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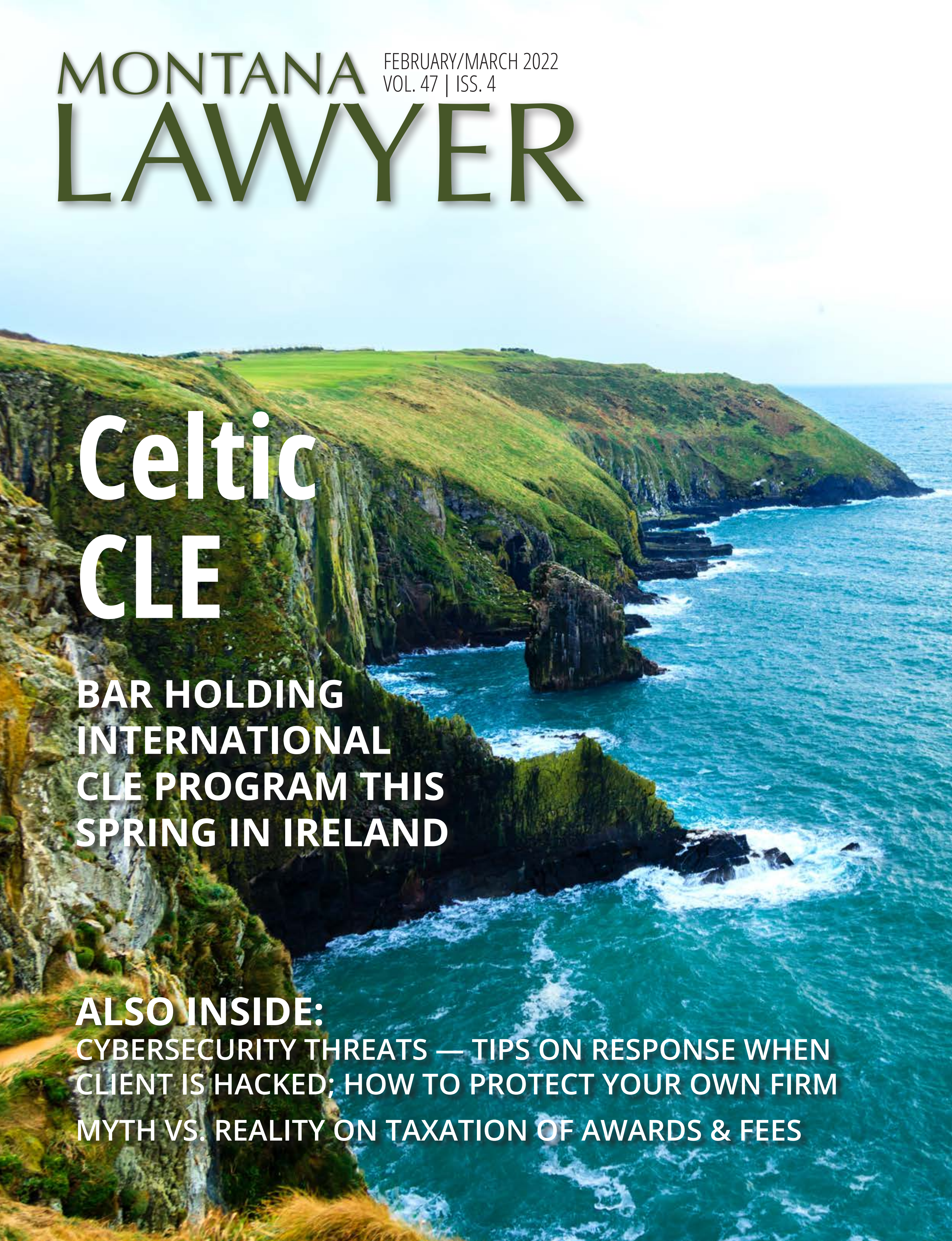


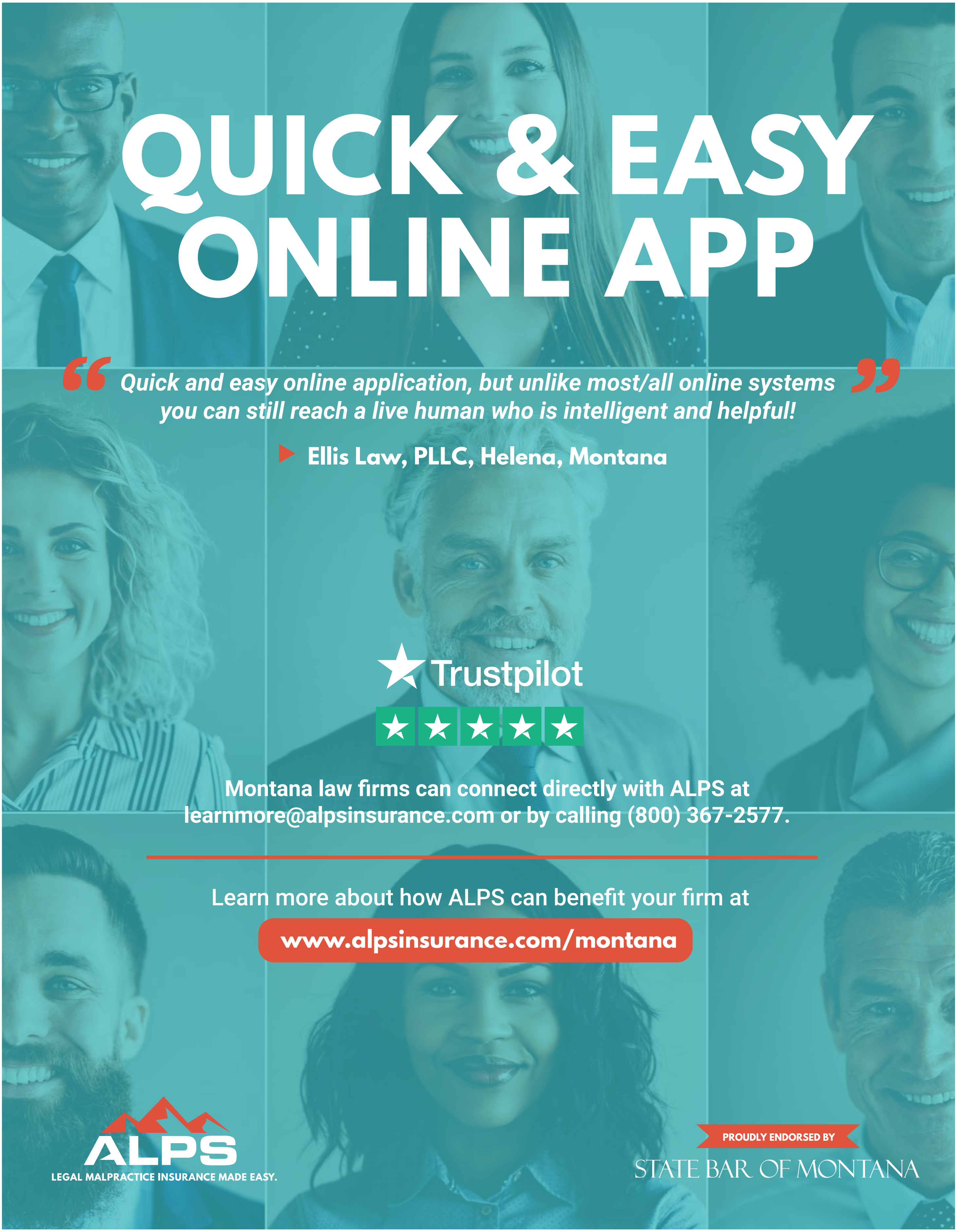
Celtic CLE

BAR HOLDING INTERNATIONAL CLE PROGRAM THIS SPRING IN IRELAND

ALSO INSIDE:

CYBERSECURITY THREATS — TIPS ON RESPONSE WHEN CLIENT IS HACKED; HOW TO PROTECT YOUR OWN FIRM

MYTH VS. REALITY ON TAXATION OF AWARDS & FEES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FEATURE ARTICLES

ALSO IN THIS ISSUE

JEST IS FOR ALL

BY ARNIE GLICK

"Luckily, it's easy to get a dog's out-of-court statement admitted into evidence -- barking comes under the excited utterance exception to the hearsay rule."

Addressing courthouse security must be a priority

BRIAN C. SMITH

Brian C. Smith is a longtime criminal defense attorney from Missoula who currently serves as Public Defender Division administrator with the Montana Office of State Public Defender.

As a public defender in state court, I saw what qualified for court security almost every day I went to work. Most days, court security didn't stand out. It was usually someone from law enforcement filling in as a bailiff, a retired officer, or at times private security. But it wasn't unusual for there to be no bailiff in the courtroom. It was very rare that I had to pass through a metal detector, or other screening, prior to entering the courtroom. That being said, I always felt like I could bring issues of security to the court's attention, and the court and law enforcement were very responsive. Throughout my legal career, I have taken court security, or my safety in court, for granted. As courthouse and judicial threats increase, my feeling of safety has changed.

As many know, federal court is a different ball game. The federal courts are set up with security first. In my experience, there was always a bailiff in the courtroom, and I always had to pass through a metal detector. Security was always present and was not dependent upon the case or the litigants. This was also the observation of a legislator from Billings who was a former federal prosecutor. In the 2021 legislative session, a resolution was introduced to examine judicial security. It passed the House 58 to 40. I was a little surprised that 40 people opposed it, but it did pass the House. However, once it reached the Senate, it died in committee, 5-6, and not on party lines. House Joint Resolution 43 was introduced by Rep. Bill Mercer, an attorney and a Republican from Billings, and supported by the Montana Association of Clerks of District Court, the Montana Sheriff and Peace Officers Association, the Montana County Attorneys' Association, the State Bar of Montana, and the Montana Judges Association. It appears the Judiciary Committee had some concern the resolution would require several studies which would have added to the workload. During the hearing, questions were asked about examples of security concerns. While it is true, we don't have a reported horror story to point to, we have been extremely lucky. Other court participants, in other states, have not been so lucky. Most feel like it isn't if Montana has one — it really is when. My concern is that we are closer to "when" than we have ever been. It will be too late when we have that example of a horror story.

Even without the resolution, there are steps being taken to hopefully prevent the worst-case scenario. In 2020, the State Bar created a working group to explore critical issues of court security, which gathered baseline data regarding attorneys' experiences with courthouse security, and provided that information to the Office of the Court Administrator. The District Court Council is reviewing the information and may be making state-wide security recommendations this spring. This is only the beginning. It will take the co-operation of many stakeholders to solve the security issues currently pervading state courts. It will require a commitment from law enforcement, the ones in charge of local court security, to make security a priority. Although events in the courtroom have increasingly become politicized, court security has no place in politics. Everyone needs to be at the table, including civil practitioners and others not regularly in court. Even if you haven't been in court in years, this issue needs your attention. Now is the time for everyone to be involved in the court security discussion.

Everyone who goes to court, works in court, is a juror, a clerk, a witness, a court reporter, a lawyer, a judge, or is just watching court, deserves to feel safe in the courtroom or courthouse. This can be a challenge because court is the place where we go to resolve disputes. Emotions run high. If we don't study the security problem and implement positive improvements, litigants may be less likely to take their problems to court to solve them and instead "solve" them outside court.

Courts are vital to our system of government. Issues that destabilize the courts, like court security, make our entire system weaker. Safety in court is a no-brainer. The issue will require an investment of time and money, but it will be worth it. We can't afford not to make court security a priority.

"Even if you haven't been in court in years, this issue needs your attention. Now is the time for everyone to be involved in the court security discussion."

Drama-Free 1031 Exchanges

Avoid these pitfalls and guide clients to successful commercial real estate transactions

Claire Matten, CCIM
Sterling CRE Advisors

Connor McMahon
Sterling CRE Advisors

SterlingCRE
ADVISORS

At Sterling CRE, we've helped investors find and close on properties suitable for 1031 exchanges throughout Montana. We're available to consult on your client's investment goals and to discover which deferral strategy works best for their unique circumstances. Contact Sterling CRE Advisors for more info.

info@SterlingCREadvisors.com
406-203-4547
www.SterlingCREadvisors.com

As Montana's popularity grows, more people and businesses move to the state. That's good news for economic development but drives up demand for commercial space. And already, a smaller pool of investment options has hamstrung local 1031 exchanges.

With demand high it's not uncommon to field calls from frantic brokers seeking last-minute exchange options in Montana. As a result, 1031 buyers are increasingly wary of jumping into the process. These are stressful situations, especially for buyers who may only trade commercial assets once a decade. Minimize 1031x drama for your clients by avoiding these common pitfalls.

Start Shopping Early

When clients decide to sell a property to use the 1031x, encourage them to start shopping for a replacement right away. Optimally, they should start shopping before they list their property. Because the 1031x period limits buyers to a maximum of 45 days to identify a replacement property (or properties) and 180 days to close, it's crucial to make time to shop available properties and perform due diligence.

"Remind buyers that they can identify and purchase up to three replacement properties," says commercial agent Connor McMahon. "Buyers who start looking for properties early and identify several possibilities relieve some of that last-minute pressure."

Set Goals and Don't Rush

With these short turnaround times in mind, it's important not to rush. Some clients may feel pressured to reduce or eliminate due diligence requirements. "I strongly encourage buyers to keep their standards intact during this high-pressure time," says broker Claire Matten, CCIM. "It might seem like a good idea to be flexible on due diligence, but the little things you let go now can turn into expensive problems later."

Matten also suggests identifying real estate goals at the outset to help guide the stressful process. Which assets will they consider? Which asset types don't appeal to them? What's their intention with the new property? Defining the goals of the transaction in writing can help keep buyers focused on outcomes and eliminate attractive distractions.

Build in Some Flexibility

When defining goals, consider primary and secondary locations. Often, Bozeman, Missoula, and Kalispell seem like the best place to invest. But, after seeing the overheated prices in these markets, some buyers are finding more success in places like the Bitterroot Valley, Butte, and Great Falls.

In these markets, commercial real estate options are more abundant and competition less intense. And, these local economies continue to show healthy growth.

Finally, McMahon notes that - occasionally - making a last resort purchase to complete the exchange isn't always the right move. "I know this is an unpopular option, but sometimes a frantic exchange can result in a bigger headache and liability than the tax hit," he says. "We see these transactions on the other side when a buyer is trapped. For them, the taxes would have been cheap compared to the current cost of maintaining or updating a vintage property."

CAREER MOVES

Grover joins Suenram & Bergeson as associate attorney

Suenram & Bergeson is excited to welcome Stephanie Grover to its legal team in Dillon.

Grover graduated with honors from Washington State University in 2016 with a Bachelor of Science in Economics and a Bachelor of Science in Agriculture & Food Systems, and attended the University of Montana's Alexander Blewett III School of Law, graduating in 2019. While in law school Grover interned for a civil litigation law firm and the Rocky Mountain Elk Foundation. She also served as a staff member and editor for the Public Land & Resources Law Review. After graduating from law school, Grover clerked for the Honorable Judge Luke Berger of the Fifth Judicial District Court for two years.

Grover

Grover looks forward to gaining experience and honing her skill in various practice areas. Suenram & Bergeson is a four-attorney law firm representing clients throughout Montana with an emphasis on complex recreational and agricultural real estate transactions.

Siefert opens new plaintiffs civil litigation firm in Missoula

Nicole L. Siefert is proud to announce the opening of her new law firm, Siefert Law PLLC, focusing on plaintiffs civil litigation.

Siefert received her J.D. from the University of Montana School of Law in 2009. While attending UM, she was a proud member of the ABA Negotiations Team, the President of the American Association for Justice and interned for Montana Legal Services and the County Attorney's Office. In 2018, she served as an adjunct professor for UM where she taught the Negotiations Class. She is currently UM's ABA Negotiation Team Coach, where the school captured the top two spots at the Northwest Regional Competition in November.

Siefert

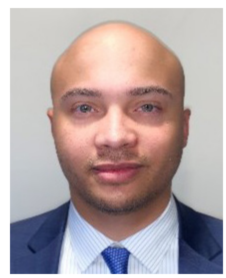
Before becoming the founding owner at Siefert Law PLLC, Siefert practiced civil litigation in federal and state courts in Nevada and Montana, representing clients in cases involving personal injury, real estate litigation, estate litigation, commercial disputes, wrongful death, and insurance recovery. She is a recognized National Trial Lawyers Top 40 Under 40 member and a proud Eagle Member of the Montana Trial Lawyers Association. She will continue her practice focusing in the areas of civil and commercial litigation.

Siefert serves as president of the Friends of Flagship Advisory Board of Directors. In her spare time, you may find her running the trails of Western Montana with her husband. They have a son and a daughter, two dogs and a host of nieces and nephews.

Graves joins Guza & Associates

E.J. Guza & Associates is pleased to announce that Derek Graves has joined the firm.

Graves grew up both in Billings, Montana and Laramie, Wyoming. He attended Rocky Mountain College on a full basketball scholarship where he earned multiple academic all-conference selections and received his B.S. in business administration with an emphasis on economics



Graves

in 2017. In 2021 he received his Juris Doctor from the University of Montana School of Law.

During law school, Graves gained experience working as a summer intern for several Montana law firms and as an intern for the Honorable Benjamin Hursh of the United States Bankruptcy Court for the District of Montana. In August 2021 he joined E.J. Guza & Associates where his practice focuses on general civil litigation, business law, commercial and business transactions, and construction law.

Graves can be reached via email at dgraves@ejguzalaw.com or 406-586-2228.

Jones joins Missoula office of Weinberg & Hromadka

Weinberg & Hromadka, PLLC, is pleased to announce that Alice Vandenberg Jones has joined the firm as a Partner and has opened a second office for the firm in Missoula.

Before joining Weinberg & Hromadka, Jones served for eight years as in-house counsel for Five Valleys Land Trust, a regional land trust based in Missoula. Jones' conservation law practice focuses on representing land trusts in Montana and Washington state, where she is also licensed.

Jones

Jones earned her law degree at the University of Washington School of Law in 2013, where she concentrated her coursework on environmental and public interest law. Formed by Michelle Tafoya Weinberg and Lindsey W. Hromadka in 2019, Weinberg & Hromadka is a private, public interest law firm with offices in Whitefish and Missoula that specializes in land use, land conservation, and real estate law. Weinberg, Hromadka, and Jones seek to dedicate a significant portion of their work to matters that have positive social, environmental, and economic impacts in communities across Montana.

VandenBos

Riley

Tarlow Stonecipher welcomes VandenBos as partner, Riley as associate attorney

The Law Firm of Tarlow Stonecipher Weamer & Kelly, PLLC is pleased to announce Nicholas R. VandenBos has become a partner in the firm and attorney Patrick Riley has joined the firm.

VandenBos' practice involves both litigation and transactional work, with an emphasis on land use, natural resource and water issues. He also practices in the areas of business and recreational law.

VandenBos' land-use practice includes matters ranging from negotiations with federal management agencies to access and easement litigation. He has represented private landowners, government entities, recreational organizations, and public lands users.

In his natural resource practice, VandenBos assists clients with issues such as water rights claims and environmental matters, including issues arising under federal and state environmental and regulatory laws. He also advises clients involved in the outdoor recreation industry on issues ranging from recreational liability to business operations.

VandenBos graduated with high honors from the University of Montana School of Law. While in law school, he served as the Editor-in-Chief of the Public Land & Resources Law Review and was the Janet D. Steiger Fellow at the Office of Consumer Protection, Montana Department of Justice. Before entering private practice, he clerked for the Honorable Donald Molloy at the United States District Court for the District of Montana. He is admitted to practice in Montana and Wyoming.

Riley is a Bozeman native and graduate of Bozeman Senior High School. He received his B.S. in Mathematics from California Polytechnic State University in San Luis Obispo, California, and his J.D. from Loyola Law School in Los Angeles, where his studies concentrated in civil litigation, business law, and commercial law. He was admitted to the California Bar in 2011 (presently inactive), and the State Bar of Montana in 2012.

Following law school, Riley returned to Bozeman in 2011 to begin practice, during which time he has built a robust practice concentrated in commercial and business litigation; insurance defense, coverage advising, and insurance bad faith litigation; and organization, transaction, and advising work for Montana businesses and individuals. His practice also includes personal injury litigation, real estate transactions and disputes, municipal law, construction law, banking law, and secured transactions.

Riley is a member of the Gallatin County Bar Association, and serves as the vice president of the Board of Directors for the Montana Defense Trial Lawyers Association. When not working, he spends his time weightlifting, playing guitar, reading, cooking, and enjoying Montana's beautiful outdoors with his wife and two children. Riley is currently welcoming new clients.

Rogers joins FairClaim Work Comp Attorneys as associate

FairClaim Work Comp Attorneys is pleased to announce the hiring of Seth H. Rogers as Associate Attorney.

Rogers graduated from the University of Montana's Alexander Blewett III School of Law in 2018. During law school he interned for the Rocky Mountain Elk Foundation and ASUM Legal Services. He then clerked for the Hon. Judge Yvonne Laird of the Montana 17th Judicial District.

Rogers

Rogers received his undergraduate degree from the University of Montana in Business Management/Marketing.

MORE NEWS, NEXT PAGE

NEWS
FROM PAGE 7

Rogers was admitted to the State Bar of Montana and began his association with FairClaim in September 2021. His statewide practice in Montana will focus primarily on workers' compensation and personal injury.

FairClaim, a division of Linnell, Newhall, Martin & Schulke, P.C., has a new location in Great Falls MT, 300 Central Ave., 6th Floor, Suite 600 .


Frandsen


McCulloch

Frandsen, McCulloch join BKBH as associate attorneys

Browning Kaleczyc Berry and Hoven recently welcomed Hallee Frandsen and Emily McCulloch as associate attorneys.

Frandsen's practice focuses on Water Law, Real Property Law, Indian Law, and Appellate Law. She attended the University of Montana School of Law, and in 2020, she received her Juris Doctor, a Masters of Public Administration and Policy, and a Certificate in Environmental Natural Resources Law. Upon graduating, Hallee received the 2020 MPA Public Service Award and published an article with the Montana Law Review regarding the Montana Constitution's Clean & Healthful Environment provision. After law school, she clerked for Justice Laurie McKinnon with the Montana Supreme Court. Hallee is a member of the Natural Resources, Energy, and Environmental Law, the Water Law, and the Indian Law Sections of the State Bar.

McCulloch is an associate whose practice focuses on general litigation including workers' compensation, employment defense, and insurance defense. Born and raised in Billings, Montana, Emily earned her bachelor's degree in Environmental Science from the University of Montana in 2014. In 2021, Emily graduated from the Alexander Blewett III School of Law at the University of Montana with Pro Bono honors and a joint degree in Masters of Public Administration. She received the Edward A. Cremer Award for best research paper in the field of Environmental Law and the Paul Raffery Memorial Award for exceptional dedication and diligence during her clinical work with the Veterans Advocacy Clinic. In addition, she served on the Women's Law Caucus board, was the managing editor for the Public Land and Resources Law Review, Vice President of the University of Montana's honors society chapter of Phi Alpha Alpha and served as the honor code representative for the Student Bar Association. After graduation, she joined BKBH in their Missoula office.

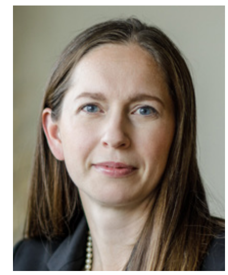
Wagner retires from Garlington, opens mediation practice

William T. (Bill) Wagner retired from the general practice of law after over 47 years, including over 38 years with Garlington Lohn & Robinson.

Wagner began with Hibbs, Sweeney & Colberg in Billings in 1974 and relocated to Missoula, his hometown, as a partner in Green, MacDonald, Wagner in 1977. He joined GLR in 1983 and became a partner in 1990. His practice areas: probate, business, banking, real estate development and transactions, estate planning, family law, litigation and, for 26 years, mediations.

Wagner was a co-recipient of the 2010 State Bar of Montana George L. Bousliman Professionalism Award. He will continue to mediate under Wagner Mediation Services, wwagner@wagner-mediations 406-370-9247.


Keller


Mediak

Keller and Mediak advance to partner at Garlington

Garlington, Lohn & Robinson, PLLP is pleased to announce the advancement of attorneys Tessa A. Keller and Emma L. Mediak to partner.

"It is with great pleasure that we announce our newest partners Tessa and Emma. Being made a partner is something that is earned through hard work, dedication to our clients and dedication to the highest of ethical standards. These two exceptional attorneys have checked every box and have more than earned this advancement."

Tessa Keller has been with GLR for over seven years. Tessa specializes in helping businesses succeed by evaluating and minimizing their legal risks, and defending them in all types of business-related claims. She is a fourth-generation Montanan, and was raised in Plains, Montana. She received her undergraduate degree in Missoula and her Juris Doctorate from the University of Oregon School of Law. She returned to Montana to clerk for Justice Laurie McKinnon at the Montana Supreme Court, and has been with GLR ever since.

Emma Mediak has been with GLR for over six years. Emma maintains a general civil practice with several special interest areas, including insurance defense, civil litigation, and bad faith defense. She grew up in Stevensville and received her Juris Doctorate from Stanford Law School. She returned to Montana from California and clerked for the Honorable Justice Brian Morris on the Montana Supreme Court. She also spent a year prosecuting felony and misdemeanor crimes in Beaverhead County before returning to clerk for Judge Brian Morris after he was confirmed as a United States District Court Judge.

Keto joins Jackson, Murdo & Grant as associate attorney

Kaden Keto has joined the law firm of Jackson, Murdo & Grant, P.C. as an associate attorney, focusing on real property and commercial transactions, estate planning and probate, and general civil litigation.

Keto

Keto was born and raised in Havre. Following graduation from Havre High, he attended the University of Montana and earned his B.A. in History with a minor in Political Science. Keto then attended the Alexander Blewett III School of Law, earning his J.D. in 2019. Prior to his move to Jackson, Murdo & Grant, P.C., Keto practiced law on the Hi-Line, where he gained experience in both agricultural and real estate law. In his free time, Kaden enjoys hunting, fishing, and spending time with friends and family.

Cameron, Lyndes shareholders at Jackson, Murdo & Grant

Jackson, Murdo & Grant P.C. Attorneys at Law is pleased to announce that Erin Lyndes and Rob Cameron have become shareholders.

The firm was established in 1967 and practices in a wide variety of areas of law, including banking and creditors' rights, business formation and management, civil litigation, public and tax-exempt finance, real estate, estate planning, and estates. It is located at 203 N. Ewing St. in Helena.

Conley

Stanley

Conley, Stanley join faculty at Blewett School of Law

The University of Montana Blewett School of Law is pleased to announce the addition of two new law faculty to the Montana law community. Anna Conley and Kristen Stanley will join the faculty in fall 2022 as assistant professors of law.

Conley is currently the chief civil deputy in the Missoula County Attorney's Office. In that capacity she oversees the in-house civil defense group and supervises the civil commitment and dependent neglect units at the county attorney's office. She has taught comparative law, international law and constitutional law as an adjunct professor at the University of Montana.

Conley has a J.D. from the George Washington Law School and an LL.M. and Doctor of Civil Laws (D.C.L) from the McGill University Faculty of Law. She has litigated many large-scale complex cases, participated in several rule of law initiatives and published extensively in comparative civil procedure, international law and comparative law. She will teach courses in civil litigation at the Blewett School of Law.

Stanley comes to the University of Montana from Cornell Law School, where she teaches Lawyering to first-year J.D. students. Prior to Cornell she taught legal writing and analysis at Vanderbilt Law School.

Stanley has a J.D. from Cornell Law School and a Master of Science in Social Work (M.S.S.W.) from the University of Tennessee. She specializes in understanding the effects and effective treatment of trauma.

Racial bias and wrongful convictions

By Amy Sings In The Timber
and Randi Mattox

Innocence work is evolving. The drivers of wrongful convictions are not changing. Rather, advocates around the country are beginning to recognize and acknowledge how racial equity plays a role in ending unjust incarceration in our criminal legal system. Considering who is most often wrongfully convicted and the motivations behind locking up innocent people, this evolution in thought about the intersection of innocence work and racial justice is a necessary one.

According to the Innocence Project's 2021 report titled "How Racial Bias Contributes to Wrongful Conviction," two-thirds of the Innocence Project's exonerees are Black, indigenous, and people of color (BIPOC) with 58% being Black. The same report states Black people account for nearly 50% of all exonerees in the country. According to the Death Penalty Information Center, since 1973, over 185 people have been exonerated from death row - 100 of them are Black. It is evident that racial justice should not be viewed as accompanying innocence advocacy, but instead as an intrinsic aspect of the work.

Example: False Allegations

This is an important acknowledgment because it impacts the approach to freeing innocent people and remediating the causes of wrongful convictions. For example: false allegations. A leading cause of wrongful convictions, false allegations contribute to more than half of all wrongful convictions that have led to exonerations since 1989, according to the National Registry of Exonerations. False allegations have a different historical meaning for innocent people of color, and especially innocent Black people. It is necessary to know the historical roots to fully understand why false allegations against Black people carry so much weight, and to promote meaningful remedies.

There are countless examples, from Emmett Till, who was murdered in 1955 based on a false allegation that he flirted with a White woman, to Brian Banks who was wrongfully convicted of rape in 2002 based on a false allegation. The 1985 wrongful conviction of Walter McMillian, whose story is famously told in Brian Stevenson's "Just Mercy: A Story of Justice and Redemption," entailed a false allegation against a Black man for the murder of a White woman. The false allegation in Walter's case beat out six alibi witnesses. These cases exemplify the widely held stereotype that Black people are inherently criminal.

Martenzie Johnson put it simply in an article titled "Being black in a world where white lies matter" when he said, "We've always been told this is what Black men do." Johnson draws the connection between current attitudes about Black men perpetrating violence to "The Birth of a Nation," a film where the Ku Klux Klan is celebrated for lynching a Black man after a White woman jumps off a cliff to avoid the risk of being raped by him. "The Birth of a Nation" was screened at the White House in 1915. Although it is more than 100 years old, it systematized Black men as violent, and we embrace its message every time we meet false allegations against Black people with unwavering support. Johnson goes on to cite other examples that have cemented Black men as violent in our collective conscious and makes the case for why false allegations against Black men are seemingly easy to make.

If we look at drivers of wrongful convictions as impacting all innocent people the same way, then we will miss the opportunity to reduce the impact of wrongful convictions on the populations it ensnares the most. Combatting false allegations requires changing societal attitudes about the inherent guilt of an entire population of people. Without looking at the issue through a racial

MORE BIAS, PAGE 28

BLACK HISTORY MONTH

Montana Innocence Project Executive Director Amy Sings In The Timber and Communication Associate Randi Mattox wrote this analysis of racial bias as it pertains to wrongful convictions in conjunction with Black History Month, observed in February.

The Montana Lawyer welcomes member perspectives on issues that relate to the practice of law. Email editor@montanabar.org for information on submitting a letter to the editor or op-ed.

Weeklong Celtic CLE set for Cork, Ireland

The State Bar of Montana in coordination with the University of Montana's Alexander Blewett III School of Law is holding an international CLE this spring at Ireland's University College Cork.

Bar members are eligible to travel to learn alongside law students about comparative law, constitutional law and environmental law. The CLE will run from Monday, May 30, to Friday, June 3. The seminar is planned for a minimum of 12.5 CLE credits, and cost for the CLE program itself, excluding meals, is $750. Space is very limited, and you can reserve your spot at www.montanabar.org. CLE participants will be responsible for their own airfare, accommodations, and side travel. A link for registrations at the River Lee Hotel in Cork City will be provided upon registration.

CLE programming will be presented by the Blewett School of Law's Professor Anthony Johnstone and Professor Michelle Bryan, Baucus Institute Director Professor Sam Panarella, as well as acting Dean Sara Rinfret along with colleagues from University College Cork. Instruction will take place in the mornings, leaving participants with the opportunity to explore the Cork area on their own.

The University College Cork campus is shown in an aerial photo.

The CLE will be held in conjunction with a two-week study-abroad program for students from the Blewett School of Law, with the CLE programming taking place the first week. The two law schools have had a long relationship, with Cork sending law students to Montana for years, but this will be the first time Montana students have had the opportunity to study in Ireland.

Judge Molloy has been key to Montana-Cork connection

The Montana legal community has many close ties to Cork, Ireland, and among the strongest of them is U.S. District Court Judge Donald W. Molloy of Missoula. In 2013, Judge Molloy was among four people conferred with honorary doctorates from University College Cork.

A Butte native, Judge Molloy has a strong personal interest in his Irish heritage. In the early 2000s he studied the Irish language for a semester under the guidance of Traolach O'Riordain, originally from Cork, Ireland, who heads the Irish Studies program at the University of Montana.

Judge Molloy also has strong links with UCC's Law and Irish program, in which UCC students teach Irish at the University of Montana for one term and attend the University of Montana's Blewett School of Law, while at the same time they clerk in Judge Molloy's chambers or in

MORE MOLLOY, FACING PAGE

Judge Donald W. Molloy, at right, stands with fellow University College Cork honorary doctorate recipients in 2013, from left, Dermot O'Mahoney, Graham Norton, and Fergal Keane. (Photo by Clare Keogh).

Nomination petitions being accepted for 2022 bar elections

Nomination petitions are now being accepted for the State Bar of Montana's 2022 elections.

Positions on the ballot this year are **President-Elect**; **State Bar Delegate to the ABA**; and **Trustees** from the following areas:

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

Filing deadline for original nomination petitions is April 4. You can download nomination petitions at https://www.montanabar.org/Membership-Regulatory/Member-Resources/Elections.

Reminder: CLE credit reporting year ends on March 31

The 2021-2022 reporting year for CLE credits ends on March 31, 2022. Please report your credits promptly to avoid being charged a late filing fee.

If you are still looking for last-minute credits, recorded CLE are available at www.montana.inreachce.com. Please keep in mind that there continues to be a 5.0 credit cap on the number of on-demand credits that can be claimed during the reporting year.

If you haven't already done so, please visit www.mtcle.org and set up a MyMTCLE account. This gives you easy access to your transcript so you can keep an eye on how many credits you still need to stay in compliance for the reporting year. The website is also where you will find the CLE Credit Reporting Form, under the "Lawyer" tab.

For more information on CLE reporting, please see the Frequently Asked Questions page at https://www.mtcle.org/lawyer/law_faq.asp.

Reminder: IOLTA and pro bono reporting due on March 31

Don't forget that Pro Bono Reporting and IOLTA Compliance Reporting are due by March 31, 2022.

All Active Attorneys in Montana must complete their IOLTA certification, regardless of whether they are required to maintain an IOLTA account.

To complete your reporting, simply log in to your profile at www.montanabar.org, and you will be directed to your Member Dashboard, where you will find links to "Pro Bono Report" and "IOLTA Dashboard." No additional sign-in is required for to complete your reporting.

Natural Resources, Energy & Environmental Law CLE is April 7

The 2022 Trends in Montana Natural Resources, Energy & Environmental Law CLE will be held April 7 at the Delta Colonial Hotel in Helena.

The program is 5.5 CLE credits, pending approval. Topics include:

- An Introduction to Renewable Energy Law in Montana
- Federal Land Update
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MOLLOY

FROM PREVIOUS PAGE

courtrooms of judges or magistrates working under Judge Molloy's supervision.

UCC also offers a joint degree with the University of Montana in International Field Geosciences. Students spend their third academic year at the University of Montana where they take a number of field oriented courses set in the Rocky Mountains and western United States.

Judge Molloy's honorary degree from UCC was a Degree of Doctor of Laws.

YOUR CLIENT WAS HAC

By MIKE TALIA

Your client, a small business owner, calls you, frantic, early on a Tuesday morning. She tells you that nobody at her business can get into their computer.

The computer screens have some sort of a message demanding money. Ransomware. Your client is worried that her customers' financial information is at risk. Cyber incidents are becoming more common and occur to large and small businesses. What advice do you give your client? Here are a few items to consider in developing your advice.

Hands off until the experts arrive

Use of or access to affected systems after the discovery of a cyber compromise may destroy forensic evidence or cause a loss of your client's data. Leave the computers and network equipment alone until someone who knows what to do has a look.

Technical expertise

Does your client have a capable cybersecurity professional on staff or on contract? If not, you should recommend one. There are many options, both in and out of the state, but they are not all created equal. In the cybersecurity world, certifications are the standard by which skills are measured. Certifications like the Global Information Assurance Certification (GIAC), Security Essentials Certification (GSEC) or Certified Information Systems Security Professional (CISSP) indicate that an IT or cybersecurity professional has demonstrated significant competence. Your client will want to get a technical expert in quickly, to begin responding to the incident using the National Institute of Standards and Technology (NIST) cybersecurity framework.

NIST breaks cybersecurity into five functions: 1) identify, 2) protect, 3) detect, 4) respond, and 5) recover. If your client has been hacked, you are already at the fourth function, respond. Response activities are

If a client has already experienced a cyber incident, keep these tips in mind when formulating your advice

KED

NOW WHAT?

best performed by a cybersecurity professional and include analysis of the threat and damage mitigation. They may require communication with internet service providers or other network operators about technical matters.

Bringing in an outside expert creates ancillary issues. You may want your technical expert to sign a non-disclosure agreement to protect sensitive information on your client's systems. If your client is a HIPPA covered entity, a business associate agreement may be required. If you are giving access to your client's intellectual property crown jewels, think about how to protect them.

Insurance reporting

Does your client have cyber risk insurance? Their policy may require immediate notification to their carrier. Some cyber risk policies will limit who can provide incident response services (the nerve of that, really). Get a look at the policy so you can help your client preserve coverage.

Criminal reporting

Ransomware violates state and federal criminal statutes. Your client may want to make a criminal report and request law enforcement assistance. The Montana Department of Justice hosts the Montana Analysis and Technical Information Center and the Federal Bureau of Investigation is the lead federal agency for the criminal investigation of computer crimes and has cyber specialists in Montana. If your client operates critical infrastructure, the Cybersecurity and Infrastructure Security Agency's cybersecurity adviser in Montana may also provide assistance. Businesses can be hesitant to make criminal reports for fear of calling attention to their embarrassing situation, but criminal reporting can bring a significant amount of government resources to your client's aid.

Speaking of crimes, before you advise a client to pay a ransom, you had better read the Department of Treasury's Office of Foreign Assets Control (OFAC) advisory

MORE HACKED, PAGE 21

25% of firms have been breached — take steps to mitigate the risks at your firm

By Sharon D. Nelson, Esq., John W. Simek and Michael C. Maschke
Sensei Enterprises, Inc.

In December 2021, Dave Ries, a frequent co-presenter with the authors, wrote an excellent summary of the cybersecurity portion of the ABA's 2021 Legal Technology Survey Report.[1] Perhaps the most striking statistic is that 25% of the survey's respondents reported that their law firm had been breached at some time. Clearly, law firms are an attractive target for cybercriminals – with a plethora of data about so many people and businesses, law firms are a one-stop shop for harvesting a wealth of information.

Quick refresher on the ethics rules

Several of the ABA Model Rules are particularly related to safeguarding client data, including competence (Model Rule 1.1), communication (Model Rule 1.4), confidentiality of information (Model Rule 1.6) and supervision (Model Rules 5.1, 5.2 and 5.3).

What do these duties require? When using technology, they require that we employ competent and reasonable measures to safeguard the confidentiality of client information, that we communicate with clients about our use of technology and get informed consent from clients where appropriate and that we supervise subordinate attorneys, law firm personnel and service providers to ensure compliance with these duties.

There are currently three opinions from the ABA (and others from state bars) that you should be familiar with, including ABA Formal Opinion 477R, "Securing Communication of Protected Client Information" (May 2017), ABA Formal Opinion 483, "Lawyers' Obligations After an Electronic Data Breach or Cyberattack" (October 2018), and ABA Formal Opinion 498, "Virtual Practice" (February 2021).

Don't forget common law duties or contractual and regulatory obligations involving protecting client data and personally identifiable information (PII).

Who's in charge of cybersecurity?

It won't surprise anyone that 80% of solo practitioners have primary responsibility for the security of their firms. The larger the firm, the more likely it is to have expert consultants, IT staff or a chief information officer.

A chief security officer has primary responsibility in some large firms, 13% of firms with 100-499 attorneys and 16% with 500+ attorneys. These numbers surprised us a little – we would have expected the percentages to be higher given what's at risk and the available resources of larger firms.

Law firm policies are still missing in too many firms

According to the report, 53% of respondents say their firms have a policy to manage the retention of data held by the firm, 60% have a policy on email use, 56% for internet use, 57% for computer acceptable use, 56% for remote access, 48% for social media, 32% for personal technology use/BYOD (Bring Your Own Device), and 44% for employee privacy. As you might expect, the numbers have increased over the years, and they are particularly higher in larger firms. The smaller firms tend to lag behind.

We are concerned that 17% of respondents report that they have no policies and 8% don't know about security policies. Clearly, many firms need to up their game.

Incident response plans are critical, yet many firms don't have them

Just 36% of respondents say their firm has an incident response plan. Firm size makes a big difference here, with 12% of solo firms having them and 21% of firms with 2-9 attorneys. The number jumps to 80% at firms with 100+ attorneys.

As the authors regularly give CLEs on cybersecurity, these numbers are consistent with what we've seen, and they are deplorable. We have borne witness to the chaos and panic that ensues after a cyber incident or a full-blown data breach – it isn't pretty. We hear many lawyers says that developing an IRP is expensive and time-consuming. If you believe that, you may well discover just how expensive and time-consuming a data breach can be!

Cybersecurity awareness training: Another essential

Though this statistic is not from the ABA Report, it is generally agreed that there is a human element involved in 82% of data breaches. It is relatively inexpensive to provide law firm employees with security awareness training. They need to know what a phishing email is, how social engineering is used to extract information from law firm employees, the dangers of re-using or sharing passwords – and the list goes on and on.

Is it expensive? If you go to the big cybersecurity firms, yes. If you have your training done by the smaller firms, you'll find the costs modest.

How often should you train? People just plain forget some of what they learned. Also, both threats and defenses in cybersecurity change regularly. Train at least annually. Twice a year is better.

Clients driving requirements

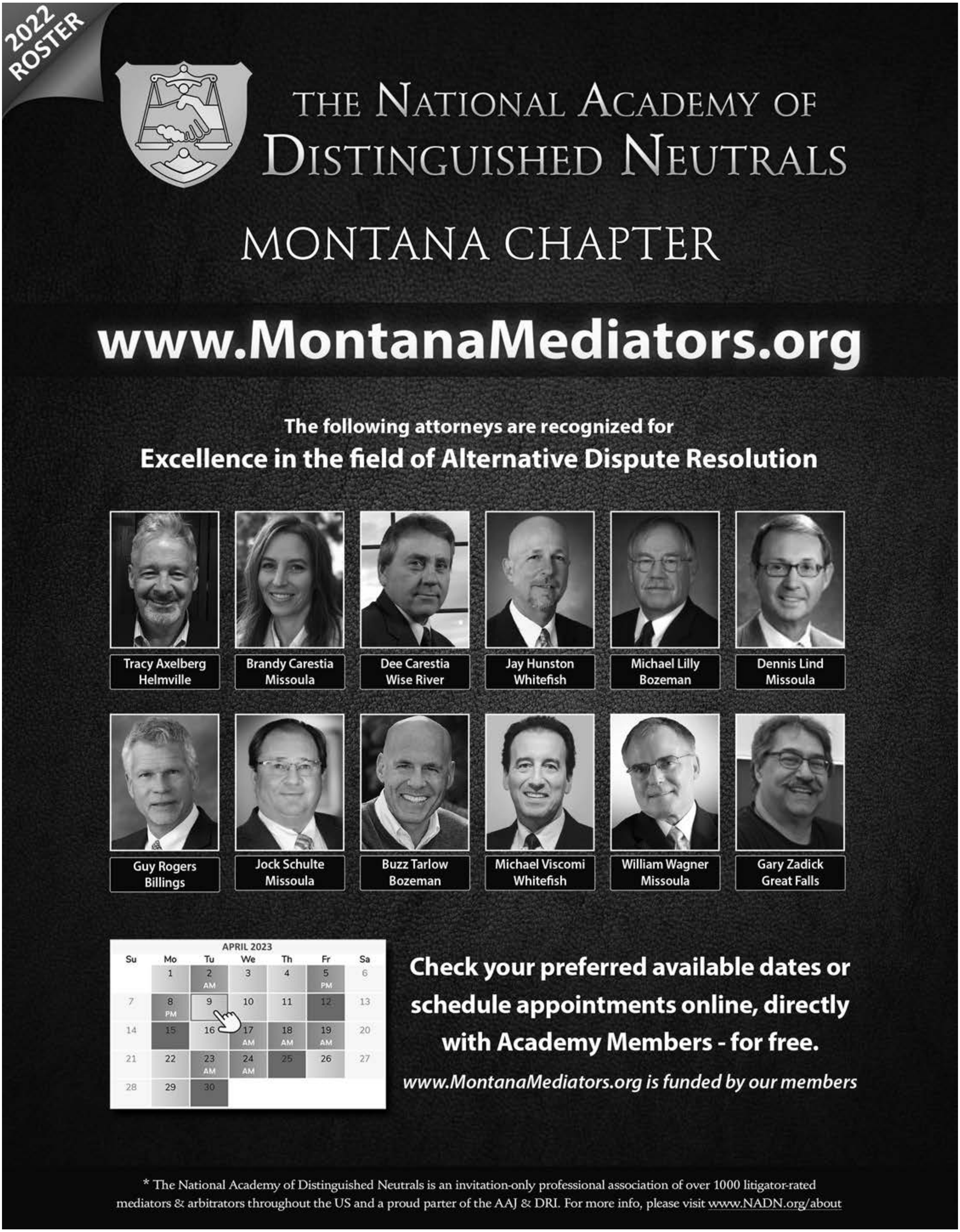
Some clients are requiring third-party security assessments, though there is resistance from law firms. Only 27% of law firms reported that they had a full security assessment, and they were mostly large firms.

Meanwhile, 30% of respondents reported that they had received a client security requirements document or guidelines, again mostly large firms.

It continues to worry us that these

MORE BREACH, PAGE 28

1 https://www.americanbar.org/groups/law_practice/publications/techreport/2021/cybersecurity/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TAX SETTLEMENT MISUNDERSTANDING

Avoid these common misconceptions about reporting awards and fees

By Robert W. Wood

We all pay taxes, and we all talk about them, especially how we wish they were lower. A surprising number of people also express tax opinions to others. Lawyers often speak with authority, but sometimes, they make tax comments that turn out to be less than accurate. Here are some of the more common tax oversights I've heard:

1. "Putting the money in our lawyer client trust account isn't taxable. It can't be taxed until we take it out of our trust account."

Actually, when settlement monies go into a lawyer's trust account, it is treated for tax purposes as received by the lawyer and received by the client. It is actual receipt of fees to the lawyer, and constructive receipt of the client's share to the client. If a case settles and funds are paid to the plaintiff's lawyer trust account, both the client and the lawyer can be taxed.

2. "My client can't be taxed on money in our trust account. It isn't received by the client until I pay the client."

This is a variation of No. 1. Taxes can often precede actual physical receipt. The IRS says a lawyer is the client's agent, so absent exceptional circumstances, the client is treated as receiving funds when the lawyer does. It can create problems when settlement funds arrive in late December, but the client's check isn't dispatched until January. It may be possible to treat it as January income, and documentation can help. But if push comes to shove, the IRS can say it was payment in December.

3. "If a settlement agreement calls for payment in the future, the client has constructive receipt now.

Actually, you *can* call for payment in the future in many common circumstances without triggering taxes before the payment is made. Suppose that a client agrees orally to settle a case in December but specifies in the settlement agreement that the money will be paid in January. Is the amount taxable in December or January? The answer is January.

The mere fact that the client *could* have agreed to take the settlement in December does not mean the client has constructive receipt. The client is free to condition the execution of a settlement agreement on the payment later. The key will be what the settlement says *before* it is signed. But if you sign the settlement agreement first and *then* ask for a delay in payment, you have constructive receipt.

4."Don't worry, the defendant won't issue a Form 1099 for this."

Be careful, you never *really* know what IRS Forms 1099 will be issued unless the settlement agreement makes it clear. Do you know if the defendant has your law firm's or your clients tax ID number? If a Form 1099 is issued in January, you usually will not be able to convince the defendant to undo it without express tax language in the settlement agreement that negates a Form 1099.

If the settlement agreement is explicit and negates a Form 1099, you can say that the Form 1099 *breaches* the settlement agreement. In my experience, defendants always fix this quickly, issuing a corrected Form 1099. In contrast, if the settlement agreement is not explicit, you are out of luck. Forms 1099 are issued for most legal settlements, except payments for personal physical injuries and for capital recoveries.

5. "I have to pay tax on the lawyer's fees I receive, so the IRS can't possibly tax the plaintiff on the same legal fees. That would be unconstitutional."

Both the client and the lawyer must take the legal fees into income, and that is not unconstitutional. In *Commissioner v. Banks,* 543 U.S. 426 (2005), the U.S. Supreme Court held that plaintiffs in contingent fee cases generally must recognize gross income equal to 100 percent of their recoveries. Even if the lawyer is paid separately by the defendant, and even if the plaintiff receives only the net settlement after legal fees, 100% of the money is *treated as* received by the plaintiff.

This harsh tax rule usually means that plaintiffs must figure out a way to *deduct* their legal fees. Of course, the legal fees are gross income to the lawyer too. It may not seem fair, but this isn't double taxation, and it isn't unconstitutional.

6. "The defendant can't issue a Form 1099 to the plaintiff for 100% of the settlement and issue *another* Form 1099 to the plaintiff *lawyer* for 100%. That would be double reporting of income."

Wrong again. In fact, the IRS regulations on Forms 1099 expressly say that defendants should usually issue *two* Forms 1099 each for 100% of the money when the defendant does not know exactly how much each is receiving. If the defendant issues a joint check to the lawyer and the client, the plaintiff will usually receive a Form 1099 for 100%, and so will the lawyer.

7."Your damages are for pain and suffering so they are tax free."

The phrase "pain and suffering" may mean something under state tort law. But this well-worn phrase doesn't mean much in the tax law. In fact, far from being a helpful phrase for tax purposes, the IRS generally treats it is code for emotional distress, and that is not enough for tax-free treatment. To be tax-free, compensatory damages must be for personal physical injuries or physical sickness.

Only they are tax free under section 104 of the tax code. But exactly what injuries are "physical" turns out to be messy. Stay away from ambiguous "pain and suffering" language in settlement agreements. Ideally, you want the defendant to pay on account of personal physical injuries, physical sickness and resulting emotional distress.

8. Emotional distress damages are not taxable.

This oversight remains surprisingly prevalent, even though Congress amended section 104 of the tax code back in 1996 to state that emotional distress damages are taxable. That's right, emotional distress damages are usually fully taxable. Only if the emotional distress emanates from *physical* injuries or *physical* sickness are the damages tax free. That's why you might commonly see the phrase "physical injuries, physical sickness and emotional distress therefrom" in settlement agreements.

That sounds simple, but exactly what injuries are "physical" turns out to be messy. If you make claims for emotional distress, your damages are taxable. If you claim that the defendant caused you to become physically sick, those damages should be tax free. Yet if *emotional distress causes* you to be physically sick, even that physical sickness will not spell tax-free damages. That is because the emotional distress came first, the sickness is a byproduct of the emotional distress.

In contrast, if you are physically sick or physically injured, and your sickness or injury itself *produces* emotional distress, those emotional distress damages should be tax free. It is a confusing and nuanced subject. It also seems highly artificial, and can depend on which words someone might use. In the real world, of course, these lines are hard to draw, and sometimes can seem contrived.

In fact, of all the tax issues facing litigants, this one is probably the thorniest. Plaintiffs often think that their headaches and insomnia should lead to tax-free dollars. But you need to have something more serious that is a real physical sickness. Post traumatic stress disorder is probably enough to be physical, although there is no tax case yet that expressly so holds.

9. "If you lose money or property, sue to recover it but don't have a net gain, you can't be taxed."

This oversight sounds perfectly logical. If you lost something worth $1 million and only get back $500,000, how could you possibly be taxed? Unfortunately, you can still be taxed even if you don't break even in the case. It seems counterintuitive, but you can be taxed even when you have not gotten back all your losses. How can that be, you might ask?

In investment loss and property damage or destruction cases, taxpayers need to consider their tax basis in the property, as well as its fair market value. For example, suppose that you had a $1 million stock portfolio that was churned by your investment adviser, dropping its value to $200,000. That sounds like an $800,000 loss, right? If you recover say $500,000, isn't it clear that you can't be taxed?

Before you give a knee jerk answer, we need to know your *tax basis* in the property. You had a $1M stock portfolio, and let's say that you previously paid $1M for these investments. Thus, that was your tax basis *and also* the fair market value of the investments. In that event, you still lost money, so you would probably use the $500,000 to reduce your tax basis in the assets. However, what if your tax basis in the $1M portfolio was only $100,000?

In other words, you had $900,000 in untaxed capital gain before the mismanagement. You lost money from your investment adviser's mistake, but if you get back $500,000, with only a $100,000 tax basis, you have a big gain and taxes to pay. That is true even though you had a portfolio with a market value of $1M that was mismanaged, and even though you only got a *portion* of your money back.

The same kind of thing happens with other property cases, such as wildfire cases and many others. Where there are taxes to pay, in some cases there may be section 1033 involuntary conversion benefits possible.

10. If a plaintiff law firm receives an IRS Form 1099 for 100% of a settlement, the law firm must pay tax on 100%, even if it immediately pays out 60% to the plaintiff.

No, the plaintiff law firm merely pays tax on its fee, 40% in this example. The confusion often centers on IRS Form 1099. Generally, amounts paid to a plaintiff's attorney as legal fees are includable in the income of the plaintiff, even if paid directly to the plaintiff's attorney by the defendant. For tax purposes, the plaintiff is considered to receive the gross award, including any portion that goes to pay legal fees and costs. *See Commissioner v. Banks*, 543 U.S. 426 (2005)

The IRS rules for Form 1099 reporting bear this out. Under current Form 1099 reporting regulations, a defendant or other payer that issues a payment to a plaintiff and a lawyer must issue two Forms 1099. The lawyer should receive one Form 1099 for 100 percent of the money. The client should also receive a Form 1099, also for 100 percent.

The lawyer's Form 1099 will usually be a gross-proceeds Form 1099, with the amount included in box 10 of Form 1099-MISC. Gross proceeds paid to an attorney are currently reported in Box 10 of Form 1099-MISC. However, until 2020, they were reported in Box 14 of Form 1099-MISC; the change came when new Form 1099-NEC were created for independent contractors.

Lawyers should take note that gross

MORE TAX, PAGE 21

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HACKED
FROM PAGE 15

on the potential risk of ransom payments violating OFAC sanctions. See for yourself at, https://home.treasury.gov/policy-issues/financial-sanctions/recent-actions/20210921

Privacy and breach reporting

Our personal information is stored on databases the world over. Web browsing, social media, financial, healthcare, and insurance information is out there. As governments around the world wake up to the need for stronger privacy protection, industry professionals are increasingly reliant on groups like the International Association of Privacy Professionals for training and certification. A common part of the offer in a ransomware attack is the prevention of the further distribution of any private information that was stolen from the affected system. Plain old blackmail, because privacy has a price.

There are many breach reporting requirements and you may have to help your client find which applies to them. Montana has a generally applicable consumer data breach reporting statute in MCA § 30-14-1704, and the Department of Justice has a website to explain it at https://dojmt.gov/consumer/data-breaches-businesses/. There are also other state and federal breach reporting requirements that apply to particular industries like financial services, healthcare, and insurance. Be extra careful if your client does business in Europe or California, where they may run into the General Data Protection Regulation or the California Consumer Privacy Act. These types of laws are why websites have started getting in your face to ask about your cookie preferences.

Public and customer relations

If your client is hacked, they may need to manage communications with customers concerned with their data, along with public communications to maintain confidence in their brand. Regulatory schemes on privacy or breach reporting may force your client's hand. Concerned customers may make panicked calls. You can help your client develop themes and messages that balance privacy rights and breach reporting obligations.

"Just like personal hygiene, cyber hygiene is simple, requires regular attention, and causes embarrassment if neglected."

Prevention

Do not wait for your client to be hacked before you talk about what to do during an incident response. The proverbial ounce of prevention really is worth more than a pound of cure here. The first three functions within the NIST framework are preventative in nature. Identify cybersecurity risks. Protect company information and infrastructure against cybercriminals. Implement processes and procedures to detect a cyber intrusion.

Just like personal hygiene, cyber hygiene is simple, requires regular attention, and causes embarrassment if neglected. But unlike personal hygiene, you can politely talk to your client about cyber hygiene. When an employee leaves and turns in a key to the building, be sure to close their network account too. Does your client use an alarm on their office? Computer networks can have intrusion detection systems installed like in the physical world.

In case of a cyber hygiene failure, help your client think about what they need to do in response to a cyber incident by preparing an incident response plan. It does not have to be a complicated document, but you want to have thought it out before you need to implement it. Who do you call at the insurance carrier? Technical professionals? What tasks will each employee have? Who will manage customer communications? How can revenue generating operations continue? By the way, if this plan is kept only on your business computers, and they are held hostage, how will you get to it?

Incident response should also include a plan for continuity of operations. If you are not delivering your goods or services to customers, you are not making money. Business interruption coverage may not carry the day. Having redundant capabilities in the event of a cyber incident, while maybe not as efficient, might make the difference between keeping a business limping along or bankrupting it.

As you likely guessed, these issues are not all inclusive and there is not a single best solution to each cyber incident. This is a start to help you think things through for your clients so that you can be a little more effective at handling that client call, especially if your client has not planned for it. Now about your own cyber hygiene…

Mike Talia is an in-house lawyer with the Montana National Guard in Helena. He provides legal support to the Montana National Guard's Defensive Cyber Operations Element and is a course developer and instructor for the National Guard Bureau Cyber Legal Course. The opinions in this article are his own and not attributable to the Department of Defense or Montana National Guard.

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proceeds reporting (Box 10 of Form 1099-MISC) is the best reporting for a lawyer. Money reported as gross proceeds paid to a lawyer is not classified as income by the IRS. That is, unlike Form 1099-MISC box 3 (other income) or Form 1099-NEC, the IRS does not match the taxpayer ID number for gross proceeds paid to an attorney and match with the lawyer's tax return to be sure it is income.

A portion of the payment reported to the lawyer may be income to the lawyer. However, the amount could also be for a real estate closing or some other client purpose. The IRS does not track amounts reported as gross proceeds paid to an attorney on Form 1099 in the way it treats say "other income" on from 1099-MISC Box 3. Therefore, the lawyer should simply report whatever portion of the reported payment (if any) is income to the lawyer.

Conclusion

Talking about taxes is natural, but be careful. There are many elements involved in resolving lawsuits and pre-litigation disputes. For lawyers and especially for clients, the situation can be difficult and emotionally charged. Extra tax uncertainties can add to the pressure, especially when they turn out to be big and unpleasant surprises later. Be careful out there.

Robert W. Wood is a tax lawyer and managing partner at Wood LLP in San Francisco and a State Bar of Montana member. He can be reached at Wood@WoodLLP.com.

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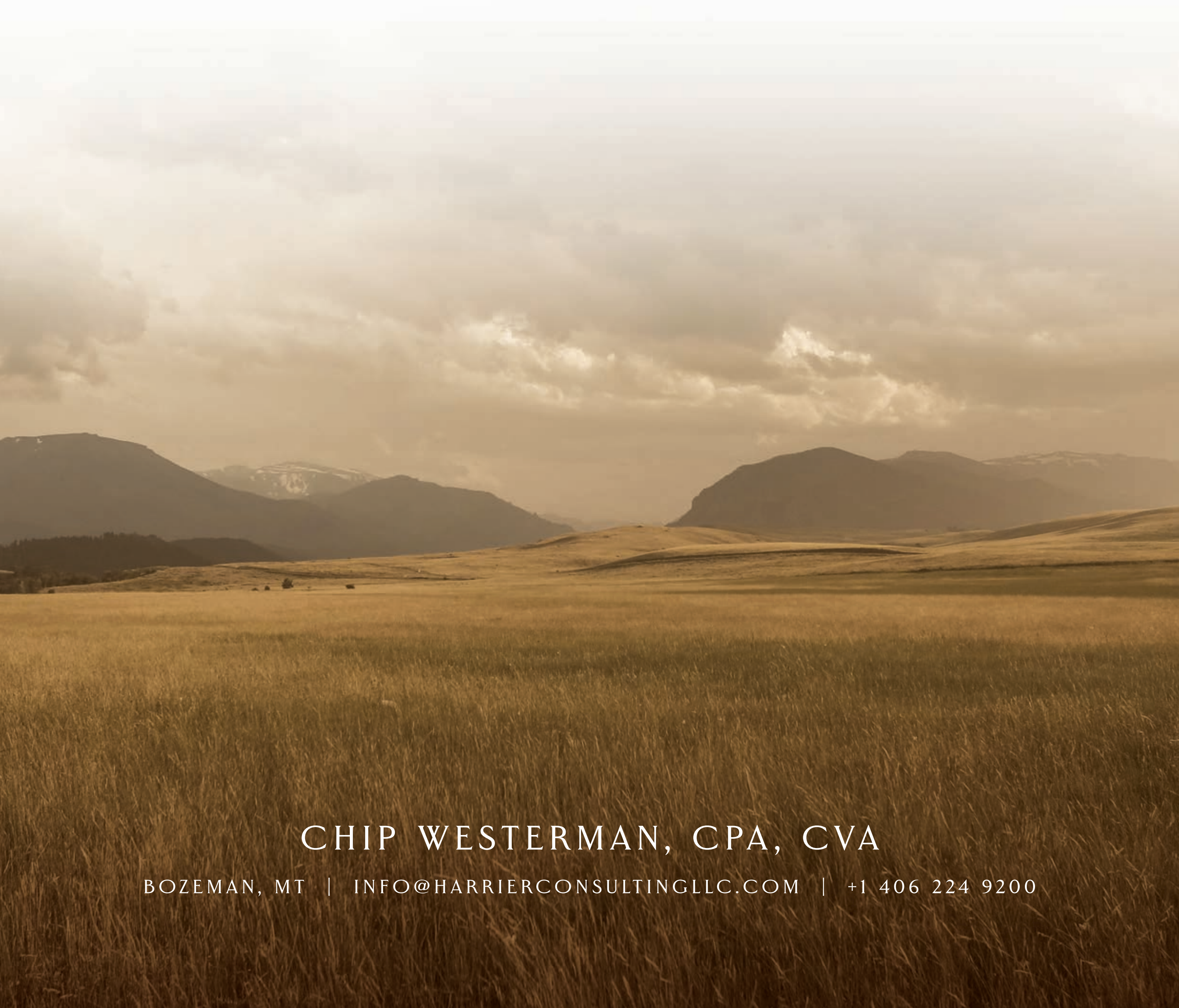

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Understanding clients' charitable giving goals can pay dividends to philanthropic legacies

By Dan McLean

Now is a great time to talk with your clients about their philanthropic goals. Clients are more ready than ever to discuss their charitable giving options to support the causes they care about.

Many clients consider their lawyer to be a trusted confidant and want them to better understand their motivations for charitable giving, have meaningful, values-based conversations, and talk about how to involve children and grandchildren in charitable giving. Many clients also express a desire to have philanthropic conversations early in the attorney-client relationship. Those conversations often involve getting to know clients' charitable interests while helping them navigate available tax benefits and various vehicles for giving, whether during their lifetime or after they die.

Many planning options can establish or add to your clients' philanthropic legacies. These include charitable gift annuities, charitable remainder trusts, charitable lead trusts, IRAs, life insurance, and bequests. Your clients' philanthropic legacies ensure that intergenerational transfer of wealth benefits Montana communities.

Montana clients can take advantage of the Montana Endowment Tax Credit on their Montana income tax returns if they donate to a qualified endowment. Clients can create their own endowment or contribute to an existing endowment at the Montana Community Foundation (MCF). Individuals may take a maximum credit of $10,000; couples can claim up to a $20,000 credit dollar for dollar against their Montana income tax. An endowment is a fund held perpetually for charitable benefit. As the fund grows, returns are used to support designated beneficiary organizations or fields of interest. Clients can fund endowments with a variety of assets such as cash, real property, or marketable securities.

Permanent endowed funds at MCF require a minimum contribution of $25,000, which can be contributed over as many as five years. For many clients, the Montana Endowment Tax Credit may not be important. Some clients may consider charitable gift annuities and deferred gift annuities, gifts of personal residences while retaining lifetime use, or direct distributions from their IRAs to their favorite charities.

Minimum contributions of $5,000 are sufficient to create charitable gift annuities which may qualify for the Montana Endowment Tax Credit. Charitable gift annuities require annual payments to the donors or other individuals. Deferred gift annuities permit delaying those payments. If a client doesn't need the income payments from either type of gift annuity, after five years they can forgive future payments and obtain another charitable tax deduction at that time.

MCF specializes in preserving wealth in Montana. MCF's staff can support you to help your clients at every step of the charitable giving process. As your partner in philanthropy and expert in gift planning, MCF can help you create custom charitable plans and strategies for your client to maximize tax benefits, particularly the Montana Endowment Tax Credit. Making gifts to an existing endowment at MCF empowers clients to establish lasting family legacies. Qualified endowments also may be donor-advised permanent funds that clients create, similar to private foundations, but with fewer complications.

Partnering with MCF as the charitable arm of your professional team expands the range of services you can offer to your clients while leaving you in control of those relationships.

MCF can assist you and your clients in creating a charitable legacy. MCF's charitable gift and estate planning tools can provide you with the resources you need to meet your clients' needs. MCF's philanthropic officers can assist you, using up-to-date software to calculate the value of planned gifts eligible for tax deductions and credits and estimated tax savings for your clients. Additionally, MCF can offer in-depth knowledge of local community issues as well as the latest trends in philanthropy.

Your partnership with MCF ensures that your clients' philanthropic legacies reflect their values and continue to make grants to the causes they care about for many years. With a customized and highly personalized approach to gift planning, MCF staff can help achieve a donor's unique financial and charitable goals.

With offices in Bigfork, Billings, Havre, Helena, and Missoula, MCF staff are available to meet in person or via technology, as preferred. Contact them to get started.

- Jessica Stewart Kuntz (Helena)- 406-594-7862, jessica@mtcf.org
- Heather Ohs (Billings)- 406-671-9843, heather@mtcf.org
- Jim Bennett (Havre)- 406-301-3918, jim@mtcf.org

Since 1988, the Montana Community Foundation has helped create permanent philanthropy across Montana. MCF manages more than $150 million in assets and administers more than 1,400 philanthropic funds and planned gifts. As a Board member of MCF, it is my pleasure to work with their staff to ensure the Last Best Place we love is cared for far into the future.

Dan McLean retired in 2019 after serving as a partner in the Crowley Fleck law firm for 38 years with a primary focus on trust and estates, elder law, business and nonprofit organizations, and charitable giving. He began his legal career with a federal clerkship for the late Honorable Judge William J. Jameson. In 2019, he was awarded the William J. Jameson award, named after his former boss and mentor. He is a board member of the Montana Community Foundation.

Take the 10,000-foot view of your life – and learn to like it

MERI ALTHAUSER

In January I was delighted to attend the CLE and Ski at Big Sky resort (thank you State Bar of Montana!) which coincided with a ski camp for my girls, ages 9 and 16, where our Missoula coaches took the kids to Big Sky to check out the race venue for their upcoming Junior Freeride competition.

On day one of skiing it was clear that my youngest was by far the tiniest kid at camp, where there were mostly high school boys plus my two girls. We decided I would just go with the team to stick with her and cheerlead. Within minutes we were at the top of the challenger chair where one of the boys said that the double-black diamond ahead was "not too bad" and I learned quickly that my version and a high school kid's version of "not too bad" were wildly different when it comes to skiing the high alpine (with not much snow). The remainder of the day galvanized this realization as I followed the kids into gullies, chutes, off cliffs, and past signs such as "triple black diamond," "experts only," and "do not fall: death will result."

Of course, my third-grader was fine and showed all the fear and concern of someone wandering a grocery store aisle. Meanwhile it took every ounce of my being to remain calm, not cry, and to keep cheering on the team when I was far beyond my comfort zone and never in a million years would have chosen to jump off a cliff (well, a cliff to me, a small hop to the rest of the world) onto runs such as the triple-black called "Don't Tell Mama." (I AM mama!! Why am I here!?)

As my fear began to subside and be replaced with pride that I had actually kept up, we did one last run. The traverse to get there was through the "no fall zone" (this requires no explanation) and what is usually a lovely powdery knob was, in this years' light snow conditions, a thin skiff of hard-packed snow snaking through talus fields, rock walls, and tree clumps to the main face. I brought up the rear of the team and watched them slowly pick their way down to the face, when poof. A little pink helmet went down out of sight.

My heart stopped, the pressure of tears hit the back of my eyeballs, I saw a sweet high school boy swoop down to her side, and the little pink helmet popped right back up. "Whoa!" she said. "I'M OKAY!!!" she beamed. The boys cheered.

The rest of the weekend I held fear, pride, and gratitude in equal measures. My hands sweat in our afternoon CLE while I replayed the scary parts of our day in my head, and I found it hard to pay attention. But to find a way to harness the stress I wondered what that experience was supposed to teach me beyond the front-facing lesson of how to remain calm and do hard things. One thing came to mind: perspective.

Those three seconds where my heart stopped beating contained a lifetime of perspective. From that 10,000-foot view, or if things really do end in disaster, are we spending our limited time on what really matters to us?

We know that most people can't quite articulate what "matters" or what their personal vision is, but taking the time to really figure this out might be life-changing. Try this month's exercise: Make a timeline of your whole life. First, break it into time periods that make sense to you, like before high school, college, between college and law school, etc. Make a list of the major events or transitions that took place in your life, good or bad. Try to qualify each one as a time you were most happy, a time you struggled, or anything in between. When were you the most happy? What made you feel fulfilled with achievement? What did you learn from each of these events? And what is the pattern

Meri Althauser is an attorney of over 10 years practicing family law and mediation in Missoula. Her practice focuses on collaboration and solution-finding for her clients and their families. She also offers consulting services in workplace wellness, with a certification as a Workplace Wellness Specialist through the National Wellness Institute and as a Resilience and Thriving Facilitator through Organizational Wellness and Learning Systems.

you see in yourself? If you don't like that pattern, how can you reframe it to make it a strength? For example, I tried several careers. Does it make me a quitter? Or does that make me agile with many backgrounds from which to draw experiences?

Now, start with one day of your current routine. Are you doing at least one thing that aligns with what makes you happy and fulfilled? Like quality time with kids at home, or time for a coffee break with a friend. How about in a week, then in a month, and in a year? Do you get to do a sufficient amount of legal work you take pride in, or is there too much paper-pushing? Do you get enough rest?

If there isn't space for doing what matters to you, why not? When you come home is your brain still too busy to play with your kids? Is your legal work not fulfilling enough (or very fulfilling but preventing vacation!)? Take the time to really get to the bottom of this question because these are the most important determiners of your engagement at work. The 2022 Report on the State of the Legal Market (Thomson Reuters Institute) enlightened us that nearly 25% of all associates were headed toward quitting in 2021 because of a lack of meaningful work or work-life balance even when they received pay raises of nearly 15%.

Last, make a plan to decrease distraction and increase the meaningful work, starting one day at a time. What is the one thing each day you need to do to make sure that day mattered to you? Once that's tackled, try a week, then a month, then the full year.

Make sure that when you have the rare opportunity to take the 10,000-foot view, you like *enough* of what you see.

EXERCISE WORKSHEET

If you would like a worksheet to go with this exercise, contact Meri Althauser at meri@forwardlegal406.com.

Responsibly embracing any and all digital tech in the practice of law

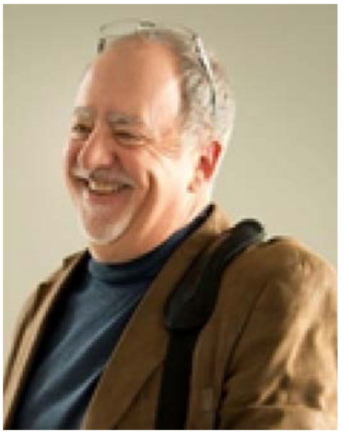
In many jurisdictions, commentary to Rule of Professional Conduct 1.1 Competency states that lawyers are to keep abreast of the benefits and risks associated with relevant technology. With that language in mind, do you actually do so? I ask because in my world I often find that lawyers are pretty good at evaluating the benefits of any technology they are considering using. It's evaluating the risks that seems to get the short shrift in the decision-making process for any number of reasons, not the least of which is that doing so can be such a killjoy.

Consider voice assistants like Google Assistant, Siri or Alexa. All have a serious coolness and convenience factor; and it certainly appears that the adoption rate and degree of integration of these and other voice user interface technologies into every facet of our lives will only continue to increase. Next, factor in the movement toward smart homes and smart offices, which also seems to have advanced beyond the early adoption stage. So again, if you are already using or are thinking about using voice assistants and/or smart office devices in your practice (think internet connected light bulbs, security cameras, access locks, coffee pots, and the list goes on), have you looked into the associated risks? For example, confidentiality concerns and the introduction of another phishing attack vector are risks that come immediately to my mind with the use of voice assistants; and if you can control a smart office device remotely via the Internet, so can a hacker.

Now hang with me here, because the purpose of this article isn't what you might be thinking. I'm not trying to raise a siren call out of a personal fear that embracing digital tech might be your downfall. That said, before I share my main point, I do have one more example I'd encourage you to think about.

Have you ever had a client or other guest enter your office and while sitting down take out their smartphone and say something along the lines of "let me put this on silent mode" or "let me turn this off" and then place the phone down in front of them or perhaps put it back in their pocket? If so, have you ever considered that once in a while someone might actually be enabling the record function instead of powering down or placing the phone in silent mode? This can and sometimes does happen. Please understand I'm not trying to suggest that lawyers should never allow anyone to bring a smartphone into their offices. I'm simply trying to remind you that smartphones are sophisticated pocket-sized computers that come with all kinds of capabilities and I suspect few of us ever really take the time to think about what others might be doing with these computers while in our presence.

My point is this: Voice assistants, smartphones and every other digital tech tool out there come with certain inherent benefits and risks that we are charged with having to understand and consider prior to using any such tool in the day-to-day practice of law. While the benefits of these tools are at times almost self-evident, the risks often aren't. Killjoy or not, the potential risks of every tech tool do need to be investigated and understood prior to making any purchases. Doing so is the only way to make an informed decision about how to deploy these tools in an ethically responsible way. This will also help you establish some parameters around what employees and guests can and can't do with any digital tech tools they bring into your professional space. If you haven't given much thought to the risk side of the equation, all I can say is it's time to start.



Mark Bassingthwaighte

Since 1998, Mark Bassingthwaighte, Esq. has been a Risk Manager with ALPS, an attorney's professional liability insurance carrier. In his tenure with the company, Mr. Bassingthwaighte has conducted over 1,200 law firm risk management assessment visits, presented over 400 continuing legal education seminars throughout the United States, and written extensively on risk management, ethics, and technology. He is a member of the State Bar of Montana as well as the American Bar Association where he currently sits on the ABA Center for Professional Responsibility's Conference Planning Committee. He received his J.D. from Drake University Law School

ALPS

Biden nominates Laslovich as US Attorney

President Joe Biden has nominated Jesse Laslovich to serve as the U.S. Attorney for the District of Montana.

Laslovich, 41, Regional Vice President for SCL Health Montana-Wyoming region, has had a long career in Montana politics and the Montana legal system.

The Anaconda native became the second youngest Montanan ever elected to the Legislature in 2000 at age 20. Since then, Laslovich, a 2006 graduate of the University of Montana School of Law, has worked as an assistant attorney general, and served as Chief Legal Counsel in the office of the Montana Commissioner of Securities and Insurance. He also served as a Special Assistant U.S. Attorney in the United States Attorney's Office for the District of Montana from 2011 to 2012.


Laslovich

According to news reports, Laslovich was among six nominees for the U.S. Attorney post.

At the time of publication, the Senate had not acted on Laslovich's confirmation. As of Jan. 31, President Biden had nominated 43 U.S. Attorneys, and 31 had been confirmed.

If confirmed, Laslovich would replace acting U.S. Attorney Leif Johnson. Johnson has been in that role since 2020.

COURT ORDERS

DISCIPLINE

Montana attorneys Margaret Reader and Todd Stubbs were both suspended from practicing law indefinitely for no less than seven months for failure to respond to disciplinary complaints against them.

The complaint against Stubbs arose after the Office of Disciplinary Counsel received a grievance against him alleging he had abandoned a client and failed to protect the client's interests. After Stubbs failed to respond to the complaint and a follow-up letter sent in November and December 2020, ODC received another complaint in January 2021, this one alleging that Stubbs accepted a $7,000 fee but failed to pursue the case, canceled or failed to show for numerous appointments and failed to return the client's messages. ODC attempted contacting Stubbs again by email and at multiple mailing addresses associated with him, all of which were returned as undeliverable.

The ODC's involvement with Reader arose after it received a grievance from a district court judge along with documentation from a standing master that Reader had failed to appear at hearings, she had been sanctioned for failing to appear, and that the judge and standing master had attempted to address the pattern of behavior with Reader to no avail. ODC also received several informal calls reporting that Reader had stopped appearing at her firm. An ODC investigation found that she had not been seen in her office for a significant period, and that she was in the process of being evicted. Reader also failed to answer to ODC's complaint and multiple attempts by ODC to reach her.

The Commission on Practice held hearings for Stubbs and Reader. Neither appeared at their hearings. The commission concluded that both were in default for failing to respond and that they both had violated M. R. Pro. Cond. 8.1(b). The Supreme Court accepted the Commission's recommendation for both Reader and Stubbs of suspension from the practice of law for a period of not less than seven months and imposition of the costs and expenses of ODC's investigation and the Commission's proceedings.

The court noted that as of its Jan. 25, 2022, orders imposing discipline on Stubbs and Reader that neither has responded in any manner to ODC, the Commission on Practice, or the Supreme Court regarding this disciplinary matter. The suspensions are effective 30 days from the date of the orders.

APPOINTMENTS

Access to Justice Commission: The court appointed Acting Dean Monte Mills to the Access to Justice Commission to represent the University of Montana's Alexander Blewett III School of Law. Mills replaces Professor Paul F. Kirgis, who resigned as dean.

Commission on Character and Fitness: The court has appointed Helena attorney Samuel J. King to the Commission on Character and Fitness. He replaces attorney Barbara Bell, who resigned her position on the commission.

Commission on Practice: The court appointed Troy McGee, retired chief of the Helena Police Department as a non-attorney member of the commission, replacing Patricia Devries, who resigned. McGee will finish the rest of DeVries' term, which expires on Aug. 23, 2023.

Criminal Jury Instructions Commission: The court reappointed the Honorable Jessica Fehr, the Honorable Michael Hayworth, Melissa Broch, Professor Andrew King-Ries, and Chad Wright to the Criminal Jury Instructions Commission for terms expiring Nov. 1, 2025. The Honorable Kaydee Snipes-Ruiz was also appointed to the commission to replace the Honorable Luke Berger, the former chair, who resigned from the commission. Judge Hayworth will be the new chair.

BIAS
FROM PAGE 11

justice lens, efforts to reduce false allegations would miss the mark.

Example: Official Misconduct

Official misconduct is another innocence issue that demands to be examined through a racial justice lens. Official misconduct includes behaviors like witness tampering, misconduct in interrogations, fabricating evidence, concealing exculpatory evidence, and misconduct at trial. According to a September 2020 report by the National Registry of Exonerations, officials committed misconduct in 35% of cases that led to exonerations since 1989. The report found that exonerated Black people were most likely to be victims of official misconduct, followed by Hispanic people, especially for cases involving drug crimes, murder, and capital offenses.

One of the most famous examples of official misconduct occurred in the Central Park Five case. A white woman was jogging in New York City's Central Park when she was attacked and raped. Five Black and Latino teenagers ranging from ages 14 to 16 emerged as the accused. Coercive tactics including exhaustion, threatening violence, and blatant lies were used to coerce confessions from the teens. Their coerced confessions did not match the crime, and none of their DNA was consistent with the DNA from the crime scene. They were convicted nonetheless.

Coercion is a psychological tool that does not discriminate based on race; however, stereotypes about BIPOC and criminality can increase pressure in an interrogation room. The interrogator may be informed by the stereotype that BIPOC commit more crimes. The person of color being interrogated is likely highly aware of the stereotypes leveled against them and the reality of the treatment they will receive in the criminal legal system. Adequately advocating for an individual facing these barriers or taking steps to prevent instances of official misconduct altogether requires an understanding of how official misconduct, like deceptive interrogations, are uniquely experienced by innocent BIPOC.

Other innocence issues that require a specific understanding of how they impact BIPOC include the following: bias-motivated policing and prosecuting; cross-racial witness misidentification; the presumption of guilt; all-white juries; cash bail; private prisons; biased policing tools and algorithms; unregulated databases; plea bargaining; exoneree compensation; and mass incarceration.

In Montana, this conversation must extend to innocent indigenous peoples who are uniquely vulnerable to wrongful and unjust convictions. Montana Census and Department of Corrections data reveal that indigenous peoples comprise less than 7% of the state population but nearly 23% of the overall prison populations respectively. The data is even more damning for indigenous women who represent a staggering 34% of the Montana Women's Prison. The Montana Innocence Project's client data reflect numbers that mirror state data with indigenous applicants representing an annual average of 28% of its total applications for legal services.

Innocence advocacy on behalf of indigenous peoples in Montana requires a racial justice lens for the previously mentioned innocence issues in addition to over-policing and over-criminalization of indigenous peoples and communities, cultural and geographic barriers leading to technical violations, jurisdictional complexities, and the criminalization of indigenous women's survival strategies.

There is a powerful movement to more openly identify the responsibility of innocence organizations, and other lawyers and advocates who work on wrongful convictions, to examine innocence issues with racial equity in mind. The Innocence Project was inspired by the advent of DNA testing and its ability to prove innocence in a society that, at the time, was largely skeptical that wrongful convictions occurred. Forensic science is still a necessary tool for post-conviction work, but the time is ripe to shift the conversation to meet both the calls of impacted communities and the demand for racial justice in our country. With the vast majority of exonerees belonging to minoritized racial groups, and nearly half of all exonerees being Black, the racial justice component of innocence advocacy must take a front seat.

BREACH
FROM PAGE 16

percentages are so low. Only once have we done a security assessment for a law firm without finding any critical vulnerabilities.

Final Words

Though we say it all the time, we'll repeat ourselves here. There is no silver bullet in the cybersecurity world. If a vendor tells you they can make you 100% secure, run the other way. We need to get many of the percentages cited above to be higher. Time to roll up your sleeves and get to work.

Lastly, because there is no silver bullet, don't forget to make sure that you have adequate cyberinsurance – that is a risk management tool since danger always lurks, your technology efforts notwithstanding!

Sharon D. Nelson is a practicing attorney and the president of Sensei Enterprises, Inc. She is a past president of the Virginia State Bar, the Fairfax Bar Association, and the Fairfax Law Foundation. She is a co-author of 18 books published by the ABA. snelson@senseient.com

John W. Simek is vice president of Sensei Enterprises, Inc. He is a Certified Information Systems Security Professional, Certified Ethical Hacker, and a nationally known expert in the area of digital forensics. He and Sharon provide legal technology, cybersecurity, and digital forensics services from their Fairfax, Virginia firm. jsimek@senseient.com.

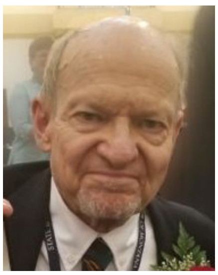
Michael C. Maschke is the CEO/Director of Cybersecurity of Sensei Enterprises, Inc. He is an EnCase Certified Examiner, a Certified Computer Examiner (CCE #744), a Certified Ethical Hacker, and an AccessData Certified Examiner. He is also a Certified Information Systems Security Professional. mmaschke@senseient.com.

Harold Van Dye

Harold Van Dye of Missoula died on Jan. 14, 2022. He was 75.

Born in Cut Bank to Harold B. Dye and Ruth VanDemark Dye on March 3, 1946.

Van's dad wanted him to be a doctor, so Van went to law school. He was independent and a contrarian in the best sense. He served as deputy county attorney for civil matters and later was partner in Milodragovich, Dale and Dye, PC. He practiced as a sole practitioner and with the firm of Dye & Moe, PLLP. He achieved AV (Preeminent)-rating from Martindale-Hubbell. Law was an exciting challenge for him and he loved the creativity required of an attorney. In 2021, the State Bar of Montana honored Van for his 50 years of practice.



Dye

Van was licensed to practice law in Montana and federal courts including before the U.S. Supreme Court. He put his business degree to work as debtor/creditor specialist especially in bankruptcy. He proudly served in recent years as the judge-appointed attorney representative to the United States Bankruptcy Courts for the Ninth Circuit.

Van was active in Toastmasters, Adventure Cycling, Missoula Planning Board, counsel to Missoula City and County Local Government Study Commissions, Van Dye Classic, Girls' Group, State Bar of Montana Bankruptcy Section.

Van was a study in patience. He was optimistic, happy and smart as a whip. A great storyteller, you were lucky if you heard tales of the Hi-Line, county attorney's office, Hell's Angels. Blessed with a kidney donation from his son John, he was a kidney transplant patient – this did not discourage or slow him down. He was the tour director for the family: he traveled and camped out with his children and their cousins and friends; loved Spain and Portugal with Elizabeth, Tom, Winnie and Nancy. He designed many road trips, including to Griz championship games, and the ocean-kayak trip which was the most excellent adventure with Nancy. He loved music and the magical music tour with his brother-in-law Jim that included many music halls of fame, and, for balance, the football hall of fame. During the pandemic, he perfected guitar playing and singing for Sunday suppers.

Van's pride was his children Elizabeth, Travis and John. He supported them in all choices, even those he may not have been consulted on.

Van is survived and beloved by his wife of nearly 45 years, Nancy; children and grandchildren. A celebration for the guy who "never met a beer he didn't like" will be held in the summer, fall or when safe.

He supported many charities and would appreciate donations (can be made online) to United Way for the benefit of the Coordinated Housing Solutions Fund, 412 W. Alder, Missoula, MT 59802 or Heifer International, 1 World Ave., Little Rock, AR 72202.

Gerard "Jerry" Schuster

Gerard "Jerry" Schuster of Bozeman died on June 8, 2021. Jerry was born in Glasgow on Aug. 21, 1945, and is survived by his wife, Theresa.

Jerry studied law at the University of Montana, interrupted by a two-year stint in the Army that included a tour in Vietnam. As a member of the "Big Red One," he attained the rank of Spc. 5.

Schuster

After law school, he began his law practice in Wolf Point and remained there for 40 years. He was considered one of the last of the "old time lawyers" who welcomed his clients to his office, responded to community needs, and was generous in providing his skills. He wore many "hats" in Wolf Point, often all at the same time. His positions included City Attorney, Deputy County Attorney, federal magistrate, and Fort Peck Tribal Appellate Court Judge, as well as serving local individuals, businesses, and farmers and ranchers in his private practice.

Jerry will be remembered for living life fully with a generous heart and patient spirit. His family was his joy and delight. He was dedicated to his work, his church and community. He felt strongly about the many good people and happenings in Wolf Point. Jerry wholeheartedly engaged in his semi-retired life in Bozeman, relishing the hiking, novice skiing, his new parish life, listening to music, enjoying good food, and immersing himself in a good book.

Jerry has asked that donations be given to your favorite charity. His favorite charities were Catholic Relief Services, Love Inc. of Bozeman, and HRDC in Billings.

Stephen Dalby

Stephen Dalby of Libby died on Jan. 12, 2022. He was 81.

Stephen was born on June 12, 1940. He was a 1966 graduate of the University of Montana School of Law, and in 2016 he was honored as a 50-year member of the State Bar of Montana.

After law school he worked for the Missoula firm of Mulroney, Delaney and Scott before starting his practice in Libby, where he worked for many years before his retirement in 2019..

He is survived by his wife, Patti.

Memorial submissions

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

Please email submissions to jmenden@montanabar.org using the subject line "Memorial." Memorial submissions are subject to editing for style, length and content.

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

ATTORNEY POSITIONS

ASSOCIATE ATTORNEY: Hendrickson Law Firm, P.C. seeks an attorney with litigation experience to do primarily commercial litigation, including contract, property, construction and estate cases, with the opportunity to be a major part of a small, well established, highly rated, general practice firm in Billings. This is an opportunity for virtually unlimited future financial success, primarily based on productivity, while keeping a strong emphasis on professionalism. Three years' experience preferred. Immediate client involvement and experienced mentoring. Please send letter of application, references, resume, transcript, and writing sample to katie@hendricksonlawmt.com.

ASSOCIATE ATTORNEY: Busy established Kalispell Law Firm seeks full time Associate. Salary DOE. Please send resume and references to kserna@jbsattorneys.com.

ASSOCIATE ATTORNEY: Patten, Peterman, Bekkedahl & Green, PLLC in Billings, Montana is seeking a full-time associate attorney to join their firm. Qualified candidates must be currently licensed to practice in Montana. Two to five years work experience in commercial, real estate, and/or estate litigation is preferred. We offer a competitive salary DOE and benefit package including medical benefits and a 401(k). All applications will be kept confidential. To apply, email kthelen@ppbglaw.com.

ASSOCIATE ATTORNEY: Netzer Law Office, P.C. is an eastern Montana law firm, with offices in Sidney and Billings. The firm is seeking to hire a new associate attorney to join their Sidney office and assist clients in an underserved area. The firm supports mentorship, remote work, and practice area flexibility for associates. Interested applicants may submit their interest via email to joelkrautternlo@midrivers.com or by mail to Netzer Law Office, P.C., 1060 S. Central Ave., Ste. 2, Sidney, MT 59270.

ASSISTANT CITY ATTORNEY: The City of Kalispell is currently hiring for an Assistant City Attorney. Excellent benefits package that includes retirement, vacation, sick leave, holidays, and paid health insurance for the employee and reduced rates for dependents. A completed City of Kalispell application may be submitted to dmichel@kalispell.com, mailed to 201 1st Ave E, Kalispell MT 59901, or faxed to 1-406-758-7757. An application may be found at https://kalispell.com/236/Human-Resources

CONTRACT ATTORNEY Established law firm is seeking a Contract Attorney. Candidate must be licensed to practice in the State of Montana and/or California with no disciplinary action, and tribal courts is a plus. Candidate should have experience and familiarity in working with Tribal Government, Tribal Businesses, and tribal law, culture and history. Candidate must have a strong work ethic, proven case management skills and outstanding research skills and willing to travel. Must possess excellent communication skills (both written and oral) and analytical skills. To apply please send cover letter, resume and professional references to CherStewart@outlook.com.

PERSONAL INJURY ATTORNEY: The Advocates Injury Attorneys with offices in Idaho, Utah, Montana, Washington, Nebraska and Wyoming is currently growing at a very fast pace and is looking for a full time Personal Injury Attorney in our Billings, Montana office. Please submit your resume to DeeDee Fox at dfox@advocates.com.

DEPUTY CITY ATTORNEY: The City of Billings City Attorney's Office is seeking a Deputy City Attorney (Criminal) who will perform a variety of professional duties and a full range of legal services related to municipal criminal prosecution. The successful applicant will prepare and prosecute misdemeanor criminal cases in Municipal Court and represent the City of Billings in criminal proceedings before all other courts, administrative agencies and boards as assigned. Submit application and supporting documents online at www.billingsmt.gov or to City of Billings, Human Resources, 210 N. 27th Street, Billings, MT 59101.

DEPUTY/SENIOR DEPUTY COUNTY ATTORNEY: Full-time position which performs a wide variety of routine to complex criminal prosecution and/or litigation duties in the State and Federal court systems including misdemeanor and felony criminal violations, youth court, and child abuse and neglect matters; does related duties as required. *Eligible for telework upon supervisor approval after 6 months of continued employment. Apply to atolzien@yellowstonecountymt.gov.

DEPUTY COUNTY ATTORNEY: Cascade County seeks a Deputy County Attorney - Criminal performs complex legal, professional and administrative work. The Deputy County Attorney (Criminal) initiates and prosecutes criminal cases through final disposition and provides legal counsel and advice on matters of criminal law and performs other related duties as required or assigned. Submit all application materials to: Cascade County Human Resources Department, 325 2nd Ave N #108, Great Falls, MT 59401. Applications available at the Cascade County Human Resources Dept., www.cascadecountymt.gov.

ESTATE PLANNING/TRANSACTIONAL: Moore, Cockrell, Goicoechea & Johnson, P.C., an AV rated business/commercial and litigation firm in Kalispell, Montana is seeking an Estate Planning/Transactional attorney. 4+ years of experience preferred. Salary/benefits very competitive and will consider flexible work/pay arrangements. Benefits include employer funded health insurance for full time employees, generous firm paid SEP-IRA retirement program, and yearly bonus eligibility. Submit a cover letter, resume, transcript, writing sample, and references to Moore, Cockrell, Goicoechea & Johnson, P.C., Attn.: Jay Johnson, PO Box 7370 Kalispell, MT 59904 or email jjohnson@mcgalaw.com and cc: khinman@mcgalaw.com.

IN-HOUSE COUNSEL: Collection Bureau Services, Inc in Missoula is seeking a second in-house counsel. You will be working directly with our current in-house counsel on a variety of compliance and legal needs including legal filings, briefs, hearings, compliance with FDCPA and CFPB Regulation-F as well as guidance on HR and other business practices and law. The job is fast paced and you will be expected to be able to work in that environment. Please provide a resume, work sample, and cover letter with your response to jennk@collectionbureau.biz

MONTANA CONSUMER COUNSEL: The office of the Montana Consumer Counsel, a legislative agency representing the interests of Montana utility consumers in proceedings before the Public Service Commission and other federal administrative agencies and courts, seeks a staff attorney. To view the complete job announcement including minimum qualifications, salary information and application instructions please visit https://statecareers.mt.gov/.

NON-ATTORNEY POSITIONS

LEGAL SECRETARY: Parker, Heitz & Cosgrove, PLLC, a Billings, MT law firm, seeks a full-time legal secretary and/or paralegal with strong communication, organizational and word processing skills. Prior secretarial/legal experience preferred, but not required. Send cover letter and resume to P.O. Box 7212, Billings, MT 59103-7212.

TRANSACTIONAL ASSISTANT: Moulton Bellingham PC is seeking a transactional assistant to assist attorneys with their transactional practices. The transactional practice includes real estate, estate planning, business planning, and tax. The Firm is looking for motivated, detail-orientated people interested in building long-term relationships with our clients. Salary DOE. Apply to Cole.derks@moultonbellingham.com and Duncan.peete@moultonbellingham.com

LEGAL ADMINISTRATOR: Boone Karlberg P.C. in Missoula is seeking an experienced Legal Administrator. Duties include financial reporting and analysis, HR and payroll, and general management of the firm, including managing administrative operations, supervising non-attorney personnel, overseeing finance functions, and supervising the facilities. Qualified candidates must have a background in bookkeeping and familiarity with accounting and financial reporting principles and software. Interested candidates must send a resume together with a cover letter and references to Anna-Maria Murray at ammurray@boonekarlberg.com. See full listing at www.boonekarlberg.com/jobs.

LEGAL ASSISTANT/PARALEGAL: Are you looking to work with a great, hard-working team where you will expand your skills and knowledge within the industry? Datsopoulos MacDonald & Lind is seeking an experienced full-time legal assistant/paralegal to thrive in our office. As a part of the team, you will assist attorneys and clients. This position requires expertise in use of Microsoft Word, Outlook, as well as outstanding proofreading skills. The right candidate must possess knowledge of legal procedures; have great organizational skills and the ability to prioritize work flow and multi-task in a busy practice. We offer a highly competitive compensation and benefits package. Please send a cover letter and resume to sjacobson@dmllaw.com

MEDIATION

GUY ROGERS OF THE BROWN LAW FIRM (Billings and Missoula) announces that he has wrapped up his 35-year litigation practice and now works solely as a mediator/ settlement master. Guy handles mediations throughout Montana and works in his Bigfork/Missoula office during the summer months. Guy is a member of the National Academy of Distinguished Neutrals (NADN), and mediations can be scheduled through its website. Guy can also be reached at grogers@brownfirm.com (Legal Assistant Sylvia Basnett / sbasnett@brownfirm.com). Phone: (406) 248-2611.

OFFICE SPACE

LAW OFFICES FOR RENT IN MISSOULA: Offices and staff areas available for rent on the second and third floors of a beautiful downtown Missoula historical building. Included in the rent is access to wi-fi, a copy/scanning machine (for a small per copy charge), and a very nice 324 square foot ground floor shared conference room large enough for depositions. Square footage of the offices varies, as the rents will reflect, and are as follows: 300, 240, 190, 174, 69. There are also two staff areas available, one is set up as a reception area and is 308 square feet, and the other is set up with two desks in an area 132 square feet. Choose one office or multiple spaces to meet your needs. Rent is very reasonable in this professional, well-maintained building. The owners of the building are requiring masks in all common areas at this time. Please contact Michelle at michelle@rossbachlaw.com for details if interested.

LAW OFFICE FOR RENT IN BILLINGS: Office available for rent on second floor of a beautiful well maintained building in downtown Billings. Rent is very reasonable and includes a large shared conference room as well as an area for support staff. Please contact Michael at mikeusleber@gmail.com for more details if interested.

CONSULTANTS & EXPERTS

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

EXPERIENCED BANKING EXPERT/CONSULTANT – 40+ years of banking experience 30 years of which were in executive management positions in banks ranging in size from community banks to multi-billion-dollar, multi-state banking organizations. Executive responsibility for all phases of lending, lending disciplines and credit assessment. Special expertise in determining borrower creditworthiness and the appropriateness of lender behavior. Outstanding legal references upon request. Please contact Leon Royer by telephone at 406-932-4255 or backcastranch@gmail.com.

CONDEMNATION EXPERT: 21 years Condemnation litigation for state agency. 40+ years active litigation. Services include case analysis, evaluation of appraisals, negotiation assistance and strategy. Expert testimony on recoverable attorney fees and costs. Opportunity for lead and co-counsel on select cases. Email inquiries to ed@mtjustcomp.com.

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

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

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