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March 2012 | Vol. 37, No. 5

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The official magazine of the State Bar of Montana published every month except January and July by the State Bar of Montana, 7 W. Sixth Ave., Suite 2B, P.O. Box 577, Helena MT 59624. (406) 442-7660; Fax (406) 442-7763. E-mail: mailbox@montanabar.org

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Subscriptions are a benefit of State Bar membership; others purchase a year's subscription for \$40, pre-paid. Third Class postage paid at Helena MT 59601.

Advertising rates are available upon request. Statements and expressions of opinion appearing herein are those of the advertisers or authors and do not necessarily reflect the views of the State Bar of Montana.

Postmaster: Send address changes to Montana Lawyer, P.O. Box 577, Helena MT 59624.

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 Printed in Billings at Artcraft Printers

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Coming up in Montana Lawyer (and call-out for articles)

Here are some story ideas we are working on for future editions of The Montana Lawyer. If you would like to contribute stories related to these topics, send your ideas to Pete Nowakowski at pnowakowski@montanabar.org.

Legal needs, particularly in the Native American community. For context, read the Equal Justice Task Force petition to

the Supreme Court at montanabar.org. In addition to this topic, we are interested in spreading the word on the Bar's reduced-fee civil representation program, Modest Means. If you participate in the program, and feel you have insight, and if you like to write, please let us know.

Any topic you think needs addressed; we are always open to story contributions.



Sharpen the saw

“Perpetual devotion to what a man calls his business is only to be sustained by perpetual neglect of many other things.”

~ Robert Louis Stevenson

I was about to hit the “Send” button on an email to my client, when I was compelled to write the following: “By the way, I plan to be out of the office from February 25th through March 12th on vacation. During this time, I plan to continue monitoring the development of your case; I will be available by cell phone and periodically checking email. Cindy, a certified paralegal in our office, will be coordinating on our end. I apologize in advance for any inconvenience.”

Why was I apologizing for taking some time off? Did I feel like I didn’t deserve it? Was it too much time away?

I consider myself a reasonably hard-working individual. Lately, I’ve averaged 10-12 hours of work each weekday. Between 8:30 and 5:00 I seem to be putting out fires. My most productive hours – when I can be proactive and make some headway – seem to come between 6 and 9 p.m. when the phone stops ringing.

Whether I think I deserve a vacation or not, my body tells me I NEED a vacation. The past few months have been spent recovering from one cold after another. I’m literally sick and tired.

My attitude isn’t much better. I grumble to myself when some minor event upsets my schedule. I shout at my computer when I see the emails piling up: “OH, COME ON!!!” I force a smile when in public. Although I do a good job pretending, I’m not a happy camper.

My predicament isn’t unusual; many of you share the same problems. Our profession is notorious for the high level of stress generated by serving our clients and causes. Each of us ought to take a block of time away from the office to relax and refocus. Life is too short not to enjoy it.

But, there are many attorneys who believe they don’t have time to take a vacation. They have too many responsibilities that demand their attention. They are too important to fritter away time doing nothing. No one can serve their client’s needs or do the job required as well as they can.

Get over yourself! You are not that important! The greater the responsibility you have, the greater the need for time away.

Lee Iacocca once observed, “Over the years, many executives have said to me with pride: ‘Boy, I worked so hard last year that I didn’t take any vacation.’” I always feel like responding: “You dummy. You mean to tell me that you can take responsibility

for an eighty-million-dollar project and you can’t plan two weeks out of a year to have some fun?”

Stephen Covey, author of *The 7 Habits of Highly Effective People*, believes renewing our unique gifts and endowments is necessary to counteract entropy – the tendency of all things to eventually break down. He uses the following story to illustrate his point:

Suppose you were to come upon someone in the woods working feverishly to saw down a tree.

“What are you doing?” you ask.

“Can’t you see?” comes the impatient reply. “I’m sawing down this tree.”

“You look exhausted!” you exclaim. “How long have you been at it?”

“Over five hours,” he returns, “and I’m beat! This is hard work.”

“Well, why don’t you take a break for a few minutes and sharpen that saw?” you inquire. “I’m sure it would go a lot faster.”

“I don’t have time to sharpen the saw,” the man says emphatically. “I’m too busy sawing!”

Taking time to sharpen the saw is critical for continued productivity. Sharpening the saw allows you to put life in perspective and to work better, faster, and wiser. In short, time away from the office can and should be viewed as a direct investment in your practice of law.

I’ve taken time for a vacation for the past several years. Those vacations have allowed me to reset my attitude, recover my health, and generally recharge my batteries.

Clients, attorneys and judges have graciously accommodated my time away, even when it hasn’t come at the most opportune time. I think there is an unsaid understanding that time away from a busy practice makes me a better lawyer . . . a better person.

Finally, I wrote a column like this several years ago when I was a local bar president. I was amazed at the feedback I received from attorneys. Many of them thanked me for “granting them permission” to take a vacation. If you need permission to take a reasonable vacation away from your practice, you have it. I encourage all of you to think about your investment in yourself, and to sharpen your saw.

Carefully consider rules upon learning of false information

Facts: Three scenarios of client hiding assets in bankruptcy proceedings

S1 Attorney represents a client through a bankruptcy. After the bankruptcy is complete, the client returns to the attorney for work on a different matter. During the interview addressing the scope of the new representation, the client shares how especially pleased he is that he did not reveal to anyone his valuable baseball card collection as an asset during the bankruptcy, sharing the fact that he'd just sold a card for \$15,000. The attorney knew nothing of the existence of the baseball card collection.

S2 A bankruptcy attorney is helping a client with a bankruptcy. After the attorney has submitted the asset disclosure information, but before the bankruptcy is complete, attorney receives a letter from the client's bitter ex-spouse revealing the existence of a valuable baseball card collection. Attorney asks client if this is true, and client admits that he'd hidden the cards. Following this admission, the client asserts that he will do the right thing and allow the attorney to amend the asset disclosure to include the cards. Before the attorney is able to do so, the client fires him.

S3 A potential client spends an hour discussing his possible bankruptcy with a bankruptcy attorney, asking if his prized baseball card collection would be at risk. The attorney explained the bankruptcy process, including that the existence of the cards would need to be disclosed and the cards possibly sold. The potential client leaves the office saying "thanks for the information, I think I'll hold off. I don't want to lose these cards." Six months later, while waiting her turn at Bankruptcy Court, the attorney sees the former potential client at a bankruptcy hearing with an attorney, testifying about client's assets but without mentioning the baseball cards.

Questions Presented/Short Answers: What are your obligations?

S1 Question: Does an attorney who learns that the attorney has submitted false information to a tribunal have an obligation to disclose the misrepresentation to the tribunal after the matter is completed?

Answer: No. The matter is complete.

S2 Question: Does an attorney who is fired after filing false information have an obligation to discuss the matter with the former client, new counsel to the former client, and even the tribunal?

Answer: Yes, but in the stages suggested: attempting first to allow the former client to correct the misrepresentation, then to discuss with new counsel and ultimately with the tribunal if the record created by initial counsel is not corrected.

S3 Question: Does an attorney who witnesses a former potential client lie to the tribunal have an obligation to discuss the matter with the former potential client, the current attorney or the tribunal?

Answer: Yes, in the stages suggested, because the attorney is obligated to follow the Rules of Professional Conduct, in particular the rule on confidentiality, with a former potential client. The exceptions within the confidentiality rule include obligation of candor toward the tribunal.

General Discussion: Delve into the Rules of Professional Conduct

The three scenarios require the balancing of the attorney's responsibilities under no fewer than eight Rules of Professional Conduct: Rule 1.2 on Scope of Representation and Allocation of Authority Between Client and Lawyer, Rule 1.6 on Confidentiality, Rule 1.16 on Declining or Terminating Representation, Rule 1.20 Duties to Prospective Clients, Rule 3.3 on Candor Toward the Tribunal, Rule 4.1 on Truthfulness in Statements to Others, Rule 4.2 Communication with Person Represented by Counsel and Rule 8.4 on Misconduct.

What a Montana lawyer should do in each of the scenarios

depends on a careful reading of the Montana rules. Montana's rules, adopted in 2004, reflect most of the changes that the ABA made to the Model Rules of Professional Conduct in 2002-2003. Significantly, however, the Montana Supreme Court chose not to adopt the ABA's 2003 revisions to Model Rule 1.6 on the subject of revealing a clients' fraud. The Montana rule follows the short-lived version of Model Rule 1.6 that the ABA adopted in 2002.

▶ Montana's Rule 1.6 provides:

- (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 upon 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.

▶ The ABA's 2003 Rule 1.6 (b) includes these additional exceptions (using the ABA's numbering):

- (b)(2) to prevent the client from committing a crime or fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyer's services;
- (b)(3) to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services...

▶ The Montana Supreme Court adopted the ABA's Rule 3.3, Candor Toward the Tribunal, verbatim:

RULE 3.3: Candor Toward the Tribunal

- (a) A lawyer shall not knowingly:
- (1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;
 - (2) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or
 - (3) offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. A lawyer may

refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false.

- (b) A lawyer who represents a client in an adjudicative proceeding and who knows that a person intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal.
- (c) The duties stated in paragraphs (a) and (b) continue to the conclusion of the proceeding, and apply even if compliance requires disclosure of information otherwise protected by Rule 1.6.
- (d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are adverse.

▶ The Montana Supreme Court has made it absolutely clear that the duty of candor toward the tribunal under Rule 3.3(a)(2) supercedes a lawyer's duty of confidentiality under Rule 1.6, even when a client has specifically directed the lawyer to protect the client's confidence:

Rule 3.3(a)(2) sets forth the duty of candor toward the tribunal and prohibits a lawyer from failing "to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client." Once Potts made representations to the court in the signed stipulation, the duty of candor to the tribunal as stated in rule 3.3(a)(2), M.R.P.C., trumped any duty of confidentiality that he owed to his clients [citation omitted]. Regardless of the duty of confidentiality as stated in Rule 1.6, M.R.P.C., Potts had an affirmative duty to be truthful in his statements to the court as mandated by Rule 3.3(a)(2), M.R.P.C. [paragraph 35].

In the Matter of Potts 2007 MT 81

In *Potts*, attorney Potts wrote and submitted a stipulated agreement that set the value of the estate at issue in the litigation at an amount that did not include joint tenancy accounts. Potts' client had directed Potts not to clarify that the estate value did not include the joint tenancy accounts.

The Montana Supreme Court addressed the challenge presented by the Montana rule departure from the ABA Model Rule 1.6's fraud exceptions:

...Rule 1.6, M.R.P.C., may have absolved Potts from disclosing any information relating to the representation of his clients even if they had engaged in fraudulent conduct. Under Rule 1.6(b)(1), M.R.P.C., a lawyer may disclose information relating to client representation only if the client consents to a disclosure or to prevent a client from committing a criminal act that the lawyer believes is likely to result in

imminent death or substantial bodily harm. The rule provides no exception for disclosing fraudulent conduct of a client to prevent, rectify, or mitigate fraud. Potts could not have disclosed his clients' confidences under Rule 1.6, M.R.P.C. [paragraph 36].

Rule 1.6, M.R.P.C., does not stand alone, however, and thus our analysis does not end here. Rule 1.2(d), M.R.P.C., prohibits the lawyer from counseling or assisting a client to engage in conduct that the lawyer knows is criminal or fraudulent. Under certain circumstances, a lawyer's nondisclosure of a material fact can be taken too far even in light of the duty of confidentiality. Nondisclosure of client information "can amount to a misrepresentation in some circumstances and can also have the effect of assisting a criminal or fraudulent act by a client, thus implicating the lawyer in the client's wrongdoing."... Under Rule 4.1, M.R.P.C., such nondisclosures can be revealed only to "a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by Rule 1.6." [Emphasis in original. Paragraph 37.]

Here, Rule 1.6, M.R.P.C., prevented Potts from disclosing his clients' information because his clients had not consented to a disclosure and his clients' conduct was not likely to result in imminent death or substantial bodily harm so as to warrant disclosure outside of their consent. Potts cannot use the duty of confidentiality, however, to shield himself from other potential misconduct. Potts, while maintaining his duty of confidentiality, also must comply with the other rules of professional conduct, including Rule 1.2(d), M.R.P.C., the rule that prohibits a lawyer from assisting a client in fraud.

Rule 1.16, M.R.P.C., requires a lawyer to withdraw from representing a client if such representation will result in violation of the rules of professional conduct. Potts should have withdrawn from representation as soon as his clients' demands for nondisclosure of information propelled his services into the realm of assisting in his clients' fraudulent behavior. *We concede that Rule 1.6, M.R.P.C., prevented Potts from disclosing the information against his clients' wishes. We will not endorse legitimate nondisclosure under Rule 1.6, M.R.P.C., however, as an excuse for noncompliance with Rule 1.2(d), M.R.P.C. [paragraph 38-39.]*

Ultimately, the Court found that Potts violated Rule 1.2(d), explaining that the omission constituted a misrepresentation that assisted in his clients' fraudulent purpose of taking the joint tenancy accounts outside of the settlement. "Potts could have avoided this situation by withdrawing from representation under Rule 1.16, M.R.P.C." [paragraph 55] On balancing the obligations within the Rules, the Court concluded:

The first sentence of the preamble to the M.R.P.C. states that a lawyer must "pursue the truth." The duties of candor toward the tribunal under Rule 3.3(a), M.R.P.C., and the prohibition against assisting in a client's fraudulent conduct under Rule 1.2(d), M.R.P.C., guide the lawyer in this quest for truth. In breaching this fundamental tenet, Potts shunned his most basic responsibility owed to the profession. [paragraph 78]

Scenario 1

An attorney who learns that the attorney has submitted false information to a tribunal does not have an obligation to disclose the misrepresentation to the tribunal after the matter is completed.

Both the Rule and the Comment to Rule 3.3 address the issue of when a matter is complete for purposes of applying the candor obligation head on. The rule provides:

(c) The duties stated in paragraphs (a) and (b) [mandating candor] continue to the conclusion of the proceeding, and apply even if compliance requires disclosure of information otherwise protected by Rule 1.6.

The lawyer's duty of candor "continue[s] to the conclusion of the proceeding." The ABA has adopted comments in conjunction with the Model Rules. Comment 13 of Rule 3.3 provides:

"Duration of Obligation: A practical time limit on the obligation to rectify false evidence or false statements of law and fact has to be established. The conclusion of the proceeding is a reasonably definite point for the termination of the obligation. A proceeding has concluded within the meaning of this Rule when a final judgment in the proceeding has been affirmed on appeal or the time for review has passed."

While the Montana Supreme Court did not adopt the ABA's Comments verbatim, it frequently relies on them in processing the Montana Rules of Conduct. The Rule and the Comment recognize a need for finality to the attorney's obligation of candor. In scenario 1, the matter is complete. The attorney has no obligation to disclose the fraud or deceit to the tribunal. That said, the Ethics Committee believes that best practices dictate that the attorney should explain to the client the repercussions of the client's fraud and potential for future criminal charges, whether or not the attorney chooses to go forward with the new proposed representation.

Scenario 2

An attorney who is fired after filing false information has an obligation to discuss the matter with the former client, new counsel and perhaps the tribunal.

As discussed in Scenario 1, the duration of an attorney's obligation is to the conclusion of the proceeding. In Scenario 2, the proceeding is not concluded. While the attorney has been terminated, the attorney's obligation of candor continues. Rule 3.3 provides in both (a) and (b) that upon learning false material evidence has been offered "the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal." The candor obligation applies "even if compliance requires disclosure of information otherwise protected by Rule 1.6." Rule 3.3(c). To further cement the obligation, Rule 3.3(d) provides: "In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are adverse."

This is not to suggest that the lawyer rush to the tribunal and tell all upon the lawyer's dismissal in Scenario 2. Comment 10 of Rule 3.3 sets out the steps a lawyer should take:

"Having offered material evidence in the belief that it was true, a lawyer may subsequently come to know that the evidence is false. Or, a lawyer may be surprised when the lawyer's client, or another witness called by the lawyer, offers testimony the lawyer knows to be false, either during the lawyer's direct examination or in response to cross-examination by the opposing lawyer. In such situations or if the lawyer knows of the falsity of testimony elicited from the client during a deposition, the lawyer must take reasonable remedial measures. In such situations, the advocate's proper course is to remonstrate with the client confidentially, advise the client of the lawyer's duty of candor to the tribunal and seek the client's cooperation with respect to the withdrawal or correction of the false statements or evidence. If that fails, the advocate must take further remedial action. If withdrawal from the representation is not permitted or will not undo the effect of the false evidence, the advocate must make such disclosure to the tribunal as is reasonably necessary to remedy the situation, even if doing so requires the lawyer to reveal information that otherwise would be protected by Rule 1.6. It is for the tribunal then to determine what should be done—making a statement about the matter to the trier of fact, ordering a mistrial or perhaps nothing."

► **Comment 11 to Rule 3.3 further provides:**

"The disclosure of a client's false testimony can result in grave consequences to the client, including not only a sense of betrayal but also loss of the case and perhaps a prosecution for perjury. But the alternative is that the lawyer cooperate in deceiving the court, thereby subverting the truth-finding process which the adversary system is designed to implement. See Rule 1.2(d). Furthermore, unless it is clearly

understood that the lawyer will act upon the duty to disclose the existence of false evidence, the client can simply reject the lawyer's advice to reveal the false evidence and insist that the lawyer keep silent. Thus the client could in effect coerce the lawyer into being a party to fraud on the court."

► **Finally, under the caption "Preserving Integrity of Adjudicative Process", Comment 12 provides:**

"Lawyers have a special obligation to protect a tribunal against criminal or fraudulent conduct that undermines the integrity of the adjudicative process, such as bribing, intimidating or otherwise unlawfully communicating with a witness, juror, court official or other participant in the proceeding, unlawfully destroying or concealing documents or other evidence or failing to disclose information to the tribunal when required by law to do so. Thus, paragraph (b) requires a lawyer to take reasonable remedial measures, including disclosure if necessary, whenever the lawyer knows that a person, including the lawyer's client, intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding."

Scenario 3

An attorney who witnesses a former potential client lie to the tribunal has an obligation to discuss the matter with the former potential client's current attorney and, if that fails, with the tribunal.

As discussed in Scenarios 1 and 2, the matter is not complete. The duration of an attorney's obligation is to the conclusion of the proceeding. Even though the attorney was never hired in Scenario 3, the consultation was reasonably sufficient to permit the client to appreciate the significance of the matter in question, i.e. the baseball cards would be disclosed as an asset. Rule 1.20, Duties to Prospective Clients, imposes the same responsibilities on a consulted attorney as if the consulted attorney had engaged in the representation. Rule 1.20 provides, in part:

- (a) A person who consults with or has had consultations with a lawyer about the possibility of forming a client-lawyer relationship with respect to a matter is a prospective client.
- (b) Even when no client-lawyer relationship ensues, a lawyer who has had consultations with a prospective client shall not use or reveal information learned in the consultation(s), except as Rule 1.9 would permit with respect to information of a former client.

Rule 1.9 is titled "Duties to Former Clients." Among the duties owed to former clients is the duty to protect the former client's confidences. The confidentiality rule's 1.6 (b)(4) exception ("may disclose...to comply with other law or court order")

Ethics

from page 8

also attaches. The “other law” includes Rule 3.3’s obligation of candor toward the tribunal discussed above. It also includes the Bankruptcy Code.

Bankruptcy is a privilege, not a right. Bankruptcy is premised upon full disclosure. Receiving a discharge is a privilege earned through truthful disclosure, not a right given to everyone who files regardless of their honesty. The quid pro quo for a discharge is full and unabridged honesty and disclosure. See *In re Retz*, 606 F.3d 1189 (9th Cir. 2010), *Grogan v. Garner*, 498 U.S. 279, 286-87 (1991) and *Aubrey v. Thomas*, 111 B.R. 268, 274 (9th Cir. BAP 1990). In *Retz*, the Court asserted “bankruptcy limits the opportunity for a completely unencumbered new beginning to the honest but unfortunate debtor” and “the opportunity to obtain a fresh start is conditioned upon truthful disclosure.” The Ninth Circuit has opined, “The purpose of a discharge is to release an honest debtor from his financial burdens and to facilitate the debtor’s unencumbered fresh start.” In *re Bowman*, 14 Mont. B.R. 79, 81 (9th Cir. BAP 1994). Similar language is found in *Torgenrud v. Wolcott*, 194 B.R. 477, 486 (Bankr. D. Mont. 1996) and *Khalil v. Developers Sur. & Indem. Co.*, 379 B.R. 163, 172 (9th Cir. BAP 2007), *aff’d* 578 F.3d 1167 (9th Cir. 2009). The Bankruptcy Code provides, at 11 U.S.C. section 727 (a) “The court shall grant the debtor a discharge, unless (4) the debtor knowingly and fraudulently, in or in connection with the case... (A) made a false oath or account.”

► Paragraph 14 of the Preamble provides:

“Lawyers play a vital role in the preservation of society. The fulfillment of this role requires an understanding by lawyers of their relationship to our legal system. All lawyers understand that, as officers of the court, they have a duty to be truthful, which engenders trust in both the profession and the rule of law. The Rules of Professional Conduct, when properly applied, serve to define that relationship. Trust in the integrity of the system and those who operate it is a basic necessity of the rule of law; accordingly truthfulness must be the hallmark of the legal profession, and the stock-in-trade of all lawyers.”

When a lawyer witnesses a former potential client lie to a tribunal, the lawyer must make an effort to disclose the misrepresentation. When and to whom the lawyer discloses raises another issue. In Scenario 3, the client is represented by other counsel. Rule 4.2, Communication With Person Represented by Counsel, prohibits direct communication with a represented party unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order. In Scenario 3, it is appropriate that the lawyer approach the former potential client’s new lawyer and discuss the fact of the earlier consultation and the existence of baseball cards as an asset.

Does the originally consulted attorney have an obligation to

pursue the matter with new counsel to confirm whether the asset disclosure should have included baseball cards? Yes. The matter—the client’s bankruptcy—is not complete. The originally consulted attorney’s burden is to confirm that the tribunal is not misled. If the originally consulted attorney learns that in fact the cards are in the former potential client’s possession, and learns that new counsel has failed to correct the record as to the fact of the existence of the asset, then the former potential counsel has an obligation to disclose that information to the tribunal. Rule 3.3 and the *Potts* case require disclosure. Comments 10 and 11 to Rule 3.3, quoted above, direct disclosure to the tribunal as is reasonably necessary to remedy the situation, even if doing so requires the lawyer to reveal information that otherwise would be protected by Rule 1.6. It is for the tribunal then to determine what should be done. Comment 12 to Rule 3.3 is also particularly compelling. Titled “Preserving Integrity of Adjudicative Process.” It provides:

Lawyers have a special obligation to protect a tribunal against criminal or fraudulent conduct that undermines the integrity of the adjudicative process, such as ... unlawfully concealing documents or other evidence or failing to disclose information to the tribunal when required by law to do so. Thus, paragraph (b)[of Rule 3.3] requires a lawyer to take reasonable remedial measures, including disclosure if necessary, whenever the lawyer knows that a person, including the lawyer’s client, intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding.

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Fund donates 50k to lecture series trust at UM

The Attorney Admissions Fund managed by the United States District Court has donated \$50,000 to the Jones-Tamm Lecture Series Trust at the University of Montana's School of Law. The gift was unanimously approved by the Committee that administers the fund following a proposal by United States District Judge Donald Molloy, who is also a member of the Committee. Judge Molloy asked that the donation be made in recognition of the efforts of Washington, D.C. attorney Robert Bennett, who has been instrumental in assisting the Law School recruit distinguished speakers to the event. Other Committee members include United States Magistrate Judge Keith Strong, United States Clerk of Court Patrick Duffy and lawyer representative Sean Goicoechea. Sean presented the donation to Dean Irma Russell on behalf of all of the lawyers in Montana who practice law in the United States District Court.



Duffy



Goicoechea



Russell

Judge Molloy's recommendation to the Committee noted that the ongoing lecture series "provides a significant benefit to the Bar, and there are few law schools in the country that can boast of a lecture series that has hosted five Supreme Court Justices." The donation comes from a fund that is composed of admission fees paid by lawyers to practice before federal court. Money from the fund may be used for activities that benefit the Bench and Bar in the administration of justice. Another approved use is full funding of a three day seminar for high school government teachers which focused entirely on the role of the judiciary in society. Known as the Montana Judicial Institute, the 4th annual event will be held in Missoula April 16-18.

Bishop, Heenan start new firm

Randy Bishop and John Heenan are pleased to announce that they have formed Bishop & Heenan Law Firm representing consumers with offices at 3970 Avenue D, Suite A, Billings, Montana 59102. Gene Jarussi is Of Counsel to the firm. Further information regarding the firm can be found at www.bishopheenanlaw.com.

Randy graduated from the University of Montana School of Law, with honors, in 1977 and has represented consumers for the past 24 years with Jarussi & Bishop. He is a sustaining member of the Montana Trial Lawyer's Association, which he has served as a Board member and as President. MTLA has honored Randy with both its Public Service and Appellate Advocacy Awards. He has been listed in The Best Lawyers In America each year since 1993 and in the Mountain States Super Lawyers since 2008. Randy has served as a member of Montana's Supreme Court Commission on Pattern Civil Jury Instructions since its inception in 1985 and was appointed by the Montana Supreme Court as one of two

lawyer representatives on Montana's Judicial Nomination Commission, a position he held for eight years.

John graduated from the University of Montana School of Law with high honors in 2003. John began his legal career as a law clerk to Judge Cebull, and since that time has represented consumers in private practice. John is a proud member of the National Association of Consumer Advocates and the Montana Trial Lawyer's Association.

Women's Law section annual dinner set for April

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.

There will be an amazing dinner, including appetizers and dessert for \$33/per person from Silk Road Catering. The menu will also include vegetarian and gluten free options so everyone can fully enjoy the meal.

The Women's Law Section of the State Bar will also hold its annual membership meeting, beginning at 5:30 p.m., before the dinner. All members, and anyone interested in becoming a member, of the Women's Law Section are invited to attend the meeting and dinner.

Scammers continue to target MT lawyers

As reported last month, a well-known scam that targets lawyers is making the rounds in Montana. We're aware of yet another attempt of the "Hamasaki" scam, which aims to dupe attorneys through fake cashier's checks.

Last month, we reported an attempt from a scammer who mentioned the Lawyer Referral & Information Service. The intended mark, though, was an attorney who was not part of the program.

In the most most recent attempt, a cashier's check for \$335,000 was sent to a Helena attorney. This attorney was skeptical and contacted the FBI.

In short, the scam starts off like a legit query from a potential client (a recently divorced woman) about a divorce settlement. Using common social engineering techniques, the scammer aims to trick the attorney into accepting a check. At some point during the scam, the attorney receives correspondence from the ex-husband who is looking to settle the matter. The supposed ex-husband asks the attorney to deposit a check into a trust account, subtract attorney fees, and then wire the difference to the ex-wife's account.

The "Hamasaki" scam is well documented, and you can read more about it at [LAWPRO'S Avoid A Claim blog](#) —

State Bar of Montana elections begin

Election season is under way for State Bar positions. Letters have been sent to those whose terms are expiring. A copy of the nominating petition is on page 26, and at www.montanabar.org. The deadline for original nominating petitions is April 2. Ballots will be mailed on May 2. Ballots need to be postmarked or hand delivered by May 22. Ballots will be counted on June 1. Being an even year, the following positions are up for election:

- 1 Trustee in Area A (Kalispell/Libby area)
- 3 Trustees in Area B (Missoula, Hamilton, Polson)
- 1 Trustee in Area C (Butte, Anaconda, Dillon, Deer Lodge areas)
- 2 Trustees in Area D (Great Falls, Cut Bank, Conrad areas)
- 2 Trustees in Area G (Bozeman, Livingston, Big Timber)
- State Bar Delegate to the ABA (Currently Damon Gannett)
- President Elect
- Chair of the Board (Selected by Board at September mtg)

New employees, work assignments at the Bar

Several current employees have taken on new roles, and the Bar also has filled an open position and hired a former VISTA for special projects in recent weeks. In addition, a new VISTA is on board for a year-long assignment.

Marie Connolly now oversees admissions, bar exam, character & fitness, pro hac vice, conditional admission, and Lawyers' Fund for Client Protection. Kathie Lynch oversees the Lawyer



Connolly

Lynch

Padmos

Reed

Redden

Referral Service, Modest Means program and IOLTA reporting. New employee, Robert Padmos, started in February and handles Lawyers' Fund for Client Protection, fee arbitration, and new lawyers' workshop/road show.

Coming off a VISTA position with the Bar, Brooke Redden is working on special projects including education about LR119 and social media

Hailing from Green Bay, Wis., VISTA Mick Reed started at the end of January at the Bar in a year-long position. Reed will work on educational projects with the Law Related Education Committee.

Annual dues and fees deadlines

The State Bar of Montana has mailed annual dues statements to attorneys. Payments for all fees are due April 1 and can be made by check or online with a credit card. CLE affidavits will be mailed in April and must be filed by May 15.

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¹According to the ARAG Fee Schedule

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<http://bit.ly/xJ53ZD> . Be aware that “Hamasaki” is one of the popular names used in the scam, but there are others. Check <http://bit.ly/za9aZw> for a list of other confirmed names used in the scam.

Bishop becomes Of Counsel to Friedman Rubin

Friedman Rubin, nationally recognized trial lawyers, are pleased to announce Billings attorney Randy Bishop has accepted their offer to become Of Counsel with their firm for the purpose of the joint handling of insurance bad faith and coverage matters in Montana. Randy has represented consumers for the past 24 years as a member of Jarussi & Bishop. Throughout his career, Randy’s primary focus has been upon representing consumers harmed by insurance bad faith and he has successfully concluded cases involving wrongful denial of life and disability insurance claims against many of the nation’s largest disability and life insurers, including CIGNA, UNUM/Provident, Paul Revere (pre-merger), Northwestern Mutual Life, Standard, Monumental General and Life Investors.

With the recent retirement from active practice of his longtime partner and friend, Gene Jarussi, Randy has teamed up with Billings trial lawyer John Heenan in Bishop & Heenan. Randy’s practice will continue to focus on matters involving insurance coverage and insurance bad faith in the handling of claims, primarily involving disability, life and health coverages.

MLSA highlights free, low-income tax services

Montana Legal Services Association announces two important tax services for Montanans in 2012. MLSA’s Low Income Tax Clinic (LITC) provides free legal services to low-income people who have federal tax disputes with the IRS. Applications are available on the MLSA web site at www.mtlsa.org or by calling 1-800-666-6899. Attorneys and accountants with tax experience are encouraged to volunteer with the LITC. The LITC provides malpractice insurance and mentoring. If you are interested in volunteering with the LITC, please contact August Swanson at aswanson@mtlsa.org or (406) 442-9830, ext. 21.

MontanaFreeFile.org is available for Montanans to find information on how and where to file their federal and state taxes. Resources include free tax-filing options. The web site also gives information on where eligible tax filers can get free tax preparation information and assistance. Last year 38,537 Montanans visited the MontanaFreeFile.org website and thousands of dollars were returned to tax payers using the services provided. MontanaFreeFile.org is a collaborative project of the Montana Credit Unions, Montana Legal Services Association, Montana Department of Revenue, Opportunity Link, Inc., and Rural Dynamics, Inc.

Squires named CEO of Blackfoot Telecom Group

William A. “Bill” Squires has been named chief executive officer for Blackfoot Telecommunications Group (Blackfoot) and its subsidiaries, including Blackfoot Telephone Cooperative,



Squires

Blackfoot Communications, and TeleSphere Software, effective January 12, 2012. Bill has been serving as interim CEO since December 2, 2011. Previously, Bill served as the company’s Senior Vice President & General Counsel since April 2001. Prior to joining Blackfoot, Squires was a private attorney in Great Falls and Helena representing primarily telecommunications companies, cooperatives and small businesses. Squires also was recently appointed Chairman of the Board of Directors of Alaska Power & Telephone Company.

Cory is newest partner with Crowley Fleck

Crowley Fleck PLLP is proud to announce that Benjamin T. Cory of the Missoula office has become a partner with the firm. Ben grew up in Missoula, graduating from Loyola Sacred Heart High School. Ben received his undergraduate degree from the University of Montana and his law degree from the University of Montana School of Law. While in law school, he served as Executive Editor of the Montana Law Review. He represents financial institutions, businesses and individuals in all aspects of commercial law and is licensed in both Montana and Wyoming. Crowley Fleck is proud of the firm’s reputation in the legal and business communities in the region and looks forward to Ben continuing to contribute to the high quality legal services that the firm provides.

Notice of LJIC hearing on Rules of Civil Procedure

On April 20, 2012, the Law and Justice Interim Committee, a statutory interim committee of the Montana Legislature, will hold a hearing on the new Montana Rules of Civil Procedure.

Pursuant to Article VII, section 2(3), of the Montana Constitution, the Legislature may disapprove rules of procedure adopted by the Montana Supreme Court in either of the two legislative sessions following adoption of the rules.

The purpose of the April hearing is to solicit testimony on whether or not the new rules should be disapproved. At its February meeting, the Committee may also expand the April hearing to include the new Rules of Appellate Procedure.

The hearing on the Rules will be held on April 20, 2012, beginning at 8:00 a.m. in Room 172 of the State Capitol in Helena.

Contact committee staff, Ms. Sheri Scurr or Mr. David Niss, at (406) 444-3064, with any questions.

Court changes forms, repeals another

Summarized from a Jan. 31 order: In order to conform with the Montana Rules of Civil Procedure, it is necessary to change several of the forms appended to the Rules. The Advisory Commission on Rules of Civil and Appellate Procedure has proposed adoption of Forms 1, 18, 18A, and 18B to conform with the Rules that went into effect on October 1, 2011. The Commission also suggests that Form 20, “Motion for Production, Etc., under Rule 34,” be repealed, as it is no longer necessary. The Court approves the changes proposed by the Commission. To read the full order, and to download copies of the forms, go to the “Recent Montana Supreme Court Orders” area on the Bar’s homepage at www.montanabar.org.

Primer on Bar emeritus status

If you are no longer an active member of the Bar, but have been during at least ten of the past 15 years, you may be eligible for emeritus membership. Interested? Read on:

To be considered for Emeritus status you must be either an active or judicial member of the State Bar for 10 of the 15 years immediately preceding your application, agree to practice exclusively on a pro bono basis, and complete 25 hours of pro bono service per year. In exchange your annual Bar dues and CLE filing fees are waived. Emeritus members need only ten (10) hours of CLE each year, rather than the 15 hours required for active members. CLE hours must be certified by a qualified provider of legal services as training prescribed for emeritus members.

Who: Selected attorneys who may be considering retirement or inactive status. Your Bar dues and CLE filing fees are waived. You must apply to the Executive Director of the Bar to be considered.¹

What: Emeritus status entitles you to all the Bar benefits available to active attorneys including Bar programs, copies of the Montana Lawyer. Malpractice coverage applies to cases referred from MLSA and modest means cases from the Bar.

When: Anytime. The pro bono hours will be prorated

depending on your date of acceptance into the program.

Why: Emeritus status gives you the opportunity to provide legal services for low- income Montanans without paying Bar dues. You are a full member of the Bar, with attendant privileges. Attorneys with Emeritus status will be called upon by the Courts and the Bar to assist in particular pro bono projects to benefit the citizens of Montana and the Courts.

How: Simply follow the rules on the first page and submit your letter with the application form (attached). We recommend you indicate the type of pro bono practice you have engaged in or are considering.

What about CLE requirements?²

Emeritus status attorneys do not pay a fee to file their CLE affidavit. They are required to complete a minimum of 10 hours of continuing legal education each year. The CLEs must be approved by Montana Legal Services or the State Bar

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Bar News

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Changes coming for Bar publications and CLE materials

In the coming months, the Bar will add digital downloads for publications and CLE offerings to our online store. Media streaming is also in the works for CLE audio/video. The transition away from mail ordering presents some wrinkles, so we're rolling out the changes in several steps.

Once in place, this new setup will smooth out the ordering process, provide quicker turn-around, and help eliminate unneeded hard copies. And don't fret if you like paper, many traditional publications, such as formbooks, will still be available as hard copies.

Save the date -- Annual Meeting is in September

The annual meeting starts a week later this year. The event begins at 8 a.m., Sept. 20-21, at the Crowne Plaza Hotel in Billings. Check The Montana Lawyer and www.montanabar.org for more

information as the date nears.

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 are on pages 24 and 25. Copies of the nomination forms for all awards are available in the Montana Lawyer section online at montanabar.org.

State Bar Calendar

For the most up-to-date events, see the calendar at montanabar.org.

March 1: Dues Statements Mailed to Attorneys; Appellate Practice Tips: Brief Writing and Oral Argument-Phone CLE

March 7: Noon Hour Phone CLE - "Defense of Cities/Counties: Public Duty Doctrine

March 9: Executive Committee Meeting

March 13: Hot Issues in Representing Military Personnel in Divorce Actions Phone CLE

March 15: ABA BLI Meeting

March 16: ABA BLI Meeting, St. Patrick's Day CLE - Insurance Update

March 21: Tech Webinar: Your First Window Into the New Rules of Civil Procedure

March 30: Litigation Tools

April 2: Annual dues and fees payment

deadline

April 11: Security Steps for Unsecured Networks

April 12: Executive Committee Meeting

April 13: Family Law CLE; Board of Trustees Meeting

April 20: Bench-Bar Conference CLE

April 27: Basic Bankruptcy, Federal Filing Tips; Rules Changes: Civil and Appellate



You Are Cordially Invited to the

2012 Barristers Ball

A Gala Occasion

Saturday March 24th, 2012

FLORENCE BUILDING GOVERNOR'S ROOM ■ 111 N. Higgins Missoula, Montana

BEER, WINE, AND LIVE MUSIC ■ 8:00 PM

*Cash bar available for liquor

Reservations

INDIVIDUAL ■ \$25

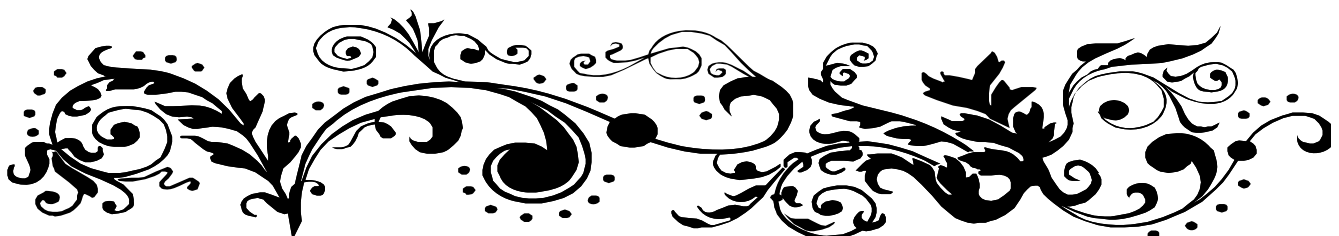
COUPLE ■ \$40

JUDGE and a Guest ■ Complementary

How to Register

Please register by March 10, 2012, by either e-mailing sbabarristersball@gmail.com or

by calling Paul at (406) 243-4553.



Emeritus

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staff, on behalf of Legal Services and the Access to Justice Committee. If you have questions about a particular CLE, Kathie Lynch or Janice Doggett will assist you. (klynch@montanabar.org 447-2210 or jdoggett@montanabar.org 447-2201.

Options for helping MLSA

Montana Legal Services (MLSA) can serve only a small fraction of low-income Montanans who need legal assistance and must rely on the private bar to help us meet the large and growing need for legal aid in Montana. The State Bar of Montana Emeritus Program creates opportunities for experienced attorneys to volunteer their legal skills and lend their expertise to help the growing number of Montanans who cannot afford counsel. By providing assistance to MLSA clients, emeritus attorneys have the opportunity to directly impact the lives of poor people in Montana.

MLSA has been designated a qualified legal services provider by the State Bar of Montana and offers a variety of ways in which emeritus attorneys can engage in pro bono service to fulfill the 25 hour annual requirement necessary to retain

emeritus status. There are opportunities for emeritus attorneys to provide direct representation to low-income clients in family, housing, consumer and public benefits matters through locally organized pro bono programs or MLSA's statewide initiatives. If attorneys are unable to take a case directly, MLSA does provide other opportunities to engage in pro bono work.

Family Law

- Review dissolution and parenting plan pleadings for pro se litigants

Indian Wills

- Prepare wills for Montana Tribal Members

Bankruptcy Law

- Review pro se Chapter 7 bankruptcy petitions
- Conduct 1-hr follow-up appt. with client

Low-Income Taxpayer Clinic

- Help low-income people with their tax concerns

Housing Law

- Review form letters and/or pleadings prepared by pro se clients

Pro Se Forms Development

- Review forms for the Commission on Self-Represented Litigants
- Areas of law include: family law, wills & estates, consumer law and housing

What will MLSA provide State Bar approved Emeritus attorneys who provide services?

- Malpractice insurance coverage while the pro bono case is active, at no cost to the pro bono attorney
- Mentors or co-counsel for pro bono attorneys who are new to family law, upon request by the pro bono attorney
- Space to meet with clients
- Pleadings and forms – some forms are available online at <http://www.montanalawhelp.org>, <http://www.montanaprobono.net>, <http://courts.mt.gov/library/topic/default.mcp>, and <http://www.freemontanaforms.org>. Other forms may be provided by MLSA upon request.
- Calculations of child support, under the Montana Child Support Guidelines
- Low-cost or free mediation for pro bono cases
- Free access to LexisNexis7, sponsored by the Montana Supreme Court Training opportunities

To volunteer or obtain more information about pro bono opportunities available with MLSA visit www.mtlsa.org

END NOTES

¹ State Bar By-laws Section 3-Classes of Membership

(g) The State Bar may grant emeritus status to a member who meets the qualifications in this subsection, so that the member may provide pro bono or volunteer services to low-income individuals even if the member does not otherwise maintain an active practice. A member who is granted status as an emeritus attorney may practice law only as provided in this subsection.

The Executive Director must approve the grant of emeritus status upon application by a lawyer who:

(i) has engaged in the active practice of law for a minimum of 10 out of the 15 years immediately preceding the application for emeritus status or has judicial status;

(ii) has no record of public discipline for professional misconduct imposed at any time within the past 15 years by the courts of the State of Montana, any commission of the Montana Supreme Court, or any other jurisdiction in which the member has been admitted, and who did not resign or retire from the practice of law with disciplinary charges pending;

(iii) agrees to abide by the Rules of

Professional Conduct and submit to the jurisdiction of the Montana Supreme Court for disciplinary purposes;

(iv) neither asks for nor receives compensation of any kind for the legal services authorized hereunder; and

(v) does not engage in the practice of law except in association with a qualified provider of legal services in Montana to persons unable to pay for such services. For purposes of this section, a "qualified provider" is a not-for-profit legal aid organization that is approved by the State Bar's Access to Justice Committee and provides malpractice insurance that will cover the emeritus member.

(vi) annually completes 25 hours of pro bono legal services through a qualified provider. If the member fails to complete the 25 required hours of pro bono service by April 1, the attorney will no longer be eligible for emeritus status and will become an inactive member.

A lawyer member may appeal any non-approval of emeritus status by the Executive Director to the Board of Trustees.

²Rules for Continuing Legal Education RULE 4 B. Emeritus Member Continuing Legal Education Requirement: Each

emeritus member shall complete a minimum of ten (10) credit hours of approved continuing legal education activity each year. Each of those ten (10) credit hours must be certified by a qualified provider of legal services, as defined in Section 3(g)(vi) of the By-laws of the State Bar of Montana, as training prescribed for emeritus lawyers and related to the field of law for which such lawyers provide legal services to persons unable to pay for such services. In addition, of the ten (10) credit hours, at least five (5) credit hours must be earned by attendance at interactive seminars as defined in Rule 7. No more than five (5) credit hours may be earned through "other methods" as defined in Rule 7.

If an emeritus member accumulates more interactive credits than required in a year, the excess interactive credits may be carried forward and applied to either or both of the next two succeeding years. Credits earned by "other methods" may not be carried forward. A maximum of twenty (20) interactive credit hours may be carried forward.

Emeritus members are subject to the same requirements as active members for credit hours in ethics. All CLE filing fees shall be waived for emeritus members.

A PERFECT STORM:

Addiction within the legal profession

By Virginia A. Bryan

Every Thursday at noon, attorney Joe Hardgrave attends a meeting in downtown Billings. Sometimes, seven or eight lawyers show up. Other times, it's just Hardgrave and one other. But Hardgrave, a recovering alcoholic, keeps going back.

Recently graduated from law school, he works for the Montana Legal Services Association, primarily in the Crow and Northern Cheyenne Tribal Courts.

The lawyers who gather every Thursday might talk about how the stress of law practice, alcohol or other substance abuse affects their lives, their clients or their families. Maybe there is a troubling legal issue to be sorted out. Who attends and what's said remains strictly confidential.

It's no secret that law practice is stressful. According to the ABA Commission on Lawyer Assistance Programs (CoLAP), that stress puts lawyers at twice the national average when it comes to risk for abuse of alcohol, other substances and addictive behaviors. A study cited on the State Bar of Montana's website suggests that 18% of attorneys are problem drinkers, as compared to 10% in the general population.

A Model to Emulate

The Montana Lawyer Assistance Program was created by the State Bar of Montana in 2006 to address the growing recognition of addiction and mental health issues within the legal community. Director, Mike Larson, a lawyer with private practice experience, has been with the program since its inception. He coordinates weekly meetings across the state for judges and lawyers maintaining sobriety (like the one Hardgrave attends every Thursday) and those still struggling. Larson sees addictive behaviors that run the gamut, from alcohol, eating disorders, and over-spending to sex, pornography, and gambling.

Larson's presence has had an impact. A recent State Bar of Montana survey indicates that 94% of its membership is aware of the Montana Lawyer Assistance Program. Montana lawyers must receive at least one SAMI (Substance Abuse and Mental Illness) continuing education credit every three years. Under Montana Supreme Court Order No. 85-86, if you seek help from the Lawyer Assistance Program your confidentiality is protected and your career won't be threatened. The ABA's CoLAP considers Montana a model to emulate as surrounding rural states begin their own programs.

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Did You Know?

Studies over the past ten years have found that lawyers experience a much higher rate of depression, chemical dependency and other psychological, behavioral and physical symptoms that may be related to the stress of practicing law. A Johns Hopkins University study ranked lawyers No. 1 on the list of occupations prone to depression.

A similar study found that 18% of lawyers were problem drinkers compared to 10% in the general population.

The professional stresses that our community members may be

subject to can negatively impact their health, personal and family lives, professional work and the reputation of the discipline within their own communities.

Confidentiality

The Montana Lawyer Assistance Program (MLAP) is independent from any disciplinary organization and does not police, report, discipline or otherwise threaten the career of an attorney or judge. By order of the Montana Supreme Court (Order No. 85-96), the names of persons seeking assistance under this program shall be confidential. Call MLAP at 1-888-385-9119.

Storm

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The Gig was Up

Hardgrave, a frequent presenter at Montana SAMI seminars, openly shares his journey with alcoholism and recovery. He's found that disclosure, an individual choice, is healing and empowering.

"When I speak in public about my alcoholism and recovery, there is always some guy in the front row who looks horrified, like he's thinking, 'I can't believe you are saying these things!'"

Hardgrave knows the look well. "Lawyers are so wrapped up in their image and protecting it. There is incredible pressure to maintain an appearance of success and control. I'm thankful to have entered law school and the legal profession sober. It's tough to face an addiction. It'd be even more difficult if I'd practiced law several years before my sobriety."

Hardgrave remembers when he quit drinking. "I just received word of a promotion while working for the National Park Service. I was out celebrating and got my second D.U.I. It was my fifth alcohol related arrest. I spent the night in jail." With the help of his mother, a high school guidance counselor, he admitted himself to a 90 day out-patient treatment program. "By that time, I'd done a lot of damage – to property and my personal relationships," he said. "The gig was up."

Perfect Storm

Early into his sobriety, Hardgrave was accepted to The Law School at Nova Southeastern University in southern Florida. "It was a law school very close to the beach. That's why I picked it. I wanted an adventure." Soon, he realized that drinking was part of the law school culture. For many, the risky behavior starts there.

"I think law school and law practice create the perfect storm for addiction. As lawyers we're taught to be self-sufficient problem solvers. Asking for help is a sign of weakness. We come to believe, or at least act as if we are the smartest people in the room and always in control. We learn to rationalize and justify. We are taught to abhor mistakes. If we make

them, we don't admit them."

Addicts, Hardgrave explained, don't want to admit mistakes and weakness either. They put up a good front. They justify their behavior and seek to control situations around them, all in the name of protecting their addiction. It didn't take long for Hardgrave to become active in Florida's Lawyer Assistance Program.

"There are many lawyers in Florida, so there are more who struggle with addiction. As a result, Florida's Lawyer Assistance Program is well-established, whereas in Montana, it's still relatively new."

A Workplace Disease

Hardgrave was a second year law student when he decided he wanted to practice Indian law. An AmeriCorps fellowship led him from southern Florida to Montana where he took his first job writing wills for Indians holding trust land on the state's seven reservations.

"I was glad to get here," Hardgrave said. "This is what I want to do. My sobriety comes first. Lawyering is secondary. Sobriety gives me clarity and perspective that I didn't have before."

Hardgrave is one of several Montana lawyers who've made themselves available to others through Lawyers Helping Lawyers Network, a part of the Montana Lawyer Assistance Program, by listing his address, phone number and email in the State Bar of Montana Deskbook and on its website. Larson is available daily, round the clock, at 1-888-385-9119, 1-406-660-1181 or at mlarson@montanabar.org.

"Addictive thinking impairs an attorney's ability to practice law," said Larson. "Lawyers tend to be over-achievers and the daily stress of practice can be overwhelming. Alcoholism and other addictions are a workplace disease for us. After every SAMI presentation, I count on an increase in phone call inquiries."

Editors Note: This is the first in a series of stories on mental health issues in the legal profession. Up next -- Lawyers are first on the list of professionals susceptible to depression.

Mont. firm not allowed to represent bank after merger leads to conflict

Failure to end representation disqualified new firm as opponent's counsel

By Joan C. Rogers

Where a lawyer retained by litigants for a limited purpose did not affirmatively end the representation before joining the law firm representing the clients' opponent, the litigants remained the lawyer's clients, thus requiring disqualification of his new firm, the Montana Supreme Court held Jan. 31 (Krutzfeldt Ranch LLC v. Pinnacle Bank, Mont., No. 11-0213, 1/31/12).

Speaking for the court, Justice Beth Baker explained that because the lawyer took no steps to declare an end to their attorney-client relationship, the litigants remained the lawyer's current clients and did not become ex-clients. Therefore, Baker said, the lawyer's new firm, which represents the opposing party, could not remedy the conflict through screening measures that might have worked in the former-client context.

In any event, she added, the firm's implementation of the screen one week after the lawyer's arrival was too late.

Move Through Merger

William and Julie Krutzfeldt sued Pinnacle Bank after the bank refused to continue disbursing funds under a loan designed to help them develop a subdivision. Donald L. Harris represented the Krutzfeldts in the litigation, and Jeffrey J. Oven of the Crowley Fleck law firm represented the bank.

In June 2010, while the litigation was pending, Harris retained attorney Lance Hoskins of Brekke & Hoskins to advise him and the Krutzfeldts about liability, settlement, and tax ramifications. At a meeting in July to discuss the case and Hoskins's initial tax research, Harris told him that the trial date was set for Feb. 28, 2011, and that a settlement conference would take place in late 2010 or early 2011. A couple of days later, Hoskins sent Harris an engagement letter along with a bill.

On Jan. 5, 2011, Harris received a "Dear Client" letter from Brekke & Hoskins announcing that the two partners had joined the Crowley firm on Jan. 1. Harris called Crowley right away to inform Oven of the conflict. On Jan. 7 at 3:16 p.m., he sent

Oven an e-mail requesting that Crowley withdraw as counsel for Pinnacle Bank.

Crowley responded that same day, saying that it had established a screen to prevent Hoskins and his former partner from having any involvement in the Krutzfeldt case. The letter enclosed an e-mail that Crowley sent out to its personnel at 4:23 p.m. informing them about the screen.

The conflict dispute reached the supreme court after the trial court rejected the plaintiffs' motion to disqualify the Crowley firm. In an opinion citing decisions from around the nation, along with secondary sources on the law of lawyering, the court concluded that the Crowley Fleck firm may not continue as counsel for Pinnacle Bank in the Krutzfeldts' lawsuit.

Still Current Clients

Applying the Montana Rules of Professional Conduct, the court rejected the firm's argument that Hoskins's clients necessarily became former clients when he moved to Crowley.

"The attorney-client relationship is not automatically terminated when a lawyer joins another firm," Baker wrote. Attorneys cannot avoid the automatic disqualification rule applicable to concurrent conflicts by unilaterally converting a present client into a former client before the hearing on a motion for disqualification, she pointed out.

The court found that the Krutzfeldts remained Hoskins's current clients under Rule 1.7 at the time he joined the

Crowley firm. Even if grounds for withdrawal existed under the engagement letter Hoskins sent to the Krutzfeldts, Baker said, Hoskins did not actually withdraw before accepting his new position. Hoskins never told the Krutzfeldts that his work for them had ended, never terminated his representation of them, and never advised them that he was planning to join Crowley, the court noted.

Baker also emphasized that both the engagement letter and the "Dear Client" letter contemplated prospective legal services, and the fee statement from Hoskins did not indicate that it

Justice Beth Baker explained that because the lawyer took no steps to declare an end to their attorney-client relationship, the litigants remained the lawyer's current clients and did not become ex-clients. Therefore, Baker said, the lawyer's new firm, which represents the opposing party, could not remedy the conflict through screening measures that might have worked in the former-client context.

Conflict

from page 18

was a final bill. It was reasonable for the Krutzfeldts to believe that the attorney-client relationship still existed, the court found.

Baker said it was unimportant that Hoskins played only a secondary role in the litigation before he joined Crowley. "His limited specific role in the case does not diminish his professional obligations to the Krutzfeldts," she wrote.

The court pointed out that a lawyer's current-client conflict under Rule 1.7 is automatically imputed to his firm under Rule 1.10(a), whereas under Rule 1.10(c), a lawyer's former-client conflicts under Rule 1.9 from work at another firm are not imputed to a lawyer's new firm if the lawyer is timely screened and certain other conditions are met.

Because the Krutzfeldts were current clients rather than former clients when the law firms merged, Crowley could not use screening under Rule 1.10(c) to prevent the imputation of Hoskins's conflict of interest, Baker said.

Even if the Krutzfeldts had become Hoskins's former clients, she continued, the firm's screening measures were untimely and therefore inadequate because they were instituted only after the Krutzfeldts raised the conflict.

Prejudice From Conflict

As for whether the Crowley firm must discontinue representing the bank, the court found that the Krutzfeldts had made a sufficient showing of prejudice to warrant disqualification, especially considering that they filed their motion within days of discovering the conflict.

Baker noted that as a result of the conflict the Krutzfeldts had to get the trial date postponed so that they could retain new tax counsel, and they lost the money they had invested in Hoskins. More fundamentally, the court said, they lost their

attorney's loyalty.

Allowing attorneys to switch sides in the middle of litigation threatens the public's trust in the legal profession, the court stated. If disqualification were not required in this situation, it said, clients would be left without meaningful recourse for protection against lawyers' noncompliance with conflicts rules. Disciplinary action is an inadequate remedy for a party that had no prior notice of the conflict and acted diligently, it added.

Pursuing New Affiliation

Sharing her thoughts on how lawyers should go about changing firms, Baker said that the professional conduct rules do not bar lawyers from pursuing new employment while they are currently serving clients. A lawyer may terminate representation when withdrawal can be accomplished without material adverse effect on the client's interests, she pointed out, citing Rule 1.16(b)(1).

Baker suggested that Hoskins could have delayed his move to Crowley until after trial in the Krutzfeldts' case, or he could have discussed with them his wishes to join the firm before the trial and taken appropriate steps to withdraw from the representation. In that event, she said, Crowley could have

implemented a proper screen to protect their confidences.

A lawyer must promptly inform the client, Baker continued, when engaging in concrete discussions about future employment with an adversary's law firm. "Without effective client consent ... the lawyer must terminate all further discussions concerning the employment, or withdraw from representing the client," she wrote, quoting the Restatement (Third) of the Law Governing Lawyers §125 cmt. d (2000).

"Unfortunately, neither protocol was followed in this case," she observed.

Donald L. Harris of Harman, Warren & Harris in Billings, Mont., argued for the Krutzfeldts. Peter F. Habein of Crowley Fleck, Billings, argued for Pinnacle Bank.

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For More Information — full text of opinion at <http://bit.ly/wLhErW>.

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- **March 13 - Mistakes Made in Representing Military Personnel in a Divorce.** 1-hr Teleconference, sponsored by the State Bar of Montana Family Law Section, with Lt. Col. Beverly Schneider presenting. 1.00 live CLE Credit. \$25 for members of the Family Law Section or the Paralegal Section. \$35 for all others. Online registration only, through March 9.
- **March 16 - Annual St. Patrick's Day CLE, Insurance Update -** War Bonnet Hotel, Butte. Sponsored by the State Bar of Montana CLE Institute. 7.00 CLE credits, including 1.00 SAMI/Ethics credit. Topics include Medicare, Medicaid, Federal Liens and Other Settlement Pitfalls; Settlement, Contribution and Indemnity issues in Insurance Defense cases; Non-Compete, Non-Solicitation and Confidentiality Agreements; Revisions to M.R.Civ.P. and SAMI.
- **March 21, 2012 - Your First Window Into the Rules of Civil Procedure addressing Electronically Stored Information.** Webinar Wednesday CLE from noon to 1 p.m., with attorney David Carter. 1.00 live CLE credit. Learn about the revisions to the Montana Rules of Civil Procedure as they relate to electronically stored information. A must for all attorneys and paralegals who practice before Montana courts. \$45, pre-registration required by March 19.
- **March 30 - Litigation Update -** Hampton Inn, Great Falls. Sponsored by the State Bar of Montana CLE Institute. 6.00 CLE credits, including 1.00 ethics. Includes mock voir dire with mock jury ethical obligations and Issues in discovery of electronic documents and much more
- **April 11 - Security Steps for Unsecured Networks.** Webinar Wednesday CLE from noon to 1 p.m., with ALPS attorney Mark Bassingthwaighte and Technology Committee member, Cort Jensen. \$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. 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. 6.50 CLE credits, including 1.00 ethics.
- **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. See story below, for more information.
- **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 morning session will cover basic bankruptcy for the non-bankruptcy attorney/paralegal. The afternoon session will 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.

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

Continuing Legal Education

Bar approved, third-party CLE

- **March 7 — Easments: Rights of Way & Other Encumbrances;** Missoula; 7.00 credits; Foxmoor/tba; (715) 930-7204
- **March 7 — Montana's Wrongful Discharge Act;** Metcalf Building Helena Capitol Complex; 3.00 credits; PDC of State Personnel Div. (406) 444-3871
- **March 8 — Writing Administrative Rules of Montana;** Metcalf Building Helena Capitol Complex; 10.00 credits; PDC of State Personnel Div (406) 444-3871
- **March 8 — The Complete Trust Course;** Missoula; 7.00 credits; Foxmoor/tba (715) 930-7204
- **March 9 — Legal Ethics for Everyday Practice;** Hilton Garden Inn, Missoula; 3.00 credits/3.00 ethics; NBI (800) 930-6182
- **March 9 — Multi-Dimensional Look at the Legal Profession in the 21st Century;** DoubleTree, Missoula; 7.00 credits/4.00 ethics; ALPS (406) 728-3113
- **March 14 — Records & Information Management;** Metcalf Building Helena Capitol Complex; 3.00 credits; PDC of State Personnel Div. (406) 444-3871
- **March 14 — Impeach Justice Douglas;** webcast; 3.00 credits/3.00 ethics; Periakotos Productions (605) 787-7099
- **March 15 — Probate Process from A to Z;** Crowne Plaza, Billings; 6.00 credits/1.00 ethics; NBI (800) 930-6182
- **March 16 — Probate Process from A to Z;** Townhouse Inn, Havre; 6.00 credits/1.00 ethics; NBI/ (800) 930-6182
- **March 20 — Getting Ready for April 15: Tax Issues for Estate Planners;** teleconference; 1.50 credits; Cannon (800) 775-7654
- **March 21 — Labor and Employment Law Seminar;** Billings tba; 10.00 credits/ 1 ethics credits; The Seminar Group (800) 574-4852
- **March 23 — State Ethics Law;** Metcalf Bldg., Helena Capitol Complex; 3.00 credits/3.00 ethics; PDC of State Personnel Div. (406) 444-3871
- **March 23 — Legal Ethics for Everyday Practice;** Heritage Inn, Great Falls; 3.00credits/3.00 ethics; NBI (800) 930-6182
- **March 23 — Ethical Responsibilities of Supervisory Lawyers Clinic;** UM Law School Rm 101, Missoula; 1.00 credit/1.00 ethics; UM Law School (406) 243-6509
- **March 23 — Probate Process from A to Z;** DoubleTree, Missoula; 6.00 credits/1.00 ethics; NBI (800) 930-6182
- **March 23 — State Ethics Law;** Metcalf Building Helena Capitol Complex; 3.00 credits/3.00 ethics; PDC of State Personnel Div. (406) 444-3871
- **March 26 — Legal Ethics for Everyday Practice;** Crowne Plaza, Billings; 3.00 credits/3.00 ethics; NBI (800) 930-6182

Continued next page

Bar approved, third-party CLE, continued

- **March 26 — Collection Law Tips & Strategies;** DoubleTree, Missoula; 6.00 credits/1.00 ethics; NBI/ (800) 930-6182
- **March 28 — Ben Franklin on Ethics;** Webcast; 1.25 credits/1.25 ethics; Periakto Productions, LLC (605) 787-7099
- **March 28 — Ethical Issues in Public Service,** Best Western Kelly, Billings; 6.50 credits/6.50 ethics; PDC of State Personnel Div. (406) 444-3871
- **March 29 — Preventing Harassment;** Best Western Kelly, Billings; 3.00 credits; PDC of State Personnel Div. (406) 444-3871
- **March 29 — Collection Law Tips & Strategies;** Crown Plaza, Billings; 6.00 credits/1.00 ethics; NBI (800) 930-6182
- **March 30 — Probate Process from A to Z;** Holiday Inn, Bozeman; 6.00 credits/1.00 ethics; NBI (800) 930-6182
- **March 30 — Workers' Comp Cases Start to Finish;** Great Northern Hotel, Helena; 6.00 credits; NBI/Great Northern Hotel (800) 930-6182
- **March 30 Civil Court Judicial Reform;** DoubleTree, Missoula; 6.00 credits/1.00 ethics; NBI (800) 930-6182

The annual Red Mass CLE, Ethics Update: ABA Commission on Ethics 20/20 and Other Developments

— is scheduled for March 29 at Holy Spirit Church Parish Hall, Great Falls; Martin Burke presenting. The CLE is open to both lawyers and paralegals and offers 1.5 ethics credits.

A traditional Red Mass will take place with Great Falls-Billings Diocese Bishop Michael Warfel presiding.

The CLE and associated events are sponsored by the Parish and a committee of Great Falls area attorneys – Mary Matelich, Glenn Tremper, Richard Martin, Dale Schwanke, Karen Reiff, Theresa Diekhans and Anders Berry. The mass and dinner are optional, but all CLE attendees and their spouses or guests are invited to attend. There will be a charge of \$25 for the CLE session and the dinner will be \$15 a person. Registration starts at 3:00, followed by the CLE at 3:30. Red Mass is at 5:15; dinner starts at 6 p.m. Registrations may be mailed to Holy Spirit Parish, 200 44th St. So., Great Falls, MT 59405.

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 22

EMINENT DOMAIN – 2010 UPDATE – 2/26/10

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.

RULES UPDATE – Feb. 4, 2011

1 "other" CLE credit 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
- Changes to the Bankruptcy Court's Local Rules
- Federal Rules of Civil Procedure Revisions
- Federal Pleading Standards Changes
- Workers Compensation Court Rules Update
- Water Law Adjudication Update
- Changes to Rules on Lawyer Disciplinary Enforcement

FAMILY LAW UPDATE – March 11, 2011

1 "other" CLE credit for each topic. 6 audio CDs, including written materials, for \$200 as a set. Individual presentations/materials for \$50 each.

- Third Party Parental Rights
- Social Security and Family Law
- Child Support Guidelines Update

- QDROs, Tax and Other Issues
- Limited Scope Representation: Pros and Cons and Ethical Considerations
- Fee Agreements and Letters of Engagement

RECORDED 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

FAMILY LAW SECTION PHONE CLES

1 "other" CLE credit for each topic. 1-hour 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

RECORDED SAMI PHONE CLES

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

- Basic SAMI - Ethical Duties and the Problem of Attorney Impairment – Sept., 2011
- Dependency Warning Signs – Nov., 2011
- Is It Time to Retire? – Dec., 2011
- SAMI Smorgasbord – Jan., 2012

TECH WEBINARS

1.00 "other" CLE credit for each topic. 1-hr audio recording and written materials for \$50 each.

- Social Media – April, 2011
- E-Mail for Lawyers – Nov., 2011
- Collaborative Tools – Dec., 2011
- Online Resources for Attorneys – Jan., 2012

2009 CRIMINAL LAW ETHICS DVDS

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)

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

U.S. & Montana Constitutions

Pocket-sized booklet
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- 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

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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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

Karla M. Gray Equal Justice Award

This award honors a judge from any court who has demonstrated dedication to improving access to Montana courts. Consideration for this award will be given to nominees who demonstrate this dedication and commitment with a combination of some or all of the efforts described below:

- Personally done noteworthy and/or considerable work improving access of all individuals, regardless of income, to the Montana court system.
- Instrumental in local Access to Justice efforts, including program development, cooperative efforts between programs, and support for community outreach efforts to improve understanding of and access to the courts.
- Active support of citizen involvement in the judicial system.
- Active support and commitment to increasing involvement of volunteer attorneys in representing the indigent and those of limited means.
- Other significant efforts that exhibit a long-term commitment to improving access to the judicial system.

The Equal Justice Task Force selects one award winner. Nomination materials will be retained and considered by the Equal Justice Task Force for three years.

Nominee: _____

Address: _____

On a separate sheet of paper, please describe how the nominee has demonstrated dedication to improving access to Montana courts. Please attach additional pages as needed, and other supporting documents.

Your signature: _____

Print your name: _____

Your address: _____

Your phone number/email address: _____

Please mail the nomination by May 15, to:

Karla Gray Award
c/o Janice Frankino Doggett
State Bar of Montana
P.O. Box 577
Helena MT 59624

Neil Haight Pro Bono Award

This award recognizes a person who provides outstanding legal services to the indigent. The nominee is a lawyer, 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.

Nominations also are accepted for law firms, teams of lawyers, and associations of Montana lawyers and pro bono programs, who did not receive any form of compensation or academic credit for doing pro bono work, and the work was not a nonlegal public service.

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.

The State Bar Access to Justice Committee chooses the winner.

Nominee: _____

Address: _____

On a separate sheet of paper, please describe how the nominee has provided outstanding pro bono services. Please attach additional pages as needed, and other supporting documents. 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.

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Print your name: _____

Your address: _____

Your phone number/email address: _____

Please mail the nomination by May 15, to:

Pro Bono Awards
c/o Patricia L. Fain
State Pro Bono Coordinator
PO Box 21304
Billings MT 59104-1304

State Bar officer & trustee election 2012 nomination petition

I, _____, residing at _____,
am a candidate for the office of () President-Elect; () Area A Trustee; () Area B Trustee; () Area C Trustee;
() Area D Trustee; () Area G Trustee; () ABA Delegate; at the election to be held on June 1, 2012. I am a resident of
Montana and an active member of the State Bar of Montana. I request my name be placed on the ballot. The term of office
of the President-Elect is one year. The term of office of the ABA-Delegate and Trustee is two years.

Signature _____

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

NAME	ADDRESS
1. _____	_____
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**Return to State Bar of Montana, PO Box 577, Helena, MT 59624, postmarked no later than April 2, 2012.
Ballots will be mailed to Bar members on May 2, 2012 and must be returned to the Bar by May 22, 2012.**

Bench-Bar Conference set for April 20

The 2012 Bench-Bar Conference is scheduled for April 20 in Missoula. This annual conference is a great value compared to national conferences.

Look for registration details at www.montanabar.org and in the flyer that we mailed in early February. If you'd like a copy of the printed flyer, call the bar at (406) 442-7660 to see if there are extras.

Topics include: Use What You Know But Forgot; Unacceptable Approaches to the Court, Unacceptable Communication with Counsel and How We Handle It; Ethical Misconduct in Discovery; Electronic Filing, Document Service and Notice Issues in Western Montana and with the Montana Supreme Court – What Lawyers Need to Know and What's on the Horizon; Supreme Court Candidates' Forum; Social Media

Pricing info: For attorneys with 5-plus years practice: \$250 for early registration (by March 30), or \$275. Attorneys with less than 5 years practice and members of the Bar Paralegal Section: \$225 for early registration, or \$250. Full-time law clerks with less than 5 years: 50 percent off of full attorney price. Full-time judges: no charge. **Hotel reservations:** Double Tree by Hilton Missoula — Edgewater, <http://bit.ly/xr1bhf>

in Litigation; Speaking in Code: Everything You Never Thought You'd Need to Know About Bankruptcy But Found Out Otherwise; Election of Supreme Court Justices by District, LR119 Debate.

The conference is approved for 7.00 Montana CLE credits, including 2.00

ethics credits.

The revenue received from CLE Institute CLEs helps to support many other State Bar programs. By supporting the CLE Institute, you are helping to keep State Bar dues from increasing. The CLE Institute strives to provide quality education at a fair price.

We recognize we are competing with other private CLE providers. If you have been contacted by private CLE providers, i.e. Lorman, National Business Institute, etc., to speak, please give Gino Dunfee a call at (406) 447-2206.

We'd love to offer you the opportunity to present at a State Bar CLE. There are many benefits for speaking at a State Bar CLE, including free CLE credits and a chance to network with attorneys you don't see in your day-to-day practice."

Deaths

James Clyde Paine

James Clyde Paine was born June 11, 1947, at Oakland, Nebraska, to Morris C. and Anna B. (Sears) Paine. He passed away February 15, 2012, at his residence in Helena, Montana. Jim was raised in Lyons, Nebraska, and graduated from Lyons High School. He attended the University of Nebraska in Lincoln



where he earned a Juris Doctorate degree. Jim practiced utility law his entire career, working for the State of Nebraska, the State of Montana, and the Stoel Rives law firm in Portland, Oregon. He was the Montana Consumer Counsel from 1981-1987. At the time of his death, he was a senior attorney for the Montana Public Service Commission. Jim first fell in love with Montana as a young man when he worked summers on a ranch in the Boulder Valley where he learned all about "animal husbandry". In 1977, he moved to Helena to work for the PSC. After moving to Oregon and

spending many years there, he made the choice to return to his beloved Montana. He was surrounded by the people he loved and those who loved him in this place that he called home.

Jim was not without his quirks. He was an avid Nebraska Cornhusker football fan and was weird about it. He most often chose to watch the game alone. He was a connoisseur of music and was noted for his ability to create interesting tapes/CDs of great songs peppered with an occasional bizarre selection.

He always kept us guessing, and he always kept us laughing--a witty man wearing a fez, listening to Cajun music, and flashing a blinding, dimpled grin while driving a vintage Cadillac down the highway of life. Those of us who were lucky enough to be recipients of Jim's eclectic CDs will always have a part of him with us. He was a man who had fun no matter where he was. He lived a joyful life, and shared that joy with everyone who knew him.

One of Jim's greatest pleasures was being with people. He loved nearly everyone he met and was a great storyteller.

If Jim knew you, you probably made an appearance in one of his stories. If you were fortunate enough to be one of Jim's friends, he never lost touch with you. His many friends often heard the voice message "James C. Paine, checking in."

His address book still contained the names of girls he had dated in high school, and he left a long line of former girlfriends--some happy and some unhappy.

Jim was preceded in death by his parents and two brothers (John Everett 1955 and Kenneth Andrew 2009). He is survived by his sister Mary Fran (Randy) Bacon of Lyons, Nebraska, sister-in-law Kay Paine of League City, Texas, four nieces, one nephew, four great nieces, and three great nephews. In addition, Jim left many devoted and heartbroken friends and relatives from coast to coast. As a memorial to Jim, please make a donation to the charity of your choice or take a chance, play a hunch, and make a wager on a good horse race.

There are damn few really good people in this world. We are so lucky to have known one of them.

Stupid mistakes lawyers make with technology

By Sharon D. Nelson, Esq.
and John W. Simek
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Wow. This could be an epic novel. No worries, we will restrain ourselves. Here are the things we see most often in our clients' law offices that make us crazy.

1 There is no screen saver password and the computer is left on at night for remote access. This is fine if you'd like to invite the janitorial staff to load your network with pornography or otherwise browse your files.

2 They never turn their machine off. Computers, you have noticed, are imperfect. Processes don't terminate the way they should, applications get tangled, and your own tendency to have 15 programs running at once tends to create collisions. As John puts it, "lots of stuff hangs around impeding the performance of your machine." The fix is easy – either turn the machine off every night – or if you need it for remote access, turn it off when you go to lunch. Once a day is the rule. No exceptions.

3 Passwords need to be twelve characters long – there is no exception to this anymore either. Anyone with any IT sophistication can crack your eight character password, no matter what it is, in less than two hours. With twelve characters, it takes 17 years. Most bad guys can't wait that long. Make it easy on yourself and create a passphrase: GoingonanAlaskancruisein2011! is perfect –and easy to remember.

4 Passwords are meant to be remembered but we are obviously pathetic when it comes to remembering. We find passwords on monitors, under keyboards, and in the top right hand drawer of the desk. That's our field research. We would guess that the bad guys can figure those places out too.

MISTAKES, Page29

Ruminations on the ethics of law firm information security

By Sharon D. Nelson, Esq. and John W. Simek
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Lest anyone may have forgotten Rule 1.6 of the ABA Model Rules, here it is – and similar rules apply everywhere:

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 prevent the client from committing a crime or fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyer's services;

(3) to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services;

(4) to secure legal advice about the lawyer's compliance with these Rules;

(5) 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 upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client; or

(6) to comply with other law or a court order.

The trick, of course is how to keep client data secure in the digital era. It isn't easy. Computer security is expensive – and it takes time to understand it – and you will never be done learning because technology morphs constantly.

Are lawyers abiding by their ethical duty to preserve client confidences? Our opinion is that they are not. Here are a few reasons why we have that opinion:

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Ethics

from page 28

- Security expert Rob Lee, a noted lecturer from the security firm Mandiant has reported to us that Mandiant spent approximately 10% of its time in 2010 investigating data breaches at law firms.
- Security expert Matt Kesner, who is in charge of information security at a major law firm, reports that his firm has been breached twice – and that he is aware that other law firms have suffered security breaches – and failed to report them to clients.
- Our own company, Sensei Enterprises, Inc., has never performed a security assessment at a law firm (or for that matter, at any kind of business) without finding severe vulnerabilities that needed to be addressed.

Why do otherwise competent lawyers fail so miserably in their ethical duty to maintain the confidentiality of client data? Here are some of the reasons.

- Ignorance – they simply need education.
- The “it can’t happen here” mentality. This is flatly wrong – even the FBI issued an advisory in 2009 that law firms were specifically being targeted by identity thieves and by those performing business espionage – much of it originating in China and state-sponsored, though of course the Chinese government has vehemently denied involvement in such activities. Matt Kesner, mentioned above as an expert, reports that the Chinese don’t bother using their “A” squad hackers to infiltrate law firms – their security is so bad that the rookie “C” squads are able to penetrate law firms.
- It’s expensive. And it is. Protecting the security of client data can present a big burden for solos and small law firms. This does not take away a lawyer’s ethical duty, however – and it is one reason why the authors lecture so often on computer security. Once a lawyer sees the most common vulnerabilities, he or she can take remedial steps – or engage their IT consultant to do those things that are beyond the skill of the lawyer. Vigilance never stops. You cannot secure your data once and think you’re done – the rules of information security change on darn near a daily basis – certainly someone in the firm needs to keep up with changes on a regular basis or the firm needs to engage an security consultant to do periodic reviews – the standard advice is that security assessments need to be done twice a year. While that is desirable, it is in our judgment mandatory that assessments be done at least annually.

In the paper world, keeping client data confidential was easy and cheap. In the digital era, abiding by this particular ethical rule is hard and expensive – but it must be done.

The authors are the President and Vice President of Sensei Enterprises, Inc., a legal technology, information security and computer forensics firm based in Fairfax, VA. 703-359-0700 (phone) www.senseient.com

Mistakes

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- 5 Being penny wise and pound foolish is common – the installation of illegal software in law offices is horrifying. The Business Software Alliance is not amused by illegal software – and at \$150,000 per copyright violation, you are unlikely to be amused if discovered. By the way, most of the BSA’s tips come from employees. Do all of your employees adore you?
- 6 Back-up media goes bad. Inevitably. No matter what kind of back-up you use (and shame on you if you’re not backing up), you must – absolutely must – do test restores of the data to ensure that all is well. That is true even if you are using an online back-up provider. We once saw a major online backup provider lose five years of law firm data – they had never done a test restore.
- 7 Autocomplete is your enemy. This is the Outlook function that helpfully suggests an e-mail address when you begin to type. In the last week, we have received three e-mails meant for other people. John turns his off. Sharon likes autocomplete, but she has a firm rule. When the e-mail is finished, her hands come off the keyboard until she has verified that the addresses on the e-mail are what she intended. Without this rule, she acknowledges she too would be among the hordes of lawyers who have, at the very least, embarrassed themselves. One lawyer meant to send a very important e-mail to co-counsel and ended up sending it to a New York Times reporter instead. Take your hands off the keyboard.
- 8 There is no PIN on your smartphone. Remember that rule about keeping client data confidential? How lazy can you get? If you don’t have a PIN on your smartphone, run, do not walk, and get one installed. We once found a SAIC phone lost at an airport. No PIN. The owner was lucky that we were honest folks and turned it over to security.

Funny how easy it was to come up with these eight. Maybe we’ll do a Part II.

Job Postings and Classified Advertisements

ATTORNEY POSITIONS

ENVIRONMENTAL LAWYER: Position with Montana Department of Environmental Quality, Remediation Division, Helena. Practice involves all aspects of environmental cleanup, primarily under the state and federal Superfund laws. Seeking experience in environmental law (CECRA, CERCLA), property, contracts, construction, litigation. Visit the State of Montana employment website at: <http://mt.gov/statejobs/default.mcp> to see the Job Listing (under "Lawyer") and to apply online, or contact Bill Kirley at (406) 841-5017 or bkirley@mt.gov for details and deadline. EEO.

ASSOCIATE ATTORNEY: Sullivan Tabaracci & Rhoades, P.C., seeks an associate attorney with no less than five years experience to primarily assist in its litigation practice. We focus upon commercial, real estate, and business law. We provide associates with excellent opportunities to expand their legal practice. In our effort to exceed our client's expectations, we hire only exceptional attorneys and staff. Situated in centrally-located Missoula, the firm's offices offer a spacious, technologically advanced and pleasant work environment. Successful applicants must be licensed to practice law in the State of Montana and demonstrate an exceptional academic background as well as superior research, analytical, verbal and writing capabilities. All applications will be held in confidence. Please submit your cover letter and resume to: Sullivan, Tabaracci & Rhoades, PC, Attn: Office Administrator, 1821 South Avenue West, Third Floor, Missoula, MT 59801. Email info@montanalawyer.com. Visit www.montanalawyer.com.

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.

MULTIPLE ATTORNEY POSITIONS (OIL/GAS, COMMERCIAL LITIGATION): Crowley Fleck PLLP, a progressive and established 120+ attorney law firm, based in Billings, MT with regional offices in Bozeman, Butte, Helena, Missoula and Kalispell, Montana; Bismarck and Williston, North Dakota; and Casper and Sheridan, Wyoming seeks oil and gas title attorneys with or without experience. The firm is also seeking an entry level commercial litigation associate in either the Casper or Sheridan, Wyoming office. Successful applicants must be licensed or capable of being licensed to practice law in Montana and Wyoming within a year, have a strong academic record and solid research and writing capabilities. The

firm has a collegial, professional environment with opportunities for rapid professional development. All applications will be held in confidence. Please submit your cover letter, resume and transcript to: Crowley Fleck PLLP, Attn: Joe Kresslein, P.O. Box 2529, Billings, MT 59103-2529. Visit our website at www.crowleyfleck.com.

ATTORNEY: Multi-state firm looking for an attorney with general litigation experience. Flexible schedule with no minimum billables. We are an equal opportunity employer and offer a competitive benefits package. We are seeking a self-disciplined self-starter capable of running a small litigation office. Please reply in confidence. Apply to mailbox@montanabar.org. Please put position #2012-02 in subject line.

ATTORNEY: Established Bozeman firm offering a friendly working environment and good benefits to attorney interested in developing a litigation practice; 5 or more years experience required; must have strong research, oral communications and writing skills. Salary depends on experience. All applicants will be carefully considered and will be held in strict confidence. If your qualifications match our needs, you will hear from us by phone or email to schedule an interview. Please submit cover letter and resume to: The Montana Lawyer, c/o position #2012-01, PO Box 577, Helena MT 59624; or email to mailbox@montanabar.org. Please put position #2012-01 in subject line.

ASSOCIATE ATTORNEY: Kasting, Kauffman & Mersen, P.C. of Bozeman seeks an associate attorney to assist in the firm's practice areas. Practice areas include business, real estate, commercial litigation and family law. Must have at least 2-3 years of experience practicing law. Please send resumes with writing sample and references to Hiring Partner, Kasting, Kauffman & Mersen, P.C. 716 South 20th Ave., Suite 101, Bozeman, MT 59718. (406) 586-4383. www.kkmlaw.net.

OIL & GAS ATTORNEY: Rapidly growing Houston, Texas-based oil and gas law firm is seeking Montana licensed attorneys willing to relocate to its Houston office. The ideal candidate will have experience with oil and gas title work. Candidates with experience in real estate or probate will also be considered. Attorneys with less than two years of desired experience must have graduated in the top 25 percent of their law school class. Sadler Law Firm, 1900 West Loop South, Suite 700, Houston TX 77027; aschauman@sadlerlaw.com; (713) 877-8254.

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 a 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 to hring@mtlsa.org.

MLSA CIRCUIT RIDING ATTORNEY: Montana Legal Services Association is seeking a full-time domestic violence circuit-riding attorney to provide poverty law services to domestic violence victims on the Fort Belknap reservation, on other reservations in the north Central part of Montana and in the surrounding region. 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. This position will handle all aspects of legal representation including client contact, pleading preparation, research, file maintenance, working with support staff, and hearing and trial work. The attorney will also participate in statewide initiatives, implement grant and contract requirements through casework and foster pro bono involvement with the private bar. Salary: \$42,000. MLSA offers a 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 to hring@mtlsa.org

ATTORNEY POSITIONS SOUGHT

CONSERVE YOUR ENERGY for your clients and opposing counsel. I draft concise, convincing trial or appellate briefs, or edit your work. Well-versed in Montana tort law; two decades of experience in bankruptcy matters; a quick study in other disciplines. UM Journalism School (honors); Boston College Law School (high honors). Negotiable hourly or flat rates. Excellent local references. mdenevi@bresnan.net. (406) 541-0416

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Continued, next page

LEGAL RESEARCH & SUPPORT SERVICES

VIRTUAL BANKRUPTCY ASSISTANT: Virtual bankruptcy preparation can save you time and money. Your bankruptcy petitions will be processed in a skillful and timely manner. I have over 15 years bankruptcy petition preparation experience. Member of the National Association of Virtual Bankruptcy Assistants. Let me help you help your clients. AnnAdlerVBA@gmail.com

OFFICE SPACE/SHARE

MISSOULA: Professional office for lease in historic building in downtown area. Share use of reception area; two conference rooms; copy and fax machines; library; secretarial space; basement storage; locker room with shower; and private yard. Call Mark Connell, Connell Law Firm at (406) 327-1517.

CONSULTANTS & EXPERTS

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

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COMPUTER FORENSICS, DATA RECOVERY, E-DISCOVERY: Retrieval and examination of computer and electronically stored evidence by an internationally recognized computer forensics practitioner. Certified by the International Association of Computer Investigative Specialists (IACIS) as a Certified Forensic Computer Examiner. More than 15 years of experience. Qualified as an expert in Montana and United States District Courts. Practice limited to civil and administrative matters. Preliminary review, general advice, and technical questions are complimentary. Jimmy Weg, CFCE, Weg Computer Forensics LLC, 512 S. Roberts, Helena MT 59601; (406) 449-0565 (evenings); jimmyweg@yahoo.com; www.wegcomputerforensics.com

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FAMILY LAW MEDIATION: Experienced mediator will help your clients reach agreement on difficult issues at reasonable rates. Compassionate and focused on the best interests of the child in parenting arrangements, while respecting parents' desire to do their best in a tough situation. Decades of experience in asset allocation, leading to equitable and creative solutions in property settlements. mdenevi@bresnan.net (406) 541-0416

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INVESTIGATIONS, SURVEILLANCE & LOCATES: Professional and affordable, private investigations led by 29-year Great Falls Police Captain Bryan Lockerby. FBI National Academy graduate. Surveillance, statements, and more. Database for locating subjects. (No criminal defense work.) Cover entire state. Lighthouse Investigations LLC, PO Box 3443, Great Falls MT 59403; (406) 899-8782; www.lighthouseinvestigations.net.

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CONSULTING: 37 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, worker's compensation, discrimination/sexual harassment, asset location, real estate, surveillance, record searches, and immigration consulting. Donald M. Whitney, Orion International Corp., P.O. 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. Call for prices. Hess-Homeier Law Firm, (406) 549-9611, thesshomeier@msn.com. See website at www.montanaevictions.com. BILL TO: Hess Homeier Law Firm, 445 S. 5th West, Missoula MT



Montana Justice Foundation Issues Call for Grant Proposals

The Montana Justice Foundation (MJF) announces its call for grant proposals. The MJF funds and supports organizations committed to ensuring that all Montanans, especially the vulnerable and underserved, have meaningful access to the civil justice system. One way in which the MJF strives to fulfill its mission is through its IOLTA Grants Program. The MJF awards IOLTA Grants to qualified non-profit organizations qualified to carry out the following charitable objectives of the MJF:

- Support and encourage the availability of legal services to vulnerable and underserved populations;
- Increase public understanding of the law and the legal system through education;
- Promote the effective administration of justice; and
- Raise public awareness of and access to alternative dispute resolution.

The deadline for submission of grant proposals is Friday, March 30, 2011.

Funding decisions will be made in May.

To download an MJF grant application or for further information on the application process, please visit our website at: www.mtjustice.org.

MONTANA

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State Bar of Montana
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