

You and the law

Why it helps to know your legal rights and duties.

BY BRADLEY J. WOODWORTH, Esq.

The Legal Corner will discuss, on a continuing basis, some of the legal issues of particular concern to our gay and lesbian community. This month's column introduces some of the areas I will take up in future months.

A preliminary disclaimer is in order: no two legal situations are exactly alike, and the rules of law can change dramatically from one situation to another — even another closely related situation. So, this column will discuss general legal principles only. These principles may or may not apply to a particular legal problem you are facing. Only a qualified attorney can evaluate your particular legal problem and give you advice to rely on. When in doubt about any of your legal rights or duties, consult a qualified attorney of your choosing. With this limitation in mind, some of the legal areas that will be discussed in this space include:

How To Hire A Lawyer. No lawyer can be competent in all areas of the law, or all types of cases. It is important to know how to hire a lawyer skilled in your particular legal problem. The use of various lawyer referral services, Legal Aid, word of mouth and the yellow pages will be discussed. Different lawyers and different types of cases often call for different fee agreements, and I will discuss some of the more common lawyer fee arrangements.

Retainers are always welcome, but not always required by lawyers. It is important to hire a lawyer you feel comfortable with, and I will offer suggestions for how to "interview" a lawyer you are considering thinking of hiring.

Joint Property Ownership. Oftentimes, lesbian and gay couples want to buy real property jointly, whether for a residence or for investment purposes. Joint property ownership can offer advantages to the (legally) unmarried couple, but also can have pitfalls when the bloom of romance fades. Joint ownership can be structured to minimize these problems, and anyone considering joint ownership of real property should carefully think out and reduce to writing all the various possibilities, which I will discuss in some detail.

Wills And Living Wills. In the absence of a will, the law will pass your property to your "legal heirs." You should know who they are, and decide whether you want them to receive your property when you can no longer enjoy it. Without a will you cannot pass particular items of your property (that sentimental vase or the "family" photo album) to your partner or close friend. If you are incapacitated from terminal illness, you can direct your physician not to use extraordinary means to prolong your life, and I will discuss the precise requirements for the "living wills" which can carry your wishes into effect.

Landlord and Tenant. Oregon has a very specific landlord-tenant law which creates legal rights and duties for both the owner and tenant. Knowing this law can head off common problems between landlord and tenant. Repairs, eviction, rent withholding and the like will be discussed in a future column.

Employment. Most employment is "at will," meaning the employer can fire a worker for any reason or no reason at all. But there are important limits to this rule: Employers cannot fire for socially unacceptable reasons, such as filing for workers compensation, or in violation of the employer's own procedures. The rights of a wrongfully discharged employee will be discussed, as well as the rights of the business owner.

Accidents and Injuries. Oftentimes persons injured through the carelessness ("negligence") of others may be able to recover damages for their injuries, including lost wages, medical bills, pain and suffering and the like. Not knowing that a recovery is possible could leave you uncompensated for your injuries.

Divorce and Custody. Gay parents, whether single or in a couple, can and do get custody of their children. It is usually not easy, and a real willingness to stick it out though long legal proceedings are sometimes needed. Recent developments in divorce and custody law will be discussed in a future column.

Motor Vehicle Matters. Liability insurance is mandatory; DUI is currently a

very "in" thing with police and prosecutors. What to do if (God forbid!) you are stopped late some night with one too many under your belt? Oregon law provides very specific rights and "consequences" regarding taking the breath test, doing field sobriety tests, and provides for drivers' license suspensions in various situations. A "diversion" program is offered to some first offenders, and that program has pluses and minuses to consider if you are ever in such a jam. Under some circumstances, you (as registered owner) may be liable for injuries to a third person by someone to whom you have lent your car. Knowing your rights and duties can save costly insurance claims being made on you. Social hosts can also be liable for damages caused by their intoxicated guests, and I will talk about how to limit your "host liability."

There are many other legal areas that I'm sure affect various members of our community, and I will do my best to cover topics of a broad general interest. Please let me know, in care of the editors, of particular legal issues you would like to see discussed. I will look forward to talking with you next month about how to hire and what to look for in a lawyer.

The author is an attorney in private practice; he maintains offices in the Lloyd Center and Northwest Portland areas.

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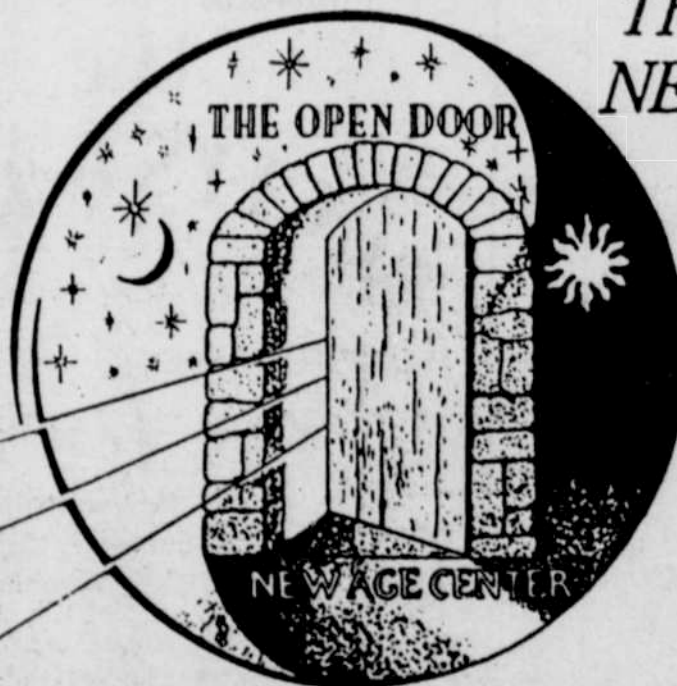
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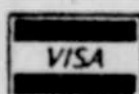


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