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**Things might be different if the shoe were on the other foot**

All that is really needed for lawyers to understand the need for tort reform is for a few predatory law firms to start actively suing lawyers for malpractice. Blaring and ubiquitous TV ads would ask "Have you lost a lawsuit? Been convicted of a crime you think you didn’t commit? We may be able to collect money for you. Call 1-800-suethelawyers today." Putative plaintiffs would shove handfuls of cash at the camera and claim "my lawyer screwed up my case, and I sued him and won $850,000." "My lawyer missed a court deadline and I got $65,000." And so on.

Suits would be filed over every little mistake that could possibly have led to a bad outcome. "Mr. Lawyer, why didn’t you search with sufficient skill to find the 1863 case of Mediocre v. Stupid which, if you had cited it, might have affected the outcome of your case?" "Members of the jury, this lawyer spent only six hours deposing the opposing party. His records would be combed through word by word, looking for any possible error that could be exploited. Lengthy depositions would be taken to challenge every decision made, question every potential act not taken, challenge whether the wording of every interrogatory was sufficiently detailed to allow no avenue of weaseling out, or whether any pleading could have been presented in more powerful language that might have persuaded the Court to rule otherwise than it did. Defensive lawyering would become the necessary standard of care. Depose any possible witness. Might the opposing party’s third grade substitute teacher know anything useful? Depose her, or take the risk that the failure to do so will lead to a massive verdict against you.

Prosecutors would not be spared. "Members of the jury, because the prosecution bungled in presenting their case, the man who beat my client to a pulp is walking the streets today, a free man. Every night this poor man you see before you, who suffered such horrendous and traumatic injuries (point to huge photographs of badly beaten client hung all over the courtroom) must try to go to sleep knowing that because of the malpractice of the prosecutor his assailant is out there and may be planning another brutal attack. What is peace of mind worth, members of the jury? What is one night of peace worth to you? What then is a month, a year, a lifetime of such peace worth? How much money can compensate my poor client for a lifetime of fear that he will again be the victim of this brute who, but for the malpractice of the prosecutor, would now be safely locked away in prison?"

The claim that overworked prosecutors could hardly try hundreds of cases a year without making any mistakes will fall on ears as deaf as those which ignore the argument that grossly overburdened emergency room doctors and nurses working under enormous stress cannot expect to practice absolutely perfect medicine every time. No. No mistake will be tolerated, no bad outcome will be accepted if any possible further effort might — not would, but might — have led to a better outcome.

A few years of this, with malpractice insurance rates going through the roof — $100,000, $200,000 or more per lawyer for insurance for the highest risk practices — and lawyers themselves would be at the head of the line clamoring for tort reform.

Sadly, for now it is only a dream. But maybe someday soon . . . .

Christopher Hodgkin, Friday Harbor

**Proper language use is part of professionalism**

This letter is written in appreciation of the March 2006 Robert Cumbow’s article "Not Just for Décoration." I was most gratified to read his statement about diacritical marks: "[T]he fact that we don’t use these in English is no excuse for diacritical marks: "[T]he fact that we don’t use these in English is no excuse for
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disregard the proper use of diacritics in foreign terms.”

Many Washington residents come from cultures where a name is only properly spelled and pronounced if diacritical marks are used. Our courts and state agencies have all too frequently ignored these marks resulting in the double insult of 1) consistent misspelling of names in official documents despite these marks now being readily available and 2) persistent mispronunciation of their names in addressing and referring to these people.

If it is boorish to disregard the use of diacritics in foreign terms, it is frankly rude to fail to use and acknowledge them in litigants’ names. Such behavior tells these people that they should not expect to be treated equally with “real” Americans whose names every judge strives to spell and pronounce correctly.

Hopefully, Mr. Cumbow’s article will be read widely and taken to heart.

Ann Pearl Owen, Seattle

More information should be available

The WSBA website has recently posted a searchable set of WSBA “formal” ethics opinions. This is a useful addition to online information pertaining to WSBA lawyer discipline. However, although these opinions provide useful guidance concerning ethics rules, they cast little light upon the inner-workings of the discipline system.

The monthly discipline column in the Bar News is more helpful in this respect, but it also has shortcomings. That column covers only cases wherein the accused lawyer was subjected to discipline, and even then describes only those charges regarding which discipline was imposed. Additional information is available in case files kept at the WSBA office, which are available for public inspection and copying. These files contain statements of charges, briefs, hearing officer opinions, disciplinary board opinions, various orders, stipulations, and other documents. Of particular interest to those involved in the defense of disciplinary matters, either pro se, or otherwise, are examples of successful defense briefs and also board opinions which overturn hearing officer findings. I can’t imagine why anyone would attempt to defend a discipline case without first becoming familiar with this material. The defense briefs of attorney Kurt Bulmer, in particular, are outstanding examples of excellent legal research and writing in this field.

To facilitate access to these materials, I used the WSBA public records bylaw to obtain many of these documents, and have scanned them for online access. A link will be available on the www.freecle.com website, beginning in April. Due to limited time for editing, these are not indexed or even organized, but are rather in the form of raw image files, each containing a large block of documents. My hope is that others interested in this field will download the images, parse them into separate files, and index and organize them into a more convenient form. Ideally, the WSBA itself will elect to make this material available in electronic format.

Edward V. Hiskes, Richland

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And Talk We Did

S. Brooke Taylor, WSBA President

A nd talk. And talk. Five meetings in the governor’s office (at least two hours each), in the space of 30 days, with legislative deadlines looming. And between those meetings were hours of small group negotiations working on specific areas of disagreement. At the end of the day, the citizens of Washington were well served.

Some may recall my January column, entitled “An Open Letter to Physicians — We Need to Talk.” The column concluded with this entreaty: “I would like to explore the possibility of collaboration with the leadership of the medical community, and hereby extend an open invitation. I would like to sit down with a group of thoughtful and reasonable lawyers and doctors to discuss “Plan B” as a starting point, with the goal of making joint recommendations to the Legislature just as we did during the 2001 session. If this invitation is accepted, and such a meeting occurs, all those with an axe to grind will have to remain in the hallway. I want to deal only with those who are serious and open-minded about what it will take to bring significant improvements to the way we resolve these disputes. We need to talk, and time is of the essence. My contact information is set forth below.”

Based upon the calls and e-mails I received, this was seen by most as a long shot, perhaps even wishful thinking. But after the bruising initiative battles of the fall, with two extreme measures resoundingly rejected by the voters after record-setting expenditures by the combatants, it seemed like an idea whose time had come. Let’s sit down and talk, face-to-face — what a concept!

The very first official response I received, even before I had seen the January Bar News in print, was an e-mail from the executive director of the Washington State Medical Association (WSMA), agreeing that it was time to talk. And talk we did — beyond my most optimistic expectations. But it could not have happened without the involvement of Governor Christine Gregoire. What I had spawned was a timely idea without a home, and she gave it a home, a structure, and the stature of her office. Before I could figure out how I would respond to the WSMA, all stakeholders had been invited to the first meeting in the governor’s office on January 17, and the rest is history. SHB 2292 (also called “Plan B” during the 2005 session), as amended through this process, is now the law of the state of Washington. And it is sound public policy.

The new law is not perfect, and leaves much for future negotiations. Nobody got everything they wanted. But it is a solid start toward achieving the goals of improved patient safety, a reduction in insurance costs, efficiencies in the system, and the avoidance of frivolous lawsuits. And just as important as any of the substantive changes are the new reporting requirements for adverse events and closed claims. As the discourse continues in the future, and it surely will, we will have solid, empirical evidence on which to base future policy decisions.

The WSBA was represented at the table by your president and Gail Stone, our superb director of legislative affairs. We did not consider the WSBA to be a stakeholder and were not active in the negotiations. We were there, to some extent, as a courtesy, since we had invited the process, and, to some extent, as reporters for our members. Through our exhaustive process, the WSBA Legislative Committee and Board of Governors had twice voted to support SHB 2292 in its original form, as a meaningful and balanced compromise. During the session, Governor Gregoire knew that any substantive changes in the bill would require a new review and approval by the BOG Legislative Committee if the important WSBA endorsement was to continue. Ultimately, we had five hours after the conclusion of our fifth and final meeting on February 17 to disseminate the substantive changes to our committee and set up an emergency conference call to gain that essential approval. This allowed the WSBA to stand shoulder-to-shoulder with the governor, the insurance commissioner, WSMA, WSTLA, Physicians Insurance, and the Washington Hospital Association in support of this measure at the press conference on January 20, and later that day in testimony before the Senate Health & Long Term Care Committee. Members of that powerful committee seemed stunned almost to the point of amusement as these strange bedfellows paraded to the podium to voice unanimous support for a medical malpractice reform package. One senator was heard to comment that “I never thought I’d see the day!”

It was a historic moment and a historic collaboration. I hope that you share the pride I felt in having our Association take a leadership role. Singling out any individual or group for credit is always dangerous, but necessary here because of the contribution of the two groups that were perceived as being the key antagonists in this decades-long battle: the doctors and the trial lawyers. Both groups honored my plea that “those with an axe to grind will have to remain in the hallway.” The WSMA sent President Peter J. Dunbar, M.D., and Past-president Kenneth H.Z. Isaacs, M.D., who were passionate and articulate advocates for their colleagues, and started the discussions by taking caps on damages and attorney fees, the traditional deal-kill-
ers, off the table. This huge move on their part signaled to us all that the opportunity was upon us, and we had better seize the moment.

WSTLA sent John Budlong, Joel Cunningham, and Reed Schifferman, who once again made me proud to be a lawyer. I never thought I would see the day when WSTLA would agree to the exclusion of apologetic admissions of fault, and the admission of collateral source evidence, but they recognized quickly that these were critical issues for the medical community, and that major concessions on one side called for major concessions by the other. They came in good faith to get something done, and skillfully avoided being either offensive or defensive in articulating the positions important to their members.

Finally, credit must go to Governor Gregoire for her extraordinary leadership in arranging and mediating this process. She chaired all five sessions, and there was never a hint of partisanship in her conduct of the meetings. What did come through loud and clear was her knowledge of the complex issues on the table, and her passion for affordable, accessible health care. She certainly did not need to risk any precious time or political capital in what was obviously a high-risk venture. We should all be grateful she was willing to take the risk.

One final note of gratitude goes to one of the WSBA’s 2005 “Outstanding Elected Official” award winners, Representative Pat Lantz, who sponsored SHB 2292 in the House, got it passed out of the House both in its original version and as amended, and never gave up. Those of us in the legal community are blessed to have her steadfast voice in Olympia.

Brooke Taylor may be reached at 360-457-3327 or sbtaylor@plattirwintaylor.com. If you would like to write a letter to the editor on this topic, please e-mail it to letterstotheeditor@wsba.org or mail it to WSBA Bar News, Attn: Letters to the Editor, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330.

NOTES
1. I am grateful to attorney Gary L. Morse, general counsel for Physicians Insurance, who made sure this invitation in a legal journal got into the right hands.
The Washington State Bar Association is a complex intermingling of functions including regulatory services, public protection, elevating the practice of law, and "working together to champion justice." General Rule 12 and the WSBA Bylaws define our work and that of the Board of Governors and Bar staff.

The WSBA, as an entity, depends on a myriad of members for their leadership and input to accomplish its purposes and goals. President Taylor has pledged to meet with and acknowledge members all across the state. The officers and I recently had the pleasure of coming face-to-face with WSBA members from seven Washington counties. This column pays recognition to and thanks members in Asotin, Clallam, Grays Harbor, Jefferson, Mason, Pacific, and Whitman counties for their participation in WSBA activities and bar leadership.

On January 24, the WSBA team (President Taylor, President-elect Dial, and Executive Director Michels) were joined by Fifth District Governor Mike Pontarolo at a meeting with 35 members from Whitman and Asotin counties. Back row: Denis Tracy (Whitman County prosecutor and Committee for Public Defense member), Mike Pontarolo (WSBA governor, Fifth District), Ellen Conedera Dial (WSBA president-elect), Michael Pettit (Whitman County Bar Association president), Robert Patrick (former WSBA Disciplinary Board and Legislative Committee member), Guy Nelson (former Rules Committee chair), Robert Rembert (WSBA Electronic Legal Research Evaluation Team member), and Dave Savage (past WSBA president). Front row: Brooke Taylor (WSBA president), and Colleen Harrington (WSBA Litigation Section chair).

On February 11, the officers visited Jefferson and Clallam counties. They talked with North Peninsula members about governor rotations, the discipline system, and the need to promote the independence of the judiciary. Pictured are (left to right): Salvador Mungia (WSBA governor, Sixth District), Ellen Conedera Dial (WSBA president-elect), Brooke Taylor (WSBA president), Shane Seaman (Jefferson County Bar Association president), and W. Brent Basden (Clallam County Bar Association president).
On March 1, the WSBA team visited with the Grays Harbor, Mason, and Pacific county bar associations. More than 30 members were at the lunch when President Brooke Taylor presented a Local Hero Award to Pacific County District Court Judge Douglas E. Goelz and spoke about his emphasis on the “Four Corners of Freedom.” A question-and-answer period followed. Pictured are (left to right): H. Steward Meneefee (Grays Harbor County prosecutor), Salvador Mungia (WSBA governor, Sixth District), Brooke Taylor (WSBA president), Gary Burleson (Mason County prosecutor), Ben Settle (Mason County member), Tom Keehan (Grays Harbor County Bar vice president).

Brooke Taylor and the WSBA thank Brooke’s law firm, Platt Irwin Taylor, for their support of Brooke’s presidency. Members of the firm pose with Brooke and President-elect Ellen Conedera Dial: (left to right) Bart G. Irwin, Gary R. Colley, Brooke Taylor (WSBA president), Ellen Conedera Dial (WSBA president-elect), Stephen C. Moriarty, and Simon Barnhart. Not pictured are Stephen E. Oliver, David H. Neupert, and Patrick Irwin.
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Ensuring Equal Access to the Courts for People with Disabilities

BY ALLISON PERYEA WITH JUDGE ANNE ELLINGTON

Washington courts already know the destination: Equal access to justice for all, regardless of physical or mental disability.

To help get them there, the Access to Justice (ATJ) Board is finishing up what many hope will become a frequently consulted roadmap: a guidebook identifying common barriers to courtrooms and court services, and suggesting solutions for overcoming those obstacles.

“Steps leading up to the courtroom can be just as much of a barrier as a sign saying ‘No people with disabilities are allowed,’” said attorney David Lord of the Washington Protection and Advocacy System. “People do not realize how easy it is to remove these kinds of barriers. But they often don’t know what to do, so they tend to ignore the problem.”

Members of the ATJ Impediments Committee prepared the guide. Lord and two other committee members — attorneys Ann Glynn, of the Eastern Washington Center for the Deaf and Hard of Hearing, and Lonnie Davis, of the Washington Coalition of Citizens with Disabilities — were the three chief drafters. Judge Anne Ellington of the Washington State Court of Appeals, Division I, oversaw the project and served as editor.

The guide will be distributed to judges, administrative officials, and staff members by the end of the year, anticipates Judge Catherine Shaffer of the King County Superior Court, Impediments Committee co-chair. The guide will also be posted on various websites, including those of the ATJ Board, the WSBA, and the Administrative Office for the Courts.

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Ensuring Equal Access for People with Disabilities: A Guide for Washington Courts addresses four major categories of disability: mobility, vision, hearing/communication, and cognition. The guide explains courts’ duties under federal and state law, provides basic information on the four major categories of disability, and suggests solutions for providing effective access. An appendix provides a directory of resources and other information.

The guide is not a tool for individuals needing to obtain access to the courts, noted Davis, but rather is a means to help courts figure out how to assist those individuals. The guide’s recommendations are not binding on the courts, he added, but he noted the suggestions are backed by a vast amount of “judicial experience.”

Impediments Committee members point out that universal access to the judicial process is not simply an ideal — it is a legal obligation. Under Title II of the Americans with Disabilities Act (ADA), states are required to take “reasonable measures” to remove barriers to courtroom access for people with disabilities.

“It is important to ensure access when constructing a new building or renovating an old one,” said Judge Shaffer, “but more often we face a case-specific determination of what is a ‘reasonable’ accommodation for a particular individual in the programs and buildings we already have.”

“Courts are not required to bankrupt themselves,” Shaffer added, “but reasonable accommodation is required, and the costs of accommodation may not be passed on to the individual with a disability. Courts must be creative and resourceful.”

In 2004, the U.S. Supreme Court upheld the constitutionality of Title II as applied to courts in Tennessee v. Lane, 124 S.Ct. 1978, which involved a man with paraplegia who had to crawl up two flights of stairs to reach a courtroom. That case served as the inspiration for the guide, said Judge Shaffer. Though similar guides have been made available to Washington courts in the past, including a benchbook prepared by the Superior Court Judges’ Association, they
became outdated as technological and other advances have expanded options for accommodations, she said.

This guide will supply the most current information, she said, and the online version will undergo periodic updates to ensure that the guide remains a relevant resource to the courts.

The need for adequate accommodations is part of the daily experience for Spokane County Superior Court Judge Gregory Sypolt, who uses crutches. His courtroom has been fully ADA-equipped since a September 2003 remodel, which included installation of ramps and technological equipment to assist people with vision or hearing loss. Judge Sypolt has worked in far less accessible courtrooms during his legal career, he said, noting that in some courtrooms it can be particularly difficult to reach the bench from the judge’s chambers due to narrow stairways and a lack of rails. He emphasized that accommodations do not exclusively deal with courtroom architecture, however. Guides such as this help explain to people who are not disabled “how to operate in a way that is helpful but inoffensive,” he said.

The guide advises against touching a person’s wheelchair without permission, for example, and recommends addressing a person with a disability directly, rather than communicating through that person’s personal assistant.

“The level of accessibility in Judge Sypolt’s courtroom is a benchmark for many Washington courts have not yet reached,” said Joan Fairbanks, WSBA justice programs manager and liaison to the ATJ Board. “A number of courthouses in the state are historic buildings constructed before the ADA era,” she said, “and it would take a significant amount of money to make capital improvements to facilitate access. The guide offers suggestions short of drastic capital improvements which are not always feasible,” she said.

Meanwhile, courts in this state often fail to provide assistance for those who are hard of hearing “because they do not budget for it beforehand,” said Glynn. Many courts do not offer hearing-impairement accommodations, such as an interpreter or real-time captioning, until someone who needs the assistance first contacts an advocacy organization such as the one she represents, she said. Nevertheless, courts have typically provided the needed assistance once advocacy groups “come in and educate the courts,” she said.

Don Horowitz, chair of the ATJ Technology Bill of Rights Committee, cites a “big learning curve” as the reason Washington courts are “not even close” to using technology to the extent they could to increase access. “Money is no real obstacle,” he added. “Once courts install and understand how to use the technological instruments that are available, such as streaming audio and infrared sound-transmitters, the cost of operating them will be minimal.” The guide provides detailed explanations of the types of assistive devices for hearing and vision loss, along with the benefits and drawbacks of each type. The ATJ Board, which approved the guide last September, is pursuing outside sources of funding in order to finance publication and distribution of the guide. This year, Impediments Committee members will present the guide at various judicial conferences. The development of training programs for court personnel is also on the committee’s agenda.

“Educating administrative hearing officers about access is particularly crucial,” Fairbanks said, since many people requiring accommodations “never appear in the courts, but instead come before administrative tribunals.”

Guide developers concede that broader access will translate to longer hearings and trials, “likely increasing the total time of a proceeding by one third to one half,” according to the guide. This cost should not even be calculated into the equation, said Judge Shaffer.

“If it takes longer because someone is using a sign-language interpreter, or because we accommodate someone with a vision disability, that is simply part of the regular court process,” she said. “There is no requirement that each type of trial has to take the same amount of time, but there is a strong requirement of absolute equality.”

Judge Shaffer acknowledged that distribution of the guide will not automatically pave the way to universal access in the state, but said that each effort to remove barriers is a step in the right direction. “We may never reach perfection when providing access to people with disabilities, but we can always work to get closer to perfection,” she concluded.
The World Peace Through Law Section at 25

A Conversation with Former Section Chair Randall Winn

BY ROBIN LINDLEY


In that same year, at the height of the Cold War, a group of prescient Washington attorneys formed the World Peace Through Law Section of the Washington State Bar Association.

As explained in a February 1981 Bar News account, the goal of the World Peace Through Law Section “is to encourage lawyers to involve themselves in the current international effort to improve the effectiveness of international law and legal institutions. A fundamental purpose of the Section is to help promote the development of world peace with fairness and justice for all human beings throughout the world.”

At the Section’s December 2005 meeting, keynote speaker Congressman Jim McDermott (Seventh Dist.-WA) stressed the growing importance and timely concerns of the Section, and urged lawyers to educate the public on international law and legal approaches to issues of peace and human rights. Other speakers discussed the legal workings of the United Nations, human trafficking, trade sanctions, and the proposed U.S. Department of Peace.

Randall Winn, a Seattle attorney, served as chair of the World Peace Through Law Section from September 2003 through December 2005, and is the current chair-elect. Mr. Winn earned a J.D. degree at the Western New England College School of Law in Springfield, Massachusetts, and a certificate in international law from the McGeorge School of Law (University of Pacific) program in Salzburg, Austria. Winn grew up in Everett, and decided to return to the Puget Sound area after law school. He established a private law practice, and continued his past work in computer programming. He served as the WSBA webmaster for several years.

Randall commented on the activities of the World Peace Through Law Section at 25, and his hopes for the future of the section in the 21st century.

Lindley: It’s the 25th anniversary of the Section. Talk about the work of the Section.

Winn: Like all State Bar sections, we’re a voluntary group of lawyers. We meet to educate ourselves and others, particularly through CLEs each month with expert speakers on issues of law and peace.

Lindley: How is the Section different from the International Practice Section?

Winn: The International Practice Section relates to commercial matters. I’d like to see more joint programs with them, [because] people who trade with one another are less likely to fight. And [for example,] we could learn how commercial entities resolve disputes and deal with cultural differences.

Lindley: In this post-Cold War world, the Section continues to deal with disarmament and related issues, but also increasingly focuses on human rights. And human rights are inextricably bound to establishing peaceful societies and international relations.

Winn: The biggest issue in the Cold War was arms control. When there’s a crisis that can leave everyone dead in 30 minutes, it focuses the mind, and peace becomes the absence of nuclear war. But now, other issues are coming to the fore … and we can deal with the spectrum of peace issues from nations not being at war to nations extending human rights to
Recent WSBA World Peace Through Law Section CLE Events

9/15/03: The International Criminal Court — Anne Heindel
11/24/03: Reflections on the Right to Peace — Jorge Madrazo-Cuellar
3/22/04: Ethical Lessons from Watergate (Discussion and Video) — Video replay featuring Egil "Bud" Krogh, lead by John Rapp
4/26/04: Economic and Security Obstacles to World Peace Through Law — Thomas Mengert, Paul Schlossman
6/28/04: Constitution and International Law — Ron Syle
7/26/04: Indigenous and National Legal Rights in Chiapas — Luis Arriaga
8/23/04: War Crimes Trials — David E. "Gene" Wilson, Valerie Gow, Ann Lewis
9/27/04: Prisoner Abuse, American Law, and the Geneva Conventions — Rick Lorenz
10/25/04: The International Criminal Tribunal in Rwanda: A Defense Lawyer’s View — D. Danielson
11/22/04: Sacks v. OFAC: Humanitarian Efforts vs. Sanctions — Bert Sacks
12/27/04: Year-end Roundup: Progress in Human Rights Law — Robin Lindley, Randy Winn
1/24/05: Defending the Rights of Environmental Defenders — Marcia Newland
2/28/05: Alien Tort Claims Act — Anita Ramasastry
3/29/05: About the International Human Rights Clinic — Raven Lidman
4/26/05: Global Health and Human Rights — Patricia Kuszler, Beth Rivin
5/31/05: Human Trafficking — Gillian Apfel, Ye-Ting Woo, Norma Timbang
6/28/05: Corrie v. Caterpillar — Gwynne Skinner
7/26/05: Forensic Investigations and Human Rights — Dr. William Haglund.
8/30/05: Iraq’s New Constitution and Democratization in the Middle East — Kristin Stitt
9/27/05: A Judge’s View: Judicial Reform in Russia — Judge John C. Coughenour
10/25/05: U.S. Department of Peace Legislative Status — Patricia Kuderer, Jack Smith
11/29/05: European Human Rights Advocacy from 1790 to Present — Walter Walsh
12/27/05: Year-end Review — Rep. Jim McDermott (keynote), Dr. James Maynard (United Nations and U.S. at a Crossroads), Gillian Apfel (Human Trafficking), Bert Sacks (humanitarian action and trade sanctions), and Jack Smith (proposed U.S. Department of Peace)
1/31/06: The US, International Human Rights Law, and Torture — Dr. Jamie Mayerfeld
2/28/06: International Human Rights and the Global Economy — Martha Schmidt
Constitution and international law, as well as the sovereignty of nations, and treaty obligations.

**Lindley:** The CLE presentations have tackled issues pulled from the headlines. They’ve included programs on torture, genocide, investigation and prosecution of war crimes, the new Iraqi constitution, the Alien Tort Claims Act, the application of the Geneva Conventions, post-conflict legal reform, as well as human trafficking, indigenous rights, global health and justice, and other international human-rights issues.

**Winn:** There’s a hunger for knowledge, and our Section members want to know more than they get in newspapers. So we’ve been getting experts, like a defense counsel before the International Criminal Tribunal for Yugoslavia. In the absence of knowledge, it’s easy to dismiss international law, but when an attorney comes in and says I defended this person before an international tribunal and justice was done, it illustrates the way the law works. By having speakers on the International Criminal Court [ICC], some misgivings about the Court were dispelled. The newspapers and talk radio don’t explain that the Court first needs jurisdiction to act. Most international courts cannot operate until national remedies are exhausted, and a case gets to an international tribunal only if the nation with original jurisdiction asks the tribunal to take it, or the laws of the nation with original jurisdiction are demonstrably illegitimate, neither of which will happen with the U.S.

**Lindley:** It would be unlikely that a U.S. soldier would be brought before the ICC.

**Winn:** Very unlikely, because we have a functioning military judicial system. If we want the ICC to work, we need to be part of it. [As attorney David Danielson described], the ad hoc war crimes tribunal for Rwanda had a slow and clumsy process, and was very dependent on the successor Rwandan government where the crimes were committed. The ICC eliminates some of these problems. Without an expert speaker, we never would have known of the conditions of the tribunal for Rwanda, convened in Arusha, Tanzania.

**Lindley:** What would you like to see develop with the Section?

**Winn:** I want to see the CLE program continue. I’d like to attract more people to leadership positions. It’s good for the Section to broaden the leadership, to have a broad pool of talent to draw on. And I’d like to make a plea to younger lawyers: Our section is unique in that there are not a lot of experts on public international law, and it offers an opportunity for younger
lawyers to learn to lead a section or network . . . to talk with anyone in the Bar Association and with regional experts. With the list serve, we can meet with other lawyers in the law and justice community throughout the state.

Lindley: It seems that lawyers are impressed by the quality of the speakers at the Section CLE meetings, and they feel that the sessions are worthwhile.

Winn: Absolutely worthwhile. And there’s an opportunity for networking after the meetings. It’s valuable, and you can’t put a price on it.

Lindley: And the Section has grown.

Winn: Yes. Our meetings can’t fit around a table any longer. We’ve had to use theater seating.

Lindley: Any other thoughts on the section in the 21st century?

Winn: I’m looking forward to progress on the subject matter. It’s easy to get depressed by the news. But we’ve learned of many good things happening through our speakers, like the Indonesian doctor-lawyer alliance for public health described by Dr. Beth Rivin of the UW School of Law. If, in a small way, we can bring light to questions like torture and human trafficking, and ways to deal with the legal aspects, we’ve done a service.

Lindley: And do you have a message for the new year?

Winn: Peace on Earth. One of the first Nobel Peace Prize winners said the road to peace is long, but don’t be discouraged. Keep moving forward.

The World Peace Through Law Section holds one-hour, brown-bag CLEs on the last Tuesday of each month at noon at the WSBA office. The programs are free and open to the public. For further information on programs or other Section business, contact Section Chair Robin Lindley at roblindley@yahoo.com, or Chair-elect Randall Winn at rewinn2003@yahoo.com.

Robin Lindley, a Seattle attorney, is the 2006 chair of the World Peace Through Law Section. He is a Spokane native and graduate of the University of Washington School of Law. He has worked as a congressional attorney-investigator, federal agency attorney, law teacher, legal consultant, and public health manager/analyst. He is also a freelance writer and visual artist.
**Law Firm Partners—To Stay or To Go?**

**BY KAREN A. ANDERSEN**

By February, most parents are officially midway through the ski-lesson season, basketball is winding up, and Little League tryouts are looming. After a rain-soaked January, we must admit we are officially into 2006. 2005 law-firm revenue and per-partner profit numbers have been calculated and are making their way out to publication. Law firm partners are confronted with the annual decision: Do I stay or do I go?

Because many law firms back-end load their partner distributions, paying out disproportionately larger sums in January (plus or minus a month or two), law firm partners who switch firms typically try to orchestrate such moves to occur soon after these distributions are made. And since a typical lateral partner-hiring process takes two to four months to complete, the math (and history) indicates that partners contemplating a move need to do their serious thinking right about now.

So, how do partners decide whether to consider alternatives or stay put for another year?

**Making an informed decision**

First, let me start with a fairly obvious disclosure: I’m an interested party. If every partner in town chooses the “stay put” option, I might have to go back to being a lawyer again (smile). Second, another obvious statement: A decision to continue at your current firm is a decision. As such — except for that group of mostly senior partners who have made the understandable decision to finish their careers with their present law firm — the decision to stay should be an informed decision.

The Seattle legal market today looks nothing like it did in the 1990s and nothing like it did in the dot-com days of 2000. Remember when you felt like you could keep a pretty good handle on what was going on in the legal market by staying in touch with friends at Perkins, Bogle, Preston, and Davis? Now add to that mix DLA Piper (formerly Piper Rudnick Gray Cary, formerly Gray Cary), Wilson Sonsini, Orrick, Dorsey, Heller Ehrman/Venture Law Group, and boutiques such as Summit Law Group, Susman Godfrey, and Corr Cronin that have opened or merged offices within the past decade. Remember when everyone touted their ties and focus on the Pacific Northwest? Now many local firms are nationally and internationally focused, and many are seeking to improve their Am Law numbers to be attractive to lateral partner candidates in New York, San Francisco, and Los Angeles. As a result of these changes, gaining an understand-

**Using a recruiter**

Bias duly acknowledged, a good recruiter can:

- Provide an overview of the market as a whole, and the various options that might be available to someone with your experience and client base.
- Based on the criteria you outline as important, help narrow the list of options, and then provide more detailed information about that more refined list.
- Help you gather and package relevant materials, such as a résumé (although web bios are a common and acceptable substitute these days), business plan, and a compilation of practice statistics.
- Give you immediate and credible access to key decision-makers at target firms, ensuring that your inquiry is initially reviewed on a “need to know” basis (key to maintaining confidentiality).
- Help manage the timing of the various stages of meetings with firms so that you maintain momentum but also do not get put in an awkward position because the process at one firm progresses much more rapidly than at others.
- Serve as a trusted adviser throughout the interview process on the myriad issues that arise, including client conflict issues, fiduciary obligations, when and how to withdraw from discussions with a particular firm, and when and how to ask for the sensitive information necessary to gain a more complete financial picture of a target firm.
- Help get to the right (not necessarily most lucrative) compensation package, including advising on how to approach such things as amount and duration of guaranteed payments, “bridge bonuses” (sometimes provided to compensate for money being left on the table), or issues relating to capital contributions that often arise because of different “payback” and “pay-in” schedules.

The list could go on. The bottom line is...
that most partners change law firms once or twice in their careers — not enough to become experts on the topic. An experienced recruiter will have walked dozens of partners through the transition process. That experience results in wisdom that can prove very valuable to the partner considering a change.

**What about the cost to the firm?**
The cost to the acquiring firm of the recruiter’s fee is, I believe, a nonissue. As I tell every partner I work with, if you were to call up a target firm and ask — “Should I send my résumé over to you directly or should I approach your firm through a recruiter?” — it would be a rare firm that would choose the recruiter option. I believe, however, that the question misses the point. The correct questions to ask are:

- Do I think the recruiter will add value for me in the course of the representation? (If no, stop reading and delete the names of all recruiters from your Outlook contacts list.)
- Will the acquiring firm view my candidacy less favorably, or pay me less, if I am represented by a recruiter?

The marketplace for lateral partner talent has never been as competitive as it is today. Recruiters with a track record of success in partner placement are buried with requests from law firms seeking lateral partners, including requests to search for desirable partners on a retained-fee basis. Firms do not — and cannot afford to — view candidates less favorably if they are represented by a recruiter. Additionally, recruiting fees are not out of the norm for most firms, as many routinely pay recruiters for associates as well as paralegals and legal assistants.

**The informed decision is yours**
Should you stay or go? In the end, only you can make that call. Make it with as much information and insight as possible. 

Karen A. Andersen heads the Seattle office for the legal recruiting firm Major, Lindsey & Africa. Andersen was formerly with Davis Wright Tremaine and Summit Law Group. She specializes in counseling law firm partners about possible lateral moves and providing in-house legal search expertise for large and small companies.
Everything You Always Wanted to Know About Casemaker*
*But Were Afraid to Ask

BY BARBARA J. KONIOR

The WSBA recently contracted to make available Casemaker, an online research database that WSBA members can access 24 hours a day, seven days a week with no additional fees. Casemaker provides members with access to:

- Washington's Case Law and Statutes
- Administrative Code
- State Constitution
- Court Rules
- Attorney General Opinions
- Growth Management Decisions
- Environmental Board Decisions
- Ethics Opinions
- University of Washington's Shidler Journal of Law, Commerce & Technology
- Gonzaga's Journal of International Law

Casemaker provides access to 27 other state libraries that have joined the Casemaker Consortium, including Idaho and Oregon. Each of the various state libraries may contain different datasets. WSBA members also have access to U.S. Supreme Court cases, limited coverage of federal circuit cases (including the last 10 years of 9th Circuit opinions), the U.S. Code, the U.S. Constitution, and Federal Court Rules. There is also the combined state Supreme Court database and the national ethics opinion database.

How do I sign on?
To use Casemaker, go to www.wsba.org and click on the Casemaker logo in the right-hand column. Once on the Casemaker homepage, check out the links on the right-hand column. You'll find the "Casemaker News" link, which provides you with information and current news. You'll also find links for a PowerPoint Tutorial, Quick Reference Guide, User Guide, and Frequently Asked Questions (FAQs). All of these links will assist you in learning how to access the materials available in Casemaker. After reviewing the various links, use your browser to click back or click on the "Casemaker Login" link. Now you are ready to sign on to Casemaker.

To sign on, you need your WSBA number and password. Password information was mailed to every WSBA member several months ago. If you did not receive a letter or misplaced it, simply e-mail casemaker@wsba.org or call the WSBA Service Center at 800-945-WSBA (9722) or 206-443-WSBA (9722) for password information. Once you sign in, you can change your password to something you can easily remember by clicking the "Change Password" button.

Click the Casemaker button to enter the Library Contents page.

What data is included?
For those who are new to online legal research, picture yourself looking at a map with different rooms for each of the different libraries. If you want to do legal research involving Washington law, you would simply go into the room where the Washington library books are shelved, find the volume you are looking for, pull the book off the shelf, and look at the case. In Casemaker, you go into the room by clicking on the words "Washington Library." A screen appears that provides you with the books (datasets) available in this library. Each manila-colored bar represents the individual dataset under each heading provided from Case Law down through the Administrative Code. Before moving forward, it is useful to know what is contained within each library.

A Current Content link is provided at the bottom of each library page. There is no sense looking for a 1994 9th Circuit opinion when the federal library database has opinions from 1995 (partial) and beyond. Click on the "Current Content" link on the Washington database page. The left-hand column provides the basis of the dataset and the right-hand column the currency of the data. Please note: unpublished cases are not included in the Washington library.

How do I search for a case?
Returning to the previous screen with the itemized contents of the Washington library, each manila bar provides a link to the data contained within. There are options to either search or browse the data.
Only the search option is available for Washington case law. When you click the search button, the screen displays a light-blue tabbed box. The blue tab is for a basic search. Adjacent to this tab is an advanced search tab. To maneuver between the searches, just click the appropriate tab.

If you just have search terms, use the basic search space. The page provides you with basic search information and a link for additional search logic information. The advanced search box provides fields for citation, case name, word proximity, date, and word-form searches in addition to a space for search terms. Citations are entered in the Citation field in the following formats:

- 54 Wash. 34
- 100 Wn.2d 1
- 119 Wn. App. 95

A space is required between the volume and abbreviations for Washington (Wash. and Wn.) and another before the page number of the case. A space is also required between the abbreviations for Washington (Wn.) and Appellate (App.), but not between the abbreviations for Washington (Wn.) and Second (2d).

Case names may also be entered in the Citation field by clicking the small circle above the field adjacent to the words “Case Name.” Enter case names by using one or both parties’ last names. Spelling is critical. Casemaker searches only for exact matches. The abbreviation for versus (v.) must be omitted; a space between the names is all that is necessary.

Docket Number and Syllabus are two other fields available. If you have only the Slip Opinion Number available, insert it in the Docket No. field. If you are unsuccessful, try using only the first five numbers of the docket number. For example, if 55097-7-I does not pull up the case, it is likely that Casemaker will find it only if you enter 55097.

Once you have entered either the case names or the citation, click on the Search button at the bottom of the box. The next screen is your Search Results.

If you do not have the case name or the citation, but know the year the case was decided and some key points of law discussed in the case, enter your search terms in the Full Document Search Query field and enter the beginning and end dates for
the time of the decision in the Date Decided fields. For example, if you want to find a DUI case decided in 2005, enter DUI in the Full Document Search Query field and enter the dates 01/01/2005 and 12/31/2005 in the appropriate Date Decided fields.

Search terms within the Full Document Search Query field should be entered using the Basic Search Logic provided, but your search may also be enhanced by using the Word Forms and Proximity fields. The Word Forms field provides prefix, suffix, and any word forms (thesaurus too) for your search terms. A word of caution though: using the “any word forms (thesaurus too)” selection is likely to produce a tremendously broad result. Using the tilde (~) before the individual search term for the thesaurus expansion and using the asterisk (*) before or after the root word for prefix and suffix expansion might provide a better result.

Once you have entered the search criteria, you have the option of having the search results provided by rank, date-descending, or date-ascending order. Rank is determined by a computer algorithm that calculates the frequency of your search terms in the case. Date descending is the default.

Next, click on the Search button at the bottom of the box. The next screen that appears is your Search Results. Each result listed provides the citation in blue. Click the citation and you will open the full text of the case. If you used search terms, they are in bold red print. Buttons are provided at the top of each case that allow you to move from result to result and from hit to hit.

What is Casecheck?
On the right-hand side of the screen, a column entitled Casecheck appears. Casecheck automatically provides links to any case that has subsequently cited the case you have chosen. Casecheck links are provided with the most recent case at the top of the list and any additional cases in chronological order. If you click on a Casecheck case link, Casemaker takes you directly to the section within the later decision where your original case is cited. By using Casecheck, you can determine if the decision in your original case cited was followed, modified, revised, or overruled.

How do I print information from the library?
To print a copy of the case you need without your search terms in bold red print, press the Casemaker “print doc” button at the top of the page. A print-ready version of the case appears. Next, use your browser to send the print-ready version to the printer. It is also possible to cut and paste information from a case into a separate Word document if you need only a section of a case or statute.

Are there links to other cases cited within cases?
If you are in a dataset and a case is cited within a case, a link is provided to the cited case if that case is available in the library. The Revised Code of Washington is not currently linked to the Washington Case Law library.

How do I find a Washington statute?
Open the Washington library page and click either the search or browse button on the manila bar for labeled Statutes & Session Laws. If you know the RCW title and chapter, you can simply use the search button and click through until you find the statute you want. If you do not know where

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the statute might be regarding a particular topic, click on the Search button. Basic and advanced search options are provided, and the search logic and syntax are similar to the case law search criteria.

Although the statutes are not annotated on Casemaker, there is a way to locate cases that cite the RCW you are looking for. If you have the statute citation you want to find cases for, click on the Search button on the manila bar for case law. Then type in the full RCW, such as "RCW 26.16.010," in the Full Document Search Query field. (Use quotations to eliminate Casemaker highlighting RCW and each of the numbers listed separately in a case.) The search results are all of the cases that cite RCW 26.16.010. In this example, more than 50 results are displayed. To reduce the number of cases to review (for example, if you are interested only in gifts that were given to the husband), click on the Revise Search button, then on the Advanced Search tab, and Casemaker still displays "RCW 26.16.010." Add a space and "gift*" so that your search would be:

"RCW 26.16.010" gift*

In this example, the results are lowered to 23 matching documents containing both the RCW cite and the word "gift" or "gifts." By going back and adding the word "money" to your search, the results are lowered to 10 matching documents that meet your search criteria.

Is it possible to search several state libraries simultaneously?
You can simultaneously search the current year’s consortium state Supreme Court decisions. There is also a searchable National Ethics Opinions database. If you are in any library and want to return to the Casemaker Consortium Library Contents page, click on the Casemaker logo. The link labeled Nationwide Collections provides access to the Combined State Supreme Court decisions and the Combined National Ethics Opinions.

Is there a federal database?
Casemaker also provides a federal library with U.S. Supreme Court cases dating back to 1935 and a dataset of Circuit Court opinions. (Again, check the current contents page until you become familiar with the dataset. You may be searching for a case that is not available in Casemaker.)

Should you cancel your contract with other legal database vendors?
The WSBA is not suggesting that you cancel your contract with paid legal-database vendors. Casemaker’s Washington case law is a work in progress. The database has been up and running for only a few months, and the WSBA is working diligently with the vendor to provide you with the most reliable information. We are working on correcting errors and an internal pagination problem. Knowing this, Casemaker can still be used as a first step in your legal research. It is quick; available 24 hours a day, seven days a week; and, best of all, there are no additional costs to WSBA members!

Barbara J. Konior is currently a WSBA seminar development specialist. Prior to joining the CLE department, she worked as the Casemaker coordinator. She is a graduate of the Seattle University School of Law and worked for several years in the areas of real estate and corporate law and general civil litigation.
Leading in the 21st Century

The WSBA Leadership Institute Enters Its Second Year

by Joslyn K.N. Donlin

ow in its second year, the WSBA Leadership Institute has recruited a new slate of eager, talented participants whose backgrounds are as diverse as their opportunities are limitless, and who will go on to enrich the legal profession and their communities.

Starting Off with a Bang
The WSBA Leadership Institute was founded in February 2005 to promote diversity in the legal profession by training lawyers from underrepresented groups for leadership positions. Within six months, the WSBA Leadership Institute was honored with the prestigious ABA Partnership Award — given to bar associations who have made significant efforts to increase diversity in the legal profession — for its unique and groundbreaking leadership program — a remarkable accomplishment. Graduates of the 2005 WSBA Leadership Institute have gone on to apply their new skills and unique perspectives in a variety of WSBA-related leadership activities.

Core Curriculum, Program Benefits, and Commitments
One of the goals of the Leadership Institute is to institutionalize an experiential and collaborative instruction model of leadership training. The program emphasizes professional training, the development of skills and techniques, curriculum modules, and learning strategies not typically found in law-school classrooms. Leadership Institute fellows benefit from the latest trends in professional leadership development; exposure to the legislative and judicial systems; interaction with high-level state and local officials and judges; and opportunities to meet high-profile practicing attorneys from the private and public sectors.

The WSBA Leadership Institute is a two-year commitment. Following the completion of the first year, fellows are expected to provide one year of service by becoming actively involved in a WSBA section, committee, or Bar-related activity.

Recruitment and Selection Process
The Leadership Institute recognizes that many lawyers — particularly those from diverse backgrounds and other underrepresented groups — have not been traditionally recruited for leadership positions or made aware of opportunities for leadership training and professional development available through the WSBA. To be considered for the program, applicants must:
1) complete an application, with cover letter, résumé, and three references;
2) be an active WSBA member;
3) have practiced law in a U.S. jurisdiction for three to 10 years;
4) be nominated by his/her employer, or if self-employed, by another individual; and
5) provide evidence of interest in community and WSBA activities.

Applications for the 2007 WSBA Leadership Institute will be available by midsummer 2006 for submission in early fall.

2006 WSBA Leadership Institute Fellows
The fellows of the Leadership Institute class of 2006 are highly accomplished and talented, reflecting the diversity within the WSBA and closely representing the profile of attorneys in the 21st century. Of the 12 fellows, seven are women and four represent geographic locations outside Seattle. There is one African American, two Caucasians, two Latinos, one Latina, one Korean, one Irani, one Filipina, one Umatilla American Indian, one Vietnamese, one East Indian, and one from the GLBT community. A variety of practice areas and practice types are represented.

Advisory Board
The WSBA Leadership Institute Advisory Board is responsible for the overall mission, function, and delivery of the
program. In 2006, the primary responsibilities of the Advisory Board will be to organize, develop, implement, and evaluate the Leadership Institute. Each member of the Advisory Board also serves as a facilitator for at least one of the eight sessions.

Currently, the Advisory Board is composed of Washington state attorneys and judges, and includes the WSBA president (as an ex-officio member), representatives from minority bar associations, a WSBA Young Lawyers Division representative, a member of the Board of Governors (who also serves as a liaison to that body), and three former WSBA presidents. Diversity Advocate Joslyn K.N. Donlin is the staff liaison.

The 2006 WSBA Leadership Institute Advisory Board

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Marcine Anderson, WSBA governor
Dale L. Carlisle, WSBA past president
Noah C. Davis, WYLD president
Anthony D. Gipe
Judge Richard A. Jones
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David W. Savage, WSBA past president
S. Brooke Taylor, WSBA president
Ronald R. Ward, WSBA past president

Highlights of the Second Year’s Session One
On the first day of session one, WSBA Immediate Past President Ron Ward gave a heart-warming and passionate welcome emphasizing the goals and background of the Leadership Institute and his hopes and dreams for the class of 2006. James Williams facilitated the day’s discussion on leadership skills and, as one fellow commented, “epitomizes the heart and soul” of the program.

Washington State Supreme Court Justice Mary Fairhurst, U.S. District Judge Ricardo Martinez, and Jeffery Robinson, a prominent defense attorney with Schroeter Goldmark & Bender, all returned by popular demand to help commence session one. They inspired the fellows by recounting their challenges and triumphs with personal stories. As one fellow commented on Justice Fairhurst’s collaborative leadership style, “[I] loved her explanation of using your team and creating a place for everyone to contribute. An excellent model of nurturing and leading at high levels.” Another fellow said, “Lots of good quotes, especially the question, ‘What would you attempt to do if you knew you could not fail?’” One fellow commented on Robinson’s story about his parents and the integration of the Memphis schools: “Hearing him talk about his parents marching [with Martin Luther King Jr.] and his integrating
the Memphis schools was incredibly powerful and moving.”

One of the highlights of day two was an entertaining presentation by Ann MacFarlane, an expert on parliamentary procedure, entitled “Jurassic Parliament.” Through the use of toy dinosaurs, MacFarlane took Roberts Rules of Order and made it into a practical and easy way to learn parliamentary procedure. Fellows will always remember the difference between motions and amendments and points of order and points of information!

As a lead-in to the 2006 community-service project, class of 2005 fellows Angelique Davis and Daniel Russ shared an overview of the class of 2005 community-service project entitled “Profiles of Diversity and Leadership,” which chronicles the personal stories of diverse attorneys throughout the state, and how they overcame challenges in pursuit of their dreams of becoming attorneys. It is the hope of the class of 2005 that by sharing these inspirational stories, students at all levels will be encouraged to pursue the legal profession. The profiles can be found at the WSBA website at www.wsba.org/diversityprofiles.htm.

2005 Class Reunion
Following the first day of session one, a reunion dinner for the class of 2005 took place. They were joined by the 2006 fellows, Leadership Institute Advisory Board members, WSBA President-elect Ellen Conedera Dial, and WSBA Governor Kristal Wiitala. Fellows from both the 2005 and the 2006 classes were able to meet one another and compare notes on leadership skills and balancing one’s professional and personal life. Following the dinner, 2005 fellows Beth Barrett Bloom and Carrie Carter Coppinger provided some words of wisdom about how to make the most of the Leadership Institute sessions.

The WSBA and the legal community are already benefiting from the leadership skills of the class of 2005. Michael Heath and Beth Barrett Bloom are president and president-elect, respectively, of the Gay Lesbian Bisexual Transgender Bar Association, also known as QLaw, established in 2005. Also, Kim Tran and Michael Heath are co-chairs of the first Statewide Diversity Conference to be held on June 1-2 at Seattle University School of Law. Further, in the January 2006 issue of Washington Law & Politics, most of the 2005 class were named “Rising Stars.” Lastly, class of 2005 members are serving their one-year commitment on either a WSBA committee, section, or Bar-related activity.

The WSBA Leadership Institute graduates will no doubt fulfill the mission of the program by holding prominent state and national leadership positions in the legal profession, judiciary, and government. They will be the faces of leadership in the law of the 21st century. We will all be so proud!

Joslyn K.N. Donlin, formerly an attorney in private practice, was selected to be the first diversity advocate for the WSBA. Joslyn brings with her a background in both education and law, as well as in diversity training. For the past three years, Joslyn has been involved with the WSBA Committee for Diversity, helping to lead efforts to promote and increase diversity within the Bar. For more information about the WSBA Leadership Institute, she can be reached at joslynd@wsba.org or 206-727-8216.
When you’re an attorney in the U.S. Army JAG Corps, the world is your courtroom. Since its founding in 1775, JAG Corps attorneys have been involved in landmark trials, nation-building accords and historic humanitarian efforts all over the globe. From serving our nation to helping build democratic governments, your résumé and your life will be changed forever. For more information on enhancing your practice by becoming an attorney in the U.S. Army Reserve, visit law.goarmy.com/info/reserve-law

Miller Nash congratulates our former partner Mary on her new position as vice president and university counsel for Seattle University. We pledge to maintain her standard of excellence as we continue to represent colleges and universities throughout the Northwest.
BY LINDSAY THOMPSON

Seattle, March 3, 2006

Gathering at the WSBA office, the Board of Governors heard a lengthy and detailed presentation from Practice of Law Board Chair Steve Crossland and members Stephanie Delaney, Rita Bender, and Judge Paul Bastine on the POLB’s proposal to create a licensing and regulatory scheme for nonlawyer “legal technicians.”

While passionately presented, the idea fell foul of the Dr. Fell Syndrome: The BOG liked what POLB stood for, but not how it stood.

Crossland’s PowerPoint reiterated POLB’s past arguments for legal techs as the answer to the large unmet civil legal services needs of Washington’s poor. He recounted the hearings held and presentations made. “Only lawyers can solve the problem,” he declared.

Judge Bastine reminded the BOG that POLB is a body of the state Supreme Court, separate from WSBA, the better to avoid restraint of trade accusations. To justify POLB’s plan for creating a new regulatory system for people to practice in limited areas of law, he cited a 2005 Federal Trade Commission letter to the Kansas State Bar. It maintained that nonlawyers should be able to provide legal information and advice absent clear evidence of harm to the public. Examples the FTC gave included real-estate agents; tax preparers; tenant and consumer associations; investment bankers and business planners; healthcare facilities (for powers of attorney and directives to physicians); self-help book publishers; websites; and computer programs. He went through how the state Supreme Court has created some arenas in which nonlawyers can already practice in limited areas of law in Washington.

Stephanie Delaney then described POLB’s intended regulatory scheme: completion of an approved course of study; passage of an exam covering general and specialized practice area legal knowledge; payment of application and licensing fees; a period of practice under a lawyer’s supervision; some required pro bono work; a physical office in-state; no puppy-milling work to unlicensed minions; written contracts with clients; meeting lawyers’ ethics and IOLTA requirements; and being subject to a discipline program. All in all, she concluded, legal techs will be even more regulated than lawyers, and at a cost to WSBA, over the five-year startup period, of less than one half of one percent of WSBA’s budget. After that the program will be self-supporting, she told the BOG, and the money repaid.

Rita Bender explained to the BOG that there’ll be a seven-member Nonlawyer Commission — a POLB subaltern — to create still lesser groups to study what areas of law should be open to legal techs. She told everyone POLB believes there has to be a regulatory framework in place before anyone decides on any areas of law to open up.

Judge Bastine argued the POLB Plan would deal effectively with unauthorized legal practice, improve the quality of legal services, and provide a solution to the issue of unmet legal needs. Crossland called the plan “a low-cost, low-risk, high-benefit plan.”

Governor Doug Lawrence agreed. He said General Rule 12, which defines the purposes of the WSBA, calls on us to promote a civil legal system open to all. While he found his constituents were “95 to 1” against the idea, Lawrence thought POLB’s plan a “... good, important step. How can we take work away from lawyers,” he added, quoting a frequently voiced objection, “when we aren’t doing it now?”

Governor/Treasurer Mark Johnson disagreed. In the five-year rollout period, he said, WSBA would be hit for recurring and non-recurring costs that could run as high as $700,000. “There’s no evidence enough people will sign up for this to pay for itself in five years.”

Johnson dismissed the FTC letter as “Worthless. The FTC doesn’t regulate the legal profession in Washington.”

Warming to the theme, Johnson asked why people would want to go through a burdensome certification program, and open an office, to serve people with no money to pay for the service. “And what about malpractice insurance?” he added.

Governor Kristin Olson reported that her constituents were all against the plan. She didn’t believe it would meet the unmet legal needs goal, and wondered why the WSBA imposed extra pre-admission requirements on new lawyers within recent memory only to be asked now to endorse creating a class of less-well-trained technicians. Responding, Chair Crossland contended legal techs would be more qualified out of the box to serve the public than newly admitted attorneys. He added that in the best case, the program won’t be up and running till 2009 or 2010, so there’ll be no out-of-pocket any time soon.

Governor Marcine Anderson expressed admiration for the POLB’s presentation and commitment, but was concerned they want to just create a new level of services the poor still cannot afford. Rita Bender replied, “It might not work, but what we have now isn’t working, either.”

Governor Mike Pontarolo liked the POLB concept, but questioned how market forces could address working for people with no disposable income to speak of; doubted it would curb UPL; and worried the plan has too many unknowns at the front end.

Governor Eron Berg agreed with Pontarolo’s points, then asked why POLB’s plan couldn’t be tested as a pilot program. He wondered, too, why the Young Lawyers Division GAAP program, in which lawyers agree to work for low, capped fees, couldn’t be rolled out statewide more easily, since it is already working.

Rita Bender contended you couldn’t do a pilot program until you have the standards and regulations in place. Once we do that, she said, the first area of law identified for a certification program would become a de facto pilot program.

Governor Katie O’Sullivan questioned POLB’s apparent reliance on the FTC letter because of the examples it listed of areas where nonlawyers could give legal information and advice, only one dealt even peripherally with low-income legal needs.

Governor Stan Bastian favored doing something, but didn’t think the POLB plan was it. He moved that the BOG take
no position on the matter when/if the POLB sends it to the Supreme Court.

Governor Jim Baker agreed with Governor Lawrence’s comments, but was concerned that legal techs would compete most directly with debt-saddled new lawyers. Governor Salvador Mungia preferred a motion to oppose the plan. He was still waiting, he said, “to hear that this will meet the need.”

President Brooke Taylor opened the discussion to liaisons. WYLD President Noah Davis told the BOG young lawyers aren’t so much motivated by the practice impact legal techs could have as by concerns the plan won’t address the unmet need or UPL. He said YLD’s trustees oppose the plan, 13-1.

Gail Nunn, speaking for the WSBA Family Law Section, dittoed Davis. Her executive committee opposed the plan, 16-2.

Defense Trial Lawyers rep Jim Macpherson worried that creating this new level of legal technician might lead to new efforts to de-fund existing legal services programs on the grounds there was now a market-based alternative. The Litigation Section opposed the plan, too.

Diana Moller, representing the Washington chapter of American Immigration Lawyers, expressed frustration that her group’s concerns have been ignored by POLB. She told the BOG nonlawyers in the immigration field often charge more than lawyers do, in effect, preying on especially vulnerable people in a field where one error could result in a client’s deportation. She failed POLB for “a naïve sense of altruism.”

After some further comment in the same vein, Governor Bastian withdrew his no-comment motion and Governor Mungia put his up to oppose the plan as proposed and drafted. The motion to oppose the plan passed, 12-2. Governor Berg moved to “keep the door open” to more discussion with the POLB; Mungia called the motion “a non-motion,” since the two bodies could do that without formal action. “It sends a message,” Governor Lawrence commented. Berg’s motion passed, 12-1-2.

The rest of the day was more routine business. Legislative Director Gail Stone updated the BOG on bills WSBA had in the Legislature and said overall this year’s legislative campaign has gone well. But with a week left in the session, anything could happen, and she was immediately back to Olympia to deal with a bill addressing judicial campaign finance and elections.

King County Bar Veep John Ruhl and Governor Lawrence rolled out a plan for a WSBA task force to dust off the idea of merit selection of judges, an oft-studied issue of the past 20 years. They asked for a 10-member body to include lawyers,
judges, lay members, and minority bar representatives.

Judge Eileen Kato, representing the District and Municipal Court Judges Association, expressed concern that such a study might be at odds with the position of the Board of Judicial Administration, which includes members of all levels of courts in Washington and prefers elections at all levels. She told the BOG campaign finance excesses aren't an issue below the appellate courts. "We just pay for campaigns with our home equity loans," she said. After some more discussion, the Board voted 13-1 to authorize the study. Lawrence intends to get the group cracking, and have an initial report by July.

WSBA President-elect Ellen Conderia Dial chairs the committee that is planning WSBA's planned December move to new digs in Seattle. She updated the BOG on how things are progressing, including the subject of a telephone BOG meeting in January: space needs. As work and planning has gotten more concrete, it has developed that more space will be needed, so in January the BOG authorized the President and the committee to see what they could negotiate.

The Board nominated Josephine Townsend and Joseph Delay for Supreme Court appointments to the Commission on Judicial Conduct. They nominated Bruce Reeves and Wayne Blair to the Access to Justice Board, but got stuck on making two other nominations because the Board made three recommendations for the two places and then listed a number of other candidates who didn't make the cut without explaining why. So they will get some additional information provided and take the remaining nominations up in April.

The BOG also received a proposal to create a Juvenile Law Section in the WSBA. Under the Bylaws, that's an initial step. Publication of notice for six months, development of bylaws, a budget, and gathering at least 50 WSBA members willing to join will follow. Completing that process was the new Sexual Orientation and Gender Identification Legal Issues Section, which completed those steps. They also approved a change to the term of office of CLE Committee members to make it easier for them to serve effectively on a body with a long learning curve.

Judy Berrett — my boss — gave a presentation on the work of the Member and Community Relations Department, which she heads. Big staff, it turns out, doing a remarkable variety of things.

Judges Catherine Shaffer and Anne Ellington gave an interesting and provocative presentation on a report they’ve been involved in developing on improving access to the judicial system for persons with disabilities. It’s a strikingly thorough piece of work designed to help courts in Washington deal with incredibly complex laws in the area. They want to get it published and asked for WSBA's endorsement. See p. 18 for a report on this issue. The BOG will entertain ideas for publication.

So that’s how it went — a lot accomplished in a one-day meeting. Next meeting is April 21-22 in Walla Walla.
Judicial News

Governor Chris Gregoire has appointed three WSBA members to judicial positions in recent months. Senior Assistant Attorney General and Section Chief Teresa C. Kulik, of Wenatchee, was appointed to the Court of Appeals, Division III, District 3, effective February 16, 2006. The seat was vacated on November 1, 2005, by Judge Frank L. Kurtz, who was appointed to the United States Bankruptcy Court for the Eastern District of Washington.

Kulik joined the Attorney Generals’ Office in 1981. She was a division chief responsible for seven regional offices; represented the departments of Social and Health Services, and Labor and Industries; served as general counsel to Central Washington University (21 years) and Yakima Valley Community College (five years); and opened Attorney General branch offices in Yakima, Port Angeles, and Wenatchee. From 1978-1981, Kulik was a staff attorney for Evergreen Legal Services in Clarkston, providing counsel to low-income individuals. Kulik served as president of the Yakima County Bar Association in 1994, and vice-president of Columbia Legal Services. She has been a 20-year member of the National Association of College and University Attorneys.

Snohomish County Deputy Prosecuting Attorney David Kurtz, of Everett, has been named to the Snohomish County Superior Court. The seat was recently vacated by Judge Stephen Dwyer, who won election to the Washington State Court of Appeals. Kurtz joined the Snohomish County Attorney’s Office in 1983. He litigated more than 100 felony jury trials and supervised the Violent, Charging, Juvenile, District Court, and Special Assault units. Most recently, he supervised the Domestic Violence Unit.

Kurtz has served as president of the Snohomish County Bar Association; currently serves on the boards of the Snohomish County Labor Council and Compass Health; and chairs the Criminal Justice Advisory Committee at Everett Community College. Kurtz is active in community theater and has completed 47 marathons.

Skagit County Superior Court Commissioner Dave Needy, of Mt. Vernon, took a seat on the Skagit County Superior Court effective January 20, 2006. Needy was appointed Skagit County Superior Court commissioner in 1997. He was appointed Skagit County prosecutor in January 1993, won a special election later that year, and won reelection in 1994 to the same post. From 1985-1993, Needy served as chief criminal deputy prosecutor in the Skagit County Prosecutor’s Office. From 1981 to 1985, he was deputy prosecuting attorney for Benton County.

He received the Campaign for Equal Justice Award in 2004, and the Skagit County Legal Assistant and Professionals Boss of the Year Award in 1999. Needy served as president of the Skagit/Mt. Vernon Rotary Club from 1997 to 1998, and has been a board member of Youth Dynamics since 1988.

News Coups

WSBA Member To Head ABA
William H. Neukom, chair of Preston Gates & Ellis LLP in Seattle, has been nominated to become president-elect of the American Bar Association. The ABA House of Delegates will vote on Neukom’s nomination at its Annual Meeting in August 2006. If elected, Neukom will be ABA president-elect for one year, and will then serve a one-year term as ABA president beginning in August 2007.

Neukom indicated that he would focus on serving the members of the association during his tenure. "I would like to enhance ABA programs that help lawyers better serve their clients, our communities, and our nation," Neukom said.

Additionally, Neukom plans to emphasize the rule of law in this country and abroad. "A rules-based system of self-government that includes a strong and accessible legal process featuring an independent bench and bar is critical to every nation," he said.

Active in organized bar work for more than 35 years, Neukom is currently serving his third term as the Washington state delegate to the ABA House of Delegates. He also served as secretary of the ABA, and chaired the Young Lawyers Division of both the ABA and the Seattle-King County Bar Association.

Neukom served as Microsoft Corporation’s lead lawyer for nearly a quarter century, from 1978 to 1985 while in private practice and from 1985 to 2002 as its general counsel. During his tenure as general counsel, Neukom established Microsoft’s Law and Corporate Affairs Department and grew the group from five employees to more than 600. As head of the department he oversaw corporate affairs, including government, industry, and community affairs, as well as the company’s legal matters. In fall 2002, Neukom returned to Preston Gates & Ellis. He is a member of the firm’s business

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The American Bar Association is the largest voluntary professional membership organization in the world. While Washington has a large ABA membership and many section and committee chairs, Neukom will be the first ABA president from Washington since Frank E. Holman held the position in 1948-49.

Thanks, Dean

On the retirement of Court of Appeals Judge J. Dean Morgan, by Dennis Sweeney

Judge J. Dean Morgan retired from the Washington State Court of Appeals this past fall. He did so the same way he chose to serve the law and this state — quietly and without fanfare. And yet, his contributions to the law, the legal community, and this court that I serve, rank up there with the best who have ever carried the title judge.

There are few of us who pretend to do this work, who can claim his understanding of the history, the purpose, and therefore the proper application of the doctrines and processes that are the daily business of appellate review in this state. Reading a “Dean Morgan” opinion is like reading a learned treatise. This accomplished teacher usually started with a statement of the legal principle in play, an explanation of the purpose of that rule, all of which he then neatly folded into an application that now made sense. Read his discussion of judicial discretion for an example in State v. Karpenski (94 Wn. App. 80, 971 P.2d 553). To this day, I encourage law clerks to seek out a “Morgan Decision” on evidence, the sentencing reform act, or any of the judicial processes that make up our daily work. And while I might comment or even chuckle at the length that Judge Morgan went sometimes to develop a point, those opinions will remain an enduring source of both wisdom and information to the bar and bench of this state.

Any who were fortunate enough to sit through one of his evidence classes knows that this was someone with more than just a mastery of the law, and particularly the law of evidence. This was also a guy who could effectively communicate that deep understanding.

The business of judging in appellate courts may be inexorably grinding toward a more ideologically driven, more political decision making. But if that is true, then Judge Morgan was a beacon of hope. He talked one time of the need to run for election again and commented that if the decisions he gave us were not enough to get him reelected then he wasn’t sure he wanted the job. His understanding of the history, purpose, and focus of these rules was so sufficient that thoughtful judicial opinions seemed to roll out of him,
opinions that continue to be a struggle for many of the rest of us. This is intellectual honesty at its highest.

Judge Morgan’s retirement is a big loss to the legal community and the citizens of this state — the loss of a scholar, a teacher, and an important judge.

*Dennis J. Sweeney is a judge of the Washington Court of Appeals, Division III, in Spokane.*

**In Memoriam**

The WSBA mourns the deaths of our friends and colleagues Joy McLean and Katherine Johnson, who were killed in a car accident on March 4. Joy was the director of the WSBA Office of Disciplinary Counsel (ODC) and Katherine was an investigator with ODC and the Practice of Law Board. They will be greatly missed. More information will appear in the May issue of *Bar News*.

**Kevin Jung**

Mr. Jung, 45, died February 11, 2006, in Bellevue. Jung died of complications from a gunshot wound to the head inflicted by another lawyer, William Joice. Tried for the attack, Joice testified he was trying to buy some time on a case he had with Jung, and intended only to wound him. Jung suffered severe injuries and was unable to speak or respond after the incident. Joice was convicted and received a 32-year sentence.

Jung was a well-known figure in the Korean-American community. In addition to his law practice, he hosted a weekly public-affairs program on a Korean language TV channel, and was a contributor to a variety of publications, including *Bar News*. Survivors include his wife and two children.

**Hon. Frank D. Howard**

Longtime state and federal judge Frank D. “Don” Howard, 74, died in Kirkland January 29, 2006. Appointed to the King County Superior Court bench in 1969, Howard became a federal bankruptcy judge in 1988. He retired in 1996. Friends said he found his true calling as a judge, and he won praise for his management of complex cases. Survivors include his wife and two children.

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Juin DesRosiers Barker
Ms. Barker, 50, died November 5, 2005, in Simi Valley, California. A memorial service was held November 12 in Thousand Oaks.

John T. Piper
Mr. Piper died February 3, 2006, in Seattle. After a stretch in private practice, he went to New York University for a tax law degree, and then joined the U.S. Justice Department. After trying cases around the country, he returned to the Northwest, first as in-house tax counsel for Weyerhaeuser. He later practiced with Perkins Coie, Karr Tuttle Campbell, and Bogle & Gates, working until shortly before his death. Survivors include three children and five grandchildren.

Paul M. Williams
A marine in the Pacific in World War II, Mr. Williams, 80, died at his home in Hansville. A devoted outdoorsman, he helped found the Northwest’s first mountain rescue council. He climbed Mount Rainier nine times, made two attempts on Aconcagua in Argentina, and reached the summit of Mount McKinley. Survivors include his wife, their eight children — whom he called “the thundering herd” — 14 grandchildren, and six great-grandchildren.

A. Paul Bitar
Mr. Bitar, 87, died September 15, 2005. He was a Hoquiam attorney for more than half a century, and practiced 26 years with his son, attorney Douglas Bitar.

Joseph S. Montecucco
A mentor to generations of Washington government attorneys, Mr. Montecucco joined the Attorney General’s Office in the early 1960s and was a division chief for 13 years. From 1982 to 1992, he was in private practice in Bellevue; he returned to the AG’s Office and retired there in 1997. In 1999, the WSBA honored him with its Angelo Petruss Award for Lawyers in Public Service for his work mentoring lawyers in state service. Survivors include his wife, seven children, and nine grandchildren.

Susan L. Baddour
A 2002 graduate of New York Law School, Ms. Baddour, 31, worked as a deputy district attorney in New York City before she fell ill. Survivors include her parents and a brother.

Norman G. Sauer
A 1945 West Point graduate, Mr. Sauer, 84, made a career in the Air Force, retiring in 1969 as a lieutenant colonel. He enrolled in Gonzaga School of Law and set up practice in Ferry County, where he also ran a ranch. He served variously as the county prosecutor and district court judge. Sauer’s wife, four children, six grandchildren, and one great-grandchild survive him. He died June 1, 2005.

Seaton M. Daly Jr.
Mr. Daly, 88, was a Pacific minesweeper captain in World War II. He practiced in Spokane for more than 50 years, retiring at age 82. Survivors include his wife, son, six grandchildren, and three great-grandchildren. Two children predeceased him. Daly died November 21, 2005. ☼
Whether you've just opening an IOLTA account or have had one for many years, you may have had some misunderstandings with your bank about the nature of an IOLTA account. We frequently get calls from attorneys asking us to help. Following are some of the questions we've received:

My bank manager told me that I cannot write checks off my IOLTA account. Am I supposed to transfer the money to my business account and write the checks from there?

You must be able to write checks off an IOLTA account. It is not acceptable to transfer client money to a non-trust account and disburse the money from there. The purpose of the trust account is to protect client money. While the money is in a non-trust account, it is no longer protected.

I want to accept credit cards for advance fee deposits but my bank told me that I cannot do that with an IOLTA account.

There is nothing in RPC 1.14 that prohibits any of the above actions, although some banks may have a policy prohibiting these types of actions in an IOLTA account.

RPC 1.14 (c)(1) requires banks to net certain charges against the interest earned in an IOLTA account. The charges are limited to those fees that are required to maintain the account, such as a monthly maintenance fee. Check-printing fees, wire-transfer fees, and stop payment fees cannot be deducted from the interest and must be paid by the attorney. In some circumstances it may be appropriate to pass certain costs on to the client.

If you have any questions about your trust account, or if you have any topics that you would like to see addressed in a future “Ask the Auditor,” please feel free to call WSBA Audit Manager Trina Doty (206-727-8242), Auditor Cheryl Heuett (206-733-5937), or Auditor Jim Roberg (206-733-5921).

Trina Doty is the WSBA audit manager, a CPA, and a certified fraud examiner. She oversees the random-examination program, conducts “for cause” audits, and educates attorneys as to trust account rules and regulations.
WSBA Presidential Search
Application Deadline: May 15, 2006
The WSBA Board of Governors is seeking applicants for the position of WSBA president for 2007-2008. Pursuant to Article IV (A)(2) of the WSBA Bylaws, the primary place of business of candidates for president for 2007-2008 must be in the area east of the Cascade mountain range. The WSBA member selected to be president will have an opportunity to provide a significant contribution to the legal profession.

Applications for 2007-2008 WSBA president will be accepted through May 15, 2006, and should be limited to a current résumé, a concise application letter stating interest and qualifications, and no less than five or more than 10 references. The Presidential Search Committee and the Board of Governors will consider endorsement letters received by May 26, 2006. Applications and endorsement letters should be sent to the WSBA Executive Director, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330.

Confidential interviews with the Presidential Search Committee may be conducted. Direct contact with the governors is also encouraged. All candidates will have an interview with the full Board of Governors in open session at the June 9, 2006, meeting. Following the interviews, the Board will select the president.

Although prior experience on the WSBA’s Board of Governors may be helpful, there is no requirement that one must have been a member of the Board of Governors or had previous experience in Bar activities. The candidate must be willing to devote a substantial number of hours to WSBA affairs and be a positive representative for the legal profession. The position is unpaid. Some expenses, such as WSBA-related travel, are reimbursed. The commitment begins in June 2006 following selection. A one-year term as president-elect will begin at the Annual Business Meeting in September 2006. The president-elect is expected to attend the two-day board meetings held approximately every five to six weeks, as well as numerous subcommittee, section, regional, national, and local meetings. In September 2007, at the WSBA Annual Business Meeting, the president-elect will assume the position as president. During his or her service, the president-elect and president will also be required to meet with members of the Bar, the courts, the media, and public and legal interest groups, as well as be involved in the Bar’s legislative activities. Appropriate time will need to be devoted to communication by letter, e-mail, and telephone in connection with these responsibilities. The duties and responsibilities of the president are set forth in the WSBA Bylaws.

Judicial Information Systems Committee Member Sought
Application Deadline: May 15, 2006
The WSBA Board of Governors is seeking a member interested in being nominated to represent the WSBA on the Washington State Supreme Court’s Judicial Information System Committee (JISC) for a three-year term. The JISC is the policy-level steering committee for the Court’s automation system. The committee is composed of four members from the appellate court level; four members from the superior court level; four members from the courts of limited jurisdiction level; and three at-large members, one each from the WSBA, the Washington Association of Sheriffs and Police Chiefs, and the Washington Association of Prosecuting Attorneys. Submit a letter of interest and résumé by May 15 to Bar Leaders Division, WSBA, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330, or e-mail barleaders@wsba.org.

Washington Pattern Jury Instruction Committee Member Sought
Application Deadline: May 15, 2006
The WSBA Board of Governors is accepting letters of interest and résumés from members interested in being nominated to the Washington State Supreme Court’s Washington Pattern Jury Instruction Committee (PJIC) for a four-year term commencing on July 31, 2006. (A letter of interest and résumé are also required for incumbents seeking reappointment.) PJIC members review, discuss, and vote on instructions in the civil or criminal area as drafted by subcommittees or staff. The committee meets monthly in Seattle on Saturdays (except in July and August), and requires a considerable time commitment. The PJIC is composed of more than 30 members, both judges and lawyers, and includes two WSBA representatives. Submit a letter of interest and résumé by May 15 to Bar Leaders Division, WSBA, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330 or barleaders@wsba.org.

WYLD President-Elect and Trustee Applications Sought
Application Deadline: May 1, 2006
Young lawyers interested in serving on the Washington Young Lawyers Division Board of Trustees are invited to submit applications for the following positions: trustee, King County District; trustee, Peninsula District; trustee, Pierce County District; and president-elect, Washington state. Applications must be received by 5 p.m. on May 1, 2006. For detailed information and application instructions, please visit www.wsba.org/lawyers/groups/wyld/default.htm.

WYLD Leadership Conference Volunteers Needed
Attorney volunteers are needed for the 2006 Washington Young Lawyers Division Pre-Law Student Leadership Conference, scheduled for May 13, 2006, at the Yakima Convention Center. The conference is free to high-school students from around the state and is designed to encourage young people to attend college and consider a career in the legal profession. Attorneys from around the state are encouraged to attend. Contact Gloria Ochoa Lawrence, 509-734-1345, gloria.lawrence@ochaolawrencelaw.com; Regina Palouse, 253-591-5834, rpalouse@ci.tacoma.wa.us; or Sonia Rodriguez, 509-248-7272, srodriguez@dmsrlaw.com, for more information.

New WSBA Online Store
WSBA-CLE is pleased to announce the debut of the new and improved WSBA online store, featuring an expanded product
search and faster checkout guaranteed to make your online shopping experience smoother and more convenient. You can now search the tables of contents of all WSBA-CLE deskbooks and the last five years of WSBA-CLE seminar course materials to find the best publication to meet your needs. Visit the new online store at www.wsbacle.org/store.

Starbucks General Counsel Paula E. Boggs Receives ABA Spirit of Excellence Award

Paula E. Boggs, Starbucks Coffee Company executive vice president and general counsel, received the American Bar Association’s 2006 Spirit of Excellence Award, presented to lawyers who excel in their professional settings and who have demonstrated a commitment to racial and ethnic diversity in the legal profession. The award was presented to Ms. Boggs at the ABA Mid-Year Conference in Chicago on February 11. Ms. Boggs is an active volunteer in both legal and civic organizations, and is the recipient of the WSBA 2005 Excellence in Diversity Award.

Random Acts of Professionalism Program

The WSBA Professionalism Committee has created a way for lawyers and judges to recognize their colleagues who have conducted themselves in a professional manner consistent with the Creed of Professionalism. Through the Random Acts of Professionalism Program, lawyers and judges may nominate their colleagues for the award. Nominating a lawyer or judge is easy: Simply send his or her name, the reason for the nomination, and any voluntary forms to the WSBA Professionalism Committee, at judithb@wsba.org; or fax to 206-727-8319. That’s all there is to it! The nominee will receive a letter, a certificate, and a copy of the WSBA Creed of Professionalism.

2006 License Fees

Payment Deadline: If your license fee payment is postmarked or delivered in person to the WSBA offices after April 3, 2006, a 50 percent penalty will be assessed.

Presuspension Notice: A presuspension notice was issued in March to those members who had not paid their 2006 license fees. If you received a presuspension notice and have paid your license fees, you can confirm receipt by the WSBA online at http://pro.wsoa.org or contacting the WSBA Service Center at 206-443-WSBA, 800-945-WSBA or e-mail questions@wsba.org.

Unpaid License Fees: If any portion of the license fee, penalty, or assessment remains unpaid two months after WSBA issues a presuspension notice, the Washington State Supreme Court will enter an order suspending you from the practice of law in Washington state.

2006 License Fee Packets. Licensing packets were mailed in December 2005. The packet included your license fee invoice, trust account declaration form and, if applicable, the MCLE certification form. If you still have not received your licensing packet, please call the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or e-mail questions@wsba.org to request a duplicate. Please note that it is your responsibility to pay your annual license fee, regardless of whether you receive the licensing packet. Active members must complete, sign, and return a Trust Account Declaration and, if applicable, an MCLE Certification. There may be other forms included in the packet that you may wish to complete and return, such as updating your contact information or reporting pro bono hours.

If you are mailing your forms and payment. The return envelopes for your forms and payments have instructions on the reverse side. Please review them carefully before mailing. The white envelope should be used for returning your licensing form (A2) with a check payment. The blue envelope should be used for your licensing form when making a payment by credit card, and for mailing the Trust Account Declaration, MCLE Certification and any voluntary forms.

If you are paying your fees online. To pay your fees online, visit www.wsba.org, click on the “For Lawyers” tab and select “Pay License Fee Online.” Sign in with your WSBA number and password. The system only allows payments for the full amount billed (for example, no Keller deductions or status changes). Note that you do not need to return the A2 form if you pay online. If you are an active member, there are other forms in the packet that must be postmarked or delivered to the WSBA office by the due date. There may be other voluntary forms in the packet you may want to complete and return to the WSBA as well.

Trust Account Declaration. The Trust Account Declaration included in your licensing packet must be completed by all active members regardless of whether or not you have a trust account. Failure to file this form can result in disciplinary action.

WSBA Members on Active Military Duty. WSBA members whose membership status is active and who are on active military duty can apply for a waiver of WSBA license fees. (WSBA members on active duty whose WSBA membership status is inactive or emeritus must

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Seattle, May 10
Spokane, May 11

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Washington COURTS
still pay the annual WSBA license fees.) If you are currently an active member on active military duty, please contact the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or e-mail questions@wsba.org; or contact Kevin McKee at kevinm@wsba.org or 206-727-8243 for application information.

Contact Information. Now is the ideal time to check that the WSBA has your correct contact information in its database. APR 13.b states address updates shall be provided to the WSBA within 10 days after the change. An attorney whose business electronic mail address changes should, within 10 days after the change, notify the Executive Director of the Washington State Bar Association, who shall forward changes weekly to the Office of the Clerk of the Supreme Court for entry into the state computer system. Use of electronic mail addresses for court notice, service and filing must comply with GR 30.”

You can go to the online lawyer directory on the WSBA website at http://pro.wsba.org to check your listing. If your contact information has changed, please complete and return the Contact Information Change form included in the license packet to the address shown on the form or by fax to 206-727-8319, or e-mail the changes to questions@wsba.org.

More Information. Full explanations of license fees, forms, policies, and deadlines are on the WSBA website at: www.wsba.org/lawyers/licensing/annuallicensing.htm or the WSBA Service Center is available to assist you Monday through Friday, 8:00 a.m. to 5:00 p.m., at 800-945-WSBA, 206-443-WSBA or e-mail questions@wsba.org.

MCLE Certification for Group 2 (2003-2005) Past Due
Active WSBA members in MCLE Reporting Group 2 (2003-2005) should have returned their completed C2 forms to the WSBA by February 1, 2006. Any C2 forms delivered to the WSBA or postmarked after March 1 will be assessed a late fee. The C2 forms were mailed in the license packet in early December. If you did not receive your packet and/or the C2 form, please contact the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or e-mail questions@wsba.org.

Members in Group 2 include active members who were admitted to the WSBA in 1976-1983 or in 1992, 1995, 1998, or 2001. Members admitted in 2004 are also in Group 2 but are not due to report until the end of 2008. Their first reporting period will be 2006-2008, but any credits earned on or after the day of admittance to the WSBA may be counted for compliance.

The Continuing Legal Education Certification (C2/C3) form is an affidavit that lists all the WSBA-approved courses that were in your MCLE online profile for the 2003-2005 reporting period as of mid-October. The C2 form, not your online profile, is the official record of MCLE compliance. If you have taken other classes since the C2 was printed, and they are all listed in your online profile, you may print and attach a copy of the online profile to the C2 form. Indicate on your C2 form that the attached profile is the true and correct record of the courses taken for the reporting period. Alternatively, you may simply add the additional WSBA-approved courses you took to the back of the C2 form (which is the C3 form).

All WSBA-approved courses that you list on your C2 form must have an Activity ID number. This number is listed in your online MCLE profile and was assigned at the time that the Form 1 for each course was reviewed. If you have taken courses that have not yet been approved by the WSBA, please submit Form 1s for these courses immediately to ensure that they are approved. You can submit Form 1s electronically at http://pro.wsba.org or by paper [see the WSBA web site for the form]. If you submit a paper Form 1, you will be notified by mail of the Activity ID number assigned to it after the Form 1 is processed.

If you need more time to complete your credits, an automatic extension will be granted until May 1, 2006. You do not need to do apply for this extension since it is automatically granted. However, a late fee will be imposed if you take any courses after December 31, 2005 that are needed for compliance or if your C2 form is submitted after March 1. If this is the first period in which you have not met MCLE compliance requirements, the late fee is $150. The late fee increases by $300 for each consecutive reporting period that you are late in meeting MCLE requirements.

See the section that follows (MCLE Certification for Active Members) for further information about MCLE reporting period compliance. If you have questions about the Form 1 process or MCLE compliance, please contact the WSBA Service Center.
Center at 206-443-9722 or 800-945-9722, or e-mail questions@wsba.org.

**MCLE Certification for Active Members**

**Due Date for MCLE Reporting**

WSBA members are divided into three MCLE reporting groups based on year of admission. (Newly admitted members are exempt. See “Newly Admitted Members” below.)


<table>
<thead>
<tr>
<th>Reporting Group</th>
<th>Next Reporting Period</th>
<th>Complete Credits by</th>
<th>File C2 Form by</th>
</tr>
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<tbody>
<tr>
<td>Group 2</td>
<td>2003-2005</td>
<td>December 31, 2005</td>
<td>February 1, 2006</td>
</tr>
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</table>

**Credit Requirements.** The following credit requirements must be met by December 31 of the last year of an active member’s reporting period:

- At least 45 total credits of WSBA-approved CLE activities must be taken, which need to include a minimum of 30 live credits and six ethics credits.
- A/V courses cannot be more than five years old, except approved “skills-based” courses.
- Six *pro bono* credits can be earned per year. Two of these credits are for approved annual training, which must be taken prior to being able to earn credit for the *pro bono* work. Four *pro bono* credits may be earned each year if at least four hours of *pro bono* work was provided through a qualified legal services provider.

**Carry-over CLE Credits.** Carry-over credits from the previous reporting period may be used to meet the requirements of the current reporting period. If your current reporting period credits total exceeds 45, you may carry over a maximum combined total of 15 credits to your next reporting period. Only two ethics credits and five A/V credits may be carried over.

**C2 Reporting Requirement.** All active members due to report are required to file a Continuing Legal Education Certification (C2) form with all CLE courses taken for credit compliance. The deadline for filing your C2 form is February 1 of the year following the end of your reporting period. Note:

- Your online roster is not a substitute for filing the C2 form.
- The C2 form is an affidavit and must be signed and dated, and the city and state where signed must be identified.
- C2 forms are included in the license packets sent in early December to all members due to report (which will be Group 2 members this year).
- All CLE courses listed on member rosters as of October 2005 will be printed on the back of the C2 form. If you took more CLE courses after October 1, they appear on your online roster, and you do not want to hand-write them on the back of the C2 form, you may print a copy of your roster and attach it to your C2 form. State on your C2 form that the attached online roster printout is a true and correct statement of the CLE courses taken for credit compliance.

**MCLE Late Fees.** All active members who have not completed their credits by December 31 of the last year of their reporting period, or who submit their C2 reporting forms after March 1 of the following year (the end of the grace period after the February 1 deadline), must pay a late fee of $150. The late fee increases by $300 for each consecutive three-year reporting period of noncompliance.

**Newly Admitted Members.** If you are a newly admitted member, you are exempt from reporting CLE credits for the year of your admission and the following calendar year. If you were admitted in 2004, you will not report for this reporting period (2003-2005) even though you are in Group 2. You will first report at the end of the 2006-2008 reporting period. When you report at the end of your first reporting period, you may claim all CLE credits earned on or after your date of admission to the WSBA.

**MCLE Comity.** If you are an active member of the WSBA and your primary office for the practice of law is in Oregon, Idaho, or Utah, you may meet your Washington mandatory CLE requirements by providing proof of current MCLE compliance from the Oregon, Idaho, or Utah state bar. Only a Certificate of MCLE Compliance from your primary state bar (not a “Certificate of Good Standing”), sent with your WSBA C2 form, will satisfy your MCLE requirements in Washington.

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MCLE System – Course Listing and Member Profiles. Members may use the online MCLE system at http://pro.wsba.org to:

- Review courses taken and credits earned.
- Apply for course approval.
- Apply for writing credit, pro bono credit, or prep-time credit.
- Search for approved courses being offered.

To use the MCLE system, go to http://pro.wsba.org, click on the “Member” tab, then select “Member Login.” The online instructions will lead you through the process of creating a confidential password and using the system. Online help is available. If you have any questions about using the MCLE system or about the MCLE compliance requirements, see the online FAQs at www.wsba.org/lawyers/licensing/faq-mcle.htm, call the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or e-mail questions@wsba.org.

Judicial Evaluations by Minority and Specialty Bars
Several Washington minority bar associations conduct judicial evaluations of applicants to state superior and appellate courts. Attorneys interested in becoming judges are encouraged to contact these organizations to begin the rating process before a position becomes available for appointment or early in an election campaign. Ratings from most bar associations are valid for up to two years. For information on obtaining a judicial rating, contact the following minority bar representatives:

Asian Bar Association of Washington, Jill Otake, judicial evaluations chair, 206-553-7970.
LaTi/no Bar Association, Cristobal Joshua Alex, president, 206-622-1604.
Loren Miller Bar Association, Clarence Jones, judicial evaluations chair, 206-373-7237.

In addition, the WSBA Judicial Recommendation Committee evaluates applicants for appointment to the Court of Appeals and the state Supreme Court. Contact Anthony Miles, chair of the WSBA Judicial Recommendation Committee, at 206-370-7585. More information on the WSBA’s judicial recommendation process can be found at www.wsba.org/lawyers/groups/judicialrecommendation.

Computer Clinic
The WSBA offers a hands-on computer clinic for members wanting to learn more about what Microsoft Office programs — such as Outlook, PowerPoint, Excel, and Word, as well as Adobe Acrobat — can do for a lawyer. Are you a total beginner? No problem. The clinic teaches helpful tips you can use immediately. Computers are provided, and seating is limited to 15 members. There is no charge, and no CLE credits are offered. The next clinic will be held on April 10 from 10 a.m. to noon at the WSBA office. For more information, contact Pete Roberts at 206-727-8237 or peter@wsba.org.

Contract Lawyers Meeting
The WSBA Law Office Management Assistance Program (LOMAP) hosts a meeting of contract lawyers the first Tuesday of every month at the WSBA office. The next meeting is April 4 from noon to 1:30 p.m. Please bring your lunch (coffee provided) and network with other contract lawyers.

LOMAP & Ethics Traveling Seminars
Plan to attend in Vancouver, Washington, on May 9; Montesano on May 10; Olympia on May 11. Or come to Walla Walla on June 13, Richland on June 14, or Yakima on June 15. Registration is $84, and each seminar has been approved for four CLE credits, including two ethics credits. For more information, contact Julie Salmon at 206-733-5914 or juliesa@wsba.org.

LAP Solution of the Month: Overwhelmed?
It’s easy to become overwhelmed by billable-hour requirements, managing your practice, or the sheer volume of files piled in your office, which can quickly turn into avoidance, then paralysis. If you’d like some tips on handling overload, call the Lawyers’ Assistance Program at 206-727-8268.

2006 WSBA Award Nominations Sought
Each year, members of the Washington State Bar Association are asked to identify those who deserve the legal profession’s recognition and appreciation. Nominations are sought for the following awards:

Award of Merit. First given in 1957, this is the Washington State Bar Association’s highest honor. The Award of Merit is most often given for long-term service to the Bar and/or the public, although it has also been presented in recognition of a single, extraordinary contribution or project. It is awarded to individuals only — both lawyers and nonlawyers.

Professionalism Award. This honor is awarded to a member of the WSBA who exemplifies the spirit of professionalism in the practice of law. “Professionalism” is defined as the pursuit of a learned profession in the spirit of service to the public and in the sharing of values with other members of the profession.

Angelo Petrucc Award for Lawyers in Public Service. Named in honor of the late Angelo R. Petrucc, a senior assistant attorney general who passed away during his term of service on the WSBA Board of Governors, this award is given to a lawyer in government service who has made a significant contribution to the legal profession, the justice system, and the public.

Outstanding Judge Award. This award is presented for outstanding service to the bench and for special contri-
bution to the legal profession at any level of the court.

**Pro Bono Award.** This award is presented to a lawyer, nonlawyer, law firm, or local bar association for outstanding efforts in providing pro bono services. This award is based on cumulative efforts, as opposed to a lawyer's or group's pro bono hours or financial contribution.

**Courageous Award.** This award is presented to a lawyer who has displayed exceptional courage in the face of adversity, thus bringing credit to the legal profession.

**Excellence in Diversity Award.** This award is made to a lawyer, law firm, or law-related group that has made a significant contribution to diversity in the legal profession's employment of ethnic minorities, women, persons with disabilities, and other persons of diversity.

**Outstanding Elected Official Award.** This award is presented to an elected official for outstanding service, with special contributions to the legal profession. It is awarded to an individual who has demonstrated a commitment to justice beyond the usual call of duty.

**Lifetime Service Award.** This is a special award given for a lifetime of service to the WSBA and the public. It is given only when there is someone especially deserving of this recognition.

**President's Award.** The President's Award is given annually in recognition of special accomplishment or service to the WSBA during the term of the current president.

**Community Service Award.** This award is new this year. Lawyers are known for giving generously of their time and talents in service to their communities. This award recognizes exceptional non-law-related volunteer work and community service.

**Award presentation:** It is important to note that WSBA awards are presented only when there are truly deserving recipients. Some years, no award is given in some categories. Awards are limited to one recipient per category, except when a group of individuals earns the award together.

**Nomination submissions:** If you know an individual who fits the criteria set forth above, please visit www.wsba.org/barleadershomepage.htm, and complete and submit the nomination form. Self-nominations will not be accepted. Please note that the completed nomination form must accompany each nomination in order to be considered. The deadline for Pro Bono Award nominations is March 31, 2006. The deadline for all other nominations is May 8, 2006. Please send nominations to: Washington State Bar Association, Attn: Annual Awards, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330, fax: 206-727-8319, e-mail: denec@wsba.org

The awards will be presented at the WSBA Annual Awards Dinner in Seattle on September 14, 2006, with the following exceptions: The Pro Bono Award will be presented at the Access to Justice Conference in Yakima on June 10, and the Outstanding Judge Award will be presented at the Fall Judicial Conference.

**Statewide Diversity Conference to Be Held in June**

Washington state's first diversity conference for the legal community will be held June 1-2. With the theme “Getting Ahead and Giving Back,” the conference will begin Thursday evening with a reception and feature a variety of sessions all day Friday. Col. William Gunn (Ret.), president and CEO of the Boys and Girls Club of Greater Washington, D.C., will be the featured speaker at the luncheon on Friday. The conference will be held at Seattle University School of Law.

The conference is sponsored by the Asian Bar Association of Washington, Korean American Bar Association of Washington, Latina/o Bar Association of Washington, Loren Miller Bar Association, Northwest Indian Bar Association, Pierce County Minority Bar Association, QLaw: the GLBT Bar Association of Washington, South Asian Bar Association, and Vietnamese American Bar Association, in cooperation with the King County Bar Association, Seattle University School of Law, and Washington State Bar Association.

For more information, contact Conference Co-chair Kim Tran at 206-623-9900 or ktrang@staffordfrey.com, Conference Co-chair Mike Heath at 206-587-0700 or mheath@cairncross.com, or WSBA Diversity Advocate Joslyn Donlin at 206-727-8216 or joslynd@wsba.org.

**WSBA Arbitration Program**

The WSBA offers arbitration of lawyer-client fee disputes and mediation services to help resolve disputes between lawyers, a lawyer and client, or a lawyer and other professionals. The programs are voluntary and confidential. For more information, visit the WSBA website at www.wsba.org/lawyers/services/adr.htm or call 206-733-5923.

**Notice of Intent to Form Juvenile Law Section**

Petitions are now being circulated to form a new WSBA Juvenile Law Section pursuant to Section IX of the WSBA Bylaws. There is no current section or other WSBA entity whose primary focus is juvenile law, which falls within the purposes of the WSBA as outlined in General Rule 12. Both the Washington Juvenile Justice Assessment Project Report and the WSBA Blue Ribbon Panel on Criminal Defense have recommended that a juvenile-oriented WSBA entity be established. A study group chaired by Justice Bobbe Bridge — and including Kim Ambrose, Liza Burke, Lisa Kelly, Anne Lee, Mary Li, Casey Trupin, Page Ulrey, and George Yennakis — recommends the new section. After the required six-month waiting period, the Board of Governors will consider whether to form a Juvenile Law Section at their June 2006 meeting.

**Contemplated Jurisdiction.** The creation of a Juvenile Law Section is proposed to address concerns with juvenile law and policy, including dependency, offender, status offenses (Child in Need of Services, Youth at Risk, and Truancy), and the civil legal needs of children and youth.

**Section Purpose.** The Juvenile Law Section will provide a forum for juvenile-law issues and improve the law and practice related to civil and criminal matters involving children and youth in Washington. The section will welcome advocates from all disciplines and fields of law, including juvenile justice, child welfare, and those who represent...
Job Seekers Discussion Group
Looking for a job or making a transition? Join us at the Job Seekers Discussion Group the second Wednesday of each month from noon to 1:30 p.m. The group discusses where to look for jobs, how to use your network of contacts, strategies for résumés and cover letters, and how to keep yourself organized and motivated. Exchange information and ideas with other lawyers looking to make a change. Come as you are — no need to RSVP. For more information contact Rebecca Nerison, Ph.D. at 206-727-8269 or rebeccan@wsba.org.

Facing an Ethical Dilemma?
The WSBA Ethics Line can help members analyze a situation, apply the proper rules, and make an ethically sound decision. Calls made to the Ethics Line are confidential, and most calls are returned within one business day. Any advice given is intended for the education of the inquirer and does not represent an official position of the WSBA. Call the Ethics Line at 800-945-9722, ext. 8284, or 206-727-8284.

Speakers Available
The WSBA Lawyers’ Assistance Program offers speakers for engagements at county, minority, or specialty bar associations, or other law-related organizations. Topics include stress management, life/work balance, and recognizing and handling problem-personality clients. For more information, contact Jennifer Favell, Ph.D., at 206-727-8267.

WSBA Ethics Opinions Now Searchable Online
The WSBA announces the availability of a new online search tool for Washington ethics opinions. Lawyers can now search both formal and informal WSBA ethics opinions at www.pro.wsba.org/io/search.asp. Opinions can be searched by number, year issued, ethical rule, subject matter, or keyword. Ethics opinions are issued by the WSBA to assist members in interpreting their ethical obligations in specific circumstances. The opinions are the result of study and analysis in response to requests from WSBA members. For assistance, call the Ethics Line at 800-945-9722, ext. 8284, or 206-727-8284.

WSBA Members on Active Military Duty
WSBA members whose membership status is active and who are on active military duty can apply for a waiver of WSBA license fees. (WSBA members on active duty whose WSBA membership status is inactive or emeritus must still pay the annual WSBA license fee.) If you are currently an active member on active military duty, or need application information, please contact the WSBA Service Center at 800-945-WSBA (9722) or 206-443-WSBA (9722), or e-mail questions@wsba.org; or contact Kevin McKee at 206-727-8243 or kevinm@wsba.org.

Full explanations of license fees, forms, policies, and deadlines are on the WSBA website at www.wsba.org/lawyers/licensing/annuallicensing.htm.

Assistance for Law Students
The WSBA Lawyers’ Assistance Program (LAP) offers long- and short-term psychotherapy to third-year law students attending the University of Washington and Seattle University. Treatment is offered for depression, addiction, family and relationship issues, health issues, and other mental and emotional problems. The fee is based on a sliding scale ranging from no-cost to $30 and is determined by a student’s ability to pay. For more information about the LAP, call 206-727-8268 or visit www.wsba.org/lawyers/services/lap.htm.

Learn More About Case-Management Software
The WSBA’s Law Office Management Assistance Program (LOMAP) office maintains a computer for members to review software tools designed to maximize office efficiency. The LOMAP staff is available to provide materials, answer questions, and to make recommendations. To make an appointment, contact Julie Salmon at 206-733-5914 or juliesa@wsba.org.

Upcoming Board of Governors Meetings
April 21-22, Walla Walla; June 9, Yakima; July 21-22, Port Angeles
With the exception of a one-hour executive session the morning of the first day, Board of Governors meetings are open, and all WSBA members are welcome to attend. RSVPs are appreciated but not required. Please contact Donna Sato at 206-727-8244 or e-mail donnas@wsba.org. The complete Board of Governors meeting schedule is available on the WSBA website at www.wsba.org/info/bog/schedule.htm.

Usury Rate
The average coupon equivalent yield from the first auction of 26-week treasury bills in March 2006 was 4.775 percent. Therefore, the maximum allowable usury rate for April is 12 percent. Information from January 1987 to date is on the WSBA website at www.wsba.org/media/publications/barnews/usury.htm.
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Patrick C. Sheldon,
former member of the Washington State Bar Association Disciplinary Board, is now accepting referrals for attorney disciplinary investigations and proceedings.

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Bradley K. Crosta
Counsel for plaintiff in Stute v. PBMC, Inc., 114 Wn.2d 454 (1990) (General contractor has primary responsibility for the safety of all workers.)
Is available for consultation, association, or referrals.

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E-mail: comm@wsba.org

Information must be received by the first day of the month for placement in the following month’s calendar.

Animal Law

4th Annual Animal Law Conference
April 21 — Seattle. 6.5 general CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Appellate

Essentials of Appellate Practice
May 11 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Business

Documenting the Business Acquisition Transaction
April 26 — Seattle. 6.75 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Dispute Resolution

14th Annual NW Dispute Resolution Conference
April 28-29 — Seattle. 9.75 CLE credits including 4.25 ethics. By UW School of Law; 800-CLE-UNIV or 206-543-0059.

4-Day Intensive Mediator Training Program
April 25-28 — Seattle. 40.5 CLE credits, including 2.5 ethics. By Alhadeff & Forbes Mediation Services; 206-281-9950.

Environmental/Land Use

Environmental and Land Use Law Section Midyear
May 4-6 — Ocean Shores. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Land Use in Washington 2006
April 20-21 — Seattle. 13.5 CLE credits. By Law Seminars International; 206-567-4490 or 800-854-8009.

Estate Planning

The Annual Trust and Estate Litigation Seminar
April 21 — Spokane. 6.5 CLE credits, including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Ethics

The Annual Ethics in Civil Litigation Institute
April 6 — Seattle. 6.25 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Government

Not Above the Law: The Government as Defendant
April 26 — Seattle. By WSTLA; 206-464-1011.

Indian Law

18th Annual Indian Law Conference
April 28 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Intellectual Property/Entertainment

At the Intersection of Antitrust and Intellectual Property Law: Looking Both Ways to Avoid a Collision
April 7 — Seattle. 6.5 CLE credits. By Seattle University Law Review. Register online at http://www.law.seattlevu.edu/lawrev/events/antitrustcle.

Pacific NW Arts Symposium
May 11 — Vancouver, WA. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Insurance Law

Annual Insurance Law Update
April 7 — Seattle. By WDTL; 206-749-0319 or kristin@wdtl.org.

Litigation

The Annual Ethics in Civil Litigation Institute
April 6 — Seattle. 6.25 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Motions Practice
April 26 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

The Annual Trust and Estate Litigation Seminar
April 21 — Spokane. 6.5 CLE credits, including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Law Practice Management

WSBA Solo and Small Firm Conference Featuring Jay Foonberg
May 4-6 — Chelan. 15.25 CLE credits; including up to 2 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Miscellaneous

Eastern Washington Judicial Reception
May 5 — Spokane. By WDTL; 206-749-0319 or kristin@wdtl.org.

Pozner & Dodd: Advanced Cross Exam
May 3 — Seattle. By WSTLA; 206-464-1011.
Subrogation
May 18 — Seattle. By WSTLA; 206-464-1011.

Real Property

Advanced Topics in Real Estate Development
April 7 — Spokane. 6 CLE credits; including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Senior Lawyers

Annual Senior Lawyers Seminar
April 14 — SeaTac. 6.75 CLE credits; including 1.5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Other Practice Areas

Spanish for Lawyers: Tools and Application
April 27 — Yakima; May 25 — Seattle. 6 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Workers’ Compensation

Workers’ Compensation
April 7 — Bellevue. 6.25 CLE credits, including 1 ethics. By WSTLA; 206-464-1011.

The law firm of
REED, LONGYEAR, MALNATI, AHRENS & WEST, PLLC
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James A. Jackson
has become a member of the firm. Mr. Jackson will continue his real estate and civil litigation practice.
We also welcome two associates to the firm.
Frank S. Hong
Mr. Hong received his Juris Doctor from Seattle University School of Law in 2004. His practice includes consumer bankruptcy, family law and litigation, primarily in business and commercial litigation and personal injury; and the representation of buyers and sellers in the purchase and sale of small businesses.
Eric E. Brunstrom
Mr. Brunstrom received his Juris Doctor form Seattle University School of Law in 2001. His practice includes Social Security disability, Medicaid/Medicare eligibility, trust and estate planning, probate and trust administration, guardianship, and landlord/tenant issues.

The law firm of
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Aaron Dean
has joined the firm “of counsel.”
Mr. Dean will continue to concentrate his practice on civil litigation, including common carriers, insurance coverage, and bad faith
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has become a shareholder in the firm.

The firm is also pleased to announce that

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Tyna Ek,

and

Nancy K. McCoid

have joined the firm Of Counsel.

Elizabeth C. Tompson

and

Adam C. Collins

have joined the firm as associates.

CHISM, THIEL, MCCAFFERTY, CAMPBELL & STEINMARK, PLLC

is pleased to announce that

Frank J. Steinmark

has joined the firm as a new member and that

Kathryn A. Keaton

and

Chelsey T. Westfall

have joined the firm as associates.

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2101 Fourth Ave., Ste. 400, Seattle, WA 98121
These notices of imposition of disciplinary sanctions and actions are published pursuant to Rule 3.5(a) of the Washington State Supreme Court Rules for Enforcement of Lawyer Conduct, and pursuant to the February 18, 1995, policy statement of the WSBA Board of Governors.

For a complete copy of any disciplinary decision, call the Washington State Disciplinary Board at 206-733-5926, leaving the case name, and your name and address.

Note: Approximately 30,000 persons are eligible to practice law in Washington state. Some of them share the same or similar names. Bar News strives to include a clarification whenever an attorney listed in the Disciplinary Notices has the same name as another WSBA member; however, all discipline reports should be read carefully for names, cities, and bar numbers.

Disbarred

Richard A. Crews (WSBA No. 27895, admitted 1998), of Portland, Oregon, was disbarred, effective August 26, 2005, by order of the Washington State Supreme Court imposing reciprocal discipline based on an order of the Oregon State Supreme Court following a default hearing. This discipline was based on his conduct between 2000 and 2004 involving neglect of client matters, failure to take steps on termination of representation to protect client interests, communicating false information to clients about the status of their matters, forgery, falsification of documents, and failure to cooperate with disciplinary investigations.

Matter 1: Mr. Crews was hired by a client to initiate a lawsuit for breach of contract, conversion, and unlawful trade practices in connection with restoration of a car. Mr. Crews commenced the lawsuit, which was dismissed in January 2001 for lack of jurisdiction over the defendant. Mr. Crews failed to inform the client of the dismissal; he instead falsely suggested to the client that the lawsuit was pending and moving towards settlement. In mid-2001, Mr. Crews prepared and provided the client with falsified settlement papers, onto which he had forged the adverse party’s signature. Subsequently, the client received a notice that the adverse party had asserted a lien on the car in question and would sell it at a public auction. Thereafter, Mr. Crews falsely informed the client that the car could not be sold because the lawsuit was still pending. In 2002, Mr. Crews falsely told the client that he had seized and sold property belonging to the defendant and was waiting for the sale to be recorded before forwarding the proceeds to the client.

Matter 2: Mr. Crews was retained by a client to handle several different cases:

• In March 2002, Mr. Crews filed a wrongful-arrest lawsuit on behalf of the client. The defendants moved for summary judgment. Just before the hearing, Mr. Crews falsely informed the client that the hearing had been cancelled and that the defendants had filed a notice of appeal. Thereafter, Mr. Crews prepared and provided the client with a falsified notice of appeal, onto which he had forged the signature of the defendant’s lawyer.

• The client also hired Mr. Crews to assist him in resolving a dispute with a mortgage company. In July 2003, after advising the client to stop making mortgage payments, Mr. Crews commenced a lawsuit against the mortgage company in federal district court. When the defendant threatened to foreclose on the client’s property, Mr. Crews sent the client a restraining order that purportedly prohibited the foreclosure. Mr. Crews had in fact falsified the order and forged the judge’s name on it.

• In mid-January 2004, Mr. Crews recommended that the client file a Chapter 7 bankruptcy proceeding. The client informed Mr. Crews that he wanted to discuss the matter in person before filing. Without authority from the client, Mr. Crews commenced a Chapter 7 proceeding on the client’s behalf. In February 2004, Mr. Crews informed the client that he would be withdrawing from the representation.

Matter 3: In May 2002, a client hired Mr. Crews to represent him in a wrongful-termination claim. The client instructed Mr. Crews to file a lawsuit and provided him with funds to do so. Between October 2002 and September 2003, Mr. Crews failed to pursue the matter. He falsely told the client that the lawsuit had been filed and was moving forward. In September 2003, Mr. Crews filed the lawsuit but thereafter failed to pursue it.

Matter 4: In April 2003, Mr. Crews was hired by a client injured in an automobile accident. After filing a lawsuit, Mr. Crews failed to pursue the legal matter and failed to maintain adequate communication with the client. In February 2004, the court notified Mr. Crews that the lawsuit would be dismissed for failure to comply with arbitration rules. Mr. Crews neither responded to the notice nor informed his client of the pending dismissal. Beginning in early 2004, the client made numerous requests for the return of his file, to which Mr. Crews never responded.

Matter 5: In July 2003, a former client filed a complaint with the Oregon State Bar regarding Mr. Crews’s conduct. Disciplinary counsel proceeded to investigate the complaint and, in December 2003, requested information. Mr. Crews failed to respond to the request. In the four above-mentioned matters, the clients filed complaints with the Oregon State Bar. Mr. Crews did not respond to disciplinary counsel’s inquiries and failed to cooperate with disciplinary investigations.

Mr. Crews’s conduct violated Oregon DR 1-102(A)(2), prohibiting a lawyer from committing a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness, or fitness to practice law; DR 1-102(A)(3), prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation; DR 1-103(C), requiring a lawyer who is the subject of a disciplinary investigation to respond fully and truthfully to inquiries from and comply with reasonable requests of a tribunal or other authority empowered to investigate or act upon the conduct of lawyers; DR 6-101(B), prohibiting a lawyer from neglecting a legal matter entrusted to the lawyer; DR 9-101(C)(4) requiring a lawyer to promptly pay or deliver to a client as requested by the client the funds, securities, or other properties in the possession of the lawyer.
which the client is entitled to receive; Washington RPC 1.15(d), requiring that a lawyer take reasonably practicable steps to protect a client’s interests upon termination of representation; RPC 8.4(b), prohibiting a lawyer from committing a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness, or fitness as a lawyer; RPC 8.4(c), prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation; and RPC 8.4(d), prohibiting a lawyer from engaging in conduct that is prejudicial to the administration of justice.

Felice P. Congalton represented the Bar Association. Mr. Crews was not represented by counsel.

Disbarred

Dana P. Gelman (WSBA No. 20147, admitted 1990), of Tacoma, was disbarred, effective August 17, 2005, by order of the Washington State Supreme Court following a stipulation approved by the Disciplinary Board. This discipline was based on his conduct between 2000 and 2003 involving multiple acts of misconduct affecting personal-injury clients, improper use and disbursement of client funds in his trust account, commission of a criminal act, and failure to cooperate with a disciplinary investigation.

Between May 2001 and May 2003, Mr. Gelman engaged in the following conduct that established grounds for discipline:
- Failing to initiate a personal-injury action for a client before the expiration of the statute of limitations, resulting in loss of the client’s claim.
- In four instances, falsely informing clients that funds would be withheld from their settlement proceeds to pay PIP claims, medical bills, and subrogation claims.
- In five instances, failing to maintain settlement proceeds — earmarked to pay PIP claims, medical bills, and subrogation claims — in a client trust account, and using the funds for personal and/or business purposes without the clients’ knowledge, consent, or authorization.
- Responding untruthfully to a client inquiry about how the client’s settlement funds had been disbursed.
- Directing his bookkeeper to make a false entry in his IOLTA account register in order to deal with a discrepancy in the account.
- On seven occasions, illegally obtaining a controlled substance with an altered prescription, in violation of RCW 69.50.403(a)(3) and/or (5).
- Failing to appear at two depositions as required by subpoenas issued by disciplinary counsel.
- Failing to produce requested records during a Bar Association audit of his IOLTA account, rendering the auditor unable to complete the audit.

At the time of his entry into the disciplinary stipulation, Mr. Gelman had paid or agreed to pay restitution to all of the affected clients.

Mr. Gelman’s conduct violated RPC 1.3, requiring a lawyer to act with reasonable diligence and promptness in representing a client; RPC 1.14(a), requiring all funds of clients paid to a lawyer to be deposited in an interest-bearing trust account, and prohibiting funds belonging solely to the lawyer from being deposited therein; RPC 8.4(b), prohibiting a lawyer from committing a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness, or fitness as a lawyer in other respects; RPC 8.4(c) prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation; RPC 8.4(d) prohibiting a lawyer from engaging in conduct that is prejudicial to the administration of justice; RPC 8.4(i) prohibiting a lawyer from committing any act involving moral turpitude, or any unjustified act of assault or other act which reflects disregard for the rule of law; and RPC 8.4(l) prohibiting a lawyer from violating a duty or sanction imposed by or under the Rules for Enforcement of Lawyer Conduct in connection with a disciplinary matter.

Jonathan H. Burke represented the Bar Association. Brett A. Purtzer represented Mr. Gelman.

Disbarred

Donald Kronenberg (WSBA No. 13979, admitted 1984), of Seattle, was disbarred, effective August 18, 2005, by order of the Washington State Supreme Court following a hearing. This discipline was based on his conduct in 1996 involving bribing and tampering with a witness and deceiving prosecutors regarding his role in procuring the absence of the witness. For additional information, please see In re Discipline of Kronenberg, 155 Wn.2d 184, 117 P.3d 1134 (2005).

In March 1996, Mr. Kronenberg was hired by a client charged with three counts of felony rape of a child. The state’s principal witness was the victim, who had been subpoenaed and was expected to testify at trial. Prior to the commencement of the trial, Mr. Kronenberg met with the witness and offered him money in exchange for not appearing in court. The discussion was couched in terms of “settling” a potential civil claim, but Mr. Kronenberg made it clear to the witness that he would have to leave the state and avoid testifying in the criminal case as part of the “settlement.” Mr. Kronenberg authored a document to memorialize the witness’s agreement to leave town and not testify in exchange for $6,000 and a one-way plane ticket to Tulsa, Oklahoma. The $6,000 was to be paid in two installments, with the second installment conditioned upon the witness not appearing for trial. The agreement contained a confidentiality and nondisclosure provision, which purported to prohibit the witness from disclosing the existence of the agreement or of the alleged facts that formed the basis of the agreement.

In July 1996, Mr. Kronenberg’s client gave him $3,000 in cash. The next day, Mr. Kronenberg used the money to purchase a one-way plane ticket to Tulsa, which he gave to the witness along with the remaining cash. Mr. Kronenberg offered to drive the witness to the airport, but his offer was refused.

At an omnibus hearing two days later, the court ordered Mr. Kronenberg to disclose whatever information he possessed about the witness’s whereabouts. Mr. Kronenberg did not provide the prosecution with any information and later instructed his secretary to not write down anything she learned about the witness’s whereabouts. Mr. Kronenberg then met with prosecutors and told them
that they would have to dismiss the case because they did not have a victim. He also told them that he believed the witness had left for Oklahoma, claiming that the source of his knowledge was his private investigator. Mr. Kronenberg failed to tell prosecutors that he had met with the witness in Seattle the previous week or had hand-delivered to the witness a one-way ticket to Tulsa.

Subsequently, pursuant to a court order authorizing it, the witness placed a wiretapped call to Mr. Kronenberg telling him that he was still in Seattle. Mr. Kronenberg encouraged the witness to leave town. He did not report either the conversation or his new knowledge of the witness’s whereabouts to prosecutors or to the court.

Mr. Kronenberg’s conduct violated RPC 8.4(a), prohibiting a lawyer from violating or attempting to violate the Rules of Professional Conduct, knowingly assisting or inducing another to do so, or doing so through the acts of another; RPC 8.4(b), prohibiting a lawyer from committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects; RPC 8.4(c), prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation; and RPC 8.4(d), prohibiting a lawyer from engaging in conduct that is prejudicial to the administration of justice.


Suspended

Donald B. Lundahl (WSBA No. 21424, admitted 1992), of Lacey, was suspended for 90 days, effective September 19, 2005, by order of the Washington State Supreme Court following a stipulation approved by the Disciplinary Board. This discipline was based on his conduct in 2002 and 2004 involving the commission of two assaults and the violation of a court order.

In November 2002, Mr. Lundahl was charged with simple assault/domestic violence in Thurston County based on an altercation during which he kneed his daughter in the lower chest or abdominal area, pushed her to the ground, and punched her in the face several times. One of the conditions of the court’s pre-trial order was that Mr. Lundahl abtain from the consumption of alcohol and non-prescription drugs. In June 2004, while the charges were pending, Mr. Lundahl consumed alcohol. That same day, Mr. Lundahl got into an altercation with his son, during which he grabbed the son’s throat with both hands, pushed him up against a wall, and pushed him down to the ground. Mr. Lundahl was again charged with simple assault/domestic violence. Subsequently, Mr. Lundahl entered pleas of guilty to two counts of simple assault.

Mr. Lundahl’s conduct violated RPC 8.4(b), prohibiting a lawyer from committing a criminal act (here, assault) that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects; RPC 8.4(i), prohibiting a lawyer from committing any act involving any unjustified act of assault or other act that reflects disregard for the rule of law; and RPC 8.4(j), prohibiting a lawyer from willfully disobeying or violating a court order directing him or her to do or cease doing an act which he or she ought in good faith to do or forbear.

Sachia Stonefeld Powell represented the Bar Association. Leland G. Ripley represented Mr. Lundahl.

Suspended

Mary A. Nester (WSBA No. 27383, admitted 1997), of Portland, Oregon, was suspended for 30 days, effective September 1, 2005, by order of the Washington State Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of Oregon following a stipulation. This discipline was based on her conduct between 2001 and 2003, involving conflicts of interest and failure to respond truthfully to inquiries during the course of a disciplinary investigation.

In May 2000, Ms. Nester agreed to represent a nursing home in the defense of charges arising out of the deaths of one or more of the nursing home’s residents, and in the assessment, development, and implementation of the nursing home’s corporate compliance program. In April 2001, the Oregon Board of Examiners of Nursing Home Administrators (BENHA) authorized disciplinary proceedings against the client in connection with the deaths. At the time, Ms. Nester owned an interest in a health-care facility management consultant company (hereinafter Company A). With the client’s permission, Ms. Nester hired Company A to provide the client with services in connection with the representation. In December 2001, the client and BENHA entered a consent order to resolve the disciplinary proceedings. The consent order required the client to retain the services of a management consulting firm to evaluate the client’s management practices and submit reports to BENHA. The client selected, and BENHA approved, Company A to perform the evaluations. Ms. Nester continued to represent the client without first having obtained its consent to the continued representation after full disclosure of the potential adverse impact upon Ms. Nester’s professional judgment of her ownership interest in Company A.

In May 2002, the Oregon State Bar received a complaint concerning Ms. Nester’s conduct in the matter. During the investigation, Ms. Nester represented to disciplinary counsel that, before her client entered into an agreement with Company A, she had provided the client with “information orally and in writing regarding potential conflicts as well as identifying the principals of [Company A]. This included advice in writing to seek independent legal counsel . . . .” Ms. Nester had not in fact disclosed the possible self-interest conflict and had rendered no written advice to seek independent counsel. Because Ms. Nester had failed to review her file, she did not know the truth or falsity of the representations when she made them.

Ms. Nester’s conduct violated Oregon DR 1-103(C), requiring a lawyer who is the subject of a disciplinary investigation to respond fully and truthfully to inqui-
ries from and comply with reasonable requests of a tribunal or other authority empowered to investigate or act upon the conduct of lawyers; and DR 5-101(A), prohibiting a lawyer, except with the consent of the client after full disclosure, from accepting or continuing employment if the exercise of the lawyer’s professional judgment on behalf of the lawyer’s client will be or reasonably may be affected by the lawyer’s own financial, business, property, or personal interests.

Felice P. Congalton represented the Bar Association. Mary A. Nester represented herself.

**Suspended**

**Denice L. Patrick** (WSBA No. 11655, admitted 1981), of Lynnwood, was suspended for two years, effective November 23, 2005, by order of the Washington State Supreme Court following a hearing. The discipline was based on her conduct between 1992 and 1996 involving lack of diligence; failure to make reasonable efforts to expedite litigation; multiple conflicts of interest; false statements to a tribunal; false or misleading communications about her services; commission of criminal acts; conduct involving dishonesty, fraud, deceit, and misrepresentation; conduct prejudicial to the administration of justice; and statements implying an ability to influence improperly a government agency.

In December 1991, Ms. Patrick began work as a staff attorney with the Office of Hearings and Appeals (OHA) of the Social Security Administration (SSA). In September 1992, SSA approved a request by Ms. Patrick to establish a private law practice. In the request, Ms. Patrick specifically promised that she would do only *pro bono* bankruptcy work and a “miniscule” amount of legal work for family and friends, and that at no time would her private practice result in a conflict of interest in fact or appearance. SSA’s permission for Ms. Patrick to do so was subject to 17 conditions, which included avoiding any actual conflict of interest or the appearance thereof, not knowingly instructing persons on any particular matter pending before SSA/OHA, and not performing legal work on cases involving Social Security benefits or causes of action where the United States is a party or has an interest, or any other prohibited representational activities. Ms. Patrick resigned from her job with SSA in May 1996. Prior to her departure, Ms. Patrick had expanded her private practice beyond the approved scope without notifying SSA of the change in her activities or seeking to amend her request. During the period of her employment with SSA, Ms. Patrick engaged in the following conduct that established grounds for discipline:

- Falsely stating in a Yellow Pages advertisement and falsely informing potential clients that she was a “former” SSA attorney, and falsely informing potential clients that she had successfully represented other clients.
- Representing four individuals with claims against SSA in contravention of 18 U.S.C. §§ 203 and 205, and without providing the clients with full disclosure of the material facts or obtaining written consent from SSA and from each client.
- Representing clients in a bankruptcy proceeding in which SSA was a creditor without providing the clients with full disclosure of the material facts and obtaining written consent from SSA and from the clients.
- In order to avoid having to appear as a claimant’s lawyer at an OHA hearing while still employed by OHA, falsely informing OHA that a client wanted her hearing date continued, and falsely informing the client that she had to reschedule the hearing date due to a conflicting commitment, despite knowing that the client did not want a continuance of her hearing.
- In three instances, signing and filing (and in one case postdating) Appointment of Representative forms that falsely stated she was not prohibited from representing the claimants as a current or former employee of the federal government.
- Informing undercover agents with the Office of the Inspector General of the SSA that she was a former employee of SSA and still had friends at that agency who could expedite her clients’ matters and obtain more favorable results for her clients.

Ms. Patrick’s conduct violated RPC 1.3, requiring a lawyer to act with reasonable diligence and promptness in representing a client; RPC 1.7(b), prohibiting a lawyer from representing a client if the representation of that client may be materially limited by the lawyer’s responsibilities to another client or to a third person or by the lawyer’s own interests, unless the lawyer reasonably believes the representation will not be adversely affected and the client consents in writing after a full disclosure of material facts; RPC 3.2, requiring a lawyer to make reasonable efforts to expedite litigation consistent with the interests of the client; RPC 3.3(a)(1), prohibiting a lawyer from making a false statement of material fact or law to a tribunal; RPC 7.1, prohibiting a lawyer from making a false or misleading communication about the lawyer or the lawyer’s services; RPC 8.4(a), prohibiting a lawyer from violating or attempting to violate the Rules of Professional Conduct; RPC 8.4(b), prohibiting a lawyer from committing a criminal act (here, violations of 18 U.S.C. §§ 203 and 205) that reflects adversely on the lawyer’s honesty, trustworthiness, or fitness as a lawyer in other respects; RPC 8.4(c), prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation; RPC 8.4(d), prohibiting a lawyer from engaging in conduct that is prejudicial to the administration of justice; and 8.4(e), prohibiting a lawyer from stating or implying an ability to influence improperly a government agency or official.

Sachia Stonefeld Powell represented the Bar Association. Leland G. Ripley represented Ms. Patrick. Lish Whitson was the hearing officer.

**Suspended**

**Irving M. Rosenberg** (WSBA No. 21754, admitted 1992), of Liberty Lake, was suspended for 60 days, effective November 7, 2005, by order of the Washington State Supreme Court following a hearing. This
discipline was based on his conduct in 2002 involving the alteration of a court order.

Commencing in June 2002, Mr. Rosenberg represented a client in a dissolution of marriage proceeding pending in superior court. Following a June 7, 2002, hearing on a motion for temporary orders, Mr. Rosenberg and opposing counsel adjourned to counsel table to conform standard-form orders to the judge's ruling. The judge then handed the signed documents to Mr. Rosenberg. Mr. Rosenberg told opposing counsel that he would copy the documents at his office and would return the originals and copies to the courtroom by 1:30 p.m. At his office, Mr. Rosenberg reviewed the documents and noticed the temporary restraining order was inconsistent with the judge's oral ruling. Mr. Rosenberg altered the order to reflect his understanding of the court's ruling. After realizing that some of his changes were erroneous and endeavoring to correct the mistaken changes, Mr. Rosenberg concluded that he would have to speak to opposing counsel about the situation, and he set the documents behind his desk. Later in the day, opposing counsel called Mr. Rosenberg's office to inquire about the whereabouts of the documents. Late on June 7, 2002, a member of Mr. Rosenberg's office staff took the papers to the courthouse, filed the originals, and gave copies to opposing counsel. Mr. Rosenberg did not contact opposing counsel or the judge to advise them that he had altered the order. Opposing counsel noticed the alterations and brought the situation to the attention of the judge, who promptly sought an explanation from Mr. Rosenberg. Mr. Rosenberg admitted that he had altered the signed order, explaining that he had intended to conform its provisions to those orally ordered by the court.

Mr. Rosenberg's conduct violated RPC 8.4(d), prohibiting lawyers from engaging in conduct that is prejudicial to the administration of justice.

Linda B. Eide represented the Bar Association. Joseph J. Ganz represented Mr. Rosenberg. Michael L. Lewis was the hearing officer.

Reprimanded

F. Michael Misner (WSBA No. 5742, admitted 1974), of Gig Harbor, was ordered to receive a reprimand on July 27, 2005, following a stipulation approved by a hearing officer. This discipline was based on his conduct in 2003 involving the making of a false statement of material fact to a third person.

In November 2001, Mr. Misner began representing a client who had been seriously injured in an automobile accident. The fee agreement provided for a 40 percent contingent fee, with costs to be deducted after payment of the attorney's fee. In March 2003, Mr. Misner requested information from the Washington State Department of Social and Health Services (DSHS) about the amount of medical benefits paid on behalf of his client. DSHS notified Mr. Misner that it asserted a lien in the amount of $56,695.45 and enclosed a copy of the statement of lien. By letter, with a copy of the fee agreement enclosed, Mr. Misner asked to discuss the possibility of DSHS reducing its lien. DSHS responded that it would not waive or compromise its lien.

Following a mediation, the case settled for $50,000 in April 2003. Mr. Misner advised DSHS of the settlement and again requested that DSHS waive or reduce its lien. DSHS refused to do so. Mr. Misner determined that there would be no money left for his client if the DSHS lien, together with his costs and fees, were deducted from the settlement proceeds. Mr. Misner told the client that he would waive $21,821.98 in costs that Mr. Misner had advanced. Additionally, in May 2003, Mr. Misner prepared and had his client sign a new agreement providing for a 75 percent contingent fee. Mr. Misner did not intend to charge a 75 percent fee. The purpose of the new agreement was to prevent DSHS from satisfying any part of its lien against the settlement proceeds, so that the client would receive a portion of the funds. In response to a September 2003 DSHS inquiry about the status of the case, Mr. Misner informed DSHS by letter that the case had been settled for $50,000, and he enclosed a copy of the May 2003 fee agreement along with a list of costs and expenses. In the letter, Mr. Misner asked for written confirmation that DSHS would waive its lien. DSHS again declined to waive or alter its lien.

Prior to entry into the disciplinary stipulation, Mr. Misner paid DSHS the share of the settlement proceeds to which it was entitled under the original 40 percent fee agreement. Mr. Misner took no fee so that his client would receive a share of the settlement proceeds.

Mr. Misner's conduct violated RPC 4.1(a), prohibiting a lawyer in the course of representing a client from knowingly making a false statement of material fact or law to a third person.

Scott G. Busby represented the Bar Association. Leland G. Ripley represented Mr. Misner. Gregory J. Rosenberg was the hearing officer.

Reprimanded

Alan F. Hall (WSBA No. 1505, admitted 1974), of Edmonds, was ordered to receive a reprimand on January 27, 2005, following a hearing. This discipline was based on his conduct between 1998 and 2001 involving failure to communicate with a client, failure to provide competent representation, failure to act with diligence, asserting a claim for fees to the court without a basis for doing so that was not frivolous, failure to adequately supervise the work of an APR 9 legal intern, and charging unreasonable fees.

Mr. Hall was retained by a client to recover unpaid pension benefits and to enforce the ex-husband's continuing financial obligation to his client under a Snohomish County divorce decree. In January 1998, Mr. Hall entered into a written fee agreement with the client, capping legal fees at $500, and requiring monthly bills to the client. In January 1998, Mr. Hall wrote to the client's ex-husband regarding payments, but took no further action until March 2000. During this time, Mr. Hall did not communicate with his client to keep her informed about the case. Mr. Hall sent the client's first monthly invoice in June of 2000, following a request from the client. The $2,467.97 invoice greatly exceeded the $500 cap without any prior notice to the client.

In March 2000, Mr. Hall filed a motion
seeking to hold his client’s ex-husband in contempt for nonpayment. The motion was prepared and sent out for filing by a legal intern working under Mr. Hall’s instructions. On May 15, 2000, Mr. Hall and his legal intern appeared before a pro tem court commissioner, who signed an order of contempt and a $6,400 judgment. In the proposed order, Mr. Hall had requested attorney’s fees of $3,000 and costs of $1,500, which he indicated to the commissioner based on fees and costs actually incurred. Actual combined fees and costs did not exceed $2,500. The commissioner reduced Mr. Hall’s fee award because it included undocumented estimates of prospective costs and fees for which he could not verify at that juncture.

Following the hearing, Mr. Hall directed the legal intern to prepare paperwork for the enforcement of the judgment, including a Qualified Domestic Relations Order (QDRO). Mr. Hall’s legal intern had limited experience in domestic-relations law and judgment collections. In June 2000, Mr. Hall asked the commissioner to sign an ex-parte order approving the QDRO prepared by his intern. After the order was signed and entered by the court, Mr. Hall directed his intern to collect upon the QDRO and forward the order to the retirement office of the client’s ex-husband’s company for disposition. The QDRO was rejected by the company’s retirement office as failing to comply with the company retirement plan. In June 2001, Mr. Hall and his legal intern prepared an amended QDRO using the guidelines sent by the retirement office, which was qualified by the retirement plan’s administrator and resulted in monthly payments remitted to Mr. Hall’s client.

Mr. Hall’s conduct violated RPC 1.1, requiring a lawyer to provide competent representation to a client; RPC 1.3, requiring a lawyer to act with reasonable diligence and promptness in representing a client; RPC 1.4(a), requiring a lawyer to keep a client reasonably informed about the status of a matter and to promptly comply with reasonable requests for information; RPC 1.4(b), requiring a lawyer to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation; RPC 1.5(a): requiring a lawyer’s fee to be reasonable; RPC 3.1, prohibiting a lawyer from bringing or defending a proceeding, or asserting or controverting an issue therein, unless there is a basis for doing so that is not frivolous; RPC 3.2, requiring a lawyer to make reasonable efforts to expedite litigation consistent with the interests of the client; APR 9(d)(1), requiring the supervising lawyer or another lawyer from the same office to direct, supervise, and review all of the work of the legal intern and to assume personal professional responsibility for any work undertaken by the legal intern while under the lawyers’ supervision, and APR 9(d)(5), in which a supervising lawyer’s failure to provide adequate supervision or to comply with the duties set forth in APR 9(d) are grounds for disciplinary action.

Raymond S. Weber represented the Bar Association. Joseph J. Ganz represented Mr. Hall. David W. Wiley was the hearing officer.

Admonished

Mary H. McIntosh (WSBA No. 12744, admitted 1982), of Mount Vernon, was admonished by a review committee of the Disciplinary Board. The admonition was based upon her conduct in 2004 involving improper notarization of a document. Mary H. McIntosh is to be distinguished from Mary Ann McIntosh of Wenatchee.

In 2004, Ms. McIntosh represented a personal representative of a decedent’s estate. Following a court hearing concerning disputed creditors’ claims, the parties agreed to a settlement; opposing counsel drafted the agreement, which required that all signatures on the agreement be notarized. One of the parties, a creditor of the estate, did not appear in Ms. McIntosh’s office to sign the agreement. Ms. McIntosh telephoned the party, who indicated that she would agree to the settlement. Ms. McIntosh then notarized what purported to be the party’s signature. Ms. McIntosh’s attestation stated that the party personally appeared before her to acknowledge her signature on the agreement, but that had not occurred.

Ms. McIntosh’s conduct violated RPC 8.4(c), prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation; and RPC 8.4(d), prohibiting a lawyer from engaging in conduct that is prejudicial to the administration of justice.

Scott G. Busby represented the Bar Association. Ms. McIntosh represented herself.

Nondisciplinary Notices

Suspended Pending Outcome of Disciplinary Proceedings

Richard H. Corbin (WSBA No. 26665, admitted 1997), of Everett, was suspended pending the outcome of disciplinary proceedings, pursuant to ELC 7.1, effective October 4, 2005, by an order of the Washington State Supreme Court. This is not a disciplinary action.

Suspended Pending Outcome of Disciplinary Proceedings

Roland Hunter (WSBA No. 29488, admitted 1999), of Olympia, was suspended pending the outcome of disciplinary proceedings, pursuant to ELC 7.1, effective December 1, 2005, by an order of the Washington State Supreme Court. This is not a disciplinary action.

Suspended Pending Outcome of Disciplinary Proceedings

Dennis F. Olsen (WSBA No. 22519, admitted 1993), of Everett, was suspended pending the outcome of disciplinary proceedings, pursuant to ELC 7.1, effective November 10, 2005, by an order of the Washington State Supreme Court. This is not a disciplinary action.

Suspended Pending Outcome of Disciplinary Proceedings

Dennis F. Olsen is to be distinguished from Dennis E. Olsen of Kenmore.

Suspended Pending Outcome of Disciplinary Proceedings

Gail Schwartz (WSBA No. 28994, admitted 1999), of Spokane, was suspended pending the outcome of disciplinary proceedings, pursuant to ELC 7.2(a)(2), effective December 1, 2005, by an order of the Washington State Supreme Court. This is not a disciplinary action.
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Seattle: 11-attorney firm, AV-rated, with general civil practice and areas of emphasis within firm, seeks associate attorney with at least two years in litigation and trial experience. Potential long-term opportunity to develop litigation/personal injury practice for firm. Please send résumé to WSBA Bar News Job Code 672, Bar News Classifieds, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330.

Legal assistant — PATH, a Seattle-based global health organization, seeks support for legal affairs division. Proficient using MS Office suite. Excellent word processing, grammar, proofing, organization skills (tested). Detail-oriented, highly organized, ability to work independently and under pressure. Minimum five years’ relevant experience supporting a legal group in a law firm or corporate environment preferred. $2,699-$3,373/mo. to start, plus excellent benefits. Full job posting, how to apply at www.path.org, Job #1761. EO.

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Associate attorney — Small Seattle industrial insurance defense law firm seeks associate attorney. The ideal candidates have one or more years of experience in workers’ compensation. Preference will also be given to individuals with one or more years of experience in personal injury, medical malpractice, or employment law. To apply, please send a cover letter, résumé, salary history, and a brief writing sample to Keehn Arvidson, PLLC, 701 5th Ave., Ste. 3470, Seattle, WA 98104. No phone calls, please.

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Seattle-based health-care transactional law firm with national practice representing owners and operators of nursing homes, assisted living facilities and other health care businesses seeks an attorney with a minimum of six years' transactional experience. Must be able to handle purchase and sale, financing, corporate restructuring, and lease transactions; and to manage multiple client projects within limited time frames. Interested parties should send their résumé to The Nathanson Group, PLLC, 1520 Fourth Ave., Sixth Fl., Seattle, WA 98101; Attn: Sandy Oliver-Klatt; Fax: 206-623-1738; E-mail: sandyk@nathansongroup.com.

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Inland Northwest Land Trust seeks conservation director with three years’ experience in transactional real estate to lead land protection program in eastern Washington and northern Idaho. www.inlandnwlandtrust.org.

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September trade: I am willing to trade the use of my three-bedroom condo on course number five in Pinehurst, North Carolina, for the month of September 2006 in exchange for a similar arrangement in Seattle area. Automobile also included. Contact hlipkruted@aol.com or 910-255-0532.

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“On May 11, 1894, in Bovina, Mississippi, a gopher turtle measuring six by eight inches, entirely encased in ice, fell out of the sky along with the hail, and even my Mississippi Almanac lists it as the state’s all-time ‘most unusual weather occurrence.'”

— Julia Reed, Queen of the Turtle Derby and Other Southern Phenomena (2004)

Although every year brings odd bits that get the TV stations in a lather, spring in the Northwest is something between a theory and a joke. The days grow longer but the weather’s little improved. Early flowers come out, the triumph of hope over experience. Maybe we will get some sunshine by June.

It gets me more than a little meteorologically morose, and I tend to take refuge in memories of spring in the Carolina Sandhills. Back there, spring is well along by now, sunny and warm, pushing 70, with dogwoods and azaleas coming out nicely. Church in-gatherings and the Easter Sunday kickoff of the ladies’ spring hat wars can’t be far off.

Southerners are especially prone to mooning about that sort of thing, what historian Albert Cowdrey called “…the life that is lived there, linked to a certain ridge, a certain river, a certain quality of days in summer…. The South, like other regions long inhabited, has become a landscape of the mind.”

But, as Simone Signoret reminds us in her memoirs, nostalgia isn’t what it used to be. In the small towns where I grew up, and on my grandparents’ farm in Richmond County, spring also means nature is waking up. Cowdrey dryly notes: “The climate … is kind to life in many forms, including some that most humans would rather do without. The vivid fauna of the marshes and the still vigorous wildlife of the southern woods are not the whole story. Heat and damp encourage a legion of buzzing, creeping, leaping and gnawing insects.”

I could never figure out how the Sandhills could be so dusty-dry and swampy at the same time. The remains of a once-inland sea, the soil in the Sandhills is more or less beach sand. Rain runs right through it, and I guess it then runs into low spots where it collects to form swampy creeks with water the color of Coca-Cola.

So venturing out in spring and summer back home meant being equipped, from earliest childhood, with a bewildering array of cautions and creatures to watch out for. Ticks, chiggers, hornets. Bees and yellowjackets. Mosquitos. Ants — black and red. Spiders of several poisonous sorts.

Underfoot, whether hunting or fishing, lurked snakes. Rattlesnakes in the leaves, cottonmouths in the ponds’ edges. Copperheads. You had to learn early about poison oak and poison ivy, and one of the great banes of barefoot recreation was sandspurs, the Death Star of the plant world. Imagine running along, cares to the wind, and your sole jamming down on a sort of dandelion capped by little spike-covered burs. Then imagine trying to extract one from your foot.

Then there was the weather. Cowdrey says “…it favors the melodramatic…. Many summer days feature the pregnant pause and the wild onslaught: the palmetto fan pauses while the prostrate farmer gapes at hailstones bounding in the street.” Thunderstorms come up out of nowhere, mid-afternoon, tornados in tow. Rain in such quantities that a friend and I went bodysurfing on the soccer field after the storms. Hurricanes bound up the coast: people are still talking about when Hazel tore inland through the Sandhills 50 years ago.

After half a lifetime in the Northwest, people still occasionally ask what brought me here. “The weather,” I reply. They look at me like I’m Rick Blaine, extolling the waters of Casablanca.

But it’s true. Yeah, it drizzles all the time in western Washington, but it still rains less than back home. It’s never so hot in the summer, or humid, and not so cold in the summer. Half the year in the Sandhills is like being forced to live your life, clothed, in a sauna whose temperature regulator has stopped working.

Sure, out here we get the occasional earthquake, winds and rains for a day or two at a time, and we contemplate volcanology. But we can sleep with the windows open — much of the state doesn’t need air conditioning most of the time — and we are spared the Linnaean smorgasbord of hungry insects the South endures.

Home, for me, is Washington.

But I’ll admit it: a sun break would be nice about now. Especially on a weekend.

For personal correspondence, Lindsay Thompson can be reached at tradelaw@hotmail.com. E-mail letters to the editor to letterstotheeditor@wsba.org or mail to WSBA, Attn: Letters to the Editor, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330.
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