Equal Justice & Our Profession
by Richard Vangelisti, MBA President

Let’s flash back to law school and consider a hypothetical story. Once upon a time, a single mother and her two children were living in a house in rural Oregon. Let’s call her “Tenant.” “Landlord” has filed an action to evict Tenant for failure to pay rent. Tenant earns minimum wage. Tenant has not paid the rent because she had to use her limited funds to fix a leaky roof and install a new mold. Landlord had refused to pay for the repairs. He argues that the duty of habitability does not apply because he rented the house for “agricultural purposes,” namely that Tenant agreed to feed his prize llamas.

Tenant seeks legal help from “Neighbor,” who used to be a residential property manager. Neighbor tells her, “Sorry, I cannot give legal advice or represent you in court because Oregon law prohibits me from engaging in the unauthorized practice of law.” Neighbor recommends that Tenant seek out a lawyer.

Tenant appears pro se in circuit court for a hearing to fight the eviction. She asks “Judge” for assistance. Judge tells Tenant, “I cannot give you legal advice, but you may want to look at ORS Chapter 90 and the court’s ORCPs, UTCRs, and SLRs.” When Tenant tells the Judge that she does not understand that “alphabet soup” of laws and rules, the Judge tells her to try it out with Landlord’s lawyer and come back for another hearing.

Time to spot issues. Is Tenant on an equal playing field with Landlord? Is it efficient for the court to work with the pro se Tenant? Will Tenant and her children receive justice? Will Tenant and her children become homeless? In addition to the grave harm to Tenant and her children if they become homeless, what is the additional cost of society to social services?

Of central concern for this column, who has the duty to ensure that legal services are available to this “hypothetical” family in need? The inscription on the wall in the entry area to our federal courthouse in Portland suggests the start of an answer. “The First Duty of Society is Justice.” But who within our society is in the best position to ensure equal justice and performing pro bono service. In the MBA’s 100th Anniversary edition of the Multnomah Lawyer, Leslie Kay, a past MBA President, explained some of this early history. The MBA and OSB in 1935 established the first program to provide free legal aid in Multnomah County.

Legal aid lawyers, volunteer lawyers and the other members of the bar who have financially supported them continue to make outstanding contributions to low-income Oregonians. These legal services have improved the lives of many Oregonians in countless ways. Our society is better for it.

The Campaign for Equal Justice (CEJ) reports, however, that “[b]etween 2000 and 2011, those eligible for free legal civil services in Oregon (82% of the federal poverty level) increased by 61.5%, the 8th highest rate in the nation.” CEJ also reports that “[t]ime when resources for legal aid have declined, the increase in poverty has been staggering, leaving about 85% of the legal needs of the poor unmet.” Nearly 850,000 low-income and elderly Oregonians qualify for the services of legal aid attorneys. Only about 15% of the need is met by the current legal aid services. About 80% of the legal aid clients are women, most of them with children to support.

The efficiency and effectiveness of the circuit courts have been affected as well. In Multnomah County, of the civil cases (excluding family law cases), at least 23% of the cases have at least one party unrepresented. Of the family law cases, at least 80% of the cases have at least one party unrepresented.

With those statistics trending in the wrong direction, how shall we judge our profession? Should we consult the most recent OSB Economic Survey of the Oregon lawyers? Or, as an alternative, should we consult our community at large for whether the legal needs of vulnerable Oregonians are being met?

I recall an ABA study in which 80% of clients were happy with their lawyers. But I expect that citizens who had to “go it-alone” when they could not secure legal services would not hold the legal profession and the rule of law in high esteem. Perhaps among these unrepresented people were those who were wrongfully evicted. Perhaps others are those who failed to obtain a restraining order to prevent spousal or child abuse. Perhaps yet others are those who were wrongfully terminated and had no access to the court. These individual and familial harms obviously ripple out to the rest of the community.

The Oregon Legislature recently considered but did not enact a “cy pres” statute which would have directed undclaimed funds (in the millions of dollars) from class actions to an endowment fund continued on page 2.

Multnomah County Circuit Court’s eDay is May 12
Watch a free presentation on eCourt at mbabar.org

mbarCLE
To register for a CLE, please see pages 3 & 4 or go to mbabar.org and log in as a member to register at the member rate.

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by Ayla Geller

When I first decided to attend Northeastern School of Law in Boston, Massachusetts, I had no idea if I was making the right move. It meant leaving my hometown of Portland, relocating across the country, acclimating to New England winters, and not knowing a single person. But even more nerve-racking was the professional risk, attending law school in a region where I likely didn’t intend to practice. Was I making a mistake attending a school that, while readily recognized and respected on the eastern seaboard, was relatively unheard of on the West Coast? In the end, I decided to make the move and take the risk, in large part because of Northeastern’s forward thinking Co-op Program that promised to combine my education with experience – something I found extremely appealing. The Co-op Program is a defining characteristic of the Northeastern legal curriculum and distinguishes the school from nearly every other law school in the nation. The JD program is still three years; we still take all the traditional podium courses, and we still study Palsgraf in torts, but the 2L and 3L years look very different. Each class is split into two rotations. One rotation is taking the standard legal courses and, when you are not in class you are “out on co-op” for the other rotation. Co-ops are, for all practical purposes, short full-time internships in a legal practice area, and over the course of my law school tenure, I will have the opportunity to complete four co-ops. This means an opportunity to experience four distinct legal practice areas, to build a broad base of practical skills, to develop an extensive professional network, and to really know what I want and don’t want out of my post-graduate position in the legal field.

Out on Co-op
My first co-op position was with the Multnomah County Courthouse, under the supervision of Judge Kelly Skye and several amazingly talented law clerks. I had the opportunity to write memoranda for many members of the bench and my legal research, analysis, and writing improved in leaps and bounds. I observed several full trials, both criminal and civil, and got to see a wide range of litigation styles. I was also fortunate enough to meet countless members of the OSB, including the MBA YLS President Traci Ray, who would become a mentor, friend, and future co-op employer. The courthouse was the ideal first co-op as it provided a broad introduction to the legal profession and allowed me to build skills necessary to excel in my future co-ops and employment.

For my next co-op, I knew I wanted to work in the private sector. I applied for and was accepted to the legal department at BJ’s Wholesale Club Inc., a membership-only, warehouse-style retailer with 200+ stores on the East Coast. At BJ’s I was introduced to the multitude of widely varied issues that come through a corporate legal department. I assisted in a lease negotiation for a new club, helped to draft and review service and retail contracts for new products, reviewed marketing campaigns and advertising for potential legal concerns, advised on compliance and best practices in various departments, and merged or dissolved several corporate subsidiaries. I even had the opportunity to write an Equal Employment Opportunity Commission position statement. This co-op position was an opportunity to explore my interest in in-house work, get a better understanding of the issues facing a large corporate body, and hone my legal issue spotting skills.

Last week marked the start of my third co-op – this time with Barran Liebman LLP, back in our beautiful Rose City. I am excited to round out my courthouse, in-house and now private practice experiences. The idea of complementing my law studies with hands-on experience has proven to work well for me, and I feel fortunate that the Portland legal community has welcomed me back (twice now!) even though I am studying in Boston. I am also so appreciative that the MBA YLS provides so many networking and educational opportunities allowing me to meet, learn from, and connect with numerous Portland attorneys. In the end, I look forward to hopefully practicing in Portland and will forever remain a proponent and advocate of experiential education for law students.

Ayla Geller is a 2L at Northeastern School of Law and an intern with Barran Liebman LLP. The firm focuses on employment, labor and benefits law.