

**Oregon State Bar**  
**2015 House of Delegates Meeting**

*Oregon State Bar Center  
16037 SW Upper Boones Ferry Road  
Tigard, Oregon 97224  
503.620.0222  
Friday, November 6, 2015  
10:00 a.m.*

Oregon State Bar

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Dear Oregon State Bar Member:

I am pleased to invite you to the 2015 OSB House of Delegates meeting, which will begin at **10:00 a.m.** on **Friday, November 6, 2015**, at the Oregon State Bar Center.

The principal item agenda for the meeting is a resolution to increase the annual active membership fee by \$50, the first such increase in 10 years. Because the BOG has reduced the Client Security Fund assessment by \$30, the net increase for members will actually be \$20.

Other items on the meeting agenda are the annual recognition of deceased members, and resolutions to support adequate funding for low-income legal services and in honor of veterans and service personnel. The meeting will also feature a discussion with Chief Justice Thomas Balmer on changes occurring in the practice of law and the justice system, and how we can preserve the core values of the profession as we address those changes.

All bar members are welcome and encouraged to participate in the discussion and debate of HOD agenda items, but only delegates may vote on resolutions. If you are unable to attend, please contact one of your delegates to express your views on the matters to be considered. Delegates are listed on the bar's website at [www.osbar.org/docs/leadership/hod/hodroster.pdf](http://www.osbar.org/docs/leadership/hod/hodroster.pdf).

Following the HOD meeting (at approximately 12:00 p.m.) please join us in the OSB lobby as we launch a new exhibit of photographs that speak to the bar's efforts at diversity and inclusion. Sandra K. Bannister is a local artist whose photographs range from local to international subjects and have been featured in venues from the Lake Oswego Festival of the Arts to National Geographic magazine. Light refreshments will be served and you will have the opportunity to meet Sandra and discuss her work.

If you have questions concerning the House of Delegates meeting, please contact Camille Greene, Executive Assistant, by phone at 503-431-6386, by e-mail at [cgreene@osbar.org](mailto:cgreene@osbar.org), or toll free inside Oregon at 800-452-8260 ext 386. Remember that delegates are eligible for reimbursement of round-trip mileage to and from the HOD meeting. Reimbursement is limited to 400 miles and expense reimbursement forms must be submitted within 30 days after the meeting.

I look forward to seeing you at the HOD Meeting on November 6, and I thank you in advance for your thoughtful consideration and debate of these items.



Richard G. Spier, OSB President

# OREGON STATE BAR

## 2015 House of Delegates Meeting AGENDA

Oregon State Bar Center, 16037 SW Upper Boones Ferry Road, Tigard, Oregon 97224

10:00 a.m., Friday, November 6, 2015

Presiding Officer: Richard G. Spier, OSB President

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### Reports

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| 1. Call to Order<br><i>Rich Spier<br/>OSB President</i>                    | 4. Conversation with the Chief Justice of the Oregon Supreme Court<br><i>Thomas A. Balmer, Chief Justice<br/>Oregon Supreme Court</i>       |
| 2. Adoption of Final Meeting Agenda<br><i>Rich Spier<br/>OSB President</i> | 5. Report of the Board of Governors Budget and Finance Committee & Notice of 2016 Annual Fees<br><i>Ray Heysell<br/>OSB President-elect</i> |
| 3. Report of the President<br><i>Rich Spier<br/>OSB President</i>          | 6. Overview of Parliamentary Procedure<br><i>Alice M. Bartelt, Parliamentarian</i>  |
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### Resolutions

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| 7. Increase 2016 Active Membership Fees (Board of Governors Resolution No. 1)<br><i>Ray Heysell, OSB President-elect</i>                                   | 10. Support for Adequate Funding for Legal Services to Low-Income Oregonians (Delegate Resolution No. 1)<br><i>Kathleen Evans, HOD, Region 6<br/>Gerry Gaydos, HOD, Region 2<br/>Ed Harnden, HOD, Region 5</i> |
| 8. In Memoriam (Board of Governors Resolution No. 2)<br><i>James Chaney, BOG Member<br/>Kathleen Rastetter, BOG Member<br/>Vanessa Nordyke, BOG Member</i> | <b><u>Resolution Excluded from Preliminary Agenda</u></b>  |
| 9. Veterans Day Remembrance (Board of Governors Resolution No. 3)<br><i>Kerry Sharp, BOG Public Member</i>   | 11. Provide for Intoxilyzer Devices at OLCC Licensed Establishments (Delegate Resolution No. 2)<br><i>Danny Lang, HOD Region 3</i>   |
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### Resolutions

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#### 7. Increase 2016 Active Membership Fees (Board of Governors Resolution No. 1)

*Whereas*, the OSB Board of Governors is charged by ORS 9.080(1) with the executive functions of the Oregon State Bar, which includes assuring there are adequate resources for bar operations; and

*Whereas*, the annual membership fee is established by the Board of Governors and any increase over the amount established for the prior year must be approved by a majority of delegates voting thereon at the annual meeting of the House of Delegates, pursuant to ORS 9.191(1); and

*Whereas*, the annual membership fee has not been increased since 2006; and

*Whereas*, the Board of Governors has determined that an increase is required to maintain the current level of programs and services; now, therefore, be it

*Resolved*, that the 2016 Oregon State Bar membership be for active members be increased by \$50.

*Presenter: Ray Heysell  
OSB President-elect*

### **Background**

The Board of Governors takes seriously its obligation to use the bar's resources wisely, especially since most of the bar's annual revenue comes from the mandatory annual membership fees. Over the last ten years, the BOG has continued and improved operations without an active membership fee increase. During that time, and while managing fiscal operational and investment control during the Great Recession, the Bar acquired the current OSB Center, made BarBooks a benefit of membership (with help from an annual PLF contribution), and has embarked on the acquisition of new organizational management software. Also during that period, non-personnel costs have been reduced to 26% of what they were in 2006 and, with the implementation of a new business model for Lawyer Referral, the Referral & Information Program has gone from an annual expense of approximately \$280,000 to being self-supporting.

Despite these accomplishments, however, it has become clear to the BOG that the current level of programs and services cannot be maintained without an increase in the annual membership fee.

To offset the impact of the fee increase, the BOG has reduced the Client Security Fee assessment from \$45 to \$15. Members will recall that when the BOG increased the CSF assessment in 2013 it was with the assurance that the assessment would be reduced once the reserve had been rebuilt. As of September 30, the CSF reserve was slightly in excess of \$1 million, the new reserve established by the BOG. With the reduction in the CSF assessment, the net effect of the \$50 fee increase will be \$20.

The following chart shows the total of 2016 fees (including the reduced CSF assessment and the Diversity & Inclusion assessment) with the proposed \$50 membership fee increase:

<i>Membership Category</i>	<i>If paid by February 1, 2016</i>	<i>If paid after February 1 but by March 2, 2016</i>	<i>If paid after March 2, 2016</i>
<i>Active members admitted in any jurisdiction before 1/1/13</i>	<i>\$557.00</i>	<i>\$607.00</i>	<i>\$657.00</i>
<i>Active members admitted in any jurisdiction on or after 1/1/13</i>	<i>\$470.00</i>	<i>\$520.00</i>	<i>\$570.00</i>
<i>Inactive members</i>	<i>\$125.00</i>	<i>\$150.00</i>	<i>\$175.00</i>
<i>Active pro bono members</i>	<i>\$125.00</i>	<i>\$125.00</i>	<i>\$125.00</i>

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**8. In Memoriam**  
**(Board of Governors Resolution No. 2)**

*Resolved*, That the OSB House of Delegates and members assembled stand for a moment of silence in honor of the members of the Oregon State Bar who have died since the 2014 House of Delegates Meeting.

Donald K Armstrong	Carol A Emory	Elton T Lafky	Oliver I Norville
Donn C Bauske	Edward N Fadeley	Dale D Liberty	W Wallace Ogdahl
Donald A Bick	Bradley D Fancher	Hon Charles P Littlehales	Clifford B Olsen
Jerold L Billings	Frank M Flynn	Ronald L Marceau	Campbell Richardson
Delbert J Brenneman	Richard A Franzke	Wally P Martin	Jonel K Ricker
Rustin A Brewer	Eric R Friedman	Bruce R McCain	William Samuel Simpson
Hon Anthony L Casciato	David B Frohnmayer	Richard L Meigs	Kerry M L Smith
Constance Crooker	Kathleen M Gatti	James B Minturn	Patricia Bridge Urquhart
William D Dials	Richard M Ginsburg	Ann L Morgan	Robert L Weiss
Jonathan W Diehl	Bruce E Jarman	Rachel Negra	Bruce W White
John L DuBay	Andrew P Kerr	Marvin S Nepom	Richard J Whittemore

*Presenters:*  
*James Chaney, BOG, Region 2*  
*Kathleen Rastetter, BOG, Region 7*  
*Vanessa Nordyke, BOG, Region 6*

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**9. Veterans Day Remembrance**  
**(Board of Governors Resolution No. 3)**

*Whereas*, Military service is vital to the perpetuation of freedom and the rule of law;  
and

*Whereas*, Thousands of Oregonians have served in the military, and many have given  
their lives; now, therefore, be it

*Resolved*, That the Oregon State Bar hereby extends its gratitude to all those who have served  
and are serving in the military, and further offers the most sincere condolences to the families  
and loved ones of those who have died serving their country.

*Presenter: Kerry Sharp*  
*Board of Governors, Public Member*

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**10. Support of Adequate Funding for Legal Services for Low-Income Oregonians**  
**(Delegate Resolution No. 1)**

*Whereas*, providing equal access to justice and high quality legal representation to all Oregonians is  
central to the mission of the Oregon State Bar;

*Whereas*, equal access to justice plays an important role in the perception of fairness of the justice  
system;

*Whereas*, programs providing civil legal services to low-income Oregonians is a fundamental component of the Bar's effort to provide such access;

*Whereas*, since 1998, pursuant to ORS 9.575, the Oregon State Bar has operated the Legal Services Program to manage and provide oversight for the state statutory allocation for legal aid in accordance with the Bar's Standards and Guidelines (which incorporate national standards for operating a statewide legal aid program);

*Whereas*, during the great recession the staffing for legal aid programs was reduced while the poverty population in Oregon increased dramatically, thus broadening "the justice gap" in Oregon;

*Whereas*, Oregon's legal aid program currently has resources to meet about 15% of the civil legal needs of Oregon's poor creating the largest "justice gap" for low-income and vulnerable Oregonians in recent history;

*Whereas*, Oregon currently has 1 legal aid lawyer for every 8,900 low-income Oregonians, but the national standards for a minimally adequately funded legal aid program is 2 legal aid lawyers for every 10,000 low-income Oregonians;

*Whereas*, assistance from the Oregon State Bar and the legal community is critical to maintaining and developing resources that will provide low-income Oregonians meaningful access to the justice system; now, therefore, be it

*Resolved*, that the Oregon State Bar;

(1) Strengthen its commitment and ongoing efforts to improve the availability of a full range of legal services to all citizens of our state, through the development and maintenance of adequate support and funding for Oregon's legal aid programs and through support for the Campaign for Equal Justice.

(2) Request that Congress and the President of the United States make a genuine commitment to equal justice by adequately funding the Legal Services Corporation, which provides federal support for legal aid.

(3) Work with Oregon's legal aid programs and the Campaign for Equal Justice to preserve and increase state funding for legal aid and explore other sources of new funding.

(4) Actively participate in the efforts of the Campaign for Equal Justice to increase contributions by the Oregon legal community, by establishing goals of a 100% participation rate by members of the House of Delegates, 75% of Oregon State Bar Sections contributing \$50,000, and a 50% contribution rate by all lawyers.

(5) Support the Oregon Law Foundation and its efforts to increase resources through the interest on Lawyers Trust Accounts (IOLTA) program, and encourage Oregon lawyers to bank at OLF Leadership Banks that pay the highest IOLTA rates.

(6) Support the Campaign for Equal Justice in efforts to educate lawyers and the community about the legal needs of the poor, legal services delivery and access to justice for low-income and vulnerable Oregonians.

(7) Encourage Oregon lawyers to support civil legal services programs through enhanced pro bono work.

(8) Support the fundraising efforts of those nonprofit organizations that provide civil legal services to low-income Oregonians that do not receive funding from the Campaign for Equal Justice.

## Background

“The mission of the Oregon State Bar is to serve justice by promoting respect for the rule of law, by improving the quality of legal services and by increasing access to justice.” OSB Bylaw 1.2. One of the four main functions of the bar is to be “a provider of assistance to the public. As such, the bar seeks to ensure the fair administration of justice for all.” *Id.*

The Board of Governors and the House of Delegates have adopted a series of resolutions supporting adequate funding for civil legal services in Oregon (Delegate Resolutions in 1996, 1997, 2002, 2005–2014). This resolution is similar to the resolution passed in 2014, but provides updates on the ratio of legal aid lawyers to Oregonians eligible for legal aid services.

The legal services organizations in Oregon were established by the state and local bar associations to increase access for low-income clients. The majority of the boards of the legal aid programs are appointed by state and local bar associations. The Oregon State Bar operates the Legal Services Program pursuant to ORS 9.572 to distribute the state statutory allocation for civil legal services and provide methods for evaluating the legal services programs. The Campaign for Equal Justice works collaboratively with the Oregon Law Foundation and the Oregon State Bar to support Oregon’s legal aid programs. The Bar and the Oregon Law Foundation each appoint a member to serve on the board of the Campaign for Equal Justice.

Oregon’s legal aid program consists of four separate non-profits that work together as part of an integrated service delivery system designed to provide high priority free civil legal services to low-income Oregonians in all 36 Oregon counties through offices in 17 communities. There are two statewide programs, Legal Aid Services of Oregon (LASO) and the Oregon Law Center (OLC); and two county wide programs, Lane County Legal Aid and Advocacy Center and the Center for Non-Profit Legal Services (Jackson County). Because the need is great and resources are limited, legal aid offices address high priority civil legal issues such as safety from domestic violence, housing, consumer law, income maintenance (social security, unemployment insurance, and other self-sufficiency benefits), health, employment and individual rights. About 35% of legal aid’s cases are family law cases, usually helping victims of domestic violence. All of these programs work to stretch limited resources through pro bono programs and self help materials. Legal aid’s website, [oregonlawhelp.com](http://oregonlawhelp.com) receives about 130,000 unique visitors a year.

Providing access to justice and high quality legal representation to all Oregonians is a central and important mission of the Oregon State Bar. An Oregon study concluded that low-income Oregonians who have access to a legal aid lawyer have a much improved view of the legal system compared with those who do not have such access: 75% of individuals without access to a lawyer were negative about the legal system, but of those who had access to a legal aid lawyer, 75% had a positive view of the legal system regardless of the outcome of their case.

The 2014 Task Force on Legal Aid Funding, which included representatives of the Bar, the Law Foundation, the judiciary, the legislature and private practice concluded that legal aid funding should be doubled over the next 10 years. Because funding for legal aid is a state, federal and private partnership, with about 80 different sources of funding, increases in funding must be made across the board to address the justice gap.

Currently, slightly more than 20% of lawyers contribute to the Campaign for Equal Justice, but in some Oregon regions (Jackson County and Lane County, for example), participation is as high as 40%.

*Presenters:*

*Kathleen Evans, HOD, Region 6*

*Gerry Gaydos, HOD, Region 2*

*Ed Harnden, HOD, Region 5*

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### **Excluded Resolution**

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*The BOG has excluded the following delegate resolution pursuant to OSB Bylaw 3.4 and HOD Rule 5.5:*

#### **11. Provide for Intoxilyzer Devices at OLCC Licensed Establishments (Delegate Resolution No. 2)**

*Whereas*, ORS 813.010 is the Oregon Statute prohibiting "Driving Under the Influence".

*Whereas*, it is difficult, without testing, to determine the Blood Alcohol Content Level of a person;

*Whereas*, Establishments Licensed by the OLCC are also prohibited from serving *Visibly Intoxicated Persons*;

*Whereas*, violation of ORS 813.010 is a Class A Misdemeanor and may also result in the offense being charged as a Felony;

*Whereas*, it is well known and acknowledged that driving under the influence of Alcohol results in far too many Deaths, Serious Injuries, and Substantial Collision Damages;

*Whereas*, it is not unlawful to consume Alcoholic Beverages and operate a Motor Vehicle;

*Whereas*, newer technology makes it possible to quickly obtain a Breath Test Result using Intoxilyzer type device;

*Whereas*, the Insurance Industry would benefit from fewer Claims arising from "Alcohol Related Motor Vehicle Accidents";

*Whereas*, fewer Alcohol Related Motor Vehicle Accidents would result in lower Insurance Premiums upon the reduction of DUII related accidents;

*Whereas*, the Oregon Judicial Department would realize a fiscal benefit by the reduction in number of DUII Cases filed; Jury Trials; and related matters such as Diversion Proceedings.

*Whereas*, availability in Real Time of a Person's Blood Alcohol Content will serve as a deterrent and Crime Prevention Measure;

*Whereas*, making available Intoxilyzer type devices in Establishments licensed to serve Alcoholic Beverages would forcibly provide Patrons, Servers, and the Establishments with an objective indication of impairment in addition to relying upon *Visible Intoxication*;

*Whereas*, in Advancement of the Science of Jurisprudence [pursuant to Section 1.2 - Purposes of the By-Laws of the Oregon State Bar] involve matters of Moral and Legal Interest of the Oregon State Bar Members; now, therefore, be it

*Resolved*, that the House of Delegates recommend and encourage the Board of Governors, in the furtherance of the improvement of the Administration of Justice to recommend to Oregon Legislature a study of statistics and Oregon Administrative Rules regulating the Establishment serving of Alcoholic Beverages to study implementation of incentives or requirements the Intoxylizer type devices be available for use by Patrons during hours when Alcoholic Beverages are served, so as to make available the means and methods for determining a Patron's Blood Alcohol Content in addition to reliance upon *Visible Intoxicated*.

#### **Financial Impact**

No fiscal impact upon Oregon State Bar. Funding for implementation may be obtained from revenues from Alcoholic Beverage taxes and/or OLCC Licensee Permit Fees.

Note: Oregon Judicial Department savings noted above would likely offset cost of implementation.

*Presenter:*  
*Danny Lang, HOD, Region 3*