

CAPABILITY STATEMENT  
ON  
IMMIGRATION LAW PRACTICE  
BY  
BROWNING, KALECZYC, BERRY & HOVEN, P.C.

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## I. INTRODUCTION

Browning, Kaleczyc, Berry & Hoven, P.C. (BKBH) is pleased to present this capability statement regarding our interest in providing comprehensive immigration services. We are a full-service law firm with twenty five attorneys, three of whom have immigration law practices.<sup>1</sup> Operating law offices in Helena and Missoula, Montana, BKBH provides a wide range of professional services to hospitals, associations, governments and both non-profit and for-profit entities in Montana and throughout the United States. In addition, our firm has achieved the highest ratings from its peers, according to Martindale-Hubbell<sup>2</sup>

Recognized for its work in several broad areas of the law, BKBH has a growing specialization and focus on immigration law. We work regularly with the Immigration and Naturalization Act, its implementing regulations, and related United States Citizenship and Immigration Services (USCIS, formerly the INS) publications and pronouncements: All of which have profound impacts on immigration matters. We also maintain ties with Montana's Congressional offices and the USCIS District Office in Helena for additional assistance in this area.

Our attorneys work in close cooperation with their clients to determine the available immigration options and then to select the most appropriate means of resolving their immigration issues. We also work with our clients to create billing arrangements that offer solid value to them and to us. BKBH clients currently utilize a variety of billing arrangements, including hourly fees, retainer agreements, preset fees for particular projects, and mixed retainer and hourly fee arrangements<sup>3</sup>.

Because many of our clients have multiple and complex problems, we understand the wisdom of a multi-disciplinary approach using our firm's corporate, litigation, governmental affairs, and technical assistance to resolve issues. When BKBH's attorneys determine they lack the requisite expertise to efficiently address very specialized questions for our clients, we bring to these unique circumstances the services of out-of-state law firms that have the necessary expertise to address such questions. Participation in the *American Immigration Lawyers Association*<sup>4</sup> enhances BKBH's ability to work with top experts on specialized problems.

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<sup>1</sup>See page 9 for detailed information about individual attorneys in the BKBH Immigration Law Practice Group.

<sup>2</sup>See page 18 for information about Martindale-Hubbell and the BKBH Martindale listing scheduled for 2008.

<sup>3</sup>See page 26 for additional information about BKBH's billing philosophy.

<sup>4</sup>See also page 7 for information about AILA

## II. BKBH'S EXPERIENCE IN IMMIGRATION LAW

Immigration issues are on the rise due to increasingly vigilant enforcement practices and shortages of qualified United States workers. BKBH has successfully worked with local, state and federal agencies, labor unions, and the USCIS in solving labor-related immigration problems. We have also worked on immigration issues involving both temporary and permanent employment and family-based visas, advance parole, employment authorization, adjustment and maintenance of status, extension of stay, waivers and naturalization. Our attorneys are experienced in working with foreign Consulates and Congressional representatives in serving client interests. More specific expertise and capabilities are addressed below.

### A. EMPLOYMENT-BASED TEMPORARY VISAS

BKBH has significant experience in assisting Montana employers in securing employment-based temporary visas. In the past, BKBH coordinated and secured the temporary employment of 300 Canadian electricians for a major construction project in Butte for a Montana employer. This work entailed intense negotiations and discussions with the then local INS District Office, and included enlisting support from Senator Baucus, the Governor's office, the International Brotherhood of Electrical Workers, and the Montana Departments of Commerce and Labor and Industry regarding licensing issues, and the U.S. Department of Labor on labor certification issues. BKBH has also worked with clients to secure temporary employment of special knowledge workers and managers in intra-company transfers, and has assisted in obtaining NAFTA-based temporary employment visas (TN Visas).

The work in this area entails coordination with the employer and employee to establish the correct job description and also to develop appropriate supporting materials related to this employment, to include determining a proper salary level. Depending upon the particular category of temporary visa sought, contact and communications with the Department of Labor may be necessary to ensure that the proper labor conditions exist before the visa application can be filed. From that point, BKBH attorneys and staff work to complete and submit the proper applications and then pursue the desired result with the USCIS.

With regard to the Montana State Fund, it is expected that the most pertinent employment-based temporary visa would be the H-1B. This visa allows a qualified alien to secure temporary employment in the United States in conjunction with a "specialty occupation." It is generally good for a three year period and can be extended for an additional three years. Issues related to this visa include: 1) offering proof of a "specialty occupation"; 2) demonstrating the alien's qualification; 3) having the Department of Labor assign a reasonable salary rate; 4) completing a Labor Condition Report; and 5) submitting the appropriate visa application packet.

Other types of temporary employment-based visas which may be utilized include the following:

B-1 visa: This visa type is for a business visitor. The duration is very short, usually 3-6 months, but may be renewed. A B-1 visa holder cannot engage in employment for a U.S. employer, but can work for a foreign employer while in the U.S.

L-1 visa: This visa is especially helpful for international companies seeking to temporarily transfer either managers or "specialized knowledge workers" to the U.S. It is generally effective for a 3 year initial period, and can be extended.

TN visa: Through the North American Free Trade Act (NAFTA), Canadian and Mexican aliens may enter the U.S. for employment in certain professions if qualified. This type of visa has a duration of 1 year.

## B. EMPLOYMENT-BASED PERMANENT VISAS

Several employment based immigrant visa classifications exist, most of which provide built-in protections for the U.S. labor market. This type of immigration generally requires either a showing that the foreign national is one of the best available in a given field or that there are no qualified U.S. workers available to fill the position. BKBH attorneys can serve as a guide through this often lengthy process for a sponsoring employer seeking to secure permanent residence for a foreign national employee. This guidance would include evaluation and selection of the appropriate employment based visa category, working with the Department of Labor to secure labor certification (demonstrating of the lack of qualified U.S. workers) and then creating proper support for the proper filings with the USCIS.

The most pertinent types of employment based visas are as follows:

EB-1: This is the first preference for employment based immigration. It is generally available to workers of extraordinary ability, outstanding professors and researchers, and multinational managers and executives. An employer sponsoring an alien who qualifies under this category need not obtain a labor certification.

EB-2: This category is available to those members of professions holding advanced degrees or workers of exceptional ability. A labor certification is generally required, unless the alien works in certain specified areas, or it can be shown that the work this alien would do will be in the "national interest."

EB-3: This classification has three categories. The first is reserved for skilled workers, or those with at least 2 years of practical experience. The second encompasses professionals with at least a bachelors degree. The last category focuses on "other workers," or those with less than 2 years experience. A labor certification is necessary for this classification as well.

## C. FAMILY BASED VISAS

Permanent lawful residence, and employment authorization, can often be obtained

through family relationships. The first preference in this arena relations to spouses and BKBH attorneys are adept in properly documenting the marital relationship, or a fiancé relationship, and pursuing this immigration vehicle.

In addition, BKBH attorneys have assisted in working through USCIS challenges to marital legitimacy and are available to prepare individuals for USCIS interviews.

Other family relationships can also be used to secure permanent residence, however, there is generally a significant waiting period associated with this tactic.

#### D. CONGRESSIONAL ASSISTANCE

At times, problems may arise during visa processing. These can be due to legal and factual issues, or occasionally simply stem from undue delay on the party of the USCIS, or a U.S. Consulate. In such situations, Congressional assistance can play a significant role in pushing a petition forward. BKBH attorneys maintain good working relationships with the staff of Montana's Congressional delegates, and are familiar with each offices' immigration point of contact in this state.

These individuals are as follows:

Sen. Baucus:	Kim Krueger Silver Bow Center 125 West Granite Butte, MT 59701 (406) 782-8700
Sen. Testor:	Jennifer Majic 211 Haggerty Lane Bozeman, MT 59101 (406) 586-4450
Rep. Rehberg:	Linda Price 1201 Grand Avenue, Suite 1 Billings, MT 59102 (406) 256-1019

## E. AMERICAN IMMIGRATION LAWYERS ASSOCIATION (AILA)

The American Immigration Lawyers Association (AILA) is a national bar association of 7,500 attorneys who practice immigration law. AILA Member attorneys represent tens of thousands of U.S. Families who have applied for permanent residence of their spouses, children, and other close relatives to lawfully enter and reside in the United States. AILA Members also represent thousands of U.S. businesses and industries who sponsor highly skilled foreign workers seeking to enter the United States on a temporary or—having proved the unavailability of U.S. Workers—permanent basis. AILA Members also represent foreign students, entertainers, athletes, and asylum seekers, often on a pro bono basis. Founded in 1946, AILA is a nonpartisan, nonprofit, organization that provides its Members with continuing legal education, information, professional services, and expertise through its 35 chapters and over 75 national committees. AILA is an affiliated organization of the American Bar Association and is represented in the ABA House of Delegates.

BKBH's relationship with AILA helps it stay on top of ever changing immigration laws, regulations, and procedures. This relationship also opens the door to connections with immigration specialists all across the country.

In the past, BKBH attorneys have attended AILA phone conferences, and national meetings. Below is a representative sample highlighting some of the conferences attended:

\*AILA Annual Conference on Immigration Law, 2002

- Non Immigrant Visas
- Family Based Visas
- Employment Based Immigrant Visas
- Employment Authorization and I-9 Issues
- Adjustment of Status v. Consular Processing
- Inadmissibility and Removal
- Labor Certification and Labor Certification Strategies
- Tax Law for Immigration Practitioners

\*AILA H-1B Teleconference, February 2004

- H-1B Cap
- Bridging Strategies
- H-1B Legislative Proposals

## F. IMMIGRATION INFORMATION RESOURCES

The following links provide valuable information on immigration related issues.

U.S. Citizenship and Immigration Services: <http://uscis.gov/graphics/index.htm>

Immigration Library of the Department of State: <http://www.oalj.dol.gov/libina.htm>  
contains updates on many recent immigration decisions and amendments.

American Civil Liberties Union Immigrants Rights Project:  
<http://www.aclu.org/ImmigrantsRights/ImmigrantsRightsMain.cfm> The ACLU works to defend the civil and constitutional rights of immigrants through a comprehensive program of impact litigation and public education.

Executive Office for US Immigration Review: <http://www.usdoj.gov/eoir/> The Executive Office for Immigration Review (EOIR) was created in January 1983, through an internal Department of Justice (DOJ) reorganization which combined the Board of Immigration Appeals (BIA) with the Immigration Judge function previously performed.

US Embassies and Other Diplomatic Missions: <http://usembassy.state.gov/> This is a website of US Activity Centers overseas. It is created by the US Department of State.

The National Immigration Forum: <http://www.immigrationforum.org/> The purpose of the National Immigration Forum is to embrace and uphold America's tradition as a nation of immigrants. The Forum advocates and builds public support for public policies that welcome immigrants and refugees and that are fair to immigrants.

National Network for Immigrants and Refugee Rights: <http://www.nnirr.org/> The National Network for Immigrant and Refugee Rights aims to involve, support, and empower immigrant communities to address the critical issues in their neighborhoods and workplaces.

Department of State: <http://www.state.gov/> Visa Bulletin, consulate web pages, Human Rights Reports, visa processing information, J-1 regulations, policy memos, contact information, J-1 Exchange Visitor Program Responsible Officer Manual

Department of Labor: <http://www.dol.gov/>

Department of Justice: <http://www.usdoj.gov/>

Executive Office for Immigration Review: <http://www.usdoj.gov/eoir/>. This is the agency that runs the immigration courts.

Government Forms: <http://www.usdoj.gov/eoir/formspage.htm>

Office of the Chief Administrative Hearing Officer Decisions:

<http://www.usdoj.gov/eoir/OcahoMain/ocahosibpage.htm> This office hears cases involving employer compliance with the immigration laws

Board of Immigration Appeals

- Board of Immigration Appeals Practice Manual  
<http://www.usdoj.gov/eoir/bia/qapracmanual/apptmtn4.htm>
- Board of Immigration Appeals Decisions  
[http://www.usdoj.gov/eoir/vll/intdec/lib\\_indecitnet.html](http://www.usdoj.gov/eoir/vll/intdec/lib_indecitnet.html)

BIA Precedent Table:

[http://www.usdoj.gov/eoir/vll/intdec/chart/bia\\_precedent\\_table.pdf](http://www.usdoj.gov/eoir/vll/intdec/chart/bia_precedent_table.pdf)

Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC):

<http://www.usdoj.gov/crt/osc/index.html>

Department of Homeland Security: <http://www.dhs.gov/dhspublic/display?theme=23>

Bureau of Citizenship and Immigration Services

<http://www.dhs.gov/dhspublic/display?theme=23>

Directorate of Border and Transportation Security

<http://www.dhs.gov/dhspublic/display?theme=23>

The United States Congress, House of Representatives: <http://www.house.gov/>

The United States Senate: <http://www.senate.gov/>

### III. RESUMES OF ATTORNEYS IN BKBH IMMIGRATION GROUP

#### A. BRAND G. BOYAR

Browning, Kaleczyc, Berry & Hoven, P.C.  
139 North Last Chance Gulch  
P. O. Box 1697  
Helena, MT 59624  
(406) 443-6820  
(406) 443-6895 (FAX)  
e-mail: brand@bkbh.com  
www.bkbh.com

#### PROFESSIONAL EXPERIENCE

BROWNING, KALECZYC, BERRY & HOVEN, P.C.

Helena, Montana

Partner 2000-present

Federal Tax Planning and Litigation, State and Local Tax Planning and Litigation,  
Commercial Transactions, Estate Planning, Probate, Immigration and Bankruptcy.

HERNDON, SWEENEY & HALVERSON

Billings, Montana

Attorney 1998-1999

Insurance Defense, Personal Injury and General Corporate Practice.

ROCKY MOUNTAIN ELK FOUNDATION

Missoula, Montana

Legal Intern Summer, 1996

Emphasis on Planned Giving and Land Use issues.

#### EDUCATION

UNIVERSITY OF FLORIDA SCHOOL OF LAW

Gainesville, Florida

LL.M. in Taxation, 1999-2000

Concentration in Corporate Taxation and Estate Planning

UNIVERSITY OF MONTANA SCHOOL OF LAW, Missoula, Montana

Juris Doctorate, 1995-1998

Coursework emphasizing Taxation

Member, Jessup International Moot Court Team, 1996-1997

Honorable Mention, Northwest Regional Competition

Recipient, Garlington, Lohn & Robinson Scholarship, 1997-1998

STETSON UNIVERSITY, Deland, Florida  
B.A., Political Science, Honors Program Graduate, 1987-1991  
Member, Political Science Honor Society  
Class Representative, Honors Program Academic Council

**ADMISSION TO PRACTICE**

U.S. Tax Court  
Montana State and Supreme Courts  
Federal District Court

**MEMBERSHIPS**

Montana Bar Association  
American Bar Association, Tax Section  
American Immigration Lawyers Association

**ADDITIONAL SKILLS**

Certified Mediator: Community Dispute Resolution Center, Missoula, Montana  
Language Skills: Korean (4years); Spanish (3years)

**BIOGRAPHICAL SKETCH OF MR. BOYAR:**

Mr. Boyar earned his Bachelors Degree in Political Science (1991) from Stetson University in Deland, Florida and his Juris Doctorate from the University of Montana School of Law in Missoula (1998). Mr. Boyar received his LL.M. in Taxation from the University of Florida in Gainesville, FL (2000). He is a member of the Montana Bar and is admitted to practice in Montana State and Supreme Courts. Mr. Boyar's principal areas of practice include Immigration, Tax Exempt Organization Law, Estate Planning, Corporate Tax, and Tax Litigation.

**B. KATI G. KINTLI**

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100 W. Railroad Street, Suite 200  
Missoula, Montana 59802  
Telephone: 406-728-1694  
Facsimile: 406-728-5475

Helena Office:  
P.O. Box 1697  
Helena, MT 59624  
Telephone: (406) 443-6820  
Facsimile: (406) 443-6883

E-mail: [katik@bkbh.com](mailto:katik@bkbh.com)

**PROFESSIONAL EXPERIENCE**

**BROWNING, KALECZYC, BERRY & HOVEN, P.C.**

Helena, Montana

Associate 2004 to Present

Employment law, administrative proceedings, corporate & partnership law, commercial transactions, real estate, lobbying, estate planning & probate, regulatory & administrative compliance. Specialized in commercial transactions and compliance issues related to liquor licensing and gaming licenses.

**JACKSON, MURDO, GRANT & MCFARLAND, P.C.**

Helena, Montana

Associate 2000 to 2004

Employment law, administrative proceedings, corporate and partnership law, commercial transactions, real estate, lobbying, estate planning and probate, regulatory/administrative compliance. Specialized in commercial transactions and compliance issues related to liquor licensing and gaming licenses.

**STAPLES LAW OFFICE**

Helena, Montana

Associate: 1996 to 2000

General practice with emphasis on administrative law, corporate law, real estate, commercial transactions, public affairs and lobbying, regulatory/administrative compliance. Specialized in commercial transactions and compliance issues related to liquor licensing and gaming licenses.

**STATE OF MONTANA DEPARTMENT OF REVENUE**

Helena, Montana

Tax Counsel/Special Assistant Attorney General - 1993 to 1996

General civil litigation before the State Tax Appeal Board and State District Court, researched and authored legal opinions regarding corporation, inheritance and individual income tax and liquor licensing matters requested by the various divisions of the Department of Revenue. Responsible for reviewing administrative rules and legislation. Responsible for drafting amendments to pending legislation.

**FINER & PUGSLEY, P.S.**

Spokane, Washington Legal Intern/Attorney – 1993

Worker's compensation, state and federal criminal defense, social security

**PATRICK K. STILEY & ASSOCIATES, P.S.**

Spokane, Washington

Legal Intern/Supervisor 1989 to 1991 and 1992 to 1993

Worker's compensation, state and federal criminal drug defense. Same duties as those performed at Finer & Pugsley with additional supervisory and training responsibility over five law clerks. Extensive federal criminal motions practice and brief writing – including three briefs to the Ninth Circuit Court of Appeals.

**EDUCATION.**

**GONZAGA UNIVERSITY SCHOOL OF LAW**

Spokane, Washington

J.D: December, 1991

**GONZAGA UNIVERSITY**

Spokane, Washington

Bachelor of Arts: May, 1988

Major: History \*Phi Alpha Theta History Honor Society

**PROFESSIONAL ASSOCIATIONS**

State Bar of Montana

First Judicial District Bar Association

Washington State Bar Association

**TRADE ASSOCIATIONS**

Montana Tavern Association, Associate Member

Gaming Industry Association, Associate Member

American Immigration Lawyers Association, Full Member

**COMMUNITY ACTIVITIES**

Westmont, Board Member, January 2003 to Present

## **BIOGRAPHICAL SKETCH**

Ms. Kintli earned two degrees from Gonzaga University in Spokane, Washington. She earned her BA degree in history and her law degree. She is a member of the Montana State Bar and is an inactive member of the Washington State Bar. Ms. Kintli is a member of numerous professional associations, including the American Association of Immigration Lawyers, the Montana Tavern Association and the Gaming Industry Association. Ms. Kintli is admitted to practice in the Montana Supreme Court and the U.S. District Court for the District of Montana. Her principal areas of practice include: alcoholic beverages and gaming, immigration, employment law, administrative proceedings, corporate and partnership law, commercial transactions, real estate, lobbying, regulatory & administrative compliance and estate planning and probate.

#### **IV. Martindale-Hubbell Listing of BKBH Attorneys**

The most widely respected and used directory of and by lawyers is the Martindale-Hubbell Law Directory. This large collection of books has been published annually by a series of publishers since 1868. Martindale-Hubbell Law Directory provides ratings of most of America's lawyers and law firms. According to Martindale's ratings, there are two types of ratings: one for legal ability and the other for ethical standards. "Legal Ability and General Ethical Standards" ratings have appeared in the Martindale directories for more than 100 years. There is never any payment made to lawyers and judges who participate in the rating reviews administered, and Martindale-Hubbell treats all phases of the rating review process as absolutely confidential. Sources contacted participate with that understanding, and under no circumstances will any review materials ever be released.

For the past twenty five years, *BKBH has achieved the highest ratings possible by its peers* according to Martindale-Hubbell Law Directory, which as noted above, is the most commonly used and widely respected listing of attorneys in the nation. *BKBH's rating published in Martindale-Hubbell is "AV."* The "A" rating represents "very high to preeminent" with regard to legal ability, and the "V" represents "very high" with regard to "general ethical standards."

According to Martindale, legal ability and general ethical standards ratings embrace "faithful adherence to professional standards of conduct and ethics of the legal profession, professional reliability and diligence, and standards relevant to the attorney's discharge or his or her professional responsibilities." Martindale's legal ability and general ethical standards ratings published by Martindale "reflect strictly confidential opinions and responses to professionally developed surveys and adhere to meticulously monitored research principles and practices." Further, Martindale-Hubbell "does not make any independent evaluation of lawyers, depending upon the opinions expressed by its confidential sources."

The complete listing of BKBH attorneys that will appear in the 2008 edition of The Martindale-Hubbell Law Directory follows:

Bar Register Practice Areas: Administrative Law; Commercial Law; Environmental Law; Healthcare Law; Immigration and Naturalization; Insurance Defense; Labor and Employment Law; Natural Resources Law; Tax Law; White Collar Crime.

#### **Statement of Practice:**

Civil Litigation, Administrative Law, Commercial Law and Corporate Finance, Construction and Government Contracts, Superfund, Environmental Law including CAA, CERCLA, CECRA, CWA, ESA, NEPA and RCRA, Natural Resources Law, including Mining, Oil and Gas, Timber and Water Law, Public Land Law, Real Estate, Rights-of-Way and Easements, Land Use and Zoning Law, Transportation including motor carriers and railroads, Banking, Telecommunications, Products Liability, Personal Injury, Toxic Torts, Malpractice, Antitrust, Public Utilities, Municipal and Tax-Exempt Bonds, Entertainment, Agricultural, Estate Planning, Probate, Employment Law, Hospital and Health Law, Indian Law, Insurance Defense, Medical Malpractice Defense, Surety Bonds, Workers' Compensation, State and Federal Legislative Representation, Mergers and Acquisitions, Taxation, Public Finance and Immigration, White Collar Criminal Defense and Governmental Investigations.

**Firm Profile:**

Browning, Kaleczyc, Berry & Hoven, P.C. has convenient access to federal and state courts and administrative agencies with offices in Montana's capital city, Helena, and its office in Missoula. We are committed to providing the highest quality legal representation possible to our diverse business clients. Our legal staff has developed a wide range of specialized capabilities to address the emerging needs of our clients with an emphasis on litigation, governmental relations, insurance defense, general business and environmental compliance and clean up issues. Innovative fee structures are available as an alternative to the traditional hourly rate system. Through active participation in community, civic, charitable, professional and business associations, we endeavor to ensure continuous contacts with the constantly changing business and governmental environment of the Rocky Mountain West.

**Year Established:** 1982

**Firm Size:** 25

**Reference:** Wells Fargo Bank, N.A. Helena, Montana

**Representative Clients:**

Watkins and Shepard Trucking, Inc. (Missoula, MT); Anheuser-Busch Cos. (St. Louis, MO); BNSF Railway Company (Fort Worth, TX); Columbia Falls Aluminum Co. (Columbia Falls, MT); NorthWestern Corporation (Sioux Falls, SD); Union Pacific Railroad (Omaha, NE); Association of Montana Retired Public Employees (Helena, MT); Montana Hospital Assn. (Helena, MT); Logo Signs of America (Waite Park, MN); Cyprus AMAX Minerals (Denver, CO); Burlington Resources Oil and Gas Company (Houston, TX); MHA Ventures, Inc. (Helena, MT); Pacific Steel and Recycling (Great Falls, MT); Rhodia, Inc. (Princeton, NJ); Corixa (Seattle, WA); BearingPoint, Inc. (McLean, VA); Asarco LLC; Association of Montana Troopers (Helena, MT); International Paper (Nashville, TN); Koch Industries, Inc. (Wichita, KS); Huttig Building Products (St. Louis, MO); Havre Pipeline Company LLC (Oklahoma City, OK); Devon Energy Corporation (Oklahoma City, OK); Conoco Phillips (Denver, CO); Montana Municipal Insurance Auth; Utah Medical Insurance Association (Salt Lake City, UT); Montana Schools Group Insurance Auth; The Doctors Co. (Napa, CA); Montana Hospital Association Workers' Compensation Trust; Yellowstone Insurance Exchange (Post Falls, ID); Montana State Compensation Mutual Insurance Fund; SISR Services; ACEUSA; Continental Western Insurance; CNA Surety (Chicago, IL); Crawford and Co.; New West Health Plan; Penn-America Inc. Co. (Hatsboro, PA); Gallagher Bassett Services (Orlando, FL); Specialty Risk Services; General Star Insurance (Chicago, IL); Sedgwick CMS, Inc.; 3M (St. Paul, MN); Kinder Morgan (Calgary, Alberta, Canada); Monsanto (St. Louis, MO); St. Paul Travelers (St. Paul, MN); Great Northern Power Development (Houston, TX); Great Northern Properties, L.P. (Houston, TX); Greyhound Lines, Inc. (Dallas, TX); Piper Jaffray & Company (Minneapolis, MN)

**Attorneys:**

**R. Stephen Browning**, (Retired Partner) born Indianapolis, Indiana, September 13, 1940; admitted to bar, 1967, Indiana; 1971, District of Columbia; 1983, Montana. Education: Indiana University (A.B., 1963; J.D., 1966); Harvard University (M.C.P., 1970). Counsel: Lawyers' Committee for Civil Rights Under Law, 1970-1974; U.S. Senate Budget Committee, 1975. Administrative Assistant to: Congressman Max Baucus, 1975-1978; Senator Max Baucus, 1978-1982. Case Editor, Journal of Law and Education, 1973-1975. Chairman, Montana Board of Science and Technology, 1985-1989. Member: The District of Columbia Bar; State Bar of Montana (Former Chairman, Health Law Section). (Retired). Special Agencies: President, Montana Community Foundation; Chairman, American Indian Institute. Email: steve@bkbh.com **AV Peer Review Rated**

**Stanley T. Kaleczyc**, (Member) born Philadelphia, Pennsylvania, May 17, 1948; admitted to bar, 1974, District of Columbia; 1977, U.S. Supreme Court; 1978, U.S. Court of Appeals, 7th Circuit; 1981, U.S. Court of Appeals, 9th Circuit; 1982, Montana; 1984, U.S. Tax Court; 1985, U.S. District Court, District of Montana and U.S. Claims Court. Education:

University of Pennsylvania (B.A., 1970); George Washington University (J.D., with honors, 1973). Lecturer, Civil Practice and Procedure, Legal Assistant Program, George Washington University, 1976-1982. Member: State Bar of Montana; The District of Columbia Bar; American Bar Association (Member, Sections on: Litigation; Torts and Insurance). Special Agencies: Special Deputy Liquidator, Glacier General Assurance Co. in Liquidation, 1993-2002. Reported Cases: *Cole v. Brown*, 2002 MT 32, 42 P.3d 760; *Montana Chamber of Commerce v. Argenbright*, 226 F.3d 1049 (9th Cir. 2000) cert. denied 122 s.ct. 45 (2001); *Marshall v. State of Montana*, 1999 Mt.33, 975 P.2d 325; *Associated Press v. Montana Senate Republican, caucus, et al.*, 286 Mont. 172, 951 P.2d 65 (1997). Transactions: Sale of Blackfeet National Bank to Native American National Bank (2001) (counsel for seller); Environmental Revenue Refunding Bonds Asarco incorporated project, series 1998 (33,160,000) (counsel for Asarco); Environmental Facilities Revenue Bonds Asarco incorporated project, series 1998 (34,800,000) (counsel for Asarco). Practice Areas: Business Law; Insurance Law; Legislative and Administrative Law; Tax Exempt Financing; Federal and State Litigation. Email: stan@bkbh.com **AV Peer Review Rated**

**Leo Berry**, (Member) born Anaconda, Montana, April 30, 1948; admitted to bar, 1973, Montana and U.S. District Court, District of Montana. Education: Gonzaga University (B.A., 1970); University of Montana (J.D., 1973). Member, Council on Environmental Quality, 1976-1985. Member, Western States Water Council, 1981-1985. Commissioner of State Lands, 1976-1981; Director, Department of Natural Resources & Conservation, 1981-1985; Chairman, Board of Labor Appeals, 1985-1989. President, Western States Land Commissioners Association, 1979. Member: State Bar of Montana. Reported Cases: *MCI Telecommunications Corp. v. Montana Dept. of Public Service Regulation*, 858 P.2d 364 (Mont. 1993); *Burlington Northern R. Co. v. State of Mont.*, 805 F. Supp. 1522 (D.Mont. 1992); *United Transp. Union v. Burlington Northern R. Co.*, 672 F.Supp. 1579 (D. Mont. 1987) and *Citizens Alliance to Save the Southline v. Montana Rail Link, Inc.*, 672 F. Supp. 1576 (D.Mont. 1987). Practice Areas: Superfund; Environmental Law; Administrative Law; Government; Natural Resources. Email: leo@bkbh.com

**J. Daniel Hoven**, (Member) born Plentywood, Montana, March 31, 1948; admitted to bar, 1977, California and U.S. District Court, Northern District of California; 1978, Montana and U.S. District Court, District of Montana; 1984, U.S. Court of Appeals, 9th Circuit; 1986, U.S. Supreme Court. Education: University of Montana (B.A., 1970); Lincoln University (J.D., 1977). Assistant Attorney General, Montana Department of Business Regulation, 1978-1980. Assistant Attorney General, Montana Department of Justice, 1980-1984. Member: State Bar of California; State Bar of Montana; Montana Defense Trial Lawyers Association; National Association of Railroad Trial Counsel; Sports Lawyers Association. Reported Cases: *National Wildlife Federation v. Burlington Northern Railroad Company*, 23 F.3d 1508 (9th Cir. 1995); *Buck v. State*, 723 P.2d 210 (Mont. 1986); *Bartel v. State*, 704 P.2d 1067 (Mont. 1985); *Solheim v. Tom Davis Ranch*, 677 P.2d 1034 (Mont. 1984); *Howard v. State*, 647 P.2d 828 (Mont. 1982); *Ambrogini v. Todd*, 642 P.2d 1013 (Mont. 1982); *Holladay v. State of Montana*, 506 F. Supp. 1317 (D.Mont. 1981). Practice Areas: Medical Malpractice Defense; Environmental Litigation; Toxic Tort; Federal Employers Liability Act; Railroad; Sports Law. Email: dan@bkbh.com **BV Peer Review Rated**

**Oliver H. Goe**, (Member) born Bakersfield, California, March 10, 1955; admitted to bar, 1980, California; 1986, Montana and U.S. District Court, District of Montana; 1986, U.S. Court of Appeals, 9th Circuit. Education: University of California (A.B., 1977); University of Santa Clara (J.D., 1980). Office of the Public Defender, Santa Clara County, California, 1981-1986. Member: State Bar of California; State Bar of Montana; American Bar Association; Montana Defense Trial Lawyers Association. Reported Cases: *Heath v. Montana Municipal Insurance Authority*, 959 P.2d 480 (Mont. 1998); *Yarborough v. City of Billings*, 938 P.2d 679 (Mont. 1997); *Taylor v. State Compensation Ins. Fund*, 913 P.2d 1242 (Mont. 1996); *Baldwin v. Orient Express Restaurant*, 791 P.2d 49 (Mont. 1990); *Reinhard v. Missoula Sheet Metal*, 784 P.2d 398 (Mont. 1989); *Hernandez v. Jensen*, 770 P.2d 502 (Mont. 1989). Practice Areas: Workers' Compensation Law; Labor and Employment; Personal Injury Defense; Head and Spinal Injury; Toxic Torts; Discrimination. Email: oliver@bkbh.com **BV Peer Review Rated**

**Catherine A. Laughner**, (Member) born Wolf Point, Montana; admitted to bar, 1990, Montana and U.S. District Court, District of Montana; 1992, U.S. Court of Appeals, Ninth Circuit; 2001, U.S. Supreme Court. Education: University of Utah (B.S., 1979); Oklahoma City University (J.D., 1989). Member: State Bar of Montana; American Bar Association (Past Vice Chair, Petroleum Marketing Committee Section of Natural Resource, Energy and Environmental Law). Reported Cases: *National Wildlife Federation v. Burlington Northern Railroad Company*, 23 F.3d 1508 (9th Cir. 1995). Practice Areas: Environmental Litigation; Hazardous Waste Law; Endangered Species Law; Oil and Gas Law; Air Quality; Water Pollution; Superfund; Government Investigations; White Collar Criminal Defense; Healthcare Fraud. Email: cathy@bkbh.com **BV Peer Review Rated**

**Leo S. Ward**, (Member) born South Bend, Indiana, October 13, 1956; admitted to bar, 1987, Montana. Education: St. John's University (B.A., magna cum laude, 1978); University of Notre Dame (M.A., 1979); University of Montana (J.D., with high honors, 1987). Editor, Montana Law Review, 1986-1987. Member: State Bar of Montana; American Bar Association; Montana Defense Trial Lawyers Association. Reported Cases: *McFerran v. Consolidated Freightways*, 57 St. Rep. 1558 (2000); *Thompson v. CIGNA*, 57 St. Rep. 1292 (2000); *Kudloff v. City of Billings*, 860 P.2d 140 (Mont. 1993); *Martelli v. Anaconda-Deer Lodge County*, 852 P.2d 579 (Mont. 1993); *Hughes v. State Fund*, 833 P.2d 1099 (Mont. 1992); *Anderson Insurance Agency v. City of Belgrade*, 803 P.2d 648 (Mont. 1990); *State Fund v Murray*, 2005 MT 97; *Eastman v INA*, 2000 MT 216; *Flesch v MacDonald's*, 2005 MT 235; *Wrigg v L&H, LLC*, 2006 MT 338. Practice Areas: Workers' Compensation Defense; Employment Litigation; Disabilities Law; Complex and Multidistrict Litigation; Motor Carrier Defense. Email: leow@bkbh.com **BV Peer Review Rated**

**Mark D. Etchart**, (Member) admitted to bar, 1990, Montana and Maryland; 1991, District of Columbia and U.S. Claims Court; 1993, U.S. District Court, District of Columbia; U.S. Court of Appeals, District of Columbia Circuit; U.S. District Court, District of Montana and U.S. Court of Appeals, Ninth Circuit. Education: Georgetown University (B.A., 1983); Catholic University of America (J.D., 1990). Staff of U.S. Senator John Melcher, 1982-1984. Land Law Examiner for the Bureau of Land Management, U.S. Department of the Interior, 1984-1990. Attorney Advisor for the Office of the Solicitor, U.S. Department of the Interior, 1990-1993. Member: State Bar of Montana; Maryland State and American Bar Associations; District of Columbia Bar; Montana Defense Trial Lawyers Association. Reported Cases: *Burlington Northern Santa Fe Corp. v. Anderson*, 959 F. Supp. 1288 (D.Mont., 1997); *Exxon Corporation v. Lujan*, 970 F.2d 757 (10th Cir. 1992); *State of Wyoming v. Lujan*, 969 F.2d 877 (10th Cir. 1992); *Ash Creek Mining Company v. Lujan*, 969 F.2d (10th Cir. 1992). Practice Areas: Superfund Litigation; Toxic Torts; Public Land Law; Surety Law; Right of Way and Easements; Environmental Cleanup; Environmental Litigation. Email: mark@bkbh.com **BV Peer Review Rated**

**Kimberly A. Beatty**, (Member) born San Francisco, California, October 31, 1968; admitted to bar, 1994, Montana, U.S. District Court, District of Montana, U.S. Court of Appeals, Ninth Circuit and U.S. Supreme Court. Education: University of California at Santa Barbara (B.A., political science, 1990); University of Montana (J.D., 1994). Phi Delta Phi. Editor, Public Land Law Review, 1993-1994. Member: State Bar of Montana (Secretary-Treasurer, Young Lawyers Section, 1995-1996); First Judicial District and American Bar Associations. (Also at Lewistown Office). Reported Cases: *Montana Chamber of Commerce et al v. Argenbright*, 28 F. Supp. 2d 593 (D.Mont. 1998), *aff'd*, 226 F.3d 1049 (9th Cir. 2000); *Marshall v. State ex re. Cooney*, 975 P.2d 325 (Mont. 1999). Practice Areas: Business Law; Commercial Transactions; Mergers and Acquisitions; Intellectual Property Protection; Employment and Labor Law; Elections Law; Healthcare; Public Utility Law. Email: kim@bkbh.com **CV Peer Review Rated**

**Steven T. Wade**, (Member) born Helena, Montana, August 11, 1970; admitted to bar, 1996, Montana; 2000, Arizona; 1997, U.S. District Court, District of Montana. Education: University of Montana (B.A., 1992; J.D., 1996). Member: American Bar Association; State Bar of Montana; State Bar of Arizona. Reported Cases: *Board of County Commissioners of Lewis & Clark County v. Montana First Judicial District Court, Lewis & Clark County, et al.*, 10 P.3d 805 (Mont. 2000). Practice Areas: Environmental Law; Hazardous Waste; Resource Conservation and Recovery Act (RCRA); Underground Storage Tanks; Water Law; Administrative Law; Insurance Coverage; Governmental Affairs; Grassroot Campaigns; Superfund; Energy, Oil and Gas. Email: stevew@bkbh.com **BV Peer Review Rated**

**Mark R. Taylor**, (Member) born Lewistown, Montana, June 24, 1971; admitted to bar, 1997, Montana and U.S. District Court, District of Montana. Education: Georgetown University (B.A., 1993); University of Montana (J.D., 1997). Practice Areas: Commercial Law; Government Contracts; Administrative Law; Agricultural Law; Natural Resources; Water Law; Government Affairs. Email: markt@bkbh.com

**G. Andy Adamek**, (Member) born El Centro, California, July 16, 1966; admitted to bar, 1992, Georgia; Georgia Supreme Court; Georgia Court of Appeals; 1998, Montana; 2002, U.S. District Court, District of Montana. Education: University of Georgia (B.A., 1988); Mercer University (J.D., 1992). Member: State Bar of Montana; First Judicial District and American Bar Associations; Montana Defense Trial Lawyers Association; Association of Realtors. Reported Cases: *Chambers v. City of Helena*, 49 P.3d 587 (Mont. 2002). Languages: German. Practice Areas: Insurance Defense; Workers Compensation Defense; Employment Law; Land Use Law; Real Estate. Email: gandy@bkbh.com **CV Peer Review Rated**

**David M. McLean**, (Shareholder) born Missoula, Montana, October 20, 1971; admitted to bar, 1997, Montana and U.S. District Court, District of Montana; 2001, U.S. Court of Appeals, Ninth Circuit; 2005, U.S. Supreme Courts. Education: Carroll College (B.A., 1994); University of Montana (J.D., 1997). Phi Delta Phi. Member: State Bar of Montana; Montana

Defense Trial Lawyers; Montana Trial Lawyers Association; Association of Trial Lawyers of America; National Association of Railroad Trial Counsel; Montana Defense Trial Lawyers Association; Defense Research Institute. (Resident, Missoula Office). Practice Areas: Litigation; Federal Employers Liability Act (FELA); Personal Injury; Insurance Defense; Medical Malpractice Defense; Workers' Compensation; Municipal Liability; Business Law; Civil Practice; Civil Rights; Labor and Employment. Email: dave@bkbh.com **BV Peer Review Rated**

**Brand G. Boyar**, (Member) born Philadelphia, Pennsylvania, October 16, 1969; admitted to bar, 1998, Montana and U.S. District Court, District of Montana; 2000, U.S. Tax Court. Education: Stetson University (B.S. in Political Science, 1991); University of Montana (J.D., 1998); University of Florida (LL.M., Taxation, 2000). Jessup International Moot Court Team. Mediator, Community Dispute Resolution Center, Missoula, Montana, 1997-1998. Member: State Bar of Montana; American Bar Association. [SGT, U.S. Army, Military Intel. Corps, 2001-2005]. Practice Areas: Federal Tax Law; State Taxation; Probate; Estate Planning; Immigration; Tax Exempt Organizations; Securities; Deferred Compensation. Email: brand@bkbh.com **BV Peer Review Rated**

**Sara S. Berg**, (Member) born Big Rapids, Michigan, August 23, 1975; admitted to bar, 2000, Montana and U.S. District Court, District of Montana; U.S. Court of Appeals, Ninth Circuit; U.S. Supreme Court. Education: Miami University (B.S., cum laude, Education, 1997); University of Montana School of Law (J.D., 2000). Member: State Bar of Montana (Member, School Law Section); National Association of Railroad Trial Counsel. Practice Areas: School Law; Insurance Defense; Federal Employers Liability Act (FELA); Litigation; Healthcare Law; Family Law; Administrative Law. Email: sara@bkbh.com **BV Peer Review Rated**

**Aimee Grmoljez**, (Member) born St. Louis, Missouri, September 27, 1972; admitted to bar, 1998, Montana and Colorado; U.S. District Court, District of Montana. Education: Boston College (B.A., 1994); University of Montana (J.D., 1998). Member: Montana Law Review, 1997-1998; Student Bar Association (Vice President, 1997-1998). ABA Moot Court Team, 1997. Chief Legal Counsel, Governor Racicot's Office, Montana, 1999-2001. Law Clerk for U.S. District Court Judge Donald Molloy, 1999. Mediator, Community Disputes Resolution Center, 1997-1998. Member: State Bar of Montana. Practice Areas: Government Affairs; Litigation; Healthcare Law; White Collar Criminal Defense; Government Investigations. Email: aimee@bkbh.com **BV Peer Review Rated**

**Jason B. Jewett**, (Associate) born Great Falls, Montana, November 30, 1971; admitted to bar, 2005, Montana. Education: Montana State University (B.S., Chemical Engineering, 1997); Gonzaga University School of Law (J.D., 2005). Practice Areas: General Litigation; Commercial Litigation; Environmental Litigation; Intellectual Property; Medical Malpractice Defense Litigation; Construction Law Litigation.

**Kati G. Kintli**, (Associate) born Inglewood, California, July 11, 1966; admitted to bar, 1993, Washington; 1994, Montana and U.S. District Court, District of Montana. Education: Gonzaga University (B.A., 1988; J.D., 1991). Phi Alpha Theta. Associate Member, Montana Tavern Association; Gaming Industry Association of Montana. Previously with: State of Montana, Department of Revenue; Staples Law Office; Jackson, Murdo, Grant, McFarland, P.C. Member: State Bar of Montana (Resident); Washington State Bar Association; American Immigration Lawyers Association. (Resident). Practice Areas: Commercial Transactions; Administrative Law; Regulatory Law; Corporate Law; Business Law; Employment Law; Immigration and Naturalization. Email: katig@bkbh.com **BV Peer Review Rated**

**Ryan C. Willmore**, (Associate) born Whitefish, Montana, June 7, 1980; admitted to bar, 2005, Montana. Education: University of Montana (B.A., Sociology, Criminology, 2002; J.D., 2005). Member: State Bar of Montana; American Bar Association; Montana Trial Lawyers Association. (Resident). Practice Areas: Civil Litigation; Personal Injury; Employment Law; Family Law; Criminal Defense. Email: ryan@bkbh.com

**W. John Tietz**, (Associate) born Lafayette, Indiana, January 17, 1962; admitted to bar, 2004, Montana; 2005, U.S. District Court, District of Montana. Education: Montana State University (B.S., 1987); Seattle University (J.D., magna cum laude, 2004). Member: State Bar of Montana. Practice Areas: Superfund; Hazardous Waste; Environmental Permitting; Environmental Compliance; Water Law; Environmental Litigation; Natural Resources; Litigation. Email: john@bkbh.com

**Trevor L. Uffelman**, (Associate) born Hardin, Montana, December 16, 1978; admitted to bar, 2004, Montana, U.S. District Court, District of Montana. Education: Carroll College (B.A., 2001); Catholic University of America (J.D., 2004). Editor, Journal of Communications Law and Policy, Columbus School of Law. Member: State Bar of Montana. Practice Areas: Litigation; Environmental Law; White Collar Criminal Defense; Insurance Defense. Email: trevor@bkbh.com

**Chad E. Adams**, (Associate) born Provo, Utah, July 13, 1973; admitted to bar, 2002, Texas; 2003, Montana; U.S. District Court, District of Montana, U.S. Court of Appeals, Ninth Circuit and U.S. Supreme Court. Education: Utah State University (B.S., 1998); Baylor University (J.D., 2002). Member: State Bar of Texas; State Bar of Montana. Practice Areas: Litigation; Environmental; Products Liability; Administrative Law; Toxic Torts; Natural Resources; Insurance Defense; Appellate Practice. Email: chad@bkbh.com

**Chad R. Vanisko**, (Associate) born Helena, Montana, December 22, 1972; admitted to bar, 2003, California, U.S. District Court, Eastern and Northern Districts of California and U.S. Court of Appeals, Ninth Circuit; 2006, Montana and U.S. District Court, District of Montana. Education: Carroll College (B.A., maxima cum laude, with honors, 1994); University of Montana (M.B.A., 1996); Vanderbilt University (J.D., 2002). Delta Epsilon Sigma. Treasurer, St. Thomas More Society, 2000-2002. Member: Stanislaus County Bar Association; State Bar of California; State Bar of Montana. Practice Areas: Business Law; Workers Compensation; Complex and Multi-District Litigation; Insurance Defense. E-mail: chadv@bkbh.com

**Daniel J. Auerbach**, (Associate) born Bremerton, Washington, March 15, 1979; admitted to bar, 2005, Montana. Education: University of Oregon (B.A., History, 2001; J.D., 2005; M.B.A., 2005). Member: State Bar of Montana; American Bar Association. (Resident, Missoula Office). Practice Areas: Commercial Law; Commercial Litigation; Estate Planning; Healthcare; Creditors Rights; Taxation; Intellectual Property. E-mail: daniel@bkbh.com

## V. BKBH's Billing Philosophy

**A. Background on BKBH's Billing Philosophy** - At BKBH, we are committed to working cooperatively with our clients to find effective ways to measure the value of legal services for the mutual benefit of each client and our firm. We are committed to developing fee arrangements that provide good value both to our clients and to our firm. Selected examples of fee arrangements we presently have with our clients appear below. Analyzing client objectives is an important part of our continuing discussions with clients regarding our fees and related charges. Our policy is to tailor our billing methods to meet individual client preferences and to correlate these charges to the value of services rendered.

**B. Existing Billing Arrangements** - The policy of BKBH is to tailor billing methods to reflect client preferences and to correlate our charges to the value of the services rendered. Examples of billing methods currently employed by the firm are:

### **Straight Hourly Plus Costs**

The client is billed for the number of hours expended multiplied by an *agreed-upon* rate, plus any costs incurred. *The rate charged per hour is determined by the experience and level of expertise of each attorney or paralegal.* The ranges for the hourly rates currently charged by BKBH partner and other legal staff are as follows:

Partners - \$150 - \$500  
Associates - \$105 - \$165  
Paralegals - \$ 65 - \$ 80

### **Straight hourly plus costs with volume discount**

The client is billed one hourly rate for an agreed-upon number of hours per month, quarter or year, plus any costs incurred. Hours worked that exceed the agreed-upon number of hours are billed at a discounted rate.

### **Fee retainer plus costs**

The client agrees to pay a flat or negotiated fee per month, quarter or year, plus any costs incurred. Alternatively, the client and firm may negotiate a predetermined fee for a particular project or projects.

### **Flat retainer**

The client is billed a flat amount per month, quarter or year. Costs incurred are absorbed into that amount.

### **Schedule fee**

A predetermined standard fee is available for certain common legal undertakings.

### **Mixed flat retainer and hourly**

The client is billed a flat retainer for an agreed-upon number of hours or for a certain project, and is then billed hourly for any additional hours or work.

### **Contingent fee plus costs**

The client is billed monthly, quarterly or yearly for costs incurred. The fee is determined when the matter reaches resolution. Factors to be considered in determining the fee are agreed upon in advance.