

AdvanceSheet™

PUBLISHED QUARTERLY BY OREGON WOMEN LAWYERS

VOLUME 28, No. 4 FALL 2017



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Presiding Judge Nan Waller Discusses Racial Disparity and Procedural Justice

By Stephanie Engelsman

On August 8 at the Mark O. Hatfield U. S. Courthouse in Portland, Multnomah County Circuit Court Presiding Judge Nan Waller gave an educational and eye-opening presentation on the importance of implementing the principles of procedural justice as part of the ongoing efforts to reduce racial disparities in the justice system. Speaking at the Queen's Bench monthly luncheon, she called on the legal community to do our part to help.

For the many people who have long been working on reducing racial disparities in the justice system, the failure to eliminate disparities is discouraging. "When I became involved in efforts to reduce disparities in the juvenile system 30 years ago, I assumed that with hard work and joint action we could tackle the inequities in our system in short order," Judge Waller said. "I was naïve in my timeline because I did not fully understand the entrenched impact of historical and institutional racism throughout our communities. I have come to appreciate that successfully addressing racial disparities will require both personal and collective action." For now, the

court is working hard to identify and examine every point of disparity.

Judge Waller opened her discussion with provocative questions: Did we know that a black man is seven times more likely to get sent to prison than a white man? Unfortunately,

that is the case according to a recent study by the MacArthur Foundation. Where else do we see racial disparity? Answer: with our children in the foster care system, in youth detention facilities, and in elementary and pre-school (yes, pre-school) suspension rates. Everywhere we look, Judge Waller said, the system is harder on people of color than it is on white people, and everywhere we look, we see the effects of those disparities on the justice system.



Judge Nan Waller

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Reynolds Law Firm Is Workplace Leader

By Judge Darleen Ortega

The OWLS Board of Directors, at the recommendation of our Transformation Committee, will award the 2017 Workplace Leader Award to the Reynolds Law Firm in Corvallis. The firm will be recognized at the Fall CLE on October 27 in Portland.

The Reynolds Law Firm has organized itself in some creative ways that value the contributions of a diverse group of employees and prioritize representing marginalized clients, who often have a hard time obtaining vigorous representation. Several of the firm's practices could be adapted to other types of law practice:

1. The firm's principal, Lorena Reynolds, holds quarterly meetings with all staff (lawyers and non-lawyers), in which she not only gives them feedback on their work but solicits their feedback

about their personal experiences at the firm as well as how things can be improved. Problems are handled in a collaborative way that communicates to the employees that they are valued, and their ideas and input are received with enthusiasm. A significant number of staff members have been promoted through the ranks, because they have been encouraged to invest in the firm and to demonstrate how they can contribute to the firm's success.

2. The firm aims for about 10% pro bono work, which provides newer attorneys with excellent practice opportunities and allows them to perform a role they value in the community. The firm also prioritizes representing clients who often have a hard time finding representation—

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President's Message



Angela Franco Lucero

On Friday, September 8, I had the privilege of attending the investiture of the Honorable Ulanda L. Watkins to the Clackamas County Circuit Court bench. Judge Watkins is only the eighth African American to serve on any of Oregon's courts. She became the third African American woman to serve, following the Honorable Mercedes Deiz, who was appointed in 1970, and the Honorable Adrienne Nelson, who was appointed in 2006. Judge Watkins is the first African American judge, male or female, to serve outside of Multnomah County, and she is the first person of color to serve on the Clackamas County Circuit Court bench. On behalf of OWLS, I offer our congratulations, Judge Watkins.

I was delighted to help celebrate Judge Watkins's historic achievement and also pleased when Governor Brown subsequently announced that she would appoint Patricia McGuire, an African American woman, to the Multnomah County Circuit Court bench. These appointments, however, are also strong reminders that we still have much work to do in Oregon. We see glimmers of success all around us: a lawyer of color, an LGBTQ lawyer, or a woman named to the bench; law firms embracing compensation, promotion, and retention policies that create a more inclusive environment; diverse colleagues named as executive directors or general counsel of companies or nonprofit organizations. Yet, despite these successes, our journey is far from over.

According to recent data provided by the Oregon State Bar, there are approximately 15,011 attorneys in the state of Oregon. Approximately 1,433, or roughly 10%, of Oregon attorneys self-identify as a racial or ethnic minority. While we have made noticeable strides, women lawyers and lawyers of color continue to struggle with issues including pay parity and part-

nership opportunities. The tri-county legal community continues to struggle with diversity in firm partnership opportunities and judicial appointments; opportunities lag even further behind in other regions of Oregon. In some regions, local bar associations lack any diverse leadership. And these gaps reflect national trends. A study released earlier this year found that while women make up 50.3 percent of current law school graduates, only 35% of lawyers at law firms and 20% of equity partners are women.¹ Similarly, while more than 30% of law students identify as persons of color, only 15% of lawyers and 7.87% of equity partners are lawyers of color.²

As an ethnic minority attorney, I look forward to the day when our legal community accurately mirrors the diverse perspectives and experiences of the citizens and communities that we serve. I ask myself, when will it be that the advancement of women and racial or ethnic minorities is not unique but the norm? How long will it take before an event such as Judge Watkins's investiture will be but another routine instance of a woman and/or a minority ascending to the bench? In my lifetime, will I see the day come when women and minorities run out of firsts? I don't know when that day will come, but I do know that it is more important than ever that we come together to do this meaningful work. The continued diligence and dedication of OWLS and its specialty bar partners can help move us toward a more inclusive, equitable, and diverse legal community.

OWLS was founded in the hope that it would be a catalyst for change in Oregon. OWLS and the specialty bars are working to serve the needs of Oregon's people by creating a more diverse and inclusive legal community. As part of that effort, OWLS will continue to offer programs like our upcoming Fall CLE on October 27, featuring Barbara Arnwine, that focus on issues of implicit and institutional bias and inequities in our justice system. We will also provide education on salary negotiations and pay equity, programs on political leadership, programs to support working parents, programs on trial advocacy and skills development, the Road to

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Our mission is to transform the practice of law and ensure justice and equality by advancing women and minorities in the legal profession.

President's Message

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the Bench series, and much more. OWLS will continue to take the lead on holding networking events throughout the state so that we can build a community that is ready and willing to advocate for change. Recognizing that improvement from within is an ongoing concern, the OWLS Board of Directors is actively seeking to educate itself about issues of implicit bias and structural bias, while at the same time continuing to explore ways to promote and increase diversity, equity, and inclusion in the OWLS community.

While we must take time to celebrate the successes and accomplishments of our fellow OWLS members and friends, let us also remember that progress requires change and change is almost always hard, and sometimes it is profoundly painful. We have been horrified to witness the rise of white supremacists, neo-Nazis, and the KKK in the United States. Even so, our founding members will tell you that striving to build a more just society has never been easy. The opponents of progress are not more numerous, they are only more visible, vocal, and easier to identify. Knowing your adversary and going forward with unity, knowledge, and confidence is the best way to promote the rule of law, create more inclusive communities, and oppose bigotry and prejudice. With that in mind, let us take a few moments to rededicate ourselves to not just promoting progress but accelerating it by building on the foundation of our past and pulling together into our future.



Angela Franco Lucero
President, Oregon Women Lawyers

Endnotes

1. Elizabeth Olson, "'A Bleak Picture' for Women Trying to Rise at Law Firms," *The New York Times*, July 24, 2017 (citing data from the 2017 Law360 Glass Ceiling Report).
2. Natalie Rodriguez, "The Top Firms for Minority Equity Partners," *Law 360*, August 20, 2017, available at www.law360.com/articles/954556.



Please Renew Your OWLS Membership

It's membership renewal time! Please take the time to renew your membership today. You can renew easily online at www.oregonwomenlawyers.org. Your membership makes it possible for OWLS to provide the excellent programming and services that support our mission of transforming the practice of law and ensuring justice and equality by advancing women and minorities in the legal profession. The OWLS membership year runs from October 1 to September 30.

We are upgrading and automating our renewal system, online membership directory, and database. Members will soon receive an email with a link to a personalized online membership form to update and renew your membership, and an option to pay by check the old-fashioned way.

In addition to supporting women and minorities in the legal profession, your OWLS membership entitles you to many benefits, including these:

- A listing in the OWLS online, searchable membership directory, with an opportunity to add a professional photo
- The opportunity to join the OWLS email listserve, connecting you directly to over 1,000 OWLS members to share referrals, law inquiries, job postings, and other information
- Access to the national women's bar listserve through the OWLS office
- A subscription to OWLS' quarterly newsletter, the *AdvanceSheet*
- A subscription to OWLS' monthly electronic newsletter
- Discounted registration fees for OWLS CLE programs and invitations to special events
- An opportunity to enroll in OWLS' Contract Lawyer Service, which provides access to unique job opportunities posted on the Contract Lawyers listserve and a forum for discussion of topics of special interest to contract attorneys
- Unique networking and educational opportunities

If you have any questions, please contact OWLS Executive Director Linda Tomassi at linda@oregonwomenlawyers.org or 503.841.5720.



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Upcoming OWLS Events

Contract Lawyer Discussion Group

Portland and by phone
Thursday, October 19, noon
 OWLS Headquarters
 121 SW Morrison St., 11th Floor
 "How to use marketing and other strategies to get hired as a contract lawyer"

First Generation Professional Discussion Group

Portland
Friday, October 20, noon
 Multnomah County Courthouse
 1021 SW 4th Ave., #308

Cascade Women Lawyers CLE and Reception "Ethics in Dangerous Situations"

Bend
Friday, October 21, 3:30 p.m.
 Deschutes County Courthouse
 Register by contacting Erica Strader.

Child Abuse Reporting CLE and Fundraiser

Portland
Tuesday, October 24, 4–5:30 p.m.
 Barran Liebman
 601 SW 2nd Ave., Suite 2300

Fall CLE and Oregon Women Judges Reception

Featuring keynote speaker
Barbara Arnwine
 Portland
Friday, October 27, 1:30–5 p.m.
 Embassy Suites Hotel, 319 SW Pine St.

CLE and Reception "The Art of the Possible"

Eugene
Friday, October 27, noon–6 p.m.
 Wayne L. Morse U.S. Courthouse

Family Law Mentoring Circle

Portland
Second Tuesdays, Feb.–June, noon–1 p.m.
 Gevurtz Menashe
 115 NW 1st Ave.

GrOWLS

Columbia River Gorge
First Wednesdays, noon–1 p.m.
 Hood River or The Dalles

Joan Seitz Law Society

Roseburg
First Tuesdays, noon
 Daily Grind Café, 368 SE Jackson St.

Josephine County Women Lawyers

Grants Pass
First Wednesdays, noon
 La Burrita, 1501 NE F St.

Lawyers' Association of Washington County

Hillsboro
Second Mondays, noon–1 p.m.
 Aybla Grill, 180 E Main St.
Third Wednesdays, 8:30–9:30 a.m.
 Insomnia Coffee, 317 E Main St.

Queen's Bench

Portland
Second Tuesdays, 11:45 a.m.–1 p.m.
 Mark O. Hatfield U.S. Courthouse

For more info, see the OWLS website.

OWLS Creates One Roberts & Deiz Award

By Jacqueline Alarcón

The 2018 Roberts & Deiz Award Dinner will be held on March 16 at the Portland Art Museum. We have been soliciting award nominations, and you may have noticed some changes to the Roberts and Deiz Awards. Because they are prestigious awards named after two women who helped shape professionalism in the Oregon legal community, the OWLS Board of Directors and the Roberts & Deiz Award Dinner Committee would like to explain to our membership and allies the changes implemented and the thought process behind the changes.

The Justice Betty Roberts Award and the Judge Mercedes Deiz Award were first awarded to their namesakes, in 1992. Since that time, and with few exceptions, both awards have been given to lawyers who helped promote women and minorities in the legal profession. I had the opportunity to meet Justice Roberts once in my career, but I never had the honor of meeting Judge Deiz. I have learned from those who knew one or both of these amazing women that both were committed to the OWLS mission.

Historically, the selection process for the Roberts and Deiz Awards was the same process used for various other prestigious awards. In selecting the award

recipients each year, the Roberts & Deiz Committee relied on the legal community to fill out and submit nomination forms along with requested materials. Award recipients were then selected by the OWLS board based on the materials received. The person or entity submitting a nomination would select which award they felt the nominee should receive.

While there is no doubt that each recipient of these two awards merited the award received, unfortunately the result of the nomination and selection format was that the Justice Betty Roberts Award has been awarded to a white lawyer, and the Judge Mercedes Deiz Award has been the only award given to a person from the non-dominant culture. As a person of color, I know that OWLS did not intend this result—namely, that an attorney from the non-dominant culture could be awarded only the Judge Deiz Award. OWLS essentially segregated the awards without meaning to do so. As we have started to learn about bias and continue to come to terms with the deep interwoven web of how biases work in a community founded on racist principles, it became evident that OWLS did not account for implicit and structural biases

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Majority Leader Williamson Speaks at OWLS Event

By Joanna Robinson

If the thought of entering politics makes you shudder, if the idea of knocking on doors and cold calling strangers instantly creates panic, if the reality that you will probably be one of few female legislators or legislators of color makes you cringe, Oregon House Majority Leader Jennifer Williamson says you should run for office anyway.

Representative Williamson has found that her most fulfilling work to date has been her work in the Oregon Legislative Assembly, where she serves on several committees, including the House Judiciary Committee, the Joint Ways and Means Committee, and the latter's Subcommittee on Public Safety. Despite the ever-present social and structural barriers that Representative Williamson faces, it is being able to take a problem and immediately address it, she says, that makes political life so rewarding.

Representative Williamson offered her thoughts at an OWLS luncheon on September 14 presented in Portland by the OWLS Leadership Committee as part of its Political Leadership Speaker Series. The series focuses on skills and strategies

for emerging political leaders and is moderated by Judge Karin J. Immergut.

Political leadership requires communicating ideas and solutions to the public in a way that encourages people to engage in civic activity. When asked about the use of social media for communicating with the public, Representative Williamson said that she thinks it is better for politicians to be selective and strategic about what they post on social media platforms. She noted that the old style of campaigning has changed dramatically over the past few years, and the level of sophistication for targeting certain audiences with campaign messages is being fine-tuned by the minute. She warned, however, that politicians should make every effort not to engage in negative campaign tactics. She also reminded us that there are still vastly different repercussions for women on social media than there are for men.

As someone who never thought she could overcome her dread of fundraising, Representative Williamson is now convinced that fundraising is a skill that can be learned by placing your promises



Rep. Jennifer Williamson

before yourself. Once that shift in perspective occurs, she is certain that people are surprisingly honored that you think they can invest in the work you are trying to accomplish.

Political positions are available at almost every level, and there will always be openings for those who are willing to participate in one form or another. Most importantly, practical and logistical support is available for anyone interested in becoming engaged with the political process. Leaders like Representative Williamson stand ready to help.

Joanna Robinson is an associate at Lindsay Hart in Portland.

OWLS Members Appointed to Courts

Two OWLS members were appointed to the bench by Gov. Kate Brown in July. Robyn Ridler Aoyagi was appointed to the Oregon Court of Appeals, and Katharine von Ter Stegge was appointed to the Multnomah County Circuit Court.

Judge Aoyagi, a graduate of Tufts University and Harvard Law School, had worked at Tonkon Torp since 2000, focusing on complex commercial litigation, with an emphasis on appellate litigation.

Judge von Ter Stegge, a graduate of the University of Virginia and the University of Virginia School of Law, previously worked at the Multnomah County Attorney's Office, the Oregon Department of Justice, and the Multnomah County District Attorney's Office. She is a member of the Oregon State Bar Board of Governors and is the president of Queen's Bench.

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Racial Disparity and Procedural Justice

Recognizing that many in the audience practice civil law, Judge Waller explained that there is currently no data on the impact of racial bias in the civil justice system, but the court hopes to participate in a research study to begin to explore this question.

Judge Waller said that while we work to eliminate the inequities and disparities in the treatment of people of color in the juvenile and criminal justice systems, we also need to be aware of and address the impact these disparities have had on public confidence in the justice system, especially within communities of color. Only 50% of the public think the performance of state courts is "good" or "excellent" according to a 2007 New York state survey. Another 33% think the courts are "just fair," and 6% think they are "poor."¹ Broken down by race, 59% of white people think the court system is "good" or "excellent," compared to 47% of Hispanics and 31% of African Americans who feel this way.² A recent Pew Research study found that a shocking 84% of black people feel they are treated less fairly than whites in their dealings with police, and 75% feel they are treated less fairly than whites in the

court system.³ "Clearly, perception is affected by race," Judge Waller said, and progress in eliminating disparities in the justice system will be undermined if the public lacks faith in the results produced by the courts.

Reforms tied to procedural justice are key factors in changing perceptions and eliminating racial disparity, Judge Waller explained. She pointed to a Yale Law School report that asserts that people are more likely to accept losing in court if they perceive procedures and interpersonal treatment as fair. A 2008 UCLA neuroscience study shows that perceived fairness activates the same brain circuitry as does winning money or eating chocolate!

Fundamental to procedural justice are four principles, Judge Waller said. They are (1) voice (the opportunity for members of the community to present their side of the story); (2) respect (community members are uniformly treated with dignity, with engagement on a human level, and in an understandable way); (3) neutrality (the decision-maker is unbiased, follows rules, and applies rules consistently); and (4) understanding (litigants understand their rights, the

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process, and the decisions that are made).

Judge Waller explained that even simple actions can make a difference in terms of perceptions of the justice system. Every day she tries to apply the principles of procedural justice in her own courtroom. When she takes the bench each morning at call, she introduces herself and says "good morning" to each litigant before moving onto their lawyers. She explains the upcoming process and why she will be looking at her computer that morning. She has crayons available for children who appear with their parents.

But more needs to be done, Judge Waller said, emphasizing that the community must be part of the process. In late 2016, Multnomah County judges launched the first of a series of "community listening sessions" to learn more about the community's perceptions of our justice system. Judge Adrienne Nelson facilitated the sessions, and they were held in three different locations around the county. The first session drew more than 250 participants, and over 30 individuals spoke about their views and personal experiences. What was heard dramatically illustrated the disconnect between the perceptions of the community and the intentions of the court, Judge Waller explained. The court is now considering how to respond to the many lessons learned from the evenings of listening to community concerns.

The court has also tried to take the principles of procedural fairness into account in designing the new courthouse to make the building more accessible and easier to navigate. Community focus groups have been held to obtain input on how to make the building better meet the needs of the public. For example, there will be no more waiting outside in the rain. To reduce stress and anxiety, there will be a green space visible from the inside security screening area, and an area for collecting belongings and putting shoes back on after clearing security.

Care is being taken to provide better information to people coming into the courthouse, using technology, including digital displays and self-help kiosks, as well as an information booth in the lobby, reducing stress and anxiety. The new courthouse will contain four lactation/wellness rooms, expanded CourtCare, and dozens of rooms off of the courtrooms where lawyers and their clients can meet privately. A legal resource center is being

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Meet Multnomah Circuit Court Judge Leslie Bottomly

By Stephanie Engelsman

Appointed to the Multnomah County Circuit Court bench by Gov. Kate Brown in February 2016, Judge Leslie Bottomly is, indeed, an Oregonian. She grew up in Portland and remembers it as being a “quiet, rainy, small city.” Her mother was a stay-at-home mom, and her father was a professor of psychiatry at OHSU. Her brother now works for TriMet, and her sister for *The Oregonian*. Judge Bottomly attended Lincoln High School and remembers cutting classes to go to the Multnomah County Courthouse to watch trials.

After graduating from high school, Judge Bottomly spent one year at Pomona College in Los Angeles before transferring to Stanford University. Upon graduating from college, she moved to Washington, DC, where she worked for the National Institute of Mental Health. Originally thinking she would follow in her father’s footsteps and get a PhD in psychology, she found herself disillusioned by the research process and the chase for grant money. She returned to Portland, where she worked as a para-

legal for a year before attending Lewis & Clark Law School.

Judge Bottomly joined the Ater Wynne law firm and worked in its energy law practice group briefly before moving to its litigation group. She was with Ater Wynne for 20 years and fondly remembers the fantastic mentors she had, including the legendary Carol Hewitt, the first woman partner at Ater Wynne. Judge Bottomly’s practice evolved into employment law, commercial litigation, and arbitrations/mediations. It was in “court-annexed arbitration,” which Judge Bottomly did for over 10 years, that she found her calling. “Some people are activists. Others are ‘neutral at heart.’ I realized I was neutral at heart,” she said warmly.

Judge Bottomly has two children. Her daughter is a recent University of Oregon graduate, and her son has just started college at Southwestern Oregon Community College in Coos Bay. When she’s not in court, Judge Bottomly enjoys working on her 1930s home, gardening, playing soccer, and learning to speak Spanish.

Judge Bottomly says that serving as a judge allows her to call on personal and family experience with alcohol and substance abuse and family violence, which in turn allows her to empathize with court participants who have faced difficult upbringings. She feels lucky to be part of a bench filled with genuine, hard-working, supportive judicial colleagues.

Her words of wisdom from the bench: “reputation is everything.” Judge Bottomly understands that this is hard for young lawyers to absorb, but notes that its truth becomes more apparent with time.

Stephanie Engelsman is an attorney with the Metropolitan Public Defender.



Judge Leslie Bottomly



Racial Disparity

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designed to assist the growing numbers of self-represented litigants to navigate through the justice system. Most importantly from a procedural justice standpoint, defendants who are in custody will no longer be transported through public hallways in shackles.

Concluding her presentation, Judge Waller called on the entire legal community to “encourage and gain trust” and to actively work to reduce racial disparity.

Stephanie Engelsman is an attorney with the Metropolitan Public Defender in Portland. She is part of its major felony unit and also does “crimmigration” work with MPD’s Padilla Project.

Endnotes

1. 2001 National Survey for Justice at Stake.
2. Statewide Resident Sample in New York, by Donald J. Farole, Jr., 2007.
3. Pew Research 2016.



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OWLS Thanks Board Member Jim Yocom

By Joslyn Keating

Among his OWLS peers, Jim Yocom is revered for his quiet leadership, constructive input, and sense of humor. When he joined the OWLS Board of Directors in May 2015, he quickly embraced the OWLS mission of encouraging members to develop programming that reflects their personal approaches to social justice. Consistent with that mission, Jim has offered his expertise in small-group dynamics and nonprofit organizing to lead CLEs and various subcommittee projects, including spearheading a three-part series on leading small groups in 2016. Alas, Jim recently moved to North Carolina.

Concurrent with his OWLS leadership commitments, Jim maintained a successful legal practice in Beaverton, advising nonprofit organizations and small businesses. He also served as a volunteer instructor for Microenterprise Services of Oregon, a nonprofit dedicated to helping individuals of minimal means realize their small-business dreams. In that role, Jim delivered dozens of presentations focused on small-business law and nonprofit organizing.

Driven by his experience advising small businesses and nonprofits, Jim's many contributions to the board have been highly esteemed. OWLS President-elect Amber Hollister noted that "Jim brought a strong background in nonprofit governance to the OWLS board." Amber also appreciates Jim's practical, problem-solving outlook. Other OWLS board members have commended Jim for his keen ability to enhance the collegiality and productivity of small groups. Board member Val Tomasi lauds Jim for having an "amazing expertise in small-group dynamics.... [He] has enlightened many of us on ways to improve the group decision-making process." OWLS President Angela Lucero similarly describes Jim as instrumental in providing "a platform for the expressions of opinions and keeping the agenda moving." Jim is universally respected among his peers as a fresh thinker, reliable team member, and effective communicator.

When Jim's spouse was offered a job at North Carolina State University in late 2016, Jim was excited by the prospect of living somewhere new. He and his spouse packed up and moved to Raleigh in July.

Jim is now a senior lecturer in the Department of Anthropology and Sociology at North Carolina State University. He teaches research, statistics,



Jim Yocom

and social psychology and looks forward to teaching classes on social change and survey methods in the near future.

From across the country, Jim offers fellow OWLS members this advice: "Use your energy to create forums to articulate and present your point of view, and energetically defend the organization's role in helping its members do exactly that."

On behalf of OWLS, thank you, Jim. You will be missed.

Joslyn Keating is an attorney at Cummins, Goodman, Denley & Vickers in Newberg. She focuses on OSHA, workers' compensation, and employment defense.

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Workplace Leader

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domestic violence victims, queer folk, undocumented immigrants—and handles such cases with vigor.

3. For paid work, the firm uses a "pay it forward" approach, communicating to clients that paying what they can on their fees even if it takes awhile is part of what keeps the lawyers able to represent folks in similarly dire straits down the road. Past clients are generally the ones keeping the current work going.

4. The firm has a history of hiring people from diverse backgrounds. It has a solid track record of employees being happy and sticking around. The firm offers bonuses based on the amount collected rather than the hours billed, which creates a positive set of incentives for building the work-life balance that employees want.

5. Employees' activities outside the office are supported inside the office. Family and scheduling needs are accommodated, and involvement in the community is explicitly encouraged and is supported by the firm.

Congratulations, Reynolds Law Firm.

The Honorable Darleen Ortega serves on the Oregon Court of Appeals.

Oregon's New Pay Equity and Work Scheduling Laws

By Kate Wilkinson

Oregon lawmakers enacted this year two laws that have the potential to improve the income and quality of life of thousands of Oregonians. The new laws seek to address recurring issues of pay inequity and erratic pay and scheduling that often hurt women, people of color, and hourly workers who are paid low wages.

Pay Equity

The Oregon Equal Pay Act, House Bill 2005, prohibits employers from seeking applicants' salary history before making an employment offer. The law seeks to address an issue that has dogged women and people of color for decades, namely, that these groups, on average, start work at a lower wage than white men and that the wage gap continues throughout employment.

Many commentators and theorists link the practice of requesting salary history and the correspondingly lower starting salaries to the consistently lower salaries women and minorities make throughout their careers. According to the Pew Research Center, in 2015, among full- and part-time U.S. workers, women earned 83% of what men earned. Minority men, on average, earned 71% of white men's earnings. According to the American Association of University Women, at the current rate of change, the pay gap for women won't close until 2152. Oregon's ban on requesting salary history takes effect in October 2017, and the majority of the law's other provisions take effect in January 2019.

Oregon now joins California, Massachusetts, and several other states in enacting such legislation. During the 2015 legislative session, pay equity legislation was proposed in at least 21 other states. Oregon's law also expands pay equity protection to more protected classes, including those regarding religion, disability, age, veteran status, and sexual orientation.

For more detailed information about the new law, visit the Oregon Bureau of Labor and Industries (BOLI) website.

Predictive Scheduling

On another front, Oregon lawmakers enacted Senate Bill 820, the "predictive scheduling" law. Oregon thus becomes the first state to enact a statewide mandate about scheduling work hours. The new law requires employers to set

employees' work schedules at least one week in advance and to provide and post a written work schedule. If an employer requests a change to the written work schedule less than a week in advance, the employer must provide notice to the employee and the employee may decline any work shift not included in the written schedule, thus restricting an employer's ability to "call in" workers on short notice. The law also contains provisions that restrict and impact an employer's ability to send a worker home prior to or during a shift. In 2020, the advance notice requirement increases to 14 days.

Oregon's law applies to retail, hospitality, and food service businesses with 500 or more employees (full- and part-time)

worldwide. Oregon joins San Francisco and Seattle in passing such mandates but is the first to do so on a statewide basis. The law took effect August 8, 2017.

The theory behind the law is that uncertainty in scheduling and last-minute scheduling changes create havoc in employees' lives and interfere with other employment, school, child care needs, etc. Predictive scheduling may also result in predictable wages. BOLI is currently adopting rules to assist employers in implementing the law. For more information, see the BOLI website.

Kate Wilkinson is an assistant counsel at the Standard Insurance Company in Portland and a past president of OWLS.



Approximately 100 boxes of books are on their way to the Coffee Creek Correctional Facility from OWLS members and friends; some are shown here on sorting day. Thank you, Jill Gibson and Trista Speer, for co-chairing this year's book drive.



The Gorge OWLS chapter (GrOWLS) held its summer gathering on July 13 at Judge Karen Ostrye's home. We enjoyed great company, wine from Aniche (located in Underwood, WA), and light fare from Feast (located in White Salmon, WA). Among those attending were GrOWLS President Carrie Benson (left) and Judge Janet Stauffer. GrOWLS' new website is at www.gorgeowls.org.

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The annual OWLS Dress for Success Fundraiser and Fashion Show was held on August 3 at the Multnomah Athletic Club in Portland. The event was a benefit for Dress for Success Oregon, an organization dedicated to empowering women to achieve economic independence by providing a network of support, professional attire, and the development tools to help women thrive in work and life.

The show was emceed by the talented Edie Rogoway of Rogoway Law; the fashions were from Folly PDX, Veil & Valor, and the Man's Shop. An amazing group of lawyers (shown above) volunteered their time to take a walk down the red carpet, and thanks to the enthusiasm of the emcee and the OWLS Community Service Committee, the show raised a record-breaking amount of money for the second year in a row. A huge thank you goes out to all our co-sponsors and generous donors.

More information about Dress for Success Oregon can be found at <https://oregon.dressforsuccess.org/>.

Roberts & Deiz Award

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when establishing the selection process for these awards.

This was brought to the attention of OWLS, and it was acknowledged. The changes recently made to the nomination and selection process represent the ways in which we have attempted to address this issue. We solicited assistance from specialty bar organizations, past award recipients, and the OWLS board, and we made two major changes.

First, an award recipient need not be a licensed attorney. The reality is that a growing and unrecognized group of legal professionals are not licensed attorneys and opt to work in the nonprofit sector. These legal professionals would go unrecognized by OWLS under the former requirement that award recipients be licensed attorneys in the state of Oregon.

Second, the entity or person nominating an individual will no longer have the discretion to select which award a person should receive. The Justice Betty Roberts Award and the Judge Mercedes Deiz Award will now be known only as the OWLS Roberts & Deiz Award. OWLS believes that the spirit of both Judge Deiz and Justice Roberts continues with this change. The OWLS mission continues to be to promote the interests of women and minorities in the legal profession, and is OWLS not doing so by uniting these two awards?

As an eternal optimist, I am proud of OWLS' willingness to react positively to the criticism we received, but as a pragmatic legal professional, I do not believe that the work of the Roberts & Deiz Committee ends here. I also do not believe that these changes address all systemic biases, but this is a step in the right direction. I hope that our allies and membership embrace these changes and know that at the forefront of any change that transpires within OWLS, the spirit of both Justice Betty Roberts and Judge Mercedes Deiz continues to be present, because these two pioneers represent the very makeup of our mission statement.

We are grateful to Banafsheh Violet Nazari, who is always at the forefront of issues of bias and was one of the first to request a change from OWLS and the Roberts & Deiz Committee. If you would like to discuss these changes, please feel free to call or email me.

Jacqueline Alarcón is an OWLS board member and an associate at Yates Family Law in Portland.

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The Oregon Women Lawyers Foundation, the 501(c)(3) sister organization to OWLS, is proud to focus on educating and supporting women and minorities in order to further their access to and participation in the justice system.

We fund the **Armonica Law Student Book Grant**, the **Vernellia R. Randall Bar Exam Grant**, the **Justice Betty Roberts Leadership Conference Grant**, and the **Janis Hardman Medical Support Grant**.

To learn more about the Foundation, our grants, or to donate, please visit owlsfoundation.org.

