

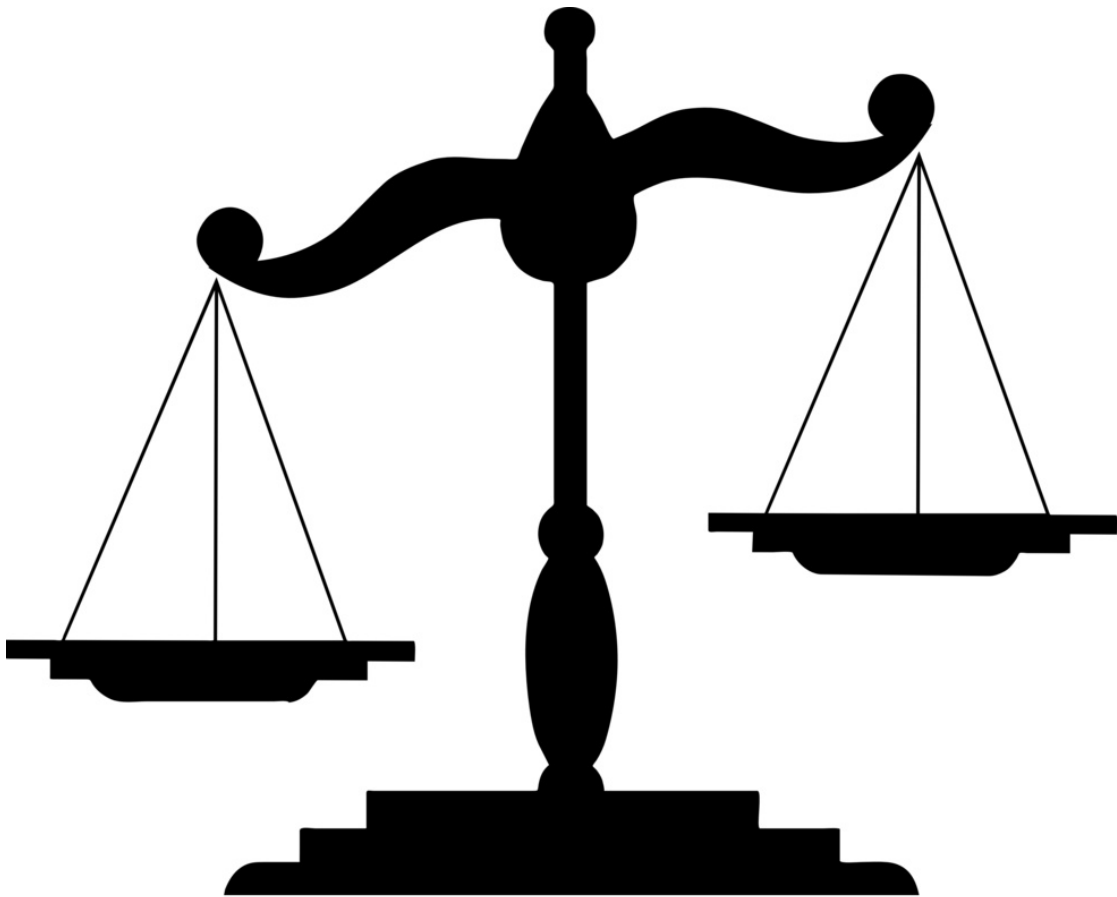
Also inside: Law and tech | Changes to previously published forms

MONTANA

LAWYER

State Bar
— of —
Montana

April 2012 | Vol. 37, No. 6



Access to Justice

Public comments about
new commission on file

The Rule of Law

Attorneys train Chinese peers
on domestic violence issues



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Attitude and satisfaction in the practice

"The longer I live, the more I realize the impact of attitude on life. Attitude, to me, is more important than facts. It is more important than the past, than education, than money, than circumstances, than failures, than successes, than what other people think or say or do. It is more important than appearance, giftedness or skill. ... We cannot change our past ... we cannot change the fact that people will act in a certain way. We cannot change the inevitable. ... I am convinced that life is 10% what happens to me and 90% how I react to it." ~Charles Swindoll

Let's stop at McDonalds for ice cream," my mother said on a hot, summer afternoon in Williston, ND.

Being young boys, my brothers and I never turned down an opportunity for ice cream, so we responded enthusiastically, "YES!"

After proceeding through the drive-thru, we sat in the parking lot enjoying the coolness of the ice cream sliding down our throats. Mom was especially good at eating ice cream, and would always finish her cone before any of us boys.

Mom then turned to me, the closest son: "Oh! OH! Your cone is about to drip. Here, give it to me right now. I'll help." Taking my cone, she quickly licked around it multiple times, lapping up all the melting parts (and then some). She handed back the cone to me much diminished in ice cream from when I relinquished control to her.

She repeated the same help with each of my brothers, likewise making sure their cones didn't drip. My mother was kind like that, always willing to help where ice cream was involved.

We frequently chuckle about my

mother's ice cream antics. She will find a reason to eat ice cream nearly every day, especially as a treat for exercise.

My mother's attitude toward life is simple: everything can be made better with ice cream. For her, ice cream is frozen happiness just waiting to be savored. It's a simple cure-all; a reset button masquerading in chocolate, vanilla, and rocky road flavors. (BTW, my favorite is Grandma's Cake Batter ice cream by Tillamook.) If only we all could have this easy-going attitude.

The above quote by Charles Swindoll about attitude is one of my favorites. I have the full version hanging by my bathroom mirror. If reading were a contact sport, my copy would be worn-out; I read it nearly every morning. The saying is what jump-starts my day when my battery (and attitude) is dead.

Let's face it, many lawyers in the practice express high rates of dissatisfaction. Indeed, according to some surveys, restaurant cooks, welders, truck drivers and correctional personnel report a higher level of career satisfaction than lawyers.

We need to talk about dissatisfaction in the practice of law. To not talk about

it is to pretend that it doesn't exist, which would be a huge lie. Nothing is more painful than living a lie.

We look to the obvious external factors for the dissatisfaction – long hours, stress, difficult clients, mental and emotional fatigue, and incivility in the practice. To compensate or alleviate this dissatisfaction, some turn to destructive behaviors and start a downward spiral.

Many times, however, the cause of our dissatisfaction is internal. I'm not talking about clinical depression or other mental disease. Rather, I speak about our state of mind for those who are blessed with generally good health.

Satisfaction with our practice ... with our life, is within our control. The control mechanism is attitude. We choose how to start our day, how to deal with difficult clients, how to manage our work load, how we interact with our families, etc. In addressing our own satisfaction and happiness, we need to start with ourselves. In the words of Maya Angelou, "If you don't like something, change it. If you can't change it, change your attitude." It starts with us.

Now, I'm going to have some ice cream.

Petition filed, comments on record for Access to Justice Commission

Survey results show that access needs have never been more significant

Editor's note: Public comments about establishing an Access to Justice Commission are on file with the Montana Supreme Court at <http://supremecourtdocket.mt.gov/index.jsp> and searching for case AF 11-0765 .

The comments follow a petition that the Equal Justice Task Force filed in December 2011. You can also read the petition at the preceding website.

Below is an overview of the 2010 Montana Legal Needs Study, which provides details that support the petition for the new commission. You can read the full survey on the Bar's website at www.montanabar.org ->For Our Members -> Bar Related Groups -> Access to Justice Committee, or directly at <http://bit.ly/HdkNbU> . The survey is Appendix B to the petition.

In addition to the overall legal needs survey, a separate survey took a closer look at legal needs for the Native American population. That survey is Appendix C to the petition and is also available directly at <http://bit.ly/HdkNbU> .

By Pam Bucy

As most of you know, the State Bar of Montana, through its trustees and the Access to Justice Committee (ATJC), the Supreme Court's Equal Justice Task Force (EJTF) and its Commission on Self Represented Litigants (CSRL), the Montana Justice Foundation, Montana Legal Services Association and countless other advocates for Montana's low income citizens have for years been struggling to understand and better quantify the unmet legal needs of Montanans living in poverty.

As resources to assist Montana's most vulnerable citizens with their legal needs continue to rapidly decrease, we must make sure that we distribute what limited resources we have in the most effective way possible.

To that end, the Montana Justice Foundation (with assistance from the Communications Working Group of the EJTF, CSRL and ATJC) contracted with the Bureau of Business and Economic Research at the University of Montana to conduct a survey-based assessment of the civil legal needs of low income Montanans in the fall of 2010. The 2010 Montana Legal Needs Survey is the second iteration of cross-sectional analysis designed to provide a snapshot of current civil legal needs. The survey design maintains some question continuity with the previous survey conducted in 2005, but provides some new information as well. The study is particularly timely in the wake

of the most severe recession experienced in the state since the 1980's. A more specific Native American Legal Needs study was also conducted in 2011 by a host of volunteers from the above Access to Justice organizations.

The key findings are, once again, disheartening and disturbing for those who take the welfare of low-income families and households to heart. Key findings include:

- An estimated 49% of low-income households had at least one civil legal problem in the last year.
- A substantial portion of the civil legal needs of low income Montanans go unmet. Of the low income households that reported having at least one civil legal need and who also felt a need for help from a lawyer, a sobering 77.1% of households reported doing nothing in response to their legal needs.
- In 2010, the five most commonly reported civil legal problems experienced by Montana households at or below 125% of poverty were: 1) Problems with a creditor; 2) Any kind of non-criminal court action; 3) A problem or disagreement about charges, payments, or insurance coverage for health care, prescription drugs, or medical supplies; 4) Any problem with a payday or title loan, credit card, or any other loan or credit; and 5) An inability to get satisfactory health care when and where it was needed because of a long waiting list or facilities that could not meet their needs, discrimination based on race, income, or not having insurance.
- Native Americans also cited problems with credit and creditors as the most pressing legal problem. 12.5% of the respondents who reported this problem sought assistance. A sobering 87.5% reported that they did nothing about the problem.
- Native Americans also cited family law issues and health care as significant legal issues. However, they also reported unsafe or unhealthful rentals (25.8%), government benefit programs (24.1%), discrimination in the workplace or unfair hiring practice (21.2% of which 72.7% was based on race or ethnicity) and discrimination based on disability or health conditions (13% of which 57.1% was based upon disability). Of veterans, 27.3% had problems related to VA benefits, discharge, and healthcare.
- Low income Montana households are most likely NOT to

State Supreme Court proposes changes to Rules of Appellate Procedure

The Supreme Court of Montana seeks to clarify some language of the Rules of Appellate Procedure — M.R. App. P. 4(5)(b) — and issued the order below on Feb. 28. Language

to be added is highlighted and language to be deleted is stricken. Public comment is accepted for 60 days from the date of the order. You can also read the full order at www.montanabar.org.

ORDERS, Page 7

FILED
February 28 2012
Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. AF 07-0016

IN THE MATTER OF THE RULES OF)
APPELLATE PROCEDURE) ORDER

The Court seeks to address apparent confusion on the part of some retained criminal defense counsel as to continuing responsibility for appellate representation of the defendant. To help eliminate such confusion and, secondarily, to provide minor language clean-up, we propose to amend M. R. App. P. 4(5)(b) as follows. Language to be added is highlighted and language to be deleted is stricken.

(b) Appeals in criminal cases.

- (i) ~~In criminal cases, a~~ An appeal from a judgment entered pursuant to section 46-18-116 must be taken within 60 days after entry of the judgment from which appeal is taken. A notice of appeal filed after the oral pronouncement of a decision or sentence but before entry of the written judgment or sentence is treated as filed on the date of ~~such the written~~ entry. The district court is not deprived of jurisdiction to enter the written judgment or order by the premature filing of a notice of appeal.
- (ii) After filing a notice of appeal, retained criminal defense counsel will remain as counsel of record on appeal until and unless counsel either obtains and files with the clerk of the supreme court the client's written consent to counsel's withdrawal, or obtains a supreme court order allowing counsel to withdraw.
- (iii) ~~In criminal cases, a~~ An appeal from a judgment or order made appealable by section 46-20-103 must be taken within 20 days of the entry of the written judgment or order from which appeal is taken.

IT IS ORDERED that public comments will be accepted on the above proposed changes to M. R. App. P. 4(5)(b) for 60 days following the date of this Order. Such comments shall be filed, in writing, with the Clerk of this Court.

Orders

from page 6

Supreme Court accepting comments on proposal to increase pro hac vice fee

Summarized from a March 20 order: The State Bar of Montana has asked the Court to amend the 2009 Amended Rules for Admission to the Bar of Montana to increase the pro hac vice fee. Currently, the Rules provide for a one-time payment of \$345 for pro hac vice admission. The State Bar asks that, in order to meet its costs of administration, the fee be increased to an annual payment of the applicable bar dues amount (currently \$385) for the term of the litigation.

IT IS ORDERED that, for 90 days from the date of this Order, the Court will accept comments on the State Bar's proposal to increase the pro hac vice fee. All comments shall be submitted in writing to the Clerk of this Court. Following the comment period, the Court will consider the petition at a public meeting.

Oral arguments to be heard in Bozeman at MSU

Summarized from a March 2 order: Montana Cannabis Industry Association, Mark Matthews, Shirley Hamp, Shelly Yeager, Jane Doe, John Doe #1, John Doe #2 Michael Geci-Black, M.D., John Stowers, M.D. Point Hathield, and Charlie Hamp, Plaintiffs and Appellees, and Cross-Appellants, V. STATE OF MONTANA, Defendant and Appellant, and Cross-Appellee.

IT IS ORDERED that pursuant to the Internal Operating Rules of this Court, this cause is classified for oral argument before the Court sitting en banc and is hereby set for argument on Monday, April 30, 2012, at 10:00 a.m. in Ballroom A of the Strand Union Building on the campus of Montana State University, Bozeman, Montana, with an introduction to the oral argument beginning at 9:30 a.m.

IT IS FURTHER ORDERED, pursuant to M. R. App. P. 17(3), oral argument times shall be thirty (30) minutes for the Appellant and twenty-five (25) minutes for the Appellees.

Counsel should be mindful of the provisions of M. R. App. P. 17(6).

IT IS FURTHER ORDERED that the Honorable John Brown, District Judge, will sit in the above-entitled cause in the place of Chief Justice Mike McGrath.

Terms expire, new members named for Court Commission on Rules of Evidence

Summarized from a Feb. 28 order: The terms of Daniel P. Buckley, Michael W. Cotter, Wendy Lee Holton, Hon. Jeffrey M. Sherlock and Gary M. Zadick as members of the Montana Supreme Court Commission on Rules of Evidence have expired. The Court expresses its gratitude to Daniel P. Buckley, Michael W. Cotter and Wendy Lee Holton for their service to the legal profession and to the people of Montana.

IT IS HEREBY ORDERED that the following are reappointed to the Commission on Rules of Evidence for four-year terms to expire on March 1, 2016:

Hon. Jeffrey M. Sherlock, Helena, Montana (as the District Court Judge member) Gary M. Zadick, Great Falls, Montana (as a Civil Defense Attorney member) IT IS FURTHER ORDERED that the following Attorneys are appointed as new members to the Commission on Rules of Evidence for four-year terms to expire on March 1, 2016:

Robin Meguire, Great Falls, Montana (as a Criminal Defense Attorney member) Randi Hood, Helena, Montana (as a Criminal Defense Attorney member) Michael Cok, Bozeman, Montana (as a Plaintiffs Attorney member)

Order of discipline, final disposition

Summarized from a March 14 order: On December 16, 2010, a formal disciplinary complaint was filed against F. Ron Newbury. On May 5, 2011, an amended complaint was filed. Newbury filed a response to the original complaint, which he has stated also is his response to the amended complaint. The Commission on Practice held a hearing on the amended complaint on September 23, 2011, at which hearing Newbury was present and testified on his own behalf. On December 15, 2011, the Commission submitted Findings of Fact, Conclusions of Law, and Recommendation for discipline. Newbury filed objections to the Commission's findings, conclusion, and recommendation, and the Office of Disciplinary Counsel (ODC) filed a response to those objections. This matter has now been submitted for the Court's review and determination of discipline.

The Commission has concluded Newbury violated Montana Rules of Profession Conduct 1.1 Competence; 1.3 Diligence; 1.4 Communication, 1.16(c) Declining or Terminating Representation; 3.4 Fairness to Opposing Party and Counsel; and 8.1 Bar Admission and Disciplinary Matters; and Rule 8A(6) Grounds for Discipline, of Montana Rules for Lawyer Disciplinary Enforcement.

Newbury claims he was deprived of due process notice of the proceedings before the Commission. The Court states he was afforded all process to which he was entitled.

The Commission's Findings of Fact, Conclusions of Law, and Recommendation are ACCEPTED and ADOPTED.

- F. Ron Newbury is hereby suspended from the practice of law in Montana for a period of 90 days beginning April 15, 2012.
- Newbury shall obtain a mentor to be approved by the Commission.
- Newbury shall undergo a psychological evaluation at his expense to determine whether he has a mental condition adversely affecting his ability to practice law. The results of the evaluation shall be reported to ODC.
- Newbury shall comply with the recommendations of his psychological evaluation.
- Newbury shall report at least quarterly to ODC concerning his mentoring, his practice of law, and his compliance with any recommendations of his psychological evaluation.
- Newbury shall pay the costs of these proceedings in accordance with the statement to be provided by ODC.

Loved-ones set up benefit trust for UM professor

Friends and colleagues of Prof.

Hillary Wandler have established a donation account in order to help defray expenses associated with her recently diagnosed medical condition.

Non-tax deductible donations should be made in the name of the Hillary Wandler Benefit

Trust and mailed to:

Hillary Wandler Benefit Trust
PMB #1415
91 Campus Drive
Missoula, MT 59801.

For additional information please contact Maylinn Smith at (406)243-2544, maylinn.smith@umontana.edu or Kristen Juras at (406)243-2676, kristen.juras@umontana.edu.

To send Hillary a note, please visit: <http://www.caringbridge.org/visit/hillarywandler>.

The University of Montana School of Law: <http://www.umt.edu/law>.

Missoula attorney starts new online estate planning firm, Matrium Law Group

Lili Panarella, of Missoula, has recently started Matrium Law Group, which is a completely online law firm that combines the professionalism of a traditional law office with the convenience and accessibility of a secure web-based business.

Matrium Law Group lawyers provide fixed-fee legal services for clients who need estate planning, including a will, living will, health care power of attorney, HIPAA authorization, durable power of attorney, or a springing power of attorney.

Unlike traditional law firms, which are constrained by time and location, our clients can contact us 24 hours a day, 7

days a week from any location through a secure internet connection. Matrium Law Group is minority woman owned. We provide affordable, convenient, secure online legal services to Montana residents, including underserved communities, such as rural Montana where it can be challenging and time consuming to meet with a lawyer in person. For more information, visit www.matriumlaw.com.

New lawyers' collective, Montana Legal Justice, opens its doors in Missoula



Giuttari



Brown

Jennifer Giuttari and Julie Brown have opened Montana Legal Justice, PLLC in Missoula. Montana Legal Justice is a public interest lawyers' collective dedicated to protecting the legal rights of Montanans, particularly those who have historically been disadvantaged or underserved. Montana Legal Justice's areas of practice include civil rights, criminal defense, youth court and student discipline, prisoner's rights, family law, and Chapter 7 bankruptcy.

Most recently, Jen served as Interim Legal Director and Staff Attorney at the American Civil Liberties Union (ACLU) of Montana. As Staff Attorney, she created the Montana Prison Project, which is the first project in Montana to solely focus on prisoners' rights. Jen is a December 2007 graduate of the University of Montana School of Law, where she served as Notes Editor of the Montana Law Review and was President of the Women's Law Caucus.

Julie graduated with honors from the University of Montana School of Law in May 2011 and was sworn into the State Bar of Montana in September 2011. During law school, she was a junior partner in the law firm program where she assisted first year law students with legal

writing and research. Julie also worked as a legal intern at the ACLU of Montana throughout her three years of law school.

You can learn more about Montana Legal Justice at www.montanalegaljustice.com or visit Jen and Julie in-person during Montana Legal Justice's opening on First Friday, April 6 from 5 - 8pm at 415 N. Higgins Ave., Suite 1, Missoula.

Idaho Business Review recognizes businesswoman

Bar member Britt E. Ide was recognized as one of the Idaho Business Review's Women of the Year at a gala event on February 20, 2012. Honorees were recognized for professional achievements, leadership skills, community involvement and long-term goals. Britt is the Founder and President of Ide Law & Strategy, PLLC, a Boise, Idaho based consulting business helping businesses solve problems at the intersection of law, business and policy. Britt's clients engage her to negotiate agreements, mediate disputes, and advise on strategy. More information at: www.idelawstrategy.com. The Idaho Business Review recognized Britt's business and legal achievements and especially her dedication to helping other businesses and growing leaders in the community.

Billings attorney named a fellow of College of Trial Lawyers

John G. Crist has become a fellow of the American College of Trial Lawyers, one of the premier legal associations in America.

The induction ceremony took place before an audience of approximately 614 during the College's recent spring meeting in Scottsdale, Ariz.

Founded in 1950, the College is composed of the best of the trial bar from the United States and Canada. Fellowship in the College is extended by invitation only, and after careful investigation, to those experienced trial lawyers who have mastered the art of advocacy and whose professional careers have been marked by the highest standards of ethical conduct,

CONTINUED, Next Page

professionalism, civility and collegiality. Lawyers must have a minimum of fifteen years trial experience before they can be considered for fellowship.

Membership in the College cannot exceed one percent of the total lawyer population of any state or province. There are currently approximately 5,838 members in the United States and Canada, including active fellows, emeritus fellows, judicial fellows (those who went on the bench after their induction) and honorary fellows. The College strives to improve and elevate the standards of trial practice, the administration of justice and the ethics of the trial profession.

Qualified lawyers are called to fellowship in the College from all branches of trial practice. They are carefully selected from among those who customarily represent plaintiffs in civil cases and those who customarily represent defendants, those who prosecute accused of crime and those who defend them. The College is thus able to speak with a balanced voice on important issues affecting the legal profession and the administration of justice.

Mr. Crist is a partner in the firm of Crist, Krogh & Nord, LLC and has been practicing in Billings for 25 years. He is a 1984 graduate of the University of Montana Law School.

Women's Law Section annual dinner scheduled for April 20

The Women's Law Section is pleased to invite you to attend the annual spring dinner to celebrate and honor women in the legal profession. At the dinner, the section will announce the winners of the Fran Elge Scholarship and the Margery Hunter Brown Assistantship. **Where:** The Stensrud Building, 314 N. First Street, Missoula. **When:** Friday, April 20, 2012-reception begins at 6:30 p.m., dinner begins around 7 p.m. **RSVP:** Judy Roberts by email at JRoberts@brownfirm.com or by phone at (406) 247-2816 by 5 p.m. on Friday, April 13.

Hearing on M.R.Civ.P.

On April 20, the Law and Justice Interim Committee will hold a hearing on the new Montana Rules of Civil Procedure. 8 a.m. Captiol Rm. 172.

Call (406) 444-3064 for info.

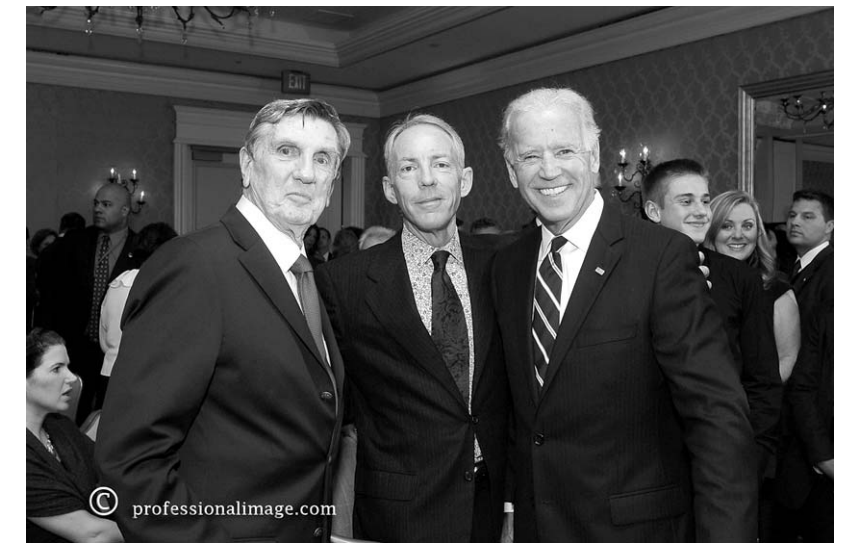


Photo by John Drew

From left: Monroe Freedman, Chuck Watson, and Vice President Joe Biden.

Montana Bar member takes on MC duties for roast of attorney Monroe Freedman

Recently, Montana State Bar member Chuck Watson was master of ceremonies at a roast of legendary lawyer Monroe Freedman. Guest speakers included renowned trial lawyer Michael Tigar and other esteemed lawyers and scholars.

Monroe Freedman has received the American Bar Association's highest award for professionalism, in recognition of "a lifetime of original and influential scholarship in the field of lawyers' ethics." At 84, he still teaches at Georgetown and Hofstra, writes, and lectures internationally.

Professor Freedman has been described by the New York Times as "a pioneer in the field of legal ethics," and in the Harvard Law Bulletin as "a lawyers' lawyer," and is frequently consulted by law firms throughout the country. He is the former Dean at Hofstra Law School and, for thirty years, he lectured annually on lawyers' ethics at Harvard Law School. Since 2007 he has also been a Visiting Professor at Georgetown Law School.

Writings by Professor Freedman are required reading at most law schools in the United States, and have been published in Canada, China, Great Britain, India, Japan, and Poland.

During the civil rights movement in the 1960s, he represented several civil rights organizations, and became the first volunteer general counsel of a gay rights organization. He has helped to change the law to benefit minority group members, poor people, people accused of crimes, gays, and victims of police abuse, and works with lawyers in death penalty cases and lawyers representing prisoners in Guantanamo.

Professor Freedman was also chosen by Nobel Laureate Elie Wiesel to be the first Executive Director of the United States Holocaust Memorial Council, and has received a Martin Luther King Award, for "decades of work to advance human dignity and social justice."

He received his A.B., LL.B., and LL.M. at Harvard University, and is listed in Who's Who in America, Who's Who in American Law and Who's Who in the World.

Law Day and Constitutional Convention Anniversary celebrations planned

In early May, the First Judicial District Bar is arranging to speak with Capital High students in Helena to recognize National Law Day. According to the Library of Congress, www.loc.gov, Law Day is a "national day to celebrate the rule of law and its contributions to the freedoms Americans enjoy.

Law Day had its origin in 1957, when American Bar Association (ABA) President Charles S. Rhyne envisioned a special day for celebrating our legal system. On February 3, 1958, President Dwight D. Eisenhower established Law Day by issuing a Proclamation. Every President since then has issued an annual Law Day Proclamation.

This year's theme is "No Courts. No Justice. No Freedom." Law day is officially recognized on May 1, 2012 also "marks the 40th anniversary of the Montana Constitution. In recognition of that formative document, Humanities Montana is organizing a two-day conference to take place at Carroll College in Helena on April 20-21. Instead of traditional

BAR NEWS, Page 11

- April 2:** Annual dues and fees payment deadline
- April 2:** State Bar Nomination Petitions Due
- April 4:** Procedures in Contested Case Hearings - What you Might Want to Know
- April 10:** Age Appropriate Continuity and Care FLS Phone CLE
- April 11:** Security Steps for Unsecured Networks
- April 11:** Technology Committee Conference Call
- April 12:** Executive Committee Meeting
- April 13:** Family Law CLE
- April 13:** Board of Trustees Meeting
- April 17:** ABA Day in Washington D.C.
- April 18:** ABA Day in Washington, D.C.
- April 18:** 2012 Annual Mtg Cmte Mtg
- April 19:** ABA Day in Washington, D.C.
- April 20:** Bench-Bar Conference CLE
- April 27:** Basic Bankruptcy, Federal Filing Tips; Rules Changes: Civil and Appellate
- May 11:** Beat the Penalty Fee CLE
- May 18:** Executive Committee Meeting
- May 22:** State Bar Election Ballots Due (must be postmarked or hand-delivered)
- May 25:** Technology Committee In-Person Meeting
- June 1:** Board of Trustees Strategic Planning Meeting
- June 1:** State Bar Election Ballots Counted
- June 2:** Board of Trustees Strategic Planning Meeting
- June 4:** Paralegal Section Renewals Mailed
- June 7:** Executive Committee Meeting
- June 7-9:** Jackrabbit Bar Conference

Bar News

from page 10

panels, the conference will feature a series of moderated conversations on focused topics with participants representing alternative perspectives." (Info from http://www.humanitiesmontana.org/wethepeople/index.php).

Bar seeks award nominations

The deadline for all State Bar awards is now **May 15**. Print nomination forms for the William J. Jameson Award and George L. Bousliman Professionalism Award were in the

February edition of Montana Lawyer. Print forms for the Karla M. Gray Equal Justice Award and the Neil Haight Pro Bono Award were in the March edition of Montana Lawyer. Copies of the nomination forms for all awards are available in the Montana Lawyer section online at www.montanabar.org.

Notice of changes to Probate Forms Manual and Handbook for Guardians and Conservators

The authors for the Probate Forms Manual and Handbook for Guardians and Conservators have issued a notice to attorneys regarding statutes that affect the contents of the books. See the notice below for details.

Changes Needed In Previously Published Forms

EVERY FORM CONTAINED IN THE MONTANA PROBATE FORMS MANUAL, AND IN THE MONTANA HANDBOOK FOR GUARDIANS AND CONSERVATORS, SHOULD NOW BE MODIFIED TO INCLUDE THE FOLLOWING ITEMS:

1. The requirement for an attorney signature on all pleadings, MCA §72-1-312;
2. Every document filed with the court (whether or not a pleading) must be verified, usually by the client, thereby confirming the truth of the facts stated. MCA §§ 72-1-206 and 72-1-312. This includes even such items as Notices to Creditors; although the attorney or attorney staff member could verify this Notice.
3. The verification can now be made under penalty of perjury, instead of requiring an appearance before a notary public. MCA §§ 1-6-105 and 1-1-203; and
4. Newly enacted MCA § 72-1-310 now provides for the following permitted pleadings in probate and trust proceedings, all of which are to be verified:
 - a. Application, (such as an Application for Appointment as a PR);
 - b. Petition;
 - c. Report;
 - d. Account;
 - e. Objection; or
 - f. Response.

These same pleadings should also apply to guardianships and conservatorships.

MCA § 72-1-207, which allows use of the rules of civil procedure in formal proceedings, has not been amended. However, it is anticipated that those civil procedure rules will now essentially be limited to: (i) motion practice in probate and trust; and (ii) heavy duty litigation such as will contests.

ADDITIONALLY, EVERY APPLICATION OR PETITION FOR APPOINTMENT AS A FIDUCIARY (PERSONAL REPRESENTATIVE, GUARDIAN OR CONSERVATOR) MUST NOW CONTAIN THE ACKNOWLEDGEMENT OF FIDUCIARY DUTIES AND OBLIGATIONS REQUIRED BY NEW MCA § 72-3-109.

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DOMESTIC VIOLENCE:

Two countries share common myths and misperceptions

State Bar member helps train Chinese lawyers as part of Rule of Law Initiative

By Klaus Sitte

“So what if he beat her? He didn’t abuse the kids.” It was déjà vu from my first District Court domestic violence case nearly 4 decades ago. This time, the comment came from a skeptical participant at an “Enhancing Attorney Skills in Domestic Violence Cases” in Wuhan, China. Within a short time, it was clear that the same myths and misconceptions about domestic violence issues persist thousands of miles across the Pacific Ocean.

I had the privilege of co-training a unique attorney skills training program as part of the American Bar Association’s Rule of Law Institute [ROLI] China Program in December. Robin Runge, Assistant Professor of Law at the University of North Dakota School of Law, had previously conducted similar attorney skills trainings at other venues throughout China. Robin and I became friends when she was the Director of the ABA’s Commission on Domestic Violence and I was a Commission member. Robin had suggested my name to

ROLI; I was subsequently invited as “US expert faculty” for this round of two back-to-back three-day sessions for 60 attorneys in the Wuhan area.

Allison Moore, Country Director, and Xue Qing, of the ABA’s ROLI China office partnered with Prof. Li Ao, of Wuhan University Law School and Director of its Center for the Study of Clinical Legal Education, to invite lawyers with an interest in enhancing their skills in this narrow area of family law.

Using hypothetical cases, role-plays, scripts and practical courtroom exercises, the training attendees participated in an interactive three-day learning atmosphere quite different from anything they had experienced before. Lectures are rarely presented in this training and, when used, are generally limited to less than 20 minutes. Participants spend much time in small group discussions, using formerly trained participants as small-group table facilitators, followed by reports to the larger group. Brief video clips from American films, “The Waitress”, “Pay It Forward” and “Affliction” graphically illustrated domestic violence scenarios with dramatic impact. Since domestic violence advocacy is still relatively new in China, few of the attorneys have much experience in such cases. Lawyers with a

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Above: The author, left, and one of the attendees at the ROLI program in Wuhan, China.

Below: Two interpreters peer from their booth. The pair would translate into participants’ headsets, as seen in the above photo.



Reciprocal learning

From November 8–16, 2011, the ABA Rule of Law Initiative (ABA ROLI), in partnership with UNICEF, brought a 10-person Chinese delegation on a study tour to Washington, DC, and Boston, Massachusetts. The tour focused on combating domestic violence through legislation and coordinated community response. Participants included scholars, advocates, judges and experts from China’s National People’s Congress and Women’s Federation.

The tour was designed to provide a comparative context for ongoing reform efforts in China aimed at the development of national domestic-violence legislation that also ensures child welfare and protection. The delegation met with U.S. lawyers, judges, scholars and representatives of non-governmental organizations and government agencies and discussed the role of grassroots advocacy in the development of state-level and national legislation, best practices for effective coordination among government and non-governmental actors, and programs to prevent and respond to domestic violence.

Domestic violence affects approximately one-third of Chinese women and households. Though Chinese law explicitly prohibits domestic violence and ascribes criminal liability in cases of “severe harm,” the current legal

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Quick facts ▶

ABA Rule of Law Initiative

Origins

The American Bar Association Rule of Law Initiative (ABA ROLI) is a mission-driven, non-profit program grounded in the belief that rule of law promotion is the most effective long-term antidote to the most pressing problems facing the world today, including poverty, conflict, endemic corruption and disregard for human rights.

The ABA established the program in 2007 to consolidate its five overseas rule of law programs, including the Central European and Eurasian Law Initiative (CEELI), which it created in 1990 after the fall of the Berlin Wall.

Today, ABA ROLI implements legal reform programs in more than 40 countries in Africa, Asia, Europe and Eurasia, Latin America and the Caribbean, and the Middle East and North Africa. The ABA Rule of Law Initiative has more than 400 professional staff working in the United States and abroad, including a cadre of short- and long-term expatriate volunteers who, since the program’s inception, have contributed more than \$200 million in pro bono technical legal assistance.

Core Principles

Countries that lack the rule of law very often fail to meet the most basic needs of their

populations. In fact, over half of the world’s population lives in countries that lack the rule of law, consigning billions of people to lives characterized by a lack of economic opportunity, basic justice and even physical security.

Addressing this global rule of law deficit is not only the most important calling of the world’s legal community; it must also become an urgent priority for world leaders, international institutions and citizens committed to making this a just, peaceful and prosperous world.

The core principles that guide ABA ROLI’s work are:

- Employing a highly consultative approach to the delivery of technical assistance that is responsive to the requests and priorities of the Initiative’s local partners.
- Employing a comparative approach in the provision of technical legal assistance, with the U.S. legal system providing just one of several models that host country reformers can draw upon.
- Providing technical assistance and advice that is neutral and apolitical.
- Building local capacity by strengthening institutions in both the governmental and non-governmental sectors and by furthering the professional development of ABA

ROLI’s host country staff, many of whom become the next generation of leaders in their countries.

- Providing thought leadership in the field of rule of law promotion that draws on both ABA ROLI’s extensive overseas field experience and on the resources and convening power of the ABA and its more than 400,000 members in the United States and abroad.

Information from American Bar Association Rule of Law Initiative. To learn more, go to http://www.americanbar.org/advocacy/rule_of_law.html

“China views domestic violence as a human rights issue, following the Beijing Declaration at the UN’s Fourth World Conference on Women in 1995. ROLI has partnered with local domestic violence organizations and legal aid clinics to sponsor these trainings to highlight the impact of intimate partner violence families.”

ROLI

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variety of practice backgrounds attended, including corporate lawyers, maritime lawyers, law school clinicians and private practitioners. The training provided an opportunity for these advocates to network.

In the practical courtroom exercises, the participants were at first reluctant to volunteer in the *mo ni fa ting* [moot court] as *fa guan* [judge], *shen qing ren de lv shi* [petitioner’s lawyer], and *bei shen qing ren de lv shi* [respondent’s lawyer], since performing in front of each other was obviously awkward. In a country so large, even this special practice group of lawyers was mostly unacquainted with each other. By the second day of training, however, the participants had obviously become comfortable and all were eager to offer their ideas.

While many Chinese speak and understand English, we trainers did not understand Chinese. Two incredibly gifted and skilled interpreters provided simultaneous translation via remote headsets for both participants and trainers. A bit awkward at first, this communication methodology became more natural during the second three-day event. Local law students from Wuhan University Law School and its Legal Aid Center provided logistical support.

China views domestic violence as a human rights issue, following the Beijing Declaration at the UN’s Fourth World Conference on Women in 1995. ROLI has partnered with local domestic violence organizations and legal aid clinics to sponsor these trainings to highlight the impact of intimate partner violence families. The ABA’s ROLI has previously

Lessons learned

- Despite the thousands of miles between our cultures, the family law lawyers we trained in China are challenged by the same issues we face in the US, including gender bias, misunderstanding judges and denying batterers.
- China has no common law tradition. That means, in a practical sense, what happens in one province will not necessarily transfer to another province. From our US perspective, that looks like a hindrance, at least to me. To the participants with whom I spoke, however, they saw that as an advantage, since their civil law code can be modified more easily to accommodate DV issues.
- Some DV advocates felt everything was moving too slowly. They reasoned if China has equal rights between men and women, there should be no disparity in treatment by the courts. Those lawyers suggested there should be more remedies available now, across China, not just in a few select places, where pilot projects exit.
- Chinese family law lawyers engaged in representing victims of domestic violence are doing cutting-edge, groundbreaking work. Watching them come to grips with the importance of their own efforts was enlightening, thrilling and rewarding.
- I will never complain about Missoula traffic again. Well, okay, maybe I won’t complain for this year. The traffic in Beijing and Wuhan is a slow-moving demolition derby waiting to happen. How our drivers negotiated the incredibly congested rush-hour traffic to get us to the airport on time remains a mystery to me. Sometimes, we just closed our eyes.

sponsored Training of Trainer events with the goal to eventually eliminate the need for US trainers.

As a side adventure, I was invited to speak with Legal Aid Center clinical students at the Zhongnan University Law School of Economics and Law, another law school in Wuhan. Prof. Han Guijun, a participant in the official attorney skills training, asked that I talk to her clinic students about interviewing skills. Her class meets every Saturday from 7 p.m. to 10 p.m., to debrief the Legal Aid Center’s weekly intake. More than 60 students waited patiently until our ABA entourage

finally arrived at 8 p.m. Following my brief presentation, the students peppered me with questions about interviewing domestic violence victims and representation in family law cases. And they asked them in English!

Karen and I were able to briefly engage in a detour and frolic on our own to the Great Wall and the Forbidden City. Everyone was friendly, courteous and quite patient with us English speakers. And, despite the hype, everything we ate was identifiable, well prepared and delicious. No, we did not drink the water.

Access

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take legal action for: 1) Job difficulties like sexual harassment; 2) Veterans benefit problems; 3) Contract performance problems; 4) Healthcare service availability; and 5) Debt collector problems.

- Twenty eight percent of households in which the person interviewed was an American Indian reported having difficulties with a government benefit program, while only 4.8% of households in which the persons interviewed was white reported the same difficulty.

Over the past ten years, I have talked to so many of you about the importance of pro bono service but as you can see, the need has never been more significant. Montana’s low income citizens need legal assistance for life or death legal matters.

As Justice Lewis Powell so eloquently stated, “Equal justice under law is not merely a caption on the facade of the Supreme Court building, it is perhaps the most inspiring ideal of our society. It is one of the ends for which our entire legal system exists ... it is fundamental that justice should be the same, in substance and availability, without regard to economic status.”

For more information on how you can help, contact Janice Doggett at the State Bar of Montana, (406) 447-2201, or Amy Sings in the Timber at the Montana Justice Foundation, (406) 523-3920.

Pam Bucy is a former chairwoman of the Equal Justice Task Force, a member of the Access to Justice Committee, and a board member of the Montana Legal Services Association. She was also involved in the 2005 legal needs study by the task force, commission, and State Bar of Montana.

Learning

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framework fails to clearly and adequately define domestic violence. It also fails to set forth enforceable avenues for redress and specific duties and responsibilities of relevant government departments. Since 2007, the All China Women’s Federation and other stakeholders have been pushing for the adoption of a national domestic-violence law. Additionally, China’s National People’s Congress has recently signaled that anti-domestic violence legislation is a priority for 2012. The November study tour gave the delegation an opportunity to share the context, scope and implementation of U.S. domestic-violence legislation as China refines its policy and legislative approaches.

The delegates said that they found it useful to learn more about how the U.S. national domestic-violence legal framework—reflected in the Violence Against Women Act—provides greater support to the enforcement of state laws and the provision of services throughout the country. They also said that it was interesting to learn of government agencies and non-governmental organizations that have specialized technical units working on domestic violence, the coordination among those units and their contributions in serving vulnerable populations.

Several of the meetings focused on state-level coordination, including efforts by domestic violence units within the courts, police departments, hospitals and social service agencies, and the higher level of impact that can be achieved by entities with clear mandates. Other meetings addressed how national level government and non-government agencies—such as the Department of Justice’s Office on Violence Against Women,

Modest Means can help

In addition to traditional pro bono work, the Modest Means program is another avenue to serve low and moderate income Montanans.

If you aren’t familiar with Modest Means, it’s a reduced fee civil representation program sponsored by the State Bar in partnership with Montana Legal Services.

When Montana Legal Services is unable to serve a client due to a conflict of interest, lack of available assistance or income below 200% of the Federal poverty level, they refer that person to the State Bar. We will then refer them to you. The clients are advised they will need to pay you according to a predetermined fee schedule at the time of the first meeting.

You are not required to accept any case, and if you’re unfamiliar with a type of case, Modest Means can also provide you with an experienced attorney mentor to help you expand your knowledge base. In addition, Modest Means cases are covered by the Montana Legal Service malpractice insurance.

If you have questions about the program, attorney benefits or resources, please contact Janice Doggett at jdoggett@montanabar.org or Kathie Lynch at klynch@montanabar.org or call 442-7660.

the American Bar Association’s Commission on Domestic and Sexual Violence and its Center on Children and the Law, and the White House’s Office on Violence Against Women—have provided leadership on a range of advocacy and policy initiatives and program implementation.

The Chinese experts said that they were impressed with the emphasis on frequent, specialized domestic violence trainings for judges and lawyers and for those working in law enforcement and government agencies. Their American counterparts said that the trainings respond to periodic personnel changes within organizations, nurturing a deeper understanding of the law and the dynamics of abuse and improving implementation.

The visitors said that U.S. law and procedures in issuing court protection orders and mandatory reporting of child abuse and neglect were of special interest. In 2008, China’s Supreme People’s Court initiated a pilot project, allowing nine courts to issue court protection orders in civil divorce cases that involve domestic violence. While 72 courts have joined the project, issuance of court protection orders remain low, in part, because judges remain somewhat hesitant to issue protection orders without a clearly defined legal framework and interpretive guidelines. The delegates discussed the procedures for issuing court protection orders and the requirements to report child abuse with American judges, lawyers and law enforcement personnel, and said that it was important to codify them in national legislation.

ABA ROLI has since 2006 worked closely with anti-domestic violence advocates in China to improve the protection of victims’ rights.

To learn more about work in China, contact the ABA Rule of Law Initiative at rol@americanbar.org.

THE DISCONNECTED LAWYER

OR

OF GIZMOS AND GADGETS

By Steve Anderson

As a sole practitioner in a state where cows outnumber people, I'm constantly reminded of how fortunate we are to live and practice law in the state of Montana. Our office building in Montana City—don't be misled by the city part—is cradled between the Elk Horn and the Big Belt mountain ranges that merge in a dramatic defining point in the Missouri River Valley just east of the continental divide.

On any given day, I can expect to see big game species like elk, deer, or antelope with their noses to the ground maximizing their caloric intake. Coyotes and foxes dart across fields and between the other few businesses in a search for the next field mouse, vole or shrew that isn't paying attention. A small pack of grey wolves trotted over a nearby wooded knoll recently. Bald eagles glide by from time to time, and Canada geese honk as they head for ancient breeding grounds on the Big Mo. And songbirds of all sorts land in the Quaking Aspens that stand tall near the windows of my upper floor perch. The panorama of snow-draped mountains off-set by the amber foreground of stubble wheat fields is a collage of color and light that at times defies reality. Change is constant.

Those of us who live and practice in Big Sky Country insist on a slower, more deliberate lifestyle. We choose to endure brief summer seasons where growing plump red tomatoes requires a greenhouse and winter can give us the back of its hand with a swat that stings at 40 below zero. We enjoy greeting our colleagues by their first names and we take comfort in the relaxed atmosphere of our courtrooms where it's okay to wear sports jackets, khakis, and boots. We drive pickup trucks to court where our judges frequently use our first names—on the record. We have no metal detectors to pass through. Law and motion takes only an hour or so. I wouldn't have it any other way.

Yet even country lawyers are not immune to the technological sea-change that has engulfed the profession and demands us to change, to hurry, to do more. The streaming deluge of new electronic gadgets continues to cascade down on us like Yellowstone Falls during spring run-off. The market demands that we buy the latest and greatest, urging us to stare at another screen, tap another keyboard, or even, tap a screen. We have cell phones, iPhones, iPads, Blackberries, Droids. Already we have iPad2. We email, tweet, text, and twitter. It's instant

communication. Information at our fingertips. We pride ourselves on our ability to multitask at the highest level, the circus equivalent of juggling a bowling ball, a chainsaw, and a feather while hopping on one foot. Researchers claim that today's high school students send and receive an average of 17,000 text messages per month on their cell phones. That's over 500 per day. The time we spend staring at LED screens, from the miniscule to the magnum has increased exponentially. As a result, we tend to expect more and more of ourselves. To do things faster, and to manage several tasks at once. And then move on as quickly as possible.

But are we forgetting what it's like to take our time and to think, process, and create? To do one thing at a time? To do it well? And to actually enjoy it? Studies show that the frenetic techno-wave to which we've been subjected—and to which we eagerly overindulge—is changing the way our brains function. Our attention spans have shortened. Our creativity has diminished. Our patience has thinned. Are we less civil toward each other as a result?

The lack of civility in our modern legal profession—a theme that many have raised recently—might be traced to our dependence on all the gizmos we use. We rely on symbols, snippets, and phrases that breed virtual relationships, rather than face-to-face meetings, letters, or even phone calls that remind us that our colleague is flesh and blood. It may be easy for some to be short and even rude to an adversary in an email, text, or a tweet. But it's not so easy when we have to write a message by hand, or sit down, look each other in the eye, and first ask, "How are you?" And mean it. The veteran lawyers that I know and for whom I have the deepest respect all seem to agree: Lawyers were a bit nicer to each other in the old days. We've increased our case loads at our own peril because we can process more work with the help of our gadgets. Yet we know an ever increasing case load is inversely proportional to the quality of our work and our professional well-being. More is less.

But a decline in mutual respect between colleagues is not relegated to the legal profession. After the tragedy in Arizona, politicians and pundits alike professed the need to improve our

public discourse, virtually blaming the tragedy on our electronic trash talking, and the nasty atmosphere in Congress. Yet who can deny the raw power of the electronic social media to bring about dynamic change on an unprecedented scale? The breathtaking revolution that's sweeping the Middle East is due in part to the Internet where thousands of young protestors have been exposed to privileges available to citizens of distant democracies. Authoritarian regimes across the globe are reportedly realizing that to maintain their tyrannies they must control the Internet with propaganda rather than make a futile attempt to suppress it. Even they know it's too late for that. Social networking sites like Facebook and Twitter pose a tremendous threat to dictators who have always relied on keeping their subjects—especially the younger ones—unplugged and unaware.

Next to my computer sits a matte black Underwood Standard typewriter circa 1943. It's an impressive 25 pound behemoth with a high-rise carriage that reminds me of simpler times. Thankfully, I never had to practice law back then, because I can't imagine pecking away—it'd be more like pounding away—on those stiff steel keys when I have a big brief due. I envision tearing erasable bond from the black roller with a rrrrrriipppp and throwing another crumpled page into an overflowing green metal trash can with the clock ticking away. The one-time metal marvel reminds me that the pace of things was slower once. And in some ways, maybe better.

A new client came to my office recently after being charged with several felonies that threatened life in prison and huge fines; he faced a potential life changing event. He was distressed and racked with worry. He sat down and we began an open dialogue about the various directions his case could go, what I might be able to do to help. I was in the middle of explaining a critical point of law pertaining to his case when his cell phone rang. Without hesitating, he answered. Hello? Hey... Yeah I know.... Does she know? Really? Would you tell her for me? I'm not really sure.... Okay... I'm in the lawyer's office right now... I gotta go.... I'll call you later though... Okay... Yep... Bye. He looked up with an expression that said, Okay you may continue now. By answering his phone at that moment, my client may have attained some measure of comfort in the face of an enormous personal crisis. But wait. Isn't that why he came to see me? Do I need a cell phone symbol with a red line through it hanging on my door. Our reflexes have been so conditioned to respond to myriad electronic stimuli that we jump at any ring, beep, or buzz, like the subject in a contemporary Pavlovian lab experiment.

But I'm no different. I check email when I'm away from the office. But I don't really need to. I answer my cell phone when I'm away from the office. But I don't really need to. I talk when I'm driving. But I don't really need to. I've dropped my phone

and spilled my coffee and swerved all over the road like I had just thrown back three Irish Car Bombs at O'Reilly's Pub. All in an effort to stay plugged-in and connected. And even worse, my cell phone has rung in court.

But I worry. What if I miss an important call? What if I miss a new case? What if they go somewhere else? What if? What if? What if? I'm fretting that I won't keep up. That I won't stay in touch. That I'll miss something. Miss what? Uh, I don't know, maybe... life? Oh. Yeah. I'm missing something alright. I'm missing life. And yet by today's standards, I'm stuck in the early Paleolithic Age. I still use an academic calendar and a mechanical pencil. I'm shivering in my cave and chipping away at a stone club while my colleagues huddle around something bright and warm, and tear into the roast beast they killed with their shiny steel spears.

So I did an experiment of my own. I took a deep breath and left my cell phone home one day. When I got to the office, I turned my desk phone off. I even ignored my messages. I refused to turn on my computer and check email. I unplugged. I disconnected. I waited. Nothing happened. I worried. I took a sip of coffee. Still nothing. I fretted. I opened a case file. Nothing. And then, I started to relax a bit. I looked out the window just in time to see a young mule deer buck bound across the road. I took another satisfying breath and stretched. I relaxed a bit more. I grabbed a

good ole fashioned Number 2 Ticonderoga—no modern mechanical pencils for me. I was going cold turkey.

I started taking notes on a yellow pad for a brief I needed to prepare. I wrote, read, thought, and wrote some more. I chewed lightly on the end of my pencil and studied the icy peaks of the Elkhorns as the morning sun drenched the ridges in a prism of fresh light. I pulled case law from real books. My thought patterns slowed and the finer points of legal arguments had time to steep in the pool of my consciousness. Thorny legal issues practically sorted themselves out. The law, I rediscovered, can be captivating.

By five o'clock I was relaxed and satisfied with the notion that I'm not really all that important. I hadn't spoken with anyone, checked any devices, or stared at any screens. And I was more productive than I had been for some time. I knew I'd ease out of my time warp and rejoin the Connected Age—to a degree anyway—but I vowed to downshift and enjoy the privilege of practicing law, and the pleasure of living life. On my way out, before turning off the light, I glanced at the old Underwood. Less is more.

Steve Andersen practices criminal defense in Montana City, Montana. He can be reached at andersen@montanacitylaw.com, but it may be a day or two before he responds.



CONTINUED, Next Page

State Bar sponsored/related live CLE

For the latest information and to register go to montanabar.org -> For Our Members -> Continuing Legal Education.

NOTE: 5.0 ethics credits required every 3 years – 1 of them must be a Substance Abuse/Mental Impairment (SAMI) credit.

- **April 10 - Age Appropriate Continuity and Care.** Family Law Section phone CLE, noon to 1 p.m., with Dr. Cindy Miller. 1.00 CLE credit.
- **April 11 - Security Steps for Unsecured Networks.** Webinar CLE from noon to 1 p.m. 1 CLE credit. ALPS attorney Mark Bassingthwaite and Technology Committee member Cort Jensen presenting. \$45, pre-registration required by April 9.
- **April 13 - Family Law Update** - Best Western Great Northern Hotel, Helena. Sponsored by the State Bar of Montana Family Law Section and CLE Institute. 6.50 CLE credits, including 1.00 ethics. Learn about issues that arise when dealing with military personnel in a divorce, as well as the revisions to the Child Support Guidelines and the revisions to the MT Rules of Civil Procedure, which are major and important to all attorneys practicing in Montana civil courts.
- **April 20 - Annual Bench-Bar Conference** - DoubleTree Hotel, Missoula. Sponsored by the State Bar of Montana CLE Institute. 7.00 CLE credits, including 2.00 ethics. Montana judges offer their insights about issues that impact our practices, performance and what works and does not work in their courts. Eight state and federal judges will share their observations about discovery, trial matters, social media and more. Montana's clerks of court will share what is and is not going to happen in Montana with electronic filing and offer the latest on electronic document service and notice

issues. A primer in bankruptcy is offered, so you know what your options are when confronted with bankruptcy in your litigation. Experienced and respected trial lawyers will participate in discussions, as well as explore alternatives when confronting ethical misconduct in discovery. Supreme Court candidates will appear at lunchtime forum, and following that, another panel will discuss whether Justices should be elected by districts (LR 119 debate).

- **April 27 - Basic Bankruptcy, Federal Filing Tips, Rule Changes: Civil and Appellate.** Crowne Plaza Hotel, Billings. 6.25 CLE credits, including .25 Ethics credit. The session will cover basic bankruptcy for the non-bankruptcy attorney/paralegal. The afternoon session will also cover Federal Court filing tips, as well as the revised Montana Rules of Civil Procedure and Revised Appellate Rules. Tech Committee members David Carter and Kent Sipe will also provide basic tech tips for the practicing attorney and paralegal.
- **May 11 - DUI Cases: From Stop to Appeal.** GranTree Inn, Bozeman. 6.50 CLE credits, including 1.00 SAMI. What every Montana attorney needs to know about DUI cases. What we do, how we do it and our training, resources and current law.

COMING UP: The Bankruptcy Section's annual CLE seminar will be earlier than normal this year — August 2-3 at Big Sky. Check here and www.montanabar.org for details as the event nears.

Other CLE

- **April 6 — Uniform Trust Code and Montana;** Missoula, Law School; 4.00 credits; UM Law School (406) 243-6509
- **April 6 — Drug Court Presentation;** Shelby, Judge McKinnon/9th Judicial; 3.25 credits; Marias River Electric (406) 424-8360
- **April 11 — Clarence Darrow: Crimes, Causes & the Courtroom;** webcast; 3.00 credits/3.00 ethics; Periaktos Productions (605) 787-7099
- **April 11 — Defending a Corporate Representative or Client Deposition;** webcast; 1.50 credits; www.dri.org/events.
- **April 12 — Browning Lecture: Wm. K. Suter;** Missoula, Castles Center; 1.00 credit; UM Law School (406) 243-6509
- **April 12 Workers' Compensation Workshop** — Missoula; 4.50 credits/ 0.75 ethics; Brentwood Services Administrators; (406) 543-7195
- **April 18 — Housing Conference 2012;** Butte, Copper King Inn; 12.25 credits/2.00 ethics; Montana Fair Housing (406) 782-2573

- **April 18 — Immigration 101: Family & employment;** webcast; 3.00 credits; www.lawreviewcle.com
- **April 18 Immigration 101: Asylum & Inadmissibility;** webcast; 3.00 credits; www.lawreviewcle.com
- **April 18 — ABC Clinics: Wage & Hour, Unemployment, Human Rights, Work Comp, etc.;** various locations; 7.00 credits; Dept of Labor & Industry (406) 444-9046
- **April 18 — Top 5 Skills for Environmental Litigators;** Missoula, Law School Rm 219; 2.00 credits; UM Law School (406) 243-6509
- **April 20 — When Outsiders Invest in Lawsuits;** webcast; 2.00 credits/2.00 ethics; www.dri.org/events
- **April 20 — MTLA Spring Seminar; Great Falls, Hilton Garden;** 6.00 credits; MTLA (406) 443-3124
- **April 24 — Winning the Battle Between Fiduciaries & Beneficiaries;** teleconference, 1.50 credits; Cannon (800) 775-7654
- **April 25 — Maxims, Monarchy & Sir Thomas More;** webcast; 2.25 credits/2.25 ethics; Periaktos Productions, LLC (605) 787-7099

Mediation training

What: Fundamentals of Mediation, 32 CLE hours. Plus additional training for 8 CLE hours.

When/Where: May 9-12 at the Comfort Inn in Bozeman. Additional course is June 15 at the Comfort Inn.

Info: Training by Carson Taylor and co-trainers with the Center for Collaborative Solutions. Eight credits will be available for more advanced mediation training on June 15 — prerequisite of Fundamentals of Mediation or other like course is required.

Contact: 406 587-2356 for application and more information or visit www.centerforcollaborativesolutions.com

- **April 25 — Intro to Electronic Health Care;** webcast; 3.00 credits; www.lawreviewcle.com
- **April 25 — Social Security Disability Basics;** webcast; 3.00 credits; www.lawreviewcle.com

CLE deadline May 15; on-demand purchases available soon

In addition to mail and online orders, the State Bar is now offering on-demand purchases of recorded CLE. This means you can immediately listen to or watch recorded CLE sessions to fulfill your 5 self-study CLE credits before the **May 15 deadline**.

Although the service is integrated into the Bar's website, you'll still need a separate log-in to use.

All self-study CLE materials may not be available as on-demand. Watch www.montanabar.org for notice when the selections go live and for a link to the on-demand store.

Bookstore and CLE Materials

CLE materials available from the State Bar Bookstore

Materials in the Bookstore are considered self-study or "other" credits. Montana attorneys are limited to 5.0 credits per year by this method. Order online at montanabar.org, or use the form on page 20

RULES UPDATE - 2011

Credits vary for each topic. 7 Audio CDs, including written material, for \$250 as a set. Individual presentations/materials for \$50 each.

- Montana Rules of Civil Procedure Revisions and Practicing under those Revisions (1 cr.)
- Bankruptcy Court's Local Rules (1 cr.)
- Fed. Rules of Civil Procedure Revisions (1 cr.)
- Federal Pleading Standards Changes (0.5 cr.)
- Workers Compensation Court Rules (0.5 cr.)
- Water Law Adjudication (0.5 cr.)
- Changes to Rules on Lawyer Disciplinary Enforcement (1cr.)

EMINENT DOMAIN - 2010

1 "other" CLE credit for each topic. 5 DVDs, including written material, for \$200 as a set. Individual presentations/materials for \$50 each.

- Legal Foundation – Jim Lewis, Esq. (MT Dept of Transportation)
- 1972 Constitutional Convention and Representing Landowners – Wade Dahood, Esq.
- Negotiating with the DOT – Ed Beaudette, Esq.
- Interaction of Land-Use Planning and Eminent Domain – Rich DeJana, Esq.
- Game Farm Cases and Implications for Public Use in MT – Chris Tweeten, Esq. and Art Wittich, Esq.

CRIMINAL LAW ETHICS - 2009

CLE credits vary for each topic. 6 DVDs, including written materials for \$200 as a set. Separately for \$50 each.

- Do Not Reveal Your Client's Perjury (1 ethics credit)
- Fairness & Due Process in Disciplinary Proceeding (1 ethics credit)
- In Praise of the Guilty Project (0.75 ethics credit)
- Loyalty Apocalypse (1.25 ethics credits)
- Accountability for Prosecutorial & Defense Attorney Misconduct (0.75 ethics credits)
- Common Dilemmas in Criminal Ethics (1 ethics credit)

MALPRACTICE PREVENTION ETHICS SERIES

CLE credits vary. 6 DVDs, including written materials, as a set for \$200. Individual presentations/materials for \$50 each

- Malpractice Traps (1 ethics credit)
- Dancing in the Minefield: Ethics in the Electronic Era (2 ethics credits)
- The Ten C's to Malpractice Prevention (1 ethics credit)
- Malpractice and the Impaired Lawyer (1 ethics/SAMI credit)
- Risk Evaluation from an Insurer's Perspective (1.0 ethics credit)
- The Impossible Happens: Your Client Turns on You (1 other credit)

PHONE CLES - VARIOUS TOPICS

1 CLE credit for each topic.

\$50 each for audio and written materials.

- Probate Update - Dec. 14, 2011
- Appellate Practice Tips: Ground Zero, presented by Justice Jim Nelson. - Feb. 2, 2012.
- Phys & Mental Exams under Rule 35, M.R.Civ.P. – Feb. 8, 2012
- New M.R.Civ.P. - Electronically Stored Information. March 21, 2012.

FAMILY LAW SECTION PHONE CLES

1 "other" CLE credit for each topic. Audio recordings and written materials for \$50 each.

- Role of GALs in Parenting Plan – July, 2011
- Statutory Pitfalls in Child Support Calculations – Aug., 2011
- Drafting Family Law Briefs to the Montana Supreme Court – Sept., 2011
- Landlord-Tenant Law from a Family Law Perspective – Oct., 2011
- Summary of Proposed Modifications to the MT Child Support Guidelines – Dec., 2011
- Valuing the Family Business in Property Settlements – Nov., 2011
- Children and Divorce – Jan., 2012

SAMI PHONE CLES

1 Ethics/SAMI credit each for each topic. Audio recording and written materials for \$50 each.

Free CLE Credits

>> Road Show

- June 29, from 2-5 p.m.
- Bozeman Holiday Inn
- 3 free ethics credits, including 1 SAMI
- RSVP required. Call Robert Padmos at 447-2202 or email rpadm@montanabar.org

>> New Lawyers Workshop

- June 29 from 8 a.m. - 1:30 p.m.
- 4.5 free CLE credits
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- For more information call or email Robert Padmos (406) 447-2202, rpadm@montanabar.org



Montana State Bar Legal Publications

Montana Real Estate Transactions

- 2010, 360 pages, book plus 2011 supplement CD \$205.
- 2011 Supplement, 82 pages, \$25 for CD.

Supplement includes discussion of the law of Ownership of the Beds of Navigable Streams, discussion of Fraud, Constructive Fraud, and Negligent Misrepresentation under Montana Law, and elements of Adverse Possession, Prescriptive Easements, and Reverse Adverse Possession.

Montana Civil Pleading & Practice Formbook.

2012, 489 pages, book plus all forms in editable format on CD, \$225

2012 Lawyers' Deskbook & Directory

Book, \$50; Mid-year update CD for 2012, \$20; Both for \$60

MT Family Law Form Book

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

Civil Jury Instructions

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

Montana Probate Forms

2006, 288 pages
Book plus CD \$150

Criminal Jury Instructions

2010 edition
650 pages, on editable CD only \$130

Handbook for Guardians & Conservators

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

Public Discipline Under MT Rules of Professional Conduct

2010, 192 pages annotated
CD \$35

Statute of Limitations Manual

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

Step-parent Adoption Forms

2003, 5 forms
Book \$20

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- Renting a House or Apartment
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- After an Auto Accident
- When You Need a Lawyer
- Wills & Probate

Montana Citizens' Guide to the Courts

2010, 20 pages, print copy \$10
Free download at www.montanabar.org

Montana Students' Guide to Turning 18

2008, 22 pages, CD \$10
Free download at www.montanabar.org

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(Call if you or a judge or attorney you know needs help with stress and depression issues or drug or alcohol addiction)

Written materials from previous CLEs

(These are considered publications only, and except for a few noted exceptions for SAMI, are not eligible for CLE credit)

"A-TEAM APPROACH": ATTORNEY/PARALEGAL PRACTICE TIPS – 3/25/11, Missoula (\$35)

- E-Discovery Practice and Pitfalls
- Ethics for Paralegals
- Medical Marijuana
- Drafting and Implementation of the Estate Plan

BANKRUPTCY UPDATE – 10/27-28/11, Helena (\$35)

- *Stern v. Marshall* – Jurisdiction Issues
- Stress, Depression, Mental Illness (*qualifies for 1 SAMI credit*);
- Reasonable Minds Debate (separate handout)
- Remarks from the Bench
- Incorporating iPad Tablet Computing into Your Practice
- Chapter 7 Trustees' Panel
- The Six-Minute Lawyer: Practice Mgmt Ideas for Busy Lawyers
- Social Media and the Courts

BEAT THE DEADLINE – 5/6/11, Helena (\$35)

- Legislative Update (*Post 2011 Legislature*)
- Agreements Not to Compete and other Baggage of Relationships Past
- Future of Transmission Lines in MT: Eminent Domain Issues
- Metadata & Ethics

BENCH-BAR CONFERENCE – 2/25/11, Bozeman (\$35)

- Jury Finds in Favor of Communication
- Discovery
- Findings of Fact, Conclusions of Law and Final Pre-Trial Orders
- How to Impeach
- How to Raise Constitutional Issues
- Judicial Selection and Performance Evaluations
- Montana Judicial Nomination Commission

CLE & SKI – 1/14-16/11, Big Sky (\$35)

- Update on Montana's Federal Court
- Metadata and Ethics
- Consumer Protection Basics and Emerging Issues
- Legislative Update
- Navigating Commercial & Residential Leases: Important Provisions and New Law
- Supreme Court Case Update
- Dementia Warnings and Retirement (*qualifies for 1 SAMI credit*);
- Citizens United – Allowing Corporations in

- on the Political Debate
- Employment Law Update

CLE & SKI – 1/13-15/12 – Big Sky (\$35)

- Business on the Docket: Review of Important State and Federal Business Cases
- Working with Revised M.R.Civ.P.
- Planning for Conflict of Interest Transactions Under the MT Business Corporation Act: Analysis and Application of the Safe Harbor Rules
- Status of Medical Marijuana in Montana
- Overview of Current Law Firm Management Problems and Solutions
- Supreme Court Case Update

CONSTRUCTION LAW INSTITUTE – 9/30/11, Bozeman (\$35)

- To Arbitrate or Not to Arbitrate: A Case Study of Arbitrator's Role in Disputes Involving Non-Parties;
- Developing Arbitration Law
- Care and Feeding of Expert Witnesses
- Overview of Montana Supreme Court Cases
- Construction Lien Priority Issues;
- *Markovich Construction v. Chippewa Cree Comm Development and Gram Sage Graves*:
- Discussion of Issues Raised
- Practical and Procedural Considerations: Getting the Right People to the Party

FAMILY LAW I – 3/4/11, Great Falls (\$35)

- Military Retirement in Dissolution and Family Law Matters
- "Guard" vs. "Active Duty"
- Do's and Don'ts of Appearing Before Standing Masters
- Third Party Parental Rights and Limiting the Scope of Representation
- Mediation with Property and Parenting Issues
- Interview Techniques
- Client Control and Ethical Considerations
- Interest-Based Bargaining

MEDIATION: CURRENT ETHICAL AND OTHER CHALLENGES – 10/7/11, Bozeman (\$35)

- *Hendershott v. Westphal*: Review of Decision
- Four Competencies for Ethical Mediation
- Mediator Ethics Panel
- Types of Mediation
- Appellate Mediation Report to MT Supreme Court and Report on April, 2011 MT Mediation Association Conference
- Standards of Conduct and Ethics

MEDICAL MARIJUANA UPDATE – 3/18/11, Butte (\$35)

- Employment Issues
- Legislative Update

- Business Transactions
- View from Montana Department of Justice
- Panel: Ethical Issues Facing Montana Attorneys
- View of the Federal Government and State's View on Employment and other Issues
- Caregiver Issues

NATURAL RESOURCE PERMITTING – 4/8/11, Helena (\$35)

- 310 Permits – Stream Bed Protection
- Alberta's Ordinance on Viewshed
- Corps of Engineers 404 Permits (Wetlands)
- Floodplain Regulations
- Subdivision Review and Natural Resources;
- Gravel Permitting
- Wind Energy Market Dynamics: Translating Resources into Viable Wind Energy

PRACTICAL PRACTICE TIPS – 4/29/11, Missoula (\$35)

- Basic Law Office Management
- Top 10 Malpractice Traps and How to Avoid Them
- Trust Account Maintenance
- Records Retention and Closing Your Practice
- Basic Tech Needs of the Solo or Small Firm

REAL ESTATE UPDATE – 2/18/11, Fairmont Hot Springs (\$35)

- Easement Law: Options and Rights of First Refusal and Community Property Update;
- Best Practices for Drafting Easements
- Successfully Litigating Easement Cases;
- Trustee's Duties in Nonjudicial Foreclosures: *Pomeranky v. Peterson*
- Structuring Effective Loan Workouts
- Receivers and Rents: Issues to Consider

WOMEN'S LAW SECTION CLE – 10-14-11, Chico Hot Springs (\$35)

- Attempting to Control Your Destiny: Legislative Lobbying Update
- Family/Elder Law Update
- Intro to Child Support Enforcement Program
- Specialized Issues Relating to Divorce
- Conservatorships and Guardianships
- Federal Court Practice: Views from the Bench, the Criminal Bar and the Civil Bar
- Peak Performance and Leadership
- Social Media and Legal Ethics: What Lawyers Should Know About Communicating, Advertising and Socializing on the Internet

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ATTORNEY: Bozeman general practice firm seeks an attorney to complement their litigation and transaction practice. The perfect candidate has at least 3 years experience, and excellent analytical and communication skills. We offer competitive compensation, based on performance and qualifications. Please send resume and writing sample to menasco@law-advisor.com. All applications will be held in confidence.

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ASSOCIATE NEEDED: Expanding law firm in Billings seeks litigation associate with minimum of two years experience in areas of family law, bankruptcy, trusts, with trial experience. Travel required. Must have excellent client service skills. Apply to P.O. Box 20037, Billings, Montana, 59104. All applications will be kept confidential.

ASSOCIATE ATTORNEY: Great Falls firm seeking an associate attorney with 2-5 years litigation experience. We are seeking applicants with strong research and writing skills. Salary will be commensurate with experience. Benefits also offered. Please send resume, writing sample and references to mailbox@montanabar.org. Please put position #2012-03 in subject line. All inquiries will be kept confidential.

MLSA STAFF ATTORNEY: Montana Legal Services Association seeks a full-time domestic violence attorney in Helena. This position will provide poverty law services to domestic violence victims. Areas of law include family law, consumer law, housing law, employment law, public benefits, probate and other civil matters. Services provided will range from brief counsel and advice, to more extended representation on core legal issues affecting MLSA clients. Requires travel within Montana. Salary: \$42,000. MLSA offers an attractive benefits package, including health, dental, vision, and life insurance, retirement and educational loan repayment assistance. To apply, send a letter of interest, 3 professional references, a writing sample, and resume electronically to [hiring@mtlsa.org](mailto: hiring@mtlsa.org).

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ASSOCIATE: Established 6 lawyer Billings firm focusing on commercial and personal injury litigation, bankruptcy, estate and business planning is seeking an associate interested in a litigation practice; some litigation or law clerk experience desired. Please send resumes with writing sample and references to Donna Bekkedahl at 2817 Second Avenue North, Billings Montana 59101, or via e-mail to dbekkedahl@ppbglaw.com

PARTNER/ASSOCIATE/OFFICE SHARE: Billings Estate Planning Practice needs you for a partner/associate/office-sharer. I am a solo practitioner in Billings, eager for a lawyer experienced in estate planning to join me. I am a charter member (and Montana's only member) of the well-known and oft-cited American Academy of Estate Planning Attorneys <aaepa.com>, a support organization of and for the lawyer whose practice is focused on the revocable living trust system of estate planning. Yes, we also do wills and probate, and ILITs and Medicaid trusts, Trust Administration, Federal Estate Tax Returns, and other estate planning assignments. We also assist clients with Medicaid advanced planning and at-need qualification. I have 100s of estate planning clients with files going back years. On my retirement, a lawyer who joined me could continue a vigorous practice. We need someone experienced in estate planning, and who knows that estate planning is his or her long-range professional plan. Our office is situated in a well-equipped, ideal west-end location, with space available for another lawyer including a staff person. Preferably, you will have your own well-established clientele, but we can discuss alternatives. Please write me: James W. Thompson, Thompson Law Firm, PLLC, 176 South 32nd Street West, Suite 4, Billings, MT 59102-6867. Our website: www.montanaelderlaw.com.

ATTORNEY: Bulman Law Associates PLLC, a health and safety law firm, is seeking two disability lawyer trainees. The positions are based in Missoula. The associates will initially master social security disability and workers' compensation law. Prior background in science or medicine helpful, but all applicants will be given consideration. Contact: Thomas Bulman (406) 721-7744, P.O. Box 7804, Missoula MT 59807. Thomas@bulmanlaw.com

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The Legal Services Corporation (LSC) announces the availability of competitive grant funds to provide civil legal services to eligible clients during calendar year 2013. A Request for Proposals (RFP) and other information pertaining to the LSC grants competition will be available from www.grants.lsc.gov during the week of April 9, 2012. In accordance with LSC's multiyear funding policy, grants are available for only specified service areas. To review the service areas for which competitive grants are available, by state, go to www.grants.lsc.gov/about-grants/where-we-fund and click on the name of the state. A full list of all service areas in competition will also be posted on that page. Applicants must file a Notice of Intent to Compete (NIC) through the online application system in order to participate in the competitive grants process. Information about LSC Grants funding, the application process, eligibility to apply for a grant, and how to file a NIC is available at www.grants.lsc.gov/about-grants. Complete instructions will be available in the Request for Proposals Narrative Instruction. Please refer to www.grants.lsc.gov for filing dates and submission requirements. Please email inquiries pertaining to the LSC competitive grants process to Competition@lsc.gov.

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