
Lawyer

THE STATE BAR OF MONTANA

Couple
married
11 times
in 21
minutes
in
Kalispell

(Hint:
they're
proxies)



Montana's overloaded district courts

*Study finds state
needs up to 13 more judges*

Remembering

the works
of
Jack
Dietrich



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PRESIDENT'S MESSAGE

A lawyer's summer reading list

Please build some enjoyment into your plans

Peggy Probasco

As you make plans for the summer, I hope you include attendance at the 33rd Annual Meeting of the State Bar of Montana in Missoula on Sept. 13-14. We will have excellent seminars and good opportunities to socialize with your fellow members of the Bar. The keynote speaker for the banquet is Mike Greco, past president of the American Bar Association. We will also be meeting at a time and place to allow attendance at the University of Montana Law School Jones-Tamm Lecture, featuring U.S. Supreme Court Chief Justice John Roberts.

I also hope your plans include some time off for yourself and your family. Whether it is a long weekend or a month, time away from the daily pressures of the office is the best way I know to recharge and then recapture your dedication to your clients.

In that vein, I have decided to use this month's space to give you a totally subjective recommended summer reading list.

I read a lot – generally three books at a time. I have discovered that many of the attorneys I know also read a great deal outside their practice. I have not read every book recommended, but found the enthusiastic recommendations of others and outside reviews enough to convince me to add some of those I have not read to my list.

Law – full fat

For those of us who love to read about the law and its historical impacts, there are a couple of books that fill the ticket. They are not light reading, but nonetheless may be of interest.

■ Aug. 23 marks the anniversary of the execution of Sacco and Vanzetti in 1927. There are more than 2,000 books which cover the lives of these two men and their trial. I recommend you find one that appeals to you and discover the basis for the continuing fascination with the trial and its many breaches of our judicial system. Two publications to consider are “**The Case of Sacco and Vanzetti: A Critical Analysis for Lawyers and Laymen**,” by Felix Frankfurter, and “**Sacco and Vanzetti: The Men, the Murders and the Judgment of Mankind**,” by Bruce

Watson and due out in August.

■ A comprehensive yet readable discussion of our constitution can be found in “**America's Constitution: A Biography**” by Akhil Reed Amar, who has been on the Yale Law School faculty for 20 years. He fully discusses the constitution and political pressures on the original document and the 27 amendments. I look forward to reading this in small bites to chew slowly and digest completely.

■ Not strictly “full fat,” but a factual accounting is “**Thunderstruck**,” by Eric Larson. This highly acclaimed book highlights the role Marconi's invention of the wireless played in the ability of most the world to follow a sensation criminal act. The book involves rivalries between scientists and the fascination of the world with the attempted escape of a murderer and his lover aboard an ocean liner, pursued by Scotland Yard – unbeknownst to the hapless couple.

■ Finally, for a very quick read and affirmation that Montana judges are not without personality and wit, read the **sentencing memorandum** written by Judge Gregory R. Todd in

Cause No. DC 06-0323. Beatles fans unite. Many of our district court judges and Supreme Court justices have written entertaining opinions without losing focus on the matters they are deciding. I try to remember them and share them with colleagues. If you have a favorite, let me know.

Law – light

There is a plethora of novels involving lawyers as criminal defense attorneys, prosecutors, rainmakers and mystery solvers, too numerous to mention, too far flung to corral. Pick up your favorite or the latest of your favorite author and indulge yourself.

I often find myself mildly intrigued by an author or title, only to begin laboring to the end about halfway through. I generally like to escape the law altogether if I intend to read for the sheer joy of it. Still, I have read many Grishams, some Turow and one Gripando and enjoyed them.

I also recently read a novel for younger readers by

The ‘full-fat’ law reading even includes an entertaining sentencing memorandum by a Montana district judge.

More SUMMER READING, Page 27

'Staggering workloads' for district judges

Montana study says up to 13 new district judges are needed

Montana's district court judges recently completed a workload assessment study, which demonstrates a critical need for additional judges and judicial resources in Montana. The study, conducted by the Montana Judicial Branch with the assistance of the National Center for State Courts, establishes that Montana's District Courts are increasingly busy, and that judges in a number of districts face staggering workloads.

According to the study, Montana's general jurisdiction courts need an additional 9 to 13 new district court judges to stay current with existing caseloads. Montana currently has 43 district court judges operating in all 56 counties.

The study provides the necessary and solid foundation for lengthy discussions about adding judges and other judicial resources to specific judicial districts, the Montana Supreme Court administrator's office said. Creating new judgeships in the trial courts involve a number of parties and costs. Specifically, the judge and staff are paid for by state general fund dollars, which must be approved by the Legislature. Counties are responsible for providing courtroom and office space for any new judges and staff. When proposals ultimately are made for new judicial resources, support from the State Bar and local bar organizations will be critical in advocating for additional judicial positions.

"This study demonstrates what those of us in the Judicial Branch as well as lawyers and many citizens have known for some time – Montana's district court judges face large and complex workloads, and their ability to timely resolve cases is being compromised," said Montana Supreme Court Chief Justice Karla Gray. "I'm pleased that we finally have the empirical data that will enable all involved to make reasonable decisions about resources in the district courts."

The study was based on a model used nationally to assess workloads and the need for additional judicial resources in trial courts. An advisory committee of seven district court judges and one clerk of district court managed the study. Committee members include: Judge John McKeon (chairman), Judge Kitty Curtis, Judge Susan Watters, Judge Tom McKittrick, Judge Ed McLean, Judge Loren Tucker, Judge Gregory Todd and Clerk of Court Lori Maloney.

During the study period, judges tracked their time to the minute by case type and judicial task. The information gathered during the time study was compiled to determine the average time used in resolving each of the 13 broad case types handled by the district courts. This average time per case was compared to the number of cases, to arrive at the minimum number of judges needed to manage the current caseload.

If the District Court Council's recommendations are pursued and approved by the Legislature, it would cost the state between \$2.6 million to \$3.6 million a year for the new judges and their staffs, the Lee Newspapers State Bureau reported. Those figures don't include the cost of space for new personnel in county courthouses.

The Council also is studying the possibility of redrawing district court lines to spread the workload more evenly, Court Administrator Lois Menzies said.

The study concluded that additional district judges are needed in these districts:

- District 1 (Broadwater and Lewis & Clark counties), 5 judges rather than the current 3.
- District 8 (Cascade County), 6 judges rather than 4.
- District 11 (Flathead County), 5 judges rather than 3.
- District 13 (Yellowstone County), at least 7, instead of the current 5.
- District 18 (Gallatin County), 1 new judge for total of 4.

The study found some of the other districts needed additional help, but the numbers were less than a full-time judge.

The study also clearly showed that child abuse and neglect, criminal and juvenile cases are the most time-consuming cases before the courts.

The group of district court judges overseeing the study also developed quality measures designed to account for increasing the amount of time spent on civil and domestic relations cases. If the quality adjustments were applied, the district courts need about 13 additional judges.

The District Court Council, the advisory body charged with overseeing district court resources, will consider the findings from the report before making recommendations to the Supreme Court about additional judges. Requests for additional judges and staff would require approval by the 2009 Legislature.

The full report is available at:

www.montanacourts.org/whatsnew.asp ○

Where new judges are most needed

Lawmakers finally approve a court budget

By **Lois Menzies**, administrator
Montana Supreme Court

The Montana Legislature successfully wrapped up a five-day special session on May 15. During the special session, the Legislature approved HB 2, which appropriates nearly \$71 million for Judicial Branch operations for the next two fiscal years. The bill was signed by Gov. Schweitzer on June 1.

The bill includes funding for the following items, in addition to the Branch's base budget:

- CASA (Court-Appointed Special Advocates) funding stabilization – \$371,200.
- Internal pay equity adjustments for Judiciary Branch staff – \$683,116.
- Information-technology software maintenance – \$521,446.
- District court safety and security – \$300,000.
- Judicial support and youth probation staff – \$325,478.
- Supreme Court pro se law clerk – \$110,513.
- Additional judicial education funds – \$70,000.

Thanks to a \$4.7 million appropriation by the 2007 Legislature, the Law School Building Project at the University of Montana is now fully funded, Law School Associate Dean Fritz Snyder told the State Bar Board of Trustees on June 8.

The building fund is now over the Law School's \$13 million goal for the expansion and improvement of the present Law School facility to help the school meet ABA accreditation standards.

- Drug courts – \$1,345,000.
- Self-help program for self-represented litigants – \$505,000.

Also approved during the special session, HB 4 provides \$3.9 million for the following court technology projects:

- Enterprise license for case management system – \$1,100,000.
- Judicial calendaring program – \$95,000.

UM Law School's building project now fully funded

Houses adjacent to the Law School are being sold and will be moved, and work on a new wing of the Law School will begin in the

fall, Dean Snyder said. He said that 1 to 2 percent of the project's money must be spent on art for the newly improved Law School.

Dean Snyder said the Law School's population of about 85 new students each year is not expected to increase after the building expansion is completed.

- Electronic case filing system – \$540,000.
- Document management system – \$900,000.
- Courtroom infrastructure and equipment upgrades – \$691,711.
- Interactive video network – \$608,289.

HB 4 was signed by the governor on May 25.

Other court-watched measures that have been signed into law

Legislators considered more than 1,500 bills and resolutions during the regular and special sessions. Here's an update on some of the bills the Judicial Branch was watching during the first 90 days that have been signed by the governor:

HB 3 appropriates \$2.5 million to the Judicial Branch to pay District Court variable costs for this fiscal year.

Effective date: April 27, 2007.

HB 13 provides a 3 percent across-the-board pay increase for state employees in fiscal years 2008 and 2009, an additional 0.5 percent longevity increase for employees with a 10-year longevity increment, and an increase in employer contributions for health insurance. Three-percent pay increase effective Sept. 29, 2007; longevity increase effective July 7, 2007.

HB 18 repeals a statute requiring a judge from a multi-county judicial district who travels to a county in his or her district other than the county in which the judge resides to file travel expense vouchers on the first of the month or within 3 days hereafter.

Effective date: March 22, 2007.

SB 50 makes it illegal for an employee, contractor, or volunteer of a Youth Court who has supervisory or disciplinary authority over a juvenile to have sexual contact with the juvenile.

Effective date: Oct. 1, 2007.

SB 124 eliminates the Judicial Branch's obligation to pay the

Department of Public Health and Human Services (DPHHS) for costs of court-ordered psychological examinations and associated expenses, and unfit-to-proceed commitments at DPHHS facilities.

Effective date: July 1, 2007.

SB 146 revises the Juvenile Delinquency Intervention Program, which provides funding for youth court, out-of-home placements, programs and services.

This bill gives the Court Administrator's Office authority to administer two revenue sources that are transferred to the Office by the Department of Corrections: unexpended placement funds allocated to the judicial districts and unexpended money from the cost containment pool.

The bill also plugs large statutory gaps in how the program is structured and how it is intended to operate.

It also updates the program to reflect state assumption of district court costs by removing references to county payment of certain expenses.

Effective date: June 30, 2007.

SB 273, which abolishes the Peace Officers' Standards and Training Advisory Council, creates the quasi-

Bar support helps win 3, loses 1

Besides the general funding bill for the judiciary and the provision for a pro se litigant self-help program (both listed in story on previous page), only one of two measures actively supported by the State Bar of Montana received final approval from the Legislature.

HB 361 revises the law on proxy marriage, requiring one party to be a citizen member of the U.S. Armed Forces (see story about proxy marriage boom on Page 32). It was signed into law by the governor.

One other bill actively supported by the State Bar died in a legislative committee. SB 202 would have provided candidates for election to the Montana Supreme Court with the option of a publicly financed election campaign.

judicial Montana Public Safety Officer Standards and Training Council, and transfers responsibility for juvenile probation officer training to the Court Administrator's Office.

Effective date: July 1, 2007.

SB 382, authorizes a district court or court of limited jurisdiction to establish a mental health treatment court and provides for the court's structure and operations.

Effective date: July 1, 2007.

Finally, the Legislature adopted two interim study resolutions of particular

interest to the Branch.

HB 26 requests that an interim legislative committee or staff study to develop an implementation plan for mental health care for adults and youth in the criminal and juvenile justice systems.

SJR 6 requests a comprehensive study of the juvenile justice system "to identify any gaps in the law or resources or between the existing agencies with various responsibilities within the system."

Both studies have been assigned to the 12-member Law & Justice Interim Committee.

○

Two new entrants in June into the state attorney general's election race brought the number of candidates for the position to five.

Butte attorney Lee Bruner announced his candidacy as a Republican on June 8, after another Republican, Helena attorney Tim Fox, announced his run for the 2008 election on June 7.

Three Democrats had earlier declared their candidacy for attorney general. They are Steve Bullock, a lawyer in private practice in Helena; House Minority Leader John Parker of Great Falls, a deputy county attorney in Cascade County; and former state senator Mike Wheat, an attorney in private practice in Bozeman.

The five are vying for the job held by Attorney General Mike McGrath, a Democrat, who is barred by term limits from running again. Instead, Mr. McGrath is a candidate for the 2008 election for Montana Supreme Court chief justice.

Another attorney hinted at as a "potential candidate" for attorney general, Jim Shockley of Victor, told The Montana Lawyer on June 14 that he wasn't running for the office.

Mr. Fox, 50, who announced his candidacy in the Capitol

AG candidates: Now, there are five

rotunda in Helena, is a partner in the Helena law firm of Gough, Shanahan, Johnson & Waterman and has been active in Republican politics. He previously worked as vice president and counsel for Mountain West Bank, as special assistant attorney general for the Montana Department of

Environmental Quality, as a solo practitioner in Billings and as environmental coordinator for the Montana Board of Oil & Gas Conservation. He also worked as an associate attorney with the Billings law firm of Moulton, Bellingham, Longo & Mather and as a law clerk to former Montana Supreme Court Justice L.C. Gulbrandson. He is a 1987 graduate of the University of Montana School of Law.

Mr. Bruner, 46, made his announcement at the Butte-Silver Bow Courthouse before a crowd of family, colleagues and supporters. He has been working as an attorney for the Butte law firm of Poore, Roth & Robinson for 13 years. With an undergraduate degree in physics from MSU, Mr. Bruner earned his law degree at the University of Montana in 1995.

○

'He gave lawyers a good name'

By Dan McLean

The State Bar mourns the loss of one of its most esteemed members, who died on May 21. Jack Dietrich died at his home in Billings after suffering a heart attack while exercising. The State Bar bestowed on Jack its highest honor, the Jameson Award, in 1992. He was a most worthy recipient of that award, given to the person whose life and practice exemplify the essence of professionalism.

Few among us at the end of our careers or lives will achieve the level of esteem Jack earned, but he would not claim that himself. Even fewer will be able to truthfully say that no one ever had a harsh word to say about them. Jack could, but he wouldn't have said it. He was humble and self-effacing, and universally respected by all who knew him. As Jack's son David said in eulogizing his father, "Did you ever meet anyone you did not want to befriend?"

Jack was born Aug. 17, 1924, in Helena (see complete obituary on Page 36). He graduated from Powell County High School in 1942, as valedictorian. He began college study at Stanford, but the U.S. Air Corps diverted Jack from his studies in his first year at Stanford and trained him in meteorology at the Universities of Washington and Chicago.

After serving in the Air Force in North Africa, he returned to Montana in 1946, where he finished college and law school at the University of Montana in December 1949. He was admitted to the Montana Bar in 1950. He began his legal career in private practice in Deer Lodge, where he was also elected Powell County Attorney.

Jack and his wife, Anne, whom he married in 1948 while attending law school, moved to Billings in 1955. Jack joined the Coleman, Jameson & Lamey law firm, now known as Crowley, Haughey, Hanson, Toole, & Dietrich, P.L.L.P. Jack became a well-renowned expert in agricultural estate planning and

related fields of law, including real estate and closely held corporations. His ranch clients became his friends, and many Montana lawyers sought his advice and counsel over the span of his legal career. Jack actively practiced law well into the 1990's, and remained of counsel with the Crowley firm until his death. He was a Fellow of the American College of Trust and Estate Counsel, and former president of both the Young



John M. ("Jack") Dietrich

Lawyers Division of the American Bar Association and the Yellowstone County Bar Association.

In addition to his busy law practice, Jack also contributed his expertise and wisdom to public service. He served on various committees for revising corporate and probate law, and helped restructure the Montana University System. He served on numerous public charity boards, including the Billings Symphony and Chorale Society, the Yellowstone Art Center, Deaconess Research Institute, Deaconess Medical Center, and Rocky Mountain College. He promoted agriculture, land protection, and philanthropy. Jack was a director of the Montana Land Reliance for more than 20 years, and helped form the Yellowstone Park Foundation to supplement government

funding of the park. Jack strongly supported the University of Montana and the UM School of Law, not only with his financial contributions, but also by service on the UM Foundation Board of Trustees, including serving as its president. The University of Montana recognized Jack with two of its highest honors, the Pantzer Award and the Neil Bucklew Presidential Service Award.

Jack and Anne Dietrich raised five children and have 10 grandchildren.

As noted in the bulletin at the memorial service for Jack at Mayflower Congregational Church in Billings, "Jack was a full-time husband, father and grandfather, a retired lawyer, a part-time rancher, a philanthropist, a conservationist and a promoter of education. He will be remembered for his love of the state, his support for its institutions, his pursuit of excellence, his self-deprecating sense of humor, his engaged humanism, and his deep religious faith." Jack was all of those things, and more. He had a huge impact on many lives beyond his beloved family. He was a mentor to many associates learning to practice law. He was a role model to emulate. He was a valued partner and friend to those who had the privilege to practice with him.

Indeed, Jack was a most worthy recipient of the Jameson Award. Jack Dietrich and Judge William J. Jameson were cut from the same cloth.

Jack's family, his partners, associates and friends mourn the loss of his physical presence. But his legacy will carry on in the hearts and minds of those he touched and inspired.

State Bar Trustee Mark Parker perhaps said it best in his comment following Jack's obituary in the *Billings Gazette*: "He gave lawyers a good name – he gave humans a good name."

DAN McLEAN is a Helena attorney practicing with the law firm of Crowley, Haughey, Hanson, Toole & Dietrich, and is a State Bar of Montana trustee.

Fatality Review may receive confidential information

This advisory opinion was issued recently by the State Bar Ethics Committee following a request by a Bar member.

ETHICS OPINION No. 070523

FACTS:

Montana has a Fatality Review Commission whose charge, under section 2-15-2017, MCA, is to examine domestic violence related fatalities for trends and patterns, then use that information to recommend policies, practices and services to reduce those fatalities. The Commission is also charged with educating the public, service providers and policymakers about domestic violence fatalities and strategies for intervention and prevention. The Commission's membership includes, among others, state legislators, representatives from law enforcement, the judiciary, the mental health community and private and state government entities. The Commission is directed to review fatalities that are not under investigation and fatalities in cases that have been adjudicated and have received final judgment.

Within the statute is the direction:

(6) Upon written request from the commission, a person who possesses information or records that are necessary and relevant to a domestic violence fatality review shall, as soon as practicable, provide the commission with the information and records. A person who provides information or records upon request of the commission is not criminally or civilly liable for providing information or records in compliance with this section.

The meetings and proceedings of the Commission are confidential, in accord with (7) of the statute. In addition, the statute provides:

(8) The records of the commission are confidential and are exempt from the provisions of Title 2, chapter 6 (on disclosure of public records). The records are not subject to subpoena, discovery, or introduction into evidence in a civil or criminal action unless the records are reviewed by a district court judge and ordered to be provided to the person seeking access. The commission shall disclose conclusions and recommendations upon request but may not disclose information, records, or data that are otherwise confidential. The commission may not use the information, records, or data for purposes other than those designated (within the statute).

An attorney whose client was murdered by the client's part-

ner has been asked to RESPOND TO A REQUEST FOR INFORMATION FROM THE COMMISSION in accord with (6).

QUESTION PRESENTED: May an attorney comply with the statutory directive of the Fatality Review Commission without violating the attorney's duty of confidentiality to his deceased client?

SHORT ANSWER: Yes. Rule 1.6(b)(4) of Montana's Rules of Professional Conduct permits, within constraints, disclosure of confidential information to comply with "other law."

DISCUSSION:

Confidentiality is the very heart of the attorney client relationship, surviving even the death of the client. ABA/BNA Lawyers' Manual on Professional Conduct, 55:107. Rule 1.6 on confidentiality covers all information relating to the client's representation, whether or not it came from the client and whether or not it was imparted in confidence. It even extends to information that may be known to others. ABA/BNA Lawyers' Manual on Professional Conduct, 55:303. "Rule 1.6 applies most insistently to prevent lawyers from volunteering information about a client" to anyone. Geoffrey C. Hazard, Jr., and W. William Hodes, *The Law of Lawyering* §9.2 (3rd ed. 2001).

Montana's confidentiality rule provides:

Rule 1.6-Confidentiality of Information

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

- (1) to prevent reasonably certain death or substantial bodily harm;
- (2) to secure legal advice about the lawyer's compliance with these Rules;
- (3) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based up conduct in which the client was involved or to respond to allegations in any proceeding concerning the lawyer's representation of the client; or
- (4) to comply with other law or a court order.

(It is notable that the ABA Model Rule on confidentiality contains more exceptions than Montana's current rule.)

Under the facts presented, the attorney of the murdered client can analyze his obligation following two paths, with the

same result: that limited disclosure of information useful to the Fatality Review Commission is permitted.

The first path is within the language of Rule 1.6(a): “the disclosure is impliedly authorized in order to carry out the representation.” There are a series of other states’ ethics opinions that hold a lawyer may disclose information relating to the representation of a deceased client only if disclosure would further the client’s interests, and only if the lawyer believes that the client would have consented. ABA/BNA Lawyers’ Manual on Professional Conduct, 55:107. Several of those opinions suggest or, in some cases, mandate, the consent of the personal representative of the deceased client. We will not impose that obligation on the attorney in this opinion, leaving it to the attorney’s discretion in light of the facts as he knows them. Neither do we opine as to whether the personal representative has authority to waive the decedent’s attorney-client privilege (an evidentiary decision outside our purview) or release the attorney from the other duties imposed by rule 1.6.

The second path is within the language of Rule 1.6(b)(4): “to comply with other law....” Section 2-15-2017, MCA, falls within the “other law” component of permitted exceptions to the Rule.

There is some debate in the national literature about whether a statute falls within the category of “other law.” The commentary identifies discovery requests or subpoenas as the most typical “other law” triggering the exception. Also cited are the tax code and Patriot Act. In these instances, the literature suggests attorneys are required— “shall make”— all non-frivolous arguments that the information is protected from disclosure by Rule 1.6 and, if applicable, by attorney-client privilege. This mandate ensures that confidentiality protections are weighed by the Court; the Court is the arbiter of compelled disclosure by “other law.” ABA/BNA Lawyers’ Manual on Professional Conduct, 55:1207. The national debate so alarmed the ABA that in 2003 it announced its opposition to any proposals that require disclosure of confidential information to government officials, (acting on the recommendations of its Task Force on Gatekeeper Regulation). See www.abanet.org/crimjst/taskforce.

We believe that the national discussion does not address the point of the process at issue in this opinion and is distinguishable. In those instances, the “other law” is seeking client confidential information with the intent of prosecuting the client for alleged misdeeds. In the case of the Montana statute, the goal is not disclosure of the client’s confidences, but information about the client that could have helped save the client’s life and which may reduce the risk of future homicides.

Also distinguishing the Montana statute is its appreciation of the confidential nature of the information obtained: The meetings and proceedings of the Commission are confidential, the records of the commission are confidential and not subject to subpoena, discovery, or introduction into evidence in a civil or criminal action “unless the records are reviewed by a district court judge and ordered to be provided to the person seeking access.” Further, while the commission shall disclose conclusions and recommendations, it “may not disclose information, records, or data that are otherwise confidential.” Finally,

“The commission may not use the information, records, or data for purposes other than those designated (within the statute).” In short: the Montana statute is written with sensitivity about confidentiality.

Because the Fatality Review Commission’s process is designed to continue to protect a client’s confidences, this Committee believes it is not required that an attorney representing a murdered client fight the Commission’s request to respond; nor is it necessary that the attorney representing a murdered client require a court order prior to disclosing the deceased client’s confidences. To read it with those limitations creates a hurdle in a process which already includes protections for the deceased client’s confidences. However, if the attorney believes a court order is appropriate, the attorney may require one. The attorney is in the best position to appreciate the significance of disclosure.

We emphasize that the duty of the attorney to consider “other law” originates with Rule 1.6 and not 2-15-2017, MCA. The legitimacy of Rule 1.6 is conferred by the power of the judicial branch of government and the legal profession. Absent Rule 1.6(b)(4) an attorney would not be compelled to consider a request for information made under 2-15-2017, MCA.

We do not believe that attorneys are required to respond to a request for information from the Fatality Review Commission’s process. Rule 1.6(b)(4) is permissive: the attorney may reveal the client confidences—and then only to the extent the attorney reasonably believes the information is necessary. Whether certain facts are protected or revealed depends entirely on the circumstance—no one can fully appreciate or anticipate the ripple effect of released confidential information. Again, if the attorney believes a court order is appropriate, the attorney may require one. The attorney may possess confidential information not relevant to the Commission’s work; if that is the case, the attorney need not reveal the information.

We limit our opinion to the question of whether Rule 1.6 confers discretion of an attorney to respond to a request for information from the Commission made pursuant to 2-15-2017, MCA. We do not reach the question of whether an attorney may ethically participate as a member of the Commission to review a fatality if that attorney or that attorney’s firm represented the decedent or the perpetrator.

CONCLUSION: An attorney may disclose confidential information to the Montana Fatality Review Commission without a court order because there are confidentiality protections within the statute; the attorney can use his or her discretion in disclosure (rule 1.6’s disclosure provision is permissive, not mandatory); and the attorney may refuse to participate unless ordered by a court to do so.

THIS OPINION IS ADVISORY ONLY

Bar adopts model pro bono policy for firms

The State Bar Board of Trustees voted in its June 9 meeting to adopt a model pro bono policy to provide to Montana law firms looking for advice on how to set up their own pro bono programs. This model policy, which is advisory only, originated with the ABA and was tweaked to better fit Montana by Bar Legal Services Coordinator Ann Gilkey and other members of the State Bar. The newly adopted policy is:

MODEL PRO BONO POLICY FOR MONTANA LAW FIRMS

I. Commitment to Pro Bono

An extraordinary need exists in this country for the provision of legal services for those unable to pay for them. Despite the generous contributions of many attorneys, the legal needs of the disadvantaged in Montana continue to go largely unmet. While many law firms undertake pro bono matters, many lack a formal written pro bono policy. The formal adoption of such a policy is critical in sending the message that this firm supports pro bono and encourages every attorney to render such service. We hereby adopt the following pro bono policy.

II. Pro Bono Defined

The foremost objective of our pro bono policy is to provide legal services to indigent or near-indigent members of our community and the non-profit organizations that assist them. The Montana Supreme Court has defined pro bono publico service under Rule 6.1 of the Montana Rules of Professional Conduct. That rule, in part, states:

Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should render at least fifty (50) hours of pro bono legal services per year. In fulfilling this responsibility, the lawyer should:

- (a) provide a substantial majority of the hours of the legal services without fee or expectation of a fee to (i) persons of limited means, or (ii) charitable, religious, civic, community, governmental and educational organizations in matters that are designed primarily to address the needs of persons of limited means.

The rule goes on to discuss additional pro bono or reduced fee services to individuals, groups or organizations in matters in furtherance of their organizational purposes where the payment of standard fees would deplete the organization's resources or would otherwise be inappropriate.

Because the following activities, while meritorious, do not involve direct provision of legal services to the poor, the firm will not count them toward fulfillment of any attorney's goal

to provide legal services to indigent persons or to non-profits that serve such person's needs: participation in non-legal capacity in a community or volunteer organization; services to non-profit organizations with sufficient funds to pay for legal services as part of their normal expenses; client development work; non-legal service on the board of directors of a community or volunteer organization; bar association activities; and non-billable legal work for family members or friends who are not eligible to be pro bono clients under the above criteria. Pro bono service does not include fee generating matters which have become uncollectible or unsuccessful contingency matters.

In addition to direct services, the firm also encourages all staff to contribute financial support to organizations that provide services free of charge to persons of limited means.

III. Recognition of Pro Bono Service

The firm recognizes that the commitment to pro bono involves a personal expenditure of time. The firm strongly encourages and expects its attorneys to honor their professional responsibilities by providing pro bono services. Each attorney's efforts to satisfy this expectation will be considered in performance evaluations and compensation decisions. Pro bono work will be given equal consideration and reviewed according to the same standards as any other work. As with all client work there should be an emphasis on effective results for the client and the efficient and cost effective use of firm resources.

IV. Pro Bono Opportunities

Attorneys are encouraged to seek out pro bono matters that are of interest to them. The law firm encourages attorneys to take pro bono cases through organized local pro bono programs including Montana Legal Services. Such programs provide many benefits as well as opportunities including free CLE training, screening for income eligibility, case merit and mentoring, professional liability insurance and reimbursement for some disbursements.

V. Pro Bono Coordination and Administration

The firm shall designate a pro bono coordinator or pro bono committee whose responsibility it shall be for implementing and administering the firm's pro bono policies and procedures. These responsibilities include reviewing, accepting and/or rejecting pro bono legal projects, establishing firm income eligibility guidelines, and communicating pro bono opportunities available to attorneys and paralegals. Attorneys are encouraged to seek out pro bono matters that are of interest to them.

Pro bono legal services shall be directly provided by the

More PRO BONO , Page 26

State Bar Award Nomination Form

The State Bar Access to Justice Committee is seeking nominations for the annual Pro Bono Award.

The deadline for nominations is August 1.

An award recipient may be a lawyer who provides outstanding legal services to the indigent, or another individual such as a court reporter, paralegal, psychologist, or social worker who has provided pro bono services in aid of pro bono legal representation in Montana.

Attorney nominees must be admitted to practice in Montana. Nominees cannot be employees of organizations that provide free or low-cost services to the poor.

Nominations should include a description of pro bono services the nominee has provided, the number of hours he or she has donated and the approximate number of cases involved. Also include a brief description of the nominee's professional career.

Nominee: _____

Address: _____

Pro
Bono
Award

Attach extra sheet with the information required in the opening paragraphs of this form.

Your Signature: _____

Print Your Name: _____

Your address: _____

Your Phone: _____

Please mail the nomination, by August 1, to:

**Pro Bono Awards
State Bar of Montana
P.O. Box 577
Helena MT 59624**

or e-mail to agilkey@montanabar.org

STATE BAR CALENDAR

July 4

Independence Day, State Bar offices closed

July 20

People's Law Center meeting, State Bar offices, Helena

July 23-27

Bar Exam, Missoula

July 25

State Bar Road Show, noon, Elks Lodge, Dillon

July 25

Deadline for submission of advertising and content to the August edition of *The Montana Lawyer* magazine.

August 9-11

ABA Annual Meeting, San Francisco

August 24

Fee Arbitration Committee meeting, via videoconference, 1:30 p.m.

September 3

Labor Day, State Bar offices closed

September 10

Board of Bar Examiners meeting, 10 a.m., State Bar offices, Helena

September 13

State Bar Rookie Camp, Hilton Garden Inn, Missoula

September 13-14

State Bar Annual Meeting, Hilton Garden Inn, Missoula

September's Annual Meeting is taking shape

The committee organizing the State Bar's 2007 Annual Meeting has completed further details on the Sept. 13-14 gathering in Missoula.

Thursday, Sept. 13 will start with the Bar's annual Rookie Camp for new lawyers from 8 a.m. to 1:30 p.m. The Western Montana Bar will join the Rookie Camp attendees and faculty at the Hilton Garden Inn for a lunch meeting with Bar members. The Committee has asked U.S. Supreme Court Justice John Roberts to the lunch if he is available. Former ABA President Mike Greco will deliver the keynote Rookie Camp speech.

On Sept. 13 at 2 p.m. is the University of Montana's Jones-Tamm lecture by Chief Justice Roberts. This year's Annual Meeting was moved from Butte to Missoula so that attendees could also attend the Roberts lecture.

On the evening of Sept. 13, the ABA's Greco will deliver the keynote address at the Annual Meeting banquet on the "Law Practice in Transition, The Future of Our Profession."

Friday, Sept. 14 will see a six-hour CLE designed to help Bar members recognize how their law practices will have to change, and how they can change it in an efficient, productive manner.

Presenters will include Stuart Forsyth, head of The Legal Futurist consulting firm in Pasadena, Calif., which provides strategic planning services for lawyers with a focus on the future of the legal profession. Mr. Forsyth will build on Mr. Greco's keynote address with "What's Coming and What Montana Lawyers Can Do About It."

Deadline for resolutions

Proposed resolutions for presentation and voting at the Annual Meeting can be submitted to the State Bar of Montana only through July 30, so that the proposed resolution can be published on our web site and in the August issue of *The Montana Lawyer*. Board of Trustee policies say a resolution must reach the Bar 45 days in advance of the meeting.

To present a resolution, consult the requirements in Board of Trustees Policy 1-108 on Page 196 of the 2007 Lawyers' Deskbook & Directory.

Catherine Sanders Reach, associate director of the ABA's Legal Technology Resource Center, will be another presenter. Ms. Reach will address "managing the information overload" and "benchmarking and planning for technology in the law office."

Panel discussions – titled "A Conversation of the Montana Bar" – will involve young and older lawyers, paralegals and attorneys from solo, small and larger practices process what they heard from Mr. Forsyth and Ms. Reach.

The Friday program also includes the Annual Meeting Awards luncheon.

Registration brochures will be mailed to Bar members in July, and a final meeting program will be published in the August *Montana Lawyer*. ○

College forums extend Law Day reach

For this year's Law Day, a strong emphasis was put on expanding the scope of community outreach. This was done by pairing a series of lectures with traditional Law Day activities. The State Bar's Law-Related Education Center (LREC) hosted two lectures this year:

At Carroll College, Helena

On April 23, Chief Justice Karla Gray lectured about 40 students and community members at Carroll College on the Montana Constitution. She described what she considers "the most beautiful Constitution in the nation" and gave a detailed overview of its development. She addressed such issues as the spirit of the document, the intent of the authors, and the national climate surrounding its creation. She also addressed the process she uses when interpreting the docu-

ment. She then spoke on what role she thinks the court should play when enforcing its decisions, citing examples from Article X: Education & Public Lands, the chief justice's favorite portion of the Constitution.

Upon completing her lecture, Justice Gray and the audience engaged in a lively question-and-answer discussion.

At Montana Tech, Butte

With funding from the Natural Resources, Energy & Environmental Law Section of the State Bar, the LREC held a panel discussion on May 2. Panelists included Phil McCreedy of Datasopoulos, MacDonald & Lind; Kim Wilson of Reynolds, Motl & Sherwood; Dr. John Ray of the Montana Environmental Information Center; and State Rep. Jim Keane. The forum was

Thanks

The Law Related Education Center thanks all attorneys who participated in this year's Law Day. Without the help of attorney volunteers, Montana youths would miss a wonderful opportunity to learn about the legal system.

The LREC extends special thanks to Chief Justice Karla Gray, the Law Education & Information Committee of the State Bar, the Natural Resources, Energy, & Environmental Law Section, Montana Legal Services, Carroll College, Montana Tech, Matt Vincent, Cort Jensen, Brenda Wahler, and Chris Tweeten.

moderated by Dr. Chad Okrusch of Montana Tech.

The forum addressed House Bill 610 which would have eliminated public lawsuits under the Montana Environ-

mental Policy Act. After a synopsis by the bill's sponsor, Rep. Keane, panelists engaged in a discussion of the bill's pros and cons. A unique dialogue was reached addressing Montana's obligation to preserve a clean environment versus

the need to create and promote economic development.

see a discussion on a particular legal issue, e-mail your suggestions to Andrew Fox at afox@mtlsa.org.

IF YOU WOULD LIKE to have a community lecture in your area or would like to

Upcoming CLE seminars for Montana lawyers

June 26 Billings – Billings Hotel & Convention Center
OSHA Compliance Seminar 6.00 CLE credits. Presented by National Seminars Training, (800) 258-7246.

June 27 Bozeman – Holiday Inn
OSHA Compliance Seminar 6.0 CLE credits. Presented by National Training Seminars, (800) 258-7246.

June 27-28 West Yellowstone – Holiday Inn
County Attorneys' Summer Training 15.25 CLE credits, including 1.50 Ethics credit. Presented by the Montana County Attorneys Association, (406) 443-1570.

June 28 Helena – Park Plaza Hotel
OSHA Compliance Seminar 6.0 CLE credits. Presented by National Training Seminars, (800) 258-7246.

Other web & phone CLEs for Montana credit are:

■ MTLA's SeminarWeb Live! Seminars at www.seminarweblive.com/mt/index.cfm?showfullpage=1&event=showAppPage&pg=semwebCatalog&panel=browseLive

■ Lorman Education Services' teleconferences at www.lorman.com/teleconferences/

June 29 Great Falls – County commissioners' chambers
Labor & Employment Law 5.50 CLE credits. Presented by attorney Michael Dahlem, (808) 214-9255.

June 29 Missoula – Grant Creek Inn
OSHA Compliance Seminar 6.0 CLE credits. Presented by National Training Seminars, (800) 258-7246.

July 12-13 Choteau – Choteau City Pavilion
The Science & Art of DUI Defense in Montana 12.0 CLE credits. Presented by the Office of the State Public Defender, (406) 496-6080.

July 17 Teleconference
Compliance Issues for Trustees 1.50 CLE credits. Presented by Cannon, (800) 775-7654.

July 24 Billings – Billings Hotel & Convention Center
Intellectual Property 7.0 CLE credits. Presented by Lorman Education Services, (866) 352-9539.

July 25 Dillon – Elks Club
State Bar of Montana Road Show 3.5 CLE credits. Presented by the State Bar of Montana, (406) 442-7660.

August 20 Missoula – DoubleTree Inn
Legal Professionals' Office Management 6.0 CLE credits, including 1.0 Ethics credit. Presented by the National Business Institute, (715) 835-8525.

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IMPORTANT UPDATES*

The Mid-Year update CD includes important updates and revisions to your
2007 Lawyers' Deskbook & Directory.

Pre-order yours today by sending \$20 per copy to:

State Bar of Montana
Mid-Year Update CD
P.O. Box 577
Helena, MT 59624

*Updates are in the PDF format for IBM computers and will be available and distributed after July 5, 2007.

If you are unsure whether or not you have already pre-purchased a copy, or for more information, call (406) 442-7660.



State Bar of Montana Bookstore

These Montana legal manuals and videos are for sale or rent via this mail-order catalog. Other Montana Bar-produced video seminars, are available for download to your computer on the Online CLE catalog at www.montanabar.org.

LEGAL PUBLICATIONS

Montana Probate Forms

2006, 288 pages
Book plus CD \$150

Civil Jury Instructions

(MPI – MT Pattern Instructions)
1999 w/2003 Update, 400 pages
Book plus CD \$200

Criminal Jury Instructions

1999 w/2003 Update, 400 pages
Book plus CD \$105

Handbook for Guardians & Conservators

2005, 60 pages incl. 5 forms
Book plus CD \$150

2007 Lawyers' Deskbook & Directory

Sold out! Order the 2007 mid-year update CD (available in July) \$20

MT Family Law Form Book

2005, 93 pages incl. 26 forms
Book and CD \$150

Public Discipline Under MT Rules of Professional Conduct

2007, 104 pages annotated
Book \$35

Public Information Flyers

tri-fold brochures, \$10/bundle of 100

Bankruptcy
Client Bill of Rights
Dispute Resolution
Divorce in Montana
How Lawyers Set Their Fees
Purchasing Your Home
Renting a House or Apartment
Small Claims Court
After an Auto Accident
When You Need a Lawyer
Wills & Probate

Statute of Limitations Manual

1998, 95 pages w/2001 Update
Book \$25

Step-parent Adoption Forms

2003, 5 forms
Book \$20

U.S. & Montana Constitutions

Pocket-sized booklet
\$4 each

MONTANA CD/DVD SEMINAR RENTALS

Send 2 checks – one for \$75 rental fee, one for \$25 security deposit

NEW! Surviving Credit Card Debt

5.0 CLE credits
2 DVDs, print materials included

NEW! 2007 Criminal Law Update

Speaker: Prof. Andrew King-Reis
2.0 CLE credits
DVD, prints materials included

2007 Wrongful Discharge CLE

Speaker: UM Prof. William Corbett
2.0 CLE credits
DVD, print materials included

2007 Copyright Law CLE

Speaker: UM Prof. Scott Burnham
2.0 CLE credits
DVD, print materials included

2007 Best of State CLE

5 CD set features 5 topics:
- Workers' Comp in a Nutshell
- Small Firm & Solo Practice
- Engagement & Disengagement Letters
- Community Property in Another State: Effect on MT Dissolution
- Adult Felony Sentencing
1.0 CLE credit each topic
5 CDs, print materials included

Please send the item(s) circled above to:

(send printed CLE materials via _____ CD or _____ e-mail)

Name _____ Mailing Address _____

Street Address _____ City, State, Zip _____

E-mail Address _____

Amount Enclosed \$ _____ (Payment must accompany all orders)

Credit Card: Visa ___ Mastercard ___ Discover ___ American Express ___

Account No: _____

Exp. Date _____ 3-digit PIN on the back of your card _____

Mail order & payment to: **State Bar of Montana, PO Box 577, Helena MT 59624**

Updated 4/12/07

2007 Landlord-Tenant CLE

3.0 CLE credits
3-CD set, audio only
Print materials included

2007 Montana Ethics CLE, Butte

5.0 CLE credits, inc. 5.0 Ethics credits
Set of 4 DVDs, print materials included

2006 State & Federal Court Decisions Affecting Criminal Law

2.0 CLE credits
DVD, print materials included

2005 Chapter 13 Bankruptcy CLE

5.0 CLE credits
Set of 4 DVDs, print materials included

2005 Information Technology CLE

1.50 CLE credits
DVD, no print materials available

2005 MT Constitution & School Funding

5.0 CLE credits
DVD, no print materials available

MONTANA DVD SEMINARS FOR FREE

DVDs, \$25 deposit required

2006 Early Childhood Development 'Implications for Court'

1.5 CLE credits

2006 Streamlining Treatment & Legal Requirements

1.5 CLE credits

2006 Building a Case for Permanence

2.75 CLE credits

2005 Substantive & Procedural Dependency Law

1.5 CLE credits

2005 Adolescent Brain Development

1.0 CLE credit

2004 Guardian Ad Litem's Role in Abuse & Neglect Proceedings

2.50 CLE credits

CLE MATERIALS

on CD or via e-mail, \$35

CLE materials from 2007

Attorney/Paralegal Practice Tips

Investigating and Discovery; Electronic Filing; Fed Rules on Discovery And E-filing; Human Rights

Bureau Overview

Bench-Bar CLE

Dealing with Pro Se; Appellate Procedure Rule Changes; Security Approach; Technology; Local Fed Ct Rules; Voir Dire; Opening & Closing Statements

Best of State

Opening an Office; Engagement/Disengagement Ltrs; Community Property In Another State; Worker's Comp; Adult Felony Criminal Sentencing

CLE & Ski

Environ. Concerns for Developers; Engagement/Disengmt. Ltrs; Supreme Ct. Update; Impaired Practitioners; Pro Bono Obligations; Solo/Small Firm Tips

Copyright Law Update

Prof. Scott Burnham – Mini CLE

Criminal Law Update

Prof Andrew King-Ries – Mini CLE

Ethics

Reviewing the Basics; A Business View; Conflicts of Interest; Common Pitfalls; Flat Fees; Impaired Practitioners; Engagement Letters

Landlord-Tenant Disputes

Author: Klaus Sitte, director of Montana Legal Services

Oil & Gas Update

Elm Coulee-Horizontal Bakken in Richland Co.; Deducting Expenses from Royalties; Lessor's Perspective; Title Problems; Lease Forms; Company Perspective; Access Right & Surface Damages

Pre and Post-Trial Tips

Taking & Defending Depos; Recovering Atty's Fees; Declaratory J'ments; Impaired Practitioners; Electronics Expectations-Judge's View

Solo/Small Practice

Opening an office; Leaving a Firm-Ethical Considerations; Going from Large Firm to Small/Solo Practice; Hiring & Firing; Ethical Considerations when Client Lies in Court and Reporting Other Attorney's Misconduct; View from Bench: Courtroom Decorum & Pitfalls

Stream Access

History; Fish, W'life & Parks Interest; Bitterroot Rvr. Protect. Assn & Recreationists Perspective; Land Owners' Interest

Wrongful Discharge Update

Prof. William Corbett – Mini CLE

CLE materials from 2006:

Annual Meeting CLE – Bozeman

Effective Communication, Work-Life Balance and Rules of Prof Conduct

Bankruptcy

Ch. 13 Update; Case Updates; Tax Returns; Post BAPCPA discussion; Means Testing, Abuse Under Sec. 707(b); Ethics; Local Rules Revision; Adobe Acrobat; Judges Panel

Bench-Bar

Trial Advocacy; Elec. Data Discovery; Sup Ct Case Mgmt; Fed Rules Changes; Primer on Findings & Conclusions; What Jurors Think

Business of Technology Law

Intellectual Prop. Protection; Financing a Tech Bus, incl. Ethical Discussion; Client's Perspective in Protection; Strategic Transactions and Licensing; IP/Tax Cocktail: 1 pt tax, 2 pts Entity Choice; Ethics

Case Prep. & Mgmt

Effec. Investigation & Disc; Jury Cnsltg/Profiling; Mock Voir Dire-Ethical Considerations; Case Mgmt, Elec Case Filing; Juror Feedback

CLE & Ski

Electronic Communication Mistakes; Constitutional Issues-Practical & Political; Sup. Ct. Update; Med. Mal.; W/Comp; Ethical Dilemmas; Panel on Respect for the Judiciary

Construction Law

Delays and Getting Paid; Proving Delays, Pricing Damages; Experts and Ethics; ADR and Regulatory Takings; Contract Time and "Untimely Performance"; Mediation

Criminal Law Update

Prof. Andrew King-Ries — Mini CLE

Discovery

Pursuit of Truth; Bench Perspective; Civil-Phis & Defense Perspective; Criminal-Prosecution vs. Defense; E-Discovery & Corp. Records Compliance; Fed and State Court Updates; Ethical Considerations

Elder Law I

New POA forms; Guard & Conserv.; Ethics; Agencies; Long-Term Care; Trust Law & Accounting update

Elder Law II

POA forms; Trust Law & Accounting; Long-Term Care; Trusts & Annuities; Guardian & Conservatorship; Agency on Aging; Medicare

Employment Law

W/Comp Pitfalls; Wrongful Discharge Act; Indep. Contractors; Trial Judge and Employment Cases; Wage & Hour; Discrimination & Sexual Harassment; Personnel Policies

Equal Justice Conference

Consumer Law & Elderly; Ethical Considerations; Agencies; Contested Family Law Cases; Motions Practice in Family Law; Judge's Perspective

Family Law

Effective Trial Techniques; Trying Non-Parental, 3'd Pty Custody, Visitation or Contact cases; Tools for Pro Se Litigants; Appellate Briefs; Mediating; Minimize Malpractice Risks; Community Property in Another State

Real Estate

Kelo case; Open mtg; Land Use; SB 116-Subdiv. & Platting Act

Underinsured Motorist Coverage

Prof. Greg Munro – Mini CLE

Wrongful Discharge Update

Prof. William Corbett – Mini CLE

FREE for new Montana lawyers

RookieCamp

2007

Getting in Shape for the Long Run **Half Day Format!!!**

Thursday , Sept. 13th ~ Hilton Garden Inn, Missoula, MT
Runs 8:00 a.m.-1:30 p.m. ~ Complimentary Lunch Included!

Rookie Camp is FREE & Qualifies for CLE Credits!

Rookie Camp brings together newer lawyers (the rookies) and more experienced practitioners and judges in small groups to discuss the practical aspects of law practice. The structure is designed to allow frank discussion on issues that generally cause concern in law practice. About 50 of Montana's most respected lawyers and judges — including trial court judges and Supreme Court justices — serve as volunteer faculty. Earn 5.00 free ethics CLE credits!

In addition, if you attend the *entire* Annual Meeting your admission fee will be paid by the Attorneys Liability Protection Society (ALPS) AND you will receive an additional 6.00 hours of free CLE!

Topics will include:

- Tough Love—Telling Clients What They Don't Want to Hear and Developing Effective Client Relationships
- Disagreeing Without Being Disagreeable—Maintaining Quality Professional Relationships
- Oops! Addressing Mistakes and Tips on Managing a Professional Practice
- Candid Conversation with Some of Montana's Most Esteemed Judges
- Questions You've Always Wanted to Ask

Registration will be included with this year's Annual Meeting brochure mailed to Bar members in July. For more information, call the State Bar at (406) 442-7660. Ask for Jill or Betsy or email to

Compliments of:

jdiveley@montanabar.org.

 **ALPS**
Attorneys Liability Protection Society
A Risk Retention Group



New web site for Office of Disciplinary Counsel

The Montana Office of Disciplinary Counsel, which investigates complaints about attorneys, has a new web site at www.montanaodc.org.

For use by attorneys and the public, the site explains the role of ODC, answers frequently-asked questions and provides complaint forms and a list of disciplined attorneys.

The site also provides sections on the Rules of Professional Conduct, Rules for Lawyer Disciplinary Enforcement, fee arbitration, unauthorized practice of law, Lawyers' Fund for Client Protection and ODC's annual report.

Attorneys challenged to join bike ride

Attorneys are invited to join a fundraising bicycle tour from Glacier Park to Yellowstone in support of CASA (Court Appointed Special Advocates) of Montana, a group that advocates for abused and neglected children.

Bike rider and lawyer Jo Ridgeway of Miles City has issued a challenge to Montana lawyers to get out and compete on their road bikes this year. Last year, six lawyers joined the ride, raising \$8,000 in pledges. Ms. Ridgeway was the top fundraiser in 2006 and hopes to ride again this year with her husband, Judge Gary Day. She wrote about her ride and her training in the November issue of *The Montana Lawyer*. See www.montanabar.org/montanalawyer/november/nov2006screen.pdf.

The Park-2-Park Montana 2007 ride is planned for Sept. 3-7. The 370-mile route will take cyclists from St. Mary – on the eastern side of Glacier National Park – down U.S. 89 through Dupuyer, Choteau, Great Falls, White Sulphur Springs and Livingston. It concludes at Gardiner near Yellowstone Park. The ride is fully supported.

Cost of the ride is \$400 if registered before Aug. 5, \$500 after Aug. 5. Registration includes meals, four nights lodging – three in motels and one at a community center. Riders are expected to raise at least \$200 in pledges and a custom bike jersey is awarded to those who raise \$750. CASA is also seeking sponsors for the ride – a \$500 contribution guarantees a logo and name on the custom jersey.

A dozen riders are already registered for Park-2-Park 2007. There's a limit of 40 riders total, so sign up soon. For more information, see www.casagal.org for details or call (866) 863-2272.

DUI defense conference in Choteau in July

A two-day conference on "The Science and Art of DUI Defense in Montana" will be held at the City Pavilion in Choteau on July 12-13, sponsored by the Office of the State Public Defender.

Admission to the conference is free. It has been approved for 12 hours of CLE credit. Lunches and dinner will be provided to participants who purchase a meal ticket.

Instructors will be Montana criminal defense lawyer Kenneth Olson; Wendy Holton, Montana's delegate to the

National College for DUI Defense; Great Falls attorney Channing Hartelius; Robert La Pier, a nationally recognized expert on DUI assessment procedures; Atlanta-based Mike Hawkins, certified by the National College for DUI Defense; and Rich Buley, a successful DUI trial lawyer in Missoula.

To ensure free admission and materials, register by July 4 by e-mailing bmartello@mt.gov or calling Bonnie or Kathy at (406) 496-6080.

Family Violence Conference set for August

The 18th Annual McGuire Memorial Conference on Family Violence is scheduled for Aug. 9-10 at the Holiday Inn Grand in Billings.

The conference will feature a keynote address by Dr. Bruce D. Perry, the senior fellow of the Child Trauma Academy, a not-for-profit organization based in Houston, Tex. The Academy promotes innovations in service, research and education in child maltreatment and childhood trauma. Dr. Perry will address brain development, the impact of trauma, and how a violent or unpredictable home environment impacts child development.

Dr. Perry also will speak at a dinner on Aug. 9 about the impact of trauma and ways care providers can mitigate trauma.

Obtain a registration form by contacting Joy Mariska at (406) 252-3680 or jamariska@imt.net. The registration fee is \$150 before July 31, and \$200 after. The fee for students is \$75. Contact the Billings Area Family Violence Task Force, PO Box 484, Billings MT 59103.

Improve the operations of your traffic court

The 2007 Traffic Court Seminar will be held Oct. 10-12, in Seattle. Registration for the seminar is now open.

Traffic courts affect more citizens than any other court. That's why every year, the ABA Judicial Division Committee on Traffic Court provides traffic court judges with educational programs and resources to help improve their court operations.

For information about the seminar, or to receive a brochure, contact Gena Taylor, ABA project coordinator, at (312) 988-6716 or TaylorE@staff.abanet.org.

Public-interest lawyering blog 'successful'

The blog recently established by the public-interest lawyering class at the University of Montana School of Law has been "very successful for a startup," said class instructor James Park Taylor.

"After 11 weeks, the blog received about 3,250 hits.

"We have added two more videos to the blog, both for self-represented litigants," Mr. Taylor said. They are student videos made with the cooperation of Judge Karen Orzech, from the Missoula Justice Court. The two videos are on "Where to File Your Case" and "How to File Your Case."

They are large videos and best viewed with a high speed con-

Volunteers needed!

Request for committee assignment State Bar of Montana

Member participation in the organization and management of the State Bar of Montana is essential to its success as a professional association. The most effective way lawyers and legal assistants can participate is through volunteer service on the many committees that compose the Bar.

Committees meet two to six times per year, usually in Helena, although many meetings are via conference call. Expenses associated with attending meetings are reimbursed by the State Bar.

Every effort is made to assign volunteers according to their choices.

Your name _____

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nection. You can view the videos by going to: <http://montanapublicinterestlaw.spaces.live.com>.

Mr. Taylor said he is going to continue the blog over the summer with his summer clinical students.

Fact sheets on Indian probate reform

If you have Native American clients, you may want to become more informed about the American Indian Probate Reform Act of 2004 (AIPRA) and with the many probate provisions that became effective on June 20, 2006.

AIPRA creates a uniform probate code for reservations across the United States except for Alaska, the Five Civilized Tribes, and the Osage. The Act applies to all individually owned trust lands unless a tribe has its own probate code that has been approved by the Department of Interior. None of the seven reservations in Montana have a DOI approved probate code for trust lands.

A series of 14 fact sheets that highlight the new federal law has been developed by MSU faculty.

The fact sheets highlight many issues such as the fractionation problem on reservations; the typical ways individuals own reservation land; the meaning of some of the numbers and terms on Individual Trust Interest reports; the AIPRA definition of "eligible heirs" and "Indian;" how trust property is distributed to heirs under different rules depending upon whether the undivided interests are five percent or more or less than five percent; circumstances where a beneficiary can only

receive a life estate; and the rules for the distribution of Individual Indian Money accounts to heirs.

The fact sheets can be viewed at www.montana.edu/indianland/factsheets.html. Or, if you would like to have a packet of fact sheets mailed to your office, e-mail goetting@montana.edu. A series of Power Point slides to accompany some of the fact sheets are also available for downloading at www.montana.edu/indianland/.

Web site on dying without a will

Past readers of estate planning MontGuides (fact sheets) from Montana State University Extension that have been authored by Marsha Goetting and reviewed for legal accuracy by the State Bar's BETTR Section members will be interested in a new helpful web site: Dying Without a Will in Montana (www.montana.edu/dyingwithoutawill/).

By clicking "yes" or "no" to a variety of questions, Montanans can learn how their property would be distributed if they die without writing a will.

Suggestions from attorneys about improving the site are welcome, said MSU's Goetting. The next stage is to make an interactive CD with the same information for people who have "slow" or no Internet service. However, Ms. Goetting would like to have the web site up for a couple of months to be sure that the "bugs" are worked out. Send suggestions to goetting@montana.edu.

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Lawyers must follow their inner compasses

Observations after the suicide of another former UM student

By **Bari Burke**, professor
University of Montana School of Law

I learned recently that another of my former students committed suicide. I don't and won't presume to know the circumstances of this particular lawyer's death. I do know, however, that the loss of another lawyer's life to the combination of stresses of a lawyer's professional role and responsibilities and to whatever emotional and physical vulnerabilities is part of the individual lawyer's make-up is a tragedy.

Numbers of lawyers and scholars have already realized that the practice of law is difficult and sometimes not especially satisfying. But the depth of the stresses and demands of practice are neither fully acknowledged nor, I think, taken seriously or seriously enough. If they were, we (the law school, lawyers, law firms and the Bar) would be doing more and doing it now. Not that I believe that there is an easy answer or a few tricks that could solve the problems. But we would be willing to ask the most difficult questions and then confront and wrestle with possible promising responses even though such responses might necessitate that we change what we take as unchangeable or inevitable in the successful teaching and practice of law.

First, maybe each of us needs to admit to ourselves that each of us can, and needs to, do what it takes to be healthy, physically and emotionally, and to maintain healthy relationships of all sorts, regardless of the costs those actions impose on our professional lives. Instead, we seem to believe that success in law school and in the practice of law requires that we conduct "ourselves as if deeply human elements of our lives, or ourselves, and of others don't exist or don't matter."

LARRY KRIEGER, a clinical law teacher and former litigator, believes that the most workable approach to improving the professional lives of lawyers is to focus on the level of the internal motivations and attitudes of individual law students and lawyers. In what I found to be a most useful article, Krieger lists 10 assumptions that will help law students prepare to live their lives as lawyers well. The following six are the most relevant to this essay:

■ Law students (and lawyers) really need to know that their aspirations for honors and high achievement are valuable only in the context of a balanced, happy life.

■ Law students (and lawyers) really need to know that they can have good lives as lawyers if they act according to their conscience, their deep personal values, and their ideals.

■ Law students (and lawyers) really need to know that they cannot have good lives as lawyers if they do not act according to their conscience, deep personal values, and ideals.

■ Law students (and lawyers) really need to be encouraged to define success in terms that are personally meaningful, achievable, and which include the experience of a full, healthy, and happy life.

■ Law students (and lawyers) really need to know that their level of professionalism will probably improve if they live a full, satisfying life.

■ Law students (and lawyers) really need to know that a respectful, caring attitude, and consistent enjoyment of life are signs of a mature, healthy person.

'Beyond the obvious pressures of time and economics, few of us will want to be perceived as needing help in such personal ways.'

LAWYERS NEED TO PAY attention to their "inner compasses." Krieger notes that "[a] spectrum of respected sources tell us that high levels of emotional health, maturity, and life satisfaction depend on constant reference to such 'internals' or subjective qualities as one's values, commitments and character, and not primarily to 'externals' such as credentials, win ratios, power, money and tangibles that suggest affluence,

prestige or competitive advantage." Law school and law practice seem to prize "externals."

Krieger also notes that "[g]enuine self-esteem and self-actualization require intimacy with one's feelings, values and other subjective qualities. Since these qualities are foundational for life satisfaction and development of the qualities at the heart of professionalism, improvement of the profession requires that law students and lawyers seek ways to strengthen these faculties within themselves."

Krieger recognizes that most law students and lawyers will have "formidable inhibitions to the level of ongoing attention" that is necessary to make a real difference. "Beyond the obvious pressures of time and economics, few of us will want to be perceived as needing help in such personal ways. Further, the precise nature of the problem from this viewpoint is the attorney's distaste or discomfort with his feelings, and disconnection from his values and sense of self. Direct approaches to strengthening those faculties require openly experiencing and exercising them, and are therefore unappealing to most lawyers and law students."

NO MATTER HOW unappealing or discomfoting it might be to lawyers (who, by many accounts, have a higher than average need for control; who, as a group, are significant-



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ly more competitive than the average person; and who tend to focus on external measures of success), we must do whatever is necessary to live meaningful and healthful lives as lawyers and to contribute to making our profession one that allows each lawyer to live a meaningful and healthful life as a lawyer.

Krieger realizes that although attending only a single meeting of a few hours on these topics will be less effective than participating in a full semester course or three-year integrated curriculum, a single meeting could “generate reflection on one’s motivating assumptions about personal and professional life, and an interest in these or related issues.” The State Bar of Montana has already begun to offer such continuing legal education programs.

What might lawyers do to help themselves? Discussion groups among lawyers would be a means to take up these matters regularly. Such a group could be informal and include a few peers who are friends or professional associates. Krieger lists the benefits of such discussion groups: “camaraderie of like-minded professionals; peer reinforcement to create a balanced and enjoyable life for one’s self; an environment that encourages one to notice and express personal feelings and beliefs; and an enforced opportunity to listen respectfully to the feelings and beliefs of others, all on a regular basis.”

The discussion groups that Krieger has proposed seem to me to be modern version of the community that lawyers created in earlier years. In Missoula, lawyers used to meet at the Florence Hotel for lunch. “There was a lawyers’ table and a businessmen’s table. The table would seat about 10, but sometimes there were as many as 16 lawyers, and they would sit

around the table and talk. I don’t believe that those lawyers talked about meditation or their feelings, but their talk could have subtly reinforced the value of a balanced and enjoyable life and provided opportunities for them to listen respectfully to the beliefs and feelings of others.

Lawyers can work by themselves on these matters. Much recent empirical evidence shows that written self-reflection in a journal or notebook is effective. Meditation has also been proven to help people become better able to live according to their individual values and commitments.

WHAT MIGHT THE LAW SCHOOL and profession do collectively to improve the health and meaning in lawyers’ lives? That’s the subject of later columns.

No doubt the pressures on most people, not just lawyers, these days lead to higher rates of suicide, mental illness, chemical addictions and careers that are unsatisfying. But according to many studies, lawyers have greater rates of suicide, mental illness and chemical addictions than in society generally or in most other professions, including medicine.

The suicide of a lawyer is a tragedy. Mental illness and chemical addiction are tragedies. Lawyers in Montana (as well as other places) seem to have witnessed many, many tragedies recently. We can’t continue to lead our lives as we normally and ordinarily do, and ignore the signs and consequences of what the training of lawyers and law practice can mean in lawyers’ lives. We must dedicate ourselves first to our own health and then to the health of all members of our profession.

The Lawyer Assistance Program grows rapidly in its first 6 months

By **Mike Larson**, director
Montana Lawyer Assistance
Program

This is an exciting time to be a lawyer, not just in our practices, but in the way we live. Attorneys are learning that to better serve their clients, they must take care of themselves. This important need was recognized by the State Bar when the Montana Lawyer Assistance Program was created last fall. I was honored to be the first director and began working full-time in that capacity last December.

After my first six months in this position, I am pleased to see the program growing rapidly. To date, the program has provided individual assistance to nearly 20 attorneys across the state and provided crisis counseling 24 hours a

day via the (888) 385-9119 hotline. I have also given presentations at CLEs to approximately 350 attorneys.

When most people hear Lawyer Assistance Program, the first impression is assistance with alcohol-related problems. Granted, that is an important aspect of what the program does, but it is far more reaching. Not only are we dealing with alcohol-related issues, but other forms of chemical dependency, mental health issues, compulsive gambling, overeating problems, general stress, burnout, and many other issues.

Basically, any type of impairment that is negatively affecting an attorney’s ability to represent clients is encompassed by the Lawyer Assistance Program. I am currently working with attorneys in Billings, Missoula, Great Falls, Helena and other smaller communities across

the state to address these issues.

Hundreds of Montana attorneys suffer from some form of impairment. If you are one of them, you can call me 24 hours a day to discuss your problem. Working together we can decide what form of help is most appropriate, whether it is individual counseling with me, referral to a residential treatment program, or something in between.

Maybe instead of you, another attorney you know is suffering from a type of impairment. If you are concerned about a colleague, help is also available. The person suffering is often the last person to realize the severity of his problem. I am available 24 hours a day to discuss how to help other attorneys. At a minimum, I can help the person calling deal better with their friend or colleague’s situation. I can also visit with the other attorney, or if needed, help facilitate a formal intervention.

I need the help of each of you to make this program work. Whether it is making referrals, serving on the Lawyers Helping Lawyers Network, offering

It could've been a career ender

Montana federal judge very close to fatal lightning strike on lake

U.S. District Judge for Montana Jack Shanstrom was fishing from a boat when another boat 100 feet away was struck by lightning and its occupant killed. The following article appeared in the Billings Gazette on May 24, written by Gazette Outdoor Editor Mark Henckel:

Mixing lightning and boats is a recipe for tragedy. Every experienced boater and fisherman knows that.

But the lightning-strike death of a fisherman on Canyon Ferry Reservoir last Friday still shook up many experienced boaters for the swift, random, gruesome violence that can take place when lightning strikes a boat.

Theodore Raymond Austin III, 50, of Helena, was the victim of the tragedy as he fished near the earthen dikes on the southeast shore of the lake at about 3:20 p.m. [on May 18]. He is a native of Minot, N.D.

Eyewitness account

Here's how it unfolded.

Walleye fishermen had been flocking to Canyon Ferry in recent weeks from across Montana, fueled by reports of a great bite on the south end of the lake.

By all accounts, the weather in the area was odd last Friday and Saturday. It simply didn't look bad with a generally cloudy sky with a few slightly darker clouds mixed among them rolling over the Elkhorn Mountains.

U.S. District Judge Jack Shanstrom, of Billings, was among the fishermen taking advantage of the good walleye bite as he fished with Earl Kunn and George Galuska.

"It was a pretty decent day," Shanstrom recalled. "There were a little bit of clouds in the west, then a little bit of rain coming down. I looked at it in the west and you could see through it. There wasn't much rain there.

"I saw a bolt of lightning come down between the mountains and the lake," he said. "That was the first sign of anything."

Little warning

According to Brenda Ludwig, the Broadwater County sheriff and coroner, Austin, who was fishing alone, had just

caught a walleye at about that time.

Shanstrom said, "Within a minute, there was a huge bang of lightning on the lake. There was nothing you could do. We got ready to leave. Then there was another flash of lightning and it almost knocked us out of the boat.

"It was so loud, it rocked you," he said. "I thought it might have hit us. It really, really crashed. I looked around and there was smoke coming out of the boat next to us. We were about 100 feet away. We were the closest one to it.

"People were yelling that he's been hit," Shanstrom said. "There were probably about 75 boats within 200 yards of him when it happened.

"The boat next to us took off and went over there and said the guy is on fire. Get a fire extinguisher," he said. "They had to put him out with a fire extinguisher. He was dead. It was horrible. There wasn't anything we could do."

Boats clear lake

Ludwig said, "One of the boaters near Austin saw it happen and called it in. We responded to the docks by the Silos. Another fisherman towed him in.

"That afternoon, there was quite a little bit of lightning afterward," she added. "A lot of the other boaters who were down the lake knew something was up so they came in. Pretty much all the boats cleared off the lake."

Austin was running a fiberglass boat. Ludwig said, "The lightning exited out the opposite side of the boat from where he was at. There was a burn mark where it came out. It made a hole through the fiberglass.

For Shanstrom, like other fishermen out on Canyon Ferry that day, it was a stern lesson on lightning and how quickly and unexpectedly a weather situation can turn dangerous.

"There was no warning for you to get off the lake," Shanstrom said. "Anyone who would have tried to get off the lake wouldn't have been able to get off the lake quickly enough. It was really spooky.

"A friend of mine in Helena told me that if you see any clouds coming over those mountains, get out of there," he said. "I'm 74 years old. I've been fishing for 70 years.

"I've seen lightning storms. But I never had a lesson in lightning like this one," Shanstrom said. "It makes me think about all the other times I've been out on lakes and seen lightning in the distance. It makes me wonder what could have happened all those times." ○

financial assistance or other support.

This is an exciting time for the attorneys of Montana. New changes and challenges face us every day. The Lawyer Assistance Program will be there every step of the way to help our fellow

attorneys who are experiencing hard times.

Please contact me to if you have any questions about the program or if you or someone you know needs assistance.

MIKE LARSON, based near Dillon, can be reached at (406) 660-1181; at mlarson@montanabar.org, or through the Lawyer Assistance Program Hotline at (888) 385-9119.

CASA honors two district judges

Judge Dusty Deschamps of Missoula honored two judges and a CASA Director and volunteer for their hard work and commitment at the Prevent Child Abuse Conference.

Two judges instrumental in creation of CASA (Court-Appointed Special Advocates) programs received awards that were accepted by local program directors in Great Falls and Hamilton. Great Falls District Judge Thomas McKittrick and Hamilton District Judge Jeffrey H. Langton were named as the two Judges of the Year.

Yellowstone CASA Director Shirley Folkwein was chosen as the Director of the Year. She was one of four people selected for special recognition this year by CASA of Montana and an independent committee of three evaluators. Sylvia Anderson of Anaconda was recognized

as the Volunteer of the Year.

More than 400 volunteers in 15 local programs are advocating for 1,000 children in the state's foster care system. CASA stands for Court Appointed Special Advocates. Judges appoint CASA volunteers as guardians ad litem or friends of the court to advocate for the best interest of the child. These volunteers serve as the eyes and ears of the court to investigate and recommend so the judge can make the right decision for a child on home placement and treatment.

In Great Falls, Judge McKittrick helped to begin the GAL (Guardian ad Litum) program in Cascade County with three volunteers more than 20 years ago. When the program was developed and funding was on the line, he devoted time not required by his position because he

believed in the CASA program, attorney Darcy Crum wrote. "He genuinely cares about kids."

Judge Langton also was essential in the formation of Bitterroot CASA, seeing the need for a CASA program long before being approached by community members about starting a local program, Program Director Julie Crane wrote in her nomination. He has participated in the pre-service training and screening of potential volunteers by meeting the trainees before their acceptance into the program.

Judge Langton and Judge McKittrick are just two of the many judges in Montana committed to building strong CASA programs and recruiting volunteers to help children, CASA officials said.

FOR MORE INFORMATION on how you can get involved in CASA, call 866 863-2272 or e-mail Ellen M. Bush at info@casagal.org.

ORAL ARGUMENTS

September 2007:

- Cause No. DA 06-0724 – BONNER SCHOOL DISTRICT NO. 14, Petitioner and Repondent, BONNER EDUCATION ASSOCIATION, MEA-MFT, NEA, AFT, AFL-CIO, Defendant and Appellant.

ORAL ARGUMENT is set for Wednesday, Sept.5, at 9:30 a.m. in the courtroom of the Montana Supreme Court, Justice Building, Helena.

PRO BONO, from Page 11

individual lawyer and not be delegated or passed on to another lawyer in the firm. The lawyer shall keep track of all time spent providing pro bono services. The firm shall voluntarily report total annual pro bono hours expended to the state bar or other organization upon request.

Attorneys shall provide high quality representation to all clients regardless of their ability to pay. Pro bono projects will be given the same staffing, attention and resources as any other project. Pro bono matters are to be supervised by partners with the full resources of the firm available in support.

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Books & Bytes

Tammy Hinderman

Law Library's advanced search



Last month, the State Law Library quietly launched its new Advanced Search page for its Montana Supreme Court Cases database at www.searchcourts.mt.gov. This advanced-search function allows you to combine multiple criteria for a case into a single search. For example:

- **Recent briefs.** You can now search for all recently filed briefs by choosing the Document Type of "All Party Documents" and then adding a date range to your search. You get to choose the length of time – all briefs for the past week, month, or whatever time frame you like. Please note: We will no longer post a list of recent briefs on the courts web page Newsfeed since you can now access them easily online.

- **Recent opinions.** Although we still offer a quick link to the opinions issued in the past 30 days, you can now choose to view all documents with a Document Type of Opinion/Order within a different date range. If you want to find an opinion issued in the past six months, past year, or past five years, you

can do it.

- **Citation Search.** You can now search the cases by MT Citation (Montana's neutral citation format). If you have a citation to the case but do not have an MT Citation, try our Party Name Search instead. You can enter either one or two different party names (e.g., State of Montana and John Doe). It's the fastest and easiest way to find a case if all the information you have is a citation from opposing counsel's brief.

- **No more irrelevant briefs in your results.** Are you looking for an opinion on a subject and not just a reply brief that mentions that topic randomly in a footnote? Try limiting your results by choosing the Document Type of Opinion/Order. That way, your results will only include Supreme Court opinions that discuss your topic.

- **Advanced Full Text Searching.** You can now search the database for documents containing any combination of three words or phrases. Try using the OR function for synonyms or acronyms. Use the AND function to limit your results by specific facts or legal concepts.

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TAMMY A. HINDERMAN is the reference librarian at the State Law Library in Helena.

SUMMER READING, from Page 4

James Grippando, known more for his popular thriller novels for older readers. The book "**Leapholes**" is a novel with thrills for readers age 10 and older that mixes travel and a quick reference study of *Dredd Scott v. Sandford*. Mildly interesting to adults, it is a good base to use to discuss some U.S. legal history with the kids.

Law free

My favorite list – again totally subjective:

- The first book I recommend is "**West With the Night**," by Beryl Markham. "Did you read Beryl Markham's book West with the Night?" asked Ernest Hemingway. "I knew her fairly well in Africa and never would have suspected that she could and would put pen to paper except to write in her flyer's log book. As it is, she has written so well and marvelously well that I was completely ashamed of myself as a writer."

- If you wish to read about rural Montana and if you remember the rivalries that existed (and still exist) between Montana "C" schools, particularly in Southwest Montana, read "**Blind Your Ponies**," by Stanley G. West. The characters are memorable and the game descriptions exciting. Anyone familiar with the Willow Creek area will enjoy the references, and everyone I know who has read the book is sorry it has to end.

- If you have ever thought of writing your Montana fami-

ly's history, and want to appeal to more than the family, read "**The Soul of the Land: The True Story of Two Brothers and Their Struggle to Own the Land**," by Chan Atchley. An acquaintance of my parents, Chan wrote a compelling story of his own family in Idaho. Due to numerous requests, Chan then wrote a "how to" book to write your own family's history, titled "**We, the Shamans**." Obviously more academic, it is nonetheless a must have if your family's history is as intriguing as the Atchley clan's.

Other suggestions

I have many other recommendations, listed randomly here:

- "Water for Elephants: A Novel," by Sara Gruen.
- "The Greatest Generation," by Tom Brokaw.
- "American Theocracy, the Perils and Politics of Radical Religion, Oil and Borrowed Money in the 21st Century," by Kevin Phillips.
- "Harry Potter and the Deathly Hollows," by JK Rowling (due out in July).
- "Animal, Vegetable, Miracle – a Year of Food Life," by Barbara Kingsolver.
- "Salt: A World History," by Mark Kurlansky
- "Imperial Life in the Emerald City: Inside Iraq's Green Zone," by Rajiv Chandrasakaran
- "The Real All-Americans: The Team that Changed a Game, a People, a Nation," by Sally Jenkins. ○

Alain Burrese

The ethics of negotiating



I recently attended the 15th Annual Northwest Dispute Resolution Conference at the University of Washington School of Law in Seattle. One of the sessions I participated in was titled “The Ethics of Negotiation: Proper Bargaining or Unacceptable Lying?” The presenter was Christopher J. Soelling, a former trial lawyer who is now a full-time mediator and arbitrator.

Besides participating in the CLE session, I had an opportunity to speak with Chris later that night at the reception. While we acknowledged there are no definitive answers regarding negotiating ethics, it is an interesting and important topic to consider. Chris told me that if he does figure out the answers, I can look for him on Oprah. Because we couldn’t determine any absolutes, all I can provide is a few things for you to consider during your negotiations.

I’D LIKE TO FIRST share two passages that Christopher Soelling shared during his presentation. These divergent views are how he opened the CLE:

On the one hand the negotiator must be fair and truthful; on the other he must mislead his opponent. Like the poker player, a negotiator hopes that his opponent will overestimate the value of his hand. Like the poker player, in a variety of ways he must facilitate his opponent’s inaccurate assessment.

The critical difference between those who are successful negotiators and those who are not lies in this capacity to both mislead and not to be misled . . . a careful examination of the behavior of even the most forthright, honest, and trustworthy negotiators will show them actively engaged in misleading their opponents about their true positions.

James J. White, “Machiavelli and the Bar: Ethical Limitations on Lying in Negotiation,” American Bar Foundation Research Journal, 1980, p. 926.

At the core of the public’s distrust and criticism of lawyers is the perception that we do not tell the truth . . . In mediation and settlement conferences, do you and your client honestly answer questions about bottom dollar and settlement authority? . . . Little white lies are not accept-

able. It’s not an excuse that everyone in society does it. We are not everyone – we are supposed to set the example . . . The model rules of Professional conduct are being rewritten, as is our oath of admission to the Bar. They should both contain two simple statements: “A lawyer must always tell the truth. A lawyer must never intentionally mislead by act or omission.”

Jan Eric Peterson, “The Truth, the Whole Truth, and Nothing but the Truth,” Washington State Bar News, June 2001, p. 13-14.

THERE ARE CERTAIN AREAS of negotiations that all could agree would be unethical and would be prohibited by our Rules of Professional Conduct.

One such example is that we are prohibited from making false representations as to law, therefore we cannot represent to another lawyer that a case exists when in fact it does not. However, while the rules also prohibit making false statements of material facts, is it really false to state that you believe a claim is worth at least \$1 million when you actually believe its value is in the \$500,000 range?

Are you being unethical and violating the rules when you tell opposing counsel that your client will not pay more than \$100,000 when you know that your client would pay at least \$150,000 to settle the matter?

Little white lies told during negotiations are often called “puffing.” Is puffing unethical? Is puffing acceptable? According to Peterson, even little white lies are not acceptable and there-

According to Peterson, even little white lies are not acceptable and therefore a lawyer should not ‘puff.’

fore a lawyer should not “puff.”

THERE ARE SEVERAL RULES and many examples we could look at when discussing the ethics of negotiations. Unfortunately, doing so still does not answer all the questions. Additionally, our Rules of Professional Conduct are not the only considerations.

One of the most important factors is your professional reputation. When a relationship must be maintained or your reputation is at stake (in our small communities of Montana our reputation is always at stake), it is imperative that you negotiate ethically.

Reputations for trustworthiness are important. However, will “puffing” hurt an attorney’s reputation? Does it depend on the severity of the “puffing?”

Aren’t some lawyers rewarded for testing the limits of ethical behavior when it results in a tactical advantage over a less experienced negotiator? Doesn’t being a zealous advocate on behalf of one’s client demand that you test the limits if doing so will achieve the best outcome for your client? How do you test the limits without going over?

All of us have our own moral code that guides how far we will go in our statements or conduct in negotiating. Regardless



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if this is based on personal, religious or family upbringing or another sense of fair play, it often plays the largest role in determining negotiation strategy. This can cause inner turmoil when one's personal code is not the same as a client's.

Chris Soelling and I discussed the fact that many times we are put in the position that if we do not satisfy our clients we may not pay the bills. Do we withdraw from representation? Do we test that line in order to be paid and keep our doors open? Will testing those limits hurt our reputation and cost us more in the long run? Can we sleep at night?

I told you at the beginning that I didn't have the answers, and this topic only continues to raise more and more questions.

IF NOTHING ELSE, I hope this article made you stop and think for a moment on the ethics of negotiating. I believe we must negotiate honestly and ethically. I also realize there are strategies and tactics that incorporate "puffing" as part of the negotiation game.

As you ponder, consider the Rules of Professional Conduct, your reputation in the legal community, and your own personal moral code.

I agree with Chris Soelling's CLE materials where he wrote, "... the rules are general in nature. They provide a minimum standard only; we must look to our own conscience and moral framework to determine how to negotiate ethically and effectively."

ALAIN BURRESE is a mediator and attorney with Bennett Law Office in Missoula. He conducts mediations and settlement conferences as well as speaking and training in negotiation and mediation. He can be contacted at: www.bennettlawofficepc.com or (406) 543-5803.

LETTERS

Justice Shea: poster child

Justice Shea appears to be the poster child for selecting judges by some way other than an election.

Prior to 1969 when I started practicing in Colorado, the election process was changed to nomination by a committee, appointment by the governor, and a periodic election to retain or reject

judges. I have seen judges in other judicial districts tossed by the electorate.

I have seen all of the seats on the local bench turn over at least twice not counting recent events where within the last two years we had a complete turnover of district court bench with four new judges, one of whom was elevated from the county court bench. Also we had three new county court judges appointed including a new position. We are about to get a fifth district court judge.

I am convinced that we would not

have had the same quality of people selected by an election because some of them simply would not have run. They would have avoided the partisan nature of the election.

I see there is a move to take donations of money out of the election of judges in Montana by financing them with taxes. Montana needs to take the judges out of the election process, not the money out of the election process.

— *Dickie D. Lewis, attorney
Grand Junction, Colo.*



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"The first duty of society is justice."

Alexander Hamilton

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Marriage by proxy booming in Montana

By Maurice Possley
of the Chicago Tribune

KALISPELL, Mont. — By her own count, Sarah Knapton has been “married” more than 250 times. So last Thursday when she took her vows before Municipal Judge Heidi Ulbricht, it was just another day at the altar.

“I do,” she intoned, and at that, Ulbricht pronounced her married, by proxy, for the umpteenth time to the man by her side, Kyle Kirkland, a high school classmate.

It wasn’t an altar; Knapton and Kirkland really weren’t married to each other. In fact, Knapton has a steady boyfriend, and Kirkland is happily married to someone else. And actually, on this day, Knapton and Kirkland took their vows and were pronounced married 11 times in 21 minutes. And for their time and trouble, each was paid \$550 — or \$50 per wedding.

The real wedding parties — Sheila and Samuel, Cynthia and Kevin, Richard and Lucilyn were just three of the 11 couples — were nowhere to be seen. Knapton, 21, and Kirkland, 21, were merely stand-ins — proxies is the legal term — in this ceremony unusual to the rest of the country, but a phenomenon becoming more common all the time in Montana.

That’s because Montana is the only state in the country that provides for double proxy marriages — meaning that neither party need be present at the actual ceremony. Instead, stand-ins represent the bride and groom.

The growing number of double-proxy marriages — from a handful just a few years ago to hundreds each year — prompted Democratic state Rep. Deborah Kottel to propose tightening the statute this spring.

A former Chicago lawyer, Kottel said, “The clerks were being inundated. While many were coming from the military, there were a lot coming from all over — from Israel; a man in China wanted to marry a woman in Denmark. Court clerks were spending hours and hours on these.”

Last month, Gov. Brian Schweitzer signed into law Kottel’s bill requiring that one of the parties to such a marriage must either be a Montana resident or a member of the military on active duty.

THE 11 MARRIAGES performed last Thursday all involved military personnel, said Dean Knapton, the [Kalispell] attorney who prepared the documents and whose daughter has been a regular proxy for him for the past few years. He first got involved in what has become a cottage industry with a military proxy marriage in 2003; when news of the event spread via Internet, suddenly he was flooded with requests.

“The statute had been on the books since just after World War II,” Knapton said in an interview. “But once it

got on the Internet and businesses advertising their services to arrange for it got going, I started getting a lot of them.”

Peg Allison, the District Court Clerk here, said, “I am the queen of marriages in Flathead County. Prior to 2004, we probably did one double proxy marriage every five years. Since then, we average about 20 to 30 a month.”

Virtually all of these are performed in Kalispell or in Bozeman, where attorney Christopher Gillette has done about 60 in the past year.

“There is no kissing of the bride,” he said, laughing. He said he processes the marriages — his secretary, Colette Hanson, is the bride and he is the groom — without the mini-ceremony that takes place in Kalispell.

“I talked to the judge and he agreed there’s not much point in having a ceremony,” Gillette said. “It’s a little unromantic, but it’s expeditious.”

MARIE CONNOLLY fields requests for legal information on behalf of the State Bar of Montana. “Montana became an insta-flourishing marriage business. We got a lot of requests from Israel, where civil ceremonies are not allowed.”

She said that when she got a letter from an Israeli law firm inquiring about setting up a franchise of sorts, she

became concerned. “The purpose of the bill was for the military, and there was a fear that it was being abused. The intention was to modify the law without shutting the door to its highest intentions.”

Inquiries have come from all the world, according to Kottel. “There were hundreds and hundreds of requests for information. We decided the law needed to be amended to make it clear and eliminate ambiguity, although I am not sure how Montana has the authority to issue marriage licenses for an entirely foreign jurisdiction.”

SARAH KNAPTON, a student at Flathead Valley Community College, says being a proxy bride is no big deal anymore. “At first, though, it was kind of weird. Kyle is my friend and he is married and I have a boyfriend, but we had to say ‘I do.’ But I can make a lot of money off it.”

Dean Knapton said a typical fee charged by a private business for each marriage is about \$900, of which he gets \$150, the proxy bride and groom each get \$50 and the judge gets \$100. A wedding license costs \$53.

“I don’t see anything wrong with Montana allowing the solemnization of a union that is nothing but positive,” he said. “We want people to be married, right?” ○

‘I am the queen of marriages in Flathead County. Prior to 2004, we probably did one double-proxy marriage every five years. Since then, we average about 20 to 30 a month.’

Helena attorney censured, false testimony charged

Helena attorney Palmer Hoovestall was publicly censured in Helena on May 22 by the Montana Supreme Court following a complaint by the Office of Disciplinary Counsel for submitting false testimony.

According to the ODC complaint, the case began in the spring of 2000, when Cheryl and Larry Clifford of East Helena retained attorneys Greg Jackson and Mr. Hoovestall to defend them against felony charges of fabricating physical evidence and threats or other improper influence. The charges arose out of allegations that members of the Mormon Church and law enforcement in the Helena area received more than 150 pieces of pornographic materials and threatening and obscene letters by mail and other means. The case went to trial on Jan. 7, 2003, and lasted through Feb. 4, 2003. Larry Clifford was acquitted of all counts. Cheryl Clifford was convicted on two of the four counts.

ODC charged that subsequent to trial, on Feb. 10, 2003, Hoovestall's office received a fax from the Cliffords. The fax referred to an entry on a Mormon dating service web site called "LDS Singles.com" which used the identifier of "eternal mom," the name Cindy Hurst used to refer to herself in the past. The Cliffords had contended that Hurst was responsible for the threatening letters that had been the subject of the criminal charges against them. The "eternal mom" document appeared to incriminate Hurst and exculpate the Cliffords.

On Feb. 10, 2003, Hoovestall's secre-

tary, Rachel Gratzler, showed the Cliffords' "eternal mom" fax to Hoovestall, the ODC said. Gratzler then faxed the "eternal mom" fax to

the prosecutor, Dusty Deschamps. On Feb. 11, 2003, Hoovestall told Jackson that Gratzler sent the fax to Deschamps.

Following investigation, on Aug. 28, 2003, the Cliffords were arrested and charged with a new count of fabrication of physical evidence based on the "eternal mom" document. Subsequently, the complaint said, Hoovestall maintained his position that Gratzler had faxed the "eternal mom" document by mistake and without authority from anyone, and that the document was a confidential and privileged document. But in a subsequent conversation, Gratzler revealed to others that she had to take the fall for the disclosure of the "eternal mom" document because Hoovestall had directed her to fax it, the complaint said. On Oct. 28, 2003, Hoovestall's firm fired Gratzler for alleged breach of confidentiality.

Soon after Gratzler was fired, she entered into an immunity agreement with the Lewis and Clark County Attorney's office. She told an investigator that Hoovestall told her to send the fax to Deschamps. When it became apparent that this disclosure incriminated his own clients, Hoovestall "told Gratzler to lie to the investigators and tell them that she faxed the document by mistake and without authority," the complaint said. "He made her sign a false affidavit." The ODC charged Hoovestall provided sworn testimony that he did not authorize Gratzler to send the fax to Deschamps, adding, "in truth he did."

Missoula lawyer censured, put on probation

Missoula attorney Paulette Ferguson was publicly censured by the Montana Supreme Court on June 5 and placed on five years' probation in her law practice for mishandling a family-law case.

The Office of Disciplinary Counsel charged that Ferguson had failed to communicate to her clients the details of a changing grandparent visitation plan being filed in Missoula, starting in November 2004.

The ODC complaint said Ferguson failed to respond to the clients despite numerous attempts by the clients to contact her. In the meantime, the visitation plan was being amended and redrafted, all moves that Ferguson's clients were unaware of because of Ferguson's failure to communicate.

In January 2006, the complaint said, Ferguson's client terminated her services, but Ferguson failed to inform the court or get the court's permission for the termination, as required by law.

ODC noted that during Ferguson's representation of the clients, "she suffered from significant health problems" which impaired her ability to represent the clients.

In its May 2, 2007, order for censure and probation, the Supreme Court said Ferguson cannot practice law during the probation unless she is under the direct supervision of another attorney.

Two years added to suspension

The Montana Supreme Court extended the suspension of attorney Stephen Moses from at least one year to at least three years after Moses failed to respond to a complaint by the Commission on

Practice. Moses "has been before the [Court] in disciplinary proceeding on previous occasions," the most recent resulting in a one-year suspension beginning June 1, 2006, the May 23, 2007, Court order said.

A notice of a January 17, 2007 hearing on further disciplinary proceedings went unanswered by Moses.

Original complaints were filed against Moses when he missed an appeal deadline on behalf of a convicted client and subsequently failed to heed court orders to file a brief in the case. Moses was kicked off the case, fined \$500 by the Court and was subject to further disciplinary proceedings, to which he failed to respond.

NEWS ABOUT MEMBERS

Brent L. Coleman recently joined the Helena law firm Doney Crowley Bloomquist Payne Uda as an associate attorney. Mr. Coleman earned a bachelor of science degree in Biology from Westminster College of Salt Lake City and a master of science in Zoology from Brigham Young University. He obtained his law degree from Vermont Law School in 2005, graduating cum laude. Mr. Coleman is admitted to practice law in Montana and Utah. During law school, Mr. Coleman was a clinician at the Environmental & Natural Resources Law Clinic, focusing on the Clean Water Act and the Resource Conservation & Recovery Act. Mr. Coleman worked as a judicial extern in the U.S. District Court in Utah, and was a sole practitioner in Salt Lake City prior to moving to Helena. His practice areas at the Doney firm will include telecommunications, natural resources and administrative law.

Billings attorney **Stephen Foster** was appointed to the 9th Circuit Advisory Board by Chief Judge Mary Schroeder. In his three-year term, Mr. Foster will represent the Northern Unit of Alaska, Idaho, Montana, Oregon and Washington. Mr. Foster is of counsel in Holland & Hart's Billings office. His legal practice includes environmental and commercial litigation in state and federal courts. He is a fellow of the American College of Trial Lawyers and a member of the American Board of Trial Advocates. Mr. Foster is a former member of the Montana Supreme Court Commission on Rules of Evidence. He also served on the Board of Trustees and Executive Committee of the State Bar of Montana and was president of the Yellowstone County Bar Association. As a member of the 9th Circuit Advisory Board, he will help advise the Judicial Council and 9th Circuit courts regarding proposed matters relating to the effective administration of the courts in the circuit. He will also serve as liaison to at least one other circuit committee.

Gavin W. Murphy has formed the Law Offices of Gavin W. Murphy in Billings. Mr. Murphy was born and raised in Billings and was a 1992 Billings Senior High School graduate. Mr. Murphy attended the University of Hawaii-Hilo and Arizona State University where he received his undergraduate degree in political science. He graduated from the University of Montana Law School in 2001. Mr. Murphy returned to Billings after law school graduation and clerked for the Hon. Russell C. Fagg before joining the law firm of Stacey & Funyak where he practiced for five years specializing in civil litigation. His new law firm is located at 2722 3rd Avenue North, Suite 400, Billings MT 59101. His practice will focus on both plaintiff and defense civil litigation. He welcomes referrals and can be reached at (406) 294-0200. His e-mail address is Gavin@gavinmurphyllaw.com.

Robin A. Meguire, a Great Falls native and 2004 honors graduate of the University of Montana School of Law, has launched meguirelaw.com, a virtual law firm that provides quality

statewide contract services to Montana attorneys, including legal and factual research, brief writing, court and deposition appearances, pre and post trial jury investigations, and document review. Ms. Meguire will also continue to practice public interest environmental law. Previously, Ms. Meguire was an associate attorney at Meloy Trieweiler in Helena. She also clerked for Montana Supreme Court Justices Jim Regnier, Pat Cotter, John Warner and Brian Morris. For more information, visit www.meguirelaw.com, e-mail robin@meguirelaw.com, or call (406)442-8317.

The Missoula law firm of Sullivan, Tabaracci & Rhoades announced that **Craig Mungas** has joined the firm. Mr. Mungas obtained his juris doctor degree in 2002 from Seattle University School of Law, where he graduated cum laude. After law school, Mr. Mungas practiced law in Helena. In 2004, Mr. Mungas received his masters of laws (LL.M) in Taxation from the University of Washington. While at UW, he served as the LL.M representative for the UW Student Bar Association. After receiving his LL.M, Mr. Mungas returned to Montana to resume his practice. In June 2006, Mr. Mungas was appointed by the King County Superior Court in Seattle to serve as a Receiver for a business with property and assets in excess of \$12 million. Mr. Mungas is licensed to practice in Washington and Montana state courts, U.S. District Court for the District of Montana and the Western District of Washington, and the U.S. Tax Court. Mr. Mungas's practice areas include estate and business succession planning, tax planning, and general commercial law. He may be reached at (406) 721-9700.

Gregory D. Birdsong also has joined the Missoula law firm of Sullivan, Tabaracci & Rhoades. Mr. Birdsong attended University of Wyoming, earning a bachelor of science, with honors, in Economics, and a master of science in Computer Science. He worked in computer and information sciences for nearly 20 years as an associate professor, a programmer, a systems analyst and a small-business owner. Mr. Birdsong and his wife owned and operated Tailor Made Computers in Missoula for nine years before selling the business in 1999 to pursue other interests. Mr. Birdsong attended the University of Montana School of Law, earning a juris doctorate degree in 2003. He practiced law in the central coast area of California for over two years, returning to Montana to join Sullivan, Tabaracci & Rhoades. Mr. Birdsong's practice emphasizes commercial litigation, real estate litigation and general civil litigation as well as appellate practice and estate planning. He may be reached at (406) 721-9700.

Thomas Sabo, Bozeman attorney

Bozeman attorney Thomas I. Sabo, 70, died at his home west of Bozeman on June 5, 2007.

He was born and raised in Bozeman, attended the University of Notre Dame for his undergraduate degree followed by his law degree from The University of Montana.

Mr. Sabo joined the law firm of Drysdale & O'Connell in 1961 and was a Bozeman city judge from 1969 to the early 1970s. He was in private law practice for more than 40 years and was a candidate for district judge.

He was vice-president of the Gallatin County Bar Association; a member of the American Trial Lawyers Association, and the American Judicature's Society.

Mr. Sabo was district camping chairman for the Boy Scouts, president of Riverside Country Club, president and member of the ski patrol for eight years and former director at Bridger Bowl.

Mr. Sabo is survived by his wife, Dixie, three sons and a daughter.

Scotty MacCalman, Deer Lodge attorney

Malcolm "Scotty" MacCalman, 90, died June 4 in Powell County Medical Center in Deer Lodge.

Born and raised in Deer Lodge, Mr. MacCalman was a member of the Civilian Conservation Corps and later worked for the Milwaukee Road and Registrar of Motor Vehicles. In February 1942, he enlisted in the Navy and served until January 1946, mostly at sea in the Pacific. In 1951, he graduated from the University of Montana with a law degree. Within a few days after being admitted to practice, was returned to active duty in the Navy and served a year during the Korean War. After discharge, he practiced law in Deer Lodge and served as part-time county attorney for 18 years. From 1972 to 1976, he was registrar of motor vehicles.

Mr. MacCalman served on School District No. 1 Board of Trustees, the Deer Lodge City Council and as state representative. He was preceded in death by his first wife, Lorraine, and by his son. He is survived by his wife, Ruth, a daughter, and three stepchildren.

Robert Woodahl, former attorney general

Robert L. Woodahl, 75, former Montana attorney general and retired Choteau lawyer, died of natural causes Friday at a Great Falls care facility.

He is survived by his wife, Arlene, three sons and one daughter.

He was born and raised in Great Falls, the son of Arvid B. and Margaret R. Woodahl. He attended Montana State University and the University of Montana. He served in the Air Force during the Korean conflict. After receiving his JD degree from the University of Montana School of Law, he established a private law practice in Choteau.

Mr. Woodahl served as Teton County attorney from 1961 until 1968, when he was elected as Montana's attorney gener-

al. He served two terms as attorney general from 1968 through 1976. He was an unsuccessful candidate for governor in 1976, losing to incumbent Gov. Tom Judge. He returned to Choteau in 1978, and established a private law practice from which he retired in 1999.

Mr. Woodahl "burst onto the scene as Montana's attorney general in 1969 and vowed to fight crime and clean up corruption," wrote Lee Newspapers reporter Charles Johnson after Mr. Woodahl's death. "Woodahl returned to Choteau eight years later after limited success, fed up with politics but happy to go home.

"Even before taking office, Woodahl served notice that he intended to crack down on illegal gambling," Mr. Johnson wrote. "Woodahl soon made good on his pledge by launching a crusade..." which Mr. Johnson recounted:

"Woodahl and his raiders struck first in Anaconda in 1969. They didn't alert local officials so bar owners wouldn't be tipped off. After confiscating illegal punchboards, Woodahl announced that he would repeat the crackdown elsewhere until gambling stopped.

"They didn't get the message over in Butte, so we went over there and did it again," Woodahl told me in 1989. Next, they seized slot machines from bars in Circle.

"Along the way, Woodahl picked up the unflattering nickname 'Bingo Bob.' It stuck, even though he never busted any illegal bingo games in church basements, contrary to legend.

"The worst of it was the bingo,' Woodahl recalled. 'Little old ladies in tenny runners deluged my office. They'd been playing it for years, and they didn't want it shut down. But it was illegal, and I had to stop it.'

"His threat was sufficient enough to turn out the lights on bingo parlors until the 1974 Legislature legalized bingo, keno and some card games, including poker."

Mr. Woodahl spearheaded a extensive investigation, including a rare state grand jury probe, into what he believed was widespread corruption in Montana's workers' compensation system, Mr. Johnson wrote. "Although a number of attorneys and others were charged, only a few people were convicted and sent to jail."

Woodahl was "a bit of a political accident" from the start, Mr. Johnson explained:

"In October 1968, John Kuglin, then of the *Great Falls Tribune*, wrote a spellbinding, explosive eight-part series about corruption in Butte after the local media wouldn't touch it.

"Kuglin told the story of Beverly Snodgrass, the madam of two Butte whorehouses, who had found religion and was battling corruption in the Mining City. She told of being forced to make extortion payments to crooked Butte

policemen and politicians to keep her brothels running. Snodgrass described her special relationship with a prominent Butte politician she called 'Dimple Knees,' widely believed to be a district judge.

"The Lee Newspapers, furious about Kuglin's scoop in Butte, dispatched two journalists to ferret out vice in the *Tribune's* hometown of Great Falls. Sure enough, the Lee reporters uncovered illegal gambling in Cascade County.

"The Lee stories ran shortly before the November 1968 election. Analysts, including Woodahl, believed the stories doomed the chances of the better-known Democratic candidate for attorney general, Cascade County Attorney Gene B. Daly.

"To many people's surprise, the little-known, small-town county attorney [Woodahl] won."

Jack Dietrich, Billings attorney

Retired Billings attorney John M. "Jack" Dietrich died on May 21 at age 82.

Mr. Dietrich was born in Helena. An only child, he spent many summer months on the Prescott family ranch near the Hi-Line's Sweetgrass Hills. There he learned the language of ranching from uncles Harold and Allen Prescott, both of whom reflected Montana's 19th-century ranching days.

He graduated as valedictorian at Powell County High School in 1942, and took the train to Stanford University that fall. The U.S. Air Corps interrupted his freshman year and trained him in a state-of-the-art course in the fledgling science of meteorology at the Universities of Washington and Chicago. The Air Force assigned him to the air transport command in Casablanca and Tripoli, North Africa. His duties included billeting airmen coming and going from India, where airmen flew "The Hump," the treacherous route over the Himalayas into China. (He loved to relate the story of Madame Chiang Kai-

Shek's calm demeanor during an air raid in Tripoli, the sole "lady" remaining seated, calmly sipping her tea, while he and other GIs dove under mess-hall tables.)

Returning on a Liberty Ship in 1946, he enrolled at the University of Montana as a second-quarter senior, thanks to the education from the Air Force. He also began taking courses at the law school. He graduated from law school in December 1949, and was admitted to the Montana Bar in 1950. He was elected Powell County attorney in the fall of 1950 and maintained a private practice simultaneously.

In 1955, Mr. Dietrich and his wife Anne moved from Deer Lodge to Billings, to join the Coleman, Jameson & Lamey firm, the predecessor to Crowley, Haughey, Hanson, Toole & Dietrich. Mr. Dietrich practiced actively into the 1990s and remained of counsel thereafter. He became an expert in agricultural estate planning, which led to related fields of law, including real estate and closely held corporations. He handled some of the largest ranch sales in the history of the state.

In 1964, Mr. Dietrich and Vince Carpenter purchased the Frank Mackay ranch and formed the Bar Diamond Ranch, north of Billings. From 1964 to 1968, he managed the ranch while practicing law, but was relieved of this task when Mr. Carpenter and his family moved from Minnesota to Montana to take over its active management.

As an attorney, Mr. Dietrich achieved an AV rating, a lawyer's highest rating possible. He was president of the Young Lawyers Division of the ABA, president of the Yellowstone County Bar Association, and a Fellow of the American College of Trust & Estates Counsel. He also received the Jameson Award, the highest honor for professionalism from the State Bar of Montana, and two of the highest honors from the University of Montana: the Pantzer Award and the Neil Bucklew Presidential Service Award.

Mr. Dietrich served on governors' committees for the revision of corporate law, probate law and the restructuring to the Montana University System. He was a director of the Billings Symphony & Choral Society, Yellowstone Art Center, Deaconess Research Institute and Rocky Mountain College. He also served on the board of the Deaconess Medical Center and was a director of the First Interstate Bank.

Mr. Dietrich guided the Montana Land Reliance by serving as a director for more than 20 years. He helped found and became chairman of the Yellowstone Park Foundation.

Mr. Dietrich is survived by his wife, Anne, three daughters and two sons.

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ATTORNEY POSITIONS

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LAW CLERK: Judge Loren Tucker is recruiting for a law clerk in the 5th Judicial District, Dillon, Montana. This is an excellent opportunity to gain experience in all aspects of the law. Applicants must have a JD and have legal research experience. The position comes with a full state benefit package including a generous leave package. Salary \$36,774 per year, start date is approximately Sept. 4, 2007. For more information see: <http://discoveringmontana.com/statejobs/application.asp> or a local Job Service. Deadline for application: June 27, 2007.

LAWYER: #60065, Department of Commerce, Helena. Annual Salary \$50,014 - \$62,518. For application information, contact any Job Service or the state website: www.mt.gov/state-jobs/statejobs.asp or 406-841-2700. Deadline: June 29, 2007, 5 p.m.

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ATTORNEY: The Montana Legal Services Association has an opening for a staff attorney in Billings to provide civil legal services in employment law matters to low income people. MLSA is funded in part by the Montana Justice Foundation. Salary depends on experience. Send a letter of interest, resume and three references to: Montana Legal Services Association, 616 Helena Ave., Suite 100, Helena MT 59601, or hiring@mtlsa.org.

AMERICORPS ATTORNEY: The Montana Legal Services Association has

an opening in its Helena office for an AmeriCorps attorney. This position will work on the Self-Help Law Project. Requires travel within Montana. Position starts August 2007. MLSA is funded in part by the Montana Justice Foundation. Salary: \$22,200 AmeriCorps stipend. Mail, fax or e-mail a letter of interest, resume, three references and a writing sample to: Montana Legal Services Association, 616 Helena Ave., Suite 100, Helena MT 59601. Fax: (406) 442-9817; e-mail hiring@mtlsa.org.

DEPUTY COUNTY ATTORNEY, CIVIL: Full time permanent position with Cascade County Attorney's Office Civil Department. Provides general legal counsel to large multi-client government entity. Land use experience preferred. Juris Doctorate from accredited law school, license to practice in Montana required. Full job description can be viewed at co.cascade.mt.us or by contacting Cascade County Human Resources at (406) 454-6739. Salary up to \$52,000, depending on experience.

DEPUTY COUNTY ATTORNEY, CRIMINAL: Full time permanent position with Cascade County Attorney's Office for criminal prosecution. The position requires knowledge of criminal law and procedures, rules of evidence and civil procedure and familiarity with legal research and word processing. Juris Doctor degree from accredited law school, licensed to practice in Montana required. Full job description can be viewed at co.cascade.mt.us or by contacting Cascade County Human Resources at (406) 454-6739. Salary up to \$52,000, depending on experience.

ENVIRONMENTAL ATTORNEY: Position with Montana Department of Environmental Quality, Remediation Division, Helena. Help clean up Montana's environment under the state and federal Superfund laws. Practice involves environmental law (CECRA, CERCLA), administrative law, real

property, contracts and construction, and some litigation. See State web site (www.discoveringmontana.com) or contact Bill Kirley at (406) 841-5017 or bkirley@mt.gov for details and deadline.

EMPLOYMENT LAWYER: Dunn & Black PS is looking to hire an employment lawyer with 6-12 years experience for labor and employment practice. Excellent compensation and benefits package. Mail or fax resume to 10 N. Post, Ste. 200, Spokane WA 99201; fax (509) 455-8734; attention: Kevin W. Roberts.

ATTORNEY sought for expanding family law practice in Kalispell. Applicants must be personable, work independently, have excellent organization, communication and writing skills and ability to manage multiple priorities. Experience preferred. Salary depends on experience; health and retirement benefits available. Send cover letter, resume, references and writing sample to Lonnevik Law Firm PC, PO Box 1784, Kalispell MT 59903.

ASSOCIATE: Flathead Valley law firm seeks associate attorney to help with busy real estate, land use and litigation practice. Experience is preferred but we are willing to train the right person who possesses a strong work ethic, desire to learn and improve, and writing and analytical skills. Compensation and benefits are very competitive. Submit your cover letter, resume, transcript and writing samples to Ken Kalvig, Scott & Kalvig PC, PO Box 1678, Kalispell MT 59903-1678.

ATTORNEY: The Montana Legal Services Association has an opening in its Indian Law Unit for a staff attorney serving the Blackfeet Indian Reservation. Requires travel within Montana, as this position will provide services to low income clients on the Blackfeet Indian Reservation and its surrounding counties. Experience working with Indian and/or low-income clients preferred. MLSA is funded in part by the Montana Justice Foundation. Salary depends on experience. Send a letter of interest, resume and three references to: Montana Legal Services

Association, 616 Helena Ave., Suite 100, Helena MT 59601.

ASSOCIATE ATTORNEY: Busy Great Falls firm seeks an attorney with experience in civil litigation. Strong research and writing skills required. Competitive salary and benefits. All inquiries will be kept confidential. Send letter of application, resume, references and a writing sample to *The Montana Lawyer* #3-22, PO Box 577, Helena MT 59624.

ATTORNEY POSITIONS SOUGHT

BUSY PRACTICE? I can help. Former MSC law clerk and UM Law honors graduate with 5-plus years legal experience available for all types of contract work, including legal/factual research, brief writing, court/depo appearances, pre/post trial jury investigations, and document review. For more information, visit <http://www.meguirelaw.com>; e-mail robin@meguirelaw.com; or call (406) 442-8317.

LEGAL ASSISTANTS & OTHER PROFESSIONALS

LEGAL SECRETARY: Busy Lakeside law firm seeks front office dynamo with a strong desire to learn and grow with our team. Perform reception duties, scheduling, maintain client contacts, and file management. Civil litigation experience and excellent computer skills are required, as are strong proof-reading, multi-tasking and organizational skills. Bookkeeping and accounting skills are a plus. We offer a competitive salary and benefits package. Qualified individuals should send cover letter and resume to Stephanie Breck at Lakeside Law Office, PO Box 400, Kalispell MT 59922 or by e-mail to lclark-lakesidelaw@centurytel.net.

RECEPTIONIST / LEGAL SECRETARY: \$12.50-plus per hour, depending on experience, with benefits package in busy law firm. Perform receptionist duties, scheduling, maintain client contacts, etc. Experience. with multi-line telephone, court and administrative fil-

ings, and proficient in WordPerfect, transcription, legal terminology, and file management. Qualified individuals please send cover letter and resume to Beth Baker at Hughes, Kellner, Sullivan & Alke PLLP, PO Box 1166, Helena MT 59624 or by e-mail to bbaker@hksalaw.com.

PARALEGAL OR LEGAL ASSISTANT:

Busy Kalispell law firms seeks paralegal or legal assistant with transactional and litigation experience in real estate, land use, partnerships and corporations, employment, and general business law. Candidates must be analytical, organized, detail-oriented, and able to perform with limited supervision. Bookkeeping and accounting skills a plus. Contact with clients and others required. Salary depends on experience. Send resume and cover letter to: Scott & Kalvig PC, PO Box 1678, Kalispell MT 59903.

LEGAL RESEARCH

LEGAL RESEARCH & WRITING:

Fast, accurate and thorough legal research. Effective legal writing - briefs, motions, pleadings, appeals. Attorney with 20-plus years of civil litigation experience. JD, UCLA; admitted in California and New Mexico. Reasonable rates. Local references. HLWashburn@aol.com; (406) 442-1298.

DON'T FORGET YOUR BRIEFS! I'll write them for you. Quality results at reasonable rates. Local references available. Credentials: 22 years of practice in Boston, most recently at Bingham McCutchen (financial restructuring, bankruptcy); admitted in Montana May 2005; CLE veteran; former federal law clerk; Boston College Law Review (1981). Mary DeNevi, 2309 Cloverdale Drive, Missoula MT 59803; mdenevi@bresnan.net; (406) 541-0416.

OFFICE SPACE / SHARE

BILLINGS: West End Billings office space. Great location. Two large attorney offices, two smaller secretarial offices, large conference area. Will lease

all or part. Possible sharing of secretarial services. (406) 672-2212.

CONSULTANTS & EXPERTS

CERTIFIED LEGAL NURSE CONSULTANT:

Professional, affordable assistance with medical lawsuits. Certified Legal Nurse Consultant, Registered Nurse, 20+ years' experience. Specialties: screen cases for merit, assess causation/damages, interpret medical records, facilitate communication. Accept cases involving health, illness, injury, workers' compensation, general negligence, defendant or plaintiff. Marni Allen, RN, CLNC. (406) 690-4314; www.madedlegal.com.

MEDICAL MALPRACTICE: We have thousands of physician expert witnesses. Fast, affordable, flat-rate referrals to board certified, practicing doctors in all specialties. Your satisfaction guaranteed. Just need an analysis? Our veteran MD specialists can do that for you, quickly and easily, for a low flat fee. Med-Mal EXPERTS, Inc. www.medmalEXPERTS.com; (888) 521-3601.

INTERPRETING & TRANSLATIONS SERVICE:

English into Spanish or Spanish into English. Over 15 years of experience. Simultaneous, consecutive, interpreting and translations of documents, in the legal and medical fields, workers' comp or any miscellaneous documents. References upon request. Call: (406) 370-6049 or (406) 777-2802. See web site: www.spanishinterpretingservice.com.

FORENSIC DOCUMENT EXAMINER:

Trained by the U.S. Secret Service and U.S. Postal Crime Lab. Retired from the Eugene, Ore., P.D. as their examiner. Qualified in state and federal courts. The only examiner in the Northwest certified by the American Board of Forensic Document Examiners. Full-service laboratory for handwriting comparisons and other document-related examinations. Contact Jim Green at (888) 485-0832 in Eugene, Ore.

FORENSIC DOCUMENT EXAMINER:

Specialization: Identification / elimination through examination and

comparison of handwriting, typewriters, photocopiers, printing processes, paper and inks. Forensic document apprenticeship through the Colorado Bureau of Investigation. Plum Creek Forensic Laboratory LLC, Darla McCarley-Celentano, PO Box 21, Castle Rock CO 80104-0021; phone / fax (303) 663-2450; e-mail rdacelentano@att.net.

INSURANCE CONSULTANT / EXPERT WITNESS - BAD FAITH:

20 years multi-line claims experience, including Montana claims. JD & CPCU credentials. (425) 776-7386, www.expertwitness.com/huss.

COMPUTER FORENSICS & DATA RECOVERY:

Retrieval and examination of computer and electronically stored evidence by certified computer examiner. Expert testimony on findings. Practice limited to civil and administrative matters. No charge for preliminary review. Contact Jimmy Weg, CFCE, Weg Computer Forensics LLC, 512 S. Roberts, Helena MT 59601. (406) 449-0565 (evenings); jimmyweg@yahoo.com.

MEDIATION

ALLEN CHRONISTER: Attorney with over 25 years of experience in civil litigation and in mediating a wide variety of disputes, available for mediations. Reasonable rates, will travel. Allen Chronister, PO Box 1152, Helena MT 59624; (406) 449-3691; almont@mt.net

MICHAEL H. KEEDY: As a former district court judge, I bring 12 years valuable experience to bear in settling your case. In addition, I have over 30 years' experience in a variety of other legal pursuits. Conference rooms are available at our Kalispell offices. Please call me at (406) 752-7122 or 888-865-8144.

SARAH H. SEILER, LCSW, LAC:

Specializing in family dispute resolution, child-centered divorce mediation, guardian ad litem representation and custody investigations. Contact Resolution Consultants Inc., PO Box 604, Townsend MT 59644; (406) 980-1615 or 266-5475; sseiler@wildblue.net

STEVEN J. SHAPIRO PC: Attorney and paralegal work as a team to medi-

ate. As mediation consultants we provide customized and individual assistance to people and organizations experiencing conflict. Will travel. Contact Katie Lane, 9 Friendship Lane, Suite 100, Montana City MT 59634; (406) 449-1200; klane@montanacitylaw.com.

SOLOMON ARBITRATION & MEDIATION

for Labor & Employment. Glenn Solomon, arbitrator/mediator. Training: Cornell School for Industrial & Labor Relations, Institute for Conflict Resolution. Experience: 25 years of employment law practice. Montana Wrongful Discharge From Employment Act cases. Reasonable rates. No charge for travel. Call: (888) 341-3508 or e-mail: glensol@aol.com.

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INVESTIGATIONS & IMMIGRATION CONSULTING:

34 years investigative experience with the U.S. Immigration Service, INTERPOL, and as a private investigator. President of the Montana P.I. Association. Criminal, fraud, background, loss prevention, domestic, workers' compensation, discrimination and sexual harassment, asset location, real estate, surveillance, record searches, and immigration consulting. Donald M. Whitney, Orion International Corp., PO Box 9658, Helena MT 59604. (406) 458-8796 / 7.

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EVICCTIONS LAWYER: We do hundreds of evictions statewide. Send your landlord clients to us. We'll respect your "ownership" of their other business. Most evictions cost about \$216 including all fees and costs. Call for a price list. Hess-Homeier Law Firm, (406) 549-9611, thesshomeier@msn.com.

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