.	Defined contribution plans (like profit sharing, money purchase, and 401(k)).	Employers who have considered a plan merger but chose to keep plans separate might have a way to experience relief from the high costs of auditing multiple plans without needing a plan merger. Employers who have been filing multiple Form 5500's should evaluate planning opportunities.
ERISA §104				
IRC §6011(e)(6)	Information for each plan on an annual return shall be treated as a separate return.	Returns with respect to plan years beginning after Dec. 31, 2019.		

SECURE ACT

New Law Changes	Description	Effective Date	Types of Plans Affected	Employer Action/Considerations
§ 203. Disclosure regarding lifetime income.				
ERISA §105(a)(2)(B) ERISA §105(a)(2)(D)	Creates a new disclosure rule for plans holding lifetime income investments. The disclosure must set forth the lifetime income stream equivalent of the total benefits accrued with respect to a participant or beneficiary. Not later than Dec. 20, 2020, a model lifetime income disclosure must be issued by the DOL with prescribed language for how lifetime funds use life assumptions.	No formal effective date, but a disclosure must be sent out once every 12-month period (for benefit disclosures furnished no more than 12 months from the date the DOL issues guidance).	Only plans that offer a lifetime income investment type, but could be inside profit sharing, 401(k), money purchase pension, 403(b), and 457(b) plans; plus governmental 457(b) plans.	Employers who offer lifetime income investments will need to stay tuned for model disclosures and begin sending new disclosures out.
§ 204. Fiduciary safe harbor for selection of lifetime income provider.				
ERISA §404(e)	Clearly indicates that selection of a lifetime income provider is a plan sponsor fiduciary act. There are several mechanics to this new rule, but if all are satisfied then the plan sponsor will be deemed to have satisfied their fiduciary duties.	No effective date (assume effective for any selections made after enactment date of Dec. 20, 2019).	Only plans that offer or want to begin offering a lifetime income investment type, but could be inside profit sharing, 401(k), money purchase pension, 403(b), and 457(b) plans; plus governmental 457(b) plans.	Employers who offer lifetime income investments might consider running an RFP for providers now and following this rule. Employers who want to begin offering lifetime income investments should use this rule as a roadmap for best practices.
§ 205. Modification of nondiscrimination rules to protect older, longer service participants.				
IRC §401(o) IRC §401(a)(26)	Creates new carve-outs from normal nondiscrimination tests. For a defined benefit plan, the plan can identify a closed class of participants, subject to limited windows of time, and exclude those participants from normal testing. For defined contribution plans that engage in aggregate testing with defined benefit plans, the concept of certain limited closed classes may be excluded from testing. Eligible plans must be in effect for at least 5 years and not have a substantial increase in benefits, rights, or features during the 5-year period preceding the date of the closed class. Certain employees who have been participants during a 7-year period preceding the date of the closed class who came into the plan from a merger or acquisition might qualify as disregarded employees. There are special rules for spun-off plans to another employer.	Various, and complicated, but generally covers amendments that apply after Dec. 31, 2013, closed classes as of April 5, 2017, and all others after the enactment date of Dec. 20, 2019.	All retirement plans.	Swiss Cheese Caution: This new section is filled with plenty of tax planning loopholes. We expect future guidance will make attempts to close several loopholes in the near future. Employers should expect some vendors might market unique planning ideas to them for carving off senior-level employees or spinning off plans to avoid some nondiscrimination tests.
§ 206. Modification of PBGC premiums for CSEC plans.				
ERISA §4006(a)(3)	The Cooperative and Small Employer Charity Pension Flexibility Act of 2014 (CSEC Act) provides certain charities, schools, and volunteer organizations with an exemption from certain pension plan rules if they offer a defined benefit plan. This new change offers flat rate premium calculations of \$19 per participant for CSEC plans and certain variable rate premiums for unfunded vested benefits.	No effective date (assume effective for calculating PBGC premiums associated with benefits accruing on or after enactment date of Dec. 20, 2019).	Only defined benefit pension plans offered by organizations that fit the CSEC definitions.	Cooperatives, charities, and small employers who were struggling with PBGC premiums might see some relief.

SECURE ACT

New Law Changes	Description	Effective Date	Types of Plans Affected	Employer Action/Considerations
§ 301. Benefits provided to volunteer firefighters and emergency medical responders.				
IRC §139B(c)(2) IRC §139B(d) IRC §3121(a)(23)	Qualified volunteer firefighters and volunteer emergency medical responders have enjoyed exclusions for qualified reimbursement payments of \$30/month of volunteered services. This change increases the allowable benefit payment up to \$50 and extends the date in IRC for income exclusion.	Tax years beginning after Dec. 31, 2019.	This is not an employee benefit plan item. This is an individual income tax issue related to exclusion from taxable gross income.	Employers who have staff that are volunteer firefighters or emergency medical responders might need to update payment practices and IRS reporting.
§ 302. Expansion of Section 529 plans.				
IRC §529(c)(8) IRC §529(c)(9) IRC §221(e)(1)	Expands Section 529 college savings plans to allow for payment of certain expenses related to registered apprenticeship programs and certain qualified education loan repayments (up to \$10,000). If a Section 529 plan pays for qualified education loan repayments, there is an offset against the itemized deduction for student loan interest. <i>[NOTE: There might be an individual income tax planning concept in here, but individual income tax planning is outside the scope of this article]</i>	Distributions made after Dec. 31, 2018.	This is not an employee benefit plan item. It applies to Section 529 Plans created by individuals.	Banks that offer 529 Plans will need to update systems to allow for two new types of payable expenses. Some 529 documents might require revisions to describe the new allowable expenses.
§ 401. Modification of required distribution rules for designated beneficiaries.				
IRC §401(a)(9)(H) IRC §401(a)(9)(E)	If an individual is receiving required minimum distributions and the individual dies before distribution of his or her entire interest, then this new rule applies. This new rule can also apply in certain circumstances where an individual has not yet commenced required minimum distributions. Historically, a distribution to a "designated beneficiary" could have been in annual installments over the life expectancy of the designated beneficiary; and distributions to a beneficiary who is not a "designated beneficiary" would have to take a full distribution within 5 years after the participant's death. This change modifies the "designated beneficiary" rules to impose a new 10-year distribution window if the individual is not an "eligible designated beneficiary." An "eligible designated beneficiary" is a brand new term and it encompasses five different subcategories of individuals (e.g., surviving spouse, disabled beneficiary, chronically ill individual, etc). Eligible designated beneficiaries are entitled to modified life expectancy payouts.	Distributions to individuals with respect to participants who die after Dec. 31, 2019.	Defined contribution plans (like profit sharing, money purchase, and 401(k)) and IRAs.	Plan Amendment Required: Employers should expect to adopt a plan amendment because most plan documents outline exactly how required distributions must be paid for death benefits. <i>[Note: Individual planning is outside the scope of this article, but individuals may want to contact an estate planning attorney if they have "stretch" IRA language inside estate planning documents].</i> Banks should anticipate revisions to IRA documents in order to update required distribution death benefit terms.
§ 402. Increase in penalty for failure to file.				
IRC §6651(a)	Increases the general penalty for failure to file all types of returns to the lesser of \$435 or 100% of the amount of tax due (old rule was \$330).	For returns the due date of which (including extensions) is after Dec. 31, 2019.	This is not unique for benefit plans. It applies to all taxpayers (individuals, companies, plans, etc.).	If a taxpayer has been avoiding unfiled tax returns, this might be an incentive to file now (and start the statute of limitations).

SECURE ACT

New Law Changes	Description	Effective Date	Types of Plans Affected	Employer Action/Considerations
§ 403. Increased penalties for failure to file retirement plan returns.				
IRC §6652(e) IRC §6652(d) IRC §6652(h)	Increases penalties for all retirement plans, annuities, and fringe benefit plans. Old law: (1) Form 8895-SSA for deferred vested benefits disclosures, subject to penalties of \$1 for each participant, up to \$5,000 for each plan year. (2) Form 5500 for annual return, subject to penalties of \$25 each day of failure, up to \$15,000 per return. (3) Distribution notices, subject to penalties of \$10 for each failed notice, up to \$15,000 during any calendar year. New law: (1) Form 8895-SSA for deferred vested benefits disclosures, subject to penalties of \$10 for each participant, up to \$50,000 for each plan year. (2) Form 5500 for annual return, subject to penalties of \$250 each day of failure, up to \$150,000 per return. (3) Distribution notices, subject to penalties of \$100 for each failed notice, up to \$50,000 during any calendar year.	Applies to returns, statements, and notices required to be filed and provided after Dec. 31, 2019.	All retirement plans and annuities (including profit sharing, money purchase pension, 401(k), defined benefit, 403(b)) and certain reportable fringe benefit plans.	If an employer has been avoiding unfiled tax returns or ignoring notice requirements, this might be an incentive to file now or provide notices now (and start the statute of limitations). Also note the availability of reduced penalty in the Delinquent Filer Voluntary Correction Program for Form 5500's that have not been filed.
§ 404. Increase information sharing to administer excise taxes.				
IRC §6103(o)	Creates an information sharing mechanism between the IRS and US Customs and Border Patrol for purposes of exacting heavy vehicle use excise taxes.	No effective date (assume that information sharing has been allowed since enactment date of Dec. 20, 2019).	This is not an employee benefit plan item. It is a possible income tax issue for companies subject to heavy vehicle use taxes .	Employers typically subject to heavy vehicle use taxes might expect increased enforcement means by the IRS.
§ 501. Modification of rules relating to the taxation of unearned income of certain children.				
IRC §1(j) IRC §55(d)(4)(A)	Unearned income for children historically allowed up to \$1,100 tax free, next \$1,100 at child's tax rate, and over \$2,200 at parent's tax rate. The Tax Cuts and Jobs Act of 2017 (TCJA) changed the upper tax rate to be a trust tax rate. This change repeals the TCJA change (back to parent's tax rate, not trust tax rate).	Taxable years beginning after Dec. 31, 2019; taxpayer may elect to apply to taxable years which begin in 2018 and/or	This is not an employee benefit plan item. It is an individual income tax issue related to the so-called kiddie tax .	N/A - It is outside the scope of this article to address planning for individual income tax issues.
§ 601. Provisions relating to plan amendments.				
IRC §411(d)(6) ERISA §204(g)	Changes under the SECURE Act enjoy a remedial amendment period out to the 2022 plan year (2024 plan year for Section 414(d) governmental plans), or a later date if IRS/DOL provides otherwise. Caution: Before you can make a remedial amendment with a retroactive effective date, you must establish that your plan operated in accordance with the new SECURE Act changes.	No effective date, but consider it operable as of enactment date of Dec. 20, 2019.	All taxpayers with all types of plans.	Employers might take comfort in the delayed amendment period, but must be absolutely clear that plan operations are in accordance with SECURE Act changes in order to avail themselves of the remedial amendment delay.

Kristy Buckley, Adrienne Maxwell and Shelby Dolezal are lawyers at Crowley Fleck PLLP inside the Employee Benefits practice group. Buckley is a partner from Bozeman and Chair of the Employee Benefits practice group. Maxwell is a partner from Missoula. Dolezal is an associate from Billings. If you have any questions about the contents of this article, you may call Buckley at 406-522-4522 or Maxwell at 406-523-3600.

NEWS

FROM PAGE 12

Billings Public Library
 Meagher County City Library (White Sulphur Springs)
 Red Lodge Carnegie Library
 Valier Public Library
 Sidney-Richland County Library
 Missoula Public Library
 Belgrade Community Library
 Choteau/Teton Public Library
 West Yellowstone Public Library
 Great Falls Public Library
 Lincoln County Public Library (Libby, Troy Eureka)
 Bitterroot Public Library (Hamilton)
 Rosebud County Library (Forsyth)
 Whitehall Community Library
 Stillwater County Library (Columbus)
 Whitefish Community Library
 Bozeman Public Library
 Glasgow City-County Library
 Livingston-Park County Public Library
 Miles City Public Library
 Thompson Falls Public Library

State Bar Public Law Section CLE to focus on MAPA

The State Bar of Montana's Public Law Section is holding a half-day CLE program Friday, May 8, on the Montana Administrative Procedures Act.

The program will be held in Room 111 at the Department of Environmental Quality's building at 1520 E. Sixth Ave., in Helena.

CLE on Connecting Tribal Culture, Courts is Feb. 27-28

A two day CLE on Connecting Tribal Culture and Courts is Feb. 27-28 in Polson.

The CLE is approved for 12 CLE credits, including 3 Ethics. Topics include the Confederated Salish and Kootenai Tribes' Holistic Defense Program; a judicial panel on Ethical Considerations and Elimination of Judicial Bias in the Courtroom; History and Jurisdictional Impacts of the Violence Against Women Act; Missing & Murdered Indigenous Persons; and Contemporary Court Issues with Tribal Historic Preservation.

Registration is \$369. Register online at CMCS.brownpapertickets.com

UPCOMING CLE CALENDAR

The following CLE seminars have been confirmed by the CLE Institute and State Bar Sections. Register for upcoming CLE in the calendar at www.montanabar.org. (Registration is open now for events marked with an asterisk.)

EVENT	DATE	LOCATION
Compassion Fatigue (LAP)*	Feb. 27	Webinar
Guardianship Webinar Series*	Starts March 3	Webinar
Annual St. Paddy's Day CLE*	March 13	Fairmont
Government CLE	April 10	Helena
Family Law CLE	April 17	Bozeman
Environmental Law Update CLE	April 24	Helena
Bench Bar CLE	May 1	Missoula
Public Law Section CLE (MAPA)	May 8	Helena
Law & Technology Summit	May 14-15	Bozeman
BETTR Section CLE	Aug. 7	Billings
Annual Bankruptcy CLE	Aug. 13-14	Bozeman
Annual Meeting	Sept. 9-12	Missoula



ST. PADDY'S DAY CLE

FRIDAY, MARCH 13
 FAIRMONT HOT SPRINGS



Lawyers don't have to do it all: Paralegals can help more than you may realize

By Renee Wayne

I have always been interested in the law – I recall at about 12 years old telling a friend's parent that I wanted to be a judge when I grew up. I had no idea at that time how you actually become a judge — perhaps I liked the robe, or the smashing of the gavel, or the idea of presiding over the courtroom... or maybe I was just a bit bossy.

I found the paralegal profession purely by happenstance. I completed an Associate's Degree in Public Service as a Paralegal in 1992, thinking it would provide a decent paying job while I continued my goal of attending law school. I was fortunate to get my first job in the legal field with a prestigious and long-established firm.

I did anything and everything that was asked of me. And I loved it. I loved watching legal strategies being developed and then unfolding to achieve a desired result. I absolutely soaked it all up. I talked with clients, interviewed witnesses and jurors, and most of all, I started learning how to become a real

team player. My education and hard work contributed to positive outcomes for the legal team. But I also saw what that hard work, compassion and dedication meant to the *client*, and how *valuable* I could be behind the scenes to the lawyer.

Since becoming a paralegal I've experienced the intensity of trial and arbitration, and the managing of the exhibits, the witnesses and the technology. I've been in the hot seat and made mistakes. I've also saved the day when I knew *exactly* the exhibit my panicked attorney needed. I've been through the highs of a big verdict at trial and through the lowest of the lows while comforting a devastated client. I've been outsmarted, but I've never been outworked or out-prepared. This is a paralegal. It is me, and it is those of us out there who take this largely unregulated profession (that's a topic for another article) very seriously. We are the paralegals you want, and we are the people helping you succeed, and making you look good. I've been lucky enough to be an integral part of a legal team, and I've been around attorneys

who refuse to involve a paralegal (though I really don't get this). I've seen the gamut. I am a dedicated team player and I have a few things to say.

WHAT IS A PARALEGAL, ANYWAY?

The National Association of Legal Assistants ("NALA")¹ identifies Legal Assistants and Paralegals as *synonymous terms*. "Working under the supervision of an attorney, the paralegal's work product is merged with and becomes part of the attorney work product for a client. In communications with clients and the public, the paralegal's non-lawyer status must be clear. Paralegals cannot give legal advice or perform any duty specifically reserved for licensed attorneys." Paralegals and legal assistants perform billable tasks that would typically be performed by a lawyer.

While each of the terms is generally held to mean the same thing, most of those in the profession I know prefer the term paralegal. Whatever term your firm uses, it's important to remember that the skills that your paralegal brings to the table are valuable tools in your



arsenal to both help serve you, and your client.

HOW TO USE YOUR PARALEGAL 101

1. KNOW YOUR PARALEGAL'S SKILLS.

If you don't know, ask. If you're a law clerk or an intern, ask. If you are a new associate, ask. The moral of the story, ASK.

By doing this, you immediately begin to create a sense of team between you and your paralegal – you instill the idea that you want and value the supportive role they play and lay the foundation for a successful relationship. If you are lucky enough to be working with a seasoned vet like me, well, I'm going to simply insert myself gently into your practice and go about the business of helping you.

[Pro Tip: If you are an intern or a new attorney, run as fast as you can to the most seasoned paralegal in the firm. They will be delighted to help you get oriented to the firm's way of doing things, its culture, and will point you in the right direction when it comes to examples of documents and preferred substantive language to use when drafting them. First time drafting something? Ask them for an example, let them help you make a great impression. This also creates a team like working relationship from the very start of your career. With

a bit of effort, odds are pretty good that you'll have a paralegal dedicated to going above and beyond to make you look like a seasoned pro.]

2. DELEGATE SUBSTANTIVE LEGAL WORK TO YOUR PARALEGAL

This is something that you would likely do yourself. Here are some of the things a well-trained paralegal can do for you. No doubt you've seen this list a million times. But how is it implemented? Let me give you some things to think about, and how I interpret my role to help your practice.

a. Draft pleadings: Let me pore over documents, distill down the facts, maybe create a timeline of events and draft the complaint complete with exhibits. I'll get the basic draft done with a shot at the legal concepts too. You review and edit in half the time, and you don't have to worry if the document meets local court rules. Why? Because I've already done that for you. Rinse and repeat for an Answer and Affirmative Defenses, and everything else on this list.

b. Draft motions and responses: Though some projects may not be appropriate for your paralegal to draft, here are some common motions that I have drafted that do not require long or complicated legal analysis, and that I am comfortable doing. Perhaps your paralegal is too. Refer to No. 1, above:

Did you ask?

- Motion to Strike and/or response;
- Motion for Judicial Notice and/or response;
- Motion for Extension of Time/Procedural motions;
- Proposed Orders;
- Motion to Compel – I'm guessing I've spent more time with the documents produced than you have;
- Motion for Default/Default Judgment;
- Motion for Summary Judgment and/or response – this one is a maybe. Can I get all the elements down on paper for you? Absolutely. Can I write your fact section? That would be another yes. The legal analysis is up to you; and
- Proposed Pre-trial Orders. Sure thing. Contentions are likely up to you, too.

c. Draft discovery requests and responses. I don't mean copying and pasting canned requests and responses here – I mean reviewing materials and then thoughtfully answering requests/drafting responses that make sense based on your case facts, thinking outside the box a little bit and, of course, applying State or Federal Rules of Civil Procedure.

d. Summarize depositions, interrogatories, document production,

“

The projects completed by your paralegal aren't meant to usurp your job as an attorney, but rather to enhance it. Our jobs are simply to make your practice run smoothly and efficiently, make it profitable, and to keep the client satisfied.

”



medical records and testimony.

e. **Monitor your scheduling orders and deadlines.**

f. **Look ahead:** As a paralegal, I'm always looking ahead, sometimes months at a time. In meetings I will both ask and remind you what is coming up, and what projects I can start. A paralegal's job is to anticipate what is coming down the pike – and be ready to hand you exactly what you need *before* you need it.

g. **Hold your client's hand:** In my opinion, this is *huge*. Clients always have procedural questions about their case and need to be walked through the legal process. Your paralegal should be there to help. Most often this is the first time they've been involved with the judiciary system, and they don't have any idea what to expect, except for perhaps what they've seen on TV. As we know, this is not "Law and Order." Clients are unsure why things take so long. "Why, why, why?" they ask almost incessantly. Why, indeed. Your paralegal should be able to communicate with your clients on such matters, so you are free to concentrate on advancing the matter *for* your clients.

h. **Shepherd a regular flow of communication to the client:** Whether in writing or on the telephone, interpersonal skills are an absolute requirement. If your paralegal cannot help the client understand the processes, and empathize with what they are going through, then Houston, we have a problem. You don't have a paralegal at all

i. **Perform basic legal research.**

j. **Perform investigative tasks:** This can include things such as finding witnesses, or defendants, finding assets, and fact finding and/or verification. Talk to people (you may call this an interview, but skilled interviewers get what they need by "talking" to people.)

k. **Attend court proceedings (depositions, administrative hearings, trials, etc.).** Including, but not limited to, being in the "hot seat" at trial or during arbitration which means being seated at counsel table (I was once seated next to the Judge, talk about pressure to be PERFECT! Gah!), running technology and maintaining professional

Division of functions in a law office

Shown below is the division of functions between lawyers and secretaries, and the division of functions among lawyers, paralegals and secretaries.

Before Paralegals		After Paralegals	
LAWYER	LAWYER	LAWYER	PARALEGAL
SECRETARY	SECRETARY	SECRETARY	SECRETARY

Source: 'Paralegals, Profitability and the Future of Your Law Practice'

composure at all times, coordinating witnesses, keeping track of exhibits – and perhaps equally as important, keeping the Clerk of Court and the court reporters happy.

l. **Pre- and post-trial case management.** Get the jury panel list and research who they are, what they do. Google them. Make a Juror Book; gather as much information on each juror as you can for fast and easy jury selection/pre-emptory challenges (blink and you'll miss this fast-paced process). Post-trial - this can include interviewing jurors, summarizing their opinions and using them to formulate strategies moving forward. Finding out what Jurors liked, what they didn't like – maybe more importantly, WHO they liked or didn't like, and why. (I recall one trial where our Client was coming in and out of the courtroom quite a bit due to medical issues. Some Jurors thought that he was bribing witnesses each time he left the Court room! It's unbelievable what people will tell you. This is one of the more fun and interesting tasks I

think).

m. **Know the nuts and bolts** of the procedure in the jurisdictions in which you practice, i.e. state court, water court, federal court, bankruptcy court, justice court, etc.

A book published by the American Bar Association – "Paralegals, Profitability and the Future of Your Law Practice," which I highly recommend – includes a chart that we have re-created and appears above..

When you study this graphic², what do you notice? Look at all the tasks "Before Paralegals" a lawyer is responsible for. Can you do it all yourself? Sure. Perhaps the real question is . . . should you? How many cases can you handle practicing this way?

What this chart says to me is that the practice of law has changed substantially over time. You no longer must manage your entire practice on your own. You can serve more clients, and we can serve them as a team. Your bottom line should increase, and your clients should be happy. Definitely a Win-Win

situation.

That said, the projects completed by your paralegal aren't meant to usurp your job as an attorney, but rather to enhance it. We often aren't able to (or perhaps can't) be included in strategic discussions or meetings with clients. We recognize this fact. Our jobs are simply to make your practice run smoothly and efficiently, make it profitable, and to keep the client satisfied.

3. TALK TO YOUR PARALEGAL.

Before I get into a talk about communication, I'd like to acknowledge here that I'm assuming that you already have a paralegal, or even a team or department full of them, that you've bought into the idea of *using* them and have already gone through the analysis during your annual firm administration meetings that you've decided paralegals are great (we are!). Take advantage of the resources of your firm and utilize your paralegals!

■ **Team meetings** – This option always sounds like a great idea, right? I find that, in reality, this can be really hard to do because everyone is so busy. We all try for Best Practices. When time is short you should be able to give your paralegal the gist of any project and turn them loose to get a project going for you. Of course, the more information you can share, the better the product the paralegal will return to you. Your team's "Best Practice" may just become a regular check-in. You and your paralegal need to work out what works best for both of you, your work styles and the demands of your practice. Talk about it.

A common practice of a partner I used to work with was what came to be referred to as a "drive by." The act of blurting out case strategy and or instruction to your paralegal as you dash by his or her desk. Usually after you've done some of your best thinking: while driving to work, while on the treadmill at the gym, or shoveling the walk – with no place to write any of it down. We started calling these instances "drive-bys" because often these tasks/strategies occurred to him while he was in

between other things. He would jet out of his office just to tell me something, I'd laugh and tell him to "hold that thought" while I grabbed a pen and a note pad. The "drive bys" became more and more frequent and just one way we managed our workflow. Yes, we had meetings, but these "drive bys" were usually very productive. My point is, have a relationship with your paralegal and when you do a "drive by" they'll know what case you're talking about, get a little chuckle out of it, and turn your "drive by" instruction into some good work product for you.

I think you'll find that the most valuable paralegals are those who want to make you look good, and who consider themselves part of the team. Your paralegal is extremely vested in the outcome of the cases you work on together and takes pride in helping your clients obtain positive outcomes. Great communication is one of the best ways to create and foster an ongoing team relationship. Empowered with knowledge, your paralegal can then spring into action and take the initiative to help manage your workload. The longer the two of you work together, the more your paralegal will adapt to your preferred style of work product.

I am sure by now that you've figured out I never quite made it to law school. I've enjoyed very much the last 20-something years (I'm *not* counting) in my career as a Litigation Paralegal. What I didn't know way back in 1992, that I know now, is that my dedication to advancement of my education and my tenacity are two traits that suit me well. I find these traits in many other paralegals that I've worked with over the years as well. As a whole, we are individuals who are educated, dedicated, tenacious, goal- and detail-oriented, among other awesomely obsessive traits. So, if you are fortunate enough to have a paralegal team or department in your firm and you have yet to reach out, I strongly encourage you to do so. I'm sure that you'll be met with enthusiasm and a willingness to work hard, which will enhance your practice even more. Take it from bossy old me, you won't regret it.

Endnotes

1 See www.nala.org/about-paralegals/what-do-paralegals-do.

2 Paralegals, Profitability, and the Future of Your Law Practice, Arthur G. Green, Theresa A. Cannon (2003). All rights reserved. ©2003 by the American Bar Association. Reprinted with permission. This information or any or portion thereof may not be copied or disseminated in any form or by any means or stored in an electronic database or retrieval system without the express written consent of the American Bar Association.

Renee Wayne is a Litigation Paralegal who recently joined the Worden Thane, P.C. team. Born and raised in Missoula she ventured out



after graduating high school and ended up in Charleston, SC where her Paralegal career began way back in the dark ages...1992. Eventually, fate brought her back to the beautiful Pacific Northwest (Portland, Ore.), where she lived for 10 years, then finally back home to Missoula in 2002. Since then, she has been working as a paralegal, but is also driven to help others and give back to Missoula by way of volunteering. She is a past officer of the Montana Association of Legal Assistants, an active Court Appointed Special Advocates volunteer, a Mediator for the Community Dispute Resolution Center, and served on a local committee for the American Bar Association working on the accreditation of the University of Montana's Paralegal Program.



Mark
Bassingthwaighte

Remember that Rule 1.5 (a) sets forth eight factors to consider in determining what is reasonable. None of them says that if some fool agrees to a ridiculously high fee, that fact alone will make the fee reasonable.



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

Surcharges for expedited work can be OK — but let's be reasonable

Two quick stories. Years ago, I had a plumbing emergency. The short version is I discovered a broken water line in my kitchen on a Thanksgiving eve. That line needed to be repaired immediately or Thanksgiving was going to be a bust. Trust me, that service call cost me. My second story is about packages. Now that all our kids are grown and living throughout the U.S., my wife sends more packages than she used to. I'm often tasked with the responsibility of boxing things up and getting them shipped off. Unfortunately, I'm not always as prompt with that as I should be, which means I sometimes must pay a premium to make sure those packages get to wherever they're going on time. Heaven forbid something arrives a day or so late.

These two stories describe common situations where we all know going in that we're going to have to pay a little more than we would under normal circumstances. A plumber's rates are higher for holiday emergencies and shipping rates are higher for expedited service. That's just the way it is. Given this reality, I'm led to ask this question. Is it ethically permissible for a lawyer to add a surcharge to a client bill for having to respond to an emergency or agreeing to provide an expedited legal service? As with so many things in life, it depends.

To understand why, we need to start by looking at ABA Model Rule 1.5 Fees. Most lawyers know that, in general, this rule states a lawyer's fee is to be reasonable and the basis or rate of the fee and expenses are to be communicated to the client. So, if you tell your clients in advance that your practice is to add a 10% surcharge to your fee for work you must do on weekends, is that reasonable? Perhaps — but here's the problem. Where's the line? If 10% is reasonable, is 50%? How about 200%?

Rule 1.5 also sets forth factors a lawyer is to consider when trying to determine whether a fee is reasonable. Take note that section (a)(5) under Rule 1.5 states that "the time limitations imposed by the

client or by the circumstances" is one of the factors set forth. Given this language a surcharge might be appropriate in certain circumstances, as long as the other seven factors listed aren't overlooked, which leads me to another story.

From time to time I still come across situations where lawyers have played fast and loose with Rule 1.5. One memorable story concerns a lawyer who apparently found the idea of surcharges as an opportunity not to be missed. Unfortunately for her, she took it the extreme. She decided to let all her clients know she surcharged for time spent working evenings and on weekends, and then she made sure the evenings and weekends were the only time she worked!

Don't go there. Just because you have a day that spins out of control or agreed to take on more work than you can handle between the hours of 8 and 5 doesn't mean you get to surcharge a client whose work you couldn't get to until the weekend. Stated another way, a surcharge for an emergency that was of your own making is an unreasonable surcharge. Long days come with a decision to practice law. This too is just the way it is.

Of course, if a current or new client comes to you with a true legal emergency that requires you to drop everything, and this client understands that he is asking for expedited and prioritized service, well that's a different matter entirely. Here a surcharge may very well be reasonable and appropriate. Sometimes clients truly do have a need to be moved to the front of the line and are willing to pay for the service. Does this mean the surcharge can be whatever you can get the client to agree to and the sky's the limit? Absolutely not! Again, remember that Rule 1.5 (a) sets forth eight factors to consider in determining what is reasonable. None of them says anything like, if some fool agrees to a ridiculously high fee, that fact alone will make the fee reasonable. Think about it. If your fees are ever

MORE RISK, PAGE 28

DISCIPLINE

Rose-Miller disbarred for misappropriating funds

Sidney attorney Tara Rose-Miller was disbarred from the practice of law for misappropriation of more than \$65,000 in client funds from her firm's IOLTA account.

In addition to her disbarment, Rose-Miller was ordered to pay \$11,284 plus interest to one client and \$54,218 plus interest to a second client.

The Montana Supreme Court handed down the discipline in a Jan. 28 order.

According to the Commission on Practice, Rose-Miller admitted to multiple counts of violating Rules 1.15, 1.18 and 8.4(c) of the Montana Rules of Professional Conduct. Violations she admitted to include:

- commingling her firm's funds with funds belonging to clients;
- misappropriating funds belonging to clients and using them for her own purposes;
- withdrawing funds prior to earning them and using them for her own purposes;
- charging client credit cards multiple times without authorization;

Rose-Miller charged \$56,219 to one client even though her total fees while representing the client did not exceed \$17,000.

Her disbarment is effective March 2.

Deola suspended, censured

In November, the court suspended Helena attorney Linda Deola for 90 days for multiple counts of misconduct in her representation of a client who sued her

accountants for bad investment advice.

The court also ordered Deola to appear for a public censure before the court.

Deola became involved in the case after she entered into an agreement with an Oregon attorney to assist him in pursuing the plaintiff's claims in Montana and to share attorney fees, and subsequently was retained by five other clients with similar claims. During the course of her representation, Deola was found to have violated the following MRPC rules:

- Rule 1.7 because there was a significant risk that her simultaneous representation of these six clients would be materially limited by her responsibilities to each client and by her personal interests;
- Rule 1.8(g) by failing to obtain informed consent in a signed writing from each client prior to participating in the aggregate settlement of the claims;
- Rule 1.4 by failing to timely and adequately inform her original client about her representation of the other five claimants, the conflict of interest in this representation, and the ramifications of the global settlement and allocation of the proceeds;
- Rule 3.4(d) by failing to comply with discovery requests;
- Rule 1.1 by failing to provide a client with competent representation; and
- Rule 1.3 by failing to act with reasonable diligence and promptness in representing Redding.

The suspension took effect Dec. 20.

Deola's law partner, Brian Miller, received a public admonition from the Commission on Practice for violations arising out of the same case. The COP determined that Miller violated MRPC Rule 8.2(a) by alleging with reckless disregard to truth that U.S. District Court Judge Charles Lovell altered testimony and creating affirmative defenses. The allegations were made as part of a motion to recuse. Miller also violated Rules 3.1(a)(1) and (2) by moving to recuse Judge Lovell without basis in law or fact.

Miller entered the case after the U.S. District Court disqualified Deola from serving as counsel for one of the clients.

Harris censured, on probation

The Montana Supreme Court ordered Billings lawyer Linda Harris to receive a public censure from the court and three years' probation for multiple rules violations during her representation of clients.

Harris admitted to violating MRPC Rules 1.4, 1.3 and 3.2 in her representation of two clients for failing to keep them informed about their cases, failure to represent them with reasonable diligence and promptness, and failure to expedite litigation.

Harris was also ordered to obtain a mentor to help monitor her adherence to the MRPC and to the procedures she has implemented to prevent future violations. She was also ordered to pay restitution to the clients and to pay costs of the Commission on Practice and the Office of Disciplinary Counsel.

Montana Supreme Court offering weekly emailed digest of opinions

Montana Supreme Court Opinions are already available to the public by searching at courts.mt.gov. In an effort to serve you better, Supreme Court Clerk Bowen

Greenwood now emails a weekly digest of opinions as well. The emails are sent on Tuesdays or whenever the court issues an opinion. They include the case title, docket number, and

a brief summary of the case pulled from the text of the opinion itself. If you'd like to sign up, visit courts.mt.gov/Clerk-of-Court/Email-List-Signup .

Keith David Haker

Keith David Haker passed away peacefully July 11, 2019, at his home in Miles City surrounded by his family. He was 75.



Haker

Keith was born on Nov. 3, 1943, in Bremerton, Wash., and raised in Stanford, Mont., where he graduated in 1961 as the valedictorian and multi-sport star athlete of Stanford High School. He earned his undergraduate degree from Montana State University and his law degree from the University of Montana.

He worked for one year at Montana Legal Services in Hardin, and in 1971

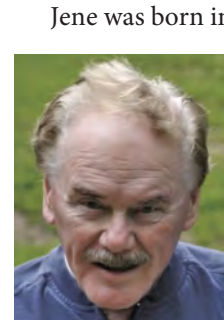
he moved to Miles City when his law school classmate, Butch Krutzfeldt, asked him to be Custer County's first Deputy County Attorney. He and Butch also established a private legal practice and were partners for many years.

Keith was elected Custer County Attorney in November 1975, serving until he retired in 1993. During that time he held several offices, including president of the Montana County Attorney Association.

He continued his private legal practice until retiring in March 2014. One month after retirement he suffered a debilitating stroke. Despite the effects of the stroke he lived a comfortable life at his home for over five years.

Edward J. "Jene" Bell

Edward J. "Jene" Bell of Kirkland, Wash., died on Tuesday, October 14, 2019, at his home in Kirkland.



Bell

Jene was born in Rock Springs, Wyo., Dec. 16, 1934, to Thomas E. and Molly (Dashner) Bell.

He spent his formative years in Casper, Wyo., graduating from Natrona County High School in 1953.

His passion was sports, both professional football and baseball, in the Seattle area, and his alma mater University of Montana Grizzlies.

Jene dedicated most of his adult life to the law and justice.

RISK

FROM PAGE 26

questioned, disciplinary counsel will review your fee practices based on an objective understanding of what the eight factors of reasonableness mean. Consider yourself forewarned.

Here's where I come out on this topic. It would seem reasonable for a lawyer to add a surcharge to a fee if the client is made aware of the circumstances that could or already have given rise to the need for a surcharge and the client agrees to the surcharge in advance. Further, the circumstances giving rise to the surcharge must be something beyond the circumstances that ordinarily come into play in any type of legal matter, and nothing about these circumstances can be of the lawyer's own making. Finally, I have no idea where to draw the line in terms of saying a 20% surcharge is reasonable, but a 200% surcharge isn't. All I can say is there may be a circumstance where 20% is unreasonable and a different circumstance where 200% is reasonable.

Now, one last item. If any of you happen to know a good plumber who charges a reasonable rate for after-hours work, can you let me know? I'd sure appreciate it, because the guy who helped me out that Thanksgiving years ago was a real piece of work. He even left with a few of my own tools, and I'm not kidding.

Hopefully you get this last takeaway. Client memories can be long, and they often share their stories, just like I have here — only they will name names. You really don't want to be known as that lawyer who always tries to take his clients to the cleaners. A good business practice might be to always keep the eight factors of Rule 1.5 in mind whenever you are reviewing and setting fees for any and all clients. Seems like a no brainer if you ask me.

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STATE BAR OF MONTANA 2020 Nomination Petition

State Bar Officer and Trustee Election

I, _____, residing at _____, am a candidate for the office of
() President-Elect; () Area A Trustee; () Area B Trustee; () Area C Trustee; () Area D Trustee; () Area G Trustee; () State Bar
of Montana ABA Delegate at the election to be held on June 5, 2020. I am a resident of Montana and an active member of the
State Bar of Montana. I request my name be placed on the ballot. The term of office of the President-Elect is one year. The term
of office of the State Bar of Montana ABA Delegate and of the Trustee is two years.

Signature _____

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

NAME

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Return this petition to State Bar of Montana, P.O. Box 577, Helena MT 59624, postmarked no later than April 6th.
Members must vote no later than midnight on May 26, 2020 using the necessary ballot as provided by the State Bar.

CLASSIFIEDS Contact | To post a job on our online Career Center, visit jobs.montanabar.org (Montana Lawyer classified included in price for State Bar members). For all other classified inquiries, email editor@montanabar.org or call 406-447-2200.

ATTORNEYS

ASSOCIATE ATTORNEY: Small, relaxed law firm is seeking an associate attorney to work in Helena. Uda Law Firm, P.C. specializes in renewable energy litigation, with a focus on PURPA, and maintains a small general civil litigation practice as well. Qualified applicant must be licensed to practice in Montana, or be licensed within 6 months of hire. Duties would include researching, drafting memos and legal filings for district courts, the Montana Public Service Commission, and occasionally other bodies (including the Montana Supreme Court, the Federal Energy Regulatory Commission, and United States District Court). See full listing and apply online at jobs.montanabar.org.

ASSOCIATE ATTORNEY: Brown Law Firm, P.C., with offices in Billings and Missoula, is seeking an Associate Attorney with 2 to 4 years litigation experience for its office in Billings. We offer a competitive salary, benefit package including profit sharing and 401(K). Please send a cover letter, resume, references and a writing sample. All applications will be confidential.

ASSOCIATE ATTORNEY: Terrazas Henkel, PC is a civil litigation firm accepting applications for a full-time associate attorney. Strong research, writing, and communication skills required. Litigation experience preferred. Benefits available, salary DOE. Please respond by emailing your cover letter, resume, writing sample, and references to dhenkel@terrazaslaw.com. All inquiries confidential.

CLAIMS ATTORNEY: Montana State Fund seeks a claims attorney on the General Counsel Team to provide workers' compensation insurance litigation, prosecution and defense in all claims related legal forums. This is an excellent

opportunity for a lawyer with five years of experience (and licensed to practice law in Montana) to be a part of a collaborative legal team of passionate, motivated professionals that enjoy providing legal advice and training to Montana State Fund team members. Closes 3/9 at 5 p.m. See full listing at <https://montanastatefundcareers.silkroad.com/>

FAMILY LAW ATTORNEY: Boone Karlberg P.C. is seeking an ambitious associate to join our firm. Position involves representing the firm's clients in family law and related transactional matters. Candidates should possess knowledge of Montana law and be admitted to practice in Montana. Experience is preferred, but not required. Qualified candidates must have outstanding analytical and writing skills and a strong work ethic. Please send a resume, cover letter, references, writing sample, and law school transcripts to ammurray@boonekarlberg.com.

FEDERAL DEFENDER: The Federal Public Defender for the Districts of Colorado and Wyoming seeks a superior trial attorney to join our office. The Office of the Federal Public Defender operates under authority of the Criminal Justice Act (18 U.S.C. § 3006A) to represent individuals who are unable to afford counsel and prosecuted in our federal courts. Apply online at <http://www.cofpd.org/employment/WYX-AFPD.html>

LITIGATION ATTORNEY: Hall & Evans, LLC, a well-established and respected law firm headquartered in Denver, Colorado is seeking a full-time Litigation Associate to join our litigation branch office in Billings, Montana. Qualified candidates must have 1-6 years of experience, and currently licensed to practice in Montana. See full listing and apply online at www.hallelevans.com/careers/current-openings.

MEDICAL LEGAL PARTNERSHIP

ATTORNEY: Montana Legal Services Association is looking for a Health Justice Partnership Attorney to be based in MLSA's Missoula office, working with the health care team at The Providence St. Patrick Hospital in Missoula to screen for health-harming legal needs and treat those needs by providing legal services to positively impact a client's health. The pay range we're offering is \$50,000 and up, depending on experience. Apply online at www.mtlsa.org/employment-opportunities.

STAFF ATTORNEY: Montana Legal Services Association seeks a Staff Attorney based in Bozeman to provide civil legal assistance to clients of the Haven domestic violence organization and to survivors of domestic violence and sexual assault in Gallatin County. Services provided will range from brief counsel and advice, to more extended representation. Services may be provided to clients outside of Gallatin County on a limited basis. Apply online at www.mtlsa.org/employment-opportunities.

PRACTICE FOR SALE

TIME TO RETIRE. HH Evictions, Inc. is for sale. Fun business. Like practicing law on the Jerry Springer show. Inexplicably, very low stress. Work very part-time and make low professional income. Business has obvious significant growth potential for somebody who actually wants to work full time (hard to imagine). I'll train and work for up to 3 mos. on demand till you are up and running. Covenant not to compete etc. CASH ONLY, with appurtenant significant discount from appraised value to encourage cash. Numbers easily justify commercial loan. 406-240-1216

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