



Elder Law Newsletter

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Fall 2004

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Section proposes legislation to match laws to needs of clients

By Allyn E. Brown, Chair, Elder Law Section Legislative Subcommittee

The Executive Committee of the Elder Law Section is submitting several proposals for amendments to the Oregon Revised Statutes to the 2005 legislature.

Amendment to Statute Creating Civil Action for Abuse of an Elderly or Incapacitated Person, ORS 124.100(2)

The amendment would add "A trustee of a trust, where the trustor or the trustor's spouse are the abused persons" as a party having standing to bring an action under the statute. This amendment addresses the reality that often it is a trustee of a trust established either for or by an elderly person who uncovers physical and financial abuse being perpetrated on the trust beneficiary. Under the proposed amendment, a trustee could

commence an action on behalf of the abused elderly person who may not be physically or mentally up to the task.

Amendment to the Small Estate or Claiming Successor Statute, ORS 114.515

The amendment would allow one or more supplemental affidavits to be filed as new proceedings to administer newly discovered assets. Each supplemental affidavit would be filed as a new proceeding with an additional filing fee. However, each supplemental affidavit would have to reference all previously filed affidavits and the values of those assets previously administered. The combined total of the fair market values of the personal property and real property stated in the supplemental affidavit, any preceding affidavits, and the original affidavit cannot exceed the value limits of the statute, which are \$50,000 for personal property and \$90,000 for real property. The legislation has been proposed because some probate courts do not allow the claiming successor to file an amended or supplemental affidavit if new assets are discovered more than four months after the original affidavit was filed. In those cases, the claiming successor has to file a petition for probate and go through the probate process even though the total assets are within the small estate filing limits.

Amendments to ORS 125.475, the Conservatorship Accounting Statute, and ORS 116.083, the Estate Accounting Statute

The Section proposes to extend the time period for filing annual accounts from 30 to 60 days from the anniversary of the fiducia-

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Basic tips for communicating with legislators

By David Nebel, Oregon State Bar Public Affairs Department

Your effectiveness increases directly with the effort you put into your communication.

The Oregon legislature deals with many issues of interest to lawyers who represent elders. Almost every session, the legislature considers measures relating to protective proceedings, elder abuse, estate planning and administration, financial fraud, regulation of long term care facilities, and funding for services that older citizens need and depend on—health care, long term care, nutrition, prescription drugs, and transportation, to name a few. You can make a difference in the outcome of proposed legislation.

The Oregon legislature is open to public participation. Of course, legislators spend substantial amounts of time with professional advocates, but no one is more important to them than the constituents who sent them to Salem. Beyond a very few large, generic issues (*e.g.*, adequate school funding) and contentious social issues (*e.g.*, abortion), legislators may not hear much from constituents about the more routine issues and bills that form the greater part of their work. Contact with your representative and senator, either in the district or at the capitol, can make a difference in the fate of a bill of interest to you.

The legislature runs a Web site with a wealth of useful information: www.leg.state.or.us. The site contains, among many other things:

- An easy way to identify your legislators
- Information on each legislator—his or her background, occupation, prior public service, committee assignments, complete contact information, and staff
- The text of all published bills, and a report on the status of each bill in the process
- Committee membership and staff, meeting schedules and agendas

The Oregon State Bar has a process for taking positions for or against legislation. To speak on behalf of the Bar or a section for or against a bill, you must obtain authorization from the Board of Governors' Public Affairs

Committee (PAC). The PAC has authorized the Bar to support the bills submitted to Legislative Counsel in May. This year, three bills are Elder Law Section proposals.

However, acting on your own as an elder law practitioner or simply as a citizen of Oregon, you may take whatever position you want on any legislation before the legislature. Legislators do take notice of citizens who take the time to participate in the process.

As you prepare to meet with or contact a legislator, consider what the legislator's life is like. Every day they see lots of people, spend much of their time in meetings, and are hit with masses of information. They are beholden to the people who elected them—their party, contributors, and constituents. They depend a great deal on office and committee staff—the people with whom they have the most consistent day-to-day contact.

In light of these considerations, here are some basic pointers on meeting with legislators:

- Be courteous to staff. Even if you have made an appointment with the legislator, you may end up meeting with a staff person. Treat such meetings as you would a meeting with the legislator.
- If you are a constituent or supporter, be sure they know.
- Assume that you have 15 minutes, at most—you probably have fewer. Keep your comments short and simple. Generally you will know much more about the issue than the legislator does.
- Talk about one thing—something you know about.
- Structure your meeting with a beginning, a middle, and an end.

Beginning: Introduce yourself in a way that allows the legislator to understand how you fit into the community and how you relate to the issue you have come to discuss. Make clear from the outset your position on the issue that you are addressing.

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Communicating with legislators

Continued from page 2

Middle: Talk about the specifics of the bill. Why is it important? How does it work? What problems does it address? If it costs money, is it worth it? Be prepared to answer questions about who may be opposed and why. Say how the bill addresses opponents' objections.

End: Ask for his or her support. Be specific about what you want them to do (*e.g.*, please talk with the committee chair to schedule a hearing; please vote for the bill when it comes to the floor). Offer to answer questions that may arise later. Thank the legislator for the meeting.

- If you're asked something that you don't know, say that you don't know, and offer to provide the information later. It is crucial to follow through and to provide the information.

The same principles apply to written communications to legislators. Briefly identify yourself. Write about one clearly stated subject. Be clear from the outset what your position is. Write about the specifics of the bill you're addressing, and why it is a good (or bad) idea. Ask for their support and invite them to contact you with their questions. Try to limit letters to one page.

Keep these basics in mind in any communication with your legislators—by e-mail, phone, by regular mail. Your effectiveness increases directly with the effort you put into your communication. For example, the least effective way to communicate with your legislator is to forward a pre-drafted e-mail with your signature. The most effective communication is probably an in-person meeting. The next most effective is probably a letter by regular mail, if time permits.

A final note: legislators like to have constituent meetings in their districts. Look for these opportunities—often events like Saturday pancake breakfasts—which are announced on the legislators' Web sites.

There is much more to say about participation in the legislative process. Indeed, the Bar will be conducting a workshop on legislative advocacy, which will cover ethics, strategy and tactics, committee testimony, and more on January 21, 2005 in Wilsonville. Look for the announcement as the session draws closer.



Take note...

The OSB book *Administering Oregon Estates* (2004) has an error at Form 11-3. That form is titled "Notice for Filing Objections to Final Account," but the text is that of a Final Accounting.

Practitioners should not use that form as a notice.

The Bar will be sending those who bought a book an errata sheet on the issue.

Information about Washington State Medicaid rules is available online at: www1.dshs.wa.gov/esa/eazmanual.

All Section members who supply an e-mail address to the Oregon State Bar are subscribed to the Elder Law Section's electronic mail distribution list. The purpose of the distribution list is to facilitate communication among members of the Section. Send a message to all members of the Elder Law Section distribution list by addressing it to: eldlaw@lists.osbar.org.

Proposed legislation

Continued from Page 1

ry's appointment. In estates, the time period for filing an accounting, after the date of a personal representative's removal, resignation, or revocation of the personal representative's letters, is also extended from 30 to 60 days. This legislation is proposed because most often bank statements, which now are required by court rule to accompany accountings to confirm ending balances, are not available within the 30-day period, thereby necessitating the extra step of filing a motion with the court requesting additional time for filing the accounting. These matters are routinely granted and are felt to be an unnecessary expenditure of time. This legislation is intended to reduce unnecessary paperwork for the courts and to make estates and conservatorships less expensive to administer.

For information on legislation or to become active in the Section's legislative process, contact the legislative subcommittee. Allyn Brown is the Chair, and can be reached in Newberg at 503.538.3138 or allyn@newberglaw.com.

Elder Law Connections

Friday, October 8, 2004
Oregon Convention Center
Portland, Oregon

Elder law involves more than estate planning, long term care, and guardianships and conservatorships. It ties into other aspects of professional practice—including tax, real property, landlord-tenant, banking, protective services, law enforcement, and communications.

Designed for practitioners and professionals with a variety of backgrounds and experience levels, this seminar will explore how these areas can affect your elder law clients.

4.5 General CLE credits, 1 Elimination of Bias credit, and 1 Ethics credit

To register,
call the OSB
Order Desk at
503.684.7413
or
800.452.8260
ext. 413.

Cost: \$165;
\$155 for Elder
Law Section
members

Add \$20 if you
register after
Oct. 1, 2004

Lunch: \$20

Schedule, Topics, and Speakers

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| <p>8:00 Check-in/Registration</p> <p>8:30 Changes in the Ethics Rules</p> <ul style="list-style-type: none"> • New disciplinary code • Ethics case law update • Situational elder law ethics <p><i>Tim McNeil, Mark M. Williams, Davis Pagnano & Williams LLP, Portland</i></p> <p>9:30 Financial Abuse: Prevention and Abuse-Proofing Your Client</p> <ul style="list-style-type: none"> • Potential abuse situations • Tools to protect against abuse • Practical tips for clients and lawyers <p><i>Greg Johnson, Protective Service Specialist, Clackamas County Social Services, Oregon City</i></p> <p><i>Margaret Madison Phelan, Margaret Madison Phelan PS, Vancouver, WA</i></p> <p>10:30 Break</p> <p>10:45 Responses to Financial Elder Abuse</p> <ul style="list-style-type: none"> • Reporting abuse • The search for evidence • Legal remedies <p><i>Stephen R. Owen, Fitzwater & Meyer LLP, Clackamas</i></p> <p>11:15 Identifying Heirs, Unknown Relatives, Notice Requirements, and Escheat</p> <ul style="list-style-type: none"> • Notice to the Department of State Lands in probates • Notice to family in protective proceedings • Identifying and locating heirs <p><i>Warren C. Deras, Attorney at Law, Portland</i></p> | <p>11:45 Lunch</p> <p>1:00 Section Annual Meeting</p> <p>1:15 Tax Issues for Elder Law Clients</p> <ul style="list-style-type: none"> • Long-term care deductions • Excluding gain on sale of property • Trusts and taxes <p><i>Brian Haggerty, Minor Bandonis & Connell PC, Newport</i></p> <p><i>Katherine M. Zelko, Attorney at Law, Portland</i></p> <p>2:15 Home Ownership Issues</p> <ul style="list-style-type: none"> • Impact of ownership and transfers on public benefits • Removal of unwanted occupants • Preserving & accessing home equity <p><i>Geoff Bernhardt, Law Offices of Geoff Bernhardt, Portland</i></p> <p><i>Susan Ford Burns, Law Office of Susan Ford Burns, Portland</i></p> <p>3:15 Break</p> <p>3:30 Communicating Effectively with Elders and People with Disabilities</p> <p>Practical approaches for working with people whose ability to receive or express information may be affected by:</p> <ul style="list-style-type: none"> • Vision or hearing impairment • Memory loss • Communication disorders <p><i>Linda Nickolisen, Regional Director of Program Development, Avamere Assisted Living, Wilsonville</i></p> <p>4:30 Adjourn</p> |
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Resources for finding heirs

By Warren C. Deras, Attorney at Law, Portland

There are many individuals estranged from family who will deny that family exists. In fact they may have spouses or children, and it is highly likely that they have siblings, nieces and nephews, cousins, or grandparents. Estate planning, elder law, and probate attorneys working for or with such individuals or involved in administration of their estates need to anticipate the need for family information in some cases and to actually identify and locate family in others.

Free Internet resources

There are endless genealogy resources available on the Internet. Frequently it is worthwhile to simply go to a search engine, such as www.google.com and enter a name in quotation marks. (Try your own name!) You may even stumble across a complete family tree that has been posted by someone in the remote reaches of the family you are researching.

Genealogical research can be very time consuming. However, if you or your client wants to undertake some initial investigation, the following sites are helpful.

To find missing heirs in the United States, try www.ussearch.com/consumer/index.jsp. Enter name and approximate age to see a list of cities at which the person (or usually persons) show up in their records. There is a charge to obtain further information, such as an address, and the information you receive if you pay the fee may be years out of date. However, you can use that information at directory sites such as www.dex-online.com or www.anywho.com to follow up on the person once you have a location.

To determine if someone has died (especially if you have a Social Security number) try the Social Security death index, which is available at ssdi.genealogy.rootsweb.com/cgi-bin/ssdi/cgi. You can enter a name and/or Social Security number, but no other narrowing information. Common names without a number can lead to thousands of results. Results are listed in Social Security number order. You can speed up your search through the names if you know where the missing person lived and have a list of Social Security number allocations by State. You can get the list at www.ssa.gov/foia/stateweb.html.

Keep in mind the Social Security number will reflect where the person lived at the time the number was issued. That may be

while attending college in another state.

Immigration records are available at www.ellisland.org/sign/index.asp. At this site you can see the original handwritten page of the ship manifest, which shows with whom the person was traveling, where they came from, and where they were going.

Order birth and death certificates at www.vitalchek.com or at www.vitalrec.com. There is a fee when you place an order.

Professional heir searchers

If you are not satisfied with the genealogists who advertise in the OSB Membership Directory or in magazines aimed at estate planners, go to GenealogyPro at www.genealogypro.com or the Association of Professional Genealogists at www.apgen.org. Both of these sites allow you to search by geographic area, including areas outside the United States.

Useful information for your search

Various types of information are more or less useful at different Web sites. A birth date can help you select among numerous similar names at USSearch or at the Social Security death index. If the person has died and has a common name, the Social Security number would be critical for using the Social Security death index. Old addresses are good if you have (as I do) a nationwide phone directory which allows you to search by address, since an address permits you to call neighbors and/or landlords. If addresses are really old they can lead you to information in census records (available for 1930 and earlier), and the birthplace can also do that.

For most attorneys, I think the best advice is to work with a genealogist (not a private investigator) who locates heirs. You can be lucky doing the preliminary work—and many times I have been lucky—but once you get beyond that heir searching becomes extremely time consuming and requires a working knowledge of and access to fee resources that are not available to most attorneys. When I work for the Department of State Lands I also have an advantage in that I can introduce myself as a special assistant attorney general for Oregon. People are far more willing to talk to me when I do that than when I call as an attorney working for a private client. There are so many people now looking for their own family records that resources like funeral homes are drying up, because they simply don't want to deal with all the calls.



Warren Deras will speak on "Identifying Heirs, Unknown Relatives, Notice Requirements, and Escheat" at the October 8 Elder Law CLE program.



One of the unknown relatives Warren Deras found in an old family album. "A reminder to all," says Deras, "to put names on your family picture collections."

Ethics and the elder law attorney

By Tim McNeil, Attorney at Law, Portland

Presenters Tim McNeil and Mark Williams will lead off the day-long seminar "Elder Law Connections," scheduled for October 8 at the Oregon Convention Center.

They will outline the rule changes to distinguish the cosmetic from the substantive. They will establish the context for these changes by examining recent disciplinary rules violations for common pitfalls, by suggesting ways to avoid these pitfalls, and by holding common elder law situations up to the light of the new rules.

Month after month, the 2004 Bar Bulletin summary of disciplinary cases has fixed its spotlight on Elder Law practitioners, for all the wrong reasons. Attorneys practicing elder law have run afoul of disciplinary rules with alarming regularity, as documented in the past several issues of the Bulletin. To make matters worse — or better, depending upon an attorney's perspective — Oregon's disciplinary rules are likely to change soon.

On October 16, 2004, The Oregon State Bar House of Delegates will review the Oregon Rules of Professional Conduct (ORPC). The ORPC are based upon the Model Rules of Professional Conduct, which have been revised and adopted in more than forty states. The ORPC have been revised to address concerns voiced by the Oregon Supreme Court, as well as issues unique to Oregon law. If approved by the House of Delegates and the Oregon Supreme Court, the ORPC will entirely replace existing Disciplinary Rules of the Code of Professional Responsibility (OCPR).

While the new code's ethical standards are familiar, its approach to describing the conduct of attorneys varies significantly from the current rules. For example, in the current code, guidance regarding the representation of impaired clients is dispersed among several disciplinary rules, without any index or overarching statements. The proposed ORPC Rule 1.14 is entitled "Client with Diminished Capacity." The text of the rule provides the elder law attorney significantly more information about how to have an attorney-client relationship with an impaired client. For example, DR 7-101(C) is a specific provision limiting the circumstances for seeking appointment of a guardian, and is somewhat incongruously hidden in a rule pertaining to zealous advocacy generally. In contrast, proposed OCPR Rule 1.14 presents a series of provisions requiring: a) the maintenance of "a normal attorney-client relationship", b) the ability to "take action to protect the client", and c) the release of information "reasonably necessary to protect the client's interests."

Need free MCLE credits?

If you are a volunteer attorney and need some CLE credits, the ABA Standing Committee on Pro Bono and Public Services and the ABA CLE have released two complimentary online audio programs for your use. The two one-hour programs are "Ethical Aspects of Providing Legal Advice and Legal Information" and "Expanding Your Horizons through Pro Bono Mediation." You do not need an ABA membership in order to listen to the programs. You do need a computer, an Internet connection, and the free RealPlayer software.

Although the ABA has not applied for Oregon MCLE credit for these two programs, the Oregon MCLE folks have accredited other online programs. After you listen to one of the online ABA CLE programs, go to the Oregon State Bar Web site, and print out MCLE Form 2, Group CLE Accreditation Application. An individual Oregon attorney who applies for MCLE credit for a program using Form 2 does not have to pay the sponsor fee.

Resources for countering financial abuse of elders

Oregon Department of Human Services

The Adult Protective Services staff of the Oregon Department of Human Services investigates alleged elder abuse and neglect throughout Oregon. If you believe elder abuse is occurring, immediately contact your local DHS office or your local Area Agency on Aging. You may also report abuse to DHS at 800.232.3020.

DHS Web site: www.dhs.state.or.us/abuse/seniors

List of Area Agencies on Aging:

www.dhs.state.or.us/seniors/food_finance/aaa_offices.htm

Financial Fraud Section, Department of Justice

If you believe someone is being subjected to consumer fraud or financial exploitation, contact the Financial Fraud Section, Department of Justice at 503.378.4732 (Salem), 503.229.5576 (Portland), or 877.877.9392 (elsewhere in Oregon).

Web site: www.doj.state.or.us/FinFraud/welcome3.htm

American Association of Retired Persons (AARP)

Provides a variety of information on how to avoid becoming a victim of fraud

Web site: www.aarp.org/money/consumerprotection

Department of Justice Medicaid Fraud Unit

Ellyn Sternfield, Attorney in Charge

Phone: 503.229.5725 ext. 241

Department of Justice Charitable Activities Section

If you have questions or concerns about a charity or solicitation.

Phone: 503.229.55725

Web site: www.doj.state.or.us/ChariGroup/welcome2.htm

Download "Wise Giving Guide" at

www.doj.state.or.us/ChariGroup/Tipswise.htm

Department of Consumer and Business Services, Division of Finance and Corporate Securities

Offers information on investment scams. Several publications are available online, including "How You Can Spot a Con Artist" and "Schemes, scams, abuses, fraud: You hear about them every day"

Phone: 503.947.7856

Web site: www.cbs.state.or.us/external/dfcs/publications.htm

Oregon Bankers Association

Publishes a "kit" for bankers that includes two manuals with videos. The first contains information for bank personnel about how to recognize and report possible elder financial exploitation, and the second details how to conduct a seminar for seniors in a bank's local area. The primary video contains scenarios in bank settings illustrating situations based on actual events experienced by various OBA members.

Phone: 503.581.3522

Web site: www.oregonbankers.com/media/elder_abuse_prevention.htm

Indicators of financial exploitation

- Unusual or inappropriate activity surrounding investment properties or in bank accounts, including the use of ATM cards, to make large or repeated withdrawals.
- Signatures on checks, etc. that do not resemble the older person's signature, or signatures when the older person cannot write.
- Power of attorney given, or recent changes or creation of a will or trust, when the person is incapable of making such decisions.
- Unpaid bills, overdue rent, utility shut-off notices.
- Excessive spending by a caregiver on himself or herself for new clothing, jewelry, automobiles.
- Lack of spending on the care of the elder, including personal grooming items.
- Missing personal belongings, such as art, silverware or jewelry.
- Recent sale of assets and properties

Source: Oregon Department of Human Services

Be informed about financial abuse

At the October 8 *Elder Law Connections* CLE Seminar, Greg Johnson, Protective Service Specialist with Clackamas County Social Services, and attorney Margaret Madison Phelan will present "Financial Abuse: Prevention and Abuse-proofing Your Client." Attorney Stephen Owen will present "Responses to Financial Elder Abuse."

See page 4 for seminar details.

Important elder law numbers

as of October 1, 2004

<p>Supplemental Security Income (SSI) Benefit Standards</p>	<p>Eligible individual \$564/month</p> <p>Eligible couple \$846/month</p>
<p>Medicaid (Oregon)</p>	<p>Asset limit for Medicaid recipient \$2,000</p> <p>Burial account limit \$1,500</p> <p>Personal needs allowance in nursing home \$30/month</p> <p>Personal needs allowance in community-based care . . \$110/month</p> <p>Room & board rate for community-based care facilities \$455.70/month</p> <p>OSIP Maintenance Standard for person receiving in-home services. \$565.70</p> <p>Long term care income cap \$1,692/month</p> <p>Community spouse minimum resource standard \$18,552</p> <p>Community spouse maximum resource standard \$92,760</p> <p>Community spouse minimum monthly maintenance needs allowance \$1,561/month</p> <p>Maximum monthly maintenance allowance \$2,319/month</p> <p>Excess shelter allowance Amount above \$468/month</p> <p>Food stamp utility allowance used to figure excess shelter allowance \$287/month*</p> <p>Average private pay rate for calculating ineligibility for applications made after October 1, 2004 \$4,700/month*</p> <p>* The department of Human Services has issued proposed rules to make these changes effective October 1, 2004</p>
<p>Medicare</p>	<p>Hospital deductible per illness spell \$876</p> <p>Skilled nursing facility co-insurance for days 21-100 . . \$109.50/day</p> <p>Part B premium \$66.60 /month</p> <p>Part B deductible \$100/year</p>

THE RESOURCE CORNER

An interview with the Honorable Claudia M. Burton

By Alexis J. Packer, Attorney at Law, Ashland

In earlier newsletter articles, the resources selected as invaluable to an elder law practice focused primarily on the planning elder law lawyers do with and for their clients. This month's interview focuses on what Circuit Court Judge Claudia M. Burton hopes will be helpful to newer elder law practitioners, and a good refresher for the more initiated, when they find themselves faced with the prospect of a court proceeding.

Judge Burton received her law degree from Boalt Hall at the University of California, Berkeley in 1985 and spent her first three years as an attorney in California. After she moved to Oregon Judge Burton practiced in Hood River for eight years where she had what might be referred to as a typical small town general practice: "soup to nuts.... personal injury to criminal defense to estate planning to divorces to...." Her first bench position was as an Administrative Law Judge after which she spent four years as a full-time pro tem judge for the Marion County Circuit Court where her primary responsibility was probate. In January of this year Judge Burton took office as a regular circuit court judge for Marion County where she has a general trial calendar. Judge Burton is a member of the Oregon State Bar's Elder Law Section Executive Committee.

The resources selected by Judge Burton as invaluable to an elder law practice are the Oregon Revised Statutes (ORS) and the Uniform Trial Court Rules (UTCRC).

"The biggest resource when you come to court in an elder law related matter is statutes, statutes, statutes. If you are filing a guardianship or conservatorship, ORS Chapter 125 has very specific provisions about what must be contained in the petition, how and on whom it must be served, and what the notice that is served must say. Similarly, ORS Chapters 113-116 have very specific procedures for probating an estate, again with filing deadlines for everything from the inventory to the final accounting; and very specific requirements as to who has to get notice, when, and in what form. This seems obvious but it is amazing how often attorneys fail to comply with clear statutory requirements." Judge Burton emphasized that once a case reaches court for a protective proceeding, the rules of evidence, as well as statutes contained in ORS Chapters 40-45, do apply.

In addition to the ORS, the UTCRC apply in almost all proceedings or actions in the circuit court. As a result, they provide practitioners with an invaluable resource that should be reviewed before filing anything with the court. "UTCRC 9.030 contains some form requirements for name and address information. UTCRC 9.160 has an excellent form for accountings, which is mandatory in some counties, and well worth using even if not mandatory in your county. UTCRC 9.170 includes some specific disclosure requirements for accountings. In addition to the UTCRC, be sure to check for any Supplemental Local Rules (SLR) adopted by your county."

Judge Burton also talked about the value of court Web sites. "Many courts have Web sites and some of those include information about

Recommended Resources

The Oregon Revised Statutes are published in even years. The only official edition is published by and available through the Legislative Counsel's office in Salem (Phone: 503.986.1243). You can get a description and an order form online at www.lc.state.or.us. This year the price of the full set of volumes is \$339.00. The volumes can be individually purchased for \$49.00, which includes shipping. The statutes can also be purchased in paper form from one private publisher, Thomson West. To purchase, call 800.328.4800, ext. 65621.

The statutes are also on the OSB Web site in the Casemaker "Web library," which is free for all Oregon State Bar members. Go to www.osbar.org and click on the box that says "Casemaker" at the top right of the site.

The UTCRC can be purchased from the Oregon Judicial Department Publications (Phone: 503.986.5656) for \$12.00, which includes shipping. They are available free on the Web at www.ojd.state.or.us under "rules."

The UTCRC are contained in Thomson West's publication called "Oregon Rules of Court," published annually. This year the cost is \$64.50.

Supplemental Local Rules (SLR) can be purchased through each county's circuit court.

For more information about the "Learning The Ropes" CLE seminar, call the PLF at 800.452.1639 or 503.639.6911 or go to the Web site www.osbplf.org and look under "loss prevention material" and then "seminars."

Continued on page 11

Events for elder law attorneys

Elder Law Connections

October 8, 2004

Oregon Convention Center, Portland

See page 4 for details

Oregon State Bar Annual Meeting

October 14 to 16, 2004

Oregon Convention Center, Portland

CLE seminars include *Health Information Privacy Update*, *Consumer Law and Punitive Damages*, *Bankruptcy Intro for Non-Bankruptcy Lawyers*, *What to Do if You Get That Letter or Call from the Bar and Common Ethical Dilemmas*, *Current Cases & Controversies Update*, *The Business of Lawyering: Getting Started*, *Getting Organized*, *Getting Clients*, *Getting Paid*, *Getting a Life!* Special events include a trade show, receptions, luncheons, dinners. Info: 503.684.7413 or 800.452.8260, ext. 413. Web site: www.osbar.org

Estate Planning: Fixing the Common Problems

Oregon Law Institute Seminar

Friday, October 22, 2004

8:30 a.m. to 2:30 p.m.

World Forestry Center, Portland

4.25 General and 1 Ethics MCLE Credits

Phone: 503.768.6580; 800.222.8213

Web site: www.lclark.edu/org/oli

Fifth Annual National Aging and Law Conference

October 20 to 23, 2004

Arlington, Virginia

Workshop topics include *Helping Seniors with Debt Problems*, *Predatory Mortgage Lending Legislation*, *State Drug Programs and Waivers*, *Legal Services to Address the Growing Needs of Grandparents Raising Grandchildren*, *Age Discrimination*, *Analyzing Elder Abuse Laws*, *Financial Abuse*, *Ethical Considerations in Elder Law*, *End of Life Decision-Making and Planning*, *Medicare Coverage Myths and Realities*, *Medicaid Cut-Backs*, *HIPAA Program*, *Fair Housing Protections for Elders*, *Update on Assisted Living*, *Nursing Home Enforcement*, *Tort Reform in Long Term Care*, *Social Security/SSI Updates*, *Access to Benefit Programs*. Preconference workshops for new elder law advocates. Info: Ada Albright 202.434.2197 or NALC@arp.org
Download conference brochure at www.arp.org/ntltrpro

Moral Decision Making in Troubled Times: Keeping Your Ethical Compass in the 21st Century

Oregon Law Institute Seminar

Friday, November 5, 2004 / 1:15 to 4:15 p.m.

Oregon Convention Center, Portland

3 Ethics MCLE Credits

Phone: 503.768.6580; 800.222.8213

Web site: www.lclark.edu/org/oli

2004 NAELA Institute:

"Reaching New Heights in Law and Aging Partnerships"

November 11 to 14, 2004

The Broadmoor Hotel; Colorado Springs, CO

Joint Meeting of the National Academy of Elder Law Attorneys, the National Guardianship Association, and the National College of Probate Judges. Seminar topics include: *Cultural and Religious Diversities: Their Impact on End of Life Decisions*; *Special Needs Trusts and Pooled Trusts: Administration and Legal Issues*; *The Forgetting: Alzheimer's, Portrait of an Epidemic*; *Family Law Issues for Older and Disabled Clients*; *The Importance of Trusts in Estate and Financial Planning*; *Mechanisms and Treatments of Aging-related Brain Disorders*; *Expanded Estate Recovery: Emerging Trends*; *Dementia and the Elder Law Attorney: A Philosophical Perspective*; *Moral Character and Legal Practice*; *Guardianship Cases: Integrating Research and Practice*; *Fiduciary Liability: Preventative Practices and Procedures*; *A Tale of Fiduciary Abuse: How the Guardian, Attorney, Law Enforcement, and District Attorney can Recover Assets and Convict*; *Guardianship Jurisdiction: Barriers and Solutions*; *Ethical Quagmires when Representing Clients with Diminished Capacity*. Continuing legal education credits and Registered Guardian continuing education credits will be applied for in all applicable states. The appropriate forms and information will be available at the conference. After October 29, registrations will be subject to a \$100.00 late fee
Phone: 520.881.4005
Web site: www.naela.com

Planning the Taxable Estate

OSB CLE Seminar

November 19, 2004

Phone: 503.684.7413 or 800.452.8260, ext. 413.

Web site: www.osbar.org

NAELA 2005 "Unprogram"

January 28 to 30, 2005

Houston, Texas

NAELA members gather for a long weekend of uninterrupted sessions of brainstorming, networking, and exchange of ideas/forms. The UnProgram offers NAELA members the opportunity to ask questions about substantive issues, practice and staffing issues, time management, and more! Have all your questions answered by your fellow NAELA members who are willing to openly share information about their practices.

Web site: www.naela.com

Interview with Judge Burton

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court visitors, where and when you can file certain types of documents, and forms. The Web site of the Oregon Judicial Department (www.ojd.state.or.us) has links to local court Web sites. Some probate courts have hand-outs with helpful information.”

Judge Burton added that under the appropriate circumstances practitioners should consider looking to the judges directly for help. “Some judges are willing to give you pointers. You can also check with the judge’s staff.” She did, however, caution to “please remember not to call a judge regarding a case that is *not ex parte* (i.e., other interested parties have appeared or will appear).”

Judge Burton concluded by noting other people who work at the courthouse should never be overlooked as valuable resources. “Court staff are usually happy to answer questions, but please keep in mind that they are swamped.” She additionally cautioned, “Do your homework in terms of looking at

the statutes and rules before you call so you are not asking something that you could easily find the answer to yourself. Court staff are usually happy to help you get it right the first time.”

To help attorneys learn more about what judges expect and to get helpful hints about going to court, some probate judges or probate commissioners regularly speak in a variety of settings, sometimes including local “brown bag” type programs. Those are in addition to the longer and more structured continuing legal education programs sponsored by such organizations as the Oregon State Bar and Oregon Law Institute. Additionally, each November, for a nominal fee, the Professional Liability Fund (PLF) offers a three-day “Learning the Ropes” seminar for attorneys newly admitted to the Bar and lawyers entering private practice. Topics presented by sitting judges include elder law and courtroom do’s and don’ts.



*The Honorable
Claudia M. Burton*

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Elder Law Section Annual Meeting

Friday, October 8, 2004
1:00 PM

Oregon Convention Center
Portland

Election of officers
Reports from subcommittees

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Newsletter Board

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