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The Mediation Diversification Project

By Renata Gowie

On June 5, OWLS and OAPABA (the Oregon Asian Pacific American Bar Association) held a CLE via Zoom titled "The Mediation Diversification Project." It is currently available for viewing [here](#). The CLE's goal is to encourage lawyers from diverse backgrounds to start mediation practices. This goal has taken on even greater importance given recent events. The CLE was held 11 days after the Memorial Day killing of George Floyd galvanized the world against racial inequity. Mr. Floyd, an African American man, was detained by Minneapolis police for the misdemeanor offense of allegedly passing a counterfeit \$20 bill. While Mr. Floyd was handcuffed and forced to lie on his stomach on the street, a white police officer knelt on Mr. Floyd's neck for almost nine minutes. Other officers also held down Mr. Floyd, who repeatedly stated that he could not breathe, and he died.

The day of the CLE was also the 27th birthday of Breonna Taylor, an African American woman who was fatally shot by Louisville police in her home after midnight in March. The plain-clothed officers were executing a "no knock warrant" for drugs that allowed them to enter with no warning. When her boyfriend, a licensed firearms dealer, exercised his Second Amendment right to defend against intruders, the police shot Ms. Taylor multiple times, killing her. No drugs were found; neither Ms. Taylor nor her boyfriend was

a target of the investigation, and the real suspects were already in police custody at the time of the raid. Ms. Taylor, an EMT, was killed during the coronavirus pandemic, a time when medical personnel were hailed as heroes.

Would the police have behaved in the same manner if Mr. Floyd and Ms. Taylor were white? Disparate treatment in our justice system is to the particular detriment of Black people regardless of status, education, or income. In a June 3 CNBC interview, Ursula Burns, the chair and CEO of VEON, and the first African American woman to serve as CEO of a Fortune 500 company, remarked that even though she is "in the top one percent," she still worries when the police stop her.

With this backdrop, the CLE moderator, Bonnie Richardson, a partner at Richardson Wright, opened the CLE with a moment of silence.

The CLE moderator and panelists are a diverse group of four people of color and three women. United States Magistrate Judge Mustafa Kasubhai works in the District of Oregon's Eugene Division.



Judge Mustafa Kasubhai

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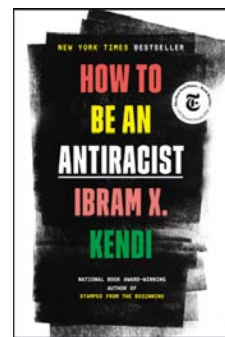
How to Be an Antiracist

By Ibram X. Kendi
(One World, 2019, 320 pages)

Book Review by Bridget Budbill

The callous killings of Black Americans George Floyd, Breonna Taylor, Ahmaud Arbery, and Rayshard Brooks have many people wondering what they can do to contribute to real systemic change for Black people, Indigenous people, and other people of color (BIPOC) in their communities. This may be especially true of many white people, for whom the stark reality of American racism is not an everyday lived experience.

If this includes you, Ibram X. Kendi has a proposal: you should become an antiracist. If your brain auto-replied, "but I am already *not* racist," Kendi, a Black author, professor, historian, and antiracist scholar, has more news for you: yes, you are, because "not racist" is not a thing. In his 2019 book, *How to Be an Antiracist*, Kendi explains that there is no "in-between safe space of 'not racist.'" The



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President's Message Before and After

I was hoping to start my term as OWLS' president by seeing many of you in person, shaking your hands, and giving you hugs. Sadly, that is not the world we are living in right now. Instead, I'm seeing you on Zoom, talking with you on the phone, and oh—the emails!

For those of you I haven't met yet, my name is Maya Crawford Peacock. I am a 2003 graduate of Lewis & Clark Law School, and I have spent the last 17 years of my career working in one capacity or another for civil legal aid, currently as executive director of the Campaign for Equal Justice (yes—that's me—the one who is always asking you for money). I have an amazing wife, Margaret, and we have a five-year-old daughter named Muriel. We live in NE Portland with the newest member of our family, a ten-month-old puppy named Pippa.

I feel incredibly blessed that my family and CEJ colleagues are all healthy, but I would be lying if I said I wasn't struggling right now. In fact, sometimes I am struggling quite a bit. In addition to the concern we all share about the global health crisis and the economic downturn, being a working parent during a global pandemic is hard. Couple that with examining my accountability for the role I play as a white woman in upholding and maintaining the status quo of systemic racism, and I have been feeling raw and at times overwhelmed. I have been thinking and talking about these issues a lot lately and would like to address them in my President's Message, both as a way of introducing myself to you, and as an invitation to engage with me and others to use our status as lawyers and OWLS members to act and reflect.

The Kids Are Not All Right— Neither Are the Parents

Over the past several months, the Multnomah Bar Association (MBA), in cooperation with the Working Parents Committee of OWLS, conducted a working caregivers survey. Sarah Radcliffe, past president of the MBA, wrote about it in the June issue of the *Multnomah Lawyer*.¹ Over 600 Oregon attorneys responded! Survey responses were collected during the pandemic, so the results are a window

into the reality of working caregivers in the legal community right now. The findings are stark. As Sarah reported, "pre-pandemic, 15% of mothers were spending more than seven hours per day providing care. Now 71% of mothers are spending more than seven hours per day caregiving. Pre-pandemic, 6.5% of fathers spent more than seven hours per day providing care. Now 40% of fathers are spending more than seven hours per day caregiving."

My wife and I are among the group of mothers spending more than seven hours a day on childcare. Even a household with two mothers, one of whom is able to work from home, is struggling without access to daycare. Indeed, this crisis is laying bare this country's serious childcare problem. Prior to the pandemic, we knew that childcare was hard to come by and extremely expensive, although childcare workers are grossly underpaid. Yet, only five days after the shut down, my daughter's preschool/daycare informed us that our beloved teachers were laid off, that reserve funds were drying up, and that they may not ever be able to reopen. They are still not sure.

Parents with children in every age group are juggling their children's education while trying to work and keep our families and communities healthy. Personally, I have learned that I don't have the patience, skill, or aptitude to be a teacher. Virtual learning is hard for preschoolers, and all previous boundaries around screen time have completely gone out the window.

Like most parents I know, before the COVID-19 pandemic hit, I struggled with feeling like an inadequate parent at work and an inadequate executive director at home. Now I get to feel both simultaneously. It is hard to focus on work, even though I am often logging more hours. At the same time, rarely do I feel that I am imparting anything of academic value



Maya Crawford Peacock

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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.

Upcoming OWLS Events

Developing Your Business in Challenging Times

Tuesday, June 30, 10–11 a.m. and **Tuesday, September 29, 10–11 a.m.**
via Zoom. \$20 for OWLS members and members of other affinity bar associations. Fee covers both sessions. \$35 for non-members. Free for law students and first- and second-year attorneys. Scholarships available. Register [here](#).

CLE: New Lawyers in Remote Work Environments

Wednesday, July 1, noon–1 p.m.
via Zoom
Co-sponsored by the OSB New Lawyers Division. Free CLE for OWLS/ONLD members, law students, and first- and second-year attorneys. \$35 for others. Register [here](#).

Social Media & Internet Safety: A Presentation for Parents

Thursday, July 9, noon–1:30 p.m.
via Zoom
No cost. Register [here](#).

Queen's Bench Monthly Presentation: Courts in Crisis

Tuesday, July 14, noon–1 p.m.
via Zoom and Facebook Live
No cost. Register [here](#).

CLE: Making the Case for Yourself: Identifying and Overcoming Imposter Syndrome and Increasing Your Confidence

Tuesday, July 21, noon–1:15 p.m.
via Zoom
OWLS members \$10.
Non-members \$15. Register [here](#).

The Art of Public Speaking: Tips from the Stage

Friday, July 24, noon–1 p.m.
Co-sponsored by the Campaign for Equal Justice. Additional information forthcoming.

Setting Your Rates

Thursday, August 6, noon–1 p.m.
Join the OWLS Leadership Committee for this panel discussion on setting rates for contract attorneys, solo attorneys, and small firms. Additional information forthcoming.

Queen's Bench Monthly Presentation: Deadly Speech

Tuesday, August 11, noon–1 p.m.
via Zoom and Facebook Live
No cost. Register [here](#).

CLE: Preservation of Issues for Appeal

Featuring Justice Rebecca Duncan and Judge Robyn Ridler Aoyagi
Thursday, September 24, noon–1 p.m.
Additional information forthcoming.

Developing Your Business in Challenging Times

Tuesday, September 29, noon–1 p.m.
Please see the first listing above.

OWLS Chapter Summit

Friday, October 23
via Zoom
Additional information forthcoming.

For more information about OWLS events and OWLS chapter events, please visit the [OWLS events calendar](#) on our website.



Legal Workplace Task Force

The Spring 2020 *AdvanceSheet* included an article about the new Oregon Legal Workplace Task Force (OLWTF), the group that grew out of the coalition that produced the CLE program "Time's Up Oregon: Reckoning With Sexual Harassment in Oregon's Legal Community." In that article, the OLWTF's first CLE was announced for October 23, 2020. Due to the COVID-19 pandemic, the task force decided to **cancel** the training, and focus our energies instead on model policies. The group is on a hiatus until August. If you wish to get involved in our work, please contact the task force chair at linda@oregonwomenlawyers.org.



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Cassandra Sumrall, Program Coordinator Extraordinaire

By Anne Milligan

If you live in, work in, or visit the Portland metro area, you've seen them around. The Dynamic Duo, working tirelessly in the back corner of the ballroom to make sure that all the last-minute details of a special CLE or event are executed in a seemingly effortless fashion. They are the Wonder Women of Oregon Women Lawyers—a miraculous pair that somehow manages to run a 1,200-member organization with a full-time staff of two—themselves.

OWLS doesn't normally have a public discussion about the enormous amount of behind-the-scenes work performed by Executive Director Linda Tomassi and Program Coordinator Cassandra Sumrall. That's part of the magic of it all. They'll make sure you're registered for that CLE whose registration is probably already closed, and there is absolutely no chance that the vegetarian option will be a tragic island of a hot tomato (which we can't say for every lawyer organization, cough cough). They will listen to your complaints about the snacks and make sure that the snacks are better next year.

More importantly, they make the Oregon legal community really feel like home, even for those of us who weren't born in Oregon and didn't attend law school in Portland or Salem. It's clear that their work is more than a job to them, and that they truly believe in OWLS and its mission to transform the practice of law and ensure justice and equality by advancing women and minorities in the legal profession. The past few months have truly shown that their commitment is unflappable.

When Governor Kate Brown declared a state of emergency in Oregon late in the evening of March 8 to address the spread of the novel coronavirus, it became immediately clear that nothing in our lives would be the same for an unknowable period of time. In the face of such exceptional upheaval and change, however, Cassandra Sumrall worked tirelessly, out of the limelight, to ensure that OWLS' mission, work, and programming proceeded uninterrupted.

OWLS leaders across Oregon sing Cassandra's praises for the enormous, unprecedented work she took on in bringing all OWLS programs into the now-familiar world of Zoom, Facebook Live, and YouTube:

Since the start of the COVID-19 pandemic, Cassandra has been an invaluable source of support to OWLS members around the state. Cassandra has taken the lead in creating CLEs and other programming for OWLS members to access remotely. With OWLS members more isolated in their homes to prevent the spread of COVID-19, access to live remote CLEs has been more popular and important than ever. Cassandra also has taken the lead in creating Zoom "hang-outs" to allow OWLS members from all over the state to connect with each other informally in these difficult times. Cassandra truly goes above and beyond in her work for OWLS, and it is so appreciated by the OWLS Membership Committee and OWLS members across Oregon.

—Erin Dawson and Sara Kobak, OWLS Membership Committee Chairs

The OWLS Mary Leonard Chapter was scheduled to hold its annual Civil Rights CLE with Ron Silver in early April. This year's program was on the Emmett Till case. Of course we could no longer meet in person, so Cassandra stepped up to help us hold it on Zoom. She went above and beyond, training us to use Zoom features and facilitating multiple test runs. The CLE went perfectly, and we were thrilled to welcome a broader audience beyond our chapter members. Our chapter is grateful to Cassandra for helping us keep our programming alive during this challenging time when we cannot gather together.

—The Honorable Allison Boomer, Past President, Oregon Women Lawyers and the OWLS Mary Leonard Chapter

Cassandra is such a valuable asset for OWLS. She is smart, thoughtful, present, and skilled beyond belief. She helps the board in innumerable ways, facilitating scheduling, tech, and just generally being available to help with all types of needs. She does the same for all of the OWLS committees. For example, for the Oregon Legal Workplace Task Force she attends all meetings and takes notes, usually having them out to the work group the same



Cassandra Sumrall

day. Cassandra is responsive, kind, and a joy to work with.

—Maya Crawford Peacock, President, Oregon Women Lawyers

She was really instrumental in pulling together all the technical logistics (which was huge!) for the recent Multnomah County judicial candidates town hall via Zoom. She's so incredibly capable. She really stepped up to make it all run seamlessly, and she's so wonderful and easy to work with.

—Elizabeth Ballard Colgrove, OWLS Board of Directors

With less than 30 hours' notice, Cassandra was able to set up and professionally market a Zoom CLE training for Queen's Bench so that protestors all across the state headed out to stand with Black Lives Matter would have certainty about their legal rights as protestors, and how to take the first steps to become a certified ACLU legal observer. More than 80 people attended the livestream, and due to Cassandra's tech smarts, a limitless number of Oregonians will be able to view the recording of the training from anywhere on their own time, for free, providing equitable access to timely, critical knowledge. I cannot thank Cassandra enough.

—Anne Milligan, President, Queen's Bench

Last year, Oregon Women Lawyers celebrated its 30th year of making a difference in the Oregon legal community. So much of the work we do as members and leaders would not be possible were it not for Cassandra. With one voice, we thank you, Cassandra.

Anne Milligan is a deputy city attorney serving in the City Attorney's Office, City of Portland.

OWLS Welcomes New Officers and Directors

OWLS is pleased to announce our new officers and board members for 2020–2021. Maya Crawford Peacock was elected president, having served previously as president-elect, secretary, and historian. Maya is the executive director of the Campaign for Equal Justice.

Jacqueline Alarcón was elected OWLS' president-elect, having served previously as secretary and historian. Jackie practices family law with Yates Family Law in Portland and serves as a pro-tem judge in Washington and Multnomah Counties. Kristin Sterling was reelected as OWLS' treasurer, and she was also elected to the board for another three-year term. Kristin is associate general counsel at Sentia Wellness in Portland. Elected as OWLS' secretary was Adele Ridenour, who served previously as historian. Adele is a partner with Ball Janik in Portland and serves as a pro-tem judge in Washington County. Joining the Executive Committee as historian is Keshmira McVey. Keshmira is program manager for emergency technologies at the Bonneville Power Administration, and a real estate agent with John L. Scott. All OWLS officers



Kalia Walker



Mary Dougherty



Emily Lohman



Jessica Price

are also members of the OWLS Board of Directors.

OWLS is also pleased to announce its newly elected board members, Mary Dougherty (Portland), Emily Lohman (Salem), and Kalia Walker (Portland).

Additionally, Jessica Price (Eugene) was appointed to the board to fulfill an outgoing member's term. Sheeba Roberts (Portland), Silvia Tanner (Portland), and Elizabeth Ballard Colgrove (Portland) were reelected to serve three-year terms.

Jeanyse Snow Dies

Jeanyse Snow, who served on the OWLS Board of Directors in 1990, died on April 6 at age 75. A life-long resident of Astoria, she was one of two women in her graduating law school class in 1970 and served as editor in chief of the *Willamette Law Review*.



Jeanyse and her husband, Hal Snow, practiced law together for more than 45 years at an Astoria law firm that eventually became Snow & Snow. She specialized in land use law and handled all of the firm's appellate cases. Jeanyse retired and closed the firm following Hal's death in 2016. The Snows had two sons and were very active in the Astoria community.

The *Astorian* reported that retired Judge Paula Brownhill said in an email, "An Oregon appellate judge told me that Jeanyse was one of the best lawyers ever to advocate before the Court of Appeals."

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OWLS Members Win on May Ballot

By Joslyn Keating

Several OWLS members claimed victories in Oregon's May primary election or otherwise secured enough votes to move on to the general election in November. (Please see the Spring 2020 *AdvanceSheet* for a more comprehensive list of OWLS members who ran on the May ballot.)

In the category of partisan elections, incumbent Ellen Rosenblum won her primary for Oregon's attorney general and will move on to the general election against Republican Michael Cross.

Jackie Leung, who was not mentioned in the Spring 2020 *AdvanceSheet* article, won her primary election for the Oregon House of Representatives for the 19th District. That district is in Marion County and includes parts of Salem, Turner, and Aumsville. Ms. Leung is a 2016 graduate of Willamette University College of Law. She is currently working as the executive director and public health advocate for the Micronesian Islander Community. She is also the president of the Asian & Pacific Islander Caucus for Public Health and a member of the Marion County

Health Advisory Board. Ms. Leung will face the incumbent, Republican Raquel Moore-Green, in November.

Emerson Levy won the Democratic nomination to the Oregon House of Representatives for the 53rd District. She will face Republican Jack Zika in the general election.

In the category of nonpartisan elections, several OWLS members won contested races. In a crowded field of candidates, Adrian Brown won 32.53% of the vote and Rima Ghandour won 23.12% of the vote, making them the top two candidates for Position 12 on the Multnomah County Circuit Court. Because no candidate won by a majority, Ms. Brown and Ms. Ghandour will face off against each other in the general election in November, where only a plurality of votes is necessary to win.

Similarly, Judge Jenefer Grant won 41.22% of the vote, essentially tying one other candidate in her race to retain Position 3 on the Columbia County Circuit Court. She and Michael Clarke will move onto the general election. OWLS mem-

bers Kelly Lemarr, with 46.05% of the vote, and Edward Kroll, with 27.73% of the vote, beat out three other candidates to secure the top two spots for Position 5 on the Washington County Circuit Court. They will run against each other in the upcoming general election.

One OWLS member, Amanda Thorpe, is running against one other candidate for a contested judicial position that is up for election outside the position's normal election cycle in 2020, allowing the candidates to bypass the May primary ballot. She and Brandon Thueson will appear on the November election ballot for Position 1 on the Josephine County Circuit Court.

Four additional judges are running for uncontested judicial positions appearing on the ballot in 2020 outside their positions' normal election cycles: Court of Appeals Judge Jacqueline Kamins, Lane County Circuit Court Judge Kamala Shugar, Deschutes County Circuit Court Judge Alycia Sykora, and Multnomah County Circuit Court Judge Steffan Alexander. These individuals bypassed the primary race and will move forward to the November general election, where they will prevail, unless a write-in candidate receives more votes.

Several OWLS members ran for uncontested judicial positions consistent with their positions' normal election cycles, allowing them to secure their elections by a majority vote in the May primary. These included Oregon Supreme Court Chief Justice Martha Walters; Court of Appeals Judges Erin Lagesen and Doug Tookey; Multnomah County Circuit Court Judges Beth Allen, Amy Baggio, Amy Holmes Hehn, Morgan Wren Long, Angela Franco Lucero, and Nan Waller; Jackson County Circuit Court Judges Lorenzo Mejia and Kelly Ravassipour; Washington County Circuit Court Judges Rebecca Guptill, Ricardo Menchaca, and Beth Roberts; Judge Karen Ostrye of the Seventh Judicial District; and Marion County Circuit Court Judges Cheryl Pellegrini, Manuel Perez, and Susan Tripp.

The 2020 general election takes place on November 3. Good luck to all OWLS candidates.

Joslyn Keating is an attorney for Tolleson Conratt Nielsen Maher & Replogle in Tigard. She represents employers and businesses.

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For more information or to post a job, contact
Cassandra Sumrall at cassandra@oregonwomenlawyers.org.

The Mediation Diversification Project

Two panelists are judges from the Multnomah County Circuit Court: Judge Melvin Oden-Orr and Judge Katharine von Ter Stegge. All three judges serve as mediators at judicial settlement conferences. Clarence Belnavis is the managing partner of the Portland office of Fisher Phillips, and a partner in its Seattle office. He frequently uses mediators in his trial practice, which emphasizes all facets of employment litigation. Molly Jo Mullen has a full-time mediation practice.

The idea for the CLE came from Judge von Ter Stegge. A plaintiff's lawyer asked her for the name of a private mediator who is a "person of color." The judge did not know of anyone. She asked around and could not find one in the state.

When asked the reason for the lack of diversity in mediators, Judge Oden-Orr noted a misperception about who can become a mediator. Some think that mediators are only current or former judges with expertise in a certain area. All the panelists agreed that one need not be a judge to be a mediator. To the extent that mediators are current or former judges, Judge Kasubhai noted that the lack of diversity in the judiciary contributes to the lack of diversity in mediators. Judge

Kasubhai further commented that the lack of diverse mediators as models may inhibit diverse lawyers in thinking about mediation as a career.

The panelists also agreed that a mediator need not be an expert in a particular area. Rather, an effective mediator should be able to "connect with" different types of people, which Judge von Ter Stegge noted, is something "people outside the dominant culture" are particularly equipped to do because they need to do so as a "survival skill." Mr. Belnavis noted that a good mediator is "collaborative," can "read the room," and has read the parties' memoranda. The panel emphasized that the process of the mediation is just as important as the result. If a party feels good about the mediation process, the party will feel better about the result.

Mediators often generate business from word of mouth, and mediators



Judge Melvin Oden-Orr

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from diverse backgrounds are no different. As a lawyer, Judge Oden-Orr worked with "minority-owned businesses" and was known in various communities. Now, many years later,

from word of mouth, people in those communities have sought him as a mediator. Ms. Mullen spent 25 years as a lawyer before she opened her mediation practice. She encourages diverse lawyers to become mediators because "there is plenty of room in the swimming pool." Ms. Mullen noted that there is a learning curve when one goes from being a lawyer to a mediator. The person has to be comfortable with trying new things.

Mediator training can be difficult to find. The panelists recommend mediation training courses at Portland Community College and Resolutions Northwest in Portland. Mediation of self-represented parties in small claims court is also a good starting point. Those interested in serving as a small claims court mediator should familiarize themselves with Chief Justice Order No. 05-028, regarding mediator qualifications. Judge Oden-Orr suggests that a potential mediator explore opportunities as an arbitrator as well. For information on becoming an arbitrator, read "The Arbitrator in You" by Lee Ann Donaldson in the Spring 2020 issue of the *AdvanceSheet*.

Mediators can gain valuable experience in mediating federal civil cases through the United States District Court's mediator program. The court-sponsored mediators agree to provide four hours of mediation services at no charge to the parties. If the case does not settle within the time limit, the parties can decide whether to end the mediation or pay for continued mediation.

All the panelists who are mediators are willing to be shadowed by a person interested in being a mediator, assuming the parties are amenable. More tips, resources, and opportunities can be found [here](#).

Renata Gowie is an assistant U.S. attorney and chief of the Civil Division at the U.S. Attorney's Office for the District of Oregon.



Clarence Belnavis



Molly Jo Mullen

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How to Be an Antiracist

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claim of ‘not racist’ neutrality is a mask for racism.” Thus, people are either actively or complacently racist, which includes both persons who exercise overt and insidious acts of race-directed animus and persons who idly choose to accept that the world is what it is, perhaps even wish it were different, but do nothing to push for change.

A “racist,” Kendi explains, is one who supports racist policies through their actions or inactions, or expresses a racist idea (regardless of whether that was the intent). An “antiracist,” by comparison, is one who supports antiracist policies through their actions or expressing antiracist ideas. The key distinction between “racist” and “antiracist” is the individual’s actions or inactions, and antiracism *requires* action.

How does one become an antiracist? Kendi’s book, which is part memoir, part history lesson, and part antiracism textbook, is laced with his account of his own recognizing, unpacking, and unlearning racist views he has held. In one example from his youth, Kendi delivered a speech at a Dr. Martin Luther King Jr. oration competition, in which he argued, among other things, that Black youth believed it was “okay not to think.” This, he recognized later, was his internalization of the baseless notion that Black youth do not “value education as much as their non-black counterparts.” Kendi makes it clear that to truly unroot knowingly or unknowingly racist notions like that will take more than reading this book. A person who commits to being antiracist will engage in constant observation of one’s beliefs, actions, and inactions, because racist ideas have so defined American society and “feel so natural and obvious as to be banal” while “antiracist ideas remain difficult to comprehend, in part because they go against the flow of this country’s history,” Kendi explains.

Kendi provides definitions helpful to people interested in taking a good hard look at their own internalized beliefs and actively challenging and changing them. An antiracist idea, for example, is one that suggests that “the racial groups are equals in all their apparent differences—that there is nothing right or wrong with any racial group.” Antiracist ideas, thus, demand that racist policies are the cause of racial inequities and can—because policies are creations of choice—and must be changed.

“The consistent function of racist ideas—and of any kind of bigotry more

broadly: to manipulate us into seeing people as the problem, instead of the policies that ensnare them,” Kendi explains. By contrast, antiracism is “a powerful collection of antiracist policies that lead to racial equity and are substantiated by antiracist ideas.” Therefore—and Kendi emphasizes that this is the work that antiracists will accept and racists will not—“[t]he only way to undo racism is to consistently identify and describe it—and then to dismantle it.”

But this endeavor should not be viewed as a solo gesture of inward self-improvement. Kendi, a cancer survivor, compares racism in society to the disease he survived. “My society has racism. The most serious stage. Once we lose hope, we are guaranteed to lose,” he writes. Kendi hopes that the more people who actively choose to become antiracists—rather than settle for a passive, false sense of “not racist” in an inherently racist society—the closer America will come, for the first time in its history, to giving “humanity a chance to one day survive, a chance to live in communion, a chance to be forever free.”

Bridget Buddbill is a pretrial program analyst at the Oregon Criminal Justice Commission.

Antiracist Definitions

From *How to Be an Antiracist*
By Ibram X. Kendi

RACISM: Policies and ideas that produce and normalize racial inequities.

RACIAL INEQUITY: When racial groups are not on equal footing.

RACIST: One who supports racist policies through their actions or inactions or expresses racist ideas.

ANTIRACIST: One who supports antiracist policies through their actions or expresses antiracist ideas.

NOT RACIST: See RACIST.

RACIST POLICIES: Measures that produce or sustain racial inequity between racial groups.

ANTIRACIST POLICIES: Measures that produce or sustain racial equity between racial groups.

Graphic: Bridget Buddbill



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Reimagining Courts During COVID-19

This past March, life for nearly all Oregonians changed dramatically in response to the spread of the new coronavirus disease, COVID-19. By the end of March, most individuals and businesses were subject to stay-at-home orders and closures, and court operations were radically scaled back in response to Governor Kate Brown's executive orders and the orders of Chief Justice Martha Walters. These are unprecedented times for the people of Oregon and our courts.

Given the critical function of the courts, courthouses have remained open and operational throughout the stay-at-home orders and as we ease into phased reopening. For the past few months, judges and courthouse staff throughout the state have continued to work tirelessly in the courthouses and remotely behind the scenes to continue handling the most constitutionally significant legal matters and to ensure the administration of justice. Our courts have been guided by local public health authorities to reimagine our operations so we can address the safety and health of the public and our employees. We now have distancing at the cashier counters and elsewhere in the courthouse where the public and courthouse staff regularly interact. Our court has removed high-touch surfaces to the extent possible, including the removal of chairs and water pitchers. We keep our courtroom doors open to reduce touches on door handles and have used the services of courthouse staff as a contact at the entrance to direct the public and hopefully reduce unnecessary courthouse visits.

The changes brought about in response to the current pandemic have been most evident in how the courts handle hearings and trials. Nearly all non-jury hearings in criminal, family, and civil cases are now conducted remotely—either by telephone or video conferencing—and will be for the foreseeable future. These measures have been adopted to try to reduce the number of people coming into the courthouse building and prevent the courthouse from being a vector for the spread of COVID-19.

No court shall be secret, but justice shall be administered, openly and without purchase, completely and without delay, and every man shall have remedy by due course of law for injury done him in his person,

THE JUDGES' FORUM



Judge Beth M. Bagley
Deschutes County Circuit Court

property, or reputation.
Article I, section 10, Oregon Constitution

On the one hand, remote appearance and attendance for hearings has proved to be more convenient for parties and witnesses who otherwise have difficulty securing reliable transportation to the courthouse. In many cases, remote hearings actually facilitate access to justice for those who live on the outskirts of our sprawling judicial district or who face other challenges to personally appear. On the other hand, the court's greater reliance on technology is not without its set-backs and frustrations—calls are dropped, videos freeze, pets and children Zoom-bomb video conferences, and the mute button doesn't always get pushed when it should. Courts feel different these days, but the courts are still performing their core functions and conducting business publicly.

In all criminal prosecutions, the accused shall have the right to public trial by an impartial jury . . . to be heard by himself and counsel; to demand the nature and cause of the accusation against him . . . to meet the witnesses face to face . . .

Article I, section 11, Oregon Constitution

Necessarily missing in the court's transition to conducting more hearings remotely is the element of human connection that is lost when you are unable to observe and evaluate subtle and not-so-subtle cues from body language and expression. Judges and juries pay attention to both verbal and non-verbal conduct when forming opinions about credibility. Nowhere is this truer than in a criminal jury trial, when credibility and whom you believe can impact the outcome and verdict. This is one reason that defendants in criminal cases have a right to be physically present to face their accusers in court. Therein lies one of the greatest challenges for our courts so far: how can we conduct a criminal jury trial, protect the constitutional rights of the accused, fairly and publicly administer justice, and

safeguard the health of the parties, jurors, courtroom staff, lawyers, judges, and the public?

It is an incredibly difficult balancing act, and in Deschutes County, where I am

a judge, it has led to what is believed to be the first COVID-informed courtroom remodel in the state—a remodel of my own courtroom that started in early May. With the exception of the judge's bench, the courtroom was gutted down to the sub-floor. Social distancing of at least six feet, face masks, and vigilant courtroom and courthouse sanitation procedures are critical components of our new processes. The court has shifted to a paperless environment as often as it can, to eliminate document handling as a potential point of infection. The remodeled courtroom will rely on electronic document display and viewing. This means that exhibits and other documents that would typically be passed around in a courtroom and touched by lawyers, witnesses, jurors, courtroom staff, and the judge are now filed electronically in advance of the hearing.

The witness stand, counsel tables, jury box, fixed juror chairs, and all seating in front of the bar and in the gallery of the courtroom were removed entirely and were replaced by small, portable, easily sanitized tables and fixtures. The demolished juror and public seating was replaced by 12 non-fixed chairs (and one extra for an alternate) that are spaced at least six feet apart in the former public viewing gallery. In the past, jurors would retire to the jury room during breaks and to deliberate. While spacious, the size of the jury room cannot accommodate social distancing for 12 or more jurors. For that reason, the courtroom has now also become the jury room, which requires the judge, staff, lawyers, and parties to conduct any sidebars, and address any matters that must occur outside the presence of a jury and on the record, in an entirely different courtroom. This "partner" courtroom will also be the location to which the trial proceedings are livestreamed for potential jurors (prior to completing jury selection) and the public, including crime victims, because there



Judge Beth M. Bagley

Continued on page 11

Meet Washington County Circuit Court Judge Rebecca Guptill

By Gloria Trainor

On a sunny day in May, Judge Rebecca Guptill spoke with me from her floating river home, where she lives with her husband, Dan, and their dog, Sloan. Our interview occurred as the shock of the COVID-19 pandemic continued to ripple through the legal community, and Judge Guptill was at home on a furlough day from her work on the Washington County Circuit Court. She was relaxed, friendly, and generous with her time.

Judge Guptill was born in Eugene, Oregon, and grew up in Waldport. While she loved the Oregon coast, she craved a warmer setting for college and an environment richer in diversity. Judge Guptill nostalgically recalled using a corded telephone to call the University of Southern California Admissions Office from her high school English teacher's classroom. She set up a visit and flew from Eugene to Los Angeles on her own at age 17. After a glance through the local newspaper and a taxicab ride to USC, the young Judge Guptill mused to herself that Los Angeles was delightfully overwhelming compared to small town Oregon. She figured if she could handle the trip to the big city, she could handle living in it. A bachelor's degree in print journalism later, Judge Guptill embarked on her next journey, which was inspired by an undergraduate course on constitutional law taught by the esteemed Erwin Chemerinsky: law school in Oregon.

Judge Guptill's road to the bench was colorful, and the breadth of her legal experience is an asset not all judges possess. After graduating from Willamette University College of Law, Judge Guptill practiced criminal defense for a private

firm contracted to provide court-appointed defense. She gained experience defending juvenile dependency and delinquency matters, and later, at her next job, adult criminal matters ranging from misdemeanors to felonies. She reflected on a subsequent stint in civil practice as enlightening in the sense that she recognized her desire to be more often in a courtroom than at an office desk.

After returning to criminal defense and later adding family law and estate planning to her practice, Judge Guptill also began representing children in domestic relations matters, and she eventually narrowed her focus to family law. She began considering becoming a judge, and in 2016, Judge Guptill began volunteering as a judge pro tem in Washington County. She enjoyed the experience immensely and decided to pursue a permanent judicial position.

In February 2019, Governor Kate Brown appointed Judge Guptill to the circuit court bench after the retirement of Judge Kirsten Thompson. Judge Guptill recalls being happy to be fitted, finally, for her own robe, as the robe shared by pro-tem judges was enormous and dragged on the ground when she walked into the courtroom.

In all sincerity, though, Judge Guptill spoke candidly about the way her position as a judge in the Washington County Law Enforcement Center courtroom has helped her see the world in a new and sometimes complicated light. Judge Guptill said that her experience as a criminal defense lawyer left her with a somewhat limited perspective on the justice system. From her current position, in which she handles a variety of criminal

matters for the court, she continues to gain an unprecedented depth and breadth of understanding about the dramatic nature of the failings and the successes of the American legal system.

When I asked Judge Guptill how she hopes people experience her courtroom, she stressed the importance of procedural justice and her desire that parties in her courtroom feel listened to and heard. Regarding the criminal justice system more broadly, "I want to leave things better than I found them," she said.

Lastly, I asked Judge Guptill what she does to escape the fast-paced and sometimes stressful nature of her job in public service. She described the comfort of clearing her head by the water at her floating home. She routinely enjoys the presence of sea lions, eagles, and fish. She and her husband can drop their kayaks into the water from their house float and paddle to get takeout. By the time we concluded the conversation, I hoped that someday I, too, would live in a floating home.

Gloria Trainor is a solo practitioner and the owner of Trainor Law. Gloria focuses her civil practice on personal injury, employment discrimination, and domestic relations cases, particularly those affecting members of the LGBTQ+ community.



Judge Rebecca Guptill

The Judges' Forum

is no longer room for members of the public to view the trial in the courtroom while maintaining safe social distancing.

Last week, with the assistance of volunteers from courthouse staff, the Deschutes County Sheriff's Office, and the local lawyers, we ran our first "mock trial" of a 12-person criminal jury trial in the newly remodeled courtroom. As you might imagine, some steps in the trial procedure proved problematic with this new design and will require troubleshooting and fine-tuning before we are ready to accommodate our first live criminal jury trial. However, I am confident that



we are moving in a positive direction and are creating an environment that potential jurors, lawyers, witnesses, staff, and other courtroom personnel will feel safe coming into.

Like you, the courts are adapting to a new reality and crafting a "new normal" in response to a global pandemic.

This looks different from one judicial district to the next, but throughout the state our courts remain committed to administering justice. Adapting our judiciary to function effectively during this crisis is critical to maintaining a healthy democracy and will continue to be our greatest priority.

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OWLS Foundation Reaches Grants Milestone: \$300,000

By Trudy Allen

The OWLS Foundation has reached a new milestone! In slightly more than 20 years (since obtaining 501(c)(3) status in 1999), due to the generosity of all our donors, the Foundation has made 178 grants, for a total of \$301,243.93. Here are the grants that comprise the largest amounts of this total:

Vernellia R. Randall Bar Exam Grants

39 grants, total of \$61,575

The Foundation created the Vernellia R. Randall Bar Exam Grant in 2003, originally for single parents and now any parents taking the Oregon bar exam. The current amount of the grant is \$5,000. Vernellia Randall was vice president on the founding board of OWLS. She was named one of the "Top 10 Most Influential African-Americans" in 2001 by the *Black Equal Opportunity Employment Journal*.

Armonica Law Student Grants

63 grants, total of \$46,500

In 2007, the Foundation instituted the Armonica Law Student Grant program, which now offers a \$2,000 text-book grant to one or two final-year students at each of the law schools in Oregon and matches each recipient with a female judge who serves as the student's mentor for a year. This grant was founded in memory of Armonica Gilford, the first African American female assistant attorney general in the Oregon Department of Justice. She served on the boards of both OWLS and the OWLS Foundation and had a side career as a jazz singer.

Mid-Valley CourtCare Grants

4 grants, total of \$17,500

In 2017, the Foundation paid a founding grant of \$10,000 to be the first sponsor of the Mid-Valley CourtCare program, which was spearheaded by the OWLS Mary Leonard Chapter to provide childcare for children whose parents or guardians have court or other local government business in Marion and Polk Counties.

MBA Bar Fellows Program

2 grants, total of \$20,000

The Foundation has become a partner in the Multnomah Bar Association's "Bar Fellows" program, which started in 2018. In 2019 and 2020, the Foundation provided \$10,000 for a law-student summer intern to work at Legal Aid Services of Oregon. The intern must be a member of

a historically disadvantaged group. We are excited to be providing mentorship (as well as the funding) to our 2020 Fellow, Queen Rynders, a student at Lewis & Clark Law School, who is a U.S. Air Force veteran and the recipient of a Military Outstanding Volunteer Service Medal.

2020 COVID-19 Emergency Relief Grants

New this year, the Foundation is proud to offer five 2020 COVID-19 Emergency Relief Grants, each in the amount of \$3,000, to OWLS members who identify as women and/or as members of any other historically disadvantaged groups, who need financial support to continue operating an Oregon legal practice because they (or a family member for whom they are a caregiver) have a positive or presumptive diagnosis or test result of COVID-19. This grant will be offered each month until all five grants are awarded; applications are due by the 15th of the month. The Foundation is hoping to be able to help ease the strain on lawyers who have been personally affected in such a way by COVID-19.

The goal of all these grants is to assist people who identify as women and/or as members of any other historically disadvantaged groups who face obstacles in accessing and participating in the justice system. For more information about

our grants and to access the application forms, please see the Foundation's website at <https://owls-foundation.org/grants>.

For the Foundation to be able to make more grants such as these, we need your help! Because this year's Roberts & Deiz Award Dinner had to be canceled due to COVID-19, the Foundation lost its major source of fundraising for the year. Please consider making a donation now. You can donate by mailing a check to the Oregon Women Lawyers Foundation, PO Box 82522, Portland, OR 97282, or by visiting our website, <https://owlsfoundation.org>, and clicking on "Donate."

We thank you from the bottom of our hearts for making our grants possible—and for helping us attain this exciting \$300,000 milestone.

Trudy Allen has retired from the practice of law. She is the historian and secretary of the OWLS Foundation.



Queen Rynders



Attendees at the May 30 OWLS Foundation online board retreat, row by row, left to right, starting at the top: Trudy Allen (secretary and historian), Julia Markley, Suleima Garcia, Diane Ryneron, Janice Wilson, Stefyni Allen, Kamron Graham (president-elect), Kristie Gibson (president), Nora Coon, Deanna Wray, Holly Martinez, Katerina Kogan (treasurer), Brittany Buxton, Emily Wanner, Judy Henry, Traci Ray, Sharnel Mesirow, Julie Preciado. Not shown: Tammi Cares, Sarah Freeman, Melanie Kebler, Christine Meadows.

Selling Your Success During Annual Reviews

By Susanne Aronowitz

It has been well documented that there are discrepancies in how attorneys complete their self-evaluations and approach performance review conversations.



Valerie Sasaki

Women and people of color tend not to advocate for themselves as vigorously as their white, male counterparts. As a result, they miss out on promotions, high-profile work assignments, and raises. Over time, these small disparities calcify into stark, industry-wide inequities in compensation and leadership opportunities.

To reverse this trend and empower OWLS members to claim the compensation and recognition they have earned, the OWLS Leadership Committee hosted a program on May 19 titled "Selling Your Success During Annual Reviews," featuring panelists Valerie Sasaki, a partner at Samuels Yoelin Kantor; Julia E. Markley, a partner at Perkins Coie; and Portland City Attorney Tracy Reeve. The panel was moderated by OWLS Leadership Committee co-chair Marisa Moneyhun of the Law Office of Marisa Moneyhun.

As leaders within their organizations, each of the panelists observed contrasting styles in the way underrepresented attorneys advocate for themselves in performance evaluations and in seeking plum assignments as compared to their white, male counterparts. The panelists even acknowledged their own evolution in becoming comfortable with advocating for themselves. To some degree, they attribute their discomfort with self-advocacy to internalized cultural messages that discouraged them from being "boastful."

Indeed, the panelists shared candid anecdotes revealing how they resisted promoting their own accomplishments, thinking that their good work would speak for itself. Julia Markley remembered that when she was a junior attorney at Perkins Coie, her reviewers were not necessarily familiar with the dimensions of her practice. As a result, her failure to describe her achievements limited her

opportunities for advancement. From that point on, she shifted her approach to offer clear evidence to her reviewers of her accomplishments and the value she delivered to the firm.



Julia E. Markley

The panelists shared the following strategies to help attorneys advocate for themselves:

The time to begin preparing for your evaluation is now. The panelists agreed that attorneys should methodically compile data to support their performance evaluations all year long. This includes keeping track of assignments and accomplishments; saving messages of appreciation from clients, supervisors, and teammates; gathering quantitative data to demonstrate productivity; and quantifying any financial benefit you've brought to your employer through client development. Show how you've invested in the success of your organization through leadership roles; mentoring; recruiting activity; business development; supporting diversity, equity, and inclusion initiatives; participating in pro bono work; and engaging in business development.

Know your audience. When preparing for an evaluation conversation, most people are so focused on their own performance that they forget one key ingredient: empathy. Consider the demands that your decision makers are under and find ways to demonstrate how your achievements and requests will lighten their load or add value to their roles.

Read the (virtual) room. If your organization is implementing lay-offs, furloughs, or other cost-cutting measures, the time may not be ripe to ask for a raise. Instead, identify non-economic measures that would add value to you while imposing minimal financial impact on your employer, such as childcare support, a flexible schedule, reduced billable hour requirements, or access to interesting work assignments.

Share your goals. If you aspire

to serve in a leadership capacity or seek particular assignments, let people know! City Attorney Tracy Reeve said that she and other leaders rely on this information when distributing work assignments.



Tracy Reeve

Take the long view. Don't be dismayed if your employer does not initially grant your request for higher pay or a promotion. Consider the response "no" to mean "not yet" (rather than "never"). Take the opportunity to understand what it would take to get the outcome you desire, and set yourself on a path to achieve it.

Find mentors. Cultivate mentors who demonstrate the success you imagine for yourself and can help you navigate the path from where you are today to achieving your goals. Mentors can also

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OAAP Presents CLE on Resiliency

By Jenna Plank

On April 12, Shari Pearlman and Karen Neri of the Oregon Attorney Assistance Program (OAAP) presented a CLE on a topic more relevant now than ever: resiliency. Shari and Karen explained that when they talk about resiliency, they mean how to bounce back from stress, and how to endure and have positive experiences even during times like these. They explained that there will be time later to derive meaning from all the losses associated with the COVID-19 pandemic. Now is the time, they said, to utilize or develop adaptive coping skills to manage stress and avoid the potentially long-lasting effects of COVID-related trauma. There are resources and people out there to help—all you need to do is ask.

Shari, Karen, and the three other attorneys at the OAAP all have law degrees and specialized education and training in counseling. Together they work around the clock to provide counseling to attorneys in Oregon on many issues, including personal well-being. The OAAP has its primary offices in downtown Portland, but attorney counselors with the OAAP can and will meet with attorneys all over the state. The OAAP website features resources and strategies for coping with stress, and it contains a new “thrive today” blog designed as a sounding board for attorneys everywhere during these strange and trying times. Almost all assis-

tance at the OAAP is free of charge, and it is always confidential. When an attorney is in need, all they need to do is pick up the phone and call. The counselors at the OAAP will answer any day, any time.

During their April CLE, Shari and Karen pointed out that living in constant stress wears on both your body and your mind. A traumatic response can develop in response to a single significant event, but also to an ongoing series of events. These traumatic responses are symptomatic and can manifest over time as things like panic attacks and difficulty connecting with other people. Questions posed to the audience at the CLE revealed that for many of us, COVID-19 has created an environment of ongoing stressors over health, finances, and an overarching feeling of loss. All of that, if not managed well now, can create and manifest trauma symptoms that may persist long after the pandemic.

Both Shari and Karen stressed that it is especially important to develop adaptive coping skills now in order to be resilient. Adaptive coping skills include giving oneself compassion, which can come in the form of something as small as physical touch or self-affirming comments. Figure out what you can do in the moment to address these ongoing stressors, and focus on that. Karen also pointed out that the SAVES mantra attributed to psychologist Dr. Greg Eells can be an effective method

for weathering times like these. SAVES stands for Social connection: find and surround yourself with supportive people; Attitude: adopt a growth mind set through

positive thoughts and by taking action on what is within your control; Values: remember what is of real importance in your life; Emotional acceptance: do not suppress your emotions—acknowledge them and work with them; and Silliness: remember to laugh at yourself.

Shari and Karen concluded their CLE with a reminder that fundamentally, human beings are adaptive and resilient. The fact that 74 people learned how to attend the resiliency CLE over Zoom is a resounding example of just how adaptive we all can be. That said, we all need to practice some self-care now, and if the strategies above are not enough, reach out to the OAAP—they’ll be waiting for your call.

Jenna Plank is a senior deputy district attorney at the Multnomah County District Attorney’s Office.



Shari Pearlman

Selling Your Success

help you prepare for your annual evaluation conversation and provide feedback on how to make a compelling case for yourself.

Channel your inner-advocate. If you struggle to advocate for yourself, Tracy Reeve suggests pretending that you are an actor playing the role of a lawyer on TV. She found that using this approach gave her the confidence to take a bolder stance in negotiations. Knowing that most attorneys are more comfortable advocating for others, she recommends that you imagine “if I were my own client, what would I say about me?”

Handle mistakes. If you’ve made mistakes at work or have otherwise drawn negative attention, Valerie Sasaki recommends that you address that affirmatively in your review process. Briefly acknowledge the situation, identify what

you learned from it, show how you’ve improved as a result, and highlight your other accomplishments. Frame the situation as a growth opportunity, and demonstrate your commitment to refining your skills. Tracy Reeve warns that you should be cautious, however, not to draw so much attention to your challenges that you obscure your successes. Women tend to be quick to apologize and dwell on mistakes, and you don’t want to undermine your own credibility. To assess whether the issue is worth raising, Julia Markley suggests seeking feedback from peers and mentors before entering the performance evaluation conversation.

In addition to serving as your own advocate, the panelists agreed that it is essential to be an ally for others. Give credit to other team members for their accomplishments and help them recog-

nize their own value. This demonstration of leadership will improve your organization’s culture, inspire colleagues to perform at their best, and enhance your team’s capacity to serve clients effectively.

Susanne Aronowitz is a career and executive coach and a former employment lawyer. She serves on the OWLS Introvert and Leadership Committees.



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President's Message

to my daughter. My recent browser search history might offer a glimpse into the jumble of my mind: preschool alphabet worksheets, virtual fundraising, pediatric multisystem inflammatory syndrome (PMIS), and persistent eye twitch.

A recent "day in the life" included my being on one of many Zoom meetings. I put myself on mute to ask her (ok, yell) to please be quiet. Muriel screamed back, "You love your computer more than you love me!" The episode ended in mutual tears, my missing the rest of the meeting, loving/resentful hugs, and finally popsicles in the back yard. It was 10 a.m. While children are resilient, this time of isolation from their friends and teachers is causing long-term social, emotional, and academic harm.

As Tiffany Hsu and Patricia Cohen write in a recent *New York Times* article, "the pandemic could scar a generation of working mothers" as well.² They point out that "as the pandemic upends work and home life, women have carried an outsized share of the burden, more likely to lose a job and more likely to shoulder the load of closed schools and day care. For many working mothers, the gradual reopening won't solve their problems, but compound them—forcing them out of the labor force or into part-time jobs while increasing their responsibilities at home. The impact could last a lifetime, reducing their earning potential and work opportunities." As schools and daycares start to reopen, parents are left with the impossible choice of sending kids back and risking sickness and death, or continuing to care for children at home while their jobs suffer.

This raises the question of whether the economy can truly rebound if a substantial portion of the workforce is pulled, in part or in full, from their jobs to focus on caregiving duties. The burden does not fall equitably, and working mothers are often carrying more than their fair share of the load. According to Oregon State Bar data, the percentage of women lawyers has actually decreased in recent years. As Sarah states in her MBA article, "if we are worried about the mass exodus of mid-career women from the legal profession, now is the time for legal employers and the broader legal community to take meaningful steps to show that we value the work of caregiving and the people who do that work."

Meaningful change will require more than just lip service to the concept of

work-life balance. We need to stop expecting parents, including fathers, to work as if they don't have families, and to parent as if they don't have jobs. Balance does not mean inhumane schedules in which working parents endeavor to simultaneously perform as super workers and super parents. Rather, balance will be achieved when there is a shift in legal workplace cultural norms (read manageable work duties) that allow caregivers to exist in both roles without facing negative consequences to their careers.

An Imperfect Ally

As a multiracial family, Margaret and I have always talked to Muriel about racism. We are clumsy, and it can be hard to find the words that will make sense to a young child (thank goodness for family members, friends, books, and the internet), but we know it is vital for us to have those conversations. Our daughter is white, and already a beneficiary of white privilege. As parents, we are aware that Black, Indigenous, and Brown kids do not have the privilege to be shielded from these conversations. They are already assaulted by the toxic forces of racism from an early age. So, talking with our daughter is the low end of the bar. The vicious murder of George Floyd brought a new sense of urgency and depth to our conversations.

As a lawyer, employer, nonprofit leader, OWLS president, and cis gendered white woman, I recognize that I am a gatekeeper. I acknowledge this, and I endeavor to be antiracist. I recognize that being antiracist is a journey not a destination. I screw up. A lot. I am working on tapping into my resolve. I am leaning hard into relationships I've formed through OWLS and other affinity bar groups, to listen, learn, act, fail, listen, learn, repeat.

One thing that has become clear to me is that this hard time we are living through needs to be more than just a hard time. It is a time for action. Silvia Tanner, a very smart friend and fellow OWLS board member, recently reminded me that BIPOC communities, particularly Black and Indigenous communities, have been living under unjust conditions since before we became a nation. The injustices and pain they face are old and ongoing, and leaders in BIPOC communities have been working to dismantle racism and/or anti-Blackness for a long time. What is new about this moment is that white people are paying attention (at least for now).

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My new work set up with Muriel

The nationwide protests have shown us that people banding together—frustrating the status quo—can amplify the many voices that have long been demanding meaningful change. Police reform is on the table on the city, state, and federal levels. This is a start. Let us not forget that the legal system itself can be used to further racial oppression. Let us use our power as lawyers, and our numbers as OWLS members, to center the voices that have been speaking for a long time and that have long needed to be heard so that we as a society can begin to address systemic racism. We have an opportunity, an imperative, to work together in our organization, our legal community, and our broader society to demand change.

OWLS has given me so much throughout my career so far: friends, colleagues, mentors, opportunities to learn, and opportunities to lead. While the pandemic is changing how we convene, it hasn't changed the fact that we are still active as an organization. I take strength from that, and I look forward to one day being able to meet and see you in person. Until then, let's continue to stay virtually connected.

Take good care,

Maya Crawford Peacock
President, Oregon Women Lawyers

Endnotes

1. Sarah Radcliffe, Working Caregivers: A First Look, *Multnomah Lawyer* (June 2020), https://mbabar.org/assets/MLs/2020/June2020-ML-Final_web.pdf.
2. Patricia Cohen and Tiffany Hsu, Pandemic Could Scar a Generation of Working Mothers, *New York Times* (June 3, 2020), <https://www.nytimes.com/2020/06/03/business/economy/coronavirus-working-women.html>.

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COVID-19's Disparate Impact on Communities of Color

By Jenna Plank

On June 26, OWLS and several other entities¹ presented via Zoom a CLE titled "The Disparate Impact of COVID-19 on Communities of Color." The CLE featured three speakers: Professor John A. Powell, of the University of California, Berkeley; Nargess Shadbeh, director of the Oregon Law Center's Farmworker Program; and Ben Duncan, chief equity officer for Multnomah County. All three speakers discussed the history of the exclusion of persons of color in the United States, and how those historical underpinnings continue to produce disparate outcomes in minority communities. Those outcomes include COVID-19's highly disproportionate impact on persons of color.

"COVID-19 has not been the great equalizer—all it has done is shed light on how minorities are situated differently in this country," Professor Powell said. The history of the United States is a history of who belongs and who doesn't, sentiments that shaped the fundamental structure of our nation and laws still in effect today, Powell explained. It is important to understand that when Oregon was initially incorporated as a state, it attempted to become an "all white" state, which helps explain why the number of African Americans continues to be quite low here. Powell pointed out that when it comes to structural racism, we need to be talking about data and predictable disparate outcomes, not intent. Laws and regulations don't have to be overtly or intentionally racist to manifest in disparate outcomes. He urged listeners to lean into the future by reviewing the data and making laws that work to correct these outcomes.

Powell, a Black man from Detroit, has seen the disparate effects of COVID-19 within his own family. Two of his nieces are nurses in Detroit, and both contracted COVID-19 as a result of the working conditions and insufficient personal protective equipment (PPE) at the hospitals where they worked. Another of Powell's nieces is a doctor at a hospital in Ann Arbor, a wealthy area of Michigan. She was fine, and her hospital had all the PPE it needed. This, Powell explained, was a perfect example of the interplay between structural racism and community health outcomes.

Ben Duncan, the chief equity officer for Multnomah County, noted that when he worked in community health, the health inequities caused by structural racism were quite clear. Duncan pointed out that

it has been long understood that your ZIP code can predict your overall life expectancy, and that minority populations live in areas with lower life expectancies. Differences in access to health care, quality of care received, environmental factors, and healthcare literacy all add up to healthcare inequality.

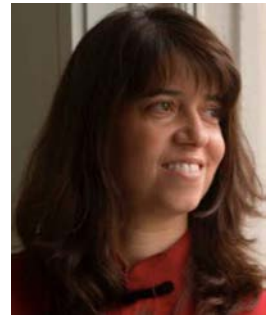
Duncan said that Multnomah County was one of the last Oregon counties to apply for phase 1 reopening because the county wanted a specific strategy for addressing COVID-19's disproportionate effect on Black and Brown residents. He added that while we may not be able to make dynamic changes over night, the pandemic has at least shed some light on these long-standing issues. If we can maintain this light and attention, we as a community may be able to envision future laws and regulations that work toward achieving public health equality.

Nargess Shadbeh, an attorney at the Oregon Law Center, offered some of the starkest illustrations of how COVID-19 has affected minority populations. Representing Oregon farm workers, many of whom are from Central America and Southern Mexico, Shadbeh, an immigrant herself, has fought to ensure that these workers have access to the basic sanitation and housing services necessary to prevent COVID-19 from spreading. The fight has been hard, and slow.

Shadbeh explained that the laws that migrant workers might rely on for protection are really quite weak, and functionally, it is impossible for a migrant worker to call in sick, because there is no meaningful job protection. Most of the laws we are familiar with that ensure sick leave, parental leave, overtime, right to collective bargaining, and unemployment benefits simply do not apply to many farm workers because of many exemptions and exclusions. She explained that the disparate application of some of these employment and workplace laws has no rational justification other than that they were originally founded on racist policies and simply haven't changed over time.

Shadbeh also explained that under current regulations, inspections are triggered only by complaints. No complaints means no inspections. She said, for example, that a female produce-packing worker had contacted her asking for stronger regulations because there had been a COVID-19 outbreak at her workplace and

workers had insufficient social distancing and PPE. The worker had explained that when she'd raised concerns, her employer had labeled her a troublemaker, and now she



Nargess Shadbeh

feared losing her job. This, Shadbeh said, is the fundamental flaw in a complaint-driven inspection system. When workers are afraid to complain, no one will ever see or correct dangerous workplace conditions.

Some OR-OSHA rule changes have been made in view of COVID-19, but as Shadbeh explained, the rules didn't go far enough, and the implementation was too late to prevent the spread of COVID-19 in these immigrant communities. The ratio of workers to toilets before COVID-19 was 20 to 1; now, temporarily, it's 10 to 1, but that is still woefully insufficient. Shadbeh said that the facts are clear: Latinx workers make up 13% of Oregon's population and 30% of our COVID-19 cases. Over half the workplace COVID-19 outbreaks in Oregon have been at food-packing locations. Simply put, the current laws, regulations, and practices that apply to these workers do little to nothing to prevent the spread of COVID-19.

Even so, all three speakers see the possibility for change. As lawyers, Professor Powell said, we can accomplish a lot. As a first step, we need to move away from complaint-driven responses to a framework of audit-based responses. We need to focus not on giving aid packages, but on the structures that will ensure that workers and other underserved groups actually receive that assistance. All three presenters explained that the data are known. Now it's time to re-envision laws to change and correct the known disparate outcomes, and then we will move forward toward racial justice.

Jenna Plank is a senior deputy district attorney at the Multnomah County District Attorney's Office.

1. The other sponsors were the OWLS Foundation; the Multnomah Bar Association Professionalism and Equity, Diversity & Inclusion Committees; and the OSB Civil Rights Section.

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Mary Leonard Chapter Presents Civil Rights CLE on Emmett Till

By Teresa Statler

On April 8, the OWLS Mary Leonard Chapter and the Willamette (Law School) Women's Law Caucus presented a CLE on the 1955 murder of Emmett Till and the subsequent trial. Former Assistant U.S. Attorney Ron Silver, who has lectured extensively on the history of the civil rights movement and about Emmett Till, presented via Zoom. Given the recent horrible killing of George Floyd by the Minneapolis police, and the very public killings of people of color throughout the country this year, Ron's presentation was particularly timely and important.

Ron began by telling us that the Emmett Till case is a horrendous and tragic story and that it is also four other stories: a law enforcement story, a journalism ethics story, a legal story, and a civil rights story. Emmett Till was a 14-year-old Chicago boy who was visiting family in the Delta region of the state of Mississippi in the summer of 1955. On one of those August summer days, while staying with his well-respected great-uncle in the town of Money, Mississippi, Emmett went to the Bryant grocery store to buy some candy.

From there the story diverges, depending on who is telling it. Carolyn Bryant said that Emmett had asked her for sex, but years later she said that wasn't true. (In the intervening years, she also told many other versions of what happened, including a 2017 admission that Emmett had said and done nothing that justified what happened to him.) Perhaps Emmett gave her a wolf-whistle, perhaps he asked her for a date. Ron said that what is most likely is that Emmett touched Carolyn Bryant's hand while giving her the money for his candy and held it for "too long." That would have been considered a serious "transgression of conduct," according to Ron. Although the Bryant store's customers were nearly all Black, kids were "expected to behave in a certain way," Ron said. Emmett may or may not have had a white girlfriend in Chicago, a classmate, and bragged about her. Was he dared to say something "fresh" to Carolyn Bryant? Ron said that this is also unclear.

In any event, that night, Roy Bryant (Carolyn's husband) and his friend J. W. Milam showed up at Emmett's great-uncle's house, where the boy and his cousin

were asleep. After telling Emmett to get up and put his clothes on, Bryant and Milam took him away, disregarding the crying and begging of his great-aunt. The next morning, Emmett's great-uncle went to the Leflore County sheriff to tell him that his nephew had been kidnapped. Upon their arrest by the sheriff, Bryant and Milam admitted that they had taken Emmett, but said that they had "released" him. Shortly thereafter, Emmett's mutilated body was found floating in the Tallahatchie River, one county over from where he had been kidnapped.

A jurisdictional fight ensued between the corrupt and racist sheriff of Tallahatchie County and the sheriff of Leflore County, who knew Emmett's family, as to where any crime would have occurred, and where a trial should be held. There were immediate calls for justice from civil rights leaders such as Roy Wilkins. Emmett's mother, Mamie Till, demanded that Emmett's body be shipped back to Chicago, where she insisted on an open casket so that the world could see what had been done to her son. The famous photograph of Emmett's mutilated body in his coffin was published by *Jet* magazine and seen nationwide.

Bryant and Milam were eventually indicted in Tallahatchie County, where, Ron said, the state had a good team of prosecutors. Ron mentioned, however, that two Black witnesses to Emmett's murder and kidnapping were kept in hiding by the Tallahatchie County sheriff to prevent their testimony. The defense team put forth two legal arguments: that Emmett was not really dead (his body was extremely bloated and his face unrecognizable), and that if he was dead, it was "justifiable homicide." (Emmett's body was positively identified by the ring on his finger.)

On September 19, 1955, the kidnapping and murder trial of Bryant and Milam began in Sumner, Mississippi. Five days later, an all-white, all-male jury acquitted



Ron Silver



The shed where Emmett Till was killed

Photo: Ron Silver

the two men, after deliberating for a little over an hour. During the trial, Black press and photographers were forced to stay in the back of the courtroom; white journalists were allowed up front.

The acquittal caused national and international outrage and helped spark the American civil rights movement, just as the death of George Floyd at the hands of the Minneapolis police has sparked an unprecedented national uprising for true and radical change to the current status quo. Ron mentioned that Rosa Parks had attended a sermon at Dr. King's church about the injustice done to Emmett Till just days before she refused to give up her seat on a bus in Montgomery, Alabama. She was thinking about Till when she was challenged. Bryant and Milam confessed to their crime just months after their acquittal, in the January 1956 issue of *Look* magazine. They suffered no legal ramifications. The journalist suppressed evidence of others being involved so he could get the article published.

Ron's presentation was illustrated with photographs, maps, and other memorabilia of this American tragedy. He recommended several books, including *Emmett Till*, by Devery Anderson; *Simeon's Story*, by Simeon Wright, Emmett's cousin who was asleep with him the night he was kidnapped; and *The Blood of Emmett Till*, by Timothy B. Tyson, a book that appears on many must-read book lists that discuss racism in America. Thank you, Ron, for an excellent, timely presentation.

Teresa Statler has a solo immigration law practice in Portland. She is also the chair of the AdvanceSheet Committee.

CLE on Insurance in the Time of COVID-19

By Joslyn Keating

In collaboration with the OWLS Membership Committee, attorneys Gabriel Le Chevallier and Kevin Sasse from Parsons Farnell & Grein's insurance recovery group put on a free one-credit Zoom CLE on April 7. The presenters discussed insurance policy coverages and exclusions potentially applicable to coronavirus-related business losses. Gabriel explained that most property policies contain one or more exclusions that may prevent recovery from coronavirus-related losses. Examples include virus and bacterial exclusions. However, he suggested that even if an exclusion appears applicable, certain exceptions may be creatively applied to overcome the exclusion—for example, the civil commotion exception. Kevin suggested that if the exclusion does not say "virus," it may not apply.

Gabriel also explained that many property policies have standard business interruption coverage, which covers income loss caused by the physical loss or property damage of others, like suppliers or customers. He argued that coronavirus-related business interruptions constitute "physical loss or damage"

analogous to losses caused by wildfire smoke, such that they should be covered under many property policies in Oregon.

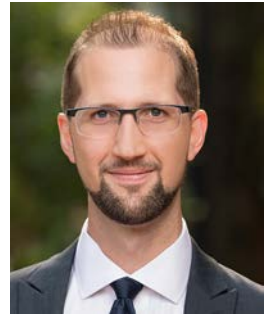
Kevin identified other insurance policies directly implicated by the COVID-19 pandemic, including pollution liability policies, accidental contamination/recall policies, and event cancellation policies. He also explained that as the pandemic continues, three other types of policies will be implicated: those covering general liability, employment practices liability, and employer liability. Kevin foretold the likely increase in insurance company bankruptcies due to the onslaught of coronavirus-related claims. Although Oregon law does not typically allow a bankruptcy to absolve an insurance company of its obligations to policyholders, Kevin stressed the importance of filing a



Gabriel Le Chevallier

claim as soon as possible if the insurance company appears to be headed toward insolvency.

Both presenters emphasized the importance of giving notice to the insurance company under all potentially implicated policies, even if the policyholder is unsure whether such notice is required or whether coverage is available. Future legal and legislative changes may provide coverage in circumstances in which it was otherwise thought to be absent. In the event that coverage is or becomes available, policyholders need to have preserved their claims by giving timely notice.



Kevin Sasse

Joslyn Keating is an attorney for Tolleson Conratt Nielsen Maher & Replogle in Tigard. She represents employers and businesses.

Judicial Work Group & Road to the Bench Get a Revamp

By Kathryn Olney

The Road to the Bench program has long been one of Oregon Women Lawyers' signature benefits to its members. It has offered a handbook containing guidance on whether to apply to become a judge and information about the process. And the OWLS Judicial Work Group offered personalized application review and feedback, as well as mock interview assistance.

Over time, requests for assistance from the Judicial Work Group exceeded capacity, and several committee members predictably became burned out and asked to step aside. Therefore, over the past two years, a new Judicial Work Group has taken shape. The work group has redefined the purpose of the Road to the Bench program, and with it, the handbook.

The handbook has been reimagined in a more concise form, and in two versions: one for OWLS members applying for state circuit courts, and one for OWLS members applying for federal judicial

or magistrate positions. Jennifer Nichols, Judge Kate von Ter Stegge, and Kathryn Olney wrote the state version, which is now available to OWLS members. Susan Pitchford is drafting the federal version, which we hope to make available by fall.

Once the new handbooks are available, the work group will begin developing a guide for a "CLE in a Box." The hope is that local chapters, whose members are familiar with the courts in their area, will be able to use this guide to put on a CLE for their own members with relevant, local insights. The guide will offer easy programming for the chapters, expand the number of OWLS members applying for judgeships outside the Willamette Valley, and spread the work of the committee across a sustainable number of people.

The Judicial Work Group also supported the Membership Committee in the brilliant, pandemic-responsive webcast that the Membership Committee produced in April. OWLS members running for an open circuit court seat in Multnomah

County participated in a Facebook Live town hall on April 24. This town hall drew on some of the information contained in the new handbook, which the Membership Committee used to great effect in its presentation. The town hall video had almost 500 views before the election, giving both OWLS members and the wider public a way to evaluate the judicial candidates. While the event was designed to assist in an election in which the pre-pandemic rules of campaigning could not apply, it offered everyone—candidates and voters—a way to participate that may find value in the future.

The OWLS Judicial Work Group is looking for new members, and for chapters interested in putting on a Road to the Bench CLE in the months ahead. Please contact the co-chairs, [Jennifer Nichols](#) and [Kathryn Olney](#), if you are interested.

Kathryn Olney is a trial attorney for SAIF Corporation in Bend.