

## WELCOME

### New President's Circle Members

Bryan Gruetter  
Gary Lekas

### Upgraded President's Circle Members:

Mic Alexander  
Tim Jones

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## Convention Preview

# Bill Barton: Protecting the Vulnerable



*Bill Barton*

At the August 18-20th annual convention in Ashland, the Oregon Trial Lawyers Association will present its two top honors: the Arthur H. Bryant Public Justice Award and the Distinguished Trial Lawyer award.

The OTLA Distinguished Trial Lawyer for 2005 is Bill Barton, a Newport attorney who has earned a national reputation for taking on risky cases on behalf of people grievously harmed by powerful and often revered institutions. The public justice award will go to Alan Graf and his team from the Northwest Constitutional Rights Center (please see inside story).

Barton has battled the Boy Scouts of America and Catholic Church over sexual abuse, Farmers Insurance for acting in bad faith, and an elite preparatory school for expelling an incest victim instead of shielding her from further harm. He doesn't shy away from difficult issues, and has had more than 500 jury trials in 33 years.

His cases are frequently risky and often enormously complex. But at a fundamental level they are startlingly alike: they show violations of human dignity and expose horrible breaches of trust by people in positions of power against those who have little.

Those themes resonate in both the cases Barton has won and those he has lost. We honor Barton for his three-decade career of courage and unwavering

**BARTON** continues on page 2

## Countdown to Convention:

# Aug. 18-20th in Ashland

Ashland is the stage and you are the players at this year's Oregon Trial Lawyers Association convention Aug. 18-20th.

To attend, simply:

- Book accommodations by July 15th at the Windmill Inn 1-800-333-8310. Ask for the OTLA block of rooms.
- Register for convention by mailing in your reservation or online at [www.oregontriallawyers.org](http://www.oregontriallawyers.org).

You can look forward to a festive mix of social events, educational seminars, business networking and family-friendly recreational opportunities during OTLA's three-day flagship event. Here is a sampling:

- Thursday evening at the engaging ScienceWorks Hands On Museum, join us for our welcome reception.
- Friday night at the Oregon Shakespeare Festival. OTLA has reserved a block of tickets, if you'd like to purchase, contact [seema@oregontriallawyers.org](mailto:seema@oregontriallawyers.org).

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**BARTON** continued from page 1

commitment to representing injured people.

### Scouts' Honor

At a time when the Boy Scouts of America was synonymous with unassailable integrity, Barton sued the institution for allowing a predatory scoutmaster to have continued access to the boys he was abusing. The 1980s-era case was one of the first to challenge the revered institution and first to yield a significant verdict. An appellate court reversed part of the punitive damages award, but the case broke the shield of secrecy that allowed the abuse to occur and opened the door to other investigations of the institution. A subsequent Boy Scouts case that Barton brought in Virginia yielded a treasure trove of disturbing information – the confidential files of 1,200 predatory scoutmasters. Barton lost that case. But the disclosure of the files was a victory, revealing the extent of the organization's knowledge and its lack of action to protect children in its charge. The Boy Scouts have since instituted a system of background checks on all its leaders.

### An insurance company acts in bad faith

When a drunk driver killed 19-year-old Marc Goddard in 1987, the driver's insurance policy called for a payout of \$100,000 to the victim's family. But Farmers didn't pay. Instead, it embarked on a convoluted series of actions and eventual denial of the claim that furthered the family's agony. The insurance giant's bad faith machinations led the jury to slam the company with significant punitive damages. But the story hasn't ended. Barton has worked on that case for

*Bill Barton and Bill Gaylord dispense free advice at their case evaluation clinic, which they hold at each convention.*



15 years, including making three trips to the Court of Appeals. He expects the case may still take another three or more years to complete.

### The ease of trial work?

"These are all hard cases," says his partner Kevin Strever. "Bill makes them look easy."

It's an ease that can only be achieved through weeks of behind-the-scenes preparation and hard work. His jury presentations are not polished, they are human. He doesn't have a stage voice or stage presence; the Bill Barton you see in a courtroom is the same man you see on the basketball court. But he relates to a jury because he has spent much of his career studying jurors and the psychological behavior of decision-making. Barton doesn't tell jurors what to think, he lets his adversaries reveal their transgressions and lets jurors do the work of coming up with a conclusion.

He won't, for instance, call a witness a liar.

During the case of Ah Young Shin v. Sunriver Preparatory School, jurors learned that a young South Korean student had been repeatedly abused

by her father. The school head told jurors that upon learning of the abuse, the school had taken proper actions to report the abuse and protect the girl. Barton then produced a memo showing that that the school was actually preparing to expel her and send her back to South Korea and her abuser. Barton asked why that memo wasn't produced during discovery and responded with a non-committal "I see," when told that there were hundreds of papers produced, and that the school must have just missed that one.

Jurors sided with the student. The school, stung by the revelations of its actions, soon saw its enrollment dwindle. It has since closed.

### From clients to community

In all their cases, Barton and Strever have used the power of juries to try to promote social change – protecting the vulnerable and holding accountable institutions who have the power to know and act more responsibly than they did.

Barton's commitment to clients is part of a larger commitment to the

**BARTON** continues on page 11

## SIDEBAR

THE MONTHLY PUBLICATION OF THE OREGON TRIAL LAWYERS ASSOCIATION  
July 2005

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*All text and photos are the work of OTLA staff unless otherwise noted. For editorial and content questions or comments, please contact Diane Dulken at [diane@oregontriallawyers.org](mailto:diane@oregontriallawyers.org) or 503-223-5587 x102.*

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## OTLA

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## Convention Preview: Public Justice Award Goes to Graf and Legal Team

At the August 18-20th Convention in Ashland, the Oregon Trial Lawyers Association will honor this year's Arthur H. Bryant Public Justice Award winners: Alan Graf and the legal team he led from the Northwest Constitutional Rights Center.

They will be honored for their efforts in challenging the overly-aggressive actions of the Portland police in pepper-spraying peaceful demonstrators in 2002 and 2003, and for encouraging changes in police practices.

As then-Mayor Vera Katz said when the City Council approved the \$300,000 settlement, "Mistakes were made. There was no question about it – you had to be blind not to see it." But the settlement and the Mayor's statement didn't come easily. They were achieved after months of effort.

Tom Steenson, an expert on police conduct cases said in an affidavit on the case, the settlement and the ensuing publicity should have lasting effects. They "serve as a deterrent to future police misconduct and in that regard serves the community and provides a very important public benefit which cannot be measured in dollars and cents."

Graf and his team filed two separate federal lawsuits after public demonstrations in 2002 and 2003 turned ugly. The first suit stemmed from an August 2002 protest of President Bush's visit for a Republican party fundraiser. At that event, nine plaintiffs, including young children, were caught in a shower of pepper spray. The second suit was brought by three people, including a KATU-TV engineer, injured by police during peaceful demonstrations against the Iraq war.

Police had contended during the first event that they pepper-sprayed the demonstrators because of three reasons: there was a riot, they had given adequate notice of their intent to spray but the crowd didn't move, and there was inadequate room for donors to enter the Hilton where the fundraiser was taking place. "We disproved all those theories," said Graf, who studied hours of videotape to refute the police version of events.

"We had pictures of babies being pepper sprayed, we had individual cops admitting there was no riot," Graf said. The videotapes also showed donors entering the Hilton without incident. "Every theory the City had was just blown apart," Graf said.

The city didn't make it easy and fought Graf's efforts to obtain the videotapes or other evidence. The team collectively spent over 3,500 hours on the case. That time included many hours trying to negotiate changes in police policy, but as in many settlements, they did not achieve all the sought-after changes.

As for the future, the participants in the case want to ensure continued police oversight. Both the clients and attorneys have set aside a portion of this award to fund the Northwest Constitutional Rights Center, a non-profit started by the attorneys and clients during the litigation. The Center will focus on police accountability and civil and human rights litigation. It just hired its first



Alan Graf

executive director, Harry Williams, a former staff attorney for the ACLU's racial profiling drug project, and opened an independent office at 1020 SW Taylor Suite 449, Portland. You can also reach the Center by calling 503-241-0260 or visiting [www.nwcr.org](http://www.nwcr.org).

"The Center will be as effective as the citizens and particularly the lawyers in this town want it to be," Graf says. "I hope to see some of you in the coming years putting in some time at the Center or working with the Center to protect our precious civil liberties."

# Career Directions

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# Oregon Jury Project Gets Message Out

From Forbes Magazine to letters to the editor of Oregon newspapers, The Oregon Jury Project is working on several fronts to get the pro-justice and pro-jury message out to Oregonians.

## You can help: Join our rapid response network

The OJP Rapid Response Network is up and running, and welcomes you to join.

The network's goal is to quickly respond to relevant issues in the news across the state. The network has responded with three rounds of letters to the editor in response to the ongoing series on Dr. Patel, the Oregon doctor who was allowed to keep his license despite repeated acts of negligence, and who is now being investigated for 87 patient deaths in Australia. The network also is responding with the pro-jury message to other stories, such as a recent expose of shoddy construction and the industry's efforts to limit the rights of consumers to hold them accountable for those defects.

The Rapid Response Network works like this: "Captains" alert us when a relevant news article or editorial runs in their community. The Captain then draws upon a list of Rapid Responders who send letters to the editor to the appropriate newspaper. The OJP helps with the drafting of all letters so Captains and Rapid Responders' work is minimal in time but significant in terms of potential impact.

A recruitment email was sent to all OTLA listserv members to encourage members to sign up as

rapid responders. The response was positive but we still need more signers throughout the state. The more responders we identify, the less often any one responder will be called upon to submit a letter.



*If you have not already done so, please sign up today to be a rapid responder and encourage your co-workers and other contacts to add their name to the list as well. Just email [diane@oregontriallawyers.org](mailto:diane@oregontriallawyers.org) to do so.*

## Pain and Suffering not a partisan issue

Mark Unger has a poignant story to tell about his mother's death by medical error, and the Oregon Jury Project has been working with him to reach an ever-widening audience.

Mark has traveled to Washington, D.C. to tell Congress to reject federal caps and protect the rights of all citizens regardless of party affiliation. He has been the subject of two columns by Margie Boule of the Oregonian and last month, Forbes picked up his story.

Forbes wrote about the death by medical error of Mark's mother in the national magazine's hard-hitting

story on the prevalence of safety lapses in American hospitals and what can be done to fix them.

"Shoddy quality control plagues American medicine, killing at least a hundred thousand people every year and running up an estimated \$500 billion a year in avoidable medical costs, or 30% of all health care spending," the magazine said.

Forbes included the story of Patricia Unger, who had worked at Rogue Valley Medical Center for 18 years before falling ill. She died as a consequence of a doctor misreading a lab test, failing to note that a toxic drug was present at 1,000 times the level he thought.

"There was no system to catch the error, no safety net at all," Mark told the magazine. Represented by Larry Wobbrock, Mark settled a medical negligence lawsuit against the hospital and doctor in 2004.

In addition, an op-ed by Mark under the banner of "Pain and Suffering not a partisan issue," calls upon Senators Smith & Wyden to stand by Oregon voters and reject federal caps on jury decisions. It has been circulated to rural newspapers around the state, and been published in papers in Wheeler County, Veneta, Coos Bay, and Junction City, among other locations. Mark has also done radio and TV interviews and continues to be available to the press, turning his difficult personal experience into a campaign for continued access to justice.

Next: stay tuned for the Oregon Jury Project's website and Public Service Announcements.

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**July 20th Launch and Benefit:**

# From Polling to Poles: OTLA Ally Launches Green Business

**L**isa Grove, ace pollster and key strategist in the defeat of Constitutional Amendment 35, is launching a green furniture business with her husband, Stephen Becker, and colleague Tim Tracy.

You're invited to the launch party. Please plan on attending the July 20th party from 6pm to 8pm on the roof of the Ecotrust Building, 720 NW Ninth Avenue. We promise no rain!

The new business, called "if," shorthand for "Integrity Furniture," will produce beautifully-designed and affordable furniture made out of products such as bamboo, sunflower board, wheat grass and recycled fir. By the time of the launch you will find those products at [www.ifgreen.com](http://www.ifgreen.com).

The launch party will showcase the line of hip, contemporary furniture with pieces designed to go in any style of house. They are starting the company because Stephen, a skilled furniture maker,



The *if* team of Lisa Grove, Stephen Becker and Tim Tracy aiming for integrity in furniture making.

homeowners and do-it-yourselfers interested in working with reclaimed, affordable, environmentally low-impact materials. With an inventory that changes hourly, The ReBuilding Center carries the largest variety of used building and remodeling materials in the nation. The Center's goals include preserving the environment, educating Oregonians about reuse, and creating local livable-wage jobs.

The founders of *if* will also auction off one piece of furniture and raffle a second piece, with all proceeds going to the ReBuilding Center.

So please mark your calendars and help Grove and her partners launch their new business, contribute to the vitality of the ReBuilding Center and start furnishing homes with sustainable hip and affordable furniture. RSVP to [iflaunch@yahoo.com](mailto:iflaunch@yahoo.com) or 503-771-5730.

was tired of seeing so many products made with exotic hardwoods. They knew they could provide a better product that speaks to their progressive sustainable values – at a good dollar value for customers.

To showcase those values, the launch party will not only feature the company's products, the event will also be a \$25 fundraiser for the ReBuilding Center on North Mississippi Avenue. The ReBuilding Center is a local nonprofit building-materials recovery operation for

**COUNTDOWN** *continued from page 1*

- Boost your skills during three days of CLE seminars given by stellar speakers ranging from Russ Herman to the Honorable Kathleen Dailey.
- Enjoy southern Oregon's many attractions: from golf to rafting, world-class plays to fine shopping, Ashland is the stage for a weekend of family-friendly fun.
- The finale: join us at A Midsummer Night Masquerade on Saturday night to conclude the convention festivities. Bring your costumes and your families!



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## The OTLA Member Challenge: Help Fund a Habitat for Humanity Home

The Oregon Trial Lawyers Association is taking on an ambitious pro-bono project: raising the funds to build a Habitat for Humanity home in the impoverished Lents area of Portland.

The \$40,000 fundraising goal will build a home for a family in need and earn OTLA the designation of Gold Hammer sponsor.

Lents is one of the city's designated urban renewal districts, with one of the lowest rates of homeownership in the city. Habitat for Humanity is building a 16-home project beginning this summer and extending through the fall of 2006. The organization's goal is to transform an empty lot into a vibrant area of simple, decent, affordable homes for deserving families.

Ownership will be made available to low-income hardworking families, who otherwise would be unable to afford the purchase. To qualify for a Habitat for Humanity home a family must earn between 30-60 percent of the median Portland household income. The family that is chosen will purchase the home under a low-interest loan arrangement and contribute at least 500 hours of sweat equity.

Jane Paulson, President of OTLA, is spearheading the effort with the help of member Tim Grabe, who has participated in similar projects in Portland and Mexico.

Paulson learned about the success of a Habitat project sponsored by the Washington State Trial Lawyers Association and thought "OTLA can do this too. We do so much in the community through our civil justice work, here is another important way

to showcase our values and make a real and lasting contribution."

OTLA's "Gold Hammer" sponsorship will be recognized with the OTLA name and logo displayed in front of the home as it is being constructed and through Habitat's annual report, newsletter and website. A representative from OTLA

will have the opportunity to speak at the home dedication, ground breaking, and other events. Members will also have a chance to participate in the building of the home and in meeting the future homeowners.

Please help jumpstart this project by contributing today. The fundraising goals are to raise \$10,000 before OTLA's August 18-20th Convention. Paulson will make a presentation at the convention with the goal of raising an additional \$20,000 and to complete fundraising soon after.

Groundbreaking on the OTLA-sponsored home can take place as early as November and the project can be completed by the spring.

Members can donate online by completing a donation form at <http://www.pdxhabitat.org/donate.html> and indicating "OTLA" in the gift designation area. Contributions are tax deductible. Donations of \$5,000 or more will be uniquely recognized through both on-site signage and on the Portland Habitat for Humanity website. For more information, contact Sue Donora at Habitat for Humanity, 503-287-9529, ext. 13 or [Sue\\_Donora@pdxhabitat.org](mailto:Sue_Donora@pdxhabitat.org). For OTLA specific questions, please contact Jane Paulson at 503-226-6361 or Tim Grabe at 503-282-5223.



Members of the community break ground on the new Lents Habitat development, where OTLA can sponsor a home.

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## Once Around: News about OTLA Members

**Lori E. Deveny** of Portland emerged as the winner of the Wildhorse Spring Poker Round Up Ladies' No Hold'em tournament. Play lasted six hours until Deveny beat out the last of the other 170 participants, including professional players that included the well-known Clonie Gowen.

**Michael Zusman** has provided volunteer service to the state courts as pro tem judge since 2002. His usual duties involve hearing summary judgment motions once a month in the Multnomah County Circuit Court. In one case, a dispute between The Oregonian newspaper and the City of Portland, he ordered the City to turn over internal police bureau documents related to the shooting death of Kendra James by officer Scott McCollister. Last month, the Oregon Court of Appeals affirmed Michael's ruling. The appellate opinion agreed that the City had failed to meet its burden to establish that the

interest in encouraging frank communication within the police bureau clearly outweighed the public interest in disclosure. With this decision, Zusman's appellate record as a judge remains unblemished at 2 for 2. "Just luck," Zusman says. "It's only a matter of time."

Zusman also accepted the opportunity to sit as a civil trial judge in Multnomah County during the last week in June. When he is not enjoying his volunteer duties, Zusman serves as a commercial and securities litigator and as a private arbitrator/mediator. He also does his best to raise his near-perfect seven-year-old daughter, Gracie, who thinks being held in contempt of court is very funny.

After two years of practice, **Angela L. Engstrom** opens her own law office in downtown Portland this July. The new address is 2416 S.W. 5th Ave, #230, Portland, OR 97201, phone (541) 244-0080, and cell (503) 704-2311.

Engstrom will focus on Criminal Defense and Plaintiff's Personal Injury, in addition to Family Law and Wills. Eventually, she will shift her area of practice toward Wills and Estate Planning on a more full time basis. Engstrom is very excited about this opportunity and would like to thank everyone for their support.

The Portland office of **Hendricks & Whitney-Smith, LLP** is moving back to the Goose Hollow area; the

new address for the Portland office will be 1425 SW 20th, #201, Portland, OR 97201, into the historic Kamm House, built in 1871.

In a move to bolster its Oregon litigation team, Vancouver-based NW Injury Law Center announced the hiring of veteran paralegal **Pamela Vanderheiden**. Principal partner **Don Jacobs** says Vanderheiden's experience and expertise will be used on the growing number of cases the firm is handling for Oregon clients. NW Injury Law Center maintains offices in Vancouver and Portland.



*Pamela Vanderheiden*

Vanderheiden, a new OTLA member, comes to the Vancouver firm from the Portland law firm of Hoffman Hart & Wagner, where she gained 13 years experience. She is a certified PLS, the standard for professional legal support staff, and earned her paralegal certificate from Clark College.

**Richard Rizk** is the new president of Cascade Ski Club. Cascade Ski Club was established in 1928 to promote the development of Mt. Hood as the resort for winter

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sports. The club was initially devoted to Nordic skiing and ski jumping events, but now sponsors all types of skiing and is open to all mountain enthusiasts. Events are centered at the club's lodge in Government Camp. To learn more, please visit [www.cascadeskiclub.org](http://www.cascadeskiclub.org) or contact Richard at his Aloha law practice (503) 642-2114.



OTLA members and other attorneys responded to the Multnomah CourtCare's 2nd Annual Campaign by raising \$87,000 in donations, topping the campaign's \$85,000 goal. Multnomah CourtCare, a program operated by Volunteers of



America – Oregon, is the state's only fulltime courthouse childcare center.

Thanks to all OTLA members who contributed, with special appreciation to OTLA firms who were the top per capita donors: **Williams Love**

**O'Leary Craine & Powers, Rosenthal & Greene and McKanna Bishop Joffe & Sullivan.** In addition, **Mike Greene**, helped co-lead this year's campaign, heading up a volunteer team that included OTLA members **Dana Sullivan** and **JoLynne Zimmerman**.



After a successful first year, The Law Firm of **Don Corson** is moving into new offices, 101 East Broadway, Suite 203, Eugene, Oregon 97401. Other contact information remains the same, office 541 484-2525 [www.DonCorsonLaw.com](http://www.DonCorsonLaw.com) and [dcorson@DonCorsonLaw.com](mailto:dcorson@DonCorsonLaw.com).

**Don Corson** also was instrumental in the passage of a new pro-consumer state law that stemmed from one of his cases, the death of former University of Oregon Law School Dean Chapin Clark.

Clark was killed in 2002 on the Rogue River during a professionally guided fishing trip, because the outfitter and guide lacked the necessary rescue skills and safety equipment. The case revealed that in Oregon, there are no laws requiring

such rescue skills and equipment for businesses involved in one of the state's most popular outdoor activities.



*Don Corson*

After settling the case, Corson went beyond the courtroom and worked with Legislators, the Oregon State Marine Board, and the Oregon Guides and Packers Association to help write the initial draft of a new law requiring that river guides and outfitters be trained and also be equipped with river rescue and safety devices. The bill passed the Legislature this spring.

Working with Chapin Clark's daughter, Julia, and environmental lobbyist, Mari Ann Gest, the bills were filed by Sen. Floyd Prozanski and Rep. Phil Barnhart who represent the areas around Eugene.

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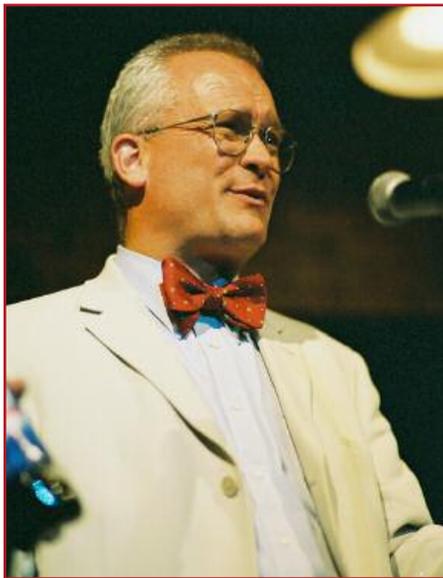
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## Got Humor?

# Get Ready for 2nd Annual LAF-OFF Comedy Competition

**B**usiness leaders, attorneys and legal professionals will band together in support of the second-annual LAF-OFF Comedy Competition on Sept. 9th at the Memorial Coliseum. The Legal Aid Fundraiser, sponsored by Fios® Inc. and Friends (LAF-OFF), will use humor to raise awareness for Oregon's legal aid programs and to kick off the annual fund drive for The Campaign for Equal Justice.



*Jim Egan*

The event features up to 10 Oregon legal professionals who go head-to-head and compete laugh for laugh in the stand-up comedy competition. Contestants will be judged by a panel of real life judges straight from the bench and will

again be emceed by Kerry Tymchuk, state director for Senator Gordon Smith. OTLA members **Sandy Hansberger** and **Jessica Hamilton** are helping to plan the event and **Charlie Williamson** is serving as an advisor. Like **Mitra Shahri** and **Jim Egan**, comics representing OTLA last year, planners look forward to another strong showing from OTLA members.

The money raised by the 2005 LAF-OFF will help provide legal counsel to hundreds of people in need. A 2000 legal needs study sponsored by the Oregon State Bar, the Governor's office and the Judicial Department reported that less than 20 percent of legal needs of poor people in Oregon are currently being met.

"LAF-OFF is a unique event that shows support for Oregon's legal aid programs in a very festive and humorous evening," said Sandy Hansberger, Executive Director of The Campaign for Equal Justice. "We're looking forward to another fun filled kick-off to the campaign. You'll be surprised by how funny the contestants can be."

The Sept. 9th evening event will include a pre-show happy hour with music and hors d'oeuvres and a plated dinner served at the tables before the program begins. Individual tickets are \$50. Premium sponsor tables near the stage seat 10 and are available for \$1,000. For tickets, contact Debbie Caldwell at Fios, Inc. 503-265-0700.



*Mitra Shahri*



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**BARTON** *continued from page 2*

profession. He has mentored young attorneys and taken on numerous leadership roles including serving on the boards of the Association of Trial Lawyers of America, the Oregon State Bar and OTLA, where he was president in 1983. You can also find him active locally through such projects as supporting the Olalla Center, a mental health treatment facility for children in Newport.

He is listed in Best Lawyers in America in plaintiff's personal injury and also in criminal defense. Outgoing and eloquent, Barton is a popular public speaker, and has lectured in 35 states and four countries on the psychological

principles behind successful advocacy. He'll soon share his expertise in another way – he is planning his own small trial lawyers academy to teach a new generation of attorneys how to be the best lawyers in America.

Barton credits his wife, JoAnn, and family for their support and his legal team for sharing in his achievements – Barton's partner of 20 years, Kevin Strever, who also has been named to Best Lawyers of America; his fulltime investigator of 16 years Greg Estep; Dr. Richard Beemer, a former medical examiner; Julie Turner, R.N., legal assistant Candyce Steward; and office manager Carrie Schmitt.



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