



Oregon Law Institute  
of Lewis & Clark Law School

# *Pretrial Litigation Skills 101*

**A** practical course on pretrial litigation, taught by experienced litigators, focused on the day-to-day decisions you have to make and the actions you have to take when bringing and litigating civil cases in Oregon.

This fast-paced seminar goes beyond the rules and covers the key procedural issues facing civil litigators in Oregon — matters preliminary to suit, complaints, filing and service of process, answers, affirmative defenses and counterclaims, Rule 21 motions, discovery, dispositive motions, case valuation and settlement strategy, and much more. This course is designed to provide key strategic considerations, procedural solutions, and practice tips to increase the effectiveness of your litigation practice.

This seminar features 11 sessions on important procedural phases and issues before trial. It includes question-and-answer sessions allowing follow-up to the presentations. Written course materials will also have a practical focus, including sample forms and checklists. From beginning to end, you will enjoy and learn from these short, practical course segments.

**NEW!**  
**Now available  
as live webcast!**

**Friday, May 4, 2012**

Oregon Convention Center  
777 NE Martin Luther King Jr. Blvd.  
Portland, Oregon

6.5 General or Practical Skills  
MCLE Credits

# FACULTY

## Barbara Baughman

*Free Lance Investigations & Process Serving*

## Eric L. Dahlin

*Davis Wright Tremaine LLP*

## Timothy S. DeJong

*Stoll Berne*

## Susan K. Eggum

*Cosgrave Vergeer Kester LLP*

## Hwa Go

*Harrang Long Gary Rudnick PC*

## Katherine Heekin

*Program Co-Planner  
The Heekin Law Firm*

## Lisa A. Kaner

*Markowitz Herbold Glade & Mehlhaf PC*

## Matthew A. Levin

*Markowitz Herbold Glade & Mehlhaf PC*

## Hon. Lynn R. Nakamoto

*Program Co-Planner  
Oregon Court of Appeals*

## Seth H. Row

*Parsons Farnell & Grein LLP*

## Trung D. Tu

*McEwen Gisvold LLP*

## Deanna L. Wray

*Bodyfelt Mount LLP*

## Richard S. Yugler

*Landye Bennett Blumstein LLP*

# SCHEDULE

8:00 a.m.

LATE REGISTRATION AND DISTRIBUTION OF MATERIALS

8:35

WELCOME AND PROGRAM OVERVIEW

- **Hon. Lynn R. Nakamoto**
- **Katherine Heekin**

8:45–9:15

## Matters Preliminary to Suit

- Your client's goals
  - Plan for resolution
  - Demand letters, tolling agreements, other remedies
  - Potential claims
  - Choice of state or federal forum (jurisdictional questions, practical concerns)
  - Choice of parties, ensuring you have identified the correct party, personal jurisdiction
  - Venue
- **Lisa A. Kaner**

9:15–9:45

## Complaints

- What rules govern
  - Form of pleadings
  - Pleading special matters
  - What claims and why—strategic considerations
  - Your client's involvement
  - Signing and sanctions
- **Matthew A. Levin**

9:45–10:15

## Filing and Service of Process in Oregon Circuit Court

- How is process served?
- What the rules require

- When and how to file a civil case
  - Filing fees for civil case filings in circuit court
  - How may process be served (rules and statutes allowing service, tactical aspects, and selecting method of service)
  - Serving out-of-state parties
- **Barbara Baughman**

10:15–10:30

BREAK

10:30–11:00

## Answers, Affirmative Defenses, and Counterclaims and Cross Claims

- Is filing an answer the correct response? (Rule 21 motion; removal)
  - What the rules require
  - How do you decide what to admit and deny?
  - Affirmative defenses
  - Counterclaims and cross claims
  - Signing and sanctions
  - Filing and serving (including what to do if there are multiple plaintiffs and defendants)
- **Eric L. Dahlin**

11:00–11:30

## Rule 21 Motions

- Different kinds of Rule 21 motions and waivable grounds for dismissal
  - Whether and how to file on pleading issues and prerequisites
  - Whether to file a Rule 21 A(8) motion—strategy
  - Whether to file other kinds of Rule 21 motions—strategy
  - Extrinsic evidence—which kinds of motions allow
  - Responses to Rule 21 motions and leave to replead
- **Deanna L. Wray**

# SCHEDULE (cont.)

11:30–11:45

## Questions and Answers

11:45–1:00

LUNCH (on your own)

1:00–1:30

## Replies and Amending Pleadings

- When can and should you file a reply?
- Amending the pleadings—when can and should you?
- How do you file an amended complaint? (as of right or motion for leave to file one)
- How do you file an amended answer?
- Effect of admissions in pleadings
- Effect of amendment to parties and claims (relation back)
- Time to respond to the amended pleading  
– *Hwa Go*

1:30–2:00

## Settlement Evaluation During Litigation and Rule 54 E Offers of Judgment

- Case valuation for settlement
- Strategies for settlement
- How to maximize your client's results
- How to make and accept offers of judgment  
– *Richard S. Yugler*

2:00–2:30

## Overview of Formal Discovery Practice in Oregon Courts

- When discovery is allowed and the proper scope of discovery
- Types of discovery allowed and disallowed in Oregon
- Form, timing, and strategy for written discovery requests
- How to set up a deposition of a party  
– *Trung D. Tu*

2:30–2:45

BREAK

2:45–3:15

## Third-Party and Informal Discovery—Strategy and Ethical Limits

- Factors to weigh in deciding whether to interview or depose third parties
- How to avoid making yourself a witness when an interviewed third party changes course at trial
- Ethics of dealing with third parties and maintaining client confidences
- When you should start with a records subpoena before a deposition subpoena
- Timing of third party depositions
- How to set up a deposition of a third party  
– *Susan K. Eggum*

3:15–3:45

## Resolving Discovery Disagreements

- What do you do when opposing counsel raises objections to written discovery or a request for a deposition?
- Conferral and negotiations over discovery disputes
- Motions to compel
- Motions to quash and for protective orders
- Sanctions  
– *Seth H. Row*

3:45–4:15

## Dispositive Motions

- Strategic considerations for whether to file
- Formal requirements for papers filed in support of, or in opposition to, a motion
- Service and filing of motion papers
- Oral argument
- Reconsideration  
– *Timothy S. Dejong*

4:15–4:30

## Questions and Answers

4:30 p.m.

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### VIDEO REPLAYS

Please register at least one week prior to the replay date.

**Bend** – 5/18/12

**Replay 8:30 a.m.**

Bryant Lovlien & Jarvis  
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**Eugene** – 5/11/12

**Replay 8:30 a.m.**

Harrang Long Gary & Rudnick PC  
360 East 10th Avenue, Ste. 300

**Portland** – 5/23/12

**Replay 9:00 a.m.**

Oregon Law Institute  
Gus J. Solomon Courthouse  
620 SW Main Street, Ste. 706

### PROGRAM PRODUCTS

Even if you cannot attend, you can still get the program on CDs or DVDs. Use the order form in this brochure to order your set today! OLI Annual Passholders may purchase OLI program products at 50% off the full retail price.

### QUESTIONS?

Please call OLI at (503) 768-6580 in Portland or toll-free in Oregon at (800) 222-8213, e-mail us at [oli@lclark.edu](mailto:oli@lclark.edu), or visit our website at <http://go.lclark.edu/oli>.

## Pretrial Litigation Skills 101

Friday, May 4, 2012

Name	OSB No. or Profession
Firm/Organization	
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Please "✓" appropriate box below:

- Live presentation
- Video replay. Location: \_\_\_\_\_ Date: \_\_\_\_\_  
Please register at least one week prior to the replay date.

**LIVE AND VIDEO TUITION** *Must be received by 4/30/12 for discounted rate*

- \$189 Early registration
- \$139 New attorneys (admitted 2009–2011) and legal staff
- \$95 Legal aid attorneys
- \$15 OLI Passholder (OLI Pass No. \_\_\_\_\_) and Oregon judges and their lawyer staff
- \$20 **Add to above tuition if registration received after 4/30/12**

**COURSE MATERIALS** *Included with registration. Please select one:*

- Electronic course book (a link to a PDF of the materials will be emailed no later than 48 hours prior to the seminar date)
- Print version

**LIVE WEBCAST REGISTRATION**

New! This program will be broadcast LIVE over the internet on Friday, May 4, 2012, starting 8:35 a.m. Pacific Time. You may access this event from anywhere with an established internet connection. The webcast will include video and audio of the speakers and seminar handout materials — all on your computer! To register for the live webcast, please click [here](#) or go to our website at <http://go.lclark.edu/oli> and click on "Webcasts." See the next page for more details.

**PRODUCT ORDER** *I am unable to attend.*

- \$209 Audio CDs and print course book
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 ([oli@clark.edu](mailto:oli@clark.edu)) this registration form to  
 OLI, including credit card information.

**CONFIRMATION:** Confirmation will be sent via e-mail.**CANCELLATION POLICY:** Tuition minus a \$20 handling charge will be refunded if the cancellation request is *written and received* by Monday, April 30, 2012.**NEED ASSISTANCE:** If you are a person with a disability, please let OLI know in time to make any necessary accommodations for you.**TUITION ASSISTANCE:** A limited number of scholarships are available based on financial need. Contact OLI.**QUESTIONS?** Call (503) 768-6580 or (800) 222-8213. Check out our website at <http://go.lclark.edu/oli> or e-mail us at [oli@clark.edu](mailto:oli@clark.edu).



OLI is pleased to present this seminar as a live webcast. Click [here](#) to register.

### **GENERAL INFORMATION:**

Just like a live seminar, you attend a webcast at a scheduled time, only you do it from a web page on your computer. Webcasts include video and audio of the speakers, slides, and seminar handout materials — all on your computer! As an additional value, all citations listed in the seminar materials will be linked via **Casemaker** to the actual cases in that library! They call this “CLE to Work” and we feel that it will help connect your CLE experience to the work on your desk.

After registration, you will be notified via email with instructions for watching the webcast. It is highly recommended that you test your computer system a few days before the webcast to make sure everything runs smoothly on your computer. Once you purchase the webcast it will appear in your online account under “Available Courses.” By clicking on the course title, you will open the webcast viewing page and a test video will be playing. You should see video and hear audio when the player page is open even before the date of the webcast. If you have difficulties with logging in or sound quality, you would call online support at 1-800-747-1719 or email [support@bizvision.com](mailto:support@bizvision.com).

You must view the webcast replay on the date it is presented to earn live credits. You have two months following the date of the original webcast to view the program. If you do not view the program on the live replay date, you will earn self-study CLE credits and not live CLE credits.

### **MATERIALS:**

Online versions of the course material are included in your webcast registration fee and will be available as PDFs for viewing, downloading or printing during and after the webcast. For two months following the program you will also continue to have access to the materials linked to case law through Casemaker!

### **No-Shows:**

Can't attend the live webcast? Register for the webcast and watch an archived video of the seminar at your convenience. The archived video will be available two weeks after the live webcast and you will have access for two months. A link to download and print the materials will be sent to those who fail to cancel in advance of the program. No refunds will be issued.