

THE ATTRACTIVE NUISANCE

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2014 Officers:

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Jeffrey Greenwell

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Kai Groenke
Joyce Funda

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Marybeth Sampsel

The President's Message

By Jeffrey K. Greenwell, Esq.

The securitized mortgage market collapse is still fresh on many people's minds. Beyond the devastation it caused to the global housing market, the collapse also severely affected law firms across the United States and Montana. By early 2009, law firms across the country were paying top 10 graduates to stay at home with the promise of future employment. Black Thursday hit in February of that year resulting in law firms across the nation laying off massive amounts of attorneys as a direct result of the failing economy. Many predicted that litigators and bankruptcy attorneys would be the only areas of law that would see any growth during that time.

The downturn provided many attorneys with directions to the unemployment line, but it also forced many law firms to reevaluate the way they conducted business. This reevaluation was necessary because people represented themselves pro se or retained an

attorney only after searching for the most economical firm. This forced law firms to reduce their hourly rates and the traditional straight hourly billing methods became a thing of the past in many cases. Many firms looked at and adopted some of the following methods to stay competitive:

Contingency Fees:

With many clients unwilling or unable to pay the cost of litigation attorneys were required to take cases on a contingent basis. This meant that they would be required to critically evaluate the likelihood of winning a case and the costs associated with such

in an attempt to ensure some kind of recovery of the firm.

Flat Fees:

The national trend was to determine what a matter would likely cost, and then charge a flat fee. There were several differing approaches to this method. First, some firms would charge a flat fee based on the matter as a whole and the attorney's hourly rate.



Upcoming:

April 7, 2014

Digital Security
by Sherry Davidoff

May 5, 2014

Innocence Issues
by Bart Erikson

September 8, 2014

Appellate Practice
by Angela Jacobs

October 6, 2014

Evidence Issues
by Cynthia Ford

Second, some firms would segment a case into its component parts, such as the complaint, discovery, pretrial, etc., and would charge a flat fee based on the attorney's hourly rate. Finally, some law firms would charge a blended fee, which was not based on a particular attorney's rate but based strictly upon the matter at hand. This allowed firms to delegate the tasks to the junior associates in an attempt to increase profitability.

Flat fees allowed firms to forecast revenue, while it provided clients the stability and assurance that they could afford to pay an attorney to litigate their matter. For some legal communities, the flat fee caused a huge loss in profitability, because firms were reducing their flat fees to a point that attorneys would be making less than an hourly Wal-Mart Stores, Inc. employee.

As the economy turns around law firms have a chance to engage in new ways of practice that will ensure viability and stability moving forward. In the Altman Weil Flash Survey, *Law Firms in Transition 2013*, Thomas Clay explains there are four primary changes which help ensure your firm stays a leader: overhead cost management, partnership admission and retention standards, efficiency of service delivery, and pricing.

Overhead cost management is the easiest place to start. Over 65% of firm leaders have made significant changes in this area over the past five years, but the economy's improvement appears to be causing this trend to taper off. Cost management typically consists of terminating associates, paralegals, and other staff members, but a firm must be cognizant of the economic pluses and minuses in which the employee's contribute. The easiest and typically the most cost effective approach to cost management is reducing office size and changing the secretary to attorney.

Partnership admission and retention: Forty-five percent of firms have made changes in their partnership admission and retention policies. One of the best ways to increase profitability is to decrease the high-priced leverage at your firm, which includes the number of non-equity partners. For the non-equity partners that stay with your firm, taking an up-or-out policy will help you maintain profits.

Efficiency of Service Delivery: With the high level of competition that we all face, efficiency of service delivery is essential. The best way to improve the way you serve your clients is to rethink project staffing. Many firms are now using part-time and contract lawyers. Almost forty percent of firms outsource some form of non-lawyer functions. Although outsourcing is not a large profit source, it will provide effective assistance in delivering cost reduction to clients.

Pricing: As discussed above, price competition runs rampant in the legal system. Eight out of ten leaders believe the increase in non-hourly billing is here permanently, while rate increases are likely to slow and/or stagnate. The national

trend is to provide discounted rates. 21-30% of all revenue was generated from discounted rates. We must remember that lack of strict discount oversight typically leads to suicide pricing, which is unprofitable revenue generation.

The legal industry is quickly changing. The old ways and perceptions of how to run a practice are disappearing, which means practitioners and equity holders of law firms must reevaluate how they transact business to ensure their continued success. The law firms that are moving with the trends, and in effect shielding themselves from another 2008 catastrophe, will be the firms that weather the next recession and continue generating profits.

News About Members

Joyce Funda was recently elected to the Board of Directors of CASA (court appointed special advocates) of Montana, Inc. located in Helena, Montana for a three year term. Ms. Funda previously served on the Board of Directors from 2008-2011 during which she served terms as Vice-President and President. Under her leadership as President, she spearheaded the nomination of Judge Stewart Stadler for CASA Judge of the Year. Judge Stadler was selected as CASA Judge of the Year in April 2012.

CASA of Montana, together with local programs, supports and promotes court appointed volunteer advocacy for abused and neglected children so they can thrive in safe, permanent homes. CASA has 15 local non-profit groups which work together for the welfare of Montana's children, providing them with a voice, a hope, and a future. These programs provide trained volunteers as advocates to children in some 60 percent of the abuse/neglect cases throughout the state. These local programs service 40 counties and provide more than 500 trained volunteers.



Jim Cossitt is scheduled as a featured speaker at the 22nd Annual Convention of the National Association of Consumer Bankruptcy Attorneys (NACBA). The Convention will take place April 10 – 14, 2014, in New York City. NACBA's Annual Convention, held each spring, is the educational seminar of choice for consumer bankruptcy attorneys nationwide. Judges and nationally-recognized speakers provide case law updates, practical tips on effective representation of clients, information on emerging trends nationwide, and in-depth discussions of topical issues.

Jim will be part of a panel of experts discussing "Bankruptcy for Formerly Important People." The discussion will address high-income debtors' issues, including managing the expectations of clients.

April 25th CLE in Kalispell

On April 25 there will be an all-day 6 credit CLE (including 1.5 ethics credits) at the Hilton Garden Inn here in Kalispell. It is a diverse issues CLE including a judges panel that will be attended by all four of our district court judges. This is a great opportunity to finish up your CLE credit requirement as well as hear it straight from the horse's mouth.

Early registration, which needs to be done by Friday, will lower the price to \$275 for lawyers who have been practicing for over five years, and \$250 for those coming in under the five year mark. You can download a registration booklet by visiting: <http://www.nwmontanabar.org/wp-content/uploads/2014/04/DiverseIssues.pdf>

The presentations will consist of:

Ethical Issues, Update, and Recent Decisions: Michael Alterowitz (1.5 ethics credits)

The Claims You Don't Know Your Client Has - Financial Legal Rights under State and Federal Consumer Protection Laws: Jessie Lundberg

Law Firm Tech Issues: Paul Sullivan

Indian Law Update: Danna Jackson

Tips from a Law Firm Administrator: How to Effectively Manage Your Firm: Dawn Donham

Judges' Panel: Judges Ted Lympus, David Ortley, Bob Allison and Heidi Ulbricht

Clerk's Corner

LOBBY OFFICE

Clerk of Court's Lobby Office was primarily designed to handle issues related to passports and marriage licenses. However, staff in the Lobby Office are fully trained in all aspects of the business of the courts, and with the minor exception of opening new cases, they are fully equipped to handle your business if ever there is a line of customers at the Main Office window. Please feel free to take advantage of the assistance available by staff in the Lobby Office.

QDRO / Qualified Domestic Relations Orders

Effective October 2013 §40-4-201(8), MCA requires that the court seal any QDRO defined in the Internal Revenue Code, 26 USC 414(p). Consequently we have been

sealing QDROs since October and I was recently asked whether orders filed prior to Oct 2013 would also be sealed. The clerk of court has no authority to seal documents without a statutory provision or a district court order so should you desire to have older QDROs sealed, a motion and order will be necessary.

Lastly, what can we do differently to serve you better? Let me hear your ideas or suggestions. Call or email me!

Peg L Allison

406-758-5870

pallison@flathead.mt.gov

This Month's Local Bar CLE

This month's local bar CLE presentation will be by Sherry Davidoff who will be giving a 2 hour presentation on Digital Security. This has been approved for 2 ethics credits - which under the new CLE rules you have to obtain every year.



This is a great way to learn about keeping your data safe, see your fellow practitioners, and get two ethics credits that you need anyway. Plus, we'll be raffling off two \$50 gift cards for Whitefish Lake Lodge (which must be used by the end of April). This is going to be a great and informative presentation and a topic we could probably all stand to learn more about.

Bring Two Checks

The Northwest Montana Bar Association will be at the door collecting membership dues checks from unpaid members as they enter the next meeting on April 7, 2014. There are only 51 paid members for the 2014 year. If you are attending the monthly meetings, your presence is greatly appreciated. However, please confirm whether or not you have paid your 2014 dues and, if not, bring a check for the Red Lion for lunch as well as a dues check for the NWMBA. The NWMBA relies heavily upon membership dues in order to sponsor monthly meetings.



2014 Proposed Budget

CLE Room Fee	\$ 450
CLE Speaker Stipend	\$ 600
Entertainment: Christmas Party	\$ 2,500
Entertainment: Summer Social	\$ 375
Donations: Montana Sky Court Internet	\$ 475
Charitable Donations: CASA	\$ 500
Charitable Donations: We the People	\$ 500
Gifts/Awards	\$ 200
Court Copier Lease Fees	\$ 3,000
Court Copier Supply Expenses	\$ 150
Business Supplies	\$ 100
Miscellaneous	\$ 500
TOTAL	\$9,350

Anticipated Annual Income

Annual Dues	\$ 4,775
Newsletter Ad Income	\$ 270
Christmas Party Income	\$ 930
Court Copier Income	\$ 3,550
TOTAL	\$ 9,525

APRIL 2014

MEDIATE!



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APRIL 2014

GREENWELL LAW PLLC
ATTORNEY AND COUNSELLOR AT LAW

Kalispell Financial Solutions
Law Firm

KALISPELL BANKRUPTCY LAW - BUSINESS LAW - COMMERCIAL
LAW - WORKOUTS - CONTRACT DISPUTES

(406) 257-8909

The New Lawyers Section's Toolkit CLE: Essential Skills for Modern Practice

When: April 11, 2014, 11:30 a.m. – 4:30 p.m. (immediately following the Montana Supreme Court oral arguments held at U of M)

Where: University of Montana School of Law

Lunch Provided?: Yes

CLE Credits Pending: 4.0, including .5 Ethics

Cost: Advance Online Registration on State Bar Website, \$25; Registration/Payment at the Door, \$35.00; Law Clerks: FREE

New Lawyers Section's Social / Wine Tasting Led by Randy Snyder

When: Immediately following the CLE, 4:30 p.m. – 6:30 p.m.

Where: 520 S. 5th St. E., Missoula, MT (approximately 2 blocks from the law school)

Food Provided?: Yes

Space Limited. RSVP with online registration for CLE, or to NLSrsvp@yahoo.com

AGENDA*

The New Lawyers Section's Toolkit CLE: Essential Skills for Modern Practice

11:30-11:50	On-Site Registration/Buffer Lunch (Room 219) <i>Lunch will be provided by the New Lawyers Section</i>
11:50-12:00	Welcome & Introductions (Room 219) <i>New Lawyers Section Board</i>
12:00-12:30	Super Glued to <i>Richardson</i> : Writing Answers to Interrogatories and Requests for Production (Room 219) <i>Presented by Natasha P. Jones, Shareholder, Boone Karlberg P.C. (.5 CLE pending)</i>
12:30-1:00	Blasting Past IRAC: Writing Motions to Compel and Motions for Sanctions (Room 219) <i>Presented by Reid J. Perkins, Shareholder, Worden Thane P.C. (.5 CLE pending)</i>
1:00-2:00	Turnkey for Tribal Court: What You Need to Know about Jurisdiction and Procedure (Room 219) <i>Presented by Maylinn Smith, Associate Professor of Law & Director, Margery Hunter Brown Indian Law Clinic, University of Montana School of Law (1.0 CLE pending)</i>
2:00-2:15	C-Clamped to the State Bar: Updates and Opportunities for New Lawyers (Room 219) <i>Presented by Randall A. Snyder, President, State Bar of Montana</i>
2:15-2:45	Ratcheting Up Your Appellate Practice: The Montana Supreme Court's Pro Bono Program (Room 219) <i>Presented by Justice Michael Wheat, Montana Supreme Court (.5 Ethics CLE pending)</i>
2:45-2:55	Rest Break/Room Change
2:55-3:55	Duct Tape in Fashion Colors: Legal Research to Make You Look Good Fast (Room 215) <i>Presented by Stacey Gordon &/or Cynthia Condit, Jameson Law Library & Susan Lupton, State Law Library (1.0 CLE Pending)</i>
3:55-4:25	Not Charles Dickens's Steno Machine: Procedural Rules & Pointers for Real Time Reporting (Room 215) <i>Presented by Melody Jeffries Peters, Registered Diplomat Reporter, Registered Realtime Reporter, & Owner, Jeffries Court Reporting, Inc. (.5 CLE pending)</i>
4:30-6:30	New Lawyers Section's Social & Wine Tasting 101 (520 S. 5 th St. E, Missoula, MT) Please join us for some food and conversation. New Lawyers Section Board Members will be available to answer questions about state bar and ABA involvement. To help break the ice, State Bar President Randy Snyder will be offering a mini course, "Wine Tasting 101" from 5:00 to 5:30 p.m.

*Schedule of events/room locations may change; topic areas and speakers listed are confirmed.

The New Lawyers Section looks forward to seeing you on April 11, 2014. If you have any questions, please contact Debra Steigerwalt at NLSrsvp@yahoo.com.

Scott Anderson

formerly of ANDERSON & BLIVEN PC

Takes pleasure in announcing the formation of his new law firm



ANDERSON LAW ASSOCIATES PLLC

Meridian Office Complex

690 N. Meridian Suite 108

Kalispell Montana 59901

He will continue to focus his practice on personal injury. Additional services include insurance bad faith, serious food borne illnesses, civil litigation and estate planning.

Referrals and Joint Counsel Associations representation greatly appreciated.

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NORTHWEST MONTANA BAR ASSOCIATION
PO Box 2272
Kalispell, MT 59903-2272

2014 MEMBERSHIP FORM

Attorney Name: _____

Firm Name: _____

Street / PO Box: _____

City, State, ZIP: _____

Phone: _____

Fax: _____

Email: _____

Check Amount: _____

Check Number: _____

Please remit \$50.00 along with your completed membership form
to the address above by April 1, 2014. Checks should be
made payable to NWMTBA.