

# THE ATTRACTIVE NUISANCE

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## 2013 Officers:

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## The President's Message

*By Brian Joos, Esq.*

I'm a big picture guy, or to put it another way, I'm a fan of context. So if I'm working in the office, say writing a demand letter or drafting a Complaint or an Answer, I might have in the recesses of my mind that I'm doing this because I am a lawyer.

And I might remind myself that lawyers, more so than the representatives of any other profession, have been at the center of nearly every great and enduring event in the history of this country. For instance, many of the original signatories of the Declaration of Independence were lawyers, as were most of the delegates at the Constitutional Convention. Those two documents are perhaps the greatest legacy this country has left to the world, eloquent in their simplicity and authoritative in the positive change they have influenced worldwide over the intervening centuries. And who could forget that other lawyer, Abraham Lincoln, who succeeded in preserving the Constitution against succession, which was at the time the Constitution's greatest challenge, and still somehow

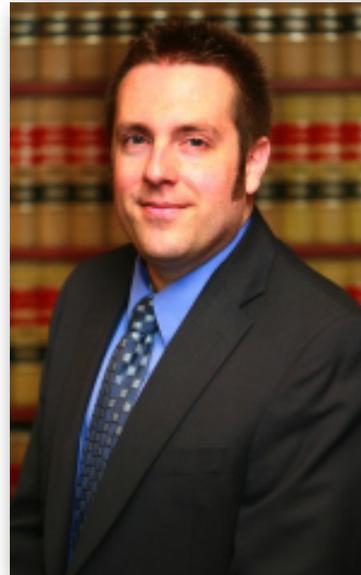
found the time and energy during his life to try literally thousands of court cases? Thriving in the professional landscape these great attorneys left are certain men and women we all know and admire in the present, who work every day in the service of noble causes, and who take on the resolution of hard cases and messy transactions.

We all know a few of these people, but what is it that makes them stand out? These are a few traits that I believe these men and women share:

**1. They have a keen and profound awareness that the law is a service profession.**

They are responsive and empathetic to clients and proactive in serving those clients' needs. They do not shrink from the less desirable aspects of the job. The legendary DC attorney Daniel Reznick, who has tried many seminal cases before the U.S. Supreme Court, once said, "The best lawyers I know have the shortest lists of the tasks they consider beneath them."

**2. They are men and women with integrity.** These people do not play



## Upcoming:

April 1, 2013

Tech Pitfalls  
by Paul Sullivan

May 6, 2013

TBA  
by Mike Larsen

tactical games. They are straightforward, reliable, and trustworthy. They always take responsibility for mistakes and share credit for good work. They do not merely comply with the Rules of Professional Conduct; they take honesty seriously.

**3. They are respectful and professional in their dealings no matter who they are dealing with.** No one would admire a lawyer who is patronizing to staff, or who is polite in Court but full of threats, accusations, and vitriol when dealing with opposing counsel. Great attorneys always treat others well, no matter what the circumstances.

**4. They value differences in opinions and methods.** These men and women are sufficiently confident and competent to realize that their way is not the only way, and that it may not be the best way. They do not call opposing counsel liars and connivers for having a reading of the law or an interpretation of the facts that differs from their own. This valuing of differences enables these people to bring out the best in others rather than the worst.

**5. They remember that family comes first.** No one admires the work-obsessed lawyers who practically live in the office, and whose spouses and children barely know them. The great ones know what is important in life.

**6. They give back.** These people regularly do pro bono work, serve on boards, and volunteer. People in the community and the profession know who they are because they are so often active in contributing their talents toward the public good.

Of course, this list is not exhaustive. Nonetheless, I think it provides the base for a template of what I should keep in mind while writing those demand letters, Complaints, and Answers. If the client is angry and wants nothing more than to stick it to the other litigant, I ask myself “What is the right thing to do?” I am far from perfect, but thinking about those particularly admirable attorneys in our community and about this list of their characteristics, to which I still aspire, has made me ponder on a daily basis what justice is, and whether each particular action I take will contribute to justice being done. In other words, I think that it is critically important not to forget the big picture, the context in which we each act as attorneys, no matter how small or case-specific the act. Justice is not taking advantage of the less experienced attorney or the pro se litigant on the other side; it is about acting as a lawyer because of who you are, not because of who you represent. Being fair and having integrity are entirely consistent with being a strong and assertive advocate.



Have a suggestions for a MYSTERY PROFILE in an upcoming newsletter? If so, please contact Kim Christopherson at 752-1100 or at [ktc@talktomylawyer.biz](mailto:ktc@talktomylawyer.biz)

## State Bar Trustee's Report

**CLE DEADLINE:** Annual CLE Affidavits will be mailed out to Bar members on April 15, 2013. They must be postmarked by May 15, 2013. Attorneys may attend and report CLE up until May 15th without penalty. Contact Kathy Powers, MCLE Administrator, with any questions on CLE credits or reporting. She can be reached at (406)447-2207 or [kpowers@montanabar.org](mailto:kpowers@montanabar.org).

**STATE BAR OFFICER NOMINATION PETITIONS:** Nomination petition forms for State Bar Officer, Secretary-Treasurer and Trustee Elections must be returned to the State Bar postmarked no later than April 8, 2013. The petition form is available at [www.montanabar.org](http://www.montanabar.org) (under Bar News/Announcements).

**ORAL ARGUMENT AT THE UNIVERSITY OF MONTANA:** The Montana Supreme Court is holding oral argument on Friday, April 12, 2013, at 9:30 a.m. at the George Dennison Theatre on the campus of The University of Montana. This is a great opportunity for attorneys to observe oral argument without driving all the way to Helena.

The case being argued is DA-12-0306; *Citizens for Balanced Use, et al. vs. Joseph Maurier, the Montana Department of Fish, Wildlife & Parks, et al.* The 17th Judicial District Court has halted the Montana Department of Fish, Wildlife and Parks' bison translocation program with the Fort Peck Tribes by issuing a preliminary injunction. The Defenders of Wildlife, the National Wildlife Federal and the FWP appeal. The District Court ruled FWP needs to create a better management plan, including guaranteeing liability protection for damages caused by escaped bison. Appellants argue entry of the preliminary injunction was error as a matter of law. They also argue that the District Court abused its discretion when it ruled that the Fort Peck Tribes (who have filed an amicus brief) are not necessary parties to this action.

Introduction to oral argument begins at 9:30 a.m. Oral argument begins at 10:00 a.m. The Appellants will have 40 minutes for argument and the Appellees will have 30 minutes for argument.

**ANNUAL BENCH-BAR CONFERENCE:** The Annual Bench-Bar Conference is scheduled for Friday, April 19, 2013, in Bozeman at the Holiday Inn Hotel. The conference is approved for 7.5 CLE credits, including .5 Ethics credit. The topic of the conference is "What Judges Want You to Know," and the panel will include justices, judges, U.S. Magistrate Judges, municipal court judges, as well as experienced Montana attorneys.

Respectfully submitted,  
*Maybeth Sampsel*  
Area A Trustee

## Suggest a CLE Topic

Your EC is busy planning CLE luncheons for September, October, and November. We are working on setting up presentations about tax issues for general practitioners and about the ins-and-outs of our new State Supreme Court. If there are other topics you would like to see covered at an upcoming luncheon, please contact us and let us know.

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## **Law Day 2013**

The theme for Law Day 2013 is “Realizing the Dream: Equality for All.” This year we celebrate the sesquicentennial of the Emancipation Proclamation and the 50<sup>th</sup> anniversary of Dr. Martin Luther King’s “I Have a Dream” speech. As we look around at the modern world in which we live, the great strides our nation has made against discrimination based on race, gender, religion, age, and other protected class statuses is remarkable.

It is in the vein of exploring equality under the law that the Northwest Montana Bar Association has chosen to present a mock jury trial, *State of Montana v. Biggie B. Wolf*, to show that even a Wolf can get a fair trial in Montana. The mock trial, which is based on the Three Little Pigs fairy tale, will be presented to 7<sup>th</sup> and 8<sup>th</sup> grade students from the Flathead Valley. Members of the local bench, bar, and law enforcement will star, as will the students themselves, who will serve on the jury.

The trial will take place at the Flathead Valley Justice Center on Tuesday, April 30 from 12 noon until 3:00. At the conclusion of the trial, the Northwest Montana Bar Association will host a reception during which the students will have the opportunity to talk with the trial participants, members of the local bar, and judges from the District Court, Justice’s Court, and Municipal Court.

We hope you will join us to watch this educational and entertaining event. The local bar still needs a few volunteers to help with the event. If you are interested in helping, please contact Kim Christopherson at 752-1100 or email [ktc@talktomylawyer.biz](mailto:ktc@talktomylawyer.biz).

APRIL 2013

# MEDIATE!



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**APRIL 2013**

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**NORTHWEST MONTANA BAR ASSOCIATION  
P.O. Box 2272  
Kalispell, MT 59903-2272**

**2013 MEMBERSHIP FORM**

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**Please remit \$50.00 along with your completed Membership Form  
to the address above by April 1, 2013. Checks should be  
made payable to "NWMBA."**